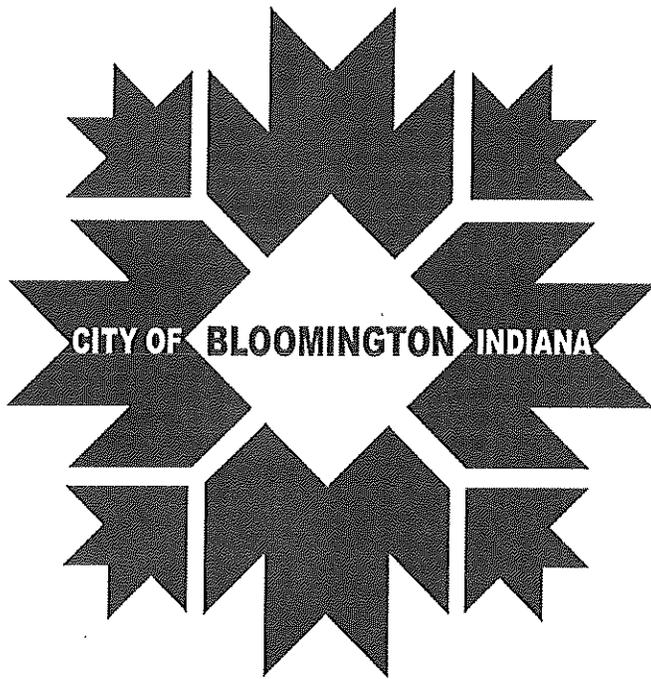


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# CITY OF BLOOMINGTON HUMAN RIGHTS COMMISSION 2015 ANNUAL REPORT



The Bloomington Human Rights Ordinance promotes equal opportunity in employment, education, housing and access to public accommodations, regardless of race, sex, religion, color, sexual orientation, gender identity, national origin, ancestry, disability, housing status or veteran status. The ordinance also prohibits discrimination in housing on the basis of familial status.

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## **POLICY OF THE CITY OF BLOOMINGTON**

It is the public policy of the City of Bloomington to provide all citizens equal opportunity for education, employment, access to public accommodations and acquisition through purchase or rental of real property including but not limited to housing, and to eliminate segregation or separation based on race, religion, color, sexual orientation, sex, disability, national origin, gender identity, ancestry, veteran status or housing status, since such segregation is an impediment to equal opportunity. It is also the public policy of the City of Bloomington to prohibit discrimination in housing on the basis of familial status. Equal education and employment opportunities, equal access to and use of public accommodations and equal opportunity for acquisition of real property are hereby declared to be civil rights.

The practice of denying these rights to persons because of race, religion, color, sex, disability, sexual orientation, gender identity, national origin, familial status, ancestry, veteran status or housing status is contrary to the principles of freedom and equality of the City, and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sexual orientation, sex, disability, gender identity, national origin, familial status, ancestry, veteran status or housing status is the purpose of this Section.

It is also the public policy of the City to protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders and lending institutions from unfounded charges of discrimination.

### **CITY OF BLOOMINGTON HUMAN RIGHTS ORDINANCE**

Bloomington Municipal Code §2.21.020, as amended

The Bloomington Human Rights Commission usually meets at 5:30 p.m. on the fourth Monday of each month, in the McCloskey Conference Room, Room 135, of the Showers Building, 401 N. Morton. Unless otherwise specified, meetings are open to the public. The 2016 meeting dates are listed in this report.

**BLOOMINGTON HUMAN RIGHTS COMMISSION  
2015 OFFICERS**

**CHAIR**  
Byron Bangert

**VICE CHAIR**  
William Morris

**SECRETARY**  
Birk Billingsley

**COMMISSIONERS**

<b>NAME</b>	<b>TERM EXPIRES</b>	<b>APPOINTED BY</b>
Byron Bangert	1/16	Council
Carolyn Calloway-Thomas	1/17	Mayor
Valeri Haughton	1/16	Council
Pete Giordano	1/17	Mayor
William Morris	1/17	Council
Beth Applegate	1/16	Mayor
Birk Billingsley	1/16	Mayor

**2015 STAFF**

**DIRECTOR/ATTORNEY:** Barbara E. McKinney

**SECRETARY:** Barbara Toddy

**Bloomington Human Rights Commission**  
Annual Report of the Chair, 2015

The Bloomington Human Rights Commission, established by ordinance enacted by the Bloomington City Council, exercises jurisdiction within the City of Bloomington only. The BHRC promotes equal opportunity in employment, housing, education, and access to public accommodations, regardless of race, sex, religion, color, sexual orientation, gender identity, national origin, ancestry, housing status, status as a veteran, or disability.

The Commission's Director and members investigate complaints of discrimination filed by residents of Bloomington, issue findings, and pursue negotiated or imposed settlements in those instances where violations are found.

The BHRC also promotes greater community awareness of human rights issues by engaging in public education, various civic activities, advocacy efforts, and diversity and multi-cultural events.

The BHRC collaborates with other City commissions that share overlapping missions, including the Commission of the Status of Women, the Dr. Martin Luther King, Jr., Birthday Commission, the Commission of the Status of Black Males, and the Council for Community Accessibility.

In December 2013 the BHRC selected Bill Breeden to receive its annual Human Rights Award. The award was presented at the March 4 Common Council meeting. Breeden, the only person to have spent time in jail in conjunction with the notorious Iran/Contra scandal of the 1980s, is a native Hoosier, who grew up just outside the little town of Odon. He was recognized for exemplifying a life dedicated to others, as manifest in his social activism (including anti-war efforts, work with the Winter Interfaith Shelter, prison ministry, and work on behalf of racial justice), most recently through his leadership as one of the ministers of Bloomington's Unitarian Universalist Church, from which he retired in 2014.

In February at our regular monthly meeting Barbara McKinney noted that 2015 represented the 50<sup>th</sup> anniversary year of the BHRC, initially known as the Bloomington Human Relations Commission, which first met on May 25, 1965. Commissioners Valerie Haughton, Carolyn Calloway-Thomas, and Birk Billingsley were appointed to a task force to organize an appropriate public event in celebration. Unfortunately, this task force has yet to complete its assignment. However, former IU Law School dean and current IU Provost Lauren Robel has agreed to be the featured speaker if and when the event is scheduled.

Also in February, on the 24th, McKinney and I presented a program on the BHRC and its Fair Labor Initiative to the Bloomington Rotary Club, which was well received. The partnership established in the fall of 2014 with the Human Trafficking class at IU taught by Prof. Korytova continued through the spring semester, as commissioners and students teamed up to solicit participation by local restaurant owners and managers. During the summer, the BHRC voted to discontinue this partnership due to the difficulties of coordination and scheduling, but to continue the solicitation visits by commissioners alone in order to promote participation by increasing numbers of eating establishments. These efforts met with mixed success, but some 40 restaurants had signed on by the end of the year. Efforts to publicize the FLI also met with mixed success. The IDS, H-T, and Bloom Magazine all carried articles about the program, but my particular effort to have a guest column featuring the decal published in the Herald-Times was rebuffed. Public awareness of the program needs to be much greater, and the widespread

recognition of the decal may be the best way to give the program the visibility necessary for that.

In an awards ceremony in City Council chambers on April 2 we recognized the student winners of our annual Essay & Art Contest on the theme, "What I've Learned about Kindness from Someone Different from Me," with an awards ceremony presided over by Mayor Mark Kruzan. Our adopted theme for 2016: "What Rights Every Human Being Should Have."

In April we again fielded a team called the "Rights Stuff" in the annual VITAL Quiz Bowl fundraiser for Volunteers in Tutoring Adult Learners, and made it to the "elite eight" quarter-final round.

In June the BHRC welcomed Pete Giordano, former director of the City's Community and Family Resources Department, as a new commissioner.

We participated in the annual 4<sup>th</sup> of July parade with a colorful float still bearing the theme, "Red, Blue, or White: All Have Human Rights." With great weather and unusually large crowds, we exhausted our supply of elastic bracelets given to children mid-way through the route.

In September 2014 we had unanimously approved a recommendation to the City Council of amendments to the Human Rights Ordinance adding "housing status" and "status as a veteran" (following a change in the Indiana Civil Rights Law) as protected categories. It took until August 26, 2015, to get our proposal on the Common Council agenda. McKinney and Bangert attended and spoke on behalf of the amendments, both at this meeting and again when final action in unanimous support of our amendments was taken by the Council on September 2.

At the regular September meeting the BHRC voted to endorse the initiative of the Fair Housing Center of Central Indiana supporting a bias crime statute in the state of Indiana.

In November the BHRC voted unanimously to endorse proposed action by the Common Council to claim full legal protections within the City for persons subject to discrimination on the basis of sexual orientation or gender identity, on the grounds that these may be (and in some legal venues have been) construed as forms of sex discrimination, which is fully protected under Indiana statute.

The Contract Compliance Committee of the BHRC also met twice in 2015, in September and November, on both occasions to review and ultimately to overturn formal rulings by the Director that would have disqualified two bids by companies seeking to contract with the City. In both instances it was judged that there were minor oversights, with no intent to circumvent reporting requirements regarding affirmative action by the companies in question.

Each quarter the Director prepares, and the Commission reviews and receives, the Quarterly report of contacts made to the BHRC office and the disposition of actual cases, as well as other activities of the Director and BHRC. The number of complaints filed, the number of cases investigated, and the number of hate incidents reported all continue to be at relatively low levels.

Respectfully submitted,

Byron C. Bangert, Chair

## CITY OF BLOOMINGTON HUMAN RIGHTS COMMISSION

### DIRECTOR'S REPORT 2015

The Bloomington Human Rights Commission continue its long-established efforts to meet two central and related objectives in 2015: to investigate complaints in a fair and timely manner and to undertake a variety of educational activities. Investigating complaints will always remain our top priority, as that has to be done as promptly and as thoroughly as possible to protect the rights of all parties. At the same time, we believe that the more educational programs we organize or co-sponsor, the fewer complaints we will have to investigate.

**DISCRIMINATION COMPLAINTS:** In 2015, we had four new complaints filed with us. Each case is investigated by one of the commissioners and me, and together we decide if there was probable cause to believe that illegal discrimination occurred. The commissioners spend considerable time and effort on each case, weighing conflicting testimony, reviewing documentary evidence and learning about the relevant law. I truly appreciate their work and dedication, and the community should as well. Thanks to their hard work, since 2013, we have closed cases on average within three months of filing, much more quickly than comparable agencies.

One of the cases filed in 2015 alleged discrimination in employment on the basis of disability and/or pregnancy, one alleged discrimination in housing on the basis of sexual orientation, one alleged discrimination in housing on the basis of disability and one alleged discrimination in employment on the basis of sex.

We found no probable cause to believe discrimination occurred in two of these cases and neither finding was appealed. Two cases filed late in 2015 were pending as the year ended.

The Bloomington Common Council amended the human rights ordinance in 2015, making some significant changes. In September, the Council made veteran status a fully protected category, meaning that employers, landlords and providers of public accommodation may not discriminate against someone because he or she is a veteran. We have no reason to believe that such discrimination is common in Bloomington, but we are glad to have this amendment in place should we hear of such allegations. At the same time, the Council made "housing status" a quasi-protected category. With this amendment, we hope to discourage businesses from discrimination against people because they are experiencing homelessness. And in December, the Council amended the ordinance to clarify that the BHRC, in accordance with a growing legal trend, will treat cases alleging discrimination on the basis of sexual orientation or gender identity as a form of sex discrimination. This means the BHRC will be able to investigate such complaints with compulsory investigative tools. There is some risk to doing this, as Indiana courts have yet to follow this precedent, but we sincerely hope that Indiana courts will when confronted with the question. We also hope the Indiana legislature will pass a bill in 2016 that will outlaw discrimination on the basis of gender identity or sexual orientation throughout the state without creating unnecessarily broad exemptions or burdening complainants with the risk of fines for pursuing their legal rights. In December, the national Human Rights Campaign (HRC) gave Bloomington a perfect score in its Municipal Equality Index (MEI). The MEI examines the

laws, policies and services of municipalities, rating them on their inclusivity of lesbian, gay, bisexual and transgender people who live there. The HRC gave only 47 cities a perfect score, and I'm proud that Bloomington was one of that elite group.

We frequently receive inquiries about alleged discrimination that occurred outside of our jurisdiction (Bloomington's corporate city limits) or for which we may have a conflict of interest. In these cases, we often refer complainants directly to the agency that has jurisdiction. When time permits, and as a courtesy, we meet with the complainant, prepare a complaint and file it with the appropriate agency. In 2015, we referred approximately five people directly to the U.S. Equal Employment Opportunity Commission and filed three complaints with that agency. We referred approximately six individuals directly to the Monroe County Human Rights Commission, three directly to the Indiana Civil Rights Commission and two directly to Housing and Urban Development. And we refer the many callers from Bloomington, Minnesota, or Bloomington, Illinois to the appropriate agencies in their states.

**AFFIRMATIVE ACTION, PREVAILING WAGE AND LIVING WAGE:** The Bloomington Human Rights Ordinance requires all City bidders with bids of more than \$10,000 to submit affirmative action plans to me for approval before the bid deadline. The September amendments to the ordinance requires bidders to now include additional protected categories in their plans: gender identity, sexual orientation, housing status and veteran status. In 2015, I reviewed and approved 79 affirmative action plans. If I find a plan to be unacceptable, the bidder is not eligible to bid unless he or she successfully appeals my finding to the Contract Compliance Committee (CCC) of the BHRC. In 2015, I found two plans to be unacceptable when bidders were not aware of the new affirmative action requirements. Both bidders successfully appealed my finding to the CCC.

The BHRC staff also is responsible for making sure that City contractors pay their employees at least the required prevailing wages for work done in whole or in part with federal funds. (The State of Indiana used to have a similar requirement for projects done with state or local funds, but that has been repealed.) In 2015, I attended six pre-bid or pre-construction conferences to remind contractors about their responsibilities under applicable laws. Barbara Toddy monitors compliance with these laws by reviewing wage documentation forms and by writing letters to employees to confirm they are getting paid at least the required amount.

This year was the tenth year that the Bloomington Living Wage (LWO) was in effect, and one of my duties is to monitor compliance with this law as well. I obtain required documentation from covered contractors, update the web site and answer questions about whether the LWO applies to specific situations. The amount of the living wage is adjusted each year to correspond to changes in the cost of living. In 2006, when the LWO was first passed, the amount of the wage was \$10 an hour. In 2016, the amount will be \$12.32 an hour. Up to 15% of this amount may be in the form of the employer's contribution to health insurance for which the covered employee is eligible.

**ACCESSIBILITY ISSUES:** I serve as the City's Americans with Disabilities Act compliance officer, and in that capacity, I work to make sure that the City, both as an employer and as a governmental entity, is meeting its obligations under the ADA. I also try to help businesses

become aware of their obligations under the ADA, and I try to help resolve complaints from citizens about businesses not being accessible. I work closely with the Council of Community Accessibility, following up on their surveys of local businesses and helping to decide which businesses should receive accessibility decals. The CCA is tireless in its efforts to make sure that Bloomington is as accessible as a city with hills and historic buildings can be.

**EDUCATIONAL PROGRAMS:** Our monthly newsletter, Rights Stuff, completed its sixteenth full year of publication in 2015. We distribute our newsletter largely via e-mail, but also leave copies around town. The purpose of Rights Stuff is to inform readers about recent trends in civil rights laws and to let the community know what we do. We also regularly update and distribute our brochures. The recent changes to the human rights ordinance will be reflected in the next version of the brochures. During the 2015 Fourth of July parade, we distributed 2000 diversity bracelets, attached to colorful cards letting people know where they can find our activity book on the web.

We are always glad to talk to groups, individuals and the media about what do. In 2015, we gave talks to various groups, including talking twice to Renters 101 classes about fair housing, and answered questions from elected officials, the media, students and many others about human rights. The Indiana Religious Freedom Restoration Act and its so-called fix generated a number of questions and led to my giving a presentation on the BHRC to a webinar sponsored by the Indiana Association of Cities and Towns.

The BHRC works closely with other groups in an effort to achieve our shared goals. In 2015, we sponsored the CCA annual awards ceremony and King Day events, participated in the VITAL quiz bowl and ran an ad in the NAACP annual meeting program, among other activities.

**CITY OF BLOOMINGTON HUMAN RIGHTS COMMISSION**

**2009 - 2015 Comparative Data**

	2009	2010	2011	2012	2013	2014	2015
New complaints within BHRC jurisdiction	9	5	3	5	5	3	4
No probable cause findings issued	2	3	1	2	4	3	2
Settlement agreements reached	1	1	2	1	2	1	0
Complaints withdrawn before determination issued	1	2	0	0	0	0	0
Cases still pending	2	1	1	3	2	0	2
Complaints drafted and forwarded to EEOC	9	10	2	4	3	2	3
Complaints drafted and forwarded to ICRC	1	2	1	1	0	0	0
Complaints drafted and forwarded to HUD	0	0	0	0	0	0	2
Complaints transferred to appropriate federal agency after partial investigation	2	0	0	0	0	1	0
Complaints dismissed for failure to cooperate	2	0	0	0	0	0	0
Complaints drafted but never signed	0	0	0	2	2	5	1
Affirmative action plans reviewed	89	73	72	61	78	80	79
Preconstruction/prebid conferences attended	5	8	10	12	9	10	6
Employer seminars and community speeches	9	13	6	7	4	5	3

**BREAKDOWN OF BHRC COMPLAINTS  
2009- 2015**

	2009	2010	2011	2012	2013	2014	2015
<b>EMPLOYMENT</b>	<b>7</b>	<b>4</b>	<b>3</b>	<b>4</b>	<b>4</b>	<b>1</b>	<b>2</b>
Race discrimination	3	2	0	0	2	0	0
Disability discrimination	1	2	1	1	0	1	1
Sex discrimination (includes sexual harassment)	0	0	0	2	2	0	1
Sex & disability and/or retaliation	0	0	0	0	0	0	0
Race & sex	0	0	0	0	0	0	0
Sexual orientation & disability	0	0	0	0	0	0	0
Race and national origin	0	0	1	0	0	0	0
Religion	1	0	0	0	0	0	0
Disability and/or race	0	0	0	0	0	0	0
Sex/religion/disability/retaliation	1	0	0	0	0	0	0
Sex/religion/retaliation	1	0	0	0	0	0	0
Sexual orientation	0	0	0	1	0	0	0
Disability and/or national origin	0	0	0	0	0	0	0
Sex/sexual orientation and/or religion	0	0	0	0	0	0	0
Sex and/or disability	1	1	0	0	0	0	0
National origin	0	0	1	0	0	0	0
<b>HOUSING</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>
Sex discrimination	0	0	0	0	0	0	0
Disability discrimination	0	0	0	0	0	0	1
Race discrimination	0	0	0	0	0	0	0
Familial Status discrimination	1	0	0	0	0	0	0
Sexual orientation	0	0	0	0	0	0	1
Racial association	0	0	0	0	0	1	0
<b>PUBLIC ACCOMMODATIONS</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>
Race discrimination	0	0	0	1	0	0	0
Gender identity	1	0	0	0	0	1	0
Sex	0	0	0	0	0	0	0
Sex/race and/or national origin	1	1	0	0	0	0	0
Sexual orientation	0	0	0	0	0	0	0
Disability	1	0	0	0	1	1	0

## BLOOMINGTON HUMAN RIGHTS COMMISSION

### SUMMARY OF 2015 CASES

**BHRC DOCKET #0657:** A woman said that she was mistreated at work because of her pregnancy and/or disability. She said her supervisor made comments that led her to believe he wanted her to quit, failed to accommodate her disability and/or pregnancy, reduced her hours and scheduled her to work when she had said she was unavailable. She quit rather than face continued harassment and filed a complaint. Our investigation showed that while the complainant had reason to be unhappy with her work environment, there was not sufficient evidence to find probable cause. The comments the supervisor made were infrequent and ambiguous. The supervisor did not require her to do tasks after she said that she couldn't do them because of her pregnancy or disability, even though they were required job duties according to her job description. She did not follow the internal complaint process to voice her concerns about her schedule. She was not penalized for not being able to work when he had scheduled her to work. (Complaint filed in May, 2015; no probable cause decision issued in August, 2015; not appealed; investigated by Commissioner Bangert.)

**BHRC DOCKET #0658:** A gay man said that he had used Craigslist to try to find an apartment before moving to Bloomington. A landlord told him that he had a five-bedroom apartment that had been rented to five women, but one of the women had opted out, and the remaining four women needed a fifth tenant. He said the landlord told him that the women did not want to live with anyone over 30, anyone who was not a student or a gay man. He said he told the landlord he did not qualify, hung up and filed a complaint. In response, the landlord said that he had told the gay man that the women did not want to live with a straight man. We had no way of determining which version of the conversation was accurate. Fair housing rules do not apply to tenants deciding with whom they want to live if they are all on one lease. While it might have been preferable for the landlord not to express the tenants' preferences, regardless of what they were, it was not illegal. (Complaint filed in May, 2015; no probable cause finding issued in June, 2015; not appealed; investigated by Commissioner Morris.)

**BHRC DOCKET #0659:** A woman who sometimes uses a wheelchair said her landlord told her when she moved in that they would charge \$500 to install a wheelchair. After she moved in, the price increased to \$1,000, which she could not afford. The landlord never could find the time to see if it had any accessible apartments available. She made do until she was injured on the property because of the lack of a ramp. She moved out with notice before her lease was out, feeling she had no choice. The landlord is now charging her for back rent and allegedly turned over the debt to a debt collector before letting her know she was being charged. (Complaint filed in November, 2015; being investigated by Commissioner Applegate.)

**BHRC Docket #0660:** A woman said that she let her boss know she didn't appreciate his inappropriate comments. After that, she said, he cut back her hours, scrutinized her work more closely than other employees and ultimately fired her for no legitimate reason. (Complaint filed in November, 2015; being investigated by Commissioner Giordano.)

## CITY OF BLOOMINGTON HUMAN RIGHTS COMMISSION

### PUBLIC INQUIRIES

The Bloomington Human Rights Commission, by ordinance, has a fairly limited jurisdiction. We are authorized to investigate complaints of alleged discrimination on the basis of sex, race, sexual orientation, national origin, color, gender identity, ancestry, religion, disability, veteran status or housing status in employment, public accommodations, education or housing, as long as the complaints arose within the City limits of Bloomington within the past 180 days. We are authorized to organize educational efforts, such as seminars, talks, brochures, awards and essay/art contests, to combat discrimination. We may and we do join forces with like-minded groups to achieve our joint goals. Fulfilling our mandate under the Bloomington Human Rights Ordinance keeps us busy.

However, perhaps because of the broad name of our commission, we often receive calls about matters that are not within our jurisdiction. We try to be familiar with the applicable laws and community resources, and we try to give callers an appropriate referral or other helpful advice. Again this year, we received many inquiries which did not lead to complaints being filed with our office. Some people sought general legal information; some needed to be referred to other agencies; some seemed to need only a sounding board. What follows is a categorical breakdown and a summary of a few inquiries for the purpose of illustration.

### CATEGORICAL BREAKDOWN

**Sexual Orientation/Gender Identity:** Callers often had questions or concerns about sexual orientation and/or gender identity discrimination. These callers included students wanting the definition of "sexual orientation" or "gender identity" and gays, lesbians, transgender individuals and employers wanting to know their rights and responsibilities under our ordinance. Again this year, we had several calls from communities from around the country considering implementing their own sexual orientation and/or gender identity ordinance, and were glad to provide assistance in this area. We were also asked many questions about the impact of the Religious Freedom Restoration Act, its so-called fix and proposed amendments to the Indiana Civil Rights Law.

**Americans with Disabilities Act:** We receive many calls about the Americans with Disabilities Act. Most of the calls are from employers or employees wanting to know their rights and responsibilities under this federal law or from contractors wanting information on ADA regulations. The BHRC director, as the ADA compliance officer for the City, is quite familiar with the ADA and is able to give informed general advice and to make referrals when necessary. The City's Accessible Bloomington web page helps answer questions as well.

**Housing Code Violations/Landlord Tenant Disputes:** Many callers mistakenly believe we have jurisdiction over housing code problems or landlord/tenant disputes that don't involve discrimination. We refer such calls to the City's housing code enforcement office and/or to a private attorney.

**Wage Disputes:** Employees who cannot obtain their last paycheck or pension benefits often call us. These cases do not usually have a discrimination element and so we refer the callers to the State Labor Board.

**FMLA:** People often call us to learn about their rights under the federal Family and Medical Leave Act. We answer general questions when we are able and refer callers to the Federal Wage and Hour Division of the Department of Labor for additional information.

**Workers' Compensation:** We received many calls about workers' compensation in 2015. Our staff lacks expertise in this area and refers all such calls to private attorneys and/or the State Labor Board.

**Unemployment benefits:** People fighting for unemployment benefits often call us, wanting us to represent them in an upcoming unemployment hearing. This is not a BHRC issue and so we make referrals.

**Other:** Many of our calls do not fall under any of the categories. Some of those calls are described below.

### **OTHER INQUIRIES**

Visitor said that his roommate had thrown him out of his apartment. He didn't have a lease. Roommate allegedly told his boss at a restaurant to not allow visitor to go to the restaurant. Visitor asked about his legal rights; with no lease, he likely has no rights to the apartment, and business owners may ban individuals as long as they are not doing so on a discriminatory basis.

Caller said she worked for a restaurant not in Monroe County. She was born in the U.S.; the owners of the restaurant were not. The owners hire mainly relatives who have moved to the U.S. and give them preferential treatment as far as hours, schedules, duties and pay. Discussed discrimination law in general; may call back so BHRC can help her file complaint with EEOC and/or ICRC. Also had questions about how to file a complaint about food safety; referred to her county's health department. Called back later and said she had talked to corporation's inspectors and hopes to get satisfaction internally; if not, she will call BHRC back to help her file a discrimination complaint.

E-mail writer sent follow-up on earlier message. She said neighbor in her apartment complex smokes outside near her window, which causes her health problems. Neighbor's wife won't let her husband smoke inside their apartment, and neighbor refused to move away from e-mail writer's window when he was smoking outside. In her follow-up, e-

mail writer said that she had followed the advice of McKinney and others and was able to get the problem resolved; management agreed to move her to another apartment without penalty. She wants council to pass an ordinance banning smoking in apartments; referred to council member.

Caller said she was walking in Bloomington early in the morning when several men in the parking lot of a company shouted sexist comments. She felt intimidated and threatened, but none of their comments rose to the level of a crime. Referred her to owner of the company to file an informal complaint. Called back later and said owner was quite responsive and concerned.

E-mail writer sent 10-page letter detailing problems with her former employer from Bloomington, Illinois; referred to local or state human rights commission.

E-mail writer said she knew someone who works in another county at a restaurant. She said the owner does not pay the servers properly. The law requires servers to be paid at least the minimum wage. A good portion of that can be in tips, but if tips plus the basic server wage does not equal the federal minimum wage, the owner is supposed to make up the difference. This owner allegedly does not. He requires servers to falsely report that they received sufficient tips to equal the minimum wage and terminates them if they do not. Referred to state department of labor wage and hour board and/or local attorney and/or legal services.

E-mail writer said her human rights were being violated by her neighbors' dog, which barks all night and their baby, who cries a lot. Referred dog issue to animal shelter; suggested she talk to parents about ways to reduce noise.

Caller asked if there were services to help visually impaired people make telephone calls, such as free calls to information or large print phone books. Referred to special needs telephone numbers for AT&T (for phone book) and Verizon (caller's cell phone provider). Got a call back with profuse thanks; mission accomplished. He said he had repeatedly asked Verizon staff if they provided this service and was told no; web page says they do.

Caller asked if he had to put down stripes for accessible parking when it's too cold for the paint to adhere; no, acceptable to wait until weather warms up so striping will adhere properly. If he can install the upright sign now, he should do so.

Caller said that her mother, with early signs of dementia, had recently signed a new lease. Landlord sent letter saying caller's mother had two weeks to move out, allegedly because she had not promptly reported that she had bedbugs. Caller said that she had left three messages with management saying her mother had bedbugs, and when she never got a call back, called maintenance directly. Caller said manager had never treated her mother well, possibly because of her race. Explained that landlady can't force mother to leave without going through eviction proceeding. Caller will work with landlady to get her

mother out of apartment as soon as possible and may call back later to file race discrimination in housing complaint.

Caller asked if it was legal for employer to change posted schedule without notice or consultation. Yes. Advised talking to manager about difficulties this practice poses.

Caller said she wanted to file ADA complaint against California entity. Sent her ADA complaint form and instructions on how to file with Department of Justice. She called back and said she didn't want to go to D.C. to file a complaint; explained she did not have to do that. She could mail, fax or e-mail it. After more discussion, it appeared that her complaint was about a health care facility that didn't use a specific system for feeding people who use wheelchairs when her mother was in a nursing home 30 or 40 years ago, although her description was quite confusing. Explained that is not something the ADA addresses, and that even if it did, her mother's situation pre-dated the ADA. She urged that we research the system; nothing shows up on a web search. Suggested she might try to educate health care providers on the alleged superiority of her approach.

E-mail writer had questions about how to get rid of unauthorized roommates. He had let them start living with him three years ago when he needed assistance after an accident. Now they won't move out. Referred to BPD, Indiana Legal Services, landlord and/or Pro Bono Project.

E-mail writer had questions about whether landlord could require tenant to remove exterior ramp at the end of her lease at her expense; no. Landlord may require removal of interior accessibility improvements at the end of the lease when it's reasonable to do so, but usually not exterior improvements.

E-mail writer asked if BHRC had considered adding source of income as a protected category to the human rights ordinance; yes, but had not heard evidence that this was a significant issue in Bloomington, and just-passed state legislation prohibits such ordinances.

E-mail writer said she lives out of state but has a sister in Bloomington from whom she is estranged. She has learned that her sister was recently taken to a hospital but is having difficulty getting more information. Referred to private attorney and/or Monroe County Adult Protective Services.

Caller said that he is 92 and has considerable financial resources. He believes his wife is taking advantage of the situation and that this may be age discrimination. Explained not an issue the BHRC can deal with; referred to private family law attorney.

E-mail writer said that she rents out rooms in a house; each tenant has a separate lease. She currently has a male tenant who may want to renew, and several prospective female tenants who may want to sign a lease, but only if no men live on the premises. She asked if it would be sex discrimination to refuse to renew the male tenant's lease because of his sex. Yes, quite possibly.

Caller, a provider of governmental services, asked if she had to provide home services to someone who claimed she could not come to the office because of her alleged disability. This person has been in the office before and does not seem to have a physical disability. Caller may require medical documentation showing that the individual has a disability that prevents her from getting to the office.

E-mail writer asked if employer could require employee to take English language lessons, at employer's expense, or be fired. If job requires ability to communicate in English, it's legal for employer to require English competency. Employer is not required to pay for English lessons. May call back to discuss further.

E-mail writer repeatedly asked BHRC (and many others) for help with understanding and implementing the Minamata Convention on Mercury and Dental Amalgams.

E-mail writer said she knew of a restaurant employee who is required to work long hours and who had to return to work before being medically cleared after a health issue. But employee fears retaliation and does not want to go public. Made referrals.

E-mail writer sent six-page, single-spaced message complaining about landlord requiring her to pay for extermination, City policy on killing innocent insects, ebola, landlord greed and their "mob-style" criminal intent, etc. Explained that none of her issues are matters the BHRC addresses and suggested she talk to her attorney.

Caller said her former boss was rude and scary, making jokes about killing unpleasant customers, at least once touching a co-worker inappropriately, etc. After complaining about death comments, caller was fired. No evidence of race, sex, etc. discrimination. Explained how to file for unemployment benefits.

Caller, an attorney, had questions about whether local human rights commissions had authority over state institutions; no.

Visitor to office asked if landlord had to maintain elevator in 100-year-old, three-story building; no. Fair Housing laws do not apply to buildings of that age.

Caller said that he had been subjected to racial slurs by a neighbor. When he called the police, the landlord said he had to move out. Caller is not a tenant; lives with his mother and helps to care for her but is not on the lease. Not in City limits; referred to MCHRC.

Visitor to office said that he left a nonworking car at his old apartment in the visitor's parking space. After three months, the landlord had it towed without warning. He felt his rights had been violated and felt he had the right to park in that space. Explained that he was not a visitor, and lease said he could not leave his car there after moving out. Also complained that the landlord gave a special deal to students; not illegal, as student status discrimination is not a protected class under fair housing laws. Also complained that previous landlord told him he could no longer hang out in her laundry room to use her internet after he moved out; not illegal. Also complained about towing fees and a dispute

between mechanics. None of his issues came under the Bloomington Human Rights Ordinance.

Caller complained at length about “inbred fat landladies” who took too long to repair problems when she moved into her apartment three years ago. Referred to HAND if she has more maintenance issues.

Caller said that he had filed a complaint with the South Bend Human Rights Commission two years ago and wanted to follow up on that. Referred to South Bend Human Rights Commission.

Visitor to office had questions about Hatch Act violations; made referral.

Visitor to office complained that McKinney had not responded to his numerous e-mails, sent to multiple parties including McKinney, about the dangers of mercury in dental fillings. Explained that the BHRC has no role in this area.

E-mail writer asked for advice on what to do about parents who allow small children to wander about her facility without supervision. Referred to Child Protective Services and Monroe County Public Library for guidance and suggestions.

Caller asked for copies of the Fair Labor Initiative brochures; provided.

Caller relayed complicated story involving daughter who has intellectual disabilities being told that she had to sign a form agreeing to move out at the end of her lease. Apparently, she could no longer afford the apartment, and she couldn't afford another apartment that was available, either. It was possible that the daughter didn't understand what she was signing, but it was not clear that the landlord did anything wrong. Referred to organization that provides daughter's housing subsidy to try to straighten out issues and find daughter an apartment she could afford.

Caller complained about noisy fireworks upsetting her dog; referred to BPD.

Caller said she had been working for a hospital in northern Indiana for a few months. She had received good reviews. When she had a mini-stroke at work, her employer made sure she received appropriate medical care. She missed a few days of work. She returned to work without any medical restrictions but was immediately fired for being “not a good fit.” A supervisor said they wanted only employees who can “give 100%.” They told her if she applied for any other jobs at the hospital, she would have to disclose her disability. She said the job application asks if the applicant has any disability, a question prohibited by the ADA. Referred to EEOC and gave general advice.

E-mail writer said her professor told her that she needed to file a complaint with the BHRC about her previous landlord withholding money from her security deposit for alleged damages. No evidence of discrimination; referred to HAND and/or Student Legal Services. She said her professor said we could help so she needed to file a complaint with

us, not with anyone else. Explained again that we needed to refer her to offices that could address her issues.

Caller said she felt mistreated by a health care facility because they assumed, based on previous visits, that she had mental health problems and did not listen to her concerns or do what she asked. Referred to facility to file a complaint alleging her rights as a patient had been violated and to the Indiana Attorney General's office to file a complaint.

Visitor to office, an African American man, said he worked for a company for more than ten years without a disciplinary action. He complained to a supervisor that newer, white employees always got the best assignments, and said he felt disrespected so he was going home for the rest of the day. The next day, he was fired, without any warning. He said he could understand being written up or even suspended, but not being fired summarily. Company is not in City limits; referred to MCHRC.

Caller said his employer in Southern Indiana is requiring all employees to complete a wellness program to be entitled to health insurance. Proposed EEOC rules do not allow mandatory participation in wellness programs. Gave suggestions.

Caller said she is 92. She lives in assisted living, and the people who manage it "care only about money." They have begun renting to "crazy" people, including one woman who never stops talking, another who gets up and down from the dinner table repeatedly and a third who tries to take her pants off in public. Nothing illegal on the part of management in her description; suggested that she and other tenants let management know how unhappy they are with the current situation and that they are considering moving.

Caller said that she was interested in looking at an apartment. She had scheduled a time to look at it, but when she called back for directions, the landlord said, "I don't think we will get along so let's just cancel the showing." She said she was offended. No evidence of race, sex, religion, etc., discrimination. Explained this was legal. She asked if she would have a case if she was black. Explained that if she had any evidence that landlord didn't want to show her the apartment because of her race, regardless of her race, she might have a case. She asked, "So, if I rented from him and decided I didn't get along with him I wouldn't have to pay the rent any longer?" Explained that if she signed the lease, she would have to pay the rent. She used some vulgarities and hung up.

Caller left a message at 1 a.m. asking if the City offered any cooling stations during hot spells. She had seen a man on Kirkwood acting unusually aggressive, perhaps because of the heat, and would have liked to have been able to refer him to a cooling station.

Caller said he knows someone who just got a job and needs \$300 immediately to make a car payment or the car will be repossessed. If he loses the car, he probably can't keep the job. Referred to township trustee, 211 and faith groups. Suggested trying to work out payment plan with car seller.

Caller said he worked for a governmental office in southern Indiana, and as of January, 2015, had a new boss who had just been elected to the office. The boss gave him verbal warnings for talking back and then told him to resign or be fired. No evidence of race, sycophants, according to caller. Discussed applying for unemployment benefits and whether resigning or being terminated would be preferable. Referred to attorney if he felt termination was political.

E-mail writer said she had worked for the same employer, an employer not subject to the Bloomington Human Rights Ordinance, for years. She had been allowed to work 32 hours a week to accommodate her family needs for most of those years. New boss apparently doesn't like allowing her to work part-time, and/or is trying to get employees to quit so she can bring in her own people, and keeps cutting back on writer's hours. No evidence of race, sex, etc., discrimination. Suggested trying to talk to supervisor and union about the issue, and/or talk to HR, and/or talk to private lawyer. Advised that employer does have the right to alter schedules to meet its needs.

E-mail writer, from Bloomington, Minnesota, wanted to file complaint against employer. Referred to Bloomington, MN, HRC.

E-mail writer said she wanted to open a business in an existing building and had questions about ADA requirements. Gave general advice and referred to Monroe County Building Department.

Caller said he was a city manager in Iowa and his city had never developed an ADA transition plan; had questions about how Bloomington had done its plan. Answered questions and gave advice.

Journalism student wanted McKinney's input on proposed Monroe County Health Department needle exchange program. Referred to Monroe County Health Department.

Caller left messages saying he had been denied the right to participate in medical study because he has mental health issues but does not take any medications, as he has "everything under control." Office employee doubted his ability to keep commitments. Left messages for him but he never returned call.

**BLOOMINGTON HUMAN RIGHTS COMMISSION  
HATE INCIDENTS REPORT  
July, 2014 – June, 2015**

In August, 1990, the Bloomington Common Council unanimously approved an amendment to the Bloomington Human Rights Ordinance which gave the Bloomington Human Rights Commission the explicit authority to collect data and issue reports on hate incidents in our community. We accept reports from police departments, individuals, groups and the media. We also accept anonymous reports. Our goal is not to investigate these incidents, as we do not have the training, authority or resources to conduct these types of investigations. Rather, our goals are to serve as a referral resource and sounding board for victims, to work with community groups to coordinate responses to hate incidents when appropriate and to make our community more aware of the prevalence of hate incidents by issuing these annual reports. We feel it's necessary to include the actual language used in order to convey the true ugliness of these incidents.

In July, 2014, we received a report from BPD about criminal mischief and vandalism. A woman reported that she had been parked with her fiancée as they prepared to get married. A man in an adjacent car made comments about two women marrying and about their sexuality. When the two women returned to their car, they found a scratch along the whole side of the vehicle on the passenger side. The scratch had not been there before. She did not know if the man who made the comments had also scratched her vehicle. BPD investigated.

In July, 2014, we received a report from BPD about a battery/assault. A man reported that he had been walking on a trail by himself, skipping and singing. Two men walked up behind him and kicked him in the legs. When he tried to get up, one of the men knocked him down again. One of the men spat in his face. The men left. One of them said to him as they were leaving, "Go get fucked by a horse you disgusting piece of shit faggot." BPD noted that the incident occurred outside of the City limits and referred the matter to the sheriff's department.

In September, 2014, we received a report from BPD about a battery/assault. A white man reported that he had been attacked by an African American man in a restaurant parking lot. The investigation revealed that the white man had been drinking. Inside the restaurant, he had gone up uninvited to two African American men, put his arms around them, and said, "When did it get so dark in here?" He also made other racial and derogatory comments. One of the African American men told him to leave, but he stayed at the table and continued to make comments. Restaurant management told him to leave. He went to the parking lot, where one of African American men hit him several times. Other patrons tried to stop the fight, but another African American kicked him while he was down. The white man said he did not want to press charges because he had made inappropriate comments and "deserves what I got."

In October, 2014, we received a report from BPD about an assault. A white man reported that he had confronted a white man he knew who had called him a "nigger lover" because he was seeing an African American woman. A fight followed, and he was hit in the head. He had multiple broken bones around his eye socket and jaw, and he had to have reconstructive facial surgery. BPD talked to the attacker, who said the victim had been confrontational and head-butted him and threatened to kill him before he (the attacker) hit him (the victim) in the face. The attacker's

version said nothing about using the term “nigger-lover” but said the fight was over a woman they had in common, and that the victim brought this up every time he got drunk. The attacker was arrested and charged.

In December, 2014, we received a report from BPD about vandalism. A woman reported that she had argued with a relative about her African American boyfriend, and she later saw that someone had keyed the word “nigga” on the passenger side of her car. BPD talked to the relative, who denied having caused the damage; a witness supported his statement.

In February, 2015, we received a report from BPD about an assault. A white man reported that his nose had been broken during a fight in a bar. The person who broke his nose is an African American man, who said that the victim had been calling him “nigger” all night long. The victim threatened the African American’s life. In the parking lot, the victim confronted the African American man, still calling him “nigger” and threatening his life. The African American man hit him one time and left. The white man denied making any of these comments to the African American man. BPD investigated.

In April, 2015, we received a report from BPD about harassment. An African American man said he has a female roommate who has a boyfriend. He said that he had come home to find all of his personal items removed from the apartment. His roommate and her boyfriend denied any knowledge of what had happened to his belongings, so he called the police. They then tried to say they had been joking and they returned all of his things. The next day, they drove past him and yelled “nigger” at him and threatened him for having called the police. BPD was unable to find any earlier report that he had made about his missing belongings. BPD investigated.

In June, 2015, we received a report from BPD about a weapons offense. A woman reported that a neighbor had called her “nigger” and had pointed a shot gun at her. The neighbor said she had confronted him about his music in a very aggressive manner. He said he had called her a “nigger,” but only after she called him “white trash.” He said he had picked up his gun by the door and carried it away, but did not point it at the woman. BPD told both of them to call BPD if they have issues with each other.

## **BLOOMINGTON HUMAN RIGHTS COMMISSION**

### **STEPS IN PROCESSING A FORMAL COMPLAINT**

- 1. Complainant who believes he/she has been discriminated against makes an appointment with a BHRC staff member.**
- 2. The director or assistant interviews the complainant to determine if the BHRC has jurisdiction. If we do, the complaint is written, signed and notarized. If not, the complainant is referred to the appropriate agency.**
- 3. The respondent is notified of the complaint by certified mail and has 20 days to respond.**
- 4. The case is assigned to a commissioner, who will investigate the complaint along with the director.**
- 5. The director and investigating commissioner collect and summarize the facts. They interview both parties and witnesses, do legal research and collect documentation to obtain the best evidence available for each side.**
- 6. If the respondent wishes to settle the complaint before an investigation is completed, the director and investigating commissioner strive to mediate a settlement between the complainant and respondent. This agreement must then be approved by the full BHRC.**
- 7. If the case is not settled, the director and investigating commissioner, after a complete investigation, make a determination that probable cause or no probable cause exists to believe discrimination has occurred.**
- 8. Both parties are notified of the finding.**
- 9. If the finding was no probable cause, the complainant has 10 days in which to file a written appeal with the chair of the BHRC. A hearing is then held and the chair has 20 days to either uphold the finding or overturn the finding. If the finding is overturned, then the case proceeds to negotiations as if probable cause had been found originally.**
- 10. If the finding is probable cause, the director and investigating commissioner attempt to negotiate a settlement that is agreeable to both parties. If the attempt is unsuccessful, the BHRC will hold a formal public hearing. The BHRC's decision after the hearing can be appealed to court by either party.**



## OUT OF THE MOUTHS OF BABES

Each year the BHRC sponsors an essay/art contest for local school-age children. This year the theme was "A Lesson I've Learned From Someone Different From Me." The following are excerpts from some of this year's winning essays.

- ◆ "What I learned from this experience, was that when people are different, they often show each other more understanding."
- ◆ "I always thought that people who were poor or financially challenged are irresponsible and rough, and most of all, not meant to be known or be friends with. Looking back, I am so grateful to Shelly and her family, for showing me that this is so wrong and untrue. Now, I see that all people are equal, and that they are just as same as us."
- ◆ "On the first day that I met her, she was so excited to play that she tried to run over to the play area, but then she fell over and hit her head on the corner of a table. I was terrified, luckily she was ok. She taught me to appreciate the greater freedom I have to having full use of my legs as well as the importance of persevering in the face of adversity."
- ◆ "From my American classmates and friends, I learned that I should face difficulties bravely and optimistically and never give up. Only in this way, I can hold the hope of my life."

### 2015 Essay Winners

Ben Jaffe  
Alaska Laster

Zoey Burchenson  
Bill Zhenyu Nie

Macy Shepard  
Younwoo Shin

### 2015 Art Winners

Colin Moore  
Mona Livingston  
Talinaiya Bao

Nora LoPilato  
Ruby Williams  
Child's 5<sup>th</sup> Grade

Nola Somers Glenn  
Emily Lucy Backs

## 2016 BLOOMINGTON HUMAN RIGHTS COMMISSION6

### MEETING DATES

January 25, 2016	5:30 p.m.	McCloskey Room
February 22, 2016	5:30 p.m.	McCloskey Room
March 28, 2016	5:30 p.m.	McCloskey Room
April 25, 2016	5:30 p.m.	McCloskey Room
May 23, 2016	5:30 p.m.	McCloskey Room
June 27, 2016	5:30 p.m.	McCloskey Room
July 25, 2016	5:30 p.m.	McCloskey Room
August 22, 2016	5:30 p.m.	McCloskey Room
September 26, 2016	5:30 p.m.	McCloskey Room
October 24, 2016	5:30 p.m.	McCloskey Room
November 28, 2016	5:30 p.m.	McCloskey Room
*December 19, 2016	5:30 p.m.	McCloskey Room

The Human Rights Commission usually meets every fourth Monday of the month, with the exception of the December meeting.

Meetings will be held in the Showers Building, 401 N. Morton St., McCloskey Conference Room #135, on the first floor. The public is welcome to attend.

## FORMER COMMISSIONERS

### 1960s

Rev. E. Daniel Butler  
Mrs. David Dansker  
Jack N. Ray  
Dr. Harry Yamaguchi  
William H. Andrews  
Rev. Robert Kirk, Sr.  
Rev. A. Hardy Nall, Jr.

David S. McCrea  
Dustin McDonald  
Betty Rowan  
Robert F. Terry  
Regina Friedman  
Irving Fell  
Mrs. Russell DeMotte

Bill Hayes  
Dr. Harry Day  
Samuel M. Loescher  
E.E. Bridgewaters  
Rev. Joe Emerson  
Brad Bayliss  
Craig Tregilgas

### 1970s

Frank Thomas  
Clarence Gilliam  
Dr. Joseph Russell  
Dr. Jerry Ruff  
La Verta Terry  
Father Robert Borchertmeyer  
Joan Simkowitz  
William Jairrels  
Wilanna Smith  
John Irvine  
Tobiatha Eagleson  
Viola Taliaferro

Howard Canada  
Christine Iannucilli  
Daniel Gad  
Valerie Tarzian  
Robert Tucker  
Frederick LaCava  
Christine Mitchell  
William Gephart  
Mary Mitchell  
Ronald Foley  
Fran Koski  
Robert Epps

Jorge Oclander  
Mary Foster  
Tula Kavadias  
Mark Schenk  
Charles Webster  
Quincy Erickson  
Mary Hayes  
Rev. Joseph Walker  
Richard Randall  
Rev. William Webster  
David Jimenez  
Robert Cole

### 1980s

Robert Cole  
John Pickel  
Quincy Erickson  
Tobiatha Eagleson  
Ron Foley  
George Foster  
Tula Kavadias  
Christine Mitchell  
Jorge Oclander  
Doris Sims

Bob Tucker  
Ben Waxler  
Frona Powell  
Nora Peoples  
Lorraine Rodts  
Lorelei Meeker  
Bridget McKinney  
Chris Gardner  
Jerry Vuke  
Wilanna Smith

Roscoe Ellis  
Bob Dunn  
Edwin McClean  
Rev. Charles Rogers  
Mary Ellis  
Wanda Reisz  
Lauren Robel  
Cassandra McConn  
John Pickell

### 1990s

Harry Yamaguchi  
Mary Ellis  
George Foster  
Henry Hofstetter

Marie Phillips  
Charlie Laganza  
Barbara Fawcett  
Bob Dunn

Patty Muller  
Doug Bauder  
Dr. Fritz Lieber  
Gwen Jones

Steve Sanders  
Dr. Michael Wenzler  
Alan Yip

Lauren Robel  
Rev. Greg Wilson  
Barbara Wolf

Rev. Michael Anderson  
Jack Hopkins  
David Reidy

**2000s**

Dr. Fritz Lieber  
Steve Sanders  
Vicki Pappas  
Pam Huggins  
Jeff Harlig  
Luis Fuentes-Rohwer

David Reidy  
Josh Cazares  
Doug Bauder  
Nancy Metz  
Maria del Pilar File-Muriel  
Dorothy Granger

Rev. Michael Anderson  
Melanie Castillo-Cullather  
Suzette Sims  
Shaunica Pridgen  
Emily Bowman  
Beth Kreitl

**2010s**

Luis Fuentes-Rohwer  
Amy Jackson  
Teri Guhl

Beth Kreitl  
Dorothy Granger  
Alice Tischler

Emily Bowman  
Alexa Lopez  
Michael Molenda