

# TENNESSEE HUMAN RIGHTS COMMISSION TITLE VI COMPLIANCE PROGRAM



## ANNUAL REPORT FISCAL YEAR 2019



*SAFEGUARDING INDIVIDUALS FROM DISCRIMINATION THROUGH EDUCATION AND ENFORCEMENT*

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September 23, 2019

Governor Bill Lee  
State Capitol, 1st Floor  
600 Dr. Martin Luther. King, Jr. Blvd.  
Nashville, TN 37243

Members of the General Assembly  
Cordell Hull Building  
425 5th Ave N  
Nashville, TN 37243

To Governor Bill Lee, Members of the 111th General Assembly and Citizens of Tennessee:

On behalf of the Tennessee Human Rights Commission, I am pleased to provide the FY 2018-2019 Title VI annual report for the Tennessee Human Rights Commission. This report details the compliance status of state agencies with the requirement of Section 4-21-203, Tennessee Code Annotated for the period of July 1, 2019 through June 30, 2019.

Through education, enforcement, technical assistance and compliance reviews, the Commission continues to provide state departments and agencies with the tools and information necessary to maintain compliance with Title VI of the Civil Rights Act of 1964.

We look forward to the important work ahead and appreciate your continued support..

Sincerely,

A handwritten signature in blue ink that reads "Beverly L. Watts".

Beverly L. Watts  
Executive Director



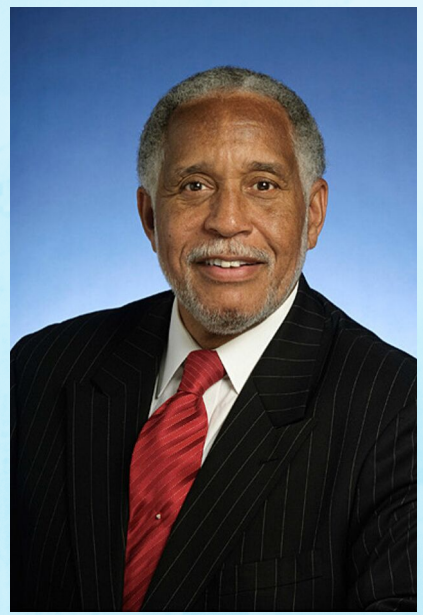
**BOARD OF COMMISSIONERS**



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CHAIR



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**BILL MARTIN**  
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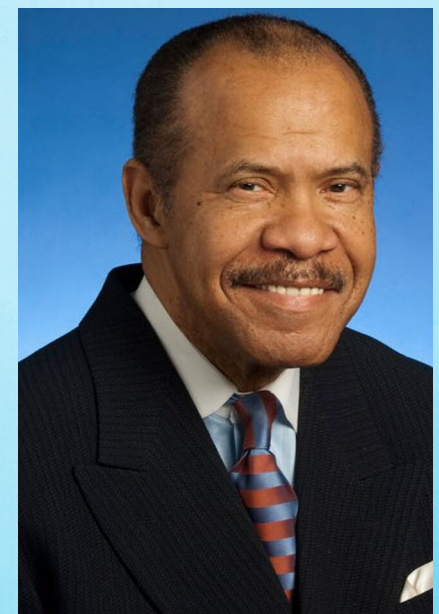
**ERIC CRAFTON**



**CHRIS CRIDER**



**JULIUS SLOSS**



**RALPH WHITE**  
(deceased)

# TITLE VI COMPLIANCE HISTORY, PURPOSE AND STRUCTURE

The Tennessee Human Rights Commission (THRC) enforces **Title VI of the Civil Rights Act of 1964** which prohibits discrimination on the basis of race, color and national origin under any program, activity or state agency receiving federal financial assistance (FFA).

Federal agencies that distribute funds are empowered to withdraw support if a recipient agency engages in discrimination. In any given year, the state of Tennessee receives millions of dollars of FFA and federal funds.

A comprehensive statewide compliance program prevents the risk of loss of federal funding due to discriminatory practices and is critical to maintaining high standards and ensuring continued compliance. The Title VI Compliance Program is an expression of the state of Tennessee's commitment to justice for its citizens. It maintains the public's trust by ensuring that the state's many interactions with its citizens are free of discrimination based on race, color, or national origin.

Each state agency receiving federal financial assistance is responsible for conducting the necessary activities to remain compliant and avoid discrimination. Although this is a responsibility of the agency as a whole, each state agency selects a member of its staff to serve as Title VI coordinator. The designated Title VI coordinator serves as liaison between the agency and the THRC and as a resource for the agency's Title VI related activities.

The compliance program is overseen by the Title VI director, compliance officer and an administrative assistant. Title VI compliance staff provides support for and coordination among the Title VI coordinators assigned to each state agency.

In FY 2018-2019, the program reviewed the Title VI Implementation Plans of 48 state agencies. Staff completed a compliance review of four state agencies, and responded to 354 requests for technical assistance.

We will continue to build upon these successes and develop new strategies for preventing discrimination in cooperation with every state agency.

## HISTORY

On August 9, 2002, Governor Don Sundquist issued Executive Order 34, which created the Title VI Compliance Commission. Executive Order 34 assigned the duties and responsibilities for Title VI monitoring to the 13 member commission. Governor Sundquist appointed 9 of the 13 members as required by the executive order. All of these appointments expired in October 2008 and remained unfilled.

## PURPOSE

On June 23, 2009, Governor Phil Bredesen signed legislation transferring the duties of the Title VI Compliance Commission to THRC, effective July 1, 2009. This legislation grants THRC the authority to verify that all state government entities comply with the requirements of Title VI. The compliance program dedicated itself first to the establishment and development of guidelines for a comprehensive statewide policy to ensure compliance by the executive branch of state government. In the subsequent years, the compliance division has matured beyond establishing guidance and into active oversight.



“No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.”

—Civil Rights Act of 1964

# HISTORY, PURPOSE AND STRUCTURE

## TITLE VI COMPLIANCE ACTIVITIES

- Serves as a clearinghouse for Title VI complaints, ensuring that any claim of non-compliance by a state agency is thoroughly investigated and resolved
- Conducts annual training of all Title VI coordinators; ensuring competence in Title VI issues across the state
- Provides policy guidance and technical assistance for recipient agencies regarding Title VI compliance
- Directly investigates potentially discriminatory actions by public programs
- Reviews the compliance efforts of individual state agencies via Title VI Implementation Plan analysis, and issues guidance on potentially discriminatory practices/policies
- Conducts on-site reviews for state agency compliance - these focused assessments highlight and remedy shortcomings in practices and procedures
- Administers annual report cards to commissioners and agency heads in an effort to inform top-down, keeping all apprised of institutional successes and areas of concern

## RESPONSIBILITIES OF STATE AGENCY COORDINATORS

- Ensure that recipients of agency funds are compliant with Title VI (via the collection of assurances prior to funding, training, periodic subrecipient reviews, etc.)
- Collect and maintain racial and ethnic data demonstrating the extent to which members of minority groups are beneficiaries of the department's federally assisted programs and/or services
- Attend annual training sessions presented by the THRC Title VI director
- Produce their agency's annual Title IV Implementation Plan
- Inform the public of Title VI-related policies and procedures
- Investigate and resolve discriminatory complaints made by beneficiaries
- Continually evaluate agency policies and procedures for improvement of minority access



On August 11, 2000, President Bill Clinton signed Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency.” The executive order requires federal agencies to maintain procedures that ensure their services reach beneficiaries who have a limited command of the English language. The requirement is extended in turn to all recipients of federal financial assistance, including Tennessee state agencies.

Tennessee state agencies must have procedures in place for ensuring meaningful access to limited English proficiency (LEP) individuals. Most commonly this involves the use of professional interpreter services, but can also include the use of bilingual staff. Agencies must continually evaluate the need for printing publicly distributed documents in languages other than English. At minimum, THRC recommends that each agency’s most distributed materials be made available in Spanish.



### DISCRIMINATORY PRACTICES

**Departments that receive FFA must provide the public with fair and equal access to all of their programs and activities in a nondiscriminatory manner. A department that is a recipient of federal funds may not, directly or through contractual or other arrangements, on the basis of race, color or national origin:**

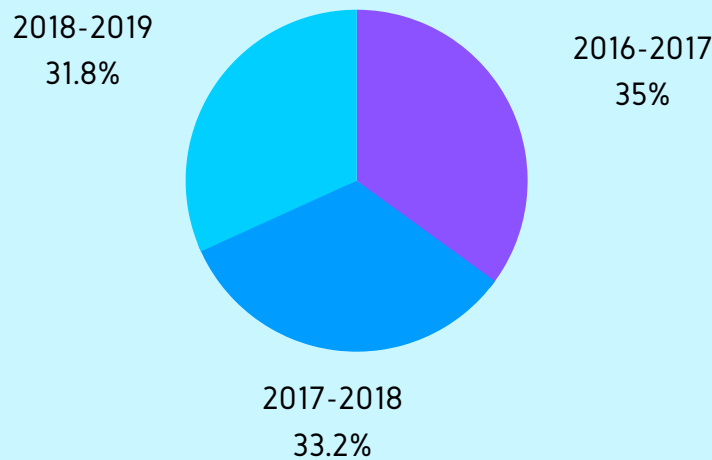
- Deny an individual any disposition, service, financial aid, or benefit provided under the program
- Provide any disposition, service, financial aid, or benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program
- Subject an individual to segregation or separate treatment in any matter related to the receipt of any disposition, service, financial aid, or benefit under the program
- Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any disposition, service, financial aid, or benefit under the program
- Treat an individual differently from others in determining whether such person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any disposition, service, financial aid, function or benefit provided under the program
- Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford such person an opportunity to do so which is different from that afforded others under the program
- Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program

A major component of Title VI Compliance involves the review of state agency Title VI Implementation Plans. In FY 2019, the Title VI compliance staff received and reviewed 48 implementation plans from departments statewide.

The reviews analyzed multiple areas of compliance, including LEP policies and procedures, data collection, the monitoring of subrecipients, and whether departments adequately train staff on Title VI. After the initial review, implementation plans were returned to the departments with feedback and requests for revision. Upon completion of the review process, THRC issued a Notice of Final Findings to each of the departments.

Forty-eight implementation plans were finalized by February 1, 2019. The Department of Education, Division of TennCare, Tennessee State University and University of Tennessee all received a finding of noncompliance for failure to report complaints.

### Implementation Plan Compliance Over Time



### Noncompliance for Failure to Report

**Department of Education-** Did not send Title VI complaints to THRC

**Division of TennCare-** Did not send Title VI complaints to THRC

**Tennessee State University-** Did not send Title VI complaints to THRC

**University of Tennessee-** Did not send Title VI complaints to THRC





Any person alleging discrimination on the basis of race, color or national origin under any program or activity receiving FFA must file a complaint within 180 days of the last act of discriminatory conduct. Complaints may either be filed with THRC, the state agency, or a sub-recipient of the state agency. A person may file a complaint directly with the federal agency that provides funding to the state agency.

During FY 2018-2019, a total of 100 complaints were lodged against state agencies. There are 14 complaint investigations that remain open pending the completion of investigation.

## INQUIRIES

All written inquiries alleging violations of Title VI by a state agency are reviewed. Each inquiry is examined to determine whether the allegations meet the jurisdictional requirements to be classified as a complaint. To be considered a complaint, the inquiry must allege discrimination on the basis of race, color, or national origin by a state agency or its subrecipient. The allegations must also involve some event occurring within the last one hundred eighty (180) days.

Inquiries that meet the requirements are assigned for investigation. Allegations that do not constitute a Title VI claim, but do make a formal complaint against a state agency, are referred to the appropriate state agency for a response. Inquiries falling outside of either category are closed.

### **TITLE VI\* COMPLAINTS ONLY**

**(COMPLETE THIS BOX ONLY IF YOU ARE SUBMITTING A TITLE VI COMPLAINT)**

*\*For discrimination in programs and activities receiving federal financial assistance.*

**BASIS OF DISCRIMINATION:**

*Please specify the categories which you marked.*

RACE: \_\_\_\_\_  COLOR: \_\_\_\_\_

NATIONAL ORIGIN: \_\_\_\_\_

RETALIATION: \_\_\_\_\_

**Check below if you were retaliated against because of any of the following:**

FILED A COMPLAINT OF DISCRIMINATION

GAVE TESTIMONY OR OTHERWISE PARTICIPATED IN A DISCRIMINATION INVESTIGATION

OPPOSED OR OBJECTED TO DISCRIMINATION

OTHER: \_\_\_\_\_

### Complaints Submitted Directly to THRC

During the period covering July 1, 2018 - June 30, 2019, the Title VI Compliance staff received **335** inquiries. Of these, **256** inquiries were determined to be non jurisdictional to Title VI and **79** were accepted as complaints. In some instances, allegations were jurisdictional to THRC, but were not valid under Title VI. In those instances, the investigation was assigned to the appropriate division of THRC (i.e. housing or employment). Inquiries that are not covered under Title VI and are not otherwise jurisdictional to THRC are forwarded to the relevant department for review and action where appropriate. The Title VI Compliance Division focused its efforts on closing aged complaints resulting in a higher number of closed cases for this fiscal year.

There were **57** total closures for the fiscal year. Complaints ranged from allegations of discriminatory practices by state employees to the denial of services under specific, federally funded programs and activities.

Complaints are assigned to the executive branch agency that administers the program or activity referenced in the complaint, but in certain cases where the allegations are unusually complex or when more than one state agency has oversight authority over the respondent, THRC may choose to directly investigate.

When investigations are assigned to departments, the investigating departments are required to keep our agency apprised of the progress of the investigation, provide status reports and copy us on correspondence to complainants related to complaint closure. Our agency will not consider a complaint that is assigned to another department as closed until it receives written notification from the department that the complaint has been resolved.

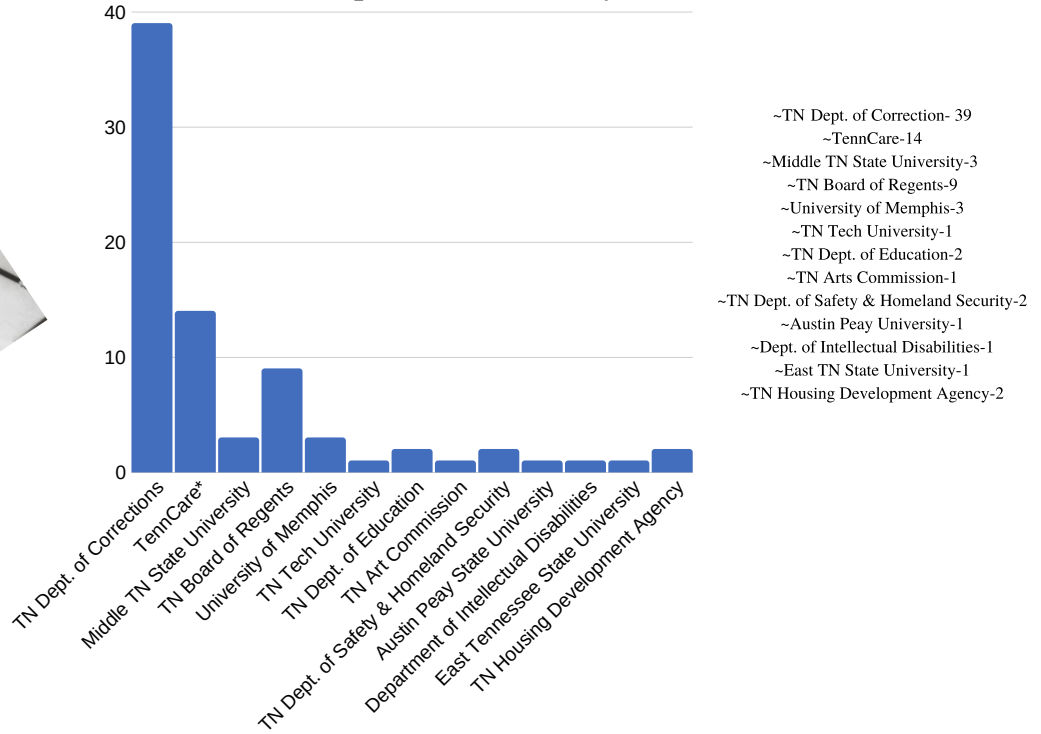
### 2019 Title VI Complaints By the Numbers



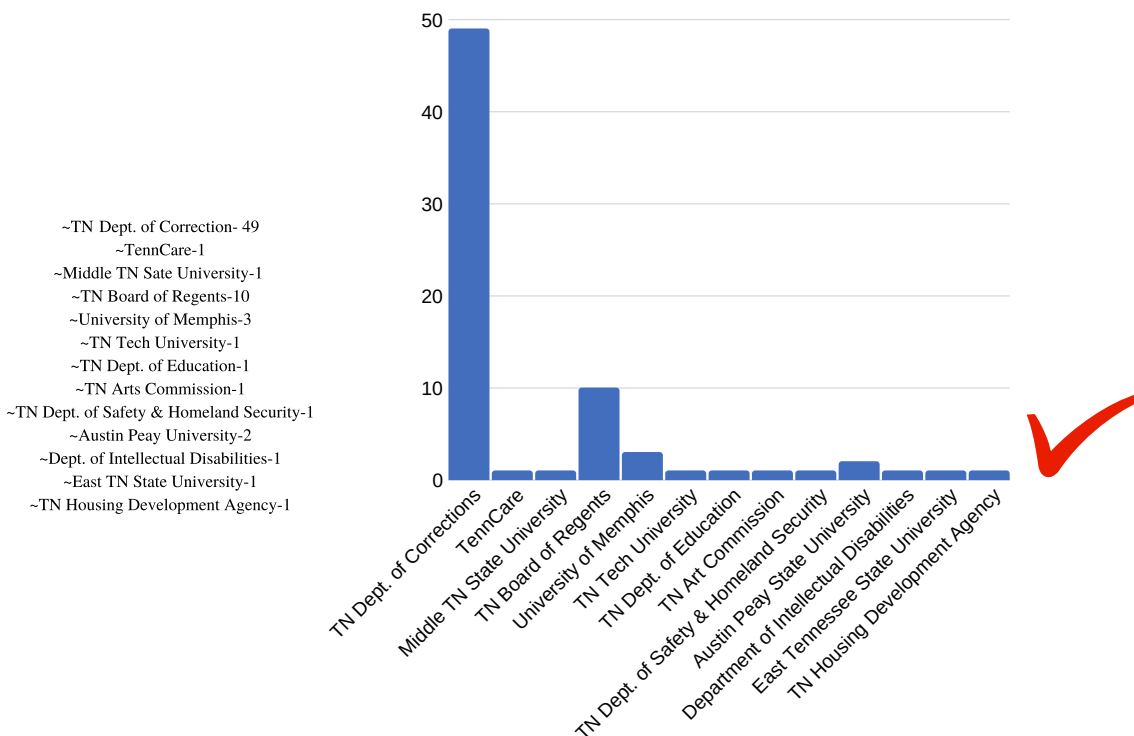
As in all previous fiscal years, the greatest number of Title VI complaints have been directed against the Tennessee Department of Correction by individuals currently imprisoned in a correctional institution.



### Distribution of Complaints Received by THRC



### Complaint Closures by Department



One of the responsibilities of the Tennessee Human Rights Commission is to verify that all state government entities comply with Title VI of the Civil Rights Act of 1964. According to the Tennessee Human Rights Act (Tenn. Code Ann. §4-21-203), our agency is authorized to periodically and systematically, review, evaluate and report on Title VI compliance efforts and outcomes for each state department and agency.

To fulfill this responsibility, we conduct compliance reviews involving extensive documentation analysis as well as in-depth interviews with agency staff. These reviews also serve as a mechanism for our agency to provide technical assistance and make recommendations regarding corrective action. Since the inception of the program, the division has completed 22 compliance reviews, including 4 in FY 2018-2019.

The review consists of an examination of a variety of agency activities, including:

### **Complaint Investigations:**

Review staff will confirm that any alleged violations of Title VI have been thoroughly investigated.

### **Subrecipient Monitoring:**

Review staff will confirm that any alleged violations of Title VI have been thoroughly investigated.

### **Record Keeping:**

All agencies are required to maintain records of any Title VI related activity, their sources of federal funding, and demographic data on all program beneficiaries and members of any boards or commissions.

### **Training:**

Review staff will confirm that all agency employees have been trained annually on Title VI and that those employees retain a basic understanding of the agency's anti-discrimination policies. Agencies are also required to ensure that any sub-recipients receive Title VI training every year.

### **LEP Policy:**

Every state agency must have working procedures in place for providing meaningful access to persons with limited English proficiency. All state employees are expected to know the procedures

### **Public Information:**

Review staff will confirm that agency publications or applications include appropriate anti discrimination language and inform beneficiaries of how to report potential discrimination. Agencies are further required to ensure that outreach efforts reach all racial populations.

Our Title VI Compliance staff reviews other state agencies to ensure Title VI compliance. During FY 2018-2019, there were five compliance reviews, four of which were completed.

### 2018-2019 Title VI Compliance Reviews



AGENCY	COMPLETED	FINDINGS
TN Community Service Agency (TCSA)	August 2018	No findings to report- in compliance
TN Dept. of Commerce & Insurance (TDCI)	November 2018	<p>1) Did not monitor Subrecipients for Title VI compliance</p> <p>--Agreed to corrective action plan, which is monitored by THRC.</p>
TN Dept. of Veterans Services (TDVS)	February 2019	<p>1) Did not use appropriate interpretation services to LEP individuals.</p> <p>2) Failed to document LEP encounters outside invoiced by Avaza</p> <p>--Agreed to corrective action plan, which is monitored by THRC.</p>
TN Dept. of Safety & Homeland Security (TDSHS)	April 2019	<p>1) Did not provide interpretation services throughout all divisions</p> <p>2) Failed to translate vital documents</p> <p>3) Fails to assess translating needs</p> <p>4) Prohibits language assistance during driver examinations</p> <p>5) Failed to notify THRC of race based complaints</p> <p>6) Attempt to close complaints before investigation</p> <p>7) Failed to notify the public of Title VI protections</p> <p>-- Agreed to corrective action plan, which is monitored by THRC.</p>

One important role of the Title VI Compliance program is to provide technical assistance to state departments and agencies on Title VI compliance. The Title VI staff responded to 354 requests for technical assistance from state departments and agencies on Title VI compliance.

Topics of concern included complaint investigation, complaint and compliance reporting, limited English proficiency, and training requirements, both for agency staff and sub-recipients. These requests are typically resolved within 24 hours.

### **Annual Title VI Training**

The annual Title VI training for state Title VI coordinators was held on August 1, 2018. Information presented during this training included an overview of Title VI fundamentals for new coordinators, an explanation of the implementation plan guidelines for FY 2019-2020 and regulatory authority training instruction. Our executive director, Beverly Watts gave a day-long presentation on the overall Title VI compliance program to state agencies.



# TITLE VI COMPLIANCE

## AGENCIES SUBJECT TO THRC REVIEW

Administrative Office of the Courts  
Alcoholic Beverage Commission  
Arts Commission  
Austin Peay State University  
Board of Parole  
Commission on Aging & Disability  
Commission on Children & Youth  
Council on Developmental Disabilities  
Department of Agriculture  
Department of Children's Services  
Department of Commerce & Insurance  
Department of Correction  
Dept. of Economic & Community Development  
Department of Education  
Department of Environment & Conservation  
Department of Finance & Administration  
Department of General Services  
Department of Health  
Department of Human Resources  
Department of Human Services  
Dept. of Intellectual & Developmental Disabilities  
Dept. of Labor & Workforce Development  
Dept. of Mental Health & Substance Abuse Services  
Department of Military  
Department of Revenue  
Dept. of Safety & Homeland Security  
Department of State  
Department of Transportation  
Department of Treasury  
Department of Veteran's Services  
District Public Defenders Conference  
District Attorney General's Conference  
East TN State University  
Health Care Finance & Administration  
Middle Tennessee State University  
Tennessee Board of Regents  
Tennessee Bureau of Investigation  
Tennessee Community Services Agency  
Tennessee Higher Education Commission  
Tennessee Housing Development Agency  
Tennessee Human Rights Commission  
Tennessee Public Utility Commission  
Tennessee State Museum  
Tennessee State University  
Tennessee State Veteran's Homes Board  
Tennessee Tech University  
Tennessee Wildlife Resources Agency  
University of Memphis  
University of Tennessee

# STAFF

\*Gabrielle Lyons

\*Jesse Madsen

Jennell Riddle

\*indicates former staff members who served THRC during fiscal year 2018-2019

## CONTACT THE COMMISSION

### Central Office - Nashville

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Main Line: 615-741-5825 or 800-251-3589 | Spanish line: 866-856-1252

### Chattanooga Office

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100 W. Martin Luther King Blvd #503  
Chattanooga, TN 37402

### Knoxville Office

7175 Strawberry Plains Pike #201  
Knoxville, TN 37914

### Memphis Office

One Commerce Square #200  
40 South Main St  
Memphis, TN 38103

For more information about THRC and to file a complaint, visit our website at

[www.tn.gov/HumanRights](http://www.tn.gov/HumanRights)



[www.facebook.com/TNHumanRights](http://www.facebook.com/TNHumanRights)



[@TNHumanRights](https://twitter.com/TNHumanRights)



[Tennessee Human Rights](https://www.youtube.com/TennesseeHumanRights)





## **Tennessee Human Rights Commission**

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[www.tn.gov/humanrights](http://www.tn.gov/humanrights)



### ***THRC Mission***

*Safeguarding Individuals from Discrimination Through Education and Enforcement*