

## City of Lincoln Commission on Human Rights News

### LARRY WILLIAMS AND JILL FENNER RECEIVE AWARDS AT FAIR HOUSING CONFERENCE



Rights at the 2008 Fair Housing Conference held on March 25-26 at the Embassy Suites Hotel in downtown Lincoln, Nebraska. Both were honored for their years of commitment to enforcing the Federal, state, and local Fair Housing laws within the state of Nebraska.

Ms. Houston noted, in particular, Larry Williams' annual organizing and presentation of the Fair Housing Conference as an exceptional achievement worthy of HUD recognition. She



also mentioned his continual service to the community beyond his position as director of the LCHR, to include his membership in anti-discrimination

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Macie Houston, the Regional Director for the Kansas City office of the US Department of Housing and Urban Development presented awards to both Jill Fenner, Director of the Fair Housing Center of Nebraska, and Larry Williams, Director of the Lincoln Commission on Human

### THE ARTER GROUP WINS FAIR HOUSING AWARD

"We don't just try to make money, we try to make the world better," stated Jim Arter, president of the Arter Real Estate Development Group in an



interview for the Lincoln Housing Authority newsletter, *Lighthouse*. The Lincoln Commission on Human Rights presented the 2008 Fair Housing Award to the Arter Group in recognition of their dedication to pursuing housing

opportunities for Lincoln's elderly and low income families. The award was presented by the LCHR director, Larry Williams to Arter Group president, Jim Arter at the Fair Housing Conference Awards



Luncheon held at the Embassy Suites hotel in downtown Lincoln.

The Arter Group was nominated for the award by employee, Barbara Banks, who also

was acknowledged at the ceremony. Ms. Banks was impressed by the dedication and commitment shown by her employers and wanted them to be recognized for their efforts.



# 2008 REGIONAL HUD AWARDEES

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organizations such as Citizens Against Racism and Discrimination (CARD) and the NAACP.

The conference was attended by approximately two hundred participants, and they participated in seminars

covering such topics as Fair Housing Law, Fair Housing 101 for Elected Officials, and Avoiding Foreclosures. This was the first year that a session especially designed for lawyers which was appropriately titled, "Fair Housing Law for Lawyers: a Legal Update," was incorporated in to the schedule of events. Mr. Scott P. Moore delivered an energetic and informative presentation to an audience ranging from University of Nebraska law students to seasoned disability advocates. Ms Julie Cuyler, the LCHR office assistant who provided invaluable administrative support for the event, stated, "This is an amazing turn out for an event that provides such a wonderful service to the community."



Ms Colleen Floth, who recently retired as LCHR senior civil rights investigator, presented at the event along with Ms Angela Wortman, current acting-senior civil rights investigator with the LCHR.

## YOUR LCHR: FIGHTING DISCRIMINATION FOR OVER 45 YEARS



"We want to attack whatever problems we have in Lincoln in a Lincoln way," Former Lincoln Mayor Dean Petersen stated when reactivating the Lincoln Human Relations Council in 1963. "This Council seeks simply to find a better approach to the problem of how we can live

### Our Mission

The administration of the Lincoln Commission on Human Rights supports the enforcement of all provisions of Title 11 of the Lincoln Municipal Code. To receive, settle, conciliate, investigate, issue findings, hold public hearings on complaints alleging discrimination based on race, color, religion, sex, disability, national origin, familial status, age, ancestry, marital status, and retaliation.

To perform functions and activities with community groups, businesses, schools, and governmental entities for the purpose of promoting understanding between races, cultures, and sexes, and to work to eliminate inequalities and sources of inter-racial friction.

Review all City of Lincoln procurement bids and awards in excess of \$10,000.

Review DBE (Disadvantaged Business Enterprises) program of minority and women-owned businesses and maintain directory.

### Our Goals

To eliminate and prevent all forms of illegal discrimination, to assure and foster equal opportunity for all citizens of the City, and to act in all matters within its jurisdiction.

together as fellow citizens of a good city." The current Lincoln Commission on Human Rights began as a recommendation by that original council to fulfill the will of the voters when they passed a charter amendment in 1966, authorizing the formation of such a permanent commission.

In 1933, the Lincoln Race Relations Committee commissioned a study on the status of African Americans in the city. A survey was administered by University of Nebraska, Lincoln sociology students to one hundred Lincoln residents, and what they found was that a majority of Black Lincoln residents had arrived from Southern states seeking a better life in this state whose history was linked to the Civil War. While they did find some better opportunities, their housing, economic, and educational prospects remained

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## ***FIGHTING DISCRIMINATION FOR OVER 45 YEARS***

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dismal. This led to a high dropout rate among African American youth who felt they had no future in Lincoln. The Race Relations Committee report recommended that a permanent commission be established in order to ensure equal opportunity for Lincoln minorities.

During World War II, more than 700,000 African Americans moved to metropolitan areas around the country to aid domestically in the war effort. While other cities and states experienced violent race riots, Lincoln and Nebraska formed commissions and revised their laws in order to ensure equality for everyone. Nebraska revised its statutes in 1943 to include sections on civil rights (sections 20-101 and 20-102). In 1952, following President Truman's lead a few years earlier in pushing for Fair Employment practices in the Federal government, former Lincoln Mayor Victor Anderson formed the Lincoln Human Relations Council to address the needs of Lincoln's minority communities. But this was not a permanent commission, and the Council's term was allowed to expire. In 1954, following the Supreme Court's landmark *Brown vs. the Topeka Board of Education* ruling which ruled that segregation was inherently unequal, the State Human Relations Council again recommended that a permanent civil rights commission be established to ensure that local minority groups were protected by growing civil rights rulings and legislation.

In 1958, the Lincoln Human Relations Council was again reactivated by Lincoln Mayor Bennett Martin following an arson fire of a Black home in Havelock. But in 1961, membership in this council was allowed to expire. In 1963, Mayor Petersen reactivated the Human Relations Council at the encouragement of a community Action Coordinating Team which was formed to address growing civil rights concerns. Although the turbulence in Lincoln paled in comparison to other cities during the 1960s, there was a reluctance to incorporate Blacks and other minorities into city life. A 1963 letter to the editor in the *Lincoln Evening Journal* stated, "...who will pay the greatest penalty, the uninvited Negro or the majority of the neighborhood whose property valuation is in jeopardy..." Further studies found that Black children weren't encouraged to join in any after school activities except sports. Other

letters to the editor stated that if the condition for minorities were made "too good" then it would encourage other minorities to move here. A Mexican American girl was told by a Lincoln store where she applied for employment, that they would not hire her because her skin was too dark, and minority students at the University of Nebraska, Lincoln simply could not find decent off-campus housing.

This was more than just a minority problem, it was a Lincoln problem. In May 1966, during a city charter election the people of Lincoln voted 55-45% to pass Amendment X (Human Rights Amendment) which consisted of two sections. Section one articulated the anti-discrimination policy of the city of Lincoln, and section two authorized the formation of a permanent Human Rights Commission to administer and enforce the policy. At the urging of the Lincoln Human Relations Council (whose term would eventually expire yet again), the City Council passed in a vote of 5-0 an ordinance mandating the formation of the Lincoln Commission on Human Rights.

The LCHR immediately set to hearing complaints on housing, employment, and other situations of discrimination within the city. Its members were dedicated to demanding action from the city and the state in passing and enforcing Fair Housing and other civil rights legislation to mirror protections at the Federal level. Charles Thone, who would become the first chair of the LCHR, would eventually become a Nebraska state Governor. But the Commission would be overwhelmed with investigating and rendering decisions on the growing volume of complaints, so in 1970, they pushed the City Council to again fulfill the will of the voters by mandating the position of an executive director along with an office to handle the task of investigation and administration. Gerald Henderson, who was filling a Human Rights administrator position out of a city housing department office, became the first director of the LCHR.

While in the 1960s and 1970s Lincoln was a city where it was difficult for Black doctors, lawyers, and academic professionals to find employment and housing, in the 1980s focus broadened to include the struggles of Lincoln's women and gay communities. Louis Crompton of

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## HUD CHARGES CHICAGO LANDLORD WITH VIOLATING FAIR HOUSING ACT:

### *Owner's online ad allegedly discriminated against men and families with children*

The US Department of Housing and Urban Development announced today that it has charged Cesar A. Lopez, a Chicago landlord with housing discrimination for posting an online ad that discriminates against men and families with children. The Fair Housing Act makes it unlawful for a housing provider to make, print or publish, in print or online, any statement or advertisement that states a preference based on race, color, national origin, religion, sex, familial status or disability.

The Chicago Lawyer's Committee for Civil Rights Under Law, Inc., (CLC) regularly monitors the content of rental ads on craigslist.org. In January 2006, Justin Massa, a fair housing testing and outreach coordinator at CLC, viewed an online posting advertising an owner-occupied three-story dwelling. In his ad, Lopez said his unit was a "Great apartment for a single person," and "I prefer young college students or single females." Later, Lopez admitted to Massa that he did not see a problem with the ad he posted, and commented that he was just "being honest"

because "girls really are cleaner."

"Because of Mr. Lopez's discriminatory language, people with children, and men were discouraged from seeking a rental opportunity," said Kim Kendrik, HUD Assistant Secretary for Fair Housing and Equal Opportunity (FHEO). "When placing an ad on the Internet or in a newspaper, landlords and owners must follow the guidelines of the Fair Housing Act, and understand that advertising rules are the same whether you advertise online or in newspapers."

A hearing on the charge will be held by a US Administrative Law Judge on May 20, 2008, in Chicago, unless any party elects to have the case heard in US District Court. An election to go to district court must be made by March 17, 2008.

Housing discrimination charges heard before an administrative law judge carry a maximum civil penalty of \$16,000 for a first offense, in addition to actual damages for each complainant, injunctive or other equitable relief, and attorney's fees. Sanctions can be more severe if a respondent has a history of housing discrimination.

## FIGHTING DISCRIMINATION FOR OVER 45 YEARS

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the UNL English Department had addressed the LCHR regarding the fact that homosexuals were an unprotected minority under current laws. But in 1982, a proposed inclusion to the Human Rights city charter amendment was rejected by Lincoln voters after a very contentious public debate.

Throughout the 1990s, the LCHR continued its mission of fighting discrimination within the city of Lincoln by partnering with other organizations such as the Mexican-American Commission, the Women's Commission, the Indian Affairs Commission, the New Americans Task Force, and other diversity minded organizations. Lincoln has grown considerably since the 1960s, but as the LCHR 2007 Annual Report has shown, discrimination complaints have generally been on the rise at least since 1997. Lincoln families continue to face housing discrimination due to their family size, minorities and women continue to be harassed and discriminated against in the workplace because of their race and gender, and

Lincoln's growing refugee and immigrant communities continue to seek protection against discrimination based on their religion or national origin. There is still much work to do within the city of Lincoln, and the LCHR continues to fill this mission. As the former Lincoln Human Relations Council chair stated in 1963, "[This] offers us an opportunity to take part in a great adventure in the exercise of freedom."

### **Editorial Policy:**

*One Lincoln is a publication of the Lincoln Commission on Human Rights. Materials appearing in this publication shall be in accordance with the purposes, and goals of the LCHR. One Lincoln will be published on a quarterly basis in January, April, July and October.*

### **Criteria for Publication:**

*Submissions by community groups and individuals are welcome. Deadlines are the first of the month preceding the month of publication. Articles are subject to editing, with the author's compliance. Specific opinions expressed are not necessarily the opinions held by LHRC employees or its*

# You Want to Know

*Questions & Answers Regarding Employment & Fair Housing Issues*

**Q: Do you have to be of majority age to file a discrimination complaint?**

*A: No. If you are under the age of 19, then your parent or legal guardian can file a discrimination complaint on your behalf.*

**Q: Do you have to be a U.S. citizen to file a discrimination complaint?**

*A: No. The law is designed to protect everyone from discrimination. We do not ask for proof of citizenship or even legal resident status. The concern is that all people are being treated equally without regard to race, color, sex, religion, national origin, age, disability, family status, marital status, and retaliation.*

**Q: I saw an ad in the newspaper that was asking for a strong, mature, male for a position as a bouncer, is that discrimination?**

*A: Yes. An employer cannot specifically ask for one gender unless it is what is known as a Bona Fide Occupational Qualification (BFOQ), which means that only that gender can do the job. Examples would be a wet nurse or sperm donor. It is very difficult for an employer to claim BFOQ's as a defense.*

**Q: I am employed by a temporary employment agency and am currently working at a company in which the position may become permanent. One of the co-workers, who works for the company has been making racial jokes and comments that offend me, who do I complain to, my employer or the company?**

*A: You need to notify your employer which is the employment agency and you can also inform a management person at the company. Your employer is responsible to make sure your work environment is free of discriminatory remarks or comments.*

If you have a question you would like answered in regard to possible discrimination as it affects employment, fair housing or public accommodation, you can email them to [lchr@lincoln.ne.gov](mailto:lchr@lincoln.ne.gov) or mail them to LCHR, Attn: Questions, 440 S. 8th Street, Ste. 101, Lincoln, NE 68508.

## **LABOR & EMPLOYMENT LAW: Labor Department publishes proposed FMLA rule changes**

The US Department of Labor's Wage and Hour Division has completed its long-anticipated revisions to the Family and Medical Leave Act (FMLA) regulations and has published its proposed rules in February 11th edition of the *Federal Register*. The proposed regulations would amend key provisions of the FMLA rules, including:

employer and employee notice requirements; nonconsecutive periods of service in determining "eligible employee"; the "two-visit" treatment requirement in the definition of "continuing treatment"; fitness-for-duty certification and recertification; HIPAA privacy requirements and contact with healthcare providers; substitution of paid

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# Labor Department Proposed FMLA Rule Changes

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leave; joint employers and the 50-employees-within-75-miles requirement; and, to address employer challenges in administering intermittent leave, an added provision allowing employers to contact healthcare providers to discern whether an employee's absence patterns are consistent with the employee's qualifying medical condition. The proposed rules also include a revised Certification of Health Care Provider form, notice poster revisions, and increased civil penalties for violating notice posting requirements. "It's time to update these regulations to reflect court decisions, clear up ambiguities and address issues that weren't contemplated when the regulations were first issued in 1995," said Victoria A. Lipnic, assistant secretary for the Employment Standards Administration. "This proposal is the result of a thoughtful, careful process that included a Request for Information with 15,000 public comments in 2006, many conversations with stakeholders, and the department's experience in administering and enforcing the law."

The agency's *Federal Register* notice requests comments on the issues to be addressed in the final regulations regarding military family leave. The first-ever expansion of the FMLA was enacted on January 28, 2008, with enhanced leave rights for family members of uniformed service members. The proposed

rule identifies the potential number of covered and eligible workers who may be impacted by the new military family leave provisions. In addition to the newly enhanced leave rights for family members of service members noted above, under the FMLA employers with 50 or more employees must grant workers up to 12 weeks of unpaid leave for the birth or adoption of a child, to care for an ailing family member or to take medical leave from work for a serious medical condition. Meanwhile, the National Partnership for Women & Families expressed its concern over potential employee privacy issues raised by the proposed rules. In a February 8 release, it stated, "if it is true that the new regulations will give employers permission to seek information from their employees' doctors directly, workers' privacy rights could be in real danger. Workers should not have to choose between allowing their employers to violate their privacy or losing leave they urgently need."

## About the LCHR

### What does the Lincoln Commission on Human Rights (LCHR) do?

The LCHR investigates complaints of discrimination within Lincoln that involves housing, employment, or discrimination in services provided to the public.

### What is discrimination?

Illegal discrimination is to have an adverse action taken against you or being treated differently based on a protected class (i.e.: race, color, national origin, sex, religion, disability, age, marital status, familial status, retaliation).

### Lincoln Commission on Human Rights Staff

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David Fikar (Chair)  
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Rev. Karla Cooper  
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Gene Crump  
Dr. Sitaram Jaswal  
Dick Noble  
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## *HOUSING AGENCY IN IOWA AGREES TO SETTLE DISCRIMINATION CASE*

[From Disability Rights Online News, December 2007, Issue 22]

On October 25, 2007, the federal court in Des Moines approved a consent decree resolving the Department's disability discrimination lawsuit against the Municipal Housing Agency of Council Bluffs, Iowa; Mark Schultz, former Executive Director of the agency; and Dee Wentzel, an employee of the agency. The Department's complaint, filed in September 2005, alleged that the defendants violated the Fair Housing Act by maintaining a policy of requiring prospective tenants to divulge mental health information and, on occasion, to make their mental health records available to the defendants as part of the tenancy application process.

Under the consent decree, the defendants will issue a nondiscrimination policy, train employees on the Fair Housing Act and the new policy, and keep records. They will also

pay \$31,700 in damages to the complainants, \$3,300 in damages to a fair housing organization, and \$5,000 in a civil penalty to the United States.

"No one in this country should be treated differently in his or her search for a home because of a disability," said Acting Assistant Attorney General Rena J. Comisac. "We are pleased that the Municipal Housing Agency of Council Bluffs changed its admissions and occupancy policy once the problem with the policy was brought to its attention."

The case originated when two individuals with disabilities filed discrimination complaints with HUD. HUD conducted an investigation and referred the case to the Justice Department, where it was expanded to seek relief on behalf of other individuals.

### **What is *Retaliation*?**

Retaliation is adverse action that an employer takes against an employee because the employee complained about discrimination or harassment. In a word, retaliation is employer "payback." The risk is a new charge or even a lawsuit against the employer. The potential "pay off" to the employee is the same array of remedies that may come of a successful suit for discrimination or harassment, including back pay and compensatory damages.

[Excerpted from WRAL LocalTec Wire.com, "Retaliation: When Employer 'Payback' May Pay Off for the Employee," By William Joseph Austin, Jr.]

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## NEW GUIDANCE ON “REASONABLE MODIFICATIONS”

WASHINGTON – New guidance released this week by the Departments of Housing and Urban Development (HUD) and Justice (DOJ) reinforced the right of persons with disabilities to make “reasonable modifications” to their dwellings if a structural change to their dwelling or to a common area of the building or complex in which they live is needed so that they can fully enjoy the premises. The guidance is designed to help housing providers and homeowners’ associations better understand their obligations and help persons with disabilities better understand their rights regarding the “reasonable modifications” provision of the federal Fair Housing Act (FHA).

“The right to reasonable modifications is essential to ensuring that persons with disabilities can fully enjoy the homes in which they live,” said Grace Chung Becker, Acting Assistant Attorney General for the Justice Department’s Civil Rights Division. “This guidance will help housing providers understand their obligations under this important component of the Fair Housing Act.”

“Persons with disabilities have a right to have the place they call home altered in a way that will enable them to fully enjoy it,” said Kim Kendrick, HUD’s Assistant Secretary for Fair Housing and Equal Opportunity. “This guidance is a major step toward enforcing that right today, and for generations to come.”

The FHA prohibits discrimination in housing based on disability, race, color, religion, na-

tional origin, sex and familial status. HUD and DOJ share responsibility for enforcing the FHA. HUD is the agency with the primary responsibility to investigate individual complaints of discrimination. The Secretary of HUD, on his own initiative, may file complaints alleging discrimination. In addition, the Attorney General may commence a civil action in federal court when he has reasonable cause to believe that person(s) are engaged in a pattern or practice of discrimination or that a group of persons has been denied rights protected by the FHA.

One type of discrimination prohibited by the FHA is the refusal by housing providers or homeowner associations to permit a reasonable modification – i.e., a structural alteration – of existing premises, occupied or to be occupied by a person with a disability, when the modification may be necessary to afford the person full enjoyment of the premises.

Although the housing provider or homeowner association must permit the modification, the tenant (or prospective tenant) is responsible for paying the cost of the modification. Examples of reasonable modifications include widening doorways to make rooms more accessible to persons who use wheelchairs or installing a ramp to provide access to a public or common use area, such as a clubhouse. The new guidelines, issued in the form of questions and answers, cover such topics as:

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**EQUAL HOUSING  
OPPORTUNITY**

**Fair Housing.  
It’s Not an Option.  
It’s the Law!**

## NEW GUIDANCE ON “REASONABLE MODIFICATIONS”

(Continued from page 8)

- What is a reasonable modification?
- Who must comply with the reasonable modification requirement?
- Who is responsible for expenses associated with the upkeep or maintenance of a reasonable modification?
- When and how should an individual request permission to make a modification?
- What types of documents and assurances may a housing provider require regarding the modification before granting the modification?
- What procedures are available to a person wishing to challenge a denial of a requested modification?

The guidelines are available online at both <http://www.usdoj.gov/fairhousing> and <http://www.hud.gov/offices/ftheo/disabilities>.

Since January 2001, HUD and its Fair



# One Lincoln

**Addressing Discrimination  
In Lincoln**

A City TV 5 monthly program addressing issues relating to discrimination as it affects Lincoln's citizens. April's program features highlights and footage from the 2008 Fair Housing Conference.

Program times vary but currently are Mondays, 9:30 p.m.; Tuesdays, 2:30 and 4:30 p.m., Wednesdays, 3:30 p.m.; and Saturdays, 10:30 a.m. You may also view current or past shows online through Video on Demand at: <http://www.lincoln.ne.gov/city/mayor/cic/5citytv/video.htm> - select Lincoln Commission on Human Rights.

Housing Assistance Program partners have investigated and either conciliated or charged nearly 10,000 cases that alleged discrimination based on disability.

Since Jan. 1, 2001, the Justice Department's Civil Rights Division has filed 244 cases to enforce the Fair Housing Act, 115 of which have alleged discrimination based on disability. More information about HUD and the civil rights laws it enforces is available at <http://www.hud.gov/offices/ftheo/aboutftheo/aboutftheo.cfm>.

More information about the DOJ Civil Rights Division and the laws it enforces is available at <http://www.usdoj.gov/crt>.

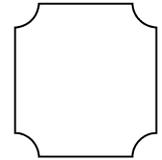
Individuals who believe that they may have been victims of housing discrimination should contact HUD at 1-800-669-9777. In addition, individuals may contact DOJ at 1-800-896-7743, or they may email DOJ at [fairhousing@usdoj.gov](mailto:fairhousing@usdoj.gov).

### Need Help Making Sense of Discrimination Laws?

*We're Here for You.*

We provide free assistance and training to large or small businesses in understanding the discrimination laws and creating Human Resources' policies to help you avoid liability issues. Call us at 441-7624 for more information.

**City of Lincoln  
Human Rights Commission  
440 S. 8th Street, Ste. 101  
Lincoln, NE 68508  
213**



## Jurisdiction:

The City of Lincoln Human Rights Commission has jurisdiction to investigate alleged discrimination complaints in the areas of employment, housing, and public accommodation occurring within Lincoln’s city limits. We do not have jurisdiction to investigate alleged discrimination complaints involving City, County and State Government employees, offices or facilities, or state universities.

## Resources:

- **Discrimination complaints outside of Lincoln City limits:** Nebraska Equal Opportunity Commission—402-471-2024 or the regional Equal Opportunity Commission office in St. Louis, MO (800) 669-4000
- **City agency complaints**—City Ombudsman/Mayor’s Office (402) 441-7511
- **University of Nebraska-Lincoln employment complaints** — UNL Affirmative Action (402) 472-3417
- **Lincoln Police Department complaints**—Internal Affairs Division (402) 441-7204, Citizen Advisory Board (402) 441-6351, or Mayor’s office (402) 441-7511
- **Jail complaints, not including the State Penitentiary**—Jail Standards Division of the Nebraska Crime Commission (402) 471-3988
- **State Penitentiary**—Ombudsman at the State office for Corrections (402) 471-2035
- **Landlord-Tenant disputes**—Lincoln Action Program Specialist (402) 471-4515
- **Complaints about legal matters**—County Attorney (402) 441-7321, Southeast Nebraska Legal Services (402) 435-2161, Nebraska Attorney General (402) 471-2682, or Nebraska State Bar Association (402) 475-7091
- **Advocacy Services for people with disabilities**—League of Human Dignity (402) 441-7891 or Nebraska Advocacy Services (402) 474-3183.