

**RULES AND REGULATIONS OF
CITY OF PITTSBURGH
COMMISSION ON HUMAN RELATIONS**



*Rules and Regulations Pursuant to the
Pittsburgh City Code, Chapter 655*

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CITY OF PITTSBURGH
Commission on Human Relations

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COMMISSION ON HUMAN RELATIONS**

Rules and Regulations Pursuant to the Pittsburgh City Code, Chapter 653.05(1)

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CHAPTER I - RULES GOVERNING PROCEDURE FOR COMPLAINTS ALLEGING UNLAWFUL DISCRIMINATION

RULE 1 - APPLICABILITY

The rules in this Chapter 1 apply only to actions in which it is alleged that unlawful discrimination has occurred.

RULE 2 - DEFINITIONS

In addition to the definitions set forth in the Pittsburgh City Code, (Chapter 651), Section 651.04, the Commission adopts the following definitions for purposes of these rules:

- (a) A "**Day**" shall be deemed to mean a day when the Commission office is open for business.
- (b) The term "**Chairperson**" shall mean the duly elected Chairperson of the Commission on Human Relations.
- (c) The term "**Code**" shall mean the Pittsburgh City Code, Chapters 651 through 659.
- (d) The term "**Commission**" shall mean the Commission on Human Relations.
- (e) The term "**Complainant(s)**" shall mean any person, group of persons or organization(s) claiming to be aggrieved by a violation of any one or more of the prohibited acts set forth in the Code.
- (f) The term "**Complaint**" shall mean a verified complaint filed on the form provided for this purpose by the Commission.
- (g) The term "**Covered multifamily dwellings**" means buildings consisting of four or more dwelling units if the building has one or more elevators, and ground floor dwelling units in other buildings consisting of four or more dwelling units. The ground floor is any floor of a building with a building entrance on an accessible route. A building may have more than one ground floor.
- (h) The term "**Director**" shall mean the Director of the Commission on Human Relations.
- (i) The term "**Dismissal**" shall mean the closing of a case upon a finding that there is no probable cause, that the case is moot, that the Commission lacks jurisdiction, that the complainant has failed to cooperate, that the Commission is unable to locate the complainant, or that the parties have adjusted the complaint.
- (j) The term "**Fair Housing Act**" shall mean Public Law 90-284, as amended Public

Law 100-430, September 13, 1988, 42 U.S.C. Section 3601, et seq.

- (k) The terms "**Handicap**" or "**Disability**" shall mean a physical or mental impairment which substantially limits one or more major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working; a record of such an impairment or being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance.
- (l) The term "**Commission Representative**" shall mean an official representative of the Commission assigned to investigate the complaint on file before the Commission.
- (m) The term "**Organization**" shall mean any person or a group of two or more persons authorized by state law to sue.
- (n) The term "**Panel**" shall mean any individual Commissioner or group of two or more members of the Commission appointed by a Section Chair.
 - 1) Private Meeting Panel

The term "**Private Meeting Panel**" shall mean any individual member or group of two or more members of the Commission appointed by the Chairperson to conduct Private Meetings.
 - 2) Public Hearing Panel

The term "**Public Hearing Panel**" shall mean any individual member or group of two or more members of the Commission's Public Hearing Section appointed by the Chairperson to conduct Public Hearings. Any Commissioner so appointed to a Public Hearing Panel may continue to serve on that panel through the completion of its work, even though such Commissioner may have ceased to be a member of the Public Hearing Section, unless the person is no longer a member of the Commission.
- (o) The term "**Pleading**" shall mean an Answer to a Complaint, a Position Statement, an Amended Complaint, and an appearance of an attorney.
- (p) **Public Hearing - Unlawful Practices** -- A "Public Hearing" is the hearing provided for in Chapter 655.06 of the Code. It is to be held after the Commission's Compliance Review Section has approved a finding that probable cause exists for the allegations made in the complaint and attempts by the Commission to resolve the complaint by persuasion have been unsuccessful, or as otherwise required by the provisions of the Fair Housing Act.
- (q) The term "**Party**" or "**Parties**" shall mean the complainant and/or the respondent.

- (r) The term "**Probable Cause**" shall mean sufficient evidence based on the facts concerning the alleged discriminatory practice provided by the parties or otherwise disclosed in the investigation that warrants further proceedings by the Commission on the Complaint.
- (s) The term "**Respondent(s)**" shall mean those persons or entities against whom a complaint is filed alleging a violation of the Code or any other person or entity identified during the course of investigation.
- (t) The term "**Section**" shall mean either the Compliance Review Section or the Public Hearing Section. No Commissioner may concurrently serve in both Sections.

(1) Compliance Review Section

The term "**Compliance Review Section**" shall mean any group of two or more Commissioners appointed by the Chairperson who are responsible for reviewing and approving or disapproving determinations by Commission Representative of whether probable cause exists with respect to a complaint alleging an unlawful discriminatory practice.

(2) Public Hearing Section

The term "**Public Hearing Section**" shall mean any individual Commissioner or group of two or more Commissioners appointed by the Chairperson. The Public Hearing Section conducts public hearings on complaints charging unlawful discriminatory practice(s) and, upon majority vote of the current members of the Public Hearing Section, renders the Commission's final decision.

- (u) The term "**Unlawful Discriminatory Practices**" shall mean only those unlawful discriminatory practices specified in the Code.
- (v) The terms "**Adjustment or adjust**" shall mean an arrangement to settle, a settlement, to free from differences or discrepancies.
- (w) The term "**Property**" means everything that is the subject of ownership, corporal or incorporeal, tangible or intangible, visible or invisible, real or personal.
- (x) The term "**Real property**" means land, and whatever is erected or growing upon or affixed to the land. Also, rights issuing out of, annexed to and exercisable within or about land.
- (y) The term "**Residential property**" means real property with or without the improvements thereon.

RULE 3 - BIFURCATION (Compliance Review/Public Hearing Sections)

- (a) For purposes of processing complaints charging an unlawful practice hereunder, the Commission shall be divided into two sections, each of which shall be appointed by the Chairperson. Said sections shall be designated as the Compliance Review Section and the Public Hearing Section.
 - (1) The Compliance Review Section shall be responsible for reviewing and approving or disapproving determinations by Commission Representatives of whether probable cause exists with respect to a complaint alleging an unlawful discriminatory practice. A review of probable cause findings shall be performed at a meeting of the Compliance Review Section. Approval or disapproval of a probable cause finding shall be by majority vote of Commissioners present at the meeting of the Section at which probable cause findings are reviewed. Three (3) members of the Compliance Review Section shall be the quorum necessary for the transaction of business.
 - (2) The Public Hearing Section shall conduct Public Hearings and, upon majority vote of the current members of the Public Hearing Section, render the Commission's final decision in accordance with these Rules.
 - (3) No Commissioner may serve concurrently in both Sections. A Commissioner may serve successively on both Sections; however, a Commissioner who serves in the Public Hearing Section after having served in the Compliance Review Section shall not participate in a Public Hearing on any matter previously before the Commissioner during the tenure of said Commissioner in the Compliance Review Section.
- (b) The Compliance Review Section Chair shall be responsible for the conduct of section meetings and shall exercise any other authority as provided by these Rules.
- (c) The Public Hearing Section Chair shall appoint one or more members of the Public Hearing Section to serve on a Public Hearing Panel designating one of those members to serve as Chair of the Public Hearing Panel; shall Chair the Public Hearing Section when it sits en bloc; and shall exercise any other authority as provided by these rules.

RULE 4 -- PLEADINGS, MOTIONS AND BRIEFS

(a) Who May File

Any person, group of persons or organization(s) claiming to be aggrieved by an alleged unlawful discriminatory practice may commence a proceeding by filing a verified complaint with the Commission on a form prescribed by the Commission. The Commission may, on its own motion, initiate a complaint pursuant to RULE 6 hereafter.

(b) **Caption**

Filings in any proceeding before the Commission shall contain a caption setting forth the names of the parties, the docket number of the action and the name of the pleading or motion, and shall be entitled "Pittsburgh Commission on Human Relations."

(c) **Service and Number of Copies**

Except as otherwise directed or permitted by the Commission, a party shall, on the same day of filing a pleading or motion, serve by first class mail or equivalent means of service, copies of the pleading or motion on all parties of record, and there shall be furnished to the Commission at the time of filing an original and one conformed copy of all pleadings and motions. Where a party is excused from serving a document on another party, the Commission shall serve the document on the other party within three days of the date of its filing.

(d) **Place of Filing**

- (1) All pleadings, motions, and responses to Interrogatories shall be filed with the Commission at its duly designated office.
- (2) In the event a complainant is unable to appear in person at the Commission office due to disability, incarceration or such other valid cause, the Director may authorize an alternative place, method and form of filing a complaint.

(e) **Form**

The complaint shall be in writing on a form provided by the Commission, the original of which shall be signed and either notarized before a notary public whose service shall be provided without charge by the Commission, or verified in accordance with the Pennsylvania Rules of Civil Procedure. Where the complaint is filed by a group of persons or an organization, the complaint may be signed and verified by an agent or authorized representative of the group or organization.

(f) **Contents**

A complaint shall contain the following:

- (1) The name and address of the person, group or organization claiming to be aggrieved or the Commission, who shall hereafter be referred to as the "complainant."
- (2) The full name and address of the party alleged to have committed the unlawful discriminatory practice complained of, hereinafter referred to as the "respondent."
- (3) In the case of housing complaints, the name and/or address of the housing accommodation that is the subject of the alleged unlawful discriminatory

practice whenever the name or address can reasonably be determined.

- (4) A statement of the alleged unlawful discriminatory practice which shall include the date or dates thereof and, if the alleged unlawful discriminatory practice is of a continuing nature, the dates between which said continuing acts of discrimination are alleged to have occurred.

(g) **Time of Filing**

A complaint must be filed no later than one year from the date the complainant knew or reasonably should have known of the occurrence of the alleged unlawful discriminatory practice. If the alleged unlawful discriminatory practice is of a continuing nature, the date of occurrence shall be deemed to be any date up to and including the date on which the practice ended.

(h) **Service**

The complaint shall be served upon respondent after filing with the Commission, unless otherwise required by the Fair Housing Act (Public Law 90-284, 42 U.S.C. Section 3601 et. seq.). Where respondent is an individual, the complaint shall be served by certified mail addressed to respondent's place of residence or business or by a duly authorized Commission representative handing a copy to respondent or to an adult member of respondent's residence or an agent at respondent's place of business. Where respondent is a political subdivision, partnership, unincorporated association, corporation or other entity, then service shall be made by certified mail or personal delivery to an officer, partner, agent or other person authorized by respondent or law to receive service of civil process.

(i) **Answer and Position Statements**

Respondent shall have the right to file an answer to the complaint and, unless otherwise provided or required by the Fair Housing Act, the answer shall be filed within thirty (30) days of service of the complaint upon respondent; in addition, respondent may file a position statement with the Commission setting forth respondent's position at any time prior to the approval by the Commission of a Public Hearing on the merits.

Complainants will have the ability to review position statements and their non-confidential attachments upon request after they are filed. If the Respondent relies on confidential information, the Respondent is responsible to provide such information in separate, clearly marked attachments.

Confidential information may include sensitive medical information, social security numbers, confidential commercial or financial information, trade secret information, non-relevant personally identifiable information of named parties, and any reference to charges filed against the Respondent by other charging parties.

(j) **Motions**

Motions filed before the Commission seeking procedural or interlocutory relief shall be in writing and shall set forth the relief sought and the grounds and authority therefor. Replies to written motions shall likewise be in writing and shall be filed within ten days of the date of service of the motion, unless otherwise ordered by the Motions Commissioner. Motions advanced during Public Hearings may be made orally upon the record.

(k) **Amendments**

A pleading may be amended at any time prior to the issuance of a notice scheduling a Public Hearing on the merits; thereafter, a pleading may be amended only upon leave granted by the Public Hearing Panel.

(l) **Briefs**

(i) With respect to motions in which part or all of the relief requested is dismissal or termination of the action, no brief by any party shall exceed twenty (20) double-spaced 8 1/2 x 11 type-written pages, unless otherwise expressly permitted by order of the Motions Commissioner or by the Public Hearing Panel.

(ii) For briefs filed with respect to all matters not covered by Rule 4(l)(i), no brief by any party shall exceed ten (10) double-spaced 8 1/2 x 11 typewritten pages, unless otherwise expressly permitted by order of the Motions Commission or by the Public Hearing Panel.

(iii) Failure to comply with this rule shall constitute grounds to deny the relief requested by the filing party and/or grounds not to consider the argument(s) of the party violating this rule.

RULE 5 - COMPLAINTS "CLASS RELIEF"

Complaints may seek class relief or relief for persons other than the named Complainant

(a) Whenever a person seeks relief for a class of persons or for unnamed persons, the complaint shall include an allegation that the complaint is made on behalf of a class or of other unnamed persons who have been affected by the alleged unlawful discriminatory practice.

(b) The Commission will not conduct a Public Hearing, otherwise finally adjudicate or consent to a settlement which may affect the rights of the class or unnamed persons which include a subsection (a) allegation unless the Commission determines that the adjustment, settlement or hearing does not prejudice or, in the alternative, adequately protect the interests of the class or the unnamed persons upon whose behalf the complaint was brought.

- (c) The inclusion of any person within a class of unnamed persons under subsection (a) does not preclude the person from filing and pursuing an individual complaint of unlawful discrimination before the Commission; however, the filing of an individual complaint based on a transaction or occurrence which is the subject of a complaint for class relief shall preclude the individual from recovery in the action for class relief.

RULE 6 - COMMISSION COMPLAINT

(a) Initiation

Whenever the Compliance Review Section has information whereby it has reason to believe that an unlawful discriminatory practice has occurred, the Compliance Review Section may, on its own motion, file a complaint.

(b) Form

A Commission complaint shall be prepared on a form which shall not require notarization, shall be signed by the Chairperson or the Director, and shall include the content set forth in RULE 4(f).

RULE 7 - MOTIONS COMMISSIONER

- (a) The Commission Chairperson may designate one or more Commissioners to serve as Motions Commissioner to rule upon Motions and Objections presented by either party prior to a Public Hearing.
- (b) Said Motions Commissioner may, after consultation with the solicitor, defer any Motion or Objection to the Public Hearing Panel for ruling.
- (c) Rulings on any Motion or Objection which would otherwise constitute a final disposition of the proceedings must be approved by the Commission's Public Hearing Section, except that the disposition of any motion made prior to a finding of probable cause and which would otherwise constitute a final disposition must be approved by the Compliance Review Section.

RULE 8 - INVESTIGATION

- (a) After the filing of a complaint and the determination that it is within the jurisdiction of the Commission, the Director shall order prompt investigation of its allegations unless otherwise required by the Fair Housing Act. Investigation shall begin within 10 days after determination that it is within the jurisdiction of the Commission. A preliminary determination of jurisdiction shall be initiated within one business day after the end of the business day on which the complaint is filed or as soon

thereafter as possible.

- (b) Once the preliminary determination has been made that there is jurisdiction, a complainant will not be required to file any additional complaint with the Pennsylvania Human Relations Commission. With respect to complaints alleging a violation of Chapter 659.03 UNLAWFUL HOUSING PRACTICES, the Commission shall commence proceedings before the end of the thirtieth day after receipt of the complaint.
- (c) A final investigative report of all complaints charging a violation of Chapter 659.03 "Unlawful Housing Practices" and the Fair Housing Act of 1988 shall be prepared by the Director at the end of each investigation and made available to the parties and shall contain: (i) the names and dates of the contacts with witnesses; (ii) a summary of the dates of correspondences and other contacts with the aggrieved person and the respondent; (iii) a summary description of other pertinent records; (iv) a summary of witness statements; and (v) answers to interrogatories. A final report under this paragraph may be amended if additional evidence is later discovered.

RULE 9 - DISCOVERY

Prior to a finding of probable cause and except as otherwise agreed to by the parties or authorized by the Motions Commissioner, the discovery measures outlined hereafter may be employed only by the Commission Representatives. After a finding of probable cause and efforts to bring about the voluntary adjustment of the complaint via a staff conciliation or private meeting have been unsuccessful, the discovery measures in this subchapter may be employed by the Representatives and/or by any party to the proceeding. Subject to the limitations in these Rules, discovery may include:

(a) Oral Interviews and Other Investigations

- (1) The Commission Representative(s) or any party may interview any person not a party and, if appropriate, request and secure statements from any person not a party who may provide information concerning the allegations of the complaint.
- (2) The Commission Representative(s) or any party may require any person not a party to make available for copying and/or inspection all documents, information, records, photographs, files or other materials necessary to determine facts relevant to the allegations of the complaint.

(b) Interrogatories

- (1) The Commission Representative(s) or any party may serve written interrogatories upon any party to be answered in writing by the person served or other authorized personnel. Interrogatories served upon a public or private corporation, partnership or association shall be answered by an officer or

agent who is authorized to furnish the requested information.

- (2) The Commission Representative(s) or any party may serve supplemental interrogatories.
- (3) The questionnaire issued by the investigator is not considered to be Interrogatories subject to this Rule.

(c) **Answers to Interrogatories**

Answers to Interrogatories shall be served upon all parties of record and shall conform to the following rules:

- (1) Each Interrogatory shall be answered separately and fully in writing.
- (2) The answers to a set of Interrogatories shall be properly executed as provided in 1 Pa. Code Section 33.11 (relating to execution).
- (3) The recipient of the Interrogatory shall serve a copy of the answers to the Interrogatories upon the Commission and all parties of record within thirty (30) days after service of the Interrogatories.

(d) **Issuance of Subpoenas in Discovery**

A request for the issuance of a subpoena for documents or things shall be submitted to the Director, specifying in writing the books, papers, documents or other material desired and setting forth the general relevance, materiality and scope of the evidence sought therefrom. The Director may thereafter cause the subpoena to be issued for service.

Prior to a finding of probable cause, a subpoena must be signed by the Director, the Director's designee, or the solicitor. After a finding of probable cause, a subpoena must be signed by the Director, by the Motions Commissioner, or by the Chair of the Public Hearing Section.

A request for the issuance of a subpoena for testimony to require attendance at a deposition or hearing shall be submitted to the Director specifying in writing the general relevance, materiality and scope of the expected testimony. The Director may thereafter cause the subpoena, signed by a Commissioner, to be issued for service.

A party or a person upon whom a subpoena is served may file objections in writing, within the time specified for compliance with the subpoena, except that the time may be extended by the Motions Commissioner if justice requires. The objections will be reviewed by the Motions Commissioner, who will rule thereon.

(e) **Service of Subpoena**

- (1) A subpoena may be served by any member of the staff not a party to the proceeding, or by another adult not a party to a proceeding who is so authorized by the issuer of the subpoena.
- (2) A subpoena will be served by exhibiting the original subpoena and handing a copy of the subpoena to one of the following:
 - (A) To the person designated for service.
 - (B) At the residence of the person designated for service, to an adult member of the family with which the designated person resides; but if no adult member of the family is found then to an adult in charge of the residence.
 - (C) At any office or usual place of business of the person designated for service, to the designated person's agent or the person for the time being in charge thereof.
- (3) The return of service of a subpoena issued shall include:
 - (A) The time, place and manner of service; and
 - (B) The signature of the person serving the subpoena.
 - (C) The original subpoena, bearing or accompanied by the authorized return, shall be filed with the Commission.
- (4) Subsections (1)-(4) supersede 1 Pa. Code Section 35.142(b) (relating to subpoenas).

(f) **Enforcement of Subpoenas**

Subpoenas issued by the Commission, at the request of the Commission Representative(s) or issuing Commissioner, may be enforced by the Commission Solicitor by petition to the Court. Any other subpoena issued by the Commission may be enforced by the party requesting the subpoena by petition to the issuing Commissioner and thereafter by petition to the Court.

(g) **Depositions**

- (1) The deposition of any party or witness may be taken upon reasonable notice.
- (2) Attendance of a non-party to be examined by deposition may be obtained by the use of a subpoena as provided in the foregoing sections relating to issuance of subpoenas and enforcement of subpoenas. Attendance of a party, or of an officer, director, employee or managing agent of a party, to be

examined by deposition does not require a subpoena. A notice of deposition served on the party's attorney or, if not represented, served on the party, is sufficient to obtain attendance.

- (3) If a deponent refuses to be sworn or answer a question, the deposition shall be completed on other matters or adjourned as the proponent of the question may elect. Thereafter, upon reasonable notice and opportunity to reply to all persons affected thereby, the proponent may apply to a Motions Commissioner or the Chair of the Public Hearing Panel for an order compelling the witness to be sworn or to answer a question, in whole or in part, which order may be enforced as with a subpoena.

(h) Use of Depositions at Hearings

- (1) At the hearing, any part or all of the deposition, so far as otherwise admissible, may be used against any party who was present or represented at the taking of the deposition, or who had notice thereof if required, in accordance with one or more of the following provisions:
 - (A) A deposition may be used by any party for the purpose of contradicting or impeaching the testimony of a deponent as a witness.
 - (B) The deposition of a party or of any one who at the time of taking the deposition was an officer, director or managing agent of a party may be used by an adverse party for any purpose.
 - (C) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the Chair of the Public Hearing Panel finds one of the following:
 - (i) That the witness is dead.
 - (ii) That the witness is at a distance greater than 100 miles from the place of the hearing or is outside this Commonwealth, unless it appears that the absence of the witness was procured by the party offering the deposition.
 - (iii) That the witness is unable to attend or testify because of age, sickness, infirmity or imprisonment.
 - (iv) That the party offering the deposition has been unable to procure the attendance of the witness by subpoena.
 - (v) Upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with regard to the importance of presenting the testimony of witnesses orally at hearing, to allow the deposition to be used.

- (D) If only part of a deposition is offered in evidence by a party, an adverse party may require that party to introduce all of said deposition which is relevant to the part introduced.
- (2) Substitution of parties does not affect the right to use depositions previously taken, and, when an action has been dismissed and another action involving the same subject is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken in the former action may be used in the latter as if originally taken therefor.
- (i) **Production of Documents and Things and Entry for Inspection and Other Purposes**
- (1) Commission Representative(s) or any party may request in writing of any other party:
- (A) Production of and permission to inspect and copy, test or sample documents (including writings, drawings, graphs, charts, photographs, phonograph records, computer data and other compilations of data from which information may be obtained, translated, if necessary, by the party from whom production is sought into reasonably usable form), and/or other materials or tangible things which are in the possession, custody or control of the party from which production is sought.
- (B) To permit entry upon designated land or other property in the possession or control of the party from whom production is sought for the purpose of inspecting and measuring, surveying, photographing, testing, sampling or otherwise examining the property or any designated object or operation thereon.
- (2) The request shall set forth the documents, materials, tangible things, land or property to be inspected with sufficient particularity to allow a determination of their general relevance to the proceedings and shall specify a reasonable time, place and manner of making the inspection and performing the related acts. A copy of the request shall be served upon the party from whom production is sought, who shall file in writing any objections to the request within fifteen (15) days after service of the request and who may file a motion for a protective order as provided hereafter.
- (3) If the request is not voluntarily complied with, the Motions Commissioner may, upon petition, issue an Order specifying the time, place and manner of making the inspection and performing the related acts, which may or may not be the same as those specified in the original request. Said Order shall be enforceable as with a subpoena.

(j) **Requests for Admissions**

- (1) Any party may send to another party a written request for the admission of the truth of a matter or of the authenticity of any writing, document or record, a copy of which is attached to the request, relevant to the pending proceeding.
- (2) Matters referred to in subsection (a) will be deemed admitted unless within twenty (20) days after service of the request the recipient serves upon the requesting party a sworn and properly executed answer admitting, denying or objecting to each item.
- (3) Reasons for all objections shall be stated.
- (4) All that is not denied or objected to in an answer shall be deemed to be admitted. If an answer reads "denied in part" or "admitted in part," the answer shall also state with specificity that which is denied and that which is admitted.
- (5) Upon motion by a party requesting admissions, the Chair of the Public Hearing Panel will determine if the answer complies with this section. The Chair of the Public Hearing Panel may order that the matter is admitted or denied or that the request or answer shall be amended as the circumstances warrant.

(k) **Protective Orders**

- (1) Upon motion by the Commission Representative, by a party or by the person from whom discovery is sought, the Motions Commissioner may issue any order which justice requires to protect a party or person from unreasonable annoyance, embarrassment, oppression, burden or expense.
- (2) When a motion for a protective order is denied in whole or in part, the Motions Commissioner may, upon terms and conditions as are just, order that the party or persons provide or permit discovery.

(l) **Scope of Discovery of the Commission's Records, Documents and Other Information Relating to a Complaint**

The staff of the Commission will not be examined either by interrogatory or deposition except when leave to undertake the examination is granted by the Director, the Motions Commissioner, or the Chair of a Public Hearing Panel upon petition alleging that one of the following exists:

- (1) The staff person has direct personal knowledge of evidence relevant to the proceeding other than evidence gathered as a result of investigation.
- (2) Justice requires that the petition be granted for other reasons that shall be set forth with particularity.

(3) Discovery has revealed that the staff person will be called as a witness.

(m) Exemptions from Discovery

- (1) Information which is exempt from discovery includes, but is not limited to, the following:
- (A) A record, report, memorandum or communication dealing with the internal practice, policy and procedure of the Commission.
 - (B) A record, report, memorandum or communication of the staff of a staff meeting regarding the institution, progress or result of an investigation of a complaint or regarding matters prepared in anticipation of a hearing.
 - (C) A report, record, memorandum or communication regarding an endeavor to eliminate the unlawful discriminatory practice complained of by conference, conciliation or persuasion.
 - (D) The work product of an investigator or other staff member made in the course of an investigation of a complaint or in anticipation of or in preparation for a hearing on the complaint or a report, record, memorandum or communication made by the staff during the investigation of a complaint or in anticipation of or in preparation for a hearing on the complaint which is otherwise privileged. Included within this exemption are deliberative memoranda describing an investigator's or staff member's mental impressions regarding the strength, weakness, viability or merits of a complaint.
 - (E) A memorandum, statement or mental impression prepared or obtained by a Commission attorney.
 - (F) The identity of confidential informants and sources.

The case summary presented to the Compliance Review Section is not exempt from discovery.

- (2) Objections of a party to the Commission staff's assertion of an exemption from pre-hearing discovery under subsection (a) shall be made under the enforcement procedures of the particular discovery measure involved, as provided for in this chapter. The Motions Commissioner will rule upon the objections and may, where justice requires, order that the exemption be waived, in whole or in part, and that appropriate discovery occur.

RULE 10 - TERMS OF ADJUSTMENT

If the endeavors of the Commission to adjust a complaint succeed, the parties shall be notified by mail of the terms of adjustment.

RULE 11 - FINDING OF PROBABLE CAUSE

Investigators shall make a finding of whether there is or is not probable cause with respect to a complaint. All findings of Commission Representative(s) with respect to probable cause shall be reviewed by the Compliance Review Section in accordance with Rule 3(a)(1).

If the Compliance Review Section approves a finding of probable cause, the complaint shall automatically be placed on a Public Hearing track and may undergo further procedures prior to Public hearing as provided for under these rules. The Commission shall thereafter endeavor to resolve the complaint by conference, conciliation, persuasion and, if such measures fail, Public Hearing and order unless otherwise required by the Fair Housing Act (F.H.A.).

If the Compliance Review Section approves a finding of no probable cause, or disapproves a finding of probable cause, the complaint shall be dismissed. The Commission staff shall notify the complainant of the dismissal. Thereafter, the complainant may file a request for reconsideration in accordance with these rules.

If the Compliance Review Section disapproves a finding of no probable cause, it may, in its discretion, either find probable cause itself, or direct staff to conduct additional investigation to determine whether the Commission Representative's initial finding of no probable cause was appropriate.

(a) Election of Civil Action in Housing Complaints

- (1) To conform to the remedies of the F.H.A., if the Compliance Review Section approves a probable cause finding with respect to allegations of a housing complaint, the complainant or the respondent may elect, in lieu of a Public Hearing under Section 655.06 of the City Code, to have the complaint heard in a civil action by the Court of Common Pleas of Allegheny County, Pennsylvania.
- (2) The election must be made no later than twenty (20) days after the receipt of the Compliance Review Section's approval of a probable cause finding. The notice must be served on the Director of the Commission, the complainant and the respondent in a manner in accordance with RULE 4(c) of the Commission's Regulations.
- (3) If an election is made under this Rule, the Director shall notify and authorize the Solicitor to commence and maintain a civil action at no cost to the

complainant seeking relief in the said Court under Section 655.06 of the City Code on behalf of the complainant or the Commission.

- (4) The complainant will not be required to file an additional claim with the Pennsylvania Human Relations Commission and may proceed with the election of a civil action.

(b) **Private Right of Action**

Provisions regarding Private Right of Action are detailed in the City Code, Chapter 655.07.

RULE 12 - DISMISSAL

- (a) If, after investigation of the complaint, no probable cause for the complaint is found, or it is determined the case is moot, that the Commission lacks jurisdiction, that the complainant has failed to cooperate, that the Commission is unable to locate the complainant, or that the parties have adjusted the complaint, the Commission Representative shall submit a written report to the Director recommending dismissal of the complaint and stating the reasons therefor. If the Director concurs in the recommendation for dismissal, the Director shall transmit this recommendation to the Commission's Compliance Review Section at its next regular meeting. If there is concurrence, the parties shall then be immediately notified by mail of the Commission's decision.
- (b) A final investigation report of all complaints charging a violation of Chapter 659.03 "Unlawful Housing Practices" and the Fair Housing Act of 1988 shall be completed at the end of each investigation in accordance with the requirements of RULE 8(c) and made available to the parties. Unless respondent objects, the Commission shall make a public disclosure of each dismissal of a Fair Housing complaint. Notwithstanding such a request, the fact of dismissal, including the names of the parties, shall be public information available upon request.

RULE 13 - REQUEST FOR RECONSIDERATION

In the event the Compliance Review Section takes final action on a complaint, the parties shall be notified that either of them has the right to apply to the Commission for reconsideration of said final action within ten (10) days after receipt of notice thereof. Notice of a request for reconsideration shall be given by the Commission staff to the remaining parties within ten (10) days of receipt of the request and if necessary, staff shall consider and/or gather any new evidence on the matters under reconsideration, convene a preliminary hearing or conference, and make a report and recommendation thereafter to the Compliance Review Section. The Compliance Review Section may take whatever action it deems appropriate upon receiving staff's report and recommendation. If review is granted, the case shall be reopened and proceed in accordance with these

rules only with respect to issues concerning which reconsideration was granted. Notice of the Compliance Review Section's decisions shall be given to all parties.

RULE 14 - PRIVATE MEETINGS

(a) In case of failure to resolve a complaint by staff negotiations, the Director or the Director's designee may request the Commission to schedule a Private Meeting to be held prior to the pre-hearing conference referred to hereafter and the Chair of the Commission shall thereafter appoint a Private Meeting Panel to conduct said Private Meeting.

(b) **Conduct of Meetings**

The Private Meeting Panel shall attempt to adjust the complaint and have full authority to control the procedure of all meetings.

RULE 15 - SCHEDULING OF PUBLIC HEARING

(a) The Director or the Director's designee shall issue a written notice to the Chair of the Public Hearing Section that a case is ready to be scheduled for Public Hearing.

(b) The Chair of the Public Hearing Section shall appoint a Public Hearing Panel and schedule the matter for Public Hearing.

RULE 16 - PRE-HEARING CONFERENCE

(a) **Public Hearing Panel**

At any time after the scheduling of a Public Hearing, the Chair of the Public Hearing Panel may direct the convening of a conference with the parties.

(b) **Function of the Conference**

The Chair of the Public Hearing Panel shall have full authority to consider and rule on matters related to motions, simplification of issues, amendments to pleadings, stipulations of facts and exhibits, and any other matters necessary to bring about final disposition of the case. The Chair of the Public Hearing Panel shall enter an order, where appropriate, setting forth action taken at the conference.

(c) The Chair of the Public Hearing Panel may attempt to adjust the complaint at the time of conference. If an adjustment is made, the Chair shall present same to the Public Hearing Section for approval at its next regularly scheduled meeting. If an adjustment is not made, the case shall proceed to Public Hearing.

RULE 17 - PROCEDURE FOR PUBLIC HEARING – UNLAWFUL PRACTICES

(a) Appointment of Public Hearing Panel

- (1) After the filing of a notice by the Director or the Director's designee, the Chair of the Public Hearing Section shall appoint a Public Hearing Panel designating one of the Commissioners as the Chair of the Public Hearing Panel.
- (2) The Public Hearing Panel members shall not include Commissioners who previously served on the Compliance Review Section or on a Private Meeting Panel during the pendency of the subject action or who participated in the investigation of the complaint or in the determination of probable cause.

(b) Attorney for the Commission

Counsel for the Commission shall serve as legal advisor to the Hearing Panel.

(c) Time and place

Hearings shall be held at a time and place designated by the Chair of the Public Hearing Panel.

(d) Notice

Prior to the Public Hearing, the Commission, through its staff, shall serve upon the respondent:

- (1) A statement of the charges made in the complaint; and,
- (2) A notice of the time and place of hearing.

(e) Answer

Respondent shall have the right to file an answer to the statement of charges. Unless otherwise provided, the answer shall be filed no later than five (5) days before the scheduled date of the hearing.

(f) Subpoenas for Public Hearings

All parties shall have the right to obtain from the Commission subpoenas and subpoenas duces tecum. Parties shall serve their own subpoenas and make returns of service on forms provided by the Commission.

(g) Appearance

- (1) All parties may appear at the hearing in person, or by counsel and submit oral testimony and/or other evidence, and examine and cross-examine witnesses.

- (2) In the discretion of the Public Hearing Panel, a person or organization having an interest in the proceedings in which a Public Hearing is being held may be allowed to intervene, in person or by counsel, for such purposes and to such extent as the Public Hearing Panel shall determine.

(h) **Procedure**

- (1) The circumstances surrounding the complaint shall be presented before the Public Hearing Panel by the complainant or complainant's counsel.
- (2) The Public Hearing Panel shall not be bound by the strict rules of evidence in the conduct of the Public Hearing.
- (3) The Chair of the Public Hearing Panel shall have full authority to control the procedure of the hearing, to admit or exclude testimony or other evidence, and to rule upon all objections. Decisions on motions not relating to objections or admission of evidence shall be decided by majority vote of the Public Hearing Panel.
- (4) The Public Hearing Panel may call and examine witnesses, request the production of documents and require submission of any other evidence.
- (5) A stenographic record of the proceedings shall be made by the Commission.
- (6) Subject to sub-section (h)(3) above, all rulings and determinations made by the Public Hearing Panel shall be by a majority vote.
- (7) Oral stipulations may be made on the record at the hearing.

(i) **Motions to Dismiss**

Motions to dismiss shall be filed not later than thirty (30) days prior to the Public Hearing. Non-moving parties shall have fifteen (15) days to respond to a Motion to Dismiss. The Public Hearing Panel will rule on the Motion by five (5) days before the Public Hearing.

(j) **Continuation and Adjournments**

The Public Hearing Panel may continue a hearing from day to day or adjourn it to a later date or to a different place by announcement thereof at the hearing or by appropriate notice to all parties.

(k) **Oral Arguments and Briefs**

The Public Hearing Panel may permit the parties or their attorneys to argue orally before them and to file briefs within such time limits as the Hearing Panel may determine.

(l) **Findings of Fact and Orders**

Unless otherwise required by the Fair Housing Act, upon hearing all the evidence, the Public Hearing Panel shall, within thirty (30) days, submit its findings of fact, conclusions of law and recommendations in writing along with the entire record to the Public Hearing Section. Within fifteen (15) days after receiving the recommendations of the Public Hearing Panel, the Public Hearing Section shall, upon consideration and review of the record, findings, and conclusions and recommendations of the Public Hearing Panel, enter such order and take such other action as it deems necessary and proper, which order shall be the Commission's final order.

(m) **Enforcement**

In the event a party fails to comply with any order issued by the Commission, or where otherwise appropriate, the Commission shall certify the case and the entire record of its proceedings to the Commission's Counsel for appropriate action to secure enforcement of the Commission's order.

CHAPTER II - RULES GOVERNING PROCEDURES IN HEARINGS ON INTER-GROUP RELATIONS

RULE 1 - PUBLIC HEARING/INTER-GROUP RELATIONS

The Commission may convene Public Hearings to study and investigate any conditions that may have an adverse effect on inter-group relations as defined by the Code.

RULE 2 - AD HOC PROCEDURE

Prior to a hearing on inter-group relations, the Commission may adopt ad hoc rules governing the conduct of the hearing on inter-group relations.

CHAPTER III - RULES GOVERNING POSTING OF NOTICES

RULE 1 - FAIR EMPLOYMENT PRACTICES NOTICES

(a) Nature of Notices

- (1) Every employer, employment agency, and labor organization subject to the Code shall post and maintain at their establishments fair employment practices notices furnished by the Commission, indicating the substantive provisions of the Code, where complaints may be filed, and such other information as the Commission deems pertinent.
- (2) Every division of the City of Pittsburgh shall post and maintain the Fair Employment Practice, Notices and Bulletins furnished by the Commission.
- (3) Every contractor and subcontractor engaged in a public works construction project for the City of Pittsburgh shall post and maintain at the job site the notices furnished by the Commission indicating the substantive provisions of the pertinent General Contract Conditions of the City of Pittsburgh, and such other information as the Commission deems pertinent.

(b) Where Notices Must be Posted

All notices must be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment.

RULE 2 - FAIR HOUSING PRACTICES NOTICES

(a) Nature of Notices

Every owner, lessor, assignor, builder, manager, broker or other persons and entities subject to the Code, shall post and maintain a fair housing practices notice, furnished by the Commission, which shall set forth relevant information necessary to explain the fair housing practices provisions of said Code.

(b) Where Notices Must be Posted

All notices must be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment, and applicants for housing.

CHAPTER IV - RULES GOVERNING COMPLAINTS BEFORE THE COMMUNITY RELATIONS COMMITTEE ALLEGING POLICE MISCONDUCT

RULE 1 - THE COMMITTEE AND ITS MANDATE

The Community Relations Committee of the Commission is hereby authorized to examine and address problems that may arise with respect to police-community relations that may tend to have an adverse effect on inter-group relations. The Committee is authorized to receive complaints alleging police misconduct that allegedly affect inter-group relations.

RULE 2 - COMPLAINTS AND PROCEDURE

- (a) Where a complaint alleging police misconduct is filed with the Commission, a full and complete written statement signed by the complainant shall be obtained by a Commission Representative.
- (b) Commission Representative(s) shall explain to the complainant that the Commission lacks enforcement power to impose disciplinary or punitive measures against individual police officers or the police department; however, the Commission will act as a fact-finder, will attempt to influence appropriate authorities to remedy misconduct if misconduct is found, and will refer complainants to sources for legal redress where appropriate.
- (c) Commission Representative(s) shall make an initial determination of whether sufficient facts are alleged to warrant proceeding with an investigation of the complaint. If an investigation is warranted, Commission Representative(s) shall investigate the complaint and obtain relevant factual information, which shall be submitted with a report of the Commission Representative(s) to the Community Relations Committee.
- (d) Based upon the investigation and report of the Commission Representative(s), the Community Relations Committee shall determine whether further action is warranted on the complaint. Such further action may include, but is not necessarily limited to
 - (i) interviewing police officer(s) and other witnesses having knowledge concerning the alleged misconduct;
 - (ii) requesting relevant documentation from the Bureau of Police, from the officer(s) involved, and from the City Solicitor;
 - (iii) transcribing testimony of witnesses, including the police officer(s) involved

during the course of an interview.

A police officer who is interviewed shall be advised that the interview is not a trial board or adversary proceeding. Notice of the request for interview shall be provided to the complainant, to the police officer, to the major administrative unit head of the Bureau of Police, and to the City Solicitor. The notice shall be accompanied by a copy of the complaint. The police officer may be accompanied at the interview by an appropriate designated Bureau of Police representative, as well as counsel. The Commission shall be notified at least five days in advance of all parties who will accompany the officer(s).

Notice of interviews of witnesses at which testimony is to be transcribed shall be given to the police officer(s) involved, to the major administrative unit head of the Bureau of Police, and to the City Solicitor. The police officer(s) involved shall have the right to cross-examine witnesses whose interviews are transcribed.

RULE 3 - DISPOSITION

- (a) After completion of the investigation, the Community Relations Committee shall review the record, and draw conclusions as to whether or not the officer(s) engaged in misconduct. The Committee shall report its findings and conclusions to the full Commission for action.
- (b) The Commission may issue a request that disciplinary action be initiated and/or that other appropriate actions be taken. If the evidence does not support a finding of misconduct, the Commission shall issue a written order to that effect. The action of the Commission shall be communicated in writing to all parties involved.
- (c) The Commission may, at its discretion, make public its findings and recommendations in a particular case.

Adopted:

November 7, 1994

Amended:

April 3, 1995, effective immediately

Amended:

June 5, 1995, effective immediately

Amended:

September 9, 1996, effective immediately

Amended:

January 6, 1997, effective immediately

Amended:

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