

No. 10-20-RE

RESOLUTION

A Resolution of the Council of the County of Allegheny authorizing the County to adopt the Rules and Regulations of the Allegheny County Human Relations Commission (“ACHRC”) in order to effect the policies and provisions of Chapter 215 Article V of the Allegheny County Code.

WHEREAS, the ACHRC was established in order to assure that any person, group of persons or organization(s) claiming to be harmed by an alleged unlawful discriminatory act due to race, color, religion, national origin, ancestry or place of birth, sex, gender identity or expression, sexual orientation, disability, marital status, familial status, age or use of a guide or support animal because of blindness, deafness or physical disability within Allegheny County, shall enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing and use of public accommodation facilities; and

WHEREAS, Section 215-36.B(2) of the Allegheny County Code vests the ACHRC with the power and duty to adopt Rules and Regulations to effect the provisions of Article V of Chapter 215, provided however, that any such Rules and Regulations must be approved by Council by resolution; and

WHEREAS, the ACHRC has drafted Rules and Regulations specifically set forth in Attachment “A” hereto; and

WHEREAS, County Council has reviewed the ACHRC’s draft Rules and Regulations and is of the considered opinion that the Rules and Regulations should be approved.

Be it resolved by the Council of Allegheny County as follows:

Section 1. Incorporation of Preamble.

The provisions set forth in the preamble to this Resolution are incorporated by reference in their entirety herein.

Section 2. Approval of Rules and Regulations.

County Council does hereby approve the ACHRC’s Rules and Regulations specifically set forth in Attachment “A” hereto. The appropriate officers and officials of the County are hereby authorized to take all necessary actions deemed by them to be necessary and prudent to carry out the purposes of this Resolution.

Section 3. Severability.

If any provision of this Resolution shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Resolution which shall be in full force and effect.

Section 4. Repealer.

Any Resolution or Ordinance or part thereof conflicting with the provisions of this Resolution is hereby repealed so far as the same affects this Resolution.

Section 5. Effective Date.

This Resolution shall enter into effect immediately upon its approval.

PRIMARY SPONSOR: COUNTY EXECUTIVE FITZGERALD

CO-SPONSORS: COUNCIL MEMBERS DUERR, KLEIN, WALTON, BENNETT and HALLAM

Enacted in Council, this 22nd day of September, 2020


Council Agenda No. 11605-20



Patrick J. Catena
President of Council

Attest: 
Jared Barker
Chief Clerk of Council

Chief Executive Office September 23rd, 2020

Approved: 
Rich Fitzgerald
Chief Executive

Attest: 
Jennifer M. Liptak
Chief of Staff

Attachment A

RULES AND REGULATIONS OF ALLEGHENY COUNTY HUMAN RELATIONS COMMISSION



*Rules and Regulations Pursuant to the
Allegheny County Code, Chapter 215 Article V*

Effective _____

Allegheny County
Human Relations Commission
920 City - County Building
414 Grant Street
Pittsburgh, PA 15219
(412) 350-6945
hrc@alleghenycounty.us
www.alleghenycounty.us/HRC

**RULES AND REGULATIONS OF
ALLEGHENY COUNTY
HUMAN RELATIONS COMMISSION**

Rules and Regulations Pursuant to the Allegheny County Code, Chapter 215 Article V

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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 Allegheny County Code, (Chapter 215), Section 215-31, the Commission adopts the following definitions for purposes of these rules:

- (a) The term “**Chairperson**” shall mean the duly elected Chairperson of the Human Relations Commission.
- (b) The term “**Code**” shall mean the Allegheny County Code, Chapter 215 Article V.
- (c) The term “**Commission**” shall mean the Human Relations Commission.
- (d) 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.
- (e) The term “**Complaint**” shall mean a verified complaint filed on the form provided for this purpose by the Commission.
- (f) 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/settled the complaint.
- (g) The term “**Fair Housing Act**” shall mean Public Law 90-284, as amended Public Rules and Regulations Law 100-430, September 13, 1988, 42 U.S.C. Section 3601, et seq.
- (h) The terms “**Handicap**” or “**Disability**” With respect to a person means:

Physical or mental impairment which substantially limits one or more of such person's major life activities;
Record of such an impairment; or
Regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance, as defined in Section 102 of the Controlled Substances Act (Public Law 91-513, 21 U.S.C. § 802).

For employment, "disability" means a non-job-related disability which does not substantially interfere with the ability to perform the essential functions of the employment which a person with a disability applies for, is engaged in or has been engaged in.

Uninsurability or increased cost of insurance under a group or employee insurance plan does not render a disability job-related.

- (i) The term “**Commission Representative**” shall mean an official representative of the Commission, including but not limited to independent contractors, and individuals not otherwise employed by Allegheny County, assigned to investigate the complaint on file before the Commission.
- (j) The term “**Organization**” shall mean any person or a group of two or more persons authorized by state law to sue.
- (k) 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.
- (l) The term “**Pleading**” shall mean an Answer to a Complaint, a Position Statement, an Amended Complaint, and an appearance of an attorney.
- (m) **Public Hearing - Unlawful Practices** -- A “Public Hearing” is the hearing provided for in Section 215-37 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.
- (n) The term “**Party**” or “**Parties**” shall mean the complainant and/or the respondent.
- (o) 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.
- (p) 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.
- (q) 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 three or more members of the Commission or a hearing examiner designated by the Commission. 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 decision. The recommended findings, conclusions and order made by said members or hearing examiner are reviewed and approved or reversed by the Commission before such order may be served upon the parties to the complaint.

- (r) The term “**Unlawful Discriminatory Practices**” shall mean only those unlawful discriminatory practices specified in the Code.
- (s) The terms “**Adjustment or adjust**” shall mean an arrangement to settle, a settlement, to free from differences or discrepancies.
- (t) The term “**Property**” means everything that is the subject of ownership, corporal or incorporeal, tangible or intangible, visible or invisible, real or personal.
- (u) 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.

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. Two (2) 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 a decision in accordance with these Rules. The recommended findings, conclusions and order made by said members or hearing examiner are reviewed and approved or reversed by the Commission before such order may be served upon the parties to the complaint.

- (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 5 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 "Allegheny County Human Relations Commission."

(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.

(d) **Place of Filing**

All pleadings, motions, and responses to Interrogatories shall be filed with the Commission at its duly designated office either in person, by mail, or fax.

(e) **Form**

The complaint shall be in writing or typed on a form provided by the Commission, the original of which shall be signed and either notarized before a notary public 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.

A party shall state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances.

(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 180 days 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) **Answers, Motions to Dismiss, and Position Statements**

All filed answers, position statements, motions to dismiss, and responses/replies thereto must be timely served upon opposing party in addition to being filed with the Commission.

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.

If the respondent relies on confidential information, the respondent is responsible to provide such information in separate, clearly marked attachments to the Commission. 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.

Respondent shall have the right to file a motion to dismiss the complaint within thirty (30) days of service of the complaint upon respondent. Complainant has the right to file a response to a motion to dismiss within thirty (30) days of service of the motion to dismiss upon complainant.

If the Commission denies (or partially denies) the motion to dismiss, the moving party must file an answer within thirty (30) days after receiving notice of the Commission's action, unless otherwise ordered by the Commission.

(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.

Responses to written motions shall likewise be in writing and shall be filed within thirty (30) days of the date of service of the motion, unless otherwise ordered by the Commission.

A party wishing to file a reply to a response must do so within seven (7) days and must provide written notice to the Commission of intent to file the reply.

All filed motions, responses, replies, and supporting briefs must timely be served upon opposing party in addition to be filed with the Commission.

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 Commission.
- (ii) For briefs filed with respect to all matters not covered by Rule 4(1)(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 Commission.
- (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 - 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, and shall include the content set forth in RULE 4(e).

RULE 6 - INVESTIGATION

After the filing of any complaint, if the Commission determines that an investigation is warranted, the Commission shall refer the complaint to the Allegheny County Department of Human Resources or other designated Commission Representative which shall conduct an investigation in order to determine whether a factual basis for the complaint exists. The procedure governing such investigation shall be modeled after the procedure described in § 5-1013.24 of the Administrative Code of Allegheny County, governing investigation of ethics complaints.

The Department of Human Resources or other designated Commission Representative shall not hold hearings, issue findings to parties, or be empowered to undertake any final action on any complaint forwarded to it for investigation by the Human Relations Commission. At the conclusion of the preliminary investigation, the Department of Human Resources or other designated Commission Representative shall forward a summary report to the Human Relations Commission.

RULE 7 - DISCOVERY

Except as otherwise authorized by the Chairperson, the discovery measures outlined hereafter may be employed only by the Commission Representatives.

(a) Oral Interviews and Other Investigations

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

(c) Answers to Interrogatories

Answers to Interrogatories 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 within thirty (30) days after service of the Interrogatories.

(d) Production of Documents and Things and Entry for Inspection and Other Purposes

- (1) Commission Representative(s) 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.

(e) **Requests for Admissions**

(1) Commission Representative(s) may send to any 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 thirty (30) 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) The Chairperson will determine if the answer complies with this section. The Chairperson may order that the matter is admitted or denied or that the request or answer shall be amended as the circumstances warrant.

(f) **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.

RULE 8 - FINDING OF PROBABLE CAUSE

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.

(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 215-37(G)(2) of the Code to have the complaint heard in a civil action by the Court of Common Pleas of Allegheny County, Pennsylvania.
- (2) The written notice of the Commission shall be sent to all parties and will inform them of their right to take civil action. An election must be made within twenty (20) days after receipt of the notice of hearing. A party making this election shall notify the Commission and all other parties.

- (3) If an election for civil action is made by either party, the Commission shall, within thirty (30) days from the date of election, commence and maintain a civil action on behalf of the complainant.
- (4) In any action brought under this subsection, if, after a trial, the Court of Common Pleas finds that a respondent engaged in or is engaging in any unlawful discriminatory practice as defined in this article, the Court may award attorney's fees and costs to the complainant on whose behalf the Commission commenced the action in addition to attorney's fees and costs incurred by the Commission.

(b) **Enforcement by Private Person**

Provisions regarding Enforcement by a Private Person are detailed in the Code, Section 215-38(C).

RULE 9 - DISMISSAL

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 settled the complaint, the Commission Representative shall submit a written report 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.

RULE 10 - REQUEST FOR RECONSIDERATION

If it shall be determined after an investigation that there is no basis for the allegations of the complaint, the Human Relations Commission shall, within ten (10) days from such determination, cause to be issued and served upon the complainant written notice of such determination and dismissal of the complaint. The complainant may, within ten (10) days after such service, file with the Commission a request for a review. The Commission shall, upon request for such a review, provide the complainant an opportunity to appear before the Commission to present such additional information as may be available to support the allegations of the complaint. The Commission may reinstate the complaint within ten (10) days of the review upon a determination that the additional information presented warrants such reinstatement. If such reinstatement is warranted, the case shall be reopened and proceed in accordance with these rules only with respect to the issues concerning which reconsideration was granted.

RULE 11 - SCHEDULING OF PUBLIC HEARING

- (a) The Compliance Review Section shall issue a written notice to the Public Hearing Section that a case is ready to be scheduled for Public Hearing.
- (b) Public Hearing Section shall appoint a Public Hearing Panel and schedule the matter for Public Hearing.

RULE 12 - PRE-HEARING CONFERENCE

(a) Public Hearing Panel

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

(b) Function of the Conference

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 Public Hearing Panel shall enter an order, where appropriate, setting forth action taken at the conference.

RULE 13 - PROCEDURE FOR PUBLIC HEARING

(a) Appointment of Public Hearing Panel

The Public Hearing Panel members shall not include Commissioners who previously served on the Compliance Review Section or 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 ten (10) days before the scheduled date of the hearing.

(f) **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.

(g) **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 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.
- (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) 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.

(h) **Dispositive Motions**

Dispositive motions shall be filed not later than thirty (30) days after a finding of probable cause is issued. Non-moving parties shall have fifteen (15) days to respond to a Dispositive Motion. The Public Hearing Panel will rule on the Motion.

(i) **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.

(j) **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.

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

Unless otherwise required by the Fair Housing Act, upon hearing all the evidence, the Public Hearing Panel shall submit its findings of fact, conclusions of law and recommendations in writing along with the entire record to the Commission. The recommended findings, conclusions and order made by the Public Hearing Panel shall be reviewed and approved or reversed by the Commission before such order may be served upon the parties to the complaint and become final.

(l) **Enforcement**

The complainant or the Commission may secure enforcement of the order of the Commission or other appropriate relief. When the Commission has heard and decided any complaint brought before it, enforcement of its order shall be initiated by the filing of a petition in the Court of Common Pleas, together with a transcript of the record of the hearing before the Commission, and issuance and service of a copy of said petition as in proceedings in equity. The Commission's copy of the testimony shall be available at all reasonable times to all parties for examination without cost, and for the purpose of enforcement or judicial review of the order. Any failure to obey an order of the Court may be punishable by such Court as contempt thereof.

(m) **Enforcement by Private Person**

In cases involving a claim of discrimination, if a complainant invokes the procedures set forth in this article, that individual's right of action in the courts of the commonwealth shall not be foreclosed. If, within one year after the filing of a complaint with the Commission, the Commission dismisses the complaint or, for whatever reason, closes the complainant's case, or has not entered into a conciliation agreement to which the complainant is a party, the Commission must so notify the complainant. On receipt of such a notice the complainant shall be able to bring an action in the Courts of Common Pleas of the Commonwealth based on the right to freedom from discrimination granted by the Code.

An action under this subsection shall be filed within one hundred (100) consecutive calendar days after the date of notice from the Commission closing the complaint. Any complaint so filed shall be served on the Commission at the time the complaint is filed in court.