

Metropolitan Government of Nashville
and Davidson County

Rules and Procedures
for Complaints of
Discrimination Filed
with the
Metropolitan Nashville
Human Relations Commission

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CHAPTER 1—ORGANIZATION

1.1 COMMISSION. The Metropolitan Nashville Human Rights Commission (MHRC) is a seventeen-member body representative of the community. Members are recommended, appointed, and approved by the Metropolitan Government of Nashville-Davidson County-Tennessee pursuant to the Metropolitan Code of Laws. The Commission is charged with protecting and promoting the personal dignity of all people by supporting their safety, health, security, peace, and general welfare. It carries out this duty by investigating complaints of discriminatory conduct including, but not limited to, the conduct of employees of Metropolitan Government, in the areas of employment, housing, financial and commercial transactions, the provision of public accommodations, the provision of city activities and services, and educational programs and opportunities.

1.2 LOCATION. The office of the Commission is located at the Metro Office Building, Fourth Floor, 800 Second Avenue, South, Nashville, TN 37210; telephone (615) 880-3370; email: mhrc@nashville.gov. Office hours are 8:00 A.M. to 4:30 P.M., Monday through Friday, except for holidays.

1.3 ADMINISTRATION. The Commission is charged with appointing, employing, and discharging an Executive Director and any other personnel that the Commission deems necessary for the efficient administration of the Commission. Information regarding the Commission's current staff can be found on our website at: www.nashville.gov/humanrelations.

CHAPTER 2—RULES AND PROCEDURES

2.11.1 RULE-MAKING AUTHORITY. These Rules and Procedures are promulgated pursuant to the power and duty vested in the Metropolitan Nashville Human Rights Commission (the "Commission") by the Metropolitan Code of Laws to make such rules as the Commission deems necessary to govern, expedite and effectuate the provisions of Chapter 11.20 of the Metropolitan Code of Laws (1994) as amended (hereinafter the "Metro Code"). The purpose of this manual is to act as an operational guide for the MHRC Commission in its enforcement of Chapter 2.132, Section 2.132.070 (E)(i) and Chapter 11.20 of the Metro Code. It specifies the internal procedures, rules, and processes that the Commission has established to govern its operation, process for complaints of discrimination filed with the Commission. It is published on the MHRC Commission website to assist the members of the public to understand the operation of the MHRC Commission including the procedures necessary to file a complaint regarding a perceived breach of human and civil rights.

2.21.2 AMENDMENT/AMENDMENTS TO RULES. These rules and procedures may be amended from time to time to include new rules, to delete or to revise in some other manner, rules, or portions thereof, as the Commission deems appropriate and necessary. Notice of the proposed changes to the rules shall be given at least five (5) working days in advance of the regular meeting at which the changes are to be considered.

2.31.3 SUSPENSION OR WAIVER OF RULES. To facilitate the proper administration of the MHRC Commission and advance justice, any rule contained herein may be suspended or waived by

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the Commission, unless otherwise provided by law, in order to prevent undue hardship in a particular instance, to prevent surprise or injustice, or to aid in the orderly and fair administration of the Commission.

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instance, to prevent surprise or injustice, or to aid in the orderly and fair administration of the MHRC.

CHAPTER 3 – GENERAL PROCEDURAL RULES

3.1 MEETINGS- REGULAR. The Commission shall hold regular meetings at such time and place as specified in the notice of the meeting.

3.2 MEETINGS- SPECIAL. Special meetings, upon proper notice, may be called at the discretion of the Chair or the Secretary, at the request of nine (9) members of the Commission.

3.3 NOTICE AND AGENDA. The notice of regular and special meetings shall include the time, date, and place of each meeting and the tentative agenda of the business to be conducted at the meeting in accordance with Chapter 2.68 of the Metro Code. The notice and tentative agenda shall be prepared by the Executive Director and submitted to the Chair for review and approval. The notice and tentative agenda shall be provided to each Commission member in compliance with the provisions of the Tennessee Open Meetings Act and any Metro Ordinance regarding Commission meetings by or at the direction of the Secretary. The notice shall be provided to the news media who have filed a request for such notice. In addition, notice of all meetings shall be posted with the Metro Clerk and on a bulletin board maintained for public notices at the Commission's office.

3.4 SUBMISSION OF AGENDA ITEMS. Any person wishing to place an item on the agenda of a regular meeting shall submit the item to the Executive Director, in writing, at least ten (10) days prior to the meeting. At the discretion of the Commission, the provisions of this rule with regard to time of submission may be waived, so long as there is sufficient time before the meeting to allow compliance with the provisions of the open meetings law, Chapter 2.68 of the Metro Code.

3.5 OPEN MEETINGS. Meetings of the Commission, including all hearings, shall be open to the public and shall be conducted in compliance with the provisions of the Open Meetings Law, Chapter 2.681 of the Metro Code.

3.6 ROLL CALL AND QUORUM. Before proceeding with business at the regular or special meeting, the Recording Secretary shall call the roll of Commission members and enter the names of those present in the minutes. The Recording Secretary shall determine and announce the presence of a quorum; no vote on any matter shall be taken unless a quorum is present.

3.7 ATTENDANCE REQUIREMENTS. The Recording Secretary shall maintain a record of attendance of members at regular and special meetings during the calendar year. The members of the Commission are subject to the attendance requirement set in Article IV, Section 4 of the Bylaws, providing that no member shall miss more than three (3) consecutive regularly scheduled meetings without excuse, or one-third of the full Commission meetings in a twelve-month period. Whenever any Commission member fails to meet this requirement, the Recording Secretary shall immediately after the calling of roll at such meeting, inform the Chair. The Chair shall encourage improved attendance and shall inquire as to whether that member wishes to continue to serve on the Commission or to resign. Upon such resignation of any member, the

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Commission may then recommend to the Mayor that the term of that member be vacated and a replacement be made.

3.8 OFFICERS. The Commission shall elect a Chair, Vice Chair, and Secretary and other such officers it deems appropriate from its members.

Chair. The Chair shall preside at all meetings of the Commission and Executive Committee. The Chair shall be responsible for the general administration of the Commission's affairs, and the implementation of its recommendations, resolutions, and policies before the public. The Chair shall have, hold, and exercise such powers and perform such duties as provided for herein or by the Executive Committee.

1st Vice Chair. The 1st Vice Chair, in the absence or upon the resignation, removal or disability of the Chair, shall perform the duties and exercise the powers of the Chair and shall perform such duties as the Commission, Executive Committee or Chair may require.

2nd Vice Chair. The 2nd Vice Chair, in the absence or upon resignation, removal or disability of the 1st Vice Chair, shall perform the duties and exercise the powers of the 1st Vice Chair and shall perform such duties as the Commission, Executive Committee or Chair may require.

Secretary. The Secretary shall attend all official meetings of the Commission, insure the proper and accurate recording of all votes, and insure proper and accurate recording of all minutes of proceedings conducted by the Commission. In the event the Secretary is absent from any Commission meeting, the Chair may appoint another Commission member to serve as acting Secretary for any such meeting. Copies of the minutes of each Commission meeting shall be maintained by the Secretary, and shall be available for inspection, and copying. The Secretary shall insure written notification to all Commissioners of all regular or special meetings of the Commission and shall perform such other duties as may be prescribed by the Commission or Chair.

Treasurer. The Treasurer shall attend all official meetings of the Commission and ensure that each member of the Commission is informed of, and to the extent necessary participates in decision-making about, all financial matters concerning the operation and function of the Commission.

The officers shall be assisted fully in the performance of these duties by Commission staff as designated by the Executive Director and as requested by the Commission.

3.9 CONDUCT OF MEETING. The presiding officer shall call the meeting to order at the appointed hour and shall preside over the discussion on each agenda item in a manner that assures full participation of all Commission members and members of the general public desirous of being heard upon such issue. The presiding officer, as a member of the Commission, may enter into any discussion and has the right to close debate and speak last on any item, but may not make a motion. A member of the Commission shall move all action requiring a vote. A motion to reconsider must be made by a Commission member who was on the prevailing side of the original motion.

3.1 MATTERS NOT COVERED. Any matter of order or procedure not covered by these rules shall be referred to the presiding officer, who shall decide the matter with the assistance and advice of the Commission's legal counsel in conformity with the purpose of these rules in a fair and expeditious manner. The decision of the presiding officer may be reversed by a majority vote of the Commission.

3.2 MINUTES. Accurate minutes of each meeting shall be kept and maintained, including the vote of each Commission member upon each question submitted to the Commission for consideration, deliberation, and action. A copy of the minutes of the proceedings at its last meeting in the form proposed for the Commission's adoption shall be forwarded with the notice and agenda for the next regularly scheduled meeting. Upon approval and adoption, a copy of the minutes shall be filed by the Recording Secretary with the City Clerk.

3.3 RECORDING SECRETARY. The Executive Director may assign a member of his or her staff to serve as the Commission's Recording Secretary. Such employee of the City is hereby designated to make detailed handwritten notes and to tape record all regular and special meetings of the Commission and to serve as the official custodian of all records. After each meeting he or she shall promptly prepare minutes of the meeting in draft form from such notes and tape recording for the review and approval of the Secretary and the Chair. Once such minutes are in the form proposed for the Commission's adoption, they shall be forwarded to the members as provided in these rules.

3.4 RECORDS. All records of the Commission relating to the filing and disposition of complaints shall be retained in accordance with the Metro Code. Any disposal of such records shall be in compliance with the requirements of the Metro Code.

CHAPTER 4. COMPLAINT PROCESS

4.12.1 FILING. Complaints of violations of the Metro Code within the jurisdiction of the Commission as set forth in in the Charter shall be filed within the appropriate time period at the Commission's office on the forms provided for such purpose. Commission staff designated by the executive director of the Commission (the "Executive Director") shall assist persons desiring to file complaints. Notary services for the required verification of the complaint shall be provided at no cost.

4.22.2 CONTENTS. Each complaint shall contain the following:

- (1) full name and address of the person making the complaint;
- (2) full name and address of the person or persons alleged to have committed the illegal or discriminatory acts and/or practices complained of;
- (3) the type or types of discrimination charged, i.e., race, religion, color, national origin, ancestry, creed, sex, age, disability;
- (4) a statement of particulars of the facts and circumstances establishing the alleged discrimination or discriminatory practice, including the date of the alleged

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discriminatory practice. If the illegal discriminatory practice or act is of a continuing

4) nature, the complaint shall include the date between which it is alleged to have occurred or is occurring;

(5) a statement as to any other action, civil or criminal, instituted in any other forum based on the same facts and circumstances alleged in the complaint, including the date such action was filed together with a statement as to the status or disposition of the action(s); and

4.32.3 **STAFF CONFERENCE WITH COMPLAINANT.** Upon the filing of the complaint, Commission staff, assigned by the Executor Director, shall ~~conference~~meet with the party filing the complaint (the "Complainant") and discuss:

1) the right to be represented by an attorney in proceedings before the Commission.

(4)2) whether the facts and circumstances alleged appear to set out a violation within the jurisdiction of the Metro Code; Commission;

3) the relief which the Complainant believes to be necessary to satisfactorily resolve the complaint;

(2)4) the general process and procedure of the Commission upon the filing of a complaint;

(3)5) the availability of the Commission to facilitate an informal resolution to the complaint prior to initiation of or during investigation of the complaint if both parties consent to such effort;

(4)6) the preliminary investigation and review process by which the Commission determines whether it should or should not continue prosecution of processing the complaint including the Complainant's right to appeal a determination of no probable cause;

7) the efforts that may be undertaken by the Commission upon a finding of probable cause to eliminate the illegalalleged discrimination or discriminatory practice by conciliation and persuasion;

8) that after a hearing, the Commission may determine that discrimination or a discriminatory or unlawful practice has occurred and the rightCommission may exercise any powers and duties after such determination under applicable provisions of the Metro Code; and

(5) other options that the Complainant has to advise the Commission concerning the terms of settlement which the Complainant believes to be necessary to satisfactorily resolve the complaint; and

(6)9) the fact that the Complainant can file his or her civil rights complaintscomplaint with the Tennessee Human Rights Commission, Equal

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Employment Opportunity Commission, or the U.S. Housing and Urban Development Department, or any similar authority.

4.12.4 SERVICE OF COMPLAINT TO RESPONDENT. Within ten (10) days after ~~Upon the filing of a determination by the Executive Director that the complaint against any person falls within the jurisdiction of the Commission and that the complaint alleges circumstances that warrant an investigation into whether discrimination or persons alleged to have violated the Metro Code, hereinafter referred to as the Respondent~~ a discriminatory or unlawful practice occurred, the Executive Director shall serve a full copy of the complaint, including the statement of particulars setting out the dates and facts on which the complaint is based, to the ~~party against whom the complaint is filed (the "Respondent,"), by Delivery Confirmation Mail Service from telephone, email with acknowledged receipt, or regular mail through the U.S. Postal Service or.~~ The Respondent shall be advised that he/she/it has:

~~by hand delivery, with acceptance of service provided. The Respondent shall also be advised as to:~~

- ~~(1)~~1) the right to file a written response to the allegations of the complaint within thirty (30) days of service of the complaint upon the Respondent;
- ~~(2)~~2) the right to be represented by an attorney in Commission proceedings upon the complaint;
- ~~(3)~~3) the right to present evidence at all stages of the investigation and at public hearings; and
- ~~(4)~~4) the availability of the Commission to facilitate the informal resolution to the complaint prior to initiation of or during investigation if both parties consent.

4.2 REPRESENTATION AND PRESERVATION OF RECORDS. Respondent shall be ~~2.5~~ requested to inform the Commission in writing if an attorney will be representing the Respondent before the Commission in connection with the complaint. Upon receiving such information, the Commission shall make all further ~~contacts~~contact with Respondent through such attorney. The Respondent shall be informed that any and all records relevant to the investigation and determination of the allegations of the complaint must be preserved until the Commission specifically orders otherwise.

4.32.6 ACKNOWLEDGEMENT OF FILING AND SERVICE. Upon confirmed service of the ~~Complaint~~complaint to the Respondent, the Executive Director shall send a written acknowledgement to Complainant of the filing and service of the complaint. The Complainant shall be advised of the expected time duration for each step of the process to be completed. The Complainant shall be advised and cautioned that the filing with the Commission only protects the Complainant's rights under the Metro Code, ~~but and~~ that it is the Complainant's responsibility to make inquiry as to the rights and benefits available under other municipal, state, or federal laws, ~~with respect to applicable statutes of limitation~~ and to file where appropriate to protect those rights. ~~The Commission may advise the Complainant to seek the advice of legal counsel to advise the Complainant of the applicable statute of limitations or legal remedies or limitations related to the~~

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complaint.

MEDIATION. Upon the consent of both parties the Executive Director shall attempt to achieve a mediated resolution. These efforts should not unduly delay the initiation or completion of the case investigation.

4.42.7 PROBABLE CAUSE DETERMINATION. Upon the completion of staff shall conduct an investigation of the complaint and submit a written report to the Executive Director. The Executive Director shall carefully review the summary of investigation and shall request any further inquiry or clarification deemed necessary to allow an appropriate decision as to probable cause or lack thereof that a violation of a complaint under the jurisdiction of the Commission may have occurred. The Executive Director shall determine from all the evidence submitted during the investigation whether or not there is probable cause to believe that discrimination or an illegal discriminatory practice exists in violation within the jurisdiction of the Metro Code. Commission may have occurred and shall promptly notify the Complainant and the Respondent of such determination by Delivery Confirmation Mail email with receipt requested or by regular mail through or by the U.S. Postal Service. The notice shall contain a brief summary of the information and reasons that support the finding. If no probable cause is found, the Complainant shall be informed of his, her, or her/its appeal rights under the ordinance.

4.5 CONCILIATION. If a finding of "Probable Cause" probable cause is entered, the Executive Director shall make at least two (2) attempts, by telephone or by mail, to arrange a conference with the Respondent in order to effectuate the conciliation and persuasion required under mediated resolution of the Metro Code. In complaint determining what steps must be taken to eliminate the alleged discriminatory or illegal discriminatory practice, the Executive Director shall consult with the Complainant as to both parties regarding a resolution that to the Complainant believes appropriate complaint. The Executive Director shall also take into

2.8 account the Respondent's particular circumstances in fashioning the terms of the resolution. The Complainant need not be present at conciliation conferences but shall be kept fully informed of all such meetings. The Respondent shall attend and participate in the Commission's efforts to eliminate the alleged discrimination or discriminatory practice through conciliation.

4.62.9 CONCILIATION AGREEMENT. The A formal conciliation agreement signed by the Respondent and the Complainant in triplicate shall be submitted to the Executive Director, on behalf of the Commission, for signature. The conciliation agreement shall become effective immediately after all parties sign it. The Executive Director shall set a reasonable time for acceptance and signature by the Complainant. If the Complainant declines to sign the Agreement, the Executive Director may shall report the matter to the Commission. If the agreement is acceptable to the Complainant and the Commission, but not to the Respondent, the Executive Director shall determine if further efforts of conciliation should be undertaken or whether the circumstances warrant setting the matter for public hearing without further delay.

4.72.10 COMPLIANCE REVIEW. The Commission may require the Respondent to submit periodic reports showing compliance with the terms of the conciliation agreement. The Commission may specify in the compliance agreement remedies in the event of noncompliance.

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4.82.11 APPEAL OF NO PROBABLE CAUSE. ~~AnA Complainant may~~ appeal of a finding of "no probable cause" to the Commission. Such appeal shall be filed within thirty (30) days of the ~~Complainant being informed of the~~ "No Probable Cause" ~~determination.~~ The appeal shall be limited to a summary of any ~~newly discovered~~ material evidence ~~newly discovered~~ that, despite the diligent efforts of the Complainant and the Commission ~~staff~~, was not available at the time of the determination that "No Probable Cause" ~~existed, was made or action~~ that has happened since the finding was entered, ~~or an~~ agency or court decisions rendered in similar circumstances which were overlooked or ignored in the entry of the finding. The Respondent shall be informed when an appeal is pending. ~~An appeal of an administrative closure is also permitted. The evidence to be presented for the appeal of an administrative closure shall be limited to facts appropriate to refute the basis for the case closure but may not appear in opposition to the appeal. If the appeal is granted, the Executive Director shall proceed with conciliation efforts as provided in this Rules and Procedures.~~

PUBLIC HEARING

4.4 PUBLIC HEARING. shall inform the Respondent of the date, time, and place of the hearing and that Respondent may file a written answer to the complaint. The notice of hearing shall be forwarded to all parties. The notice shall state that the hearing is to be held before three Commissioners ~~serving as Hearing Commissioners.~~

2.12 . If there has been a finding of probable cause and conciliation efforts have failed, the Commission may conduct a public hearing at the written request of the Complainant. The written request shall be submitted to the Executive Director within thirty (30) days of the Executive Director's notice that conciliation efforts have failed. Upon receiving a written request for public hearing, the Chair of the Commission shall appoint a panel, consisting of at least 3 commissioners (the "Review Panel"), designating one commissioner as chair, to conduct the hearing. The Executive Director shall notify the Respondent to file an answer to written complaint. Upon receipt of the answer, the Review Panel shall convene with notice to the parties to set the date, time, and place of the hearing.

4.92.13 WAIVER OF PUBLIC HEARING. Where the facts are not in dispute or each party files a written request to waive the public hearing, the Commission shall decide the merits of the case after giving full review and fair consideration to the whole record contained in the Commission's file.

4.102.14 WITHDRAWAL OF COMPLAINT. A complaint may be withdrawn in writing by the Complainant at any time subsequent to its filing. The Executive Director shall then promptly close the Complainant's file. The Commission shall not be precluded by such withdrawal from seeking to eliminate violations of ~~the Metro Code~~ a complaint within its jurisdiction that have come to its attention during the investigation.

4.112.15 AMENDMENT OF COMPLAINT. So long as the jurisdictional limitations of the Metro Code are not thereby exceeded, ~~the~~ The complaint may be amended at any time prior to the public hearing and thereafter at the discretion of the ~~Hearing Commissioners~~ Review Panel.

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4.52.16 TIMELINESS OF CASE PROCESSING. The Commission staff shall ~~make a final administrative disposition~~ conclude its probable cause determination of each complaint within ~~one (1) year~~ three (3) months of the date the complaint is filed, unless it is impracticable or impossible to do so. In the event that the Commission is unable to make ~~its final decision with one (1) year~~ a probable cause determination within three (3) months, the Executive Director shall notify the Complainant and the Respondent of the reason for the delay in processing the complaint. ~~The Complainant and Respondent shall be expected to cooperate in this effort to resolve the case in a timely manner.~~ If there is a probable cause determination and the Executive Director initiates a conciliation process, such process shall be concluded within three (3) months of the probable cause determination. If the conciliation process is not concluded within that time frame, the Complainant shall be notified of his/her right to request a public hearing.

CHAPTER 53 - PUBLIC HEARING PROCEDURES

3.1 RELIEF AVAILABLE THROUGH A PUBLIC HEARING. If the Commission conducts a public hearing on a complaint, it shall issue a report and recommendation which it shall post on its website and notify the Mayor and the Council of the results of the hearing. The Commission may also exercise any powers and duties under applicable provisions of the Metro Code.

5.13.2 SUBPOENAS OF WITNESSES AND MATERIALS. ~~In setting the date of hearing and designating the Hearing Commissioners The Review Panel may seek information from any person involved with the complaint. If the Review Panel seeks information from any such person and the person fails to hear the case, the Commission shall authorize the issuance of Commission provide such information, then the Review Panel or either party may request Metro Council approval to issue subpoenas to compel for the attendance and testimony appearance of witnesses and/or the production of documents and records by the Hearing Commissioners on behalf of the Commission. Any failure or refusal to obey the Commission's subpoena at the hearing. Such requests shall be promptly reported submitted in writing to the Review Panel including the person or documents to the full Commission. If the failure or refusal continues, the Commission shall be produced and the reason for the need of a subpoena. The Review Panel, in its discretion, may grant or deny, the request for a subpoena. If a subpoena approved by the Review Panel and by the Council is not complied with, the Review Panel may (1) report such contempt to the Davidson County Chancery Court and shall petition the court for the issuance of the subpoenas to compel the person or documents to be produced and (2) take such refusal into consideration when determining the merits of the complaint.~~

5.23.3 PRE-HEARING CONFERENCE. The notice of ~~the~~ public hearing provided under these rules shall include notice of the time and place for the pre-hearing conference. At such time, ~~the Hearing Commissioners~~ Review Panel shall conduct a pre-hearing conference for the following purposes:

~~(1)~~ 1 formulation and simplification of the issues;

~~(2)~~ 2 identification of the witnesses to be called to testify and the documents to be offered into evidence as exhibits;

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- (3) stipulation of facts not in dispute and of the authenticity of documents;
- (4) resolution of any contested evidentiary matters; and
- (5) disposition of such other matters as may expedite the orderly conduct of the public hearing.

5.23.4 CONDUCT OF PUBLIC HEARINGS. Public hearings shall be conducted by ~~three~~ Hearing Commissioners designated by the Chair, one of whom shall be designated as Presiding Commissioner. ~~Review Panel.~~ The ~~Hearing Commissioners~~ Review Panel shall have full authority to conduct the hearing in a fair and impartial manner, to admit or exclude testimony or other evidence, and to rule upon all motions and objections. ~~The Commission shall endeavor to observe the Tennessee Rules of Civil Procedure.~~ All rulings and determinations of the ~~Hearing Commissioners~~ Review Panel shall be by majority rule. ~~vote.~~ The ~~Hearing Commissioners~~ Review Panel may participate in the examination of the witnesses after the parties have concluded their examinations. They may ask for additional evidence from any party introduced into evidence if such evidence is deemed ~~necessary material by the Review Panel~~ to the ~~appropriate~~ resolution of the complaint. All witnesses shall be sworn ~~by the Court Reporter~~ or shall otherwise affirm the truth of their testimony. ~~The parties to by the complaint~~ Chair of the Review Panel. Either party may arrange to have a Court Reporter present at any hearing at their own expense.

5.23.5 PRESENTATION OF EVIDENCE. The case in support of ~~or in opposition to~~ the complaint shall be presented through direct testimony and opportunity for cross-examination shall be provided. All relevant and material evidence shall be admissible, ~~unless such evidence is unduly repetitious or cumulative.~~ Immaterial or irrelevant evidence shall not be admitted into evidence. ~~The rules of evidence prevailing in courts shall be substantially observed.~~

5.23.6 CONSOLIDATION. The ~~Hearing Commissioners~~ Review Panel, on motion of the parties or on motion of the Commission may consolidate complaints with common issues of law and fact for hearing. In proceedings that have been consolidated for hearing, the ~~Presiding Commissioner~~ chair of the Review Panel shall direct which party is to present evidence first.

5.23.7 OBJECTIONS. When an objection to the admission or exclusion of evidence is made, the grounds relied upon shall be stated briefly. Any objection not ~~timely urged before the Hearing Commissioners~~ raised when evidence is presented shall be deemed waived.

STIPULATIONS

5.3 OFFERS OF PROOF. Any offer of proof made in connection with an objection to any ruling of the Hearing Commissioners rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence that counsel contends would be established by such testimony. If the excluded evidence consists of evidence in documentary or written form or refers to documents or records, a copy of such evidence shall be marked for identification and shall constitute the offer of proof.

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5.63.8 STIPULATIONS. Written stipulations may be introduced into evidence, if signed by the persons sought to be bound thereby, or by their attorneys. The parties may stipulate to any facts which are relevant to the proceedings. Oral stipulations may be made on the record at the public hearing.

5.73.9 FILING OF ADDITIONAL EVIDENCE. The Hearing Commissioners Review Panel may, if deemed advisable in its discretion, keep the record open to allow for the filing of specific documentary evidence as a supplement to the record and to allow any party affected by such evidence to file a written response to it within the time fixed at the hearing for such filings.

5.83.10 ORAL ARGUMENTS AND BRIEFS. The parties shall be allowed to make opening and closing arguments at the hearing or to file post-hearing briefs within such time limits as the Hearing Commissioners establish. Review Panel establishes.

5.93.11 CONTINUANCES. The Hearing Commissioners Review Panel may postpone a scheduled hearing or continue a hearing to a later day by announcement thereof at the hearing or by appropriate notice to all parties. Such continuance shall be granted only for good cause shown, which may include the potential for settlement of the complaint.

5.103.12 RECORD OF PROCEEDINGS. All testimony and proceedings at the public hearing shall be recorded and retained in an appropriate manner by the Commission. Upon request, a copy of the recording shall be provided in order to have the recording transcribed in written form.

5.11 DISQUALIFICATION. Any Hearing Commissioners member of the Review Panel shall withdraw, recuse him or herself, or otherwise be removed, from a proceeding when it first appears that such individual has any interest in the matters at issue, has personal knowledge of the facts and involvement with circumstances at issue, or is otherwise not able to exercise fair and impartial judgment on behalf of the Commission.

5.123.14 EX PARTE COMMUNICATIONS. The Hearing Commissioners Review Panel shall not communicate *ex parte* either directly or indirectly with any party or other person involved in the proceeding concerning any issue of law or fact for which a hearing has been scheduled. This prohibition shall likewise prohibit any such communication being made by such person or party to the Hearing hearing. The prohibition shall be in effect until the final order of the Commission is entered or the judicial review process is completed, and a final court order is entered, whichever is later.

5.13 FINDING OF NO DISCRIMINATION AFTER PUBLIC HEARING. If the Hearing Commissioners decide Review Panel decides that, upon a preponderance of the evidence, the Respondent has not engaged in the alleged discrimination or illegal discriminatory act, written findings of such decision shall be entered, and the complaint shall be dismissed. Such dismissal shall constitute a final order by the Commission.

5.14 FINDING OF DISCRIMINATION AFTER PUBLIC HEARING. If the Hearing

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3.16 ~~Commissioners decide~~Review Panel decides, based on a preponderance of the evidence, that the Respondent has engaged in discrimination or an illegal discriminatory practice, written findings of fact, conclusions of law, and a proposed order shall be forwarded to the parties and the Commission. The Chair shall establish the date, time, and place at which the Commission will review the recommended decision. Exceptions to the proposed findings, conclusions, ~~and~~ order may be filed by the parties with supporting brief not later than ten (10) days prior to the Commission's deliberations. The exceptions shall state with particularity the points of law or fact which it is claimed were overlooked or misinterpreted in the proposed decision.

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5.15 **CONCURRENCE OF COMMISSION IN PROPOSED ORDER.** Upon review of the **3.17** ~~whole record and any and all exceptions filed~~, if the Commission concurs in all respects with the proposed decision, a final order to such effect shall be entered.

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5.16 **DISAGREEMENT OF COMMISSION WITH PROPOSED ORDER.** If upon review of the ~~whole record and any and all exceptions filed~~, the Commission disagrees with any portion of the proposed order, a hearing to allow oral argument on the matters in the proposed decision with which the Commission disagrees may be held. ~~The Hearing Commissioners' findings~~The Review Panels finding of fact are binding upon the Commission. No new evidence shall be admitted at the hearing. The Commission, after affording the Complainant, the Respondent, and Commission staff the opportunity to be heard, shall enter the written findings, conclusions, the cease-and-desist request, and the affirmative action it deems appropriate to remedy the discrimination or illegal discriminatory practice. The Complainant and the Respondent shall be informed this decision constitutes a final order of the Commission.

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