



## INFORMATION FOR RESPONDENTS

*This publication describes some of the rules and procedures that apply to respondents in discrimination cases filed at the Chicago Commission on Human Relations. This is not a full statement of all laws and procedures that may apply. It does not constitute legal advice and may not be cited as legal authority.*

*If you are a respondent in a pending case, please keep this publication for reference as the case proceeds.*

### **About the Commission on Human Relations**

The Commission on Human Relations is the City of Chicago agency which enforces the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance. Decisions, orders, and subpoenas issued by the Commission are legally binding and enforceable through state court. The Commission also works to eliminate prejudice and discrimination in Chicago through activities such as monitoring the incidence of hate crimes and assisting hate crime victims, mediating inter-group tensions, conducting educational programs, and advising City government on matters involving prejudice and discrimination. The work of the Commission is authorized by Chapters 2-120, 2-160, and 5-8 of the Chicago Municipal Code. Members of the Board of Commissioners are appointed by the Mayor and approved by the City Council.

### **About Discrimination Complaints**

Anyone can file a complaint alleging a violation of the Chicago Human Rights Ordinance or the Chicago Fair Housing Ordinance. Accepting a complaint does not mean the Commission has decided that a violation occurred. The complaint filing only starts the process of deciding the case. The procedures for receiving, investigating, and adjudicating discrimination complaints under the Chicago Human Rights Ordinance and Chicago Fair Housing Ordinance are stated in Section 2-120-510(e)-(q) of the Chicago Municipal Code and in the implementing regulations adopted by the Board of Commissioners.

### **Available Legal Information and Forms**

The Commission provides publications and forms to assist persons who may file complaints (complainants) as well as those who may be charged with discrimination (respondents). Most of them are available on the Commission's web site ([www.cityofchicago.org/humanrelations](http://www.cityofchicago.org/humanrelations)). Among the available publications are copies of the applicable ordinances, regulations, and a *Board Rulings Digest* summarizing decisions issued after administrative hearings, including the relief awarded if a violation was found. All Board rulings and many other Commission decisions can be cited as precedent. For more information on precedents, see Section 270.500 of the regulations and the free publication *Researching Commission Law*.

### **About Investigations**

The Commission on Human Relations is required to conduct an investigation of every discrimination complaint filed by a member of the public. The purpose of the investigation is to determine whether there is *substantial evidence* of a violation of the Chicago Human Rights Ordinance or Chicago Fair Housing Ordinance. A finding of substantial evidence is not a finding that an ordinance violation occurred, but only that there is enough evidence for the case to proceed to an administrative hearing. If the Commission finds there is no substantial evidence of a violation, the case will be dismissed. Commission Regulation 220.110 describes in more detail the scope of an investigation and the investigative methods that may be used.

## **Neutral Role of Investigator and Commission**

Within a few days after a complaint is filed, the Commission assigns an investigator to the case. Investigators do not decide whether there is substantial evidence or make any other ruling in the case. The assigned investigator serves as the Commission's contact person during the investigation process, receives the parties' written submissions, obtains other evidence as needed, and compiles this material for consideration by the senior staff of the Commission, who make the necessary decisions at the investigation stage.

Commission personnel are *neutral* investigators and decision-makers. The Commission does not prosecute the case and is not the complainant's lawyer. Commission personnel may answer general questions about applicable laws and procedures but may not advise or coach either side. Members of the Board of Commissioners do not become involved with a case unless it comes before them for a final ruling after an administrative hearing.

## **Your Response to the Complaint**

After a complaint is filed, the Commission notifies each named respondent by mail. The mailing includes a copy of the complaint, a deadline to submit a written response, and information to assist in responding. You may be able to obtain an extension of time to submit all or part of the response if you can show good cause. The Commission provides an optional form and instructions which you may use to submit your response and supporting documentation, or to seek an extension of time. Regs. 210.240 and 210.250 state what a response must contain.

## **Complainant's Opportunity to Reply**

The Commission sends a mailing to the complainant at the same time it notifies each respondent. The complainant's mailing sets a deadline for the complainant to reply to a response filed by any respondent and to submit all available supporting documentation.

## **Settlement and Mediation**

The Commission encourages voluntary settlement of cases between the parties and often facilitates settlement discussions. But the Commission never requires parties to settle or to accept particular settlement terms. To assist the parties with settlement discussions, the Commission can schedule a settlement conference with an independent mediator who does not participate in any decisions concerning the case or disclose what was discussed. Commission staff can also facilitate settlement discussions and can explain the procedures for closing a case if an agreement is reached. For more information, see Subpart 230 of the Commission's regulations and the free Commission publication *Settlement and Mediation*.

## **Amended Complaints**

Sometimes complainants amend their complaints. If the Commission receives an amended complaint in your case, it will mail you a copy along with a notice giving you a deadline to file and serve a response. Specific rules apply to the amendment of complaints; they are stated in Regs. 210.145, 210.150, and 210.160.

## **Completing the Investigation**

In conducting an investigation, the Commission always reviews the complaint, any amended complaints, the written responses, and any other written submissions of the parties. The Commission may seek more evidence as necessary to determine whether there is substantial evidence of an ordinance violation. For example, the Commission may interview witnesses, obtain additional documents, conduct testing, and inspect premises and other physical evidence. This evidence gathering may occur at any time after a complaint is filed. The

Commission determines how the investigation will proceed and is not required to interview individuals suggested by a party. See Section 220.100 of the Commission's regulations for more information.

### **How Long Does an Investigation Take?**

Typically, respondents have 28 days from the mailing of the notice of complaint filing to submit a response, and complainants have another 28 days to submit a reply. Extensions of time may be granted. The Commission cannot be sure what additional evidence gathering is needed until it reviews these documents. In general, the Commission tries to complete the oldest pending investigations before turning to newer ones. As a respondent, you can help keep investigation delays to a minimum by submitting a prompt, accurate written response along with all available documentation to support your position, and by voluntarily cooperating with the remaining investigation.

### **Investigative Orders and Subpoenas**

Although the Commission prefers voluntary cooperation, it may issue investigative orders requiring you to submit certain documents or information, to appear for an interview, or to make premises or other physical evidence available for inspection. The Commission can require a business respondent to make an owner, officer, director, or employee available for an interview. Details about investigative orders are in Reg. 220.120.

The Commission may use its subpoena power to obtain evidence during an investigation. Usually a subpoena is used to obtain information from a witness or organization that is not a party to the case, if the third party will not voluntarily cooperate. Subpoenas are only rarely issued to parties. Details about Commission subpoenas are stated in Section 2-120-510(k) of the Chicago Municipal Code and Section 220.200 of the Commission's regulations.

### **Deciding Whether There Is Substantial Evidence**

After completing its investigation, the Commission's authorized senior staff decide whether there is substantial evidence to support each claim in the complaint. The Commission then issues a written order stating its decision.

### **Review of Commission Decisions**

If the whole case or a particular claim is dismissed, the complainant may file a request for review arguing that the dismissal was in error and the claim should be reinstated. If you are served with a request for review, you may (by written motion) request an opportunity to file and serve a response. The Commission will issue a written ruling. See Section 250.100 of the Commission's regulations for more information.

If the Commission finds substantial evidence of an ordinance violation, you as a respondent do not have the right to internal review or reconsideration of that decision. The administrative hearing process will go forward, and that is your opportunity to persuade the Commission that you did not violate the applicable ordinance. For more information on review of Commission decisions, see Section 250.100 of the regulations.

### **Administrative Hearings and Board Rulings**

If the Commission finds substantial evidence (or finds a respondent in default) the case proceeds to the administrative hearing process. If that happens, you will receive a mailing about the hearing schedule, procedures, and your rights and responsibilities. The complainant must prove the case at the hearing. The Commission does not prosecute the case or present the evidence.

### **Access to Case Records**

Commission orders and decisions are issued in writing and mailed to all parties (except investigative orders, which are mailed only to the party required to comply). Witness interviews are summarized in writing. These, along with the written submissions of the parties and any documents obtained from other sources, constitute the investigation file for the case. The parties may arrange to inspect this file and purchase copies of documents *after* the Commission issues its order concluding the investigation but not while the investigation is pending. See Reg. 220.410 for more information. If the case proceeds to an administrative hearing a hearing record is maintained as a public document. Reg. 240.510. Complaints are also public documents. Reg. 220.410(b). After a case is closed, members of the public may be able to inspect the file under the Freedom of Information Act. Procedures are available for a party to seek an order limiting disclosure of certain information, for good cause. Regs. 220.410(a)(2) and 240.520.

### **Attorney Representation**

You may be represented by an attorney at any time while a case is pending. Your attorney must file and serve an attorney appearance. The Commission has an appearance form but attorneys usually use their own. If you receive an appearance from an attorney representing another party, whether a co-respondent or the complainant, you must then direct all written and oral communications intended for that party to the attorney; that is, you may not communicate directly with the party but only through the attorney. For more information on attorney appearances and withdrawals, see Section 270.300 of the Commission's regulations.

### **Is an Attorney Necessary?**

You are not required to have an attorney, even for an administrative hearing, but if you proceed without an attorney (*pro se*) you must still comply with legal requirements. Both complainants and respondents are encouraged to seek legal assistance, because discrimination cases can be complex. However, Corporations **MUST** be represented by a licensed attorney during the administrative hearing process. Failure of a corporation to appear at a proceeding during the administrative hearing process with a licensed attorney may result in the entry of an Order of Default.

The Commission provides a *Legal Assistance Information* list of not-for-profit resources as a starting point but does not make referrals to attorneys. Also, the Chicago area has a number of lawyer referral services, usually operated by bar associations.

### **Communicating with the Commission**

During the investigation, please direct all telephone calls, correspondence, and filings to the attention of the assigned investigator whose name has been provided to you. If the case goes into the mediation or administrative hearing process, you will receive the name of another contact person. Meetings with Commission staff after the filing of a complaint are by appointment only, as needed.

### **Filing and Serving Documents**

Document filings are accepted at the Commission's reception desk during business hours. Most documents that you file must also be *served* on the complainant and any other respondent, plus the hearing officer if one has been appointed. The Commission's detailed rules about filing and serving documents are stated in the regulations printed below. It is important to follow these rules or your documents may not be accepted. The Commission has a Notice of Hearing and Certificate of Service form to help you file and serve documents.

### **Reg. 270.210 Service of Documents**

- (a) Manner of Service

Unless otherwise ordered, all motions, orders, notices, discovery, and other items which are required to be served may be served (i) in person, (ii) by depositing the item to be served a United States mailbox, (iii) by sending an electronic facsimile (fax) copy of the item, or (iv) by sending a copy of the item by electronic mail (e-mail) under the procedures of Reg. 270.230. Documents required to be served must be received, not sent, on the due date. Service by mail shall be deemed complete three days after the postmarked mailing date of the item, properly addressed to the person to be served, unless such person proves that the item was not actually received on that day. Facsimiles and e-mail transmissions must be received by 5:00 p.m. in order to be deemed received on a particular day.

(b) Certificate of Service

If service is required, a certificate of service or equivalent written evidence of service must be filed with the Commission and served on the hearing officer, if any, within 7 days of the service date. A certificate of service consists of a signed statement of the individual causing service, specifying the material served, the person or persons to whom service was made, and for each person the manner and date of service including the address, facsimile number, e-mail address or other location where mailed or delivered.

**Reg. 270.220 Filing with the Commission**

(a) Form of Filings

All filings at the Commission in paper form must consist of an original and one copy unless a single copy of voluminous material is allowed by written order. The Commission is not required to provide copying services for individuals attempting to file. Photocopies of evidentiary documents are preferred unless otherwise ordered, provided that the party must retain each original document and produce it as ordered. Except for initial complaints, each document or set of documents filed must conspicuously state on the first page or a cover page the case number for which the filing is intended. If submitting a filing intended to cover multiple cases (such as a notice of change of name, status, or contact information), sufficient copies must be submitted to cover each case number or consolidated case, with the applicable case numbers clearly and conspicuously stated.

(b) Manner of Filing

Documents are deemed filed when received at the Commission, not when sent. Documents are accepted for filing at the Commission between 9:00 a.m. and 5:00 p.m. on business days unless otherwise ordered or posted conspicuously at the Commission. Documents filed by facsimile or electronic mail must be received by 5:00 p.m. in order to be deemed received on a particular day. A filing by facsimile or electronic mail shall not be deemed complete until an original in paper form is received. Failure to file the original within 7 days of the filing by facsimile or electronic mail shall allow the Commission, or hearing officer if applicable, to invalidate the filing.

**Reg. 270.230 Service and Filing by Electronic Mail**

(a) Service by electronic mail (e-mail) on a party is allowed if the party consents to it by listing an e-mail address in the party's complaint or any subsequent document filed and served in the case. A party may rescind consent to e-mail service in a case by filing and serving a notice so stating.

(b) Documents sent by electronic mail (e-mail) will be accepted for filing with the Commission, or deemed sufficient service on a hearing officer or party, if the following requirements are

met:

- (i) The document must be sent in Portable Document Format (PDF) as a file attachment to an e-mail message.
- (ii) For documents filed with the Commission, the e-mail must be sent to [cchrfilings@cityofchicago.org](mailto:cchrfilings@cityofchicago.org), or to such other e-mail address designated for filings as appears on the Commission's website, in a conspicuous posting in the Commission's office, or in the Commission's latest notice or order issued in the case.
- (iii) For documents served on a hearing officer, the e-mail must be sent to the e-mail address for the hearing officer as provided in the order appointing the hearing officer or in the Commission's or hearing officer's latest notice or order issued in the case.
- (iv) All other service or filing requirements must be met.
- (v) The Commission may, by standing order or by written notice to the parties in a particular case, establish additional procedures for electronic service or filing, including signature or verification by electronic means.