

GUIDELINES
for implementing the
MEMORANDUM OF UNDERSTANDING
between the
Equal Employment Opportunity Commission
and the
Chicago Commission on Human Relations

Date of Memorandum of Understanding: August 1999

Effective Date of Amended Guidelines: November 15, 2003

I. INTRODUCTION

In an effort to minimize duplication of efforts, the Equal Employment Opportunity Commission ("EEOC") and the Chicago Commission on Human Relations ("CCHR") (referred to collectively as the "Agencies" or interchangeably as the "Agency") have entered into a Memorandum of Understanding which provides for exchange of information, joint activity and deferral of investigations for cases which are parallel-filed at the Agencies. These Guidelines set forth the arrangement by which the Agencies shall implement and administer the Memorandum of Understanding, as amended effective November 15, 2003.

As set forth further below, these Guidelines are based upon the classification of cases as set forth in the EEOC's Priority Charge Handling Procedures ("Procedures"), attached hereto as Exhibit A. For purposes of these Guidelines, the term "case" shall be used to refer to a "charge" as filed with the EEOC and a "complaint" of employment discrimination as filed with the CCHR.

II. IDENTIFYING PARALLEL-FILED CASES

In order to determine whether a case is parallel-filed, the Agencies shall notify the parties in all cases filed within the City of Chicago that they are to inform the Agencies when a case is filed at both Agencies. Further, each month the CCHR shall send to the EEOC a list of all cases it has

received in the prior month with the following information: Complainant's name and address; Respondent's name and address; nature of the claims made (including harm/issue and basis, such as: discharge/race); and date filed.

As soon as feasible after receipt of the list, the EEOC shall identify which cases, if any, appear to be parallel-filed, and the Agencies jointly shall review the cases to determine whether the cases identify the same or similar parties and involve substantially similar allegations. Those cases which identify the same or similar parties and involve substantially similar allegations shall be designated by the EEOC as "A," "B," or "C" cases, based upon the EEOC's Procedures, and the Agencies shall proceed in accordance with these Guidelines (see Parts III, IV and V below).

For cases where deferral by one Agency is not possible and both Agencies must proceed (including but not limited to when a "parallel-filed" case has differing allegations and/or parties at each Agency), the Agencies shall make reasonable efforts to work jointly as provided for in these Guidelines (see Part VI below).

a. Effect of Parallel Filing on Requirements to Respond

Except as described herein, the fact that a charge or complaint may be parallel-filed or has been determined by the Agencies to be parallel-filed does not affect the obligations of respondents to file a timely and adequate response as directed in any notification mailed to the respondent subsequent to the filing of a charge or complaint, or an amendment thereof. Any respondent named in both the EEOC charge and the CCHR complaint shall respond in writing to the CCHR complaint as directed in the Regulations and Orders of CCHR. Such a respondent may file the CCHR response with the EEOC as well, and the EEOC shall accept a timely-filed copy of any initial written response which meets the requirements of CCHR as an adequate initial written response to the EEOC charge.

b. Effect of Parallel Filing on Other Required Written Submissions

Any Orders or written information requests requiring a written response from a party (complainant, charging party, or respondent) may require the party to file the written response at both Agencies.

III. PROCESSING OF "A" CASES

a. General Rule

Parallel-filed cases deemed to be "A" cases by the EEOC under its Procedures shall generally be investigated by the EEOC. The CCHR shall defer its investigation for at least six (6) months pending the outcome of the EEOC's investigation. The CCHR shall give all parties to the case written notice of the decision to defer its investigation. If after six months, the EEOC has not either found reasonable cause or resolved (closed) the case, the EEOC shall periodically advise the CCHR regarding the status of its investigation and estimating how much longer it believes the investigation will continue, and the Agencies may consult about further deferral. If the EEOC "A" case involves a class of complainants and the CCHR case involves one or more individuals, the CCHR will generally defer to the EEOC investigation. The Agencies shall consult about the length of that deferral.

If the CCHR initiates its investigation before the Agencies identify the case as one which is to be deferred to the EEOC, the CCHR shall share the information it has gathered with the EEOC and shall defer further investigative work until the EEOC finds reasonable cause or closes the case.

b. Cases Closed During Investigation

Whenever the EEOC closes an "A" case before its investigation is complete, the EEOC shall send to the CCHR a copy of the document which closes the case (such as the settlement agreement

or notice of dismissal) as soon as feasible after the date of closure.

If an "A" case is closed before the completion of the EEOC's investigation for reasons related to settlement, the EEOC will exert best efforts to have the CCHR case closed as part of the settlement (such as by including the CCHR case in any settlement agreement or by having the complainant withdraw his/her CCHR case as a term of the agreement).

c. EEOC Completes Its Investigation

Once the EEOC completes its investigation of an "A" case, it shall notify the CCHR as soon as feasible after making its determination whether or not it has found reasonable cause to believe that a violation of the statute(s) has occurred. Included in the EEOC's notice to the CCHR shall be a copy of the document which sets forth its determination as well as its investigative memorandum along with any evidence in its file which has not already been submitted to the CCHR (or if the evidence is voluminous, it shall so inform the CCHR).

1. EEOC Finds No Reasonable Cause

If the EEOC finds that there is no reasonable cause that a violation of the statute(s) has occurred in an "A" case, the CCHR shall review the EEOC's investigative memorandum and may review the entire file and copy any part of it. The CCHR shall determine as soon as feasible whether it shall dismiss the case for lack of substantial evidence, conduct further investigation, enter a finding that there is substantial evidence of a violation of the statute(s), or take other steps as it deems appropriate.

If, at any time after the EEOC's finding of no reasonable cause, the Complainant files the case in federal court, the CCHR shall dismiss the case.

2. EEOC Finds Reasonable Cause

If the EEOC finds reasonable cause to believe there has been a violation of the statute(s) in an “A” case, it will attempt to resolve the matter through conciliation. The EEOC will exert best efforts to have the CCHR case closed as part of the conciliation by including the CCHR case in any conciliation agreement or by having the Complainant withdraw the CCHR case as a term of the conciliation agreement. If conciliation is successful, the EEOC shall send a copy of the agreement to CCHR as soon as feasible after the date it is fully executed. If conciliation is unsuccessful, the EEOC shall send a copy of the notice of failure of conciliation to CCHR as soon as feasible after it is sent to the Respondent in the pending case.

Where the EEOC finds that there is reasonable cause and the EEOC files the case in federal court, as soon as feasible after the filing, the EEOC shall send the CCHR written notice of the filing in federal court. Upon receipt of such notice, the CCHR shall dismiss the parallel-filed CCHR case. If the EEOC finds that there is reasonable cause, but does not file the case in federal court, the EEOC shall inform the parties in writing that they are each responsible for informing the CCHR about whether the Complainant files the case in federal court.

If the EEOC finds that there is reasonable cause to believe there has been a violation of the statute(s) but does not file the case in federal court, the CCHR shall review the EEOC determination and investigative memorandum and may review the entire file and copy any part of it. The CCHR shall decide as soon as feasible after its receipt of the reasonable cause notice or the completion of its review of the investigative file, whichever is later, whether it shall dismiss the case for lack of substantial evidence, conduct further investigation, enter a finding that there is substantial evidence of a violation of the statute(s) or take other steps it deems appropriate.

If the CCHR finds that there is substantial evidence in an “A” case, it shall proceed with the

case in accordance with the Chicago Commission on Human Rights Ordinance and the Chicago Commission on Human Relations Enabling Ordinance and the CCHR rules and regulations, unless the case is filed in federal court by the Complainant. If, at any time after the EEOC's finding of reasonable cause, the Complainant files the case in federal court, the CCHR shall dismiss the case.

IV. PROCESSING OF "B" CASES

a. General Rule

Parallel-filed cases deemed to be "B" cases by the EEOC under the EEOC Procedures may be investigated by either Agency.¹ The Agency which is deferring its investigation pending the outcome of the other Agency's investigation shall give all parties to the case written notice of the decision to defer its investigation.

If the EEOC initiates its investigation before the Agencies identify the case as one which is to be deferred to the CCHR, the EEOC shall share the information it has gathered with the CCHR and shall defer further investigative work until the CCHR finds substantial evidence or closes the case.

b. EEOC Mediation

The EEOC generally offers voluntary mediation to parties when a case is filed. If the parties agree to such mediation in a parallel-filed "B" case, the EEOC shall inform the CCHR in writing of the date and time that the mediation is scheduled. The CCHR shall defer its investigation for up to ninety (90) days while the mediation proceeds. The EEOC shall allow a CCHR representative to attend the mediation. If the CCHR wishes to have a representative attend the EEOC mediation, it must inform the EEOC not less than seven (7) days before the mediation. The EEOC will exert best efforts to have the CCHR case closed in its mediation process (such as by including the CCHR case

¹Effective November 15, 2003 until further determination by the Agencies, "B" cases shall generally be investigated by the EEOC, although the Agencies may agree to some exceptions.

in any settlement agreement or by having the Complainant withdraw his /her CCHR case as a term of the agreement).

If the case settles at the EEOC, as soon as feasible after the date of closure the EEOC shall send to the CCHR a copy of the document which closes the case (such as the settlement agreement). If mediation fails, the EEOC shall notify the CCHR as soon as feasible and the EEOC will proceed with its investigation of the case, unless the Agencies agree that the investigation will be conducted by the CCHR. See footnote 1, page 6 herein.

c. Case Closed by CCHR Prior to the Completion of Investigation

Where the Agencies mutually agree that the CCHR will conduct the investigation of a “B” case (See footnote 1, page 6 herein) and closes a “B” case before its investigation is complete, as soon as feasible after the date of closure, the CCHR shall send to the EEOC a copy of the document which closes the case (such as the settlement agreement or notice of dismissal or withdrawal).

If a case is closed before the completion of the CCHR's investigation for reasons related to settlement, the CCHR will exert best efforts to have the EEOC case closed as part of the settlement (such as by including the EEOC case in any settlement agreement or by having the Complainant withdraw the EEOC case as a term of the agreement).

d. Agency Completes Its Investigation

Once the Agency receiving the deferral completes its investigation of a “B” case, it shall notify the other Agency as soon as feasible after making its determination whether or not it has found substantial evidence or reasonable cause. It shall also provide the other Agency with its investigative summary or report along with any evidence in its file which has not already been submitted to the other Agency (or if the evidence is voluminous, it shall so inform the other Agency).

1. Agency Finds No Substantial Evidence or No Reasonable Cause

If the Agency receiving the deferral finds that there is no substantial evidence or reasonable cause of a violation, the other Agency may review the Agency's investigation information and may review the entire file and copy any part of it. The Agency shall decide as soon as feasible after the receipt of the no substantial evidence or no reasonable cause notice whether it shall dismiss the "B" case for lack of substantial evidence or reasonable cause, conduct further investigation, enter a finding that there is substantial evidence or reasonable cause of a violation of the statute(s), or take other steps it deems appropriate.

2. Agency Finds Substantial Evidence or Reasonable Cause

If the Agency receiving the deferral finds that there is substantial evidence or reasonable cause of a violation of the statute(s) in a "B" case, the other Agency may review the Agency's investigation information and may review the entire file and copy any part of it. The other Agency shall decide as soon as feasible after its receipt of the substantial evidence notice whether it shall dismiss the "B" case for lack of substantial evidence or reasonable cause, conduct further investigation, enter a finding that substantial evidence or reasonable cause exists, or take other steps it deems appropriate.

If the CCHR finds substantial evidence, the CCHR shall inform the EEOC of the date and time of the Conciliation Conference for the case as soon as is practicable, but no less than fourteen (14) days before the Conference. The EEOC may join the CCHR's Conciliation Conference in an effort to have the EEOC's case settle. If the EEOC wishes to have a representative attend a CCHR Conciliation Conference, it should inform the CCHR as soon as feasible before the Conference. Whether or not an EEOC representative attends the Conciliation Conference, the CCHR will exert best efforts to have the EEOC case closed in its Conciliation Conference (such as by including the

EEOC case in any settlement agreement or by having the Complainant withdraw the CCHR case as a term of the agreement).

If the "B" case does not settle and if neither the Complainant nor the EEOC files the case in federal court, the CCHR shall proceed with the case. If the case does not settle and if the Complainant and/or the EEOC files the case in federal court, the CCHR shall dismiss the case. The CCHR shall inform the parties in writing that they are each responsible for informing the CCHR about whether the Complainant files the case in federal court. In addition, the EEOC shall send the CCHR written notice when it files a "B" case in federal court as soon as feasible after that filing.

V. PROCESSING OF "C" CASES

Under its Procedures, the EEOC dismisses cases determined to be "C" cases generally because they are self-defeating or because they are not within the EEOC's jurisdiction. As soon as feasible after the dismissal (or after a dismissed "C" case has been identified as parallel-filed), the EEOC shall report to the CCHR that the EEOC has dismissed the case and shall provide a copy of the document which reflects the reason for the dismissal along with any evidence in its file which has not already been submitted to CCHR.

The CCHR shall review that dismissal document to determine what effect, if any, the dismissal has on the CCHR's case. The CCHR may review the entire file and copy any part of it. The CCHR shall determine as soon as feasible after its receipt of the dismissal notice whether it will continue with its investigation, dismiss the case for a jurisdictional or other reason, or take other steps it deems appropriate.

If the Complainant files the case in federal court, the CCHR may dismiss the case or may stay its proceedings pending the conclusion of the case in federal court.

VI. JOINT ACTIVITY

When deferral by one Agency is not possible and both Agencies must proceed (including but not limited to when a "parallel-filed" case has differing allegations and/or differing parties at each Agency), the Agencies shall make reasonable efforts to work jointly. This includes, but is not limited to, holding joint interviews and/or joint settlement conferences, and making joint requests for documents and other written information.

VII. FAILURE TO COOPERATE/FAILURE TO PROSECUTE

If either Agency notifies a Complainant in a parallel-filed case that he or she is subject to a possible dismissal for Failure to Respond, Failure to Cooperate or Failure to Prosecute, the notification may inform the Complainant that failure to comply with that Agency's requirements may be grounds for the other Agency to dismiss the case as well.

VIII. NOTICE TO PARTIES

Whenever an Agency makes a determination regarding the status or disposition of a parallel-filed case where there has been a deferral (e.g., dismissal for any reason, decision to defer, finding of reasonable cause or substantial evidence, etc.), the Agency's notice of such a determination to the parties shall include an explanation of the next steps for that case. The Agencies shall collaborate on the development of appropriate notice language for inclusion in their respective forms.

IX. AMENDMENT OF CASES

Amendment of a complaint or charge at one Agency does not automatically constitute amendment at the other Agency. When a parallel-filed case is amended, the Agency at which the amendment is filed may notify the Complainant that if the Complainant wishes to amend the case at the other Agency, the amendment must be separately filed with that Agency. The Agencies shall notify one another of any amendments which may necessitate a change in deferral status under these

Guidelines.

X. EFFECT OF FILING IN FEDERAL COURT

Notwithstanding other provisions of these Guidelines concerning federal court filings, at any time after a charging party files a complaint in federal court based on an EEOC case parallel-filed at CCHR (whether denoted "A," "B," or "C"), the CCHR may either dismiss the case or stay its proceedings pending the conclusion of the case in federal court.

XI. LIAISONS

The Agencies shall each appoint one person to act as the liaison to the other Agency. Each Agency will notify the other in writing of the name, address and telephone number of its liaison. Each Agency shall notify the other Agency in writing of any change in its liaison.