

CITY OF EVANSVILLE  
AND  
VANDERBURGH COUNTY

**Human Relations Commission  
Rules and Regulations**

CITY/COUNTY  
HUMAN RELATIONS COMMISSION

ROOM 133, ADMINISTRATION BUILDING  
CIVIC CENTER COMPLEX  
EVANSVILLE, INDIANA 47708-1833

TELEPHONE (812) 436-4927

RULES AND REGULATIONS CONCERNING PRACTICE AND PROCEDURES BEFORE  
THE CITY/COUNTY HUMAN RELATIONS COMMISSION OF EVANSVILLE

The following rules and regulations were adopted on November 27, 1974, by the City/County Human Relations Commission of Evansville, pursuant to the City/County Human Relations Commission Ordinance.

RULE 1. DEFINITIONS

Section 1.1 Definitions.

When used in these rules and regulations, unless the context clearly required otherwise, the following terms shall have the meaning as indicated:

- (A) The term "Probable Cause" shall be established by a statement of facts as would lead a person of normal intelligence and prudence to believe it is more probably true than not that a Discriminatory Practice prohibited by the City/County Human Relations Commission Ordinance, or state, or federal laws incorporated therein has occurred.
- (B) The term (Day) shall mean a calendar day, provided however, that when any period in which action must be taken under these rules expires on a Saturday, Sunday, or a National or State holiday, such period will be extended to the next business day.
- (C) The term "Presiding Officer" shall mean either the Chairman, or one of the Vice Chairmen of the Commission who is designated by the Chairman to preside over a public hearing.
- (D) The term "Hearing Commissioners" shall mean those Commissioners designated by the Chairperson to hear a complaint for a public hearing. A "Reviewing Commissioner" may also be appointed by the Chairman.

RULE 2. GENERAL INFORMATION

Section 2.1

Manner of Filing

- (A) Where To File. Complaints may be filed with the Commission at its office in the City/County Administration building in Evansville, Indiana, either by personal delivery or mail. The original and three copies shall be filed. The Commission's staff shall provide assistance in drafting and filing a complaint.

(B) What Constitutes filing.

The Complaint shall be deemed filed as of the date of the date of receipt by the Commission.

(C) Time Limit On Filing.

A complaint must be filed within one hundred eighty (90) days from the date of occurrence of the alleged Discriminatory Practice. If the alleged Discriminatory Practice is of a continuing nature, one of the dates on which the alleged acts of illegal discrimination occurred must be within one hundred eighty (90) days prior to the filing of the complaint.

Section 2.2 .

Filing An Answer.

- (A) Who May Answer and Time Limits. The Respondent, or his Representative, may answer the complaint. The answer shall be in writing and signed by the Respondent, or his representative.
- (B) Failure to File An Answer. If the Respondent fails to file an answer to a complaint, the Commission deems this failure as an admission to the complaint.

Section 2.3

Amendments to a Complaint and Answer.

- (A) Amendments. At any time prior to the notice of public hearing, a complaint may be amended by the Complainant. In addition, the Respondent may amend his answer at any time prior to the commencement of the public hearing. The parties shall be notified of all amendments by the commission.
- (B) Issues Not in the Pleadings. When issues not raised in the complaint as amended, or answered, are heard by express or implied consent of the Parties, the pleadings shall be deemed amended to include the new issues. The amendment may be made after final adjudication. If evidence is objected to at the hearing on the ground that it is not within the issues established by the pleadings , the Presiding Officer may allow the presentation of the merits of the action will be served thereby and the objecting party fails to show that the admission of such evidence would prejudice him in maintaining his defense on the merits. The Presiding

Officer may grant a continuance to enable the objecting party to meet such evidence.

#### Section 2.4.

##### Ruling on Pre-Hearing Motions and Petitions.

When the Complainant or the Respondent files a pre-hearing motion or petition, the Chairman or Vice Chairman of the Commission or, or both are unavailable, any Commissioner shall rule on the motion or petition.

### RULE 3. PROCESSING A COMPLAINT

#### Section 3.1.

##### Finding of Probable Cause.

Before the Executive Director shall decide, pursuant to Section 9(b) of the City/County Human Relations Commission Ordinance, if a complaint shall be heard by the Commission or before a Reviewing Commissioner shall decide, pursuant to Section 9 of the City/County Human Relations Commission, that a complaint should be heard by the Commission, the Executive Director or the Reviewing Commissioner, as the case may be, must first determine that Probable Cause exists to believe that an illegal act of discrimination did occur in violation of the City/County Human Relations Commission Ordinance, or any state or federal law incorporated therein.

#### Section 3.2

##### Conciliation Agreements.

###### (A) Unsuccessful Conciliation.

1. If the Respondent does not agree to the terms of a proposed Conciliation Agreement, as contemplated under Section 3 of the City/County Human Relations Commission Ordinance, the Executive Director shall set the complaint for public hearing at the Commission's earliest convenience.
2. If the Executive Director and the respondent agree on the terms of a proposed Conciliation Agreement, then the Executive Director shall submit the proposed Conciliation to the Complainant for his approval. The Complainant shall have ten (10) days in which to notify the Executive Director of his decision. It shall not be necessary, however, for the Complainant to approve the proposed Conciliation Agreement. Whether or not the Complainant approves the proposed

Conciliation Agreement, it shall be a decision of the Executive Director as to whether or not the proposed Conciliation Agreement shall be submitted to the Commission for its final approval.

(B) Execution of Conciliation Agreement

If the Executive Director shall submit a proposed Conciliation Agreement to the Commission, it shall become binding both upon the Complainant and the Respondent upon approval of the proposed Conciliation Agreement by a majority of the Commission, and thereafter the Conciliation Agreement shall become effective. If a majority of the Commissioners refuse to approve the proposed Conciliation Agreement, it shall be of no force and effect; and, within the discretion of the Executive Director, further efforts to negotiate, conciliate and settle the complaint may be made; or a public hearing may be scheduled by the Chairman. Upon approval by the Commission, a Conciliation agreement shall have the same force and effect as a final order of the Commission.

#### RULE. DISCOVERY

##### Section 4.1

###### Discovery.

Pursuant to Rule 28 of the Rules of Civil Procedures, as adopted by the Indiana Supreme Court, whenever a public hearing before the Commission is required parties, including the Commission, shall be entitled to all discovery provisions of Rules 26 through 37 of the Indiana Rules of Civil Procedure. Protective and enforcement orders shall be issued by the Chairman or any Vice Chairman. If a party or witness does not comply with a protective or enforcement order of the Chairman or Vice Chairman, the Commission may obtain a decree of court for the enforcement such order in the Circuit or Superior Court of Vanderburgh County, Indiana, as provided therein.

#### RULE 5. SERVICE OF PROCESS

##### Section 5.1

###### Filing With the Commission.

Complaints filed with the Commission shall be filed as provided in Rule 2.1 All other pleadings, motions, petitions, requests and other instruments

shall be filed by delivering in person during the regular business hours, or by mailing the original and three copies thereof to the office of the Commission in the City/County Administration Building in Evansville, Indiana. All such instruments shall be signed by the party on whose behalf they are filed, or his representative, and shall show the party's address and phone number and the address and phone number of his representative.

## Section 5.2

### Subpoenas.

#### (A) Issuance.

The Commission shall make application to the Superior, or Circuit Court of Vanderburgh County, Indiana, or any judge thereof for the issuance of subpoenas to compel the attendance of witnesses, or the production of pertinent documents and records relative to a filed complaint.

#### (B) Service of Subpoenas

A subpoena issued pursuant to 5.2 (A) may be served by the Sheriff, or his Deputy, a party or any person. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person, or an individual acting in a representative capacity, by:

- (1) Sending a copy of the subpoena by registered or certified mail or other public means, by which a written acknowledgement of receipt may be requested and obtained to his residence, place of business or employment with return receipt requested and returned, showing receipt;
- (2) Delivering a copy of the subpoena personally; or
- (3) Leaving a copy of the subpoena at his dwelling house or usual place of abode; or
- (4) Serving his representative as provided by rule, statute or valid agreement.

Whenever service is made under subsection (3) or (4), the person making the service shall also send, by first class mail, a copy of the subpoena to the last known address of the person being served, and this fact shall be shown upon the return.

(C) Form and Content of Subpoenas.

Subpoenas issued by the Commission, subject to the approval of the Circuit or Superior Court of Vanderburgh County, Indiana, shall be signed by an individual Commissioner; they shall state the name of the Commission and the title of the action, without naming more than the first-named Complainant and Respondent in the complaint and the docket number.

(C) For Attendance and the Giving of Testimony.

A subpoena may command the person to whom it is directed to attend and give testimony at a time and place therein specified.

(D) For Production of Documentary Evidence.

A subpoena may command the person to whom it is directed to produce the books, papers, documents, or tangible things designated.

(E) Failure to Obey a Subpoena.

If any person, called as a witness by a subpoena, shall fail to obey such a subpoena to appear before the Commission, or its authorized representative or agent, shall refuse to testify, or to answer any questions or to produce any book, record, paper, or other document when required to do so, such contumacy or refusal may constitute a contempt. The Commission shall apply for a citation of contempt to the Circuit or Superior Court of Vanderburgh County, Indiana.

(F) Confidentiality.

Nothing in these rules, however, shall be construed as making public or requiring the production of records or information which is made confidential by law.

(G) Proof of Service of Subpoena.

When a subpoena is served by the Sheriff or his Deputies, his return shall be proof of service. When served by any other person, the service must be shown by affidavit. No fees or costs for the

service of the subpoena shall be collected or charged as costs except when service is made by the Sheriff or his Deputies.

## RULE 6. DEFAULT

### Section 6.1

Entry.

When a party has failed to plead or otherwise defend, as provided by these rules, or when a party has failed to appear for a public hearing after proper notice and the fact is made to appear by affidavit or otherwise, the party may be defaulted. However, proof of the material allegations of the complaint must still be made before the Hearing Commissioners.

### Section 6.2

Order.

(A) Failure to Answer Complaint.

The Complainant may apply to the Hearing Commissioners for an Order by Default in case where the Respondent has failed to answer the complaint.

(B) Failure to Appear at Public Hearing.

Either Party may apply to the Hearing Commissioner for an Order by Default in cases when, after proper notice, the other party has failed to appear at a public hearing.

(C) Supplemental Matters.

If, in order to enable the Hearing Commissioners to enter an Order by Default or to carry such Order into effect, it is necessary to determine the amount of damages, or to establish the truth of any other matter, the Hearing Commissioners shall conduct such hearing as they deem necessary and proper, in accordance with Rule 10.

## RULE 7. PRACTICE BEFORE THE COMMISSION

Any Complainant or Respondent may appear individually, or, if a party is a corporation, by the officers of the corporation, or by a representative or by any



attorney admitted to practice and in good standing with the Bar of any United States, District of Columbia or Puerto Rico.

(A) Simplification and Stipulation.

In any hearing before the Commission, the Presiding Officer, in his discretion or upon motion of any party, may direct the attorneys for the parties to appear before him for a pre-hearing conference to consider:

- (1) The simplification of the issues;
- (2) The necessity or desirability of amendments to the pleadings;
- (3) The possibility of obtaining admissions of facts and documents which will avoid unnecessary proof;
- (4) A limitation of the number of witnesses;
- (5) An exchange of names of witnesses to be called during the trial and the general nature of their expected testimony; and
- (6) Such other matters as may aid in the disposition of the action.

(B) When Called.

Unless otherwise ordered by the Commission, the pre-hearing conference shall not be called until after attempts at conciliation have failed.

(C) Participants.

Any attorney planning to take part in the hearing shall appear and participate in the pre-hearing conference. The Respondent and Complainant should also appear at such conference.

## RULE 9. NOTICE OF HEARING

### Section 9.1

Notice.

(A) When Required.

If, pursuant to these rules, a hearing is required, the complaint shall be set for hearing by the Chairman. He shall cause notice thereof to be served upon all parties.

(B) Contents of Notice.

All notices of hearing shall state the date, time, place of hearing, and that parties may appear without counsel at the hearing to answer the complaint

and submit testimony with respect to the alleged Discriminatory Practice. All notices shall advise the party that his failure to appear may result in an adverse Order by Default pursuant to Rule 6.

## RULE 10. PUBLIC HEARINGS

### Section 10.1. Rules Of Practice Governing Hearings.

(A) Who May Appear.

All parties to the proceedings may appear in person, or by counsel, and shall be allowed to present and cross-examine witnesses and to submit evidence, both oral and documentary.

(B) Evidence.

No evidence shall be received at any hearing except upon notice for all parties to be present. Each Complainant and Respondent shall, unless excused by the Presiding Officer, be present in person at each hearing and may be represented by counsel. A corporate Respondent may appear at any hearing by any duly appointed representative.

(C) Conduct of Hearing.

The Hearing Commissioners shall conduct the hearings in an informal manner, not limited to the technical common-law rules of evidence required in proceedings in judicial courts. Proof and introduction of evidence shall be deemed sufficient and shall govern the proof, decision, and administrative or judicial review of all questions of fact, if substantial, reliable and probative evidence supports the Hearing Commissioner's determination. The Presiding Officer may exclude irrelevant, immaterial or unduly repetitious evidence and shall consider only evidence introduced into the record.

(D) Duties of the Presiding Officer.

The Presiding Officer shall have the power to:

- a. Administer oaths and affirmations
- b. Issue subpoenas (subject to the provisions of Section 5 (p) of the City/County Human Relations Commission Ordinance)
- c. Rule on offers of proof
- d. Receive relevant oral or documentary evidence
- e. Take or cause depositions to be taken
- f. Regulate conferences for the settlement or simplification of the issues by consent of the party or parties

g. Dispose of procedural motions and similar matters.

(E) Separation of Witnesses.

The Presiding Officer may within his discretion, or upon motion of the respondent or Complainant, order the separation of witnesses.

(F) Improper Conduct.

The Presiding Officer may exclude from the hearing room or from further participation in the proceeding, any person who engages in improper conduct before him and may decide to what extent television and radio representatives may record the hearing.

(G) Hearings Are Public.

All hearings of the Commission under these rules are open to the public.

(H) Continuances and Costs.

For good cause shown, The Presiding Officer may, in his discretion, grant a continuance on the motion of either party. If a continuance is granted, costs incurred on account of the continuance may be assessed against the party moving for the continuance at the discretion of the Presiding Officer.

(I) Commission Continuance.

The Presiding Officer may, at any time, order a continuance upon his own motion if the interests of justice so require. When all parties are present, such oral notice shall constitute final notice of such continued hearing.

## RULE 11. FINAL ORDERS

### Section 11.1.

#### Final Order or Determination.

(A) By Whom Made.

A final order or determination of the Hearing Commissioners shall be made by a majority of the Hearing Commissioners which shall represent, and be a final order and decision of the Commission.

(B) Contents in General.

Every final order shall contain findings of fact, conclusions of law and a statement of the relief granted. The Hearing Commissioners shall make a finding of facts, which shall encompass the relevant facts shown by the evidence. The finding of facts may be made by direct statement or by reference to the particular charges made in the complaint. A reference to the particular charges in the complaint shall be sufficient as finding of facts. Each Hearing Commissioner who participated in the issuance of the final order or determination may write a concurring or dissenting opinion and attach it thereto.

## RULE 12. JUDICIAL REVIEW

### Section 12.1.

#### Record of Hearing.

For purposes of judicial review, the record of the public hearing shall consist of a tape recording of the oral testimony, the exhibits admitted into evidence, and all notices of pleadings, exceptions, motions, requests and other papers filed with the Commission with the exception of briefs or arguments of law. The cost of producing such record for judicial review shall be borne by the party making the appeal. The Commission may require the deposit of reasonable security for the payment of such cost before producing such record.

## RULE 13. CONSTRUCTION OF THESE REGULATIONS

### Section 13.1

#### How Construed and Partial Invalidity.

(A) Liberally.

These regulations shall be liberally construed to accomplish the purposes of the Law and the policies of the Commission.

(B) Partial Invalidity.

If any provision of these rules or the application of a provision to any person or circumstances shall be held invalid, the remainder of these rules or the application of a rule to persons or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

