

Complaint of Discrimination Filing Procedure

Revised on February 1, 2013

Preliminary Inquiry

Preliminary inquiries are often made by individuals seeking to complain about an unlawful discriminatory practice and inquire about their rights under the City Of Columbia Human Rights Ordinance, Chapter 12 of the City Code. These inquiries are made by phone, by regular and electronic mail, and in person, and are handled by the Human Rights Investigator.

The Human Rights Investigator makes an initial determination of whether a complaint of discrimination may be filed under the City of Columbia's Human Rights Ordinance. This preliminary determination regarding jurisdiction is made by the Human Rights Investigator. If it is preliminarily determined that no complaint of discrimination may be filed with the City, the individual is informed of this determination. Additionally, appropriate referrals are made to other state or federal agencies which may be able to assist the individual.

Complaint of Discrimination Intake

The person claiming to be aggrieved by an unlawful discriminatory practice completes a form entitled a "Complaint of Discrimination." When necessary, the Human Rights Investigator assists in the Complainant's completion of the Complaint of Discrimination. The complaint shall be in writing and state:

The name, address and phone number of the person alleged to have committed the discriminatory practice and the particulars of the alleged act of discrimination.

The Complaint of Discrimination shall be filed within one hundred eighty (180) days of the date of the alleged discriminatory practice. A Complaint of Discrimination shall be deemed filed on the date actually received at the office of the Human Rights Commission when filed electronically, filed in person or via facsimile or on the date postmarked when filed by regular mail. Once the Complainant completes and properly files the complaint, it is assigned a case number and a case file is created. The case number assigned shall reflect the year of the filing, its numerical sequence in the list of that year's filings, and the first and last initials of the Complainant.

The Complainant is also asked to read and sign a Complainant Information Check List. This Check List provides the Complainant with additional information regarding the Human Rights Ordinance, the Human Rights Commission's role in enforcing the Ordinance, and the rights and responsibilities of the Complainant.

Each individual who files a complaint with the City of Columbia Human Rights Commission is advised of the dual-filing option of filing a complaint with the Missouri Commission on Human Rights, the Equal Employment Opportunity Commission (EEOC), and the U.S. Department of Housing and Urban Development (HUD). Following this discussion, the Complainant decides which agency s/he would like to conduct the investigation and/or assist with dispute resolution. In such instances where the Complainant has dually-filed with the Missouri Commission on Human Rights or another agency and elects to have that other agency conduct the investigation, the City of Columbia Human Rights Commission will suspend its investigation of the case. However, at the conclusion of that other agency's investigation, the City of Columbia Human Rights Commission may, upon the written request of the Complainant and in its discretion, review that other agency's file and direct that further investigation be done in order for the

Human Rights Commission to make its own determination regarding whether probable cause exists to credit the allegations of the complaint.

Notification of Complaint

Upon the filing of a Complaint of Discrimination, the Human Rights Investigator notifies the Respondent of the filing of the complaint by sending a Complaint Notification Letter. The Complaint Notification Letter is sent to the Respondent as soon as is practicable, but in no event later than 30 days after a complaint has been received by the City. The Complaint Notification Letter is sent to the Respondent by certified mail. A copy of the Complaint Notification Letter is forwarded to the Complainant. The Complaint Notification Letter states clearly that the Respondent shall respond to the complaint within fifteen (15) days of receipt. A Response Form to assist the Respondent in responding to the complaint is included in this mailing.

A Respondent Information Check List is also sent to the Respondent. The Respondent is asked to sign the Information Check List and return it to the Human Rights Investigator with the response to the complaint. The Respondent Information Check List provides information to the Respondent regarding the Human Rights Ordinance, the City of Columbia's role in enforcing the Ordinance, and the rights and responsibilities of the Respondent.

Copies of the complaint are distributed to the City Counselor and the Commissioners at the next regular Commission meeting following the filing of the complaint. The original copies of the Complaint of Discrimination and Response are maintained in the office of the City of Columbia's Division of Human Services.

After the appropriate time has been afforded the Respondent to provide a response to the Complaint of Discrimination, the Human Rights Investigator shall proceed with his/her investigation of the complaint. When the Respondent fails to provide a response to the Complaint of Discrimination within the specified time, the Human Rights Commission may, under its discretion, determine the issue of whether probable cause exists without consideration of any defenses which might be available to the Respondent. In the event, however, that the Complainant's allegations shall constitute the sole evidentiary basis for disposition of a complaint, a probable cause order supporting the complaint may be rendered only where the case record demonstrates a prima facie case supporting the entry of a probable cause finding.

Jurisdictional Review

The first step in processing a complaint is the formal determination regarding whether the complaint falls within the jurisdiction of the City of Columbia. In order to fall under the City's jurisdiction:

- The alleged discriminatory act or practice must have occurred within the city limits;
- The alleged discriminatory act or practice must have occurred within 180 days of the filing of the complaint with the City of Columbia;
- The alleged discriminatory act or practice must be a violation of the City of Columbia Human Rights Ordinance;
- The Complainant must be the aggrieved party; and
- The Respondent must be covered by the applicable ordinance.

When a question arises regarding whether the City of Columbia has jurisdiction over a complaint filed with it, the matter is referred to the City Counselor for jurisdictional review. The City Counselor then makes a recommendation regarding jurisdiction to the Human Rights Commission, whose authority it is to make the final determination regarding jurisdiction. If it is determined that the City of Columbia has jurisdiction over the complaint, the investigator begins to explore the possibility of a resolution prior to investigation. If

the complaint does not fall under the jurisdiction of the City, the complaint is administratively closed by vote of the Commission and the parties are so notified.

Resolution Prior To Investigation

Prior to commencing an investigation of the complaint, the Human Rights Investigator contacts both parties to determine if resolution prior to investigation is possible. The Human Rights Investigator refers them for mediation through the Center for Dispute Resolution at the University of Missouri-Columbia School of Law. Mediation is a voluntary process (it will only take place if both the Complainant and Respondent agree to participate) in which the parties resolve their disputes with the help of a trained mediator. The process is aimed at trying to bring the parties together on terms of settlement. If the dispute is resolved, the mediator writes the terms into an agreement that is signed by the parties. The signed agreement is the parties' commitment to the resolution they have reached. The mediator then notifies the Human Rights Investigator of the agreement between the parties and the case is closed. Resolutions reached prior to the commencement of an investigation of the complaint by the Human Rights Investigator are not subject to the approval of the Human Rights Commission.

Investigation

If either the parties do not pursue the above-stated early resolution options or if early resolution is pursued but does not result in an agreement between the parties the investigative process is initiated as soon as possible. If the complaint has been dually-filed with another agency and the Complainant has decided that s/he wishes for that agency to conduct the investigation, the Human Rights Investigator communicates with this agency and coordinates efforts and information-sharing as possible within the laws and regulations of these agencies. At the conclusion of that other agency's investigation, the City of Columbia Human Rights Commission may, upon the written request of the Complainant and in its discretion, review that other agency's file and direct that further investigation be done in order for the Human Rights Commission to make its own determination regarding whether probable cause exists to credit the allegations of the complaint.

If the Complainant opts for the City of Columbia to conduct the investigation, the complaint is investigated by the Human Rights Investigator in order to determine if probable cause exists for crediting the allegations of the complaint. The Human Rights Investigator acts as neutral fact finders in connection with the investigation of the complaint. Investigations are accomplished by methods including, but not limited to, fact-finding conferences, personal interviews, written interrogatories, tests, requests for production of documents, books or papers, or other materials and reviews of investigations of other civil rights agencies.

Investigations of complaints, unless it is impracticable, shall be completed within one hundred (100) days of receipt of the complaint. If the Human Rights Investigator is unable to complete the investigation within one hundred (100) days, s/he shall notify the Complainant and Respondent in writing of the reasons for not doing so.

At the monthly meetings of the Human Rights Commission, the Human Rights Investigator shall provide a written report or reports containing the following information and documentation:

- A brief report on each active case, including a factual summary, report on the status of the proceeding, any recommendation with regard to the handling of the case, and copies of any relevant case documentation;

- The number and type of contacts with the Commission during the preceding month, including the nature of the contact, the type of discrimination complained of, the protected category at issue, any relevant jurisdictional issues, and what, if any, action was taken in response to the contact; and
- Any other matter which might be relevant to the Commission based upon its functions, powers and duties as set forth in the Ordinance.

Commission Review and Determination

Once the investigation is complete, the Human Rights Investigator shall submit to the Human Rights Commission a written report containing the following:

The factual findings of the investigation;

His/her recommendation whether the Commission should enter a finding that probable cause exists for crediting the allegations of the complaint; and

A statement of all efforts employed to eliminate the alleged discriminatory practice by conference, conciliation or mediation, and the results of those efforts.

The original copies of the above-referenced reports are maintained in the office of the City of Columbia Division of Human Services.

After its review of the investigation report and consideration of any other relevant information, the Human Rights Commission makes a final determination of probable cause and disposition of the complaint. The Commission either enters a finding of probable cause, no probable cause, or administrative closure, or directs further investigation of the complaint by the investigator. If further investigation is directed, the Commission shall inform the investigator of the specific additional information which the Commission requires in order to make a final determination regarding probable cause.

No Probable Cause

If the Human Rights Commission finds that no probable cause exists to credit the allegation of an unlawful discriminatory act or practice, the Complainant and Respondent are notified of the Commission's finding of no probable cause and that the complaint shall be dismissed without further proceedings. The Complainant has no right of appeal from the decision of the Commission.

Probable Cause

If the Human Rights Commission adopts the recommendation of the investigator and finds that probable cause exists to credit the allegation of an unlawful discriminatory act or practice, the Human Rights Investigator shall notify the Complainant and Respondent of its finding of probable cause and direct them to attempt dispute resolution. The Human Rights Investigator shall undertake to eliminate the alleged discriminatory practice through the use of conference, conciliation or mediation.

Conference, Conciliation or Mediation

In attempting to resolve the case through dispute resolution Human Rights Investigator or other designee of the Human Rights Commission, shall attempt to achieve a resolution agreeable to the parties of all violations found and to obtain an agreement that the Respondent will eliminate the discriminatory practice and provide appropriate relief. Complaints are conciliated or mediated by individuals who have been trained in conciliation or mediation and approved by the Commission. Neither the members of the

Commission nor any person participating in the investigation shall disclose what has occurred in the course of efforts to conciliate a matter.

If, after a finding of probable cause, and as a result of conference, conciliation or mediation, the parties determine that the alleged unlawful discriminatory practice of which a complaint is made will be remedied and eliminated by appropriate remedial action to which the parties agree, the terms of the agreement shall be put in writing and shall be signed by the Complainant and Respondent. This written agreement is then presented to the Human Rights Commission who votes on whether to accept the proposed agreement and its terms and close the case. If the Commission votes to accept the written agreement proposed by the parties, then the agreement is signed by the Chair of the Human Rights Commission, the written agreement is entered into the record of the case and the case is closed. If, however, the Commission votes to reject the agreement proposed by the parties, the case is either referred for further dispute resolution or for prosecution. The Commission may reject a proposed agreement if it is of the opinion that the agreement by its terms does not eliminate discriminatory practices made unlawful by Chapter 12, does not encourage the fair treatment of all persons regardless of their protected category or for any other legitimate reason consistent with the functions, powers and duties of the Commission.

It is determined by the Commission that dispute resolution has failed when the parties refuse to sign a written agreement, or the parties indicates an unwillingness to participate in dispute resolution. If efforts at dispute resolution fail to result in an agreement to eliminate the alleged discriminatory practice, the Commission can direct that the complaint be forwarded to the appropriate agency or prosecutor.

Referral or Prosecution

If efforts to eliminate the alleged discriminatory practice have failed, the Commission shall determine whether the complainant will be referred to the Missouri Commission on Human Rights (if it involves a violation of the Missouri Human Rights Act and was not previously dually-filed by the Complainant) or the complaint of discrimination and related file be forwarded to the municipal prosecutor. A person who violates the City of Columbia Human Rights Ordinance shall be deemed guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1000.00), or imprisonment not exceeding thirty (30) days, or by both fine and imprisonment.

Voluntary Withdrawal and Administrative Closure

Unless it is impracticable to do so, the Commission shall make the final administrative disposition of a complaint of discrimination within one (1) year of the date of receipt of the complaint. If the Commission is unable to do so, it shall notify the Complainant and Respondent in writing of the reasons for not doing so.

At any point in the process, a complaint may be subject to closure for administrative reasons. A complaint shall be closed for any good reason including, but not limited to, the following:

- The City has determined that it does not have jurisdiction over the complaint of discrimination.
- The remedy sought by the Complainant is not within the authority of the Commission and the case is submitted to the Missouri Commission on Human Rights or another governmental agency.
- The Complainant has filed suit in state or federal court for those allegations set forth in the Complaint of Discrimination.
- The Complaint has been voluntarily withdrawn the Complainant before the entry of a finding of probable cause by the Commission.
- There is a failure to cooperate with the Commission by the Complainant.

- The Commission is unable to locate the Complainant or Respondent.
- The case has been investigated by the Missouri Commission on Human Rights or another governmental agency, the file of this investigation has been forwarded to the Human Rights Investigator who, upon review of the file, has offered to the Commission his/her opinion that no further investigation is necessary or appropriate, and this recommendation has been accepted by the Commission.

A Disposition of Complaint Form, as well as a brief report describing the reasons for his/her disposition recommendation, shall be completed by the Human Rights Investigator and presented to the Human Rights Commission for its approval. This form and brief report are necessary for all cases being closed, regardless of whether they are being closed for one of the above-listed administrative reasons, as a result of an agreement between the parties, or for some other good reason.

When the complaint is being voluntarily dismissed, the Complainant shall submit his/her request in writing, and this document shall accompany the report and recommendation of the Human Rights Investigator. When the parties are seeking the approval of a settlement, the parties' signed settlement agreement shall accompany the report and recommendation of the Human Rights Investigator.

The Disposition of Complaint Form shall be signed by the Chair of the Commission, after vote of the Commission. The original Disposition of Complaint Form shall be maintained in the offices of the City of Columbia's Division of Human Services.

Construction of Rules, Regulations and Pleadings

These rules and regulations shall be construed to accomplish the purposes of Chapter 12 of the City of Columbia's Code of Ordinances and with a view to effect justice between the parties. In every stage of the proceeding, the Human Rights Commission shall disregard errors or defects in the pleadings or proceedings which do not affect the substantial rights of the parties.