



# **REGULATIONS**

implementing the

## **Chicago Human Rights Ordinance**

## **Chicago Fair Housing Ordinance**

## **Commission on Human Relations Enabling Ordinance**

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## PART 100                      GENERAL DEFINITIONS

Definitions which include a citation to the Chicago Municipal Code are taken from the applicable ordinance. All other definitions originate in these regulations.

- (1)        **“Age”** means chronological age of not less than 40 years. Chicago Muni. Code § 2-160-020(a).
- (2)        **“Board of Commissioners”** means that body established by Section 2-120-490 of the Municipal Code of Chicago.
- (3)        **“Commencement of the Hearing Process”** means the issuance of an order appointing a hearing officer to conduct an administrative hearing.
- (4)        **“Commission”** means one or more of the staff responsible for the day-to-day operations of the Commission on Human Relations, including the Chair/Commissioner.
- (5)        **“Complainant”** means any person, including the Commission, that files a complaint with the Commission.
- (6)        **“Complaint”** means a sworn statement filed with the Commission either on the form provided for this purpose by the Commission or on a form that is its substantial equivalent, which alleges an ordinance violation and which includes the information required by Reg. 210.120(c).
- (7)        **“Conciliation”** or **“Mediation”** is a process calling for parties to work together with the aid of a neutral facilitator – a conciliator or mediator – who assists them in reaching a settlement. The conciliator or mediator’s role is advisory and non-binding, as the resolution of the dispute rests with the parties themselves. Where used, “conciliation” and “mediation” have the same meaning.
- (8)        **“Conciliator”** or **“Mediator”** means a person designated by the Commission to conduct a settlement conference or otherwise attempt to secure a voluntary settlement, but who does not participate in the investigation, serve as hearing officer, or in any other respect participate in the adjudication of the same case. Where used, “conciliator” and “mediator” have the same meaning.
- (9)        **“Credit history”** means a record of an individual’s past borrowing and repaying, including information about late payments and bankruptcy.
- (10)       **“Credit report”** means any written or other communication of any information by a consumer reporting agency that bears on a consumer’s creditworthiness, credit standing, credit capacity, or credit history.
- (11)       **“Credit Transaction”** means the grant, denial, extension, or termination of credit to an individual. Chicago Muni. Code § 2-160-020(b).
- (12)       **“Criminal History”** means a Criminal Record, and/or records of any arrest or information that a person has been questioned, apprehended, arrested, taken into custody or detention, held for investigation, charged with, indicted, or prosecuted, for any criminal offense by any law enforcement agency, military authority, or tribunal, irrespective of whether any formal charges were ever brought against the person.
- (13)       **“Criminal Record”** means any information indicating that a person has been convicted of any felony, misdemeanor or other criminal offense, has been judged delinquent, or has been placed on probation, imprisoned or paroled by any law enforcement agency, military authority, or tribunal.
- (14)       **“Defective Complaint”** means a document filed with the Commission which appears to be intended as a complaint but which does not substantially meet the requirements of Reg. 210.120 and so is treated pursuant to Reg. 210.122(a).
- (15)       **“Disability”** means (i) a determinable physical or mental characteristic which may result from disease, injury, congenital condition of birth, or functional disorder including but not limited to a determinable physical characteristic which necessitates a person’s use of a guide, hearing, or support dog; or (ii) the history of such a characteristic; or (iii) the perception of such a characteristic by the person complained against. Chicago Muni. Code

§ 2-160-020(c).

(16) **“Employee”** means an individual who is engaged to work in the City of Chicago for or under the direction and control of another for monetary or other valuable consideration. Chicago Muni. Code § 2-160-020(d).

(17) **“Employer”** means any “person,” as defined in these regulations, employing one or more employees.

(18) **“Employment Agency”** means a person that undertakes to procure employees or opportunities to work for potential employees, either through interviews, referrals, advertising, or through any combination thereof. Chicago Muni. Code, § 2-160-020(e).

(19) **“Final Order”** means (i) an order dismissing a complaint if no request for review is filed within the time period provided in Reg. 250.110, (ii) a ruling on a request for review filed after an order dismissing a complaint, or (iii) the later of a Board of Commissioners ruling on liability after an administrative hearing or a Board of Commissioners ruling on attorney fees and costs, if any.

(20) **“Gender Identity”** means the actual or perceived appearance, expression, identity, or behavior of a person as being male or female, whether or not that appearance, expression, identity, or behavior is different from that traditionally associated with the person’s designated sex at birth. Chicago Muni. Code § 2-160-020(f).

(21) **“Hearing Officer”** or **“Administrative Hearing Officer”** means any attorney duly licensed by the State of Illinois who is designated by the Commission to conduct an administrative hearing.

(22) **“Labor Organization”** means any organization, agency or employee representation committee, group, association or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(23) **“Marital Status”** means the legal status of being single, married, divorced, separated, or widowed. Chicago Muni. Code § 2-160-020(g).

(24) **“Membership in one of the Protected Classes”** means that a person is or has, or is perceived to be or have, one or more of the following: a particular race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military status, source of income, credit history (as to employment only), or criminal history (as to employment only).

(25) **“Military Status”** “Military status” means (1) being on active duty in, or any reserve component of, any branch of the armed forces of the United States, the State of Illinois, or any other state; (2) being a veteran of any such branch of the armed forces; or (3) the fact of discharge from any such branch of the armed forces and the reasons for such discharge. Chicago Muni. Code § 2-160-020(h).

(26) **“National Origin”** means the place in which a person or one of his or her ancestors was born. Being of a particular national origin means that a person has or is perceived to have the physical, cultural, or linguistic characteristics of a particular national origin group.

(27) **“Ordinance”** means one or more of the Chicago Human Rights Ordinance, Chicago Muni. Code Ch. 2-160-010 *et seq.* (sometimes referred to herein as “HRO”); the Chicago Fair Housing Ordinance, Chicago Muni. Code Ch. 5-8-010 *et seq.* (sometimes referred to herein as “FHO”); and/or the Enabling Ordinance establishing the Chicago Commission on Human Relations, Chicago Muni. Code § 2-120-480 *et seq.*

(28) **“Parental Status”** means the status of living with one or more dependent minor or disabled children. Chicago Muni. Code § 2-160-020(i).

(29) **“Party”** means either a complainant or a respondent.

(30) **“Person”** means, but is not limited, to, one or more individuals, corporations, partnerships, political subdivisions, municipal corporations or other governmental units or agencies, associations, labor organizations, joint apprenticeship programs, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees in cases under Title 11 of the United States Code, receivers, trustees or other fiduciaries, and any successors or assigns thereof.

(31) **“Protected Class”** means one or more of the following: race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military status, or source of income, credit history (employment only), criminal history (employment only).

(32) **“Public Accommodation”** means a place, business establishment, or agency that sells, leases, provides, or offers any product, facility, or service to the general public, regardless of ownership or operation (i) by a public body or agency, (ii) for or without regard to profit, or (iii) for a fee or not for a fee. An institution, club, association or other place of accommodation which has more than 400 members and provides regular meal service and regularly receives payment for dues, fees, accommodations, facilities, or services from or on behalf of non-members for the furtherance of trade or business shall be considered a place of public accommodation. Chicago Muni. Code § 2-160-020(j).

(33) **“Religion”** means all aspects of religious observance and practice, as well as belief, except that with respect to employers “religion” has the meaning ascribed to it in Section 2-160-050 of the Municipal Code of Chicago. Chicago Muni. Code § 2-160-020(k).

(34) **“Respondent”** means any “person,” as defined herein, alleged by a complainant to have committed an ordinance violation.

(35) **“Sex”** means the status of being male or female.

(36) **“Sexual Harassment”** means any unwelcome sexual advances or requests for sexual favors or conduct of a sexual nature when (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, or (ii) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual, or (iii) such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment. Chicago Muni. Code § 2-160-010(m); see also Subpart 340.100, Reg. 420.170, and Reg. 520.140. Chicago Muni. Code § 2-160-020(m).

(37) **“Sexual Orientation”** means the actual or perceived state of heterosexuality, homosexuality, or bisexuality. Chicago Muni. Code § 2-160-020(l).

(38) **“Source of Income”** means the lawful manner by which an individual supports himself or herself and his or her dependents. Chicago Muni. Code § 2-160-020(n).

(39) **“Violation”** or **“Ordinance Violation”** means one or more acts prohibited by the Chicago Human Rights Ordinance or the Chicago Fair Housing Ordinance.

# **PART 200      PROCEDURAL REQUIREMENTS**

## **SUBPART 210    PLEADINGS**

### **SECTION 210.100   COMPLAINTS**

#### **Reg. 210.110    General Jurisdiction**

Any person, including persons not able to work lawfully in the United States, may file a complaint with the Commission if the complaint alleges an ordinance violation, if the alleged violation occurred within the City of Chicago, and if the complaint is filed no later than 180 days after the occurrence of the alleged violation. A complaint must meet all other jurisdictional requirements set by ordinance, these regulations, Commission decisions, and court rulings.

#### **Reg. 210.120    Filing of Complaint**

##### **(a)      Time for Filing**

A complaint must be received by the Commission no later than 180 days after the date of the occurrence of the alleged ordinance violation. If the alleged violation is of a continuing nature, the date of occurrence may be any date subsequent to the commencement of the violation, up to and including the date on which it may have ceased.

##### **(b)      Filing Process**

A complaint may be filed by personal delivery, mail, e-mail or facsimile. A filing by facsimile or electronic mail shall not be deemed complete until an original in paper form is received. A complaint is deemed filed upon receipt by the Commission at its place of business during its business hours.

##### **(c)      Complaint Content**

A complaint must contain the following information to the best of the complainant's knowledge, information, and belief:

- (1)      Name, mailing address, and telephone number of the complainant.
- (2)      Identification of each individual or business respondent accused of the alleged ordinance violation. If the full or correct name is not known, the complaint must provide a title or other designation which identifies the respondent, such as "Owner of 1234 Main Street" or "President of ABC Company."
- (3)      The address of each respondent sufficient to enable the Commission to effect service by mail, and the telephone number, if known.
- (4)      A description of the conduct, policy, or practice alleged to constitute the ordinance violation, in such detail as to substantially apprise the respondent(s) and the Commission of the timing, location(s), and facts of the alleged violation as well as the basis or bases of discrimination.

##### **(d)      Form**

A complaint must be in writing and comprehensible, using the Commission's form or a substantial equivalent. Documentation in support of the complaint may be submitted at the time of filing but will not be treated as part of the complaint. A complaint shall not exceed five pages without leave of the Commission.

##### **(e)      Oath**

The complainant must sign the complaint under oath, using the following oath or one that is substantially

equivalent: "I swear or affirm that I have read this complaint and that it is true and correct to the best of my knowledge, information, and belief." Notarization is not required.

(f) Request for Relief

Complainants are not required to specify the relief requested at the time of filing. A request in a complaint for certain types or amounts of relief shall not be deemed a waiver of any other relief.

(g) Effect of Filing on Other Claims

Filing of a complaint or the failure to file a complaint with the Commission does not bar any person from seeking any other remedy provided by law except that, in certain instances, one or more intergovernmental agreements may specify the governmental agency or court before which a person may pursue the complaint.

**Reg. 210.122 Treatment of Adequate and Defective Complaints**

(a) Notice of Defective Complaint

If the Commission receives a document which does not substantially meet the requirements of Reg. 210.120, the Commission shall record the date of filing on the face of the document but shall not docket it as a complaint or proceed to investigate it. Instead, the Commission shall mail to the person submitting the document a notice stating the defect or omission which must be corrected. The notice shall explain that the submitted document has not been accepted as a complaint, that it is the person's responsibility to file an adequate complaint no later than 180 days after the occurrence of the alleged ordinance violation, and that failure to file an adequate and timely complaint means that the person cannot proceed before the Commission with any claims stated in the document.

The Commission may attempt to telephone or otherwise assist the person submitting the document but is not required to do so. Neither the submission of a defective complaint nor any attempt by the Commission to contact or assist a person seeking to file a complaint shall toll the 180 day filing deadline or relieve the person of responsibility to file an adequate complaint. The Commission is not required to retain any defective complaint or accompanying materials for more than 180 days.

(b) Docketing of Substantially Adequate Complaints

When the Commission receives a document which substantially meets the requirements of Reg. 210.120, the Commission shall docket it as a complaint by recording the date of filing and assigning a case number, shall serve it on the respondent(s) as set forth in Regs. 210.140 and 210.210, and in other respects shall initiate the investigation process.

**Reg. 210.125 Failure to Provide Information Adequate to Enable Service**

If the name (or other identifier) and address of any respondent which was provided in a complaint proves inadequate to enable the Commission to serve the complaint on the respondent, the Commission shall first determine whether the error is readily identifiable and readily correctable (such as an incorrect zip code), and if so shall re-serve the complaint using the correct information and treat the error as a technical defect or omission under Reg. 210.145.

If the Commission determines that the error is not readily identifiable and readily correctable, the Commission shall issue a notice of potential dismissal which informs the complainant of the nature of the inadequacy, explains that the complainant must amend the complaint with information sufficient to enable service, and warns that failure to so amend the complaint shall lead to dismissal as to any respondent who cannot be served. The notice shall allow at least 14 days from the date of mailing to amend the complaint.

If the complainant amends the complaint to enable service, the amendment shall relate back to the original filing date and the Commission shall serve the initial and amended complaint as set forth in Reg. 210.140, allowing 28 days to respond. If the complainant does not respond to the notice or does not amend the complaint with information sufficient to enable service, the Commission shall dismiss the complaint as to any respondent that cannot be served.

**Reg. 210.127 Complainant's Obligations to Cooperate**

A complainant with a pending case must promptly notify the Commission of any change of address or provide a temporary address during any prolonged absence from a current address. A complainant is required to participate in the Commission's processing of the case and to provide the Commission with information needed in order for the case to proceed. A complainant must be available for any interviews, conferences, meetings, and administrative hearing on reasonable notice. Failure to cooperate with these and other regulations, notices, or orders may lead to dismissal of the complaint pursuant to Reg. 235.210. To the extent that complainant cooperation requirements and dismissal procedures stated in other regulations differ from those stated in this regulation, the more specific provision shall apply.

**Reg. 210.130 Commission-Initiated Complaints**

When the Commission has reason to believe that any person has violated the ordinance, the Commission may itself initiate a complaint. The Commission shall have sole discretion to determine what complaints it shall or shall not initiate. The Commission may use testers to obtain information to determine whether or not to file a complaint as well as any other investigative method permitted by ordinance. A Commission-initiated complaint shall be signed by any staff member authorized to do so by the Chair/Commissioner and shall meet the content requirements set forth in Reg. 210.120. Any staff member who signs a complaint on behalf of the Commission shall not participate in any determination concerning that case including whether there is substantial evidence of an ordinance violation.

**Reg. 210.140 Service of Complaint**

Within 10 days of filing, the Commission shall serve on each respondent a copy of any complaint or amended complaint filed against the respondent. Service may be effected in person or by depositing the copy in a United States mailbox within 7 days of the date of filing. Service by mail shall be deemed complete 3 days after mailing of the complaint, properly addressed and posted for delivery to the person to be served, unless the person proves that the complaint was not actually received on that day. If the Commission fails to serve a complaint on a respondent due to Commission error, the Commission shall correct the error and re-serve the complaint, allowing the same number of days to respond as initially provided.

**Reg. 210.145 Amendment to Cure Technical Defects or Omissions**

A complaint may be amended as a matter of right by the complainant to cure technical defects or omissions at any time. Such an amendment shall relate back to the original filing date. A technical defect or omission includes but is not limited to failure to sign a complaint under oath. On discovering a technical defect or omission, the Commission shall mail a notice or order to the complainant describing the defect or omission and instructing the complainant to amend the complaint to correct it.

Mere misnomer, that is, a mistake in naming a person or place, shall not be grounds for dismissal and may be cured at any time as long as the correct party was actually served.

**Reg. 210.150 Amendment of Claims or Allegations**

- (a) This regulation does not apply to amendments to cure technical defects or omissions.
- (b) Amendment Before Determination as to Substantial Evidence

A complaint may be amended as a matter of right before a determination as to whether there is substantial evidence of the ordinance violation(s) alleged. An amended complaint shall relate back to the original filing date if it only clarifies or amplifies the allegations of the original complaint. An amended complaint may state a new claim or incident of prohibited conduct if the alleged conduct occurred within 180 days of the filing of the amended complaint.

- (c) Amendment After Determination of Substantial Evidence
  - (1) After a determination of substantial evidence but prior to an administrative

hearing, a complainant seeking to amend the complaint must file and serve a written motion to amend as soon as possible after learning of the information which forms the basis for the motion. The Commission (or hearing officer if one has been appointed) may grant the motion on finding all of the following:

- (i) The claim or allegation to be added did not arise before the filing of the original complaint and any previous amended complaints or, if it did, the complainant did not know and could not have known of it before the Commission's substantial evidence finding.
- (ii) The claim or allegation to be added is substantially related to those in the original complaint and any previous amended complaints.
- (iii) Addressing the new claim or allegation will not raise new, material factual or legal issues not considered by the Commission in its investigation.
- (iv) Any objecting party has failed to demonstrate that including the claim or allegation would prejudice the party in maintaining its action or defense on the merits.

- (2) At the administrative hearing, when issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated as if they had been raised in the pleadings. Amendment of pleadings to conform to the evidence and raise such issues may be granted on the motion of any party at any time, even after a final order, but failure to amend does not affect the result of the hearing as to such issues. If a party objects to admission of evidence on the ground that it is not within the issues raised by the pleadings, the hearing officer may allow amendment of the pleadings and shall do so if the criteria for amendment after a determination of substantial evidence are met. An oral motion to amend may be allowed at the hearing. The hearing officer may grant a continuance to enable an objecting party to support the objection and/or meet the evidence.

(d) Form of Motion to Amend

Before a determination of substantial evidence, no motion to amend is required to file an amended complaint. After a determination of substantial evidence, a written motion to amend the complaint must be filed with the Commission and served on all parties and the hearing officer. The motion must state the reason for seeking to amend the complaint, must establish that the applicable criteria for amendment after a substantial evidence finding are met, and must include either the proposed amended complaint or a specific statement of the proposed amendment.

(e) Form of Amended Complaint

Any amended complaint prior to a determination of substantial evidence must be in writing, signed under oath by the complainant, and in compliance with the form and content requirements of Reg. 210.120(c) and (d). In granting a motion to amend, the Commission or hearing officer may order the filing of an amended complaint or may specify that the order granting the motion is sufficient. For amendments granted at the administrative hearing, the hearing officer may allow an amendment to be stated orally on the hearing record.

(f) Responses

- (1) Any objection to a motion to amend a complaint must be filed and served within 14 days of the filing of the motion. Replies shall be permitted only on leave of the hearing officer.
- (2) Unless otherwise ordered, any response to an amended complaint must be filed and served within 28 days of its filing.

**Reg. 210.160      Amendment to Add or Substitute Parties**

**(a)      Substitution or Addition of Complainant**

- (1) A complaint may be amended to substitute or add complainants. The amendment shall relate back to the original filing date upon finding all of the following:
  - (i) The claims of the new complainant arise out of the same transaction(s) or occurrence(s) set forth in the original complaint.
  - (ii) The respondent(s) knew or should have known that the new complainant might be involved as a complainant.
  - (iii) If after a determination of substantial evidence, the addition does not raise new, material factual or legal issues not considered by the Commission in its investigation.
  - (iv) Any objecting party has failed to demonstrate that the amendment would prejudice the party in maintaining its claim or defense on the merits.
- (2) To substitute or add a complainant prior to a determination of whether there is substantial evidence, the complainant must file an amended complaint. When adding a complainant, the new complainant as well as the prior complainant must sign the amended complaint under oath.
- (3) After a determination of substantial evidence, a complainant seeking to substitute or add a complainant must file and serve a written motion to amend, except that the hearing officer may allow an oral motion at any administrative hearing. The motion may be allowed at or after an administrative hearing only if the information which forms the basis for the motion was first learned at the hearing and could not have been learned beforehand, such as during discovery. The hearing officer may grant a continuance to enable an objecting party to support the objection and/or meet the evidence.

**(b)      Substitution or Addition of Respondent**

- (1) To substitute or name an additional respondent prior to a determination of whether there is substantial evidence, the complainant must file an amended complaint. The amendment shall relate back to the original filing date upon finding either (i) that at the time of amendment, a separate complaint could be filed against the new respondent, or (ii) that the new respondent had received notice of the original complaint and of the fact that the respondent might be involved, so that the respondent will not be prejudiced in maintaining a defense on the merits.
- (2) After a determination of substantial evidence, a complainant seeking to substitute or add a respondent must file and serve a motion to amend, except that the hearing officer may allow an oral motion at any administrative hearing. The motion may be allowed at or after an administrative hearing only if the information which forms the basis for the motion was first learned at the hearing and could not have been learned beforehand, such as during discovery. All of the following elements must be satisfied in order for the amendment to be granted and to relate back to the original filing date:
  - (i) The claims against the new respondent must arise out of the same transaction(s) or occurrence(s) set forth in the original complaint.

- (ii) The new respondent was notified or had knowledge of the filing of the original complaint.
- (iii) The original complaint was such that the new respondent knew or should have known, within the 180 day filing period, that the complaint arose from a transaction or occurrence in which the respondent was involved.
- (iv) The addition does not raise new, material factual or legal issues not considered by the Commission in its investigation.
- (v) Any objecting party has failed to demonstrate that the amendment would prejudice the party in maintaining its claim or defense on the merits.

(c) Death of a Party

When an individual party dies while a case is pending, the party's legal successor may be substituted for the deceased by amendment of the complaint including an allegation that the individual is the party's legal successor. If a respondent dies without a known successor, the Commission shall proceed under Reg. 235.300. If the Commission learns that a complainant in a pending case has died, it shall make a reasonable inquiry to identify a legal successor. The Commission's reasonable inquiry may include reviewing its records for information about a possible successor but need not include surveillance or a search of court records, other public information, or business records. If the Commission is unable to identify a legal successor, it shall send a notice to the complainant's last known address seeking information, and if there is no adequate response shall dismiss the case pursuant to the procedures in Reg. 235.210. If the Commission identifies a possible legal successor, it shall send a notice of potential dismissal to that person explaining the substitution procedure and requiring the person either to file an amended complaint as substitute complainant or to provide the name and address of a possible legal successor no fewer than 14 days from the mailing of the notice in order to avoid dismissal of the case.

(d) Motions to Amend, Amended Complaints, and Responses

Procedures for motions to amend complaints, amended complaints, and responses concerning the addition or substitution of parties shall be as set forth in Reg. 210.150(d), (e), and (f) for amendment of claims or allegations.

**Reg. 210.170 Class Actions**

Class actions, including but not limited to those described in Rule 23 of the Federal Rules of Civil Procedure, may not be filed at the Commission at any time.

**Reg. 210.180 Consolidation**

Whenever two or more complaints or claims involve a common question of law or fact, the Commission may consolidate them, or it may order a fact-finding conference, jurisdictional hearing, settlement conference, or administrative hearing concerning the common question(s) whenever this can be done without prejudice to any party. A party that believes it will be prejudiced may file written objections within 14 days of being notified of the consolidation. The Commission may require or allow responses to any objections from other parties, and shall rule on the objections by mail.

**Reg. 210.190 Voluntary Withdrawal of Complaint**

A complainant may unilaterally withdraw all or part of a complaint at any time. A complainant's request to withdraw must be in writing and signed by either the complainant or the complainant's attorney of record. The Commission (or hearing officer if applicable) shall approve the request if it is knowingly and voluntarily made and shall issue a dismissal order notifying all parties of the scope of the withdrawal and dismissal. Withdrawals pursuant to a private settlement agreement are also subject to Reg. 230.130(d).

If after informing the Commission or hearing officer of intent to withdraw the complaint, a complainant does not respond to a written notice or order setting a date to submit either a properly signed withdrawal or a written statement of intent to proceed with the case, the Commission may dismiss the case for failure to cooperate pursuant to Reg. 235.210 and may impose other sanctions pursuant to Subpart 235.

**Reg. 210.195 No Action Possible Against Respondent**

If after the Commission has served the complaint on a respondent, a reasonable inquiry reveals that no action can be taken against the respondent, the Commission shall issue a notice of potential dismissal as to the respondent pursuant to Reg. 235.210(a). The notice shall describe the circumstances and allow complainant no fewer than 14 days from the date of mailing to submit information sufficient to allow the case to proceed. If the complainant does not do so, the Commission may dismiss the respondent and proceed only against any respondent still viable.

Examples of grounds for dismissal under this regulation include that a business respondent is out of business without a known successor or that an individual respondent is deceased without a known successor. The Commission's reasonable inquiry may include ascertaining the name and address of the registered agent of a business respondent but need not include surveillance or a search of court records, other public information, or business records. However, if it appears that a respondent has only moved or changed its status without providing the updated information required by Reg. 210.270, the Commission shall not dismiss the respondent but shall proceed as set forth in Reg. 210.270.

**SECTION 210.200 RESPONSES TO COMPLAINTS**

**Reg. 210.210 Notice of Response Requirements**

At the time the Commission serves a complaint or amended complaint, it shall notify each respondent of the procedure to file and serve a written response and the possible penalties for failure to respond. If the Commission believes a complaint does not meet its jurisdictional requirements or does not state a claim on which relief may be granted, the Commission may issue an order dismissing the complaint in whole or in part, or may seek information or briefing on the issue.

**Reg. 210.220 Deadline to Respond**

Unless otherwise ordered, any response to a complaint or amended complaint must be filed and served within 28 days of the date of mailing or other service of the complaint under the procedure stated in Reg. 210.140. If an amended complaint does not include substantive amendments, the Commission may shorten the time to file and serve any response to no fewer than 14 days. If the Commission seeks information or briefing on a jurisdictional or complaint sufficiency issue, it may extend or suspend any response deadline pending resolution of the issue.

**Reg. 210.230 Extension of Time to Respond**

A respondent may seek an extension of time to submit all or part of a response pursuant to Reg. 210.320.

**Reg. 210.240 Form of Certification**

The certification of a response must use the following or substantially equivalent language:

I certify that a reasonable inquiry of known and readily available information has been made and that the statements set forth above are true and correct except as to those stated to be on information and belief, as to which I certify that I believe them to be true.

The signature, the legible printed name of the person signing the certification, and the date of signature must be provided. If a respondent is a business, corporation, organization, or other non-individual entity, the certification must be signed by a person who has authority to bind that respondent; the signature of outside counsel is not sufficient; and the name of the entity and title of the person signing must also be provided, e.g. "I am the [title] of [business respondent] with authority to bind the respondent."

**Reg. 210.250 Form and Content of Response**

A complete response consists of two parts, as described below.

(a) **Written Response to Allegations**

The response must be in writing and must contain the following information to the best of the respondent's knowledge, information, and belief. The Commission may specify a form to be used and page limits. The Commission shall consider the response to be a pleading and may use it in the same manner and with the same force and effect as though it were signed and sworn to under oath.

- (1) The correct, full name and address of each named respondent, including for corporate, organizational, or other non-individual respondents the name and address of its representative who will serve as contact person for the case.
- (2) Statements admitting or denying each fact alleged in the complaint. If, after a reasonable inquiry of known and readily available information, the respondent is without sufficient knowledge to form a belief as to the truth of an allegation, that must be stated. Any allegation for which there is no responding statement shall be deemed admitted for purposes of determining whether there is substantial evidence of an ordinance violation.
- (3) A brief statement of the respondent's position and defenses to the claims in the complaint, if not included in the statements of admission or denial. Any affirmative defenses must be stated in the response in order to be considered in determining whether there is substantial evidence of an ordinance violation.
- (4) The signature and certification of each respondent submitting the response, as described in Reg. 210.240.

(b) **Supporting Documentation**

The respondent must enclose with the response all supporting documentation it wishes the Commission to consider in completing the investigation and determining whether there is substantial evidence of the alleged ordinance violation. Supporting documentation may include copies of relevant evidentiary documents, witness statements or affidavits, information on evidence available from other sources, and a memorandum of law. Unless otherwise ordered, supporting documentation need not be served on the complainant.

**Reg. 210.260 Failure to Respond**

If a respondent fails to file or serve a timely, complete response, the Commission may take one or more of the following actions:

- (a) Order the respondent to cure any deficiency and then enter an order of default if the respondent fails to comply.
- (b) Deem admitted any allegation in the complaint for which there is no response, when determining whether there is substantial evidence of an ordinance violation.
- (c) Proceed to determine whether there is substantial evidence of an ordinance violation without further inquiry to the respondent.

**Reg. 210.270 Respondent Obligations**

(a) **Preservation of Records**

Once a respondent has knowledge of the complaint, the respondent must preserve all records and other material which may be relevant to the case until the matter is closed. If a respondent knowingly destroys or fails to maintain records and other material (i) in anticipation of the filing of the complaint, (ii) due to the filing of complaint or the Commission's investigation, or (iii) otherwise with intent to defeat the purposes of the ordinances, the Commission or hearing officer, as applicable, may impose appropriate sanctions including those set forth in Subpart 235

(b) Updating of Contact Information and Status

Once a respondent has knowledge of a complaint, it has a continuing obligation to keep the Commission informed of current contact information and status, as follows:

- (1) Any business, corporation, organization, or other non-individual entity must inform the Commission of any change in its own or its contact person's name, address, and telephone number. In addition, it must inform the Commission whenever the status of the entity changes, such as when it closes, files for bankruptcy protection, or is sold in whole or in part, and then must provide the current name, address, and telephone number for its representative(s) or successor(s).
- (2) Any individual respondent must inform the Commission of any change in address or telephone number. A representative must inform the Commission when an individual respondent dies and provide the name, address, and telephone number of the individual's successor.

If a respondent fails to update the Commission about contact information and status, the Commission shall send orders, notices, and other documents to the most recent address the Commission has and that shall be deemed sufficient. A respondent that does not update contact information cannot later rely on failure to receive any order, notice, or other document as a defense.

The Commission shall notify each respondent of the requirements of this regulation when it sends the initial notification of the complaint.

**Reg. 210.280 Counterclaims**

Counterclaims cannot be filed at the Commission at any time.

**SECTION 210.290 COMPLAINANT REPLY AND SUPPORTING DOCUMENTATION**

**Reg. 210.292 Complainant Opportunity to Reply**

A complainant may file and serve a reply to any response within 28 days of the filing of the response, unless otherwise ordered. The reply may state the complainant's position as to any aspect of the response. The Commission may specify a form to be used and page limits. The Commission shall consider the reply to be a pleading and may use it in the same manner and with the same force and effect as though it were signed and sworn to under oath.

**Reg. 210.294 Deadline for Complainant's Supporting Documentation**

The complainant must enclose with the reply all supporting documentation the complainant wishes the Commission to consider in completing the investigation and determining whether there is substantial evidence of an ordinance violation. Supporting documentation may include copies of relevant evidentiary documents, witness statements or affidavits, information on evidence available from other sources, and a memorandum of law. If no response is filed or served, and no other deadline is specified by the Commission, Complainant's supporting documentation must be filed no later than 28 days from the latest deadline for any response to assure consideration. Unless ordered, supporting documentation need not be served on any respondent.

**Reg. 210.296 Extension of Time to Reply or Submit Supporting Documentation**

A complainant may seek an extension of time to submit all or part of a reply or supporting documentation pursuant to Reg. 210.320.

**Reg. 210.298      Failure to Reply or Submit Supporting Documentation**

If a complainant fails to file or serve a timely, complete reply or supporting documentation, the Commission may proceed to determine whether there is substantial evidence of an ordinance violation without further inquiry to the complainant.

**SECTION 210.300    MOTIONS AND BRIEFING**

**Reg. 210.310      General Rules for Motions**

To the extent that a more specific regulation differs from the general provisions in this regulation, the specific regulation shall take precedence.

All motions made before commencement of the hearing process must be in writing, served on all parties, and filed with the Commission. If a motion is filed after the commencement of the hearing process, it must also be served on the hearing officer and must comply with regulations and orders pertaining to the hearing process.

All responses and objections to written motions must be filed and served within 14 days of the filing of the motion. The Commission or hearing officer may alter this schedule by order and may limit the number of pages permitted. Decisions shall be issued by mail.

The Commission shall rule on all motions filed prior to commencement of the hearing process. The hearing officer shall rule on all motions filed after commencement of the hearing process except that the Commission shall rule on motions to dismiss for lack of subject matter jurisdiction and motions to vacate or modify procedural sanctions imposed prior to commencement of the hearing process.

**Reg. 210.320      Motions for Extension of Time or Continuance**

(a)      Extensions of Time

Motions for an extension of time to file any pleading, brief, or other document must be filed and served as soon as the reasons for the extension are known to the party seeking it. The motion must state the number of previous motions for extension of time or continuance filed in the case by the moving party, the disposition of such motions, and the reasons this extension is needed. The motion will be granted only for good cause shown.

(b)      Continuances

Motions for continuance of any settlement conference, pre-hearing conference, administrative hearing, or other ordered appearance of a party must be filed and served as soon as the reasons for the continuance are known to the party seeking it. The motion must state the number of previous motions for extension of time or continuance filed in the case by the moving party, the disposition of such motions, and the reasons this continuance is needed. The motion will be granted only for good cause shown. A motion for continuance of an administrative hearing to permit discovery shall not be granted unless due diligence as well as good cause is shown.

(c)      Review of Dismissals

If a complainant wishes to seek a motion for extension of time to file a request for review under this regulation, said motion must be filed within 28 days of the mailing of the dismissal order.

(d)      Objections and Decisions

Objections to a motion for extension of time or continuance shall be permitted only on leave of the Commission or hearing officer, as applicable. The Commission or hearing officer shall issue a written order granting or denying the motion; or a hearing officer may rule on the transcribed record of the hearing.

**Reg. 210.330      Motions to Dismiss**

The Commission may dismiss a case in whole or in part for lack of subject matter jurisdiction *sua sponte* at any time. Filing of a motion to dismiss does not automatically stay proceedings or extend the time for any other filing, although the Commission may order an extension or stay pending resolution of the motion.

**Reg. 210.340      Motions for Summary Judgment**

The Commission shall not accept motions for summary judgment at any stage of the proceedings.

**Reg. 210.350      Commission-Initiated Briefing**

The Commission may order any party to submit briefs or other information to help clarify or resolve an issue, and may set due dates and page limits for such briefs.

**SECTION 210.400    FRIVOLOUS PLEADINGS OR REPRESENTATIONS**

**Reg. 210.410      Effect of Submissions to Commission**

Every pleading, motion, other document, or oral statement submitted by a party or attorney in a case is deemed to certify to the best of the person's information, knowledge, and belief after reasonable inquiry:

- (a) That its allegations and other factual contentions have evidentiary support or, if so identified, are likely to have evidentiary support after reasonable opportunity for investigation or discovery.
- (b) That any denials of factual contentions are warranted on the evidence or, if so identified, are reasonably based on a lack of information or belief.
- (c) That any evidentiary document is a genuine original or a true and correct copy of a genuine original.
- (d) That it is not being presented for any improper purpose, such as to harass or cause unnecessary delay or increase in the cost of the proceedings.
- (e) As to attorneys only, that the claims, defenses, and other legal contentions therein are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

**Reg. 210.420      Penalties for Frivolous Pleadings or Representations**

Upon determining that Reg. 210.410 has been violated, the Commission or hearing officer may immediately strike the document or exclude the evidence in question. In addition, as provided in Subpart 235, the Commission or hearing officer may issue an order of dismissal or default and may impose monetary sanctions. In the case of a complaint deemed to be clearly frivolous, clearly vexatious, or brought primarily for the purpose of harassment, the Commission is authorized to impose a fine on the complainant of not less than \$250 and up to \$1,000 for each such filing.

**SUBPART 220      INVESTIGATION AND SUBPOENA PROCEDURES**

**SECTION 220.100    INVESTIGATION PROCESS**

**Reg. 220.110      Description of Investigation**

- (a) Scope of Inquiry

At any time after the filing of a complaint, the Commission may seek information to enable it to determine whether there is substantial evidence of an ordinance violation. The Commission's investigation of a complaint shall consist of the following:

- (1) Requesting and reviewing a written response from each respondent pursuant to Section 210.200.
- (2) Requesting and reviewing a written reply and supporting documentation from each complainant pursuant to Section 210.250.
- (3) Reviewing any other submissions received.
- (4) Further evidence-gathering if necessary to determine whether there is substantial evidence of an ordinance violation, to the extent that such evidence is (i) readily available through voluntary cooperation or use of the Commission's investigatory powers and (ii) relevant or reasonably likely to lead to relevant evidence.

The Commission may also conduct investigations to assess compliance with a final order awarding relief or an approved settlement, and to decide whether to file Commission-initiated complaints.

(b) Investigative Methods

The Commission may employ any of the following evidence-gathering methods, which are not intended to be exclusive:

- (1) The Commission may interview individuals who appear to have relevant knowledge about a claim or defense. The Commission is not required to interview individuals suggested by a party.
- (2) The Commission may use its staff or other individuals as testers to investigate possible ordinance violations and monitor compliance with the ordinances, a final order, or an approved settlement. The Commission may use testers in deciding whether to file Commission-initiated complaints.
- (3) The Commission may seek and review documents and may inspect physical evidence.

The Commission may seek voluntary cooperation with an investigation or may utilize investigative orders and subpoenas as described in these regulations.

**Reg. 220.120 Investigative Orders to Parties**

At any time after the filing of a complaint, the Commission may issue an order requiring a party to submit documents or information; to appear for an interview if an individual party; to make an owner, officer, director, or employee available for an interview if a business party; or to allow onsite inspection of documents, premises, or other physical evidence within the party's possession or control. Investigative orders need not be served on the other parties.

(a) Time to Comply

An investigative order shall state a date and time for filing of a written response or other compliance which shall not be fewer than 7 days from mailing or other service of the order. The party may seek an extension of time or other rescheduling by filing a motion pursuant to Reg. 210.320. The motion need not be served on other parties unless ordered by the Commission.

(b) Compliance Procedure

The party must completely respond or otherwise comply as to each item requested in the investigative order, or must submit a written explanation establishing good cause for not doing so. Any written response must specify which information responds to which request. If a party has no documents or other information responsive to a certain request, the party must state that in the response and certify that a reasonable effort has been made to obtain the information.

(c)                      Objections

A party objecting to one or more requests must state each objection with specificity in writing and include the statement with any written response or file it at least two business days prior to the date set for any other compliance (such as a site inspection or interview). The Commission may issue an amended order, withdraw or cease to pursue the request, or deny the objection and enforce compliance.

(d)                      Penalties for Failure to Comply

If without good cause a party fails to comply in whole or in part with an investigative order, the Commission may take one or more of the following actions:

- (1)        As to a complainant, dismiss the complaint pursuant to Section 235.200.
- (2)        As to a respondent, enter an order of default pursuant to Section 235.300.
- (3)        Impose a fine pursuant to Reg. 235.420.

**Reg. 220.130        Continuing Obligation to Provide Relevant Information**

Complainants and respondents have a continuing obligation, throughout the investigative process, to provide the Commission with documents and information which may be relevant to the case. In particular, if a party discovers documents or other information relevant to an order or request previously made by the Commission, the party must submit the information.

**SECTION 220.200    SUBPOENA PROCEDURES**

**Reg. 220.210        Issuance of a Subpoena**

The Commission may issue a subpoena as set forth in Section 2-120-510(k), Chicago Municipal Code, for the appearance of witnesses, the production of evidence, or both, in the course of investigations and hearings, if there is reason to believe that a violation has occurred and the testimony, documents, or other items sought by the subpoena are relevant to the investigation. The subpoena shall identify the person to whom it is directed; the documents or other items sought if any; the date, time, and place for the appearance of the witness and/or production of the documents or other items described. The date for examination or production shall be no less than 7 days after service of the subpoena. The Commission shall not issue a subpoena to any member of the City Council, any employee or staff person of any member of the City Council, or any employee or staff person of any City Council Committee.

If a person does not comply with a subpoena on the date set for compliance, for any reason, the subpoena shall continue in effect for up to one year or until full compliance is made or waived, and a new subpoena need not be issued during that time. If necessary, the person may be notified of the new compliance date by order or other written notice.

(a)                      Commission-Initiated Subpoena

The Commission may issue a subpoena on its own initiative at any time.

(b)                      Party-Initiated Subpoena

Parties may not seek subpoenas before the commencement of the hearing process. After commencement of the hearing process, a party may move for leave to have a subpoena issued in connection with the administrative hearing. The motion must be in writing, must be dated, and must state the reasons the information sought is relevant to the case and could not be obtained through any other means. The Commission shall make subpoena forms available to parties, and the moving party must attach to its motion subpoenas which are completed except for the relevant signature. The motion must be served on the hearing officer and all other parties and filed with the Commission. The motion must be made no fewer than 21 days before the date for examination or production, unless the moving party shows that the need for the subpoena was not known and could not have been known until the time of the motion. The hearing officer shall rule on the motion in writing. If the motion is granted, the Commission or the hearing officer shall issue (sign) the subpoena. The moving party is responsible for service of the subpoena, the cost of service, and all witness and mileage fees. The Commission will not seek enforcement of a subpoena unless

it is served in accordance with Section 2-120-510(k) of the Chicago Municipal Code and Reg. 220.220.

**Reg. 220.220 Manner of Service**

A subpoena shall be served in the same manner as subpoenas issued under the Rules of the Illinois Supreme Court to compel appearance of a deponent,<sup>1</sup> and subject to the same witness and mileage fees fixed by law for such subpoenas.<sup>2</sup>

**Reg. 220.230 Objections to Issued Subpoenas**

(a) Objections by Person Subpoenaed

No later than the time for appearance or production required by the subpoena, the person to whom the subpoena is directed may object to the subpoena in whole or in part. The objection must be in writing, delivered to the Commission and must specify the grounds for the objection. For seven days after receipt of a timely objection to a subpoena, the Commission shall take no action to enforce the subpoena or to initiate prosecution of the person to whom the subpoena is directed. During this seven day period the Commission, or the hearing officer conducting the hearing or investigation, shall consider the grounds for the objection and may attempt to resolve the objection through negotiation with the person to whom the subpoena is directed. The seven-day period may be extended by the Commission, or the hearing officer conducting the hearing or investigation, in order to allow completion of any negotiations. The extension shall be in writing addressed to the person to whom the subpoena is directed, and shall specify the date on which the negotiation period will end. Negotiations may include such matters as the scope of the subpoena and the time, place and manner of the response thereto. The filing of an objection to a subpoena, and negotiations pursuant to an objection, shall not constitute refusal to comply with the subpoena, or interference with or obstruction of an investigation. The Commission, or the hearing officer if one has been appointed, shall rule on the objection.

(b) Objections by Parties

For subpoenas issued prior to commencement of the hearing process, only the person subpoenaed may object. After commencement of the hearing process, a party other than the person subpoenaed may object to an issued subpoena by a motion to quash if the party has not been allowed to object or brief the issue prior to issuance of the subpoena. The motion to quash must be in writing, filed with the Commission, and served on all other parties, the hearing officer, and the person to whom the subpoena was directed, except that if the order granting the subpoena was mailed or otherwise served fewer than 14 days prior to the first day of the administrative hearing, the motion to quash may be made orally at the hearing unless the hearing officer requires it to be made in writing. Whether written or oral, the motion must state all reasons for objecting to the subpoena. The hearing officer may allow other parties and the person to whom the subpoena was directed to respond to the motion either in writing at any time or orally at the administrative hearing, and shall rule on the motion.

**Reg. 220.240 Failure to Comply with Subpoena**

(a) Fine

Failure to comply with a properly issued subpoena shall constitute a separate violation of the Human Rights

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<sup>1</sup> Illinois Supreme Court Rule 204(a)(2) provides in relevant part: “Service of a subpoena by mail may be proved prima facie by a return receipt showing delivery to the deponent or his authorized agent by certified or registered mail at least seven days before the date on which appearance is required and an affidavit showing that the mailing was prepaid and was addressed to the deponent, restricted delivery, return receipt requested, showing to whom, date and address of delivery, with a check or money order for the fee and mileage enclosed.”

<sup>2</sup> Illinois Supreme Court Rule 208(b) provides that a deponent is entitled to “the fees and mileage allowance provided by statute for witnesses attending courts in this State.” 705 ILCS 35/4.3(a) in turn provides that a witness is entitled to \$20 for each day’s attendance at a court trial and 20 cents per mile each way for necessary travel. (P.A. 98-826, effective August 1, 2014)

Ordinance or the Fair Housing Ordinance. Every day that a person fails to comply with a subpoena shall constitute a separate and distinct violation for which a fine may be imposed not exceeding \$1,000.

(b) Judicial Enforcement

In addition to any fine, when the subpoena is directed to a person not controlled by a party and that person fails to comply without good cause, the Commission or hearing officer may seek judicial enforcement of the subpoena.

(c) Additional Penalties If Controlled by a Party

If a person controlled by a party fails to comply with a subpoena without good cause, then in addition to any fine the Commission, or hearing officer if after commencement of the hearing process, may enter an order of default or dismissal order pursuant to Subpart 235. The hearing officer may also refuse to allow the subpoenaed witness to testify or the subpoenaed documents to be introduced as evidence to support the controlling party.

(d) Motion to Compel Compliance with Subpoena

A party seeking enforcement of a subpoena issued by a hearing officer during the hearing process must move to compel compliance with the subpoena pursuant to Reg. 240.456. The motion must be filed and served no later than 7 days after the later of the date of compliance or the end of any negotiation period. If the due date is fewer than 14 days prior to the first day of the administrative hearing, the motion may be made orally at the hearing unless the hearing officer requires it to be made in writing. The motion must be served on the person to whom the subpoena was directed in addition to all others required to be served. The hearing officer may allow other parties and the person to whom the subpoena was directed to respond either in writing at any time or orally at the administrative hearing.

## **SECTION 220.300 SUBSTANTIAL EVIDENCE AND OTHER DETERMINATIONS**

### **Reg. 220.310 Determination as to Substantial Evidence**

After completing the investigation of a complaint, the Commission shall issue a written determination within 30 days as to whether there is substantial evidence that an ordinance violation has occurred. The determination shall be mailed to all parties.

### **Reg. 220.320 Decision Process**

The Chair/Commissioner may authorize one or more senior staff of the Commission, either individually or collectively as specified, to issue orders and render decisions not within the authority of appointed hearing officers or the Board of Commissioners. Such decisions include but are not limited to the following:

- (a) Determinations as to whether there is substantial evidence of an ordinance violation.
- (b) Approval of settlement agreements.
- (c) Dismissals for lack of jurisdiction and/or failure to state a claim on which relief can be granted.
- (d) Dismissals based on requests for voluntary withdrawal of a claim or complaint prior to commencement of the hearing process.
- (e) Dismissals for failure to cooperate prior to commencement of the hearing process.
- (f) Decisions on objections to investigative orders and subpoenas issued during the investigation process.
- (g) Orders of default for conduct occurring before commencement of the hearing process.
- (h) Decisions on motions to vacate orders entered before commencement of the hearing process.
- (i) Decisions on requests for review of dismissals entered before commencement of the hearing process.
- (j) Appointment of hearing officers and mediators.
- (k) Decisions on requests for enforcement.
- (l) Signing of Commission-initiated complaints.

Any staff member who signs a complaint on behalf of the Commission shall not participate in any decision concerning that case. Commission personnel shall recuse themselves in other situations as warranted.

### **Reg. 220.330 Dispositive Orders**

(a) Finding of Substantial Evidence

If the Commission determines that there is substantial evidence of an ordinance violation, it shall issue an order describing the next steps in the adjudication of the case and mail it to all parties. The order may also commence the hearing process pursuant to Reg. 240.110.

(b) Dismissal for No Substantial Evidence or No Jurisdiction

If the Commission determines that substantial evidence of an ordinance violation is lacking or that the Commission lacks jurisdiction as to all or part of a complaint, it shall issue a dismissal order and mail it to all parties. The order shall state the basis for the Commission's determination and notify the complainant of the opportunity to submit a request for review.

(c) Other Dismissal

If the Commission dismisses a complaint in whole or in part for other reasons, it shall issue an order stating the scope and basis of the dismissal and mail it to all parties. The order shall notify the complainant of the opportunity to submit a request for review if the dismissal was not voluntary.

(d) Order of Default

If the Commission enters an order of default pursuant to Section 215.200 for conduct occurring before commencement of the hearing process, its order shall state the scope and basis of the default, shall notify the defaulted respondent of the opportunity to submit a motion to vacate, shall describe the next steps in the adjudication of the case, and may also commence the hearing process pursuant to Reg. 240.110. The Commission shall mail the order to all parties. After entry of an order of default, no further investigation or substantial evidence determination shall occur with respect to the defaulted claim.

## **SECTION 220.400 ACCESS TO INVESTIGATIVE FILES**

### **Reg. 220.410 Access to Files**

(a) General Nondisclosure and Access by Parties

Neither the Commission nor its staff shall disclose any information obtained in the course of investigation or mediation of a case except where otherwise required by law or intergovernmental agreement, or as ordered by a hearing officer pursuant to Reg. 240.370.

However, after providing the Commission with notice of at least two business days, parties or their attorneys of record may inspect files pertaining to their own cases at any time after issuance of an order concluding the investigation process or dismissing the case in its entirety.

- (1) Notwithstanding the above, the Commission shall not allow parties to inspect internal memoranda, work papers, or notes generated by Commission staff or agents in the course of an investigation, or other materials reflecting the deliberative process, mental impressions, or legal theories and recommendations of the staff or agents of the Commission.
- (2) If a party files a written motion establishing good cause or if the Commission *sua sponte* determines that good cause exists, the Commission may require parties seeking access to an investigative file to comply with a protective order limiting use of the information to Commission or related state court proceedings and prohibiting other disclosure of information from the file.

(b) **Public Information About Complaints**

The Commission may provide a copy of the complaint itself and may acknowledge publicly the existence of a complaint including the case number, identities of the parties, type of case (e.g. national origin, employment discrimination), stage of proceedings at which it is pending, and basis for closure. The Commission may withhold any of the foregoing information for good cause including any of the grounds set forth in Reg. 240.520 for sealing a hearing record. A party may request in writing that the Commission not include the party's name, telephone number, and/or address in any public acknowledgment of a complaint. The party must provide good cause for the request.

(c) **Copying Costs**

The Commission shall furnish copies of documents available for inspection at a charge not to exceed 20 cents per page plus any delivery costs. Copies shall not be released to the requester until the Commission has received payment in full. A party may seek waiver of these charges pursuant to Section 270.600.

**Reg. 220.420 Access by Governmental Agencies**

Nothing in these regulations shall preclude the Commission from sharing materials in its files with other agencies of federal, state, or local government having concurrent jurisdiction, pursuant to agreements the Commission has entered with such agencies pursuant to Chicago Municipal Code § 2-120-510(q). All such agreements, which shall themselves be available for public inspection, shall be subject to confidentiality requirements to the extent provided by law. However, a federal agency with which the Commission has such an agreement may allow inspection and copying of materials obtained from the Commission to the extent required by the federal Freedom of Information Act (5 U.S.C. ' 552).

## **SUBPART 230 SETTLEMENT**

**Reg. 230.100 Settlement Policy and Settlement Conference**

It is the policy of the Commission to encourage the voluntary settlement of complaints, although the Commission shall not require settlement or particular settlement terms. Any authorized Commission staff member may facilitate settlement discussions and draft a settlement agreement reflecting agreed terms for the parties to sign. The Commission may also hold a settlement conference pursuant to Reg. 230.110 in an attempt to secure voluntary settlement.

**Reg. 230.110 Settlement Conference Procedure**

The Commission may schedule a settlement conference conducted by an independent mediator appointed by the Commission. Unless otherwise agreed by all participating parties, such a settlement conference shall occur no sooner than 14 days after the date of mailing the scheduling order. A scheduled settlement conference does not stay proceedings or constitute an extension of time for any filing unless so ordered. The mediator shall confer with the parties in an attempt to secure a voluntary settlement of the complaint. The mediator is authorized to determine how the conference shall proceed. A settlement conference is a scheduled proceeding at which attendance of all parties is mandatory unless otherwise ordered, and each party must have at least one person in attendance who has authority to settle. Each party may be represented by an attorney of record; however, attendance of an attorney only is not sufficient unless the attorney provides documentation of authority to settle on the party's behalf. Participation of additional persons in a settlement conference is in the discretion of the mediator. If a party fails to attend a settlement conference or attends without authority to settle, the Commission may determine what, if any, sanction is just and proper among the options set forth in Subpart 235.

**Reg. 230.120 Nondisclosure of Settlement Discussions**

Neither a mediator nor the Commission shall disclose publicly the content of any settlement discussions concerning a Commission case. No stenographic or other formal record shall be made of settlement efforts at a settlement conference or elsewhere. Neither party may use the fact that an offer was made, accepted, or

rejected at a settlement conference or during other settlement discussions as evidence during the investigation or administrative hearing concerning the merits of the claim under discussion.

**Reg. 230.130 Closure of a Case by Settlement**

Parties may settle a claim or complaint either by approved settlement agreement or by private settlement as the parties may agree. Settlement closure procedures are as follows:

(a) Approved Settlement Agreement

If the parties agree to a settlement which they want the Commission to approve with retained jurisdiction to seek enforcement, the settlement terms must be reduced to writing, signed by the parties, and submitted to the Commission for approval. Attorneys may not sign a settlement agreement on behalf of a client unless the attorney or the client includes with the agreement a signed certification or other documentation that the attorney has authority to sign the agreement on the client's behalf. If the proposed settlement is knowingly and voluntarily entered into, unambiguously drawn, capable of being enforced, signed by persons with authority to do so, and consistent with the ordinance, the Commission shall issue an order approving the settlement and dismissing the settled claim or complaint. The Commission may require as a condition of approval that any party to a settlement submit such information as the Commission deems necessary to determine ability to comply. If the Commission does not approve the settlement, it shall order further appropriate action.

(b) Retained Jurisdiction

The Commission shall retain jurisdiction over the case to seek enforcement of an approved settlement agreement as described in Reg. 230.140.

(c) No Admission of Violation

Entering into an approved settlement agreement or private settlement is not an admission by any party as to whether an ordinance violation was committed.

(d) Private Settlement

If the parties agree to a settlement which they want to remain private (i.e., not approved by the Commission), in order for the Commission to close the case or dismiss the settled claim, the complainant must sign a withdrawal of the complaint or claim as set forth in Section 210.190. The Commission shall not retain jurisdiction to seek enforcement of any private settlement agreement.

**Reg. 230.140 Noncompliance with Approved Settlement Agreement**

If a party believes there has been a violation of an approved settlement agreement, the party may proceed independently to enforce the agreement under any applicable law. If the party wishes to invoke the Commission's retained jurisdiction, the party must file a motion for enforcement and serve it on all other parties, stating the nature of the alleged violation. All other parties shall have 14 days from filing of the motion to file and serve a response, unless the Commission issues an order allowing additional time. The Commission may conduct an investigation into the alleged violation and may issue any orders it deems necessary to exercise its retained jurisdiction. If the Commission finds substantial evidence that a party has violated the terms of an approved settlement agreement, the Commission shall promptly notify the parties in writing, may fine any noncompliant party, and may request the Department of Law to seek judicial enforcement in state court on behalf of the Commission. If the Commission concludes that substantial evidence of violation of the agreement is lacking, it shall notify the parties in writing.

## **SUBPART 235    SANCTIONS FOR PROCEDURAL VIOLATIONS**

### **SECTION 235.100    SANCTION PROCEDURES**

#### **Reg. 235.110    Sanctions Generally**

A party that fails to comply with a procedural regulation, notice, or order is subject to one or more of the sanctions described in this subpart. These sanctions are separate from any relief ordered upon finding liability after an administrative hearing. Sanctions shall be limited to what is sufficient to punish the conduct and deter repetition of it by the party or by others.

#### **Reg. 235.120    Notice Requirements**

##### **(a)    Notice of Potential Sanctions**

If it appears that a party has failed to comply with a procedural requirement, the Commission or hearing officer may issue a notice of potential sanctions, which shall be mailed to all parties, specifying the sanction(s) under consideration and warning the noncompliant party that one or more of the specified sanctions will be imposed unless the party complies with specified requirements by a stated date. The notice shall allow the party no fewer than 14 days from the date of mailing to respond.

##### **(b)    When Not Required**

The Commission (or hearing officer if applicable) may issue an order imposing a procedural sanction without further notice in the following circumstances, provided that the order includes notice of the opportunity to move to vacate or modify the sanction or to submit a request for review, as applicable:

- (1)**    When the notice or order with which the party failed to comply included a warning that the sanction could be imposed for noncompliance.
- (2)**    When the notice or order with which the party failed to comply is returned to the Commission as undeliverable and the Commission has not been notified of a new address for the party.

##### **(c) Extension of Time to Respond or Comply**

A party may move for an extension of time to respond to a notice of potential sanctions or to comply with the specified requirements to avoid sanctions, as set forth in Reg. 210.320.

#### **Reg. 235.130    Procedure After Notice of Potential Sanctions**

A party's response to a notice of potential sanctions must fully comply with the requirements set forth in the notice or must show good cause for not doing so. The Commission or hearing officer, as applicable, shall issue an order either imposing one or more of the potential sanctions or declining to do so.

#### **Reg. 235.140    Order Imposing Sanction**

Any order imposing a sanction shall state the scope and basis of each sanction imposed. Unless made orally on the record at an administrative hearing, it shall be issued in writing and mailed to all parties. Any written order imposing a sanction shall include notice of the sanctioned party's opportunity to submit a request for review or a motion to vacate or modify, as applicable. See also Reg. 220.330 as to dispositive orders.

#### **Reg. 235.150    Motion to Vacate or Modify Sanction**

##### **(a)    Filing Deadline**

Unless otherwise ordered, any motion to vacate or modify a sanction (other than dismissal) must be filed and served no later than 28 days from the mailing of the order imposing the sanction, or for sanctions imposed on the record at an administrative hearing, no later than 28 days from the last day of the hearing. A

motion to vacate or modify does not stay other proceedings in the case and does not stay payment of any monetary sanction unless so ordered. Unless good cause is shown, failure to file a proper and timely motion to vacate or modify shall constitute waiver of all possible challenges to the sanctions. For a dismissal order, the complainant may submit a request for review pursuant to Section 250.100.

(b) Motion Content

A motion to vacate or modify a sanction must establish good cause for the noncompliance which formed the basis for the sanction and/or good cause for any requested modification. If the party had an opportunity to respond to a notice of potential sanctions or a motion seeking the sanction, the party must also establish good cause for failure to submit an adequate response at that time. The party must include with the motion all material, the absence of which formed the basis for the sanction, or must show good cause for not doing so.

(c) Response to Motion

Responses and replies to a motion to vacate or modify are permitted only if leave has been granted.

(d) Decision on Motion

The Commission shall decide motions to vacate or modify sanctions concerning conduct which occurs before commencement of the hearing process. The hearing officer shall decide such motions when they concern conduct which occurs after commencement of the hearing process. Decisions shall be by written order which includes a description of the further proceedings in the case.

## **SECTION 235.200 DISMISSAL FOR FAILURE TO COOPERATE**

### **Reg. 235.210 Grounds for Dismissal**

A dismissal order may be entered if, without good cause, a complainant fails to cooperate as set forth in Reg. 210.127 and in particular if a complainant:

- (a) Fails to comply with a Commission or hearing officer order, or provides a response which is tantamount to no response.
- (b) Fails to attend a scheduled proceeding.
- (c) Engages in conduct which violates Reg. 210.410 prohibiting frivolous pleadings or representations, or which is contemptuous or threatening to the Commission, its personnel, another party, or a witness.

### **Reg. 235.220 Other Dismissal Grounds and Procedures**

To the extent that dismissal grounds and procedures stated in other regulations differ from those stated in this subpart, the more specific provision shall apply.

## **SECTION 235.300 DEFAULT**

### **Reg. 235.310 Grounds for Default**

An order of default may be entered if, without good cause, a respondent:

- (a) Fails to comply at all with a Commission or hearing officer order, or provides a response which is tantamount to no response.
- (b) Fails to file and serve any written response to a complaint after being ordered to do so, or provides a response which is tantamount to no response.

- (c) Knowingly destroys or fails to preserve records and other material which may be relevant to the case.
- (d) Fails to attend a scheduled proceeding.
- (e) Fails to comply at all with a subpoena directed to the respondent or a person controlled by the respondent.
- (f) Engages in conduct which violates Reg. 210.410 prohibiting frivolous pleadings or representations, or which is contemptuous or threatening to the Commission, its personnel, another party, or a witness.

#### **Reg. 235.320 Effect of Default**

A defaulted respondent is deemed to have admitted the allegations of the complaint and to have waived any defenses to the allegations including defenses concerning the complaint's sufficiency. An administrative hearing after an order of default shall be held only to allow the complainant to establish a *prima facie* case and to establish the nature and amount of relief to be awarded. A complainant may present a *prima facie* case through the complaint alone or may present additional evidence. Although the defaulted respondent may not contest the sufficiency of the complaint or present any evidence in defense, the Commission itself must determine whether there was an ordinance violation and so must determine whether the complainant has established a *prima facie* case and whether it has jurisdiction. A defaulted respondent may present evidence as to relief to be awarded.

When an order of default is entered prior to commencement of the hearing process, the Commission shall issue an order commencing the process, as set forth in Reg. 240.110. When an order of default is entered after commencement of the hearing process, the hearing officer shall issue an order describing further proceedings.

### **SECTION 235.400 MONETARY SANCTIONS**

#### **Reg. 235.410 Monetary Sanctions Generally**

Monetary sanctions may be imposed in addition to or in lieu of other sanctions for procedural noncompliance. In determining the appropriateness and amount of monetary sanctions, the Commission may consider, among other factors, the severity of the noncompliance as well as the party's record of cooperation in the case and in other cases before the Commission.

#### **Reg. 235.420 Fines**

The Commission may impose a fine up to \$1,000 for each incident of procedural noncompliance, which shall be payable no later than 28 days after issuance of the order imposing the fine if no other date is specified. For continuing noncompliance including failure to pay the initial fine or costs to a party when due, the Commission may impose additional fines of up to \$100 per day until the earlier of full compliance or entry of the final order in the case. In setting the amount of the fine, the Commission may take into consideration, among other factors, the costs to the Commission due to the noncompliance including costs for a mediator, hearing officer, interpreter, or court reporter.

#### **Reg. 235.430 Costs to a Party**

On the motion of a party, the Commission may order payment of part or all of the party's own costs, including attorney fees, due to procedural noncompliance. The requested costs must be supported by affidavits or other documentation. Unless otherwise ordered, such motion must be filed and served no later than 21 days after issuance of the Commission's order imposing monetary or other sanctions, and the noncompliant party shall have 14 days from the filing of the motion to respond.

#### **Reg. 235.440 Monetary Sanctions on Attorneys**

Monetary sanctions may be imposed on an attorney in whole or in part if the attorney's conduct contributed to the procedural noncompliance.

**Reg. 235.450      Recovery from Other Payments in Case**

To the extent that a party has unpaid monetary sanctions, the Commission may order that any monetary relief or costs awarded to that party in the same case (other than attorney fees and associated costs) be paid first to the Commission or to any other party to satisfy the unpaid monetary sanctions, with any balance to the party receiving the award. Amounts awarded as attorney fees and associated costs may be so redirected only if the attorney receiving the award has unpaid monetary sanctions.

**SUBPART 240      ADMINISTRATIVE HEARINGS**

**SECTION 240.100      NOTICE AND PRE-HEARING PROCEDURES**

**Reg. 240.110      Notice of Commencement of Hearing Process**

If an administrative hearing is needed, the Commission shall issue an order appointing a hearing officer. That order commences the hearing process and may be accompanied by additional orders stating the responsibilities of the parties.

**Reg. 240.115      Scheduling of Proceedings**

In its order appointing the hearing officer, the Commission may schedule any combination of the administrative hearing itself, a pre-hearing conference, a settlement conference, or submission of pre-hearing documents such as the pre-hearing memorandum. Subsequently, all proceedings shall be scheduled or rescheduled by order of the hearing officer.

Unless the parties agree, or the Commission or hearing officer determines, that the proceedings should be expedited, the first day of the administrative hearing shall occur no fewer than 60 days from the mailing of the order appointing the hearing officer. At the discretion of the hearing officer, a hearing may be continued from day to day, or to a later date, by announcement on the hearing record or by written notice.

**Reg. 240.120      Pre-Hearing Conferences**

(a)      Conduct and Attendance

Any pre-hearing conference shall be conducted by the hearing officer. Attendance of a party's attorney only is sufficient unless attendance of the party is ordered. Unless otherwise ordered, pre-hearing conferences are not recorded or transcribed, no testimony is taken, and any oral decisions by the hearing officer do not take effect until a confirming order is issued in writing.

(b)      Penalties for Failure to Attend

If a party fails to attend a pre-hearing conference, the hearing officer may determine what if any sanction is just and proper among the options set forth in Subpart 235.

**Reg. 240.130      Pre-Hearing Memorandum**

(a)      Deadline and Content

Unless otherwise ordered, each party shall file and serve a pre-hearing memorandum containing, at minimum, the information listed below. The deadline for the pre-hearing memorandum shall be set along with other proceedings.

- (1)      A list of all witnesses the party intends to call at the hearing including each one's name, address, and telephone number, plus a brief description of the topics about which the witness will testify. For any expert witness, the pre-hearing memorandum must include the expert's qualifications, the expert's conclusions and opinions, and the basis for the expert's conclusions and opinions.

- (2) Copies of all documents the party intends to introduce into evidence at the hearing, plus a brief description of any physical evidence other than documents. If agreed by all parties or if the hearing officer determines that prior submission of all documents is impractical or unnecessary, a summary of each document or set of related documents must be submitted which includes the author or source, date created, intended recipient, and brief summary of the content.
- (3) From each complainant, an itemization of the nature and amount of damages sought.
- (4) From each respondent, a statement of any affirmative defenses asserted.
- (5) Any demand for the appearance and testimony at the hearing of an individual party or of a person who, at the time of the hearing, is an owner, officer, director, or employee of a business party. The pre-hearing memorandum must name each person requested to appear and state briefly what relevant information the person is expected to provide. Any objections must be served and filed no later than 14 days after the filing of the pre-hearing memorandum. The hearing officer shall rule on any objections.
- (6) Parties may also submit stipulations as to material facts and uncontested issues of law, a statement of position, and a memorandum of law.

(b) Penalties if Missing or Incomplete

If without good cause a party does not disclose an exhibit or a witness in the pre-hearing memorandum, the hearing officer may exclude that exhibit or witness when offered by the non-disclosing party, or alternatively may order a continuance allow other parties time to review the exhibit or determine the nature of the witness testimony and prepare to respond. Exclusion or continuance shall be ordered only on a showing that the other party was surprised and placed at a disadvantage by the failure to disclose. In addition, the hearing officer may order the party to submit or supplement the pre-hearing memorandum and/or may impose as warranted any of the sanctions for noncompliance with an order set forth in Subpart 235.

## **SECTION 240.200 DISQUALIFICATION OF A HEARING OFFICER**

### **Reg. 240.210 Motions to Disqualify**

A party seeking to disqualify the hearing officer from hearing a case must file and serve a written motion as soon as the party learns of the claimed reason for disqualification. The motion shall set forth in detail why the moving party believes the hearing officer's impartiality might reasonably be questioned, including but not limited to those circumstances set forth in Illinois Supreme Court Rule 63(C). All other parties shall have 14 days from the filing of the motion to respond to it. The hearing officer may allow the moving party to file a reply and shall rule on the motion by mail.

If the motion is not filed within 21 days before the administrative hearing, the moving party may be ordered to pay monetary sanctions as set forth in Section 235.400 if the motion is found to be frivolous or if the grounds for the motion could have been discovered earlier.

### **Reg. 240.220 Interlocutory Review of Decision Not to Disqualify**

A party that objects to a decision not to disqualify may file and serve a request for review no later than 14 days from the mailing of the decision. The request for review must state with specificity the reasons supporting reversal of the decision not to disqualify. Any other party may file and serve a response within 14 days of the filing of the request for review. The Board of Commissioners shall rule by mail.

## **SECTION 240.300 HEARING PROCESS**

### **Reg. 240.307 Powers and Duties of Hearing Officer**

#### **(a) Authority to Control Hearing Process**

The hearing officer shall have full authority to control the hearing process, including but not limited to the authority to rule on all motions and objections, to admit or exclude evidence, and to make other necessary decisions and orders except that the Commission shall issue (i) orders concerning jurisdictional issues including motions to dismiss for lack of subject matter jurisdiction and decisions after jurisdictional hearings, and (ii) motions to vacate negative inferences, orders of default, or other sanctions arising from the investigation process.

#### **(b) Authority to Schedule**

The hearing officer may by written order set or change the date of any hearing or pre-hearing conference; may set or change the deadlines for filing and service of the pre-hearing memorandum and any motions, discovery requests, responses, objections, or other submissions; and may set page limits for any submissions.

#### **(c) Authority to Issue Protective Orders**

The hearing officer may, either *sua sponte* or on motion of any party or witness, issue such protective orders as justice and fairness may require to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or oppression. Among other things, a protective order may deny, limit, condition, or regulate discovery.

#### **(d) Restrictions on Client Representation**

No person acting as a mediator or hearing officer shall be permitted to represent a party before the Commission while serving or available to serve in such capacity and until one year has elapsed from the last date of work performed for the Commission. A hearing officer or mediator may represent a party to a Commission case in matters outside the Commission, but then may not accept appointment in any Commission case involving that party.

#### **(e) Exclusion from Investigation and Mediation**

Hearing officers shall not participate in the investigation or mediation of cases to which they are appointed, or in decisions made at the investigation stage of such cases. They shall not have access to evidence and other documents from the Commission's investigative files in assigned cases except for documents in the official hearing record pursuant to Reg. 240.510, unless offered into evidence by a party at a hearing.

### **Reg. 240.314 Rights of Parties and Rules of Evidence**

All parties to an administrative hearing may be represented by an attorney and may call, examine, and cross-examine witnesses. All parties may offer documents or other evidence for inclusion in the record of proceedings. All parties may object to evidence offered by other parties. The admissibility of all evidence shall be subject to the ruling of the hearing officer, who shall not be bound by the strict rules of evidence applicable in courts of law or equity.

See Reg. 230.120 as to admissibility of evidence concerning settlement discussions.

See Reg 221.210(b) concerning access to subpoenas in connection with an administrative hearing.

### **Reg. 240.321 Ex Parte Communications**

Neither a party, a party's attorney, nor any other individual on the party's behalf may communicate, directly or indirectly, with a hearing officer in connection with any issue except upon notice and opportunity for all parties to participate.

**Reg. 240.328      Briefing**

A party may, by written motion pursuant to Reg. 240.349, seek leave of the hearing officer to submit a brief or other information to help clarify or resolve an issue, or the hearing officer may *sua sponte* order such submissions.

**Reg. 240.335      Privileges**

All information or communications that are privileged against disclosure in civil cases in the courts of the State of Illinois shall be privileged at the Commission. Privileged information or communication may be placed under seal pursuant to Reg. 240.520.

**Reg. 240.342      Stipulations**

Oral or written stipulations may be introduced into evidence and then shall become part of the hearing record.

**Reg. 240.349      Motions, Objections, and Orders**

(a)      Pre-Hearing and Post-Hearing Motions

Unless otherwise specified in these regulations or ordered by the hearing officer, all pre-hearing and post-hearing motions must be in writing and must be filed with the Commission and served on all other parties and the hearing officer.

(b)      Objections to Pre-Hearing and Post-Hearing Motions

Unless otherwise specified in these regulations or ordered by the hearing officer, any objections to pre-hearing and post-hearing motions must be in writing and must be filed with the Commission and served on all other parties and the hearing officer no later than 14 days from the filing of the motion, except that for a motion filed within 14 days of the administrative hearing, any objections may be stated on the record at the administrative hearing.

(c)      Motions and Objections at Administrative Hearing

Motions and objections with respect to the conduct of an administrative hearing may be stated orally at the hearing. The hearing officer may allow other oral motions and objections to be made at the hearing. All such motions and objections shall be included in the hearing transcript along with the hearing officer's ruling on them.

(d)      Hearing Officer Orders

All pre-hearing and post-hearing orders shall be issued by the hearing officer in writing. Oral motions or objections may be heard at a pre-hearing conference if the hearing officer either (1) requires the party to file and serve the motion or objection in writing before issuing a decision or (2) issues a written order after the pre-hearing conference which describes the motion or objection and sets forth the decision.

**Reg. 240.363      Waiver of Objections and Arguments**

Any objection or argument not duly presented to the hearing officer shall be deemed waived unless the failure is excused for good cause by the hearing officer.

**Reg. 240.370      Commission Employees as Witnesses**

No Commission employee shall testify on behalf of a party at a hearing with respect to the content of any files, documents, reports, memoranda, or records of the Commission or the results of any investigation conducted by the Commission except on order of the hearing officer as follows:

(a) Motion of a Party

A party may move for an order allowing testimony of a Commission employee. The motion must identify the Commission employee, the nature of the testimony, and the specific purpose the testimony will serve. The motion shall be granted only on a showing that the information to be elicited from the testimony is admissible and cannot be obtained through any other means.

(b) Sua Sponte Order

A hearing officer may, *sua sponte*, call a Commission employee to testify regarding relevant information which is admissible and cannot be obtained by other means. If a party objects on the grounds that the testimony would be prejudicial, the hearing officer may grant a continuance to enable the objecting party to meet the evidence.

**Reg. 240.398 Penalties for Failure to Appear at Hearing**

If a party fails to appear at an administrative hearing, the hearing officer may determine what if any sanction is just and proper among the options set forth in Subpart 235. The hearing officer may dismiss a missing complainant's case without further notice, and may default a missing respondent without further notice and allow the complainant to present a *prima facie* case pursuant to Reg. 235.320.

**SECTION 240.400 DISCOVERY**

Discovery shall be limited to the following except by agreement of all parties or by order of the hearing officer granting a motion for good cause shown. The hearing officer may by order alter the deadlines set forth below; however, a motion for continuance to permit discovery shall not be granted unless due diligence or other good cause is shown.

See Reg. 240.130 as to required pre-hearing memorandum.

**Reg. 240.407 Request for Documents**

Each party may serve on any opposing party a request for documents reasonably related to the party's claims or defenses. The request must be served no more than 30 days from the mailing of the order appointing the hearing officer and commencing the hearing process, and must be returnable no fewer than 21 days after the date of service. A copy must be served on the hearing officer and all other parties and filed with the Commission. Responses must be served on all other parties but need not be served on the hearing officer or filed with the Commission; however, the responding party must serve a copy of the certificate of service on the hearing officer and file it with the Commission.

Objections to document requests must be made in writing, served on all other parties and the hearing officer, and filed with the Commission no later than 14 days after the filing of the document request.

**Reg. 240.435 Additional Discovery**

(a) Subject to Agreement or Motion

Parties may agree to additional discovery, and a party may move for leave to conduct additional discovery. The motion must be served on all parties and the hearing officer and filed with the Commission. If granting additional discovery, the hearing officer shall specify the service and response deadlines.

(b) Physical or Mental Examinations

In disability discrimination cases where the physical or mental state of the complainant is at issue for liability purposes, the hearing officer may grant a motion for physical or mental examination of the complainant based on a showing of good cause. Motions seeking such examinations for other purposes shall be granted only on a showing of extraordinary need. The motion must state the reasons for the examination; the proposed scope of the examination; the name, background, and qualifications of the person proposed to conduct the examination; and the proposed time, place, and manner of the examination. The hearing officer may decide, among other things, who shall bear the cost for the examination. The

examination shall be guided by Rule 35 of the Federal Rules of Civil Procedure.

**Reg. 240.442     Duty to Supplement**

A party is under a duty to supplement any discovery responses and pre-hearing memorandum if the party learns that the information disclosed is, in some material respect, incomplete or inaccurate and if the additional or corrective information has not otherwise been disclosed to the other party during the pre-hearing process.

**Reg. 240.456     Motions to Compel**

If a party believes another party has failed, without good cause, to comply with its reasonable discovery requests or with other hearing procedures and orders not governed by a specific enforcement procedure, the party may move to compel compliance. The motion must be filed and served no later than 7 days after the failure to comply and must state what sanctions the moving party is seeking. Any response must be filed and served no later than 7 days after filing of the motion to compel. The response must fully comply with the requirement at issue or must show good cause for not doing so. A motion to compel compliance with a subpoena is also subject to Reg. 220.240(d).

**Reg. 240.463     Sanctions for Failure to Comply**

If a party fails to comply with discovery requests, requirements, or orders, the hearing officer may determine what if any sanction is just and proper among the options set forth in Subpart 235. The hearing officer may also (i) issue an order compelling the party to produce the requested witnesses, documents, or other items, and may (ii) refuse to allow any non-produced witnesses, documents, or other material to be used in the hearing to support the non-producing party's claim or defense, and/or (iii) draw a negative inference that the non-produced witnesses, documents, or other items do not support a claim or defense of the non-producing party.

**SECTION 240.500   RECORD OF HEARING**

**Reg. 240.510     Official Record**

The official record of every administrative hearing shall consist of the following:

- (a) Complaint and any amended complaints
- (b) Responses to the complaint and any amended complaints
- (c) Order finding substantial evidence and/or any order of default or order finding no substantial evidence
- (d) Other orders issued by the Commission
- (e) Motions and responses to motions filed during the investigation and any mediation processes
- (f) Notice of the hearing and any standing order
- (g) All subsequent documents filed by the parties, such as pleadings, notices, motions, correspondence between the hearing officer and the parties, briefs and memoranda, and objections
- (h) Orders issued by the hearing officer
- (i) The transcript and all exhibits thereto.

Except for the items listed above, no material in the Commission's investigative files, including any summary or report of the investigation, shall be part of the official record of the hearing unless introduced and admitted into evidence at the hearing. The official record shall be available for public inspection upon making appropriate arrangements with the Commission, except for any evidence placed under seal.

**Reg. 240.520     Sealing Record**

To avoid unreasonable annoyance, expense, embarrassment, disadvantage, or oppression, the hearing officer or the Commission may, *sua sponte* or on motion of a party or witness, seal all or part of the official record to prevent disclosure of:

- (a) Information specifically prohibited from disclosure by federal or state law or any rules and regulations adopted pursuant thereto.

- (b) Information and communication protected by privilege, when the privileged information or communication is allowed into evidence.
- (c) Information which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless such disclosure is consented to in writing by the individual subjects of such information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. Information exempted under this subsection (c) shall include but is not limited to the following:
  - (1) Files and personal information maintained with respect to clients, patients, residents, students, and other individuals receiving social medical, educational, vocational, financial, supervisory, or custodial care or services directly or indirectly from federal agencies or public bodies.
  - (2) Personnel files and personal information maintained with respect to employees, appointees, or elected officials of any public body or applicants for such positions.
  - (3) Files and personal information maintained with respect to any applicant, registrant, or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure, or discipline.
  - (4) Information required of any taxpayer in connection with the assessment or collection of any tax, unless disclosure is otherwise required by state statute.
  - (5) Information revealing the identity of persons who file complaints with, or provide information to, administrative, investigative, law enforcement, or penal agencies.
  - (6) Any other information as set forth in 5 ILCS 140/7.

**Reg. 240.530 Transcript**

- (a) Transcribing Testimony

All testimony at an administrative hearing shall be under oath and shall be recorded or transcribed by a court reporter provided by the Commission. The Commission shall order any original transcript. Copies may be ordered from the court reporter at the parties' expense. Any party seeking preparation of a transcript on an expedited basis must make arrangements directly with the court reporter and is responsible for the full cost of the transcript. The original transcript shall be made available for examination by the parties and the public as part of the official record, in the Commission's office upon reasonable notice.

- (b) Correction of Transcript

A party seeking corrections to a transcript taken at an administrative hearing must file and serve a written motion. The motion must specify (a) the transcript page and line number of each proposed change; (b) the language the party seeks to remove, replace, or correct; (c) the new language the party seeks to add or substitute; and (d) the reason for each proposed change. The Commission favors agreed motions for correction of transcripts, to the extent possible. The motion must be filed and served no later than the due date of the party's objections to the hearing officer's recommended decision. Any other party may file and serve a response no later than 14 days from the date of filing. The hearing officer shall rule on the motion by mail.

**SECTION 240.600 DECISIONS AFTER HEARING**

**Reg. 240.610 Recommended Ruling on Liability and Relief**

- (a) Recommended Ruling

After the conclusion of the administrative hearing, or the last due date for post-hearing briefs if ordered, the hearing officer shall mail to the parties and file with the Commission a recommended ruling as to liability

and the relief to be awarded if liability is found. The recommended ruling shall include the following:

- (1) A summary of the contentions of each party
- (2) Findings of fact based on and limited to the testimony and other evidence of record
- (3) A recommended determination as to whether a preponderance of the evidence sustains each claim of the complaint, or for any defaulted claim whether the complainant has established a *prima facie* case
- (4) Recommended conclusions of law including analysis of each claim and reasoning to support the recommended determinations
- (5) Recommendations as to appropriate relief, including fines, and whether to award attorney fees and costs to a prevailing complainant.

(b) Objections and Replies

Each party shall have 28 days from the mailing of the recommended ruling to file and serve objections and any request for review of an interlocutory decision made during the hearing process. Objections to a recommended ruling must include (i) relevant legal analysis for any objections to legal conclusions, (ii) specific grounds for reversal or modification of any findings of fact including specific references to the record and transcript, and (iii) specific grounds for reversal or modification of any recommended relief. Requests for review of an interlocutory decision must comply with Reg. 250.130. Responses and replies shall be permitted only on leave of the hearing officer.

**Reg. 240.620 Board of Commissioners Decision on Liability and Relief**

(a) Board of Commissioners Action

The Board of Commissioners shall adopt, reject, or modify the hearing officer's recommended ruling in whole or in part, or may remand for additional proceedings concerning some or all issues presented. The Board shall adopt the recommendation of the hearing officer if it is not contrary to the evidence presented at the administrative hearing. The Board shall also rule on any request for review of an interlocutory decision made during the hearing process.

(b) Ruling and Order

Rulings of the Board of Commissioners shall be in writing, shall be issued after the last due date for objections or replies to the hearing officer's recommended ruling, and shall be sent to all parties by mail. The Commission shall issue a written order which sets forth the findings of fact and conclusions of law. If the Board of Commissioners finds that a respondent has violated the ordinance, the written order shall include any orders for relief and the procedures to determine attorney's fees and costs if awarded.

**Reg. 240.630 Determination of Attorney Fees and Costs**

(a) Petition and Briefing

No later than 28 days after the mailing of the Board of Commissioners ruling, or as otherwise ordered, a complainant who is awarded attorney fees may file and serve a petition for fees and/or costs, supported by argument and affidavit. Commission proceedings for consideration of attorney fees shall not be postponed in the event that one or more parties petitions for a *writ of certiorari* or otherwise appeals the liability and relief ruling made by the Commission, unless a court orders the Commission to stay or cease its process. The petition must include the following statements and documentation in order for fees and costs to be awarded:

- (1) A statement showing the number of hours for which compensation is sought in segments of no more than one-quarter hour, itemized according to the date performed, the work performed, and the individual who performed the work.
- (2) A statement of the hourly rate customarily charged by each individual for whom compensation is sought, or in the case of a public or not-for-profit law office which does not charge fees or which charges fees at less than market rates, documentation of the rates prevalent in the practice of law for attorneys in the

same locale with comparable experience and expertise.

(3) Documentation of costs for which reimbursement is sought.

Any other party may file and serve a written response no later than 14 days after the filing of the petition. Replies shall be permitted only on leave of the hearing officer.

(b) Recommended Ruling and Responses

After the parties' submissions or the due date of the last submission if nothing was filed, the hearing officer shall mail to the parties and file with the Commission a recommended ruling on the petition for attorney fees and costs. The recommended ruling shall set forth the hearing officer's reasoning for each recommended determination.

The parties shall each have 28 days from the mailing of the recommended ruling to file and serve objections and any request for review of an interlocutory order entered during the fee petition process. Objections must include specific grounds for modification of any finding of fact and relevant legal analysis for any objections to legal conclusions. Requests for review of an interlocutory order must comply with Reg. 250.130. Replies shall be permitted only on leave of the hearing officer.

(c) Board of Commissioners Ruling and Order

The Board of Commissioners shall adopt, reject, or modify the hearing officer's recommended ruling in whole or in part, or may remand for additional proceedings concerning some or all of the issues presented. The Board of Commissioners shall adopt the recommendation of the hearing officer if it is not contrary to the evidence. The ruling of the Board of Commissioners shall be in writing, shall be issued after the last due date for objections or replies to the hearing officer's recommended ruling, and shall be sent to all parties by mail. The Board shall also rule on any request for review of an interlocutory decision made during the fee petition process. The Commission shall issue a written order stating the findings of fact, conclusions of law, and amounts of attorney fees and costs awarded.

**Reg. 240.640 Supplemental Attorney Fees and Costs after Court Review**

If, in reviewing a Commission final order, the reviewing court rules in favor of the complainant but does not determine the amount of attorney fees and costs to which the complainant is entitled, the complainant may file with the Commission and serve on the other parties and the hearing officer a petition for an award of supplemental attorney fees and costs incurred during the state court proceedings. The petition must be filed and served no later than 28 days after the date of the court decision. The content and procedural requirements are as set forth in Reg. 240.630 for similar petitions after a liability ruling by the Board of Commissioners.

**SECTION 240.700 PRE- AND POST-JUDGMENT INTEREST**

Pre- and post-judgment interest on damages shall be awarded at the bank prime loan rate, as published by the Board of Governors of the Federal Reserve System in its publication entitled "Federal Reserve Statistical Release H.15 (519) Selected Interest Rates." The interest rate used shall be adjusted quarterly from the date of violation based upon the rates in the Federal Reserve Statistical Release. Interest shall be calculated on a daily basis starting from the date of the violation and shall be compounded annually.

**SUBPART 250 REVIEW AND COMPLIANCE**

**SECTION 250.100 REVIEW**

**Reg. 250.110 Review of Dismissals**

A complainant seeking review of the full or partial dismissal of a complaint by the Commission or a hearing officer must file and serve a request for review within 28 days of the mailing of the dismissal order. The request must be served on all other parties and the hearing officer (if any). Leave may be granted to

respond or reply. If a complainant wishes to seek a motion for extension of time to file a request for review, he or she must do so pursuant to Reg. 210.320(c).

### **Reg. 250.120 Other Review**

In addition to review of dismissals under Reg. 250.110, the following opportunities for review or reconsideration are available under these regulations: (a) motion to vacate or modify procedural sanctions under Reg. 235.150, (b) request for review of decisions not to disqualify a hearing officer under Reg. 240.220, and (c) objections to a hearing officer's recommended ruling including any request for review of interlocutory decisions made during the hearing process under Regs. 240.610(b) and Reg. 240.630(b)(2). No request for review is available for dismissals or other decisions by the Board of Commissioners; see Reg. 250.150 as to appeal of final orders.

### **Reg. 250.130 Content and Grounds for Review**

#### **(a) Content**

A request for review must state with specificity the reasons, evidence, or legal authority requiring reversal or modification of the decision in question. The request may not exceed 10 pages without leave from the Commission and must clearly state that the party is seeking reconsideration or review. Any new testimonial or documentary evidence must be provided with the request.

#### **(b) Grounds**

Grounds for reversal or modification may include relevant evidence which is newly discovered and not available at the time of the original decision; new and dispositive legal precedent not available at the time of the original decision; a material misrepresentation, misstatement, or omission which was a basis for the decision; or a material error by the Commission or hearing officer. If a complaint was dismissed for failure to cooperate, the request for review must (1) establish good cause for the complainant's noncompliance, at the time required, with the requirement which was the basis for dismissal; and (2) include any missing material which was a basis for the dismissal or show good cause for not doing so.

### **Reg. 250.140 Grant or Denial of Request for Review**

For dismissal orders entered by the Commission, the Commission shall rule on any request for review. For dismissal orders entered by a hearing officer, the hearing officer shall rule on any request for review. The Board of Commissioners shall rule on any request for review submitted with objections to a hearing officer's recommended ruling. If granting a reversal or modification pursuant to a request for review, the order shall describe any further proceedings in the case.

### **Reg. 250.150 Appeal of a Final Order**

To appeal a final order of the Commission, a party must seek a *writ of certiorari* from the Chancery Division of the Circuit Court of Cook County according to applicable law. Neither the Commission nor the Board of Commissioners shall accept or consider requests for review of a final order.

## **SECTION 250.200 COMPLIANCE WITH FINAL ORDERS**

### **Reg. 250.210 Duty to Comply**

Unless otherwise specified, parties must comply with a final order after administrative hearing no later than 28 days from the date of mailing of the later of a Board of Commissioners' final order on liability or any final order on attorney fees and costs.

### **Reg. 250.220 Enforcement of Final Orders**

If a party believes there has been a violation of a final order after administrative hearing, the party may proceed independently to enforce the final order under any applicable law. If the party wishes the Commission to seek enforcement, the party must file a motion for enforcement with the Commission and

serve it on all other parties, setting forth the nature of the alleged violation. All other parties shall have 14 days from filing of the motion to file and serve a response, unless the Commission issues an order allowing additional time. The Commission may conduct an investigation into the alleged violation and may issue any orders it deems necessary to exercise its authority to seek enforcement. If the Commission finds substantial evidence that a party has violated any provision of a final order, the Commission shall promptly notify the parties in writing, may fine any noncompliant party, and may request the Department of Law to seek judicial enforcement in state court on behalf of the Commission. If the Commission concludes that substantial evidence of violation of the final order is lacking, it shall notify the parties in writing.

In addition, the Commission may *sua sponte* seek judicial enforcement of all or part of any final order.

## **SUBPART 260 COMMISSION RULE-MAKING**

### **Reg. 260.100 Construction of Rules and Regulations**

These regulations shall be liberally construed to accomplish the purpose of the ordinances.

### **Reg. 260.110 Superseding of Rules and Regulations**

These regulations shall supersede all prior rules and regulations of the Commission relating to the Chicago Human Rights Ordinance, the Chicago Fair Housing Ordinance, and the Commission on Human Relations Enabling Ordinance.

### **Reg. 260.120 Amendment of Regulations**

Changes in these regulations may be made by a vote of a majority of a quorum of the Board of Commissioners at a regular or special meeting, or as otherwise provided by law.

### **Reg. 260.130 Availability of Regulations**

Copies of these regulations shall be available to the public at the office of the Commission subject to reasonable limits as to quantity provided to any person within a given period.

### **Reg. 260.140 Petition for Rule-Making**

Any person may request that the Commission promulgate, amend, or repeal a rule or regulation by submitting a written petition to the Commission. The petition shall set forth in particular the rule-making action desired and should contain the person's arguments or reasons in support thereof. The petition shall be considered by the Commission and the petitioner shall be notified in writing as to its disposition. Any rule-making undertaken in response to the petition shall be governed by Reg. 260.120.

### **Reg. 260.150 Separability**

If any provision or term of these regulations, or any amendment thereto, is determined by a court or other authority of competent jurisdiction to be invalid, such determination shall not affect the remaining provisions, which shall continue in full force and effect.

### **Reg. 260.160 Effect of Intergovernmental Agreements**

Intergovernmental agreements entered pursuant to Section 2-120-510(q), Chicago Municipal Code, may alter parts of these regulations and/or add new procedures without specifically amending the regulations as set forth in Reg. 260.120. Summaries of any intergovernmental agreements shall be available to the public on the same terms as for these regulations under Reg. 260.130.

## **SUBPART 270    GENERAL PROCEDURES**

### **SECTION 270.100    TIMING AND DEADLINES**

#### **Reg. 270.110    Computation of Time**

In computing any time period under the ordinances, these regulations, or any order or notice, the date when the time period begins to run shall not be included. If the last day of a time period falls on a Saturday, Sunday, or any federal, state, or municipal legal holiday, the time period shall continue until the end of the next day which is not one of these. If a time period is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. When a time period commences upon a person's receipt of service or notice, and service is by mail, receipt shall be presumed to occur on the third day after mailing unless the recipient proves that the service or notice was not actually received on that day.

#### **Reg. 270.120    Expedited Proceedings**

For good cause shown, the Commission may order proceedings to be expedited pursuant to Section 2-120-510(i), Chicago Municipal Code.

#### **Reg. 270.140    Commission Deadlines**

All deadlines related to actions to be taken by the Board of Commissioners, the Commission, or its agents are intended to be directory, not mandatory. A failure of the Board of Commissioners, the Commission, or its agents to meet any such deadline shall not be cause to dismiss a complaint, default a respondent, or otherwise prejudice a claim or defense.

### **SECTION 270.200    SERVICE AND FILING**

#### **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.

(a) 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.

**SECTION 270.300 REPRESENTATION OF PARTIES**

**Reg. 270.310 Attorney Appearance**

If a party chooses to be represented by an attorney at any stage of proceedings before the Commission, the attorney must file with the Commission and serve on all other parties a written attorney appearance before Commission staff will discuss the case with the attorney and before the attorney will be allowed access to the case files or allowed to attend a settlement conference, administrative hearing, pre-hearing conference, or other proceeding or meeting on behalf of the represented client. An appearance filed after the commencement of the hearing process must also be served on the hearing officer. The appearance must clearly state that the attorney is representing the party or parties before the Commission.

**Reg. 270.320 Supervised Senior Law Students or Graduates**

Any student in or graduate of a law school who satisfies all of the eligibility requirements set forth in Illinois Supreme Court Rule 711 may represent any party before the Commission to the extent permitted

and under the same conditions as set forth in that Rule. When filing an attorney appearance, the student or graduate must assert Rule 711 status and the supervising attorney must file an attorney appearance at the same time, asserting supervisory status as to that student or graduate.

**Reg. 270.330 Attorney Licensed Out of State**

An attorney who is not a member of the Illinois Bar may appear on behalf of a party on a *pro hac vice* basis for a particular case. To do so, the attorney must acknowledge out-of-state status in the attorney appearance and specify the jurisdictions where licensed to practice. The attorney shall be deemed admitted without Commission order and shall be treated the same as attorneys licensed in Illinois.

**Reg. 270.340 Withdrawal of Attorney Appearance**

(a) Motion to Withdraw and Responses

An attorney seeking to withdraw an attorney appearance must file a written motion and serve it on the client (unless a consent to the withdrawal, signed by the client, is attached to the motion), on all other parties, and on the hearing officer if one has been appointed. The motion must set forth the reasons for seeking the withdrawal and must provide the client's last known address and telephone number. The client or another party may file and serve objections to the motion no later than 14 days from its filing. If objections are filed and served, the attorney and other parties shall have 7 days from filing to respond.

(b) Granting or Denial of Motion to Withdraw

Before commencement of the hearing process, a motion to withdraw shall be deemed granted fourteen days after filing, without Commission order, if no objection is filed. If an objection is filed, the Commission shall rule on the motion by mail. After commencement of the hearing process, an attorney shall not be allowed to withdraw without written leave of the hearing officer.

(c) Client Dismissal of Attorney

A party that no longer wishes to be represented by an attorney of record who has not withdrawn the attorney appearance must file a signed, written notice clearly stating that the party is no longer represented by the attorney and will proceed *pro se* unless and until a new attorney enters and appearance. The notice must provide the party's current address and telephone number, and it must be served on the attorney, all other parties, and the hearing officer if one has been appointed.

**SECTION 270.400 INTERPRETERS AND ACCESSIBILITY**

**Reg. 270.410 Interpreters**

The Commission may provide a qualified sign language or foreign language interpreter at any time during the complaint filing process or while a case is pending. Any request for an interpreter for such purposes must be made in writing at least 7 days in advance of the date on which the interpreter is needed unless good cause is established for failure to do so. The Commission shall provide an interpreter at all public meetings of the Commission upon a written request made at least 7 days in advance of the meeting. The person who has requested the interpreter must notify the Commission as soon as possible if unable to attend the event for which the interpreter has been arranged, or if for other reasons the interpreter is no longer needed; if the person fails to do so without good cause, the Commission may require reimbursement for the costs of the interpreter.

**Reg. 270.420 Accessibility**

All settlement conferences, fact-finding conferences, pre-hearing conferences, jurisdictional hearings, administrative hearings, and other conferences and public meetings of the Commission shall be held in facilities accessible to persons with disabilities.

## **SECTION 270.500 PRECEDENT**

### **Reg. 270.510 Applicable Precedent**

#### **(a) Published Decisions**

All published decisions of the Commission and the Board of Commissioners shall have precedential effect and may be cited as such. Published decisions include all rulings of the Board of Commissioners and all other written decisions by the Commission or a hearing officer which the Commission determines to have precedential value and lists in its index pursuant to Reg. 270.530(a) because they (i) state a new rule of law, (ii) modify, criticize, or clarify an existing rule of law, (iii) resolve a conflict in prior decisions, (iv) contribute to an understanding or application of existing law, or (v) decide a case of substantial or continuing public interest. Determinations as to substantial evidence of an ordinance violation shall not be published or cited as precedent; however, decisions on requests for review of a no substantial evidence determination may be published if they meet the above criteria.

#### **(b) Citation of Unpublished Decisions**

A party may cite an unpublished decision of the Commission (other than a determination as to substantial evidence) as precedent but must include a copy with the brief or other submission in which it is cited. If the Commission cites an unpublished decision in support of any subsequent decision, it shall then add the decision to its next index of published decisions pursuant to Reg. 270.530.

#### **(c) Other Decisions**

In deciding issues of first impression, the Commission shall look to decisions interpreting other relevant laws for guidance. A party citing such a decision must include a copy with the brief or other submission in which it is cited.

### **Reg. 270.520 Citation Form**

Decisions of the Commission shall be cited as follows: case name, case number, date of decision, e.g. *Smith v. ABC Company and Jones*, CCHR No. 01-E-000 (Jan. 3, 2001).

### **Reg. 270.530 Publication and Copies of Decisions**

#### **(a) Index of Decisions**

The Commission shall periodically list all of its published decisions in an index and shall make the index available for public inspection without cost. The Commission shall furnish copies of the index at a charge not to exceed \$70 plus any delivery costs. Copies shall not be released to the requester until the Commission has received payment in full. A party may seek waiver of these charges pursuant to Section 270.600.

#### **(b) Copies of Decisions**

Commission decisions listed in the index shall be available for inspection at the Commission without cost on reasonable notice of at least two business days. Any request for inspection or copying must include the case name, case number, and date of decision. The Commission may require a written request. The Commission shall furnish copies of decisions at a charge not to exceed 20 cents per page plus any delivery costs. Copies shall not be released to the requester until the Commission has received payment in full. A party may seek waiver of these charges pursuant to Section 270.600.

#### **(c) Limitations**

Except for making available an index and copies of its published decisions, the Commission is not required to conduct legal research or to identify relevant published or unpublished decisions for any party or member of the public. No description, summary, or characterization of a decision in the index or any similar informational publication of the Commission may be cited as legal authority.

## **SECTION 270.600    WAIVER OF COMMISSION FEES**

A party may by written motion request that the Commission waive its fees for copies of Commission documents. The motion shall be granted only on submission of an affidavit or other statement under oath plus any additional documentation establishing by objective evidence that the requesting party is unable to pay the charges and that the copies sought are necessary for pursuit of the party's claims or defenses in a Commission case. If the party's attorney of record was obtained through a not-for-profit legal assistance provider, the attorney's certification that the provider has determined the party to be indigent is sufficient objective evidence of inability to pay.

## **PART 300          EMPLOYMENT DISCRIMINATION**

### **SUBPART 305      *BONA FIDE* OCCUPATIONAL QUALIFICATIONS**

#### **Reg. 305.100      *Bona Fide Occupational Qualifications***

The Commission shall find that it is not a violation of the “Chicago Human Rights Ordinance” (HRO), Chicago Muni. Code, Ch. 2-160-010 (1990), for an employer or employment agency to discriminate based on a criteria which constitutes a *bona fide* occupational qualification (“BFOQ”) for a particular job. The person asserting the exemption shall bear the burden of establishing that it is appropriate in a particular circumstance. The Commission shall examine the effect of an employer’s claim of BFOQ in excluding persons based upon their membership in a Protected Class under the HRO (see Reg. 100(24) above). Generally, a BFOQ is appropriate to exclude an entire class of individuals on the basis of a standard that is necessary for safe and sufficient job performance.

#### **Reg. 305.110      Examples of BFOQs**

The following examples are illustrative of when criteria or policies will not be deemed to be a BFOQ:

- (a) the refusal to select an individual for a position based on assumptions as to characteristics of members of the Protected Class (see Reg. 100(24) above), *e.g.*, the assumption that the turnover rate among women is higher than among men, or that women are less willing to work overtime;
- (b) the refusal to select an individual for a position based on a characterization attributed generally to members of any of the Protected Classes (see Reg. 100(24) above);
- (c) the refusal to select an individual based on the preferences of co-workers, clients or customers or customs or traditions which discriminate against persons from a Protected Class (see Reg. 100(24) above);
- (d) the refusal to select an individual because the employer may have to provide separate facilities for a person of the opposite sex, unless the expense would be an undue hardship, taking into consideration, among other factors, the cost involved, the nature of the employer’s operation and the employer’s ability to pay;
- (e) the refusal to select a woman for a position based on the belief that women with children should not work or are less than reliable employees; and
- (f) the refusal to select a woman for a position based on the fear that pregnancy may in the future render her unable to work.

### **SUBPART 310      EMPLOYMENT AGENCIES**

#### **Reg. 310.100      Prohibition of Discrimination by Employment Agencies**

It shall be deemed unlawful for an employment agency to discriminate against any individual on the basis of membership in a Protected Class under the HRO (see Reg. 100(24) above). For example, an employment agency which accepts a job order containing an unlawful specification based upon membership in a Protected Class shall be liable under the HRO (as shall be the employer placing the order) if the agency filing the order knows or should have known that the specification is not based upon a *bona fide* occupational qualification.

#### **Reg. 310.110      Restriction of Listings**

An employment agency which restricts the availability of its services or which maintains separate files, listings or referral systems based on membership in a Protected Class is in violation of the HRO except to the extent that membership in one of these classes is a BFOQ for the job involved. (See Reg. 100(24) above and Reg. 305.100.)

## SUBPART 315 ADVERTISING OF JOB OPPORTUNITIES

### Reg. 315.100 Discriminatory Advertising

It is a violation of the HRO for an employer or an employment agency to cause a newspaper, magazine or similar publication to publish “help wanted” advertisements in columns or sections segregated on the basis of membership in a Protected Class (see Reg. 100(24) above) or to publish such advertisements using terminology suggesting that the positions for which applicants are sought are restricted to or appropriate for persons who are members of a Protected Class. For example, the placement of an advertisement in columns classified by the publisher(s) in headings “Male” or “Female” shall be considered as an expression of a preference, limitation or discrimination based on sex. Similarly, an advertisement expressly directed to one sex, *e.g.*, “mature man” or “attractive woman” or where the advertisement utilizes a sex-specific job title, *e.g.*, “girl Friday,” shall be considered discrimination on the basis of sex. There is no violation of the HRO, however, if, for example, sex is a *bona fide* occupational qualification for the job advertised.

## SUBPART 320 PRE-EMPLOYMENT INQUIRIES

### Reg. 320.100 Discriminatory Pre-Employment Inquiries

Any pre-employment inquiry in connection with prospective employment which expresses directly or indirectly any limitation, specification or discrimination as to membership in a Protected Class (see Reg. 100(24) above) shall be unlawful unless based upon a BFOQ. An employer may not, for example, make inquiry about the parental status of an applicant for employment. However, a pre-employment inquiry may, for example, ask an applicant to designate his/her gender or may solicit the applicant’s preferred designation as “Mr.,” “Mrs.,” or “Ms.” provided that the inquiry is shown to be made in good faith for a non-discriminatory purpose.

For pre-employment inquiries concerning people with disabilities, see Reg. 365.150 below.

### Reg. 320.110 Citizenship and Similar Inquiries

An employer or an employment agency may not require a job applicant to disclose his or her national origin, ancestry or membership in any of the other Protected Classes (see Reg. 100(24) above), unless the employer or agency can show a *bona fide* occupational qualification. Similarly, an employer or employment agency may not require a job applicant to disclose his/her citizenship where a citizenship requirement would have the purpose or effect of discriminating against a person on the basis of national origin.

### Reg. 320.120 Inquiries into Applicant’s Criminal History and Criminal Record

#### (a) Employers with less than 15 employees

An employer may not inquire about or into, consider, or require disclosure of an applicant’s criminal record or criminal history until after the applicant has been determined qualified for the relevant position and notified that he or she has been selected for an interview. If there is no interview associated with the pre-employment process, the employer must wait until after a conditional offer of employment is extended to the applicant.

- (1) Inquiry includes requesting or securing permission to conduct a criminal record or criminal history search, either orally or in writing.
- (2) Exceptions to the ban on pre-employment inquiry into criminal record or history:
  - a. Where federal or state law excludes applicants with certain criminal convictions from the relevant position
  - b. Where a standard fidelity bond or an equivalent bond is required for the relevant position, and an applicant’s conviction of one or more specified criminal offenses would disqualify the applicant from obtaining such a bond
  - c. Where the relevant position requires a license under the Emergency Medical Service

(b) All employers

In the event an employer makes a decision not to hire an applicant that is based, entirely or partially, on the applicant's criminal record or history, the employer shall inform the applicant of this basis at the time he or she is informed of the decision.

(c) Available Relief

Employers found in violation of this section are subject to fines payable to the City of Chicago. No other relief is available under this Section.

## **SUBPART 325 COMPENSATION**

### **Reg. 325.100 Discriminatory Compensation**

It is a violation of the HRO for any person to discriminate among employees based upon membership in a Protected Class (see Reg. 100(24) above) in negotiating or establishing wages, benefits or other compensation. An employer may not differentiate, based upon membership in a Protected Class, among employees performing the same or substantially the same work under like working conditions in fixing the employees' wages and benefits.

## **SUBPART 330 FRINGE BENEFITS**

### **Reg. 330.100 Definition of "Fringe Benefits"**

"Fringe benefits," as used herein, includes medical, hospital, accident, and life insurance; retirement benefits; profit-sharing and bonus plans; leave time; and other terms, conditions, and privileges of employment.

### **Reg. 330.110 Prohibition of Discrimination**

It shall be a violation of the HRO for an employer to discriminate in the entitlement to or qualification for fringe benefits based upon membership in a Protected Class (see Reg. 100(24) above).

### **Reg. 330.120 Cost Not a Defense**

It shall not be a defense under the HRO to a charge of discrimination in affording benefits for an employer to assert that the cost of such benefits is greater or perceived to be greater for members of a Protected Class (see Reg. 100(24) above) as compared to others.

### **Reg. 330.130 Memberships in Clubs**

An employer which maintains a practice of purchasing, reimbursing or subsidizing memberships for any of its employees in private clubs must ensure that the practice is followed consistently among employees without regard to membership in a Protected Class (see Reg. 100(24) above).

### **Reg. 330.140 Pension or Retirement Plan**

It shall be a violation of the HRO for an employer to have a pension or retirement plan which establishes different optional or compulsory retirement ages based on membership in a Protected Class or which differentiates in benefits on the basis of membership in a Protected Class (see Reg. 100(24) above).

## **SUBPART 335    POLICIES RELATING TO PREGNANCY AND CHILDBIRTH**

### **Reg. 335.100    Prohibition of Discrimination**

A written or unwritten employment policy or practice which excludes from employment applicants or employees because of pregnancy, childbirth or related medical conditions is a *prima facie* violation of the HRO. It shall also be a *prima facie* violation of the HRO for an employer to discharge an employee because she becomes pregnant.

### **Reg. 335.110    Disabilities Caused by Pregnancy or Childbirth**

Disabilities caused or contributed to by pregnancy, childbirth, or related medical conditions for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other covered medical conditions, under any health or disability insurance or sick leave plan available in connection with employment. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy, childbirth or related medical conditions on the same terms and conditions as they are applied to other disabilities.

### **Reg. 335.120    Temporary Disabilities**

Temporary disability resulting from pregnancy, miscarriage, abortion, childbirth and recovery therefrom must be considered by an employer offering leaves for other temporary disabilities to be a justification for a leave of absence for a female employee. The terms and conditions of pregnancy-related disability leaves of absence may not be more restrictive, and need not be more generous, than those applied to disability leaves for other purposes.

### **Reg. 335.130    Non-Disability Leaves**

Non-disability leaves of absence for the purpose of child-rearing shall be granted on the same terms and conditions applied to other non-disability leaves of absence. An employer's policy or practices regarding leaves for child-rearing must be applied equally to male and female employees.

## **SUBPART 340    SEXUAL HARASSMENT**

### **Reg. 340.100    Totality of the Circumstances**

In determining whether alleged conduct constitutes sexual harassment, the Commission will review the record as a whole and the totality of the circumstances, such as the nature of the alleged sexual advances, conduct or statements and the context in which the alleged incidents occurred.

### **Reg. 340.110    Liability for Supervisors' Actions**

An employer is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The Commission will review the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory capacity or can be considered an agent of the employer.

### **Reg. 340.120    Liability for Actions of Non-Managerial Personnel**

With respect to the conduct of non-managerial or non-supervisory employees, and the conduct of non-employees, an employer is responsible for acts of sexual harassment in the work-place where the employer (or its agents or supervisory employees) knows or becomes aware of the conduct and fails to take reasonable corrective action. In reviewing cases involving the conduct of non-employees, the Commission

will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.

**Reg. 340.130      Benefits Withheld from Others**

When employment opportunities or benefits are granted because of an individual's submission to sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for, but were denied these employment opportunities or benefits.

**SUBPART 345      HARASSMENT (OTHER THAN SEXUAL HARASSMENT)**

**Reg. 345.100      Prohibition of Harassment**

Harassment on the basis of actual or perceived membership in a Protected Class is a violation of the HRO (see Reg. 100(24) above). An employer has an affirmative duty to maintain a working environment free of harassment on the basis of membership in any class protected under the HRO.

**Reg. 345.110      Definition of Harassment**

Slurs and other verbal or physical conduct relating to an individual's membership in a Protected Class (see Reg. 100(24) above) constitutes harassment when this conduct:

- (a) has the purpose or effect of creating an intimidating, hostile or offensive working environment;
- (b) has the purpose or effect of unreasonably interfering with an individual's work performance; or
- (c) otherwise adversely affects an individual's employment opportunities.

**Reg. 345.120      Liability for Supervisors' Actions**

An employer is responsible for its acts and those of its agents and supervisory employees with respect to harassment on the basis of membership in a Protected Class (see Reg. 100(24) above) regardless of whether the specific acts complained of were authorized or forbidden by the employer and regardless of whether the employer know or should have known of their occurrence. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.

**Reg. 345.130      Liability for Actions of Non-Managerial Personnel**

With respect to the conduct of non-managerial or non-supervisory employees, and the conduct of non-employees, an employer is responsible for acts of harassment in the work place on the basis of the victim's membership in a Protected Class (other than sex) where the employer (or its agents or supervisory employees) knew or should have known of the conduct and failed to take reasonable corrective action. In reviewing cases involving the conduct of non-employees, the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have regarding the conduct of such non-employees.

**SUBPART 350      DISCRIMINATION BASED ON NATIONAL ORIGIN**

**Reg. 350.100      Citizenship Requirements**

In those circumstances where citizenship requirements have the purpose or effect of discriminating against an individual on the basis of national origin, they are prohibited by the HRO. The HRO does not, however, require an employer to employ an individual who is not able to work lawfully in the United States.

**Reg. 350.110      Speak-English-Only Rules**

- (a) The Commission will presume that a rule requiring employees to speak only English at all times in the work-place, when applied at all times, violates the HRO. Such a rule is a burdensome term and condition of

employment. The primary language of an individual is often an essential national origin characteristic. Prohibiting employees at all times, in the work-place, from speaking their primary language or the language they speak most comfortably, disadvantages an individual's employment opportunities on the basis of national origin. It may also create an atmosphere of inferiority, isolation and intimidation based on national origin which could result in a discriminatory working environment.

(b) An employer may require that employees speak only English at certain times where the employer can show that the rule is justified by business necessity.

(c) It is common for individuals whose primary language is not English to inadvertently change from speaking English to speaking their primary language. Therefore, if an employer believes it has a business necessity for a speak-English-only rule at certain times, the employer should inform its employees of the general circumstances when speaking only in English is required and of the consequences of violating the rule. If an employer fails to effectively notify its employees of the rule and makes an adverse employment decision against an individual based on a violation of the rule, the Commission will consider the employer's application of the rule as evidence of discrimination on the basis of national origin.

## **SUBPART 355     DISCRIMINATION BASED ON RELIGION**

### **Reg. 355.100     Reasonable Accommodation**

(a) After an employee or prospective employee notifies the employer of his/ her need for a religious accommodation, the employer has an obligation to reasonably accommodate the individual's religious practices. A refusal to accommodate is justified only when an employer can demonstrate that an undue hardship would, in fact, result from each available method of accommodation. An assumption that other employees with the same religious practices as the person being accommodated may also need accommodation is not evidence of undue hardship.

(b) When there is more than one method of accommodation available which would not cause undue hardship, the Commission will determine whether the accommodation offered is reasonable by examining:

(1) the alternatives for accommodation considered by the employer; and

(2) the alternatives for accommodation, if any, actually offered to the individual requiring accommodation. Some alternatives for accommodating religious practices might disadvantage the individual with respect to his/her employment opportunities, such as compensation, terms, conditions, or privileges of employment.

(c) When a test or other selection procedure is scheduled at a time when an employee or prospective employee cannot attend because of his/her religious practices, the user of the test should be aware that the principles enunciated in these guidelines apply and that it has an obligation to accommodate such employee or prospective employee unless undue hardship would result.

### **Reg. 355.110     Alternatives For Accommodating Religious Practices**

Employees and prospective employees most frequently request an accommodation because their religious practices conflict with their work schedules. The following subsections are some means of accommodating the conflict between work schedules and religious practices which the Commission believes that employers should consider as part of the obligation to accommodate and which the Commission will consider in investigating a complaint. These are not intended to be all-inclusive:

(a)     Voluntary Substitutes and "Swaps"

Reasonable accommodation without undue hardship is generally possible where a voluntary substitute with substantially similar qualifications is available. One means of substitution is the voluntary swap. In a number of cases, the securing of a substitute has been left entirely up to the individual seeking the accommodation. The Commission believes that the obligation to accommodate requires that employers facilitate the securing of a voluntary substitute with substantially similar qualifications. Some means of doing this which employers should consider are: to publicize policies regarding accommodation and

voluntary substitution; to promote an atmosphere in which such substitutions are favorably regarded; and to provide a central file, bulletin board or other means for matching voluntary substitutes with positions for which substitutes are needed.

(b) Flexible Scheduling

One means of providing reasonable accommodation for the religious practices of employees or prospective employees which employers should consider is the creation of a flexible work schedule for individuals requesting accommodation. The following list is an example of areas in which flexibility might be introduced: flexible arrival and departure times; floating or optional holidays; flexible work breaks; use of lunch time in exchange for early departure; staggered work hours; and permitting an employee to make up time lost due to the observance of religious practices.

**Reg. 355.120 Attendance and Seniority Rights**

(a) Attendance

For purposes of Subpart 355, with respect to an employee's attendance, an employer may prove undue hardship to justify a refusal to accommodate an employee's or applicant's need to be absent from his/her scheduled or anticipated duty hours if the employer can demonstrate that the accommodation would require more than a *de minimis* cost and that the employer cannot afford that cost. The Commission will determine what constitutes an undue hardship by evaluating the identifiable cost in relation to the size and operating cost of the employer, the number of individuals who will in fact need a particular accommodation and other factors such as those set forth in Reg. 365.140 below. Further, the Commission will presume that, generally, the payment of administrative costs necessary for providing the accommodation will not constitute more than a *de minimis* cost. Administrative costs include, for example, those costs involved in rearranging schedules and recording substitutions for payroll purposes.

(b) Seniority Rights

With respect to a requested change in position, undue hardship will also be shown where a variance from a *bona fide* seniority system is necessary in order to accommodate an employee's or applicant's religious practices when doing so would deny another employee his/her job or shift preference guaranteed by that system. Arrangements for voluntary substitutes and swaps do not constitute an undue hardship to the extent the arrangements do not violate a *bona fide* seniority system. Nothing precludes an employer and a union from including arrangements for voluntary substitutes and swaps as part of a collective bargaining agreement.

**Reg. 355.130 Inquiries Regarding Applicant Availability**

The duty to accommodate pertains to applicants as well as current employees. Consequently, an employer may not permit an applicant's need for a religious accommodation to affect in any way its decision whether to hire the applicant unless it can demonstrate that it cannot reasonably accommodate the applicant's religious practices without undue hardship.

**SUBPART 360 DISCRIMINATION BASED ON MILITARY DISCHARGE STATUS**

**Reg. 360.100 Determination of Discharge Status**

For purposes of determining whether an individual has been discriminated against on the basis of his/her military discharge status, the Commission must necessarily determine the individual's re-enlistment status in addition to the classification of discharge. The re-enlistment or "RE" code of RE-4 designates for most branches of the armed forces that the individual is barred from re-enlistment in the military. Most persons who receive "dishonorable" discharges have been assigned an RE-4 code; however, some individuals who have been assigned a RE-4 do not have "dishonorable" discharges. Thus, close scrutiny must be employed in examining both re-enlistment status as well as discharge status. Similarly, in instances where an individual has successfully obtained an upgrade in discharge status from a review board, the Commission notes that review boards are not authorized to change the re-enlistment code assigned.

**Reg. 360.110      Exemption for Fiduciary Responsibilities**

An individual who has received an unfavorable discharge from military service may be excluded from a particular job as authorized by federal law or regulation, or when a position of employment involves the exercise of fiduciary responsibilities. The term “fiduciary responsibilities” includes, but is not limited to, situations where the nature of the employment requires that the employee be entrusted with the discretionary safekeeping or disposition of currency, negotiable instruments or other valuable property, without supervision and under circumstances where great trust, confidence and good faith are necessarily attendant.

**SUBPART 365      DISCRIMINATION BASED ON DISABILITY**

**Reg. 365.100      Definitions**

- (a) “Qualified Individual” means a person with a disability who, with or without reasonable accommodation, can perform the essential functions of a particular job.
- (b) “Essential Functions” of a particular job means tasks or activities which are not only incidental to the job in question.

**Reg. 365.110      Discriminatory Acts**

Pursuant to Section 2-160-030 of the HRO, no person shall discriminate directly or indirectly against any qualified individual in hiring, classification, grading, discharge, discipline, compensation or other term or conditions of employment based on that individual’s disability. Violations of the HRO under this regulation include, but are not limited to:

- (a) rejecting a qualified individual for a reason unrelated to that individual’s ability to perform, including, without limitation, the preference of co-workers, clients and customers; the expense of providing fringe benefits, including insurance; and potential claims for workers compensation;
- (b) rejecting a qualified individual because of that individual’s inability to perform tasks or to engage in activities which are only incidental to the job in question;
- (c) denying employment due to the need to make reasonable accommodations or not making reasonable accommodations for the known disability of a qualified individual, unless the employer can show that such accommodations will impose an undue hardship;
- (d) limiting, segregating, or classifying a job applicant or employee because of his or her disability in a way that adversely affects the opportunities or status of such applicant or employee;
- (e) participating in a contractual or other relationship with an employment agency, labor organization, or organization providing fringe benefits or training and apprenticeship programs, which has the effect of discriminating against qualified individuals;
- (f) utilizing standards, criteria or methods of administration which have the effect of discriminating on the basis of disability;
- (g) using employment tests or other selection criteria that discriminate against persons with disabilities, unless the employer shows that the test or other criteria is related to the essential functions of the particular position and is necessary for the operation of the entity in question; and
- (f) failing to select and administer tests concerning employment in such a way as to ensure that the test results accurately reflect the skills or aptitude of the person with a disability that the test purports to measure and not the impaired sensory, manual or speaking skills of the applicant.

**Reg. 365.120     Danger to Health or Safety**

Rejecting a person with a disability is not a violation of the HRO if the employer can show with objective evidence that employment of the person with the disability in the particular position would be demonstrably hazardous to the health or safety of that person or others, or that such employment would result in behavior or production below acceptable standards applied to all other employees.

**Reg. 365.130     Reasonable Accommodation**

(a)     Reasonable Accommodation Requirement

Employers must reasonably accommodate the known physical or mental disabilities of a qualified individual who is an applicant or employee unless such employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business entity. Unless the employer knows that the qualified individual or applicant has a disability requiring accommodation (because it is apparent, for example), the individual or applicant must initiate a request to the employer for accommodation.

(b)     Definition of Reasonable Accommodation

"Reasonable Accommodation," for purposes of Part 300, means a modification which allows a qualified individual to fulfill the essential functions of the job. Examples of reasonable accommodation include, but are not limited to: alteration of the facility or work site; job restructuring; part-time or modified work schedules; allowing additional unpaid leave to enable the employee to obtain necessary medical treatment; acquisition or modification of furniture, equipment or devices; appropriate adjustment or modifications of examinations, training materials or policies; and the provision of qualified readers or interpreters.

(c)     Exceptions

Among other things, an employer may not be required to:

- (1) make accommodations of a personal nature, e.g., provide eye-glasses or hearing aids;
- (2) hire two full-time employees to perform one job in order to accommodate a person with a disability;
- (3) provide an employee with a disability additional *paid* leave;
- (4) "bump" an incumbent employee from a position to create a vacancy in order to accommodate a person with a disability; and
- (5) make any accommodations which would violate the provisions of an existing collective bargaining agreement.

**Reg. 365.140     Undue Hardship**

For the purposes of Part 300, "undue hardship" will be proven if the financial costs or administrative changes that are demonstrably attributable to the accommodation of the needs of persons with disabilities would be prohibitively expensive or would unduly affect the ordinary course of the business.

(a) There must be objective evidence of financial costs, administrative changes, or projected costs or changes which would result from accommodating the needs of persons with disabilities;

(b) Factors to be considered in determining whether an accommodation would impose an undue hardship, include, but are not limited to:

- (1) the overall size of the employer (as measured by number of employees, facilities or budget);
- (2) the nature and cost of the accommodation;
- (3) the overall financial resources of the employer, including the resources of any parent

organization;

(4) the effect on expenses and resources, or other impact of such accommodation upon the operation of the employer; and

(5) the potential benefits, including facilitating access by other employees, applicants, clients and customers with disabilities.

**Reg. 365.150 Pre-Employment Inquiries and Examinations**

(a) An employer may inquire of applicants for employment or referral or admission to an apprenticeship or other training program whether or not an applicant has the ability to perform the essential functions of the job.

(b) An employer may require an applicant with a disability who has been found otherwise qualified to submit to pre-employment physical or psychological examinations after an offer of employment has been made if:

(1) all entering employees for such position are subjected to such an examination regardless of disability;

(2) the results are available to the applicant and used in accordance with the HRO; and

(3) information obtained regarding the medical condition or history of the applicant is maintained in a separate, confidential file and only disclosed to supervisors who may need the information to arrange reasonable accommodations and to safety or first aid personnel if the disability might require emergency treatment.

**Reg. 365.160 Employment Inquiries and Examinations**

An employer may not require an employee to submit to a medical examination, and may not make inquiries of an employee as to whether such employee has a disability or about the nature and severity of the disability unless such examination or inquiry is shown to be directly related to the employee's ability to perform the essential functions of the particular job, or unless the inquiries are made in an effort to determine the type and extent of the reasonable accommodation necessary once the employee has notified the employer of the need for reasonable accommodations.

**Reg. 365.170 Standards**

For purposes of Part 300, whenever physical accommodations are required to be made pursuant to the Chicago Human Rights Ordinance to fully or reasonably accommodate a person with a disability, and where the Illinois Environmental Barriers Act, 410 ILCS 25/1, is also applicable, such changes shall be made in accordance with the Illinois Accessibility Code, 71 Illinois Administrative Code, Ch. 1, subchapter b: Accessibility Standards ("IAC Standards"). With respect to all other physical accommodations required to be made pursuant to the Chicago Human Rights Ordinance to fully or reasonably accommodate a person with a disability, the Commission shall refer to the Illinois Accessibility Code and the American National Standards Institute standards for persons with disabilities, ANSI.1-1986, to determine whether the proposed accommodation is adequate and appropriate. Copies of the IAC Standards may be obtained from the Mayor's Office for People with Disabilities, City Hall, 121 North LaSalle Street. Copies of the ANSI standards may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

Notwithstanding the above, the Commission does not adopt the Illinois Environmental Barriers Act, or any other substantive law for purposes of determining whether there has been a violation of the Human Rights Ordinance. However, the Commission does look to the Illinois Accessibility Code and the American National Standards Institute standards, as set forth above, to determine whether the proposed accommodations are adequate and appropriate.

## **SUBPART 370    EXEMPTIONS**

Where an exemption is granted in the HRO or these Regulations permitting discrimination based on a person's membership in a particular Protected Class (see Reg. 100(24) above), that exemption shall not be read to allow discrimination based on a person's membership in a Protected Class.

# PART 400 HOUSING DISCRIMINATION

## SUBPART 410 DEFINITIONS

- (1) **"Appraisal"** means an estimate or opinion of the value of specified residential real estate made in a business context in connection with the sale, rental, financing or refinancing of a dwelling or in connection with any activity that otherwise affects the availability of a residential real estate-related transaction, whether the appraisal is oral or written, or transmitted formally or informally. The appraisal includes all written comments and other documents submitted as support for the estimate or opinion of value.
- (2) **"Broker"** means any person, other than a real estate salesperson, who for another and for compensation:
  - (a) Sells, exchanges, purchases, rents or leases real estate;
  - (b) Offers to sell, exchange, purchase, rent or lease real estate;
  - (c) Negotiates, offers, attempts or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
  - (d) Lists, offers, attempts or agrees to list real estate for sale, lease or exchange;
  - (e) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;
  - (f) Collects, offers, attempts or agrees to collect rent for the use of real estate;
  - (g) Advertises or represents himself or herself as being engaged in the business of buying, selling, exchanging, renting or leasing real estate;
  - (h) Assists or directs in procuring prospects, intended to result in the sale, exchange, lease or rental of real estate; and/or
  - (i) Assists or directs in the negotiation of any transaction intended to result in the sale, exchange, leasing or rental of real estate.
- (3) **"Dwelling"** means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more persons, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof. "Dwelling" includes, but is not limited to, apartments, houses, mobile home parks, trailer courts, condominiums, cooperatives, dormitories, shelters and time sharing properties.
- (4) **"Real estate-related transaction"** means:
  - (a) the making or purchasing of loans or providing other financial assistance:
    - (i) for purchasing, constructing, improving, repairing or maintaining a dwelling; or
    - (ii) which are secured by residential real estate; or
  - (b) the selling, brokering or appraising of residential real property.
- (5) **"Salesperson"** means any person, other than a real estate broker, who is employed by a real estate broker or is associated by written agreement with a real estate broker as an independent contractor and participates in any activity described in the definition of "broker" set forth above.
- (6) **"Sexual harassment,"** for purposes of Part 400 of these regulations, means any unwelcome sexual advances or requests for sexual favors or conduct of a sexual nature when (a) submission to such

conduct is made either explicitly or implicitly a term or condition of an individual's housing; or (b) submission to or rejection of such conduct by an individual is used as the basis for any housing decision affecting the individual; or (c) such conduct has the purpose or effect of substantially interfering with an individual's housing rights or creating an intimidating, hostile or offensive housing environment.

- (7) "Tenant" means a person entitled to occupy a dwelling to the exclusion of others by written or oral agreement, by sub-tenancy approved by the landlord, or by sufferance.

## **SUBPART 420 DISCRIMINATORY ACTS**

### **Reg. 420.100 Terms and Conditions**

It is a violation of the Chicago Fair Housing Ordinance (FHO) to impose different prices, terms or conditions relating to the sale, rental or occupancy of a dwelling or to deny or limit services, privileges or facilities in connection with the sale, rental or occupancy of a dwelling because of the membership of the actual or prospective buyer renter, or tenant in one of the Protected Classes (see Reg. 100(24) above).

Prohibited actions under Chicago Muni. Code § 5-8-030(A) include, but are not limited to:

- (a) Using different provisions in leases or contracts of sale, or in terms and conditions of occupancy including, but not limited to those relating to rental charges, sales price, security deposits, the terms of occupancy, down payments and closing requirements, based on a person's membership in a Protected Class;
- (b) Failing to perform, delaying performance of, or otherwise discriminating in the maintenance or repairs of a person's dwelling based on that person's membership in a Protected Class;
- (c) Failing to process a person's offer for the sale, purchase or rental of a dwelling or failing to communicate an offer accurately based on that person's membership in a Protected Class;
- (d) Limiting the availability of privileges, services or facilities associated with a dwelling because of a person's membership in a Protected Class;
- (e) Using different qualification criteria or applications, or different sale or rental standards or procedures, such as income standards, application requirements, application fees, credit analysis or sale or rental approval procedures or other requirements, because of a person's membership in a Protected Class;
- (f) Denying or limiting a person's services or facilities in connection with the sale, rental or occupancy of a dwelling because that person failed or refused to provide sexual favors, see Reg. 420.170 below;
- (g) Discriminating against a person in connection with a real estate-related transaction because of that person's membership in a Protected Class;
- (h) Discharging or taking other adverse action against an employee, agent, broker or salesperson because he or she refused to participate in a discriminatory housing practice;
- (i) Employing codes or other devices to segregate or reject a person because of his or her membership in a Protected Class;
- (j) Refusing to deal with certain brokers or salespersons because they, or one or more of their clients, are members of a Protected Class; and
- (k) Denying or delaying the processing of a sales offer or an application made by a person or refusing to approve a person for purchase of or occupancy in a dwelling because of that person's membership in Protected Class.

**Reg. 420.105     Pre-Rental or Pre-Sale Inquiries**

Any inquiry in connection with a prospective rental or sale which directly or indirectly expresses any limitation, specification or discrimination as to membership in a Protected Class (see Reg. 100(24) above) shall be deemed a Violation of the FHO unless based upon a *bona fide* business reason.

**Reg. 420.110     Steering**

Prohibited actions under Chicago Muni. Code § 5-8-30(A) , which are generally referred to as “steering practices,” include, but are not limited to:

- (a) Discouraging or encouraging the inspection, purchase or rental of a dwelling in a community, neighborhood or development because of a person’s membership in a Protected Class (see Reg. 100(24) above) or because of the membership in a Protected Class of persons in the community, neighborhood or development;
- (b) Discouraging the purchase or rental of a dwelling based on a person’s membership in a Protected Class (see Reg. 100(24) above) by exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or of a community, neighborhood, or development;
- (c) Communicating to any person that he or she would not be comfortable or compatible with existing residents of a community, neighborhood or development based on the person’s or residents’ membership in a Protected Class (see Reg. 100(24) above); and
- (d) Assigning or directing any person to a particular section of a community, neighborhood or development, or to a particular floor of a building, based on that person’s or the residents’ membership in a Protected Class (see Reg. 100(24) above).

**Reg. 420.120     Circulation of Discriminatory Communications**

It is a violation of the FHO to cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling which indicates any actual or intended preference, limitation or discrimination because of a person’s membership in a Protected Class (see Reg. 100(24) above).

- (a) This prohibition shall apply to all written or oral notices, statements or advertisements by any owner, lessee, sublessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent, lease or sublease any housing accommodation or any agent of these. Written notice, statements and advertisements include, but are not limited to, any applications, fliers, brochures, deeds, signs, banners, posters, billboards, or advertisements in newspapers or elsewhere, or other documents.
- (b) Discriminatory notices, statements and advertisements include, but are not limited to, the following:
  - (1) Using words, phrases, photographs, illustrations, symbols or forms which would convey or suggest to a reasonable person any preference, limitation or discrimination regarding the availability of a dwelling based on membership in a Protected Class (see Reg. 100(24) above);
  - (2) Expressing to persons such as brokers, salespersons, employees, prospective sellers or renters any preference, limitation or discrimination regarding any person because of that person’s membership in a Protected Class (see Reg. 100(24) above);
  - (3) Selecting media or locations for advertising the sale or rental of dwellings so as to intentionally deny particular segments of the housing market information about housing opportunities because of a Protected Class (see Reg. 100(24) above); and
  - (4) Refusing to publish advertising for the sale or rental of dwellings or requiring different charges or terms for such advertising because of a Protected Class (see Reg. 100(24) above).

**Reg. 420.130 Refusal to Sell, Lease or Rent**

It is a violation of the FHO for a person to refuse to sell, rent or lease a dwelling to a person or to refuse to negotiate with a person for the sale, rental or leasing of a dwelling because of that person's membership in a Protected Class (see Reg. 100(24) above). Such prohibited actions include, but are not limited to:

- (a) Failing to accept or consider a person's offer because of that person's membership in a Protected Class;
- (b) Failing to sell, rent or lease a dwelling to, or failing to negotiate for the sale, rental or leasing of a dwelling with any person because of the person's membership in a Protected Class;
- (c) Evicting a person because of his or her membership in a Protected Class;
- (d) Indicating to a person through words or conduct that a dwelling which is actually available for inspection, sale, or rental has been sold or rented (or is otherwise unavailable) because of the person's membership in a Protected Class;
- (e) Representing to a person that a legally unenforceable covenant or other deed, trust or lease provision which purports to restrict the sale or rental of dwellings because of the person's membership in a Protected Class does preclude the sale or rental of a dwelling to a person;
- (f) Complying with legally unenforceable covenants, deeds, trusts, or lease provisions which preclude the sale or rental of a dwelling to any person because of the person's membership in a Protected Class;
- (g) Limiting information to a person by word or conduct regarding suitably priced dwellings available for inspection, sale or rental because of the person's membership in a Protected Class; and
- (h) Providing false or inaccurate information regarding the availability of a dwelling for sale or rental to any person because of the person's membership in a Protected Class.

**Reg. 420.140 Discrimination in Financing**

(a) It is a violation of the FHO or the HRO for any person to discriminate concerning any residential real estate-related transactions because of the person's membership in a Protected Class (see Reg. 100(24) above).

(b) Prohibited practices under this regulation include, but are not limited to, failing or refusing to provide to any person, in connection with a residential real estate-related transaction, full information regarding the availability of loans or other financial assistance, application requirements, procedures or standards for the review and approval of loans or financial assistance, or providing information which is inaccurate or different from that provided others because of the person's membership in a Protected Class (see Reg. 100(24) above).

(c) It is an Ordinance Violation for any person engaged in the making of loans or in the provision of appraisals or other financial assistance relating to the purchase, construction, improvement, repair or maintenance of dwellings or which are secured by residential real estate to impose different terms or conditions for the availability of such loans or other financial assistance or to discriminate in the provision of an appraisal because of a person's membership in a Protected Class (see Reg. 100(24) above). Examples include, but are not limited to:

- (1) Using different policies, practices or procedures in evaluating or determining credit-worthiness of any person in connection with the provision of any loan or other financial assistance for a dwelling or for any loan or other financial assistance which is secured by residential real estate because of a person's membership in a Protected Class;
- (2) Determining the type of loan or other financial assistance to be provided with respect to a dwelling or fixing the amount, interest rate, duration or other terms for a loan or other financial assistance for a dwelling or which is secured by residential real estate because of a person's membership in a Protected Class;

(3) Making an appraisal of residential real property in connection with the sale, rental, or financing of any dwelling which takes into consideration a person's membership in a Protected Class; and

(4) Using an appraisal of residential real property in connection with the sale, rental, or financing of any dwelling where the user knows or reasonably should know that the appraisal takes into consideration a person's membership in a Protected Class.

**Reg. 420.150     Blockbusting/Panic Peddling and Encouragement of Blockbusting/Panic Peddling**

It is a violation of the FHO to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons who are members of a Protected Class (see Reg. 100(24) above). Such prohibited actions include, but are not limited to:

(a) Engaging in conduct, (including uninvited solicitations for listings), which conveys or suggests to a reasonable person that a neighborhood is undergoing or is about to undergo a change in its composition with respect to a Protected Class in order to encourage the person to offer a dwelling for sale or rental; and

(b) Encouraging any person to sell or rent a dwelling through statements or suggestions that the entry or prospective entry of persons who are members of a Protected Class can or will result in undesirable consequences for the community, neighborhood, or development including but not limited to the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities.

**Reg. 420.160     Refusal of Examination of Listings**

It is a violation of the FHO to engage in any of the following conduct:

(a) Refusing to take or to show listings of dwellings in certain areas to a person because of that person's membership in a Protected Class (see Reg. 100(24) above);

(b) Refusing to deal with certain brokers or salespersons because they or one or more of their clients are members of a Protected Class (see Reg. 100(24) above);

(c) Denying or delaying the processing of an application made by a person or refusing to approve a person for sale to or occupancy in a dwelling because of that person's membership in a Protected Class (see Reg. 100(24) above); and

(d) Discharging or taking other adverse action against an employee, broker or salesperson because he or she refused to participate in a discriminatory housing practice.

**Reg. 420.170     Sexual Harassment**

(a) Section 5-08-020 of the FHO prohibits any owner, lessee, sublessee, assignee, managing agent or other person, firm or corporation having the right to sell or rent any dwelling, or any agent of any of these from discriminating against any person because of his or her sex in any of the terms and conditions of housing. This prohibition includes sexual harassment as defined in Reg. 410(6) above.

(b) In addition to the conduct prohibited by (a) and Reg. 410(6) above, it is a violation of the FHO for housing opportunities or benefits to be granted because of an individual's submission to sexual advances or requests for sexual favors with respect to the individual in question as well as other persons who were qualified for but denied these housing opportunities or benefits.

**Reg. 420.175     Harassment (Other than Sexual Harassment)**

(a) Harassment on the basis of actual or perceived membership in a Protected Class (see Reg. 100(24) above) is a violation of the FHO. An owner, lessee, sublessee, assignee, managing agent or other person having the right to sell, rent or lease any dwelling, or any agent of these, has an affirmative duty to maintain a housing environment free of harassment on the basis of membership in a Protected Class.

(b) Slurs and other verbal or physical conduct relating to an individual's membership in a Protected Class (see Reg. 100(24) above) constitutes harassment when the conduct: (i) has the purpose or effect of creating an intimidating, hostile or offensive housing environment; (ii) has the purpose or effect of unreasonably interfering with an individual's housing; or (iii) otherwise adversely affects an individual's housing opportunity.

**Reg. 420.180     Discrimination Against Persons with Disabilities**

It is a violation of the FHO to engage in any of the following conduct:

(a) Using terms which would have the effect of restricting the equal opportunity of people with disabilities to fully use and enjoy the housing in question, unless such terms cannot be eliminated without undue hardship to the owner or landlord. Such discriminatory terms include, but are not limited to, requiring a person with a disability: to have a housing companion in order to lease the premises, to live on the first floor, or to use only the freight elevator.

(b) Refusing to provide, upon request, a reasonable accommodation in the rules, policies, practices, amenities or services, unless such accommodation cannot be made without undue hardship to the owner or landlord. A reasonable accommodation means, but is not limited to, changes in the rules, policies, practices or services which would allow a person with a disability an equal opportunity to fully use and enjoy a particular housing accommodation. Examples of such accommodations include, but are not limited to, allowing persons who use emotional support animals or service animals on the premises despite a "no pets" rule; and changing the common area washing machines from top-loading to front-loading to allow them to be used by a person who happens to use a wheelchair.

(c) Refusing to allow a person with a disability, upon request, to make reasonable physical modifications to an existing dwelling if the proposed modifications would allow the person to have an equal opportunity to fully use and enjoy the dwelling, unless such physical modification cannot be made without undue hardship to the owner or landlord. The following provisions apply to this prohibition:

(1) If the owner or landlord does not agree voluntarily to pay for these changes, the modifications are to be made at the expense of the person with a disability.

(2) The owner or landlord may condition permission for modifications on the person with a disability providing a reasonable description of the proposed modification in advance, and on reasonable assurances that such modifications will be completed in a professional and workmanlike manner, with any necessary building permits, and in accordance with all applicable laws.

(3) Where modifications of a dwelling may impair future use of the dwelling by another person who may or may not have a disability, the tenant may be required to return the dwelling to its original condition at the expiration of the lease term.

(4) Examples of reasonable physical modifications include, but are not limited to: installing grab bars in the bathroom, lowering closet bars, and other physical modifications which would allow a person with a disability full use and enjoyment of the dwelling.

(d) For the purposes of Part 400, "undue hardship" will be proven if the financial costs or administrative changes that are demonstrably attributable to the accommodation of the needs of persons with disabilities would be prohibitively expensive or would unduly affect the nature of the housing.

(1) There must be objective evidence of resulting financial costs, administrative changes, or projected costs or changes.

(2) Factors to be considered in determining undue hardship, include, but are not limited to:

(i) the nature and cost of the accommodation;

(ii) the overall financial resources of the owner or landlord, including resources of any parent organization; and

(iii) the effect on expenses and resources, or other impact of such accommodation upon

the operation of the housing accommodation.

(3) The preference of other persons making use of the housing accommodation does not constitute undue hardship.

#### **Reg. 420.190     Standards**

For purposes of Part 400, whenever physical accommodations are required to be made pursuant to the Chicago Human Rights Ordinance to fully or reasonably accommodate a person with a disability, and where the Illinois Environmental Barriers Act, 410 ILCS 25/1, is also applicable, such changes shall be made in accordance with the Illinois Accessibility Code, 71 Illinois Administrative Code, Ch. 1, subchapter b: Accessibility Standards (“IAC Standards”). With respect to all other physical accommodations required to be made pursuant to the Chicago Human Rights Ordinance to fully or reasonably accommodate a person with a disability, the Commission shall refer to the Illinois Accessibility Code and the American National Standards Institute standards for persons with disabilities, ANSI.1-1986, to determine whether the proposed accommodation is adequate and appropriate. Copies of the IAC Standards may be obtained from the Mayor’s Office for People With Disabilities, City Hall, 121 North LaSalle Street. Copies of the ANSI Standards may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

Notwithstanding the above, the Commission does not adopt the Illinois Environmental Barriers Act, or any other substantive law, for purposes of determining whether there has been a violation of the Human Rights Ordinance. However, the Commission does look to the Illinois Accessibility Code and the American National Standards Institute standards, as set forth above, to determine whether the proposed accommodations are adequate and appropriate.

### **SUBPART 430     EXEMPTIONS**

Where an exemption is granted in the FHO or these Regulations permitting discrimination based on a person’s membership in a Protected Class (see Reg. 100(26) above), that exemption shall not be read to allow discrimination based on a person’s membership in any of the other Protected Classes. For example, Section 5-08-050(C) of the FHO permits restricting rental of rooms to persons of one sex. This exemption shall not be read, for example, to allow restricting rental of rooms to persons of one race.

# **PART 500      DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION**

## **SUBPART 510      DEFINITION OF A PUBLIC ACCOMMODATION**

### **Reg. 510.100      Interpretation of Ordinance**

The Commission shall interpret the definition of public accommodation so as to facilitate the full integration of the classes of people protected by the Chicago Human Rights Ordinance (HRO), Municipal Code of Chicago Ch. 2-160 (1990), into public life.

### **Reg. 510.110      Examples of Public Accommodations**

Examples of public accommodations include, but are not limited to the following to the extent that they are open to the general public:

- (a) day care and senior citizens centers, shelters, legal services agencies, and other social service agencies;
- (b) transportation facilities,;
- (c) inns, motels and hotels;
- (d) restaurants, bars or other establishments serving food or drink;
- (e) drugstores, barber shops, laundromats, banks, gas stations, law or accounting offices, funeral parlors, or other establishments offering services;
- (f) grocery stores, shopping centers, clothing stores, or other retail sales establishments;
- (g) public and private schools (pre-schools, grammar schools, secondary schools, preparatory schools, vocational schools, universities);
- (h) museums, libraries, galleries and other similar places of public collection or display;
- (i) office buildings, parking structures and lots;
- (j) parks and zoos;
- (k) hospitals and clinics;
- (l) theaters, concert halls, ballparks, stadiums, or other places of entertainment or exhibit;
- (m) churches, synagogues or any other places of worship;
- (n) gymnasiums, health clubs, bowling alleys, and other places of recreation; and
- (o) a place, business establishment or agency that sells, leases, provides or offers any product, facility or service to the general public.

## **SUBPART 520      DISCRIMINATORY ACTS**

### **Reg. 520.100      Prohibition of Discriminatory Conduct**

- (a) Pursuant to Section 2-160-070 of the HRO, no person that owns, leases, rents, operates, manages or in any manner controls a public accommodation shall withhold, deny, curtail, limit or discriminate concerning the full use of the public accommodation to any person due to that person's membership in a Protected Class (see Reg. 100(24) above). Discriminatory acts include, but are not limited to: denying admittance to persons in a Protected Class; using different terms for admittance of persons in a Protected

Class; harassing persons in a Protected Class (whether or not allowed admittance); and failing to accommodate the needs of a person with a disability (see Reg. 520.105 below).

(b) It is not a violation of the HRO for a medical, dental, or other health care professional, a private professional service provider such as a lawyer, accountant, or insurance agent, or a business to refer or refuse to treat or provide services or to provide services in an alternative manner to an individual in a protected class for any non-discriminatory reason if, in the normal course of his or her operations or business, the professional would for the same reason refer or refuse to treat or provide services or would provide services in an alternative manner to an individual who is not in the protected class of the individual who seeks or requires the same or similar treatment or services. Respondents who seek to use this defense to a charge of discrimination have the burden of proving this defense.

(c) Jurisdiction limited. In regard to places of public accommodation defined in CCHR Reg. 510.110(a)(7), the jurisdiction of the Commission is limited to: (1) the failure to enroll an individual; (2) the denial of access to facilities, goods, or services; and (3) severe or pervasive harassment of an individual when the covered entity fails to take corrective action to stop the severe or pervasive harassment.

#### **Reg. 520.120 Sexual Harassment**

Section 2-160-070 of the HRO prohibits any person who owns, leases, rents, operates, manages or in any manner controls a public accommodation from discriminating against any person because of his or her sex. This prohibition includes sexual harassment. For purposes of Part 500 of these Regulations, “sexual harassment” means any unwelcome sexual advances or requests for sexual favors or conduct of a sexual nature when (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s full use of the public accommodation; or (b) submission to or rejection of such conduct by an individual is used as the basis for any decision of the public accommodation; or (c) such conduct has the purpose or effect of substantially interfering with an individual’s full use of the public accommodation or which creates an intimidating, hostile or offensive housing environment.

#### **Reg. 520.130 Harassment (Other than Sexual Harassment)**

(a) Harassment on the basis of actual or perceived membership in a Protected Class (see Reg. 100(24) above) is a violation of the HRO. Any person who owns, leases, rents, operates, manages or in any manner controls a public accommodation has an affirmative duty to maintain a public accommodation environment free of harassment on the basis of membership in a Protected Class.

(b) Slurs and other verbal or physical conduct relating to an individual’s membership in a Protected Class (see Reg. 100(24) above) constitutes harassment when the conduct: (i) has the purpose or effect of creating an intimidating, hostile or offensive environment; (ii) has the purpose or effect of unreasonably interfering with an individual’s full use of the public accommodation; or (iii) otherwise adversely affects an individual’s full use of the public accommodation.

### **SUBPART 530 DISABILITY DISCRIMINATION IN GOVERNMENTAL ENTITIES OPEN TO THE PUBLIC**

#### **Reg. 530.100 Prohibition of Discriminatory Conduct**

Pursuant to Section 2-160- 070 of the HRO, no person that operates, manages or in any manner controls a governmental entity open to the general public shall withhold, deny, curtail, limit or discriminate concerning the full and equal enjoyment of the governmental entity to any person due to that person’s disability. Discriminatory acts include, but are not limited to, denying admittance to persons with disabilities, using different terms for admittance of persons with disabilities, and harassing person with disabilities (whether or not allowed admittance).

#### **Reg.530.105 Accommodation of Persons with Disabilities**

No person who operates, manages or in any manner controls a governmental entity shall fail to fully accommodate a person with a disability unless such person can prove that the facilities or services cannot

be made fully accessible without undue hardship. In such a case, an operator, manager or other person in control must reasonably accommodate persons with disabilities unless such person in control can prove that he or she cannot reasonably accommodate the person with a disability without undue hardship.

**Reg. 530.110      Definition of “Full Use”**

“Full use” of a governmental entity means that all parts of the premises open for public use shall be available to persons with disabilities at all times and under the same conditions as the premises are available to all other persons, and that the services offered to persons who have disabilities shall be offered under the same terms and conditions as are applied to all other persons.

**Reg. 530.120      Definition of “Reasonable Accommodation”**

“Reasonable Accommodation,” for purposes of Part 530, means, but is not limited to, accommodations (physical changes or changes in rules, policies, practices or procedures) which provide persons with a disability access to the same services, in the same manner as are provided to persons without a disability.

**Reg. 530.130      Definition of “Undue Hardship”**

For the purposes of Part 530, “undue hardship” will be proven if the financial costs or administrative changes that are demonstrably attributable to the accommodation of the needs of persons with disabilities would be prohibitively expensive or would unduly affect the nature of the public accommodation.

- (a) There must be objective evidence of financial costs, administrative changes, or projected costs or changes which would result from accommodating the needs of persons with disabilities.
- (b) Factors to be considered in determining whether an accommodation would impose an undue hardship, include, but are not limited to:
  - (1) the nature and cost of the accommodation;
  - (2) the overall financial resources of the public accommodation, including the resources of any parent organization;
  - (3) the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the public accommodation; and
  - (4) the type of operation or operations of the public accommodation.
- (c) The preference of other persons making use of the public accommodation does not constitute undue hardship.

**SUB PART 530.140   STANDARDS**

For purposes of Part 530, whenever physical accommodations are required to be made pursuant to the Chicago Human Rights Ordinance to fully or reasonably accommodate a person with a disability, such changes shall be made in accordance with the version of the Chicago Building Code, and all standards, codes, and/or requirements referenced therein, in effect at the time of the conduct in question.

**SUB PART 540   EXEMPTIONS**

Where an exemption is granted in the HRO or these Regulations permitting discrimination based on a person’s membership in a Protected Class (see Reg. 100(31) above), that exemption shall not be read to allow discrimination based on a person’s membership in any of the other Protected Classes. For example, Section 2-160-070(d) of the HRO permits an educational institution to restrict enrollment of students to persons of one sex. This exemption shall not be read to allow an educational institution to restrict enrollment to persons of one national origin.

## SUBPART 550 OTHER LAWS

Nothing in the HRO relieves the persons subject thereto of the obligation of complying with any applicable requirement of: Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000 *et seq.*; the Illinois Environmental Barriers Act (410 ILCS 25/1 *et seq.*); the Illinois Human Rights Act (775 ILCS 5/1-101 *et seq.*); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*); the Fair Housing Amendments Act of 1988 (42 U.S.C. § 3601 *et seq.*) as amended; the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*) as amended; or any other applicable law, standard or rule.

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