

**RULES OF PROCEDURE
FOR HEARINGS BEFORE
THE PRINCE GEORGE'S COUNTY HUMAN RELATIONS COMMISSION
(As amended August 22, 2011)**

PREAMBLE

Rules included herein are subordinate to all provisions of the Prince George's County Charter adopted in the General Election of November 3, 1970, ("Charter") the existing Prince George's County Human Relations Commission Ordinance and the Administrative Procedures Act of the State of Maryland, Article 41, Section 244 et. seq.

1. PUBLICATION AND INDEXING OF THE RULES

(a) These Rules and Amendments thereto are promulgated pursuant to Section 2-188 of the Prince George's County Code, and have the approval of the County Executive. Any proposed changes are subject to the approval of the County Executive.

(b) These Rules, and any Rules adopted subsequently, shall be presented in full in a codification, which shall be available from the Commission to the public upon request. The charge, if any, for copies of these Rules shall not exceed the cost of publication and distribution.

2. ADOPTION, AMENDMENT AND REPEAL OF RULES

(a) The Public shall be notified through the County's website and at least three county newspapers of record as defined in Charter, Section 1008, and on a special bulletin board at the Commission office, of any proposed changes to these Rules and the Public shall be afforded an opportunity to comment thereon, prior to final adoption in a public meeting. No Rules shall be adopted, amended or repealed by the Commission without having first been considered at a previously announced public meeting.

(b) Any resident of Prince George's County or any person who may be affected by the Human Relations Commission Act (hereinafter, "the Act"), may petition the Commission requesting the promulgation, amendment or repeal of any Rule. Such petition must be by letter addressed to the Chairperson of the Commission. Upon receipt of such a letter, the Commission shall schedule consideration of the petition within a period of not less than ten (10) business days, and no more than thirty (30) calendar days. Upon a finding by the Commission of sufficient merit, the petition for rule making shall be handled in accordance with the procedure set forth in Sections 1(a) and 2(a). If the proposed change is not accepted for formal action by the Commission, the petitioner shall be informed within ten (10) business days.

3. COMPLAINTS

(a) The Executive Director shall develop a standard form to be utilized in filing all complaints, except in certain cases where dual reporting Federal or State Agencies under contract with the Commission requires use of certain complaint forms.

(b) Any person alleging that he or she has been subjected to a violation of any of the civil rights set forth in the Act may file a complaint with the Commission.

(c) Any member of the staff of the Commission may assist a Complainant in properly filling out the complaint form.

(d) Each complaint must be signed by the charging party unless said party is unable to sign, in which case, his or her designated representative may sign.

4. CONFIDENTIALITY IN INVESTIGATIONS

During the investigation of any complaint alleging a violation of the Act and the Rules promulgated there under, and until said matters reach the stage of public hearings, the activities of all members of the Commission and employees thereof in connection with said investigation shall be conducted with due regard for the privacy of those involved; and all matters shall be treated as confidential. Release of any investigation material by Commissioners or staff is prohibited until the public hearing.

5. REQUISITES FOR FORMAL HEARING

(a) Formal hearings shall be convened in cases in which mediation and/or conciliation has failed and where the Executive Director has, after a thorough investigation, made a written determination that probable cause exists to find that Discrimination has occurred.

(1) Notice of Intent to Certify: Not later than forty-five (45) calendar days after the Executive Director issues the determination that a probable violation has occurred and all attempts at alternative dispute resolution have failed, the Executive Director shall issue a written notice to the Commission Chairperson, the Complainant and the Respondent of an Intent to Certify the matter to the Commission for a Public Hearing. The Notice of Intent to Certify shall indicate that the matter is to be formally heard by the Commission at a Public Hearing and shall set forth the items of probable violation for which supporting evidence exists. The Notice of Intent to Certify shall also inform the Complainant and the Respondent of their respective rights with regard to the compulsory processes of the Commission. The processes include: the filing of a written answer by the Respondent to the complaint prior to the commencement of the formal hearing and a pre-hearing and scheduling conference. The Notice of Intent to Certify shall also require that the parties provide to the Commission the names of any witnesses or specific

material they may wish to have subpoenaed, which shall be submitted to the Clerk of the Commission not less than thirty (30) days prior to the Public Hearing.

(2) Certification to the Commission: The Executive Director shall, within fifteen (15) business days of issuance of a Notice of Intent to Certify, file an action certifying the case to the Commission for a Public Hearing. The Certification shall constitute the Executive Director's charging statement. The Certification shall set out with specificity those actions of the Respondent that the Executive Director considers to be violations of complainants civil rights for which supporting evidence exists that is anticipated to be introduced at the Public Hearing.

(3) Neither the Notice of Intent to Certify nor the Certification itself shall include any charge of probable violation that the Executive Director, Complainant, or Complainant's counsel are not prepared to support with relevant evidence.

(b) At the first Commission meeting following issuance of a Notice of Intent to Certify as specified in Section 5(a), the Executive Director shall bring the case to the attention of the Commission by adding it to the Regular Meeting Agenda for action. The Commissioners shall receive a copy of the complaint, any written responses or answers to the Complaint by the Respondent, a copy of any Findings of Fact and Conclusions of Law or other determinations prepared by the Executive Director, the name and address of the Complainant and Respondent, the names of the proposed witnesses, and the description of any material for which subpoenas are expected to be required. The case file shall not be made available to any of the Commission members.

(c) Once the Executive Director Certifies a case to the Commissioner for Public Hearing in accordance with 5(a)(2) above, the Commission Chairperson shall assign the case to the appropriate Hearing Panel of Commissioners for a Public Hearing. After consultation with the Panel Chairperson, the Commission Chairperson shall cause a written notice of Public Hearing to be issued and served on the Respondent, with a copy of the complaint, together with the facts, findings, and conclusions of the Executive Director, and requiring the Respondent to appear to answer the charges of a probable violation at a public hearing at such time and place as the Commissioners and the parties may agree, or as may be stated in the notice.

(d) The Respondent shall appear at the hearing in person and may be represented by counsel. Respondent may submit testimony, present witnesses, examine and cross-examine witnesses, and if not previously provided, shall be permitted to file a written answer to the complaint to be received at least thirty (30) calendar days prior to the commencement of the Public Hearing.

(e) Hearing dates shall be, to the extent practicable, mutually agreed to by all parties including the Hearing Panel and Commission Staff, however the Hearing Panel Chairperson shall have ultimate discretion in the setting of hearing dates. Continuances of hearing dates

mutually agreed to by the parties and the Commission Staff and Panels shall not be allowed, except in cases of emergency, death or disability of the Complainant or Respondent, in which case proper proof of such incapacity shall be provided to the Hearing Panel Chair at least five (5) business days in advance of any hearing.

6. PRE-HEARING CONFERENCE

If the Hearing Panel Chair determines that a pre-hearing conference is in the interest of justice and may expedite the hearing or other disposition of the case, the Hearing Panel Chairperson may on its own accord direct that the matter be set in for a pre-hearing conference.

7. SUBPOENA

(a) The power to issue subpoenas shall be by majority vote of the full Commission. Response to a Commission subpoena shall be within a specified time. The Commission shall consider any reasonable request for an extension of time to respond to the Commission's subpoena.

(b) The Hearing Panel may direct that books, papers, documents or other tangible things designated in the subpoena be provided to the Hearing Panel, at or prior to the time when they are to be offered into evidence. Upon their production, the Hearing Panel may permit them to be inspected by the parties.

8. REQUIREMENTS OF A QUORUM

A simple majority of those Commissioners currently serving shall constitute a quorum of the full Commission. No less than two (2) members shall constitute a quorum of a hearing panel. No decision of the Commission or of any panel shall be made without a quorum present.

9. THE RULES OF EVIDENCE IN FORMAL HEARINGS

(a) The Commission shall receive and consider all relevant evidence, witnesses, and documentary evidence or tangible items. The introduction of evidence shall be at the discretion of the Hearing Panels using the Maryland Rules of Evidence as a guide only. The Commission may, in its discretion, give probative value to evidence customarily inadmissible in a court of law.

(b) All evidence including sworn testimony, signed statements, records and documents offered and received by the Commission in any case, shall be made a part of the record in that case. Documentary evidence may be received in the form of copies, excerpts or incorporated by reference.

(c) Exhibits, as appropriate, will be received and considered by the Commission. Three (3) copies of each exhibit shall be furnished to a Hearing Panel

The Hearing Panel shall mark all exhibits for identification. Pre-marked exhibits, while helpful, may or may not be accepted into evidence as pre-marked, within the discretion of the Hearing Panel.

10. HEARING PROCEDURES

Hearings shall be chaired by a presiding Commissioner. Testimony taken at all formal hearings shall be under oath. All proceedings shall be recorded and a transcript prepared. The hearings will be guided by, but not limited to, the following procedures:

(a) The case in support of the complaint that a violation of the County, State or Federal anti-discrimination laws has occurred shall be presented at the hearing by the Executive Director or designee, beginning with a brief opening statement.

(b) The Respondent, or Respondent's representative, shall be allowed to make a brief opening statement.

(c) The Executive Director or designee shall have the opportunity to present its case in chief, including calling the Complainant as a witness.

(d) The Respondent, or Respondent's representative, shall have the opportunity to cross-examine witnesses, including calling the Complainant as a witness.

(e) The Respondent, or Respondent's representative shall have the opportunity to present its case in chief.

(f) The Executive Director or designee shall have the opportunity to cross-examine witnesses.

(g) The Executive Director or designee shall be allowed to the opportunity to make a brief closing statement.

(h) The Respondent, or Respondent's representative, shall be allowed the opportunity to make a brief closing statement.

(i) The Executive Director or designee shall be allowed to the opportunity to make a rebuttal statement.

(j) At any point in the proceeding, any member of the Panel may question any witness testifying, including the Complainant, after being recognized by the presiding Commission for that purpose.

(k) After all evidence has been presented by the parties and each has rested their case, the hearing shall be closed for the taking of additional evidence, unless a party requests prior to the close of record that the record remain open for the taking of additional documentary evidence

only. The grant of any requests to keep the record open, shall be in the sole discretion of the Chair of the Hearing Panel. The party submitting post-hearing evidence shall have twenty (20) calendar days within which to file any additional documentary evidence. The non-submitting party or responding party, shall have five (5) calendar days to note any objections to the material submitted. But, in no case shall the record remain open more than thirty (30) calendar days from the date of the Hearing. Post-hearing briefs are not required and are discouraged.

(l) If a party, without just cause, fails to appear at the time and place set by the Hearing Panel, or otherwise attempts to delay or frustrate the Commission's proceedings, the Hearing Panel may proceed ex parte.

11. FINDINGS, CONCLUSIONS AND RECOMMENDATIONS OF THE HEARING PANELS

(a) The Hearing Commissioners shall deliberate and reach their decisions in executive sessions. All decisions of the Hearing Panel shall be by majority vote of the Commissioners present and participating in the hearing. Members of the Panel who disagree with the majority decision or the reasons therefore, may file a minority report. The majority and/or minority reports shall be presented by Commissioners supportive of the respective viewpoints. No member of the Panel may vote unless they were present at the hearing.

(b) The Panel report, and minority report if any, from a Hearing Panel shall be in writing and shall be accompanied by Findings of Fact, a statement setting forth the language of the wrongful practices, as that term is defined in Section 2-186(17) of the Prince George's County Code, and the category of discrimination set forth in Section 2-186(3) of the Prince George's County Code applicable to the facts, and Conclusions of Law based on the application of the law to facts found by the Panel. Copies of the Panel's Ruling, including any minority report, shall be delivered or mailed to each member of the Commission within fifteen (15) business days after a decision has been rendered.

12. COMMISSION ACTION ON HEARINGS

The Commission shall receive and study all Rulings of each Hearing Panel and shall, within twenty (20) business days of receipt of a Ruling issue an Order adopting the Ruling or setting the matter in for a Hearing before the full Commission. Said Order shall be decided by majority vote of the full Commission. The Order adopting the Ruling or scheduling a Hearing in the matter, shall be sent to all parties, by certified mail within ten (10) business days of the date of issuance of the Order, and if a Hearing is to be held the Order shall state the reasons therefore along with appeal rights. Personal service, acknowledged in writing, may suffice in lieu of certified mail.

13. REQUEST FOR REVIEW OF COMMISSION'S ORDER

(a) Only substantial new evidence or substantial error may constitute a basis for review of a Commission Order.

(b) The request for review must be submitted in writing to the Chairperson at the Commission's office within ten (10) business days of the date of the Commission Order. The request must contain:

- (1) The name, address, and phone number of the party requesting the review.
- (2) A statement of the basis of the requested review including as may be appropriate:
 - a. Any new evidence which may have been discovered since the hearing, or
 - b. The specifics of the claimed substantial error.
- (3) Any written argument the party requesting the review wishes to submit, which must be germane to the requested review.
- (4) A signed Certificate of Service certifying that the Request for Review filed with the Commission has been served on all parties of record.

(c) At the Commission meeting immediately following the receipt of the Request for Review, the Commission shall review the Request to determine whether the Request for Review has merit. The Commission may at that time:

- (1) Grant or deny the request for review in whole or in part; or
- (2) Schedule a complete or partial rehearing before the full Commission on any issues it deems necessary in order to arrive at a complete and just decision.

14. COMMISSION RE-HEARING

In the event the Commission decides to hold a re-hearing before the full Commission, a date shall be set by the Chairperson for the re-hearing. The Hearing Procedures set forth in Section 10 of these Rules shall apply.

15. DUTIES OF COUNSEL TO THE COMMISSION

Counsel to the Commission shall act in an advisory capacity only. Counsel to the Commission shall not be the agent for the Commission.

16. ENFORCEMENT OF COMMISSION ORDERS

(a) A periodic review of the status of compliance of each Commission Order, whether resulting from a Public Hearing or a Conciliation/Mediation Procedure, shall be made by the Executive Director of the Commission. Failure of a party to a Commission Order to comply with such Order may constitute cause for the Commission to seek a Court Order under provisions of Division 12, Section 2-197 of the County Code.

(b) Compliance reviews shall be conducted by the Executive Director at intervals of not more than six (6) months, or less than three (3) months, except as provided in (d). The period of continuing reviews shall not exceed two (2) years from the date of the first review, which results in a report certifying compliance with the Commission Order.

(c) If in the judgment of the Executive Director a review indicates full compliance, or a good faith effort to comply, he shall so certify to the Commission, and schedule the case for continued routine review.

(d) If in judgment of the Executive Director a review indicates less than full compliance, and/or absence of a good faith effort to comply, he shall immediately notify those persons subject to the Commission Order, in writing, of the specific areas or items of non-compliance. The Executive Director shall also immediately arrange for a personal interview with the persons who have failed to comply, or conduct another staff review within thirty (30) calendar days of the date of the written notice. If these efforts result in compliance, the case shall then revert to routine scheduling as set forth in (b) above.

(e) Should the efforts of the Executive Director, as set forth in (d) above, to obtain compliance with the Commission Order fail, the Executive Director shall, within ten (10) business days of a determination of such non-compliance, refer the case to the Commission Chairperson for action. The referral shall include a summary of all staff efforts to obtain compliance, specific identification of those sections of the Commission Order with which the person(s) or entity(ies) have failed to comply, and all other relevant information.

(f) On receipt of a non-compliance case referral, the Commission Chairperson shall review the file and take one of the following actions:

(1) Return the case file to the Executive Director with instructions for further effort to obtain compliance, or to provide additional information and provide a report to the Commission within thirty (30) calendar days; or

(2) Accept the case for Commission consideration for further action.

(g) When the Commission Chairperson accepts a non-compliance referral, the case shall be scheduled for Commission consideration at the next Commission meeting. The Chairperson shall notify those that are considered by the Executive Director to be in non-compliance and afford them the opportunity to be heard at a date and time to be set by the Commission. The alleged non-compliant person or entity, may submit a written statement and supporting documentation in lieu of their appearance.

(h) The Commission shall consider all available information regarding the alleged non-compliance. The Commission, after considering of all available information, and after due deliberation, shall by majority vote determine whether:

(1) There is sufficient evidence to warrant initiating a suit in equity in the Circuit Court to enforce the Commission Order.

(2) The allegation of non-compliance has not been sustained.

(3) The alleged non-compliance is sustained, and knowingly, willfully or repeatedly done. As used in this section, non-compliance shall be deemed "repeated" if the person alleged to not be in compliance with a Commission Order had received previous notice of non-compliance in relation to the Commission Order which is the subject of the proceedings, or has been the subject of a substantially similar Commission Order wherein that person was found to be in violation of Division 12 of the County Code.

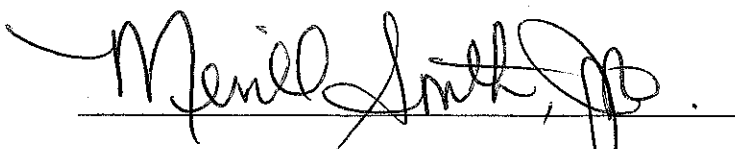
(4) The alleged non-compliance is sustained, but is not knowing, willful or repeated and is not of such a serious nature to justify a suit in equity at the time of the proceedings, but further specified efforts to obtain full compliance should be pursued.

(i) The Commission Chairperson shall notify, in writing, all of the parties to the case, of the Commission decision. The Chairperson shall direct the Executive Director to implement the Commission's decision as may be appropriate by:

(a) Initiating a request to the County Attorney to seek a Circuit Court Enforcement Order or Injunction; or

(b) with further instructions.

Amended by 2/3 Majority of the Human Relations Commission at the regular Commission Meeting on August 22, 2011.

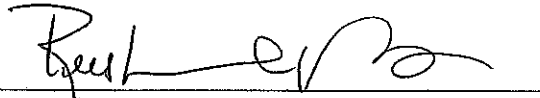


Attest: Commissioner Merrill Smith, Jr., Acting Commission Chair



Attest: Commissioner Nichele Vaughan, Acting Commission Secretary

APPROVED this 6th day of September, 2011

By: 

RUSHERN L. BAKER, III, County Executive
Prince George's County, Maryland