

Rules of the Equal Opportunities Commission
March 27, 2009

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1. Procedural Rules

1.1 Commission Officers

- 1.11 The Commission at its first regular meeting in June of each year shall elect a President, Vice President and a Secretary. A nominating committee will be appointed in May, which will present a proposed slate of officers in June. These duly elected officers plus two EOC members elected at large shall constitute the Executive Committee to conduct Commission business between regular meetings.
- 1.12 The Commission may designate two additional members to serve as alternates for the Executive Committee. In the absence of an Executive Committee member, an alternate may substitute and vote in place of said Executive Committee member at any properly convened meeting of the Executive Committee.
- 1.13 The President shall preside over all meetings of the Commission and shall decide all points of procedure subject to reversal by a majority of the members of the Commission.
- 1.14 The Executive Assistant shall promptly prepare minutes of all meetings and shall mail a copy to each member of the Commission. The original copy of the minutes shall remain in the Equal Opportunities Commission office as part of the permanent records of the Commission. In the absence of the Executive Assistant, the Commission shall appoint one of its members or staff to promptly prepare the minutes.

1.2 Powers and Duties

The powers and duties of the Commission shall be those set forth in Sec. 39.03 (10), M.G.O..

1.3 Quorum

- 1.31 A quorum for a meeting of the Equal Opportunities Commission, shall be interpreted consistently with the requirements found in Sec. 33.01(3), M.G.O.
- 1.32 The Equal Opportunities Commission shall adhere to Sec. 33.01(3)(a), M.G.O in instances where a quorum has not been secured.
- 1.33 Sec. 33.01(3)(d), M.G.O shall define the votes necessary to pass motions by the Equal Opportunities Commission.

1.4 Regular and Special Meetings

- 1.41 Regular meetings of the Commission shall be held the second Thursday of each month or as otherwise scheduled by the EOC at a time and place as officially posted, in accordance with the applicable procedural rules set forth in Chapter 33, M.G.O.
- 1.42 Commission Attendance. All Commissioners shall call the DCR-EOD office when unable to attend a Commission meeting or hearing. When possible, calls shall be

placed at least the day prior to the scheduled meeting. Commissioners shall attend meetings in accordance with Common Council Resolution No. 7965, adopted November 20, 1990.

- 1.43 Special meetings may be called by the President, or at the request of any two members of the Commission.
 - 1.431 Notice of a special meeting shall be mailed to each member at least 72 (seventy-two) hours before the time of the meeting or by notice given orally at least 24 (twenty-four) hours before the time of the meeting.
 - 1.432 Oral notices shall be deemed sufficient if oral notice is left with someone at the member's place of business or abode.
- 1.44 Any matter that may be considered at a regular meeting of the Commission may be considered at a special meeting.
- 1.5 Committees. The Commission may periodically establish committees to assist in the discharge of its duties. To establish committees, a majority vote shall be taken by those Commission members in attendance. The nature and scope of committee activities shall be subject to Commission discretion.
 - 1.51 Regular and Ad Hoc Committees
 - 1.511 Regular Committees are groups such as the EOC Executive Committee created by the Commission which are expected to have an on-going role in carrying out the Commission's mission.
 - 1.512 Ad Hoc Committees are created by the Commission to address a specific issue and which are expected to meet for a limited period of time.
 - 1.513 Membership on regular and ad hoc committees shall be composed exclusively of Commission members. Members are appointed by the President.
 - 1.514 A quorum for any meeting of a regular or ad hoc committee of the Equal Opportunities Commission shall be composed of more than one-half of appointed members.
 - 1.52 Special Committees
 - 1.521 Special Committees are created to assist the Commission in carrying out its mission where the Commission has determined that outside expertise or additional resources are needed.
 - 1.522 Membership on any Special Committee shall consist of a maximum of twenty-five (25) voting members. Additional persons may participate as non-voting members, including serving on subcommittees and task forces and participating in discussions.

- 1.523 The Employment Committee membership shall consist of 15 maximum voting members. Additional persons may participate as non-voting members. Membership of the Employment Committee is open to a City of Madison company, business or non-profit designee and to individual representatives.
- 1.524 At least one voting member of the Employment and any Special Committee shall be a member of the Commission.
- 1.525 Upon creation of a new Special Committee, the EOD Division Manager and the Commission, shall recommend committee members for a period of one year unless otherwise determined by the Commission. Recommendations for membership of non-Commission members on Special Committees shall be forwarded to the Mayor and Common Council for confirmation in compliance with Sec. 33.01(4)(c), M.G.O.
 - 1.5251 After the first year, the committee will recommend members for Commission approval, prior to submission to the Mayor and Common Council for confirmation. Term expiration is open.
 - 1.5252 Prior to being eligible for appointment to the committee, a prospective new member must demonstrate consistent regular attendance for committee meetings.
- 1.526 Where possible, the membership of Special Committees shall be representative of advocacy groups, residents, and protected classes as contained in the Ordinance, private sector representatives and social service agencies as may have concern with the subject matter of the committee, and shall be committed to the principle of equal opportunities.
- 1.53 Attendance at Committee meetings shall be governed by M.G.O. 33.01(3)(b).
- 1.54 Each committee shall elect a chair and vice chair at its first meeting. Those committees remaining in service shall conduct elections annually thereafter. The chair will preside over all meetings of the committee and shall decide all points of procedure subject to reversal by a majority of the voting committee members.

1.6 Amendments and Rules of Order

These Rules may be amended by a vote of a majority of the members of the Commission at any regular or special meeting of the Commission. Ten (10) days notice of the proposed amendment shall be given to each member of the Commission.

Except where otherwise provided in these bylaws, a majority vote of the members of the Commission in attendance at any meeting thereof shall prevail on any motion or action. Committees may be established or dissolved only by a vote of a majority of the members of the Commission.

Except as otherwise provided herein, and in the absence of a standing rule established by the Commission, ROBERT'S RULES OF ORDER NEWLY REVISED shall govern the proceedings at the meeting of the Commission or of any committee thereof.

- 1.61 Notwithstanding 1.6, or any other rule adopted by this body, the President or any person acting in his or her stead may vote on any matter properly brought before the Commission or before any committee or sub-committee on which the President serves.
- 1.7 Testimony Before the Equal Opportunities Commission
 - 1.71 Speakers are required to pre-register their desire to speak before the Equal Opportunities Commission. Speakers will be granted five (5) minutes for their testimony before the Commission.
 - 1.72 The Commission, by a majority vote, may extend the time limit for an individual speaker or may modify the time limit for testimony because of the length of the agenda, the number of speakers or time constraints of the body.
 - 1.73 Questions of speakers will be held until after all registrants have spoken.
- 1.8 Emergencies
 - 1.81 When a racially tense situation or any emergency is brought to the attention of the DCR Director or any member of the Commission, the Director and/or members of the Commission will decide on action best suited to remedy the particular situation.
 - 1.82 The Director and/or the Commission shall keep the Mayor, the Police-Department, appropriate offices, and the Common Council informed as to the nature and extent of the problem and the plans to alleviate conditions, and the progress of such action.

2. Definitions

- 2.1 Affidavit--A statement in writing based on personal knowledge and made under oath.
- 2.2 Complainant--A Complainant is any person who has filed a complaint under Sec. 39.03, M.G.O in which it is alleged that an act of discrimination has been committed in violation of said law.
- 2.3 Conciliation--The adjustment and settlement of a dispute in a neutral unantagonistic manner. Conciliation may be formal or informal, and may be accomplished by the parties, or with the assistance of the Commission.
- 2.4 Conciliation or Settlement Agreement--The terms and conditions for the resolution of a complaint. A conciliation agreement may be entered into by the parties with or without the assistance of the Commission.
- 2.5 Day--When used in time computation by the Equal Opportunities Division, means a calendar day, except that if the last day of the time period is a Saturday, Sunday or holiday observed by the City of Madison, the last day shall be the next business day.

- 2.6 Department of Civil Rights may be abbreviated as DCR. Equal Opportunities Commission may be abbreviated as EOC in these rules. Equal Opportunities Division may be abbreviated as EOD in these rules.
- 2.7 Formal Complaint--A formal complaint is a complaint which requires administrative action under the procedures outlined in Rule 3.0.
- 2.8 Filing--The physical receipt of a document at the DCR-EOD office. Filing may include personal or postal delivery. Documents shall not be served by a facsimile transmission or e-mail.
- 2.9 Informal complaint--An informal complaint is a complaint which does not require Equal Opportunities Division action, but may be resolved through administrative action by the staff.
- 2.91 An informal complaint need not be a written complaint.
- 2.92 The staff or the Commission may, at any time, change the classification of an informal complaint to become a formal complaint as defined above.
- 2.10 Probable Cause--Probable cause means there is reasonable ground for belief supported by facts and circumstances strong enough in themselves to warrant a prudent person in the belief that discrimination probably has been or is being committed.
- 2.11 Respondent--A Respondent is any person who is alleged by a "complainant" to have committed an act of discrimination in violation of Section 39.03 Madison General Ordinances.
- 2.12 A word or term referred to in these Rules shall have the meaning as defined or understood in Sec. 39.03, M.G.O. Sec. 39.03, M.G.O means the Equal Opportunities Ordinance except where specifically noted.

3. Procedures for Processing Complaints

3.1 Filing of Complaints

- 3.11 The EOD shall not accept any complaint filed more than three hundred (300) days after the alleged discrimination occurred, except that complaints of housing discrimination may be filed up to one (1) year after the alleged discrimination occurred.
- 3.111 Where a Complainant alleges a pattern or practice of discrimination, the period referred to shall begin to run from the last act or occurrence of alleged discrimination.
- 3.112 Where a Complainant alleges that there is a continuing violation of the Ordinance, the period referred to shall begin to run from the last act or occurrence of alleged discrimination.

- 3.12 A formal complaint may be filed by the Complainant in person or mailed to the office of the Equal Opportunities Division. The Complainant may be required to provide additional information to the Equal Opportunities Division staff during the “intake” of the complaint such that the complaint will meet the standard set forth below in 3.121 through 3.123, or to obtain information necessary before the investigation process begins.
- 3.121 A formal complaint shall be set forth on an approved form.
- 3.122 A formal complaint must contain a statement of allegations which, if proven, would establish a “prima facie” case of discrimination.
- 3.123 The Equal Opportunities Division (EOD) staff will provide assistance in the identification and clarification of issues and in the drafting of the formal complaint.
- 3.13 Once a complaint has been filed, the EOD shall serve notice upon the Complainant, acknowledging the filing, and advising the Complainant of the applicable time limits and the choice of forums available to the Complainant.
- 3.14 Upon service of the complaint upon the Respondent, the Respondent shall be notified of the right to file a written answer to the allegation of the complaint. If the Respondent chooses to file an answer, said answer shall be filed within twenty (20) days of the service of the complaint.
- 3.15 The EOD shall not investigate any complaint which is not a formal complaint as defined in Section 2.7 or which has not been served on the Respondent.
- 3.16 Any person who files a complaint with the Equal Opportunities Division shall promptly inform the EOD of any changes of address or telephone number, or any prolonged absences from the address which he or she has provided to the EOD when necessary. In addition, a Complaint shall, at the time of filing a complaint, provide the EOD with the name, address and telephone number of a person who will always know how to reach the Complainant.
- 3.2 Amending a Complaint. A complaint may be amended or supplemented by the Complainant, at any time prior to the issuance of a notice of hearing.
- 3.3 Withdrawal of Complaint
- 3.31 The Complainant may withdraw his or her complaint at any time. Reasons for the request to withdraw shall be stated in writing.
- 3.32 Withdrawal of a charge, in whole or in part, is accomplished by notifying the EOD in writing, of the Complainant’s desire to withdraw a complaint and shall identify what portions of the complaint are being withdrawn. Said notification must include the Complainant’s signature, or that of his or her representative of record.
- 3.33 Withdrawal of a complaint shall be without prejudice unless the parties agree in writing to the contrary.

3.4 Dismissal of Complaints

- 3.41 The EOD may dismiss a complaint under the following circumstances:
- 3.411 If the Complainant fails to provide requested necessary information or facts.
 - 3.412 If the Complainant refuses to appear or to be available for interviews or conferences.
 - 3.413 If the Complainant refuses to cooperate to the extent that the EOD is unable to resolve the complaint.
 - 3.414 If the Complainant withdraws the complaint.
 - 3.415 If the Commission lacks geographic jurisdiction.
- 3.42 After due notice, the EOD may dismiss the complaint.
- 3.43 A dismissal pursuant to this subsection shall be without prejudice and the Complainant shall have twenty (20) days from the date on the Notice of Dismissal in which to appeal. The Notice of Dismissal shall be dated with the same date as the date it is mailed.
- 3.44 The Hearing Examiner may dismiss a complaint where she/he has made a finding of “no jurisdiction” regarding allegations in the complaint. See Rule 4.5.
- 3.45 In the event a Complainant cannot be reached prior to the time a case has been certified to public hearing, the following procedure shall be used prior to dismissing the complaint:
- 3.441 A letter shall be sent to the Complainant's last known address.
 - 3.442 Such letter shall specify that the Complainant must contact the EOD staff and reaffirm Complainant's desire to pursue the complaint not later than fifteen (15) days from the date such letter is sent to the Complainant's last known address.
 - 3.443 Complainant's failure to respond within the time period specified shall be sufficient basis to dismiss the complaint.
 - 3.444 If the letter is returned undeliverable, the case may be dismissed at any time by the EOD Manager or Hearing Examiner if the Complainant has failed to respond or has not contacted the EOD.
- 3.46 In any appeal to the Commission from the EOD Manager's dismissal of a complaint under Rules 3.41-3.444, or Hearing Examiner's dismissal of a complaint for lack of jurisdiction the Commission may reverse the dismissal for good cause shown.

3.5 Worksharing Agreement Incorporated

- 3.51 The Memorandum of Agreement on Worksharing and Cooperation Between the U.S. Equal Employment Opportunity Commission (EEOC) and the Madison Equal Opportunities Division and any subagreements, including any amendments or modifications made hereafter to such agreement or subagreement, are hereby incorporated into these rules.
- 3.52 The Madison Equal Opportunities Division shall give full faith and credit to the EEOC's final disposition of complaints which are initially filed with EEOC and cross-filed with the Commission pursuant to the Worksharing Agreement. Upon final disposition of such complaints by EEOC, the corresponding complaint cross-filed with the EOD shall be dismissed, except where there is an area over alleged discrimination in which the EEOC does not have jurisdiction. Such dismissals are NOT appealable.
- 3.53 The Memorandum of Agreement on Worksharing and Cooperation Between the Department of Workforce Development, Equal Rights Division (ERD) and the City of Madison's Equal Opportunities Division and any subagreements, including any amendments or modifications made hereafter to such agreement or subagreement, are hereby incorporated into these rules.
- 3.54 The EOD shall give full faith and credit to the Equal Rights Division's (ERD) final disposition of complaints which are initially filed with ERD and cross-filed with the EOD pursuant to the Worksharing Agreement. Upon final disposition of such complaints by ERD, the corresponding complaint cross-filed with the Commission shall be dismissed, except where there is an area over alleged discrimination in which the ERD does not have jurisdiction. Such dismissals are NOT appealable.

4. Investigation

- 4.1 All complaints filed as stated in Rule 3.1 above shall be investigated by an Investigator to determine whether or not probable cause exists to believe that the Ordinance may have been violated. Such investigation shall commence no later than the 30th day after filing of the complaint.
- 4.2 Powers and Duties of the Investigator
- 4.21 When a complaint is assigned, the Investigator requests information, documents and/or witness's statements from the parties.
- 4.22 All information requested by the Investigator shall be submitted in a timely manner. In the event an extension is requested by a party, the Investigator may grant one (1) extension of no more than fifteen (15) days.
- 4.23 The Investigator may use whatever means necessary in conducting his/her investigation, including but not limited to, an on-site visit, interviewing witnesses and reviewing records or other documents.

- 4.24 The Investigator may hold one or more Fact Finding Conferences to gather evidence upon which a conclusion may be based.
 - 4.25 The Investigator shall provide the parties and their attorneys or advocates an opportunity to provide additional information to support their position.
 - 4.26 When the Investigator determines that she/he has gathered sufficient information, a 10-Day Letter will be sent to all parties.
 - 4.27 When the 10 day period expires, an Initial Determination is issued with a conclusion of either Probable Cause, No Probable Cause or a combination of Probable Cause and No Probable Cause to believe discrimination has occurred, or may be occurring.
- 4.3 Fact Finding Conference
- 4.31 Attendance at a Fact Finding Conference
 - 4.311 Attendance by the parties at a fact finding conference is mandatory.
 - 4.312 If a party refuses to attend a fact finding conference or otherwise fails to provide requested information or evidence, he/she may be required by subpoena to appear at the EOD offices and to provide the requested information.
 - 4.313 Failure of the Complainant to appear at a fact finding conference may result in an administrative dismissal, pursuant to Rule 3.4.
 - 4.314 Appeal of an administrative dismissal for failure of the Complainant to appear may be appealed within twenty (20) days for good cause shown, pursuant to Rule 3.45.
 - 4.32 Appearance of Attorneys and Lay Advocates at Investigative Fact Finding Conferences.
 - 4.321 Attorneys and/or lay advocates may appear with a party, however, it is mandatory that the parties also be present at the fact finding conferences.
 - 4.322 The attorney or lay advocate may not answer questions on behalf of the party, but a party may consult with the attorney or lay advocate prior to answering a question that has been posed.
 - 4.323 The attorney or lay advocate may advise the party not to answer a particular question.
 - 4.324 In the event that a party fails to appear at a fact finding conference, the appearance of the attorney and/or lay advocate shall not excuse the nonappearance by a party and the fact finding conference shall be deemed canceled. The Investigator may write an initial determination without rescheduling the fact finding conference.

- 4.33 Record of Fact Finding Conference
- 4.331 The Investigator shall make and retain in the file a written record of the Fact Finding Conference.
- 4.332 The written record of the Fact Finding Conference shall include the names and address of all persons appearing at the conference, a statement summarizing the positions of the parties, and a summary of the evidence provided by each person in attendance at the conference.
- 4.333 The notes taken by the Investigator during the Fact Finding Conference may serve as the written record of the conference, provided they satisfy the requirements of this rule.
- 4.34 Electronic Recordation - The Commission may, in its discretion, make an electronic recording of the Fact Finding Conference, which shall be available for review by the Investigator in aid of making the Initial Determination. Such recording shall be made available to the Hearing Examiner pursuant to Rule 5.35.
- 4.4 All motions other than those made during a hearing shall be in writing and shall state the type of relief applied for and the grounds for the motion.
- Upon receipt of any written motion, the Hearing Examiner shall determine what procedures shall be used to address said motion. Except as otherwise expressly provided in these rules, the Hearing Examiner need address only those motions which he or she determines will expedite the administrative processing of the case.
- 4.5 Respondent's Challenge to Subject Matter Jurisdiction
- 4.51 If Respondent challenges the subject matter jurisdiction of the Commission over any allegation of a complaint, the complaint shall be transferred to the Hearing Examiner for a jurisdictional determination.
- 4.52 In determining whether to dismiss a complaint for lack of jurisdiction, the Hearing Examiner may consider documents and affidavits presented by any party and may hold a hearing to allow the parties to establish facts which may have a bearing on whether the complaint should be dismissed.
- 4.53 If the Hearing Examiner issues an order dismissing the complaint, a copy of the order and a notice of appeal rights shall be sent to the last known address of each party and to their attorney or representative, if any.
- 4.54 A finding of NO JURISDICTION can be appealed by the Complainant, by submission of an appeal in writing within fifteen (15) days from the date of the letter.
- 4.55 A finding of jurisdiction may not be appealed, except as part of an appeal of the Hearing Examiner's findings of fact, conclusions of law and order.

5. Initial Determination of Probable/No Probable Cause

- 5.1 After an investigation, the Investigator shall prepare an initial determination in writing as to whether or not there is probable cause to believe that the Ordinance may have been violated and on what facts such determination is based. Copies of the Investigator's initial determination shall be sent by mail to the Complainant and the Respondent and with a copy to their Attorneys or Advocates.
- 5.2 An Investigator may find Probable Cause, No Probable Cause or a combination of Probable/No Probable Cause according to the issues presented in the complaint.
- 5.21 The Complainant may appeal any part of the Initial Determination which finds No Probable Cause.
- 5.22 Proceedings for issues where Probable Cause was found shall be stayed until any issues for which No Probable Cause was found are resolved.
- 5.3 Appeals of No Probable Cause to the Hearing Examiner
- 5.31 Within 15 days after the date of an initial determination finding that there is no probable cause, a Complainant may file a written request for a hearing on the issue of no probable cause. The request for hearing shall state specifically the grounds upon which the appeal is based. The department shall notify the Respondent that an appeal has been filed within 10 days of receiving the appeal. Initial Determinations of probable cause cannot be appealed.
- 5.32 In an appeal from an Initial Determination of No Probable Cause, the parties shall be afforded a reasonable opportunity to submit additional evidence or arguments to the Hearing Examiner. Any such evidence or arguments must be submitted in writing.
- 5.33 For briefs and all other written material submitted in the appeal of a no probable cause finding, the Hearing Examiner may grant one (1) extension of no more than fifteen (15) days for the submission of the briefs or materials, except that a request for discovery shall not be considered a request for an extension.
- 5.34 Discovery shall be permitted in an appeal from an Initial Determination of No Probable Cause in accordance with Rule 7.52.
- 5.35 In an appeal of an Initial Determination of No Probable Cause, the Hearing Examiner shall review and consider the investigative file, including the record of the Fact Finding Conference, if any, and any additional evidence submitted by the parties, to determine whether there is probable cause to believe Respondent has discriminated against the Complainant in violation of the ordinance.
- 5.36 The Hearing Examiner will review and consider any electronic recording of the Fact Finding Conference if, before the expiration of the period allowed for the submission of additional evidence, any party files a written request for review of the electronic recording.

- 5.37 If the Hearing Examiner finds Probable Cause, the complaint shall be transferred to conciliation.
- 5.38 In an appeal of an Initial Determination of No Probable Cause, the Hearing Examiner shall issue a decision and order either affirming or reversing, in whole or in part, the Initial Determination, or vacating the Initial Determination and remanding the case to the Investigator for further investigation or findings.
- 5.4 Appeals of No Probable Cause to the Commission
- 5.41 Appeals of No Probable Cause to the Commission shall be made in accordance to Rule 11.
- 5.42 In the event of a second determination of **NO PROBABLE CAUSE**, entered by the Hearing Examiner, the Complainant may appeal that determination to the Commission by filing an appeal in writing within fifteen (15) days of receipt of the Hearing Examiner's decision and order.
- 5.43 The Commission may consider the following:
- 5.431 The record compiled by the Investigator.
- 5.432 Any additional documents or arguments submitted to the Hearing Examiner.
- 5.433 Any briefs properly submitted by the parties, their attorney or lay advocates.
- 5.434 Any oral arguments deemed appropriate by the Commission.
- 5.4341 The parties must submit a request in writing, stating good cause for the need for oral argument.
- 5.4342 If the Commission deems that good cause has not been shown it need not grant oral argument.
- 5.43 The Commission may find Probable Cause, No Probable Cause or a combination of Probable/No Probable Cause according to the issues presented in the complaint.
- 5.431 If the Commission finds Probable Cause, the complaint shall be transferred to conciliation.
- 5.432 If the Commission finds No Probable Cause to believe the Ordinance may have been violated, the finding shall constitute the final order of the Commission.
- 5.433 If the Commission is unable to find Probable Cause or No Probable Cause, the complaint shall be remanded to the Investigator for further investigation or findings or to the Hearing Examiner for further findings.

- 5.44 In the event the Commission determines there is **NO PROBABLE CAUSE**, the Commission shall issue an order dismissing the complaint or the issue(s) in the complaint to which No Probable Cause applies.

6. Conciliation/Negotiated Settlements

- 6.1 Settlement of complaints of discrimination are encouraged by the Commission at any stage of the process. A settlement agreement may contain any provisions mutually agreed upon by the parties except those contrary to local, state or federal law. The Commission may or may not be a party to the settlement or conciliation agreement.
- 6.11 Any party may waive conciliation.
- 6.2 In case of any determination that there is probable cause to believe that the Ordinance has been violated, a staff member designated by the Commission shall act as Conciliator and attempt to resolve the matter complained of by agreement between the two parties. The terms of a conciliation agreement may be negotiated among the parties and the Commission.
- 6.3 The Commission may require, as a term of settlement, reporting systems, affirmative action, monitoring or other terms as may be necessary to effectuate the purposes of the Ordinance.
- 6.4 In the event that an agreement is reached, a conciliation agreement in writing shall be signed by the Complainant and Respondent and may be signed by the President of the Equal Opportunities Commission. A conciliation agreement, signed by the President of the Equal Opportunities Commission, shall have the effect of a final order of the Commission.
- 6.5 Should conciliation fail or be waived by any party, the conciliator shall certify, in writing to the Hearing Examiner, that conciliation has been unsuccessful. Copies of this letter shall be sent to all parties. Nothing in this section shall prohibit the Commission from attempting to conciliate a complaint between or among any consenting parties, where there are multiple Complainants or Respondents.

7. General Hearing Procedures

- 7.1 Purpose and Scope
- 7.11 If conciliation fails, the Commission shall designate a person or persons to hear evidence and arguments at a hearing pursuant to Sec. 39.03(10)(c)(2), M.G.O. The Commission's designee, who shall be identified as the Hearing Examiner, shall set a time for the hearing and give the parties not less than thirty (30) days notice.
- 7.2 Powers and Duties of the Hearing Examiner
- 7.21 General Powers and Duties
- 7.211 A Hearing Examiner shall have the duty to conduct fair and impartial hearings.

- 7.212 To take all necessary action to avoid delay in the disposition of proceedings and to maintain order. She or he shall have all power necessary to those ends, including but not limited to the following:
- 7.2121 To administer oaths and affirmations;
 - 7.2122 To issue subpoenas;
 - 7.2123 To rule upon offers of proof and receive evidence;
 - 7.2124 To regulate the course of the hearings and the conduct of the parties and their agents or representatives;
 - 7.2125 To hold conferences for settlement, simplification or stipulation of the issues, or any other proper purpose;
 - 7.2126 To consider and rule upon all procedural and other motions appropriate to the proceeding and the parties; and
 - 7.2127 To make and file a recommended decision.
 - 7.2128 Notwithstanding any provision of this sub-paragraph, the Hearing Examiner may grant only one (1) extension of no more than fifteen (15) days with further extensions granted only where good cause is demonstrated.
- 7.22 Interference. No officer, employee or agent or any representative of the parties to a complaint shall interfere with the Hearing Examiner in the performance of his or her adjudicative functions.
- 7.23 Ex Parte Communications
- 7.231 No person, nor her or his agent, employee or representative, who has an interest in a particular proceeding shall communicate ex parte, directly or indirectly with the Hearing Examiner with respect to the merits of that or a factually related proceeding.
 - 7.232 The Hearing Examiner shall not communicate ex parte, directly or indirectly with any person, nor his or her agent, employee, representative, who has an interest in a particular proceeding, with regard to the merits of that, or a factually related proceeding.
 - 7.233 If an ex parte communication is made to or by the Hearing Examiner in violation of paragraphs 7.231 or 7.232 of these rules, the Hearing Examiner shall promptly disclose the content of such communication to all parties.
 - 7.234 Any person, or his or her agent, employee or representative, who has an interest in a particular proceeding may make an ex parte request for the limited purposes of requesting the issuance of a subpoena or for communications related to scheduling of proceedings.

7.24 Disqualification of Hearing Examiner

7.241 When a Hearing Examiner deems herself or himself disqualified to preside in a particular proceeding, she or he shall withdraw by notice on the record.

7.242 Any party may file an affidavit, stating in detail the matters alleged to constitute grounds for disqualification. Only one such affidavit shall be filed by the same party in the case. An affidavit of prejudice must be filed no later than ten (10) days after the case has been certified to hearing or from the date that a party becomes aware or should have become aware of the grounds for disqualification.

7.243 If, in the opinion of the Hearing Examiner, the affidavit of prejudice is sufficient on its face, the Hearing Examiner shall disqualify herself or himself and withdraw from the proceeding.

7.244 If the Hearing Examiner does not disqualify herself or himself, she or he shall so rule upon the record, stating the grounds for the ruling and proceed with the hearing.

7.3 Prehearing Procedures. The Hearing Examiner may, at her or his own discretion, direct counsel or representatives for all parties to meet for a conference to consider any or all of the following:

7.31 Simplification and clarification of the issues;

7.32 Stipulations, admissions of fact and the contents and authenticity of documents;

7.33 Such other matters as may aid in the orderly and expeditious disposition of the proceedings, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceedings; and

7.34 any other requirements established by the Hearing Examiner.

7.35 Record of prehearing conference.

The Hearing Examiner shall enter in the written or recorded record a summary which recites the results of the conference. Such summary shall include the Hearing Examiner's rulings upon matters considered at the conference, together with appropriate directions to the parties.

7.4 Notice of Hearings/Scheduling

The Hearing Examiner shall cause written notice of the hearing to be issued and served not less than thirty (30) days prior to the hearing, provided that a hearing may be held on shorter notice where substantial injury to a party would otherwise result or pursuant to the requirements of section 10.2. Notice shall include:

- 7.41 A statement of the time, date, place and nature of the proceedings;
- 7.42 A reference to the particular sections of the ordinance and rules involved;
- 7.43 A statement of the nature of the claim involved;
- 7.44 A statement of the requirement that the Respondent file an answer pursuant to Sec. 39.03(10), M.G.O.

7.5 Procedural Steps

7.51 Motions

During the time a proceeding is before the Hearing Examiner, any motion shall be addressed to the Hearing Examiner. Every motion or answering statement and accompanying papers shall be served on all parties or their attorneys if represented by counsel and filed with the Hearing Examiner along with proof of service.

7.511 Upon receipt of any written motion, the Hearing Examiner shall determine what procedures shall be used to address said motion. Except as otherwise expressly provided in these rules, the Hearing Examiner need address only those motions which he or she determines will expedite the administrative processing of the case.

7.52 Discovery

7.521 Depositions and other discovery shall be allowed in accordance with Wis. Stats. Sec. 804 as amended except that neither depositions nor discovery shall be permitted prior to the time:

7.5211 When it has been certified that conciliation has been unsuccessful pursuant to Equal Opportunities Commission Rule 6.5.

7.5212 An appeal has been made of an Initial Determination of No Probable Cause pursuant to Rule 5.31.

7.522 No further discovery of any kind shall be allowed on appeals pursuant to Rules 4.54, 5.4 and/or 11.1 except with special leave of the Commission; any motions for such special leave should first be made to the Commission.

7.523 For extensions in the discovery period, the Hearing Examiner may grant one (1) extension of no more than fifteen (15) days. Further extensions granted only where good cause is demonstrated.

7.53 Subpoenas

Subpoenas may be issued as authorized by Wis. Stats. Sec. 885.

7.531 Subpoenas may be issued by the attorney of record as provided by Wis. Stats. Sec. 805.07. Where individuals are not represented by an attorney,

parties may request ex parte for subpoenas to be issued by the Hearing Examiner. If such requests are made and rulings thereon are made, such shall remain ex parte unless otherwise ordered by the Hearing Examiner.

- 7.532 The parties are responsible for serving any subpoenas they request from the Hearing Examiner and the party serving the subpoena must pay the cost of fees to any witness who is subpoenaed as provided by Wis. Stats. Sec. 814.67(1)(b)1, 2, and (c).

7.6 Sanctions

- 7.61 If a party, or an agent or an officer of a party, refuses to make discovery or comply with an order, the Hearing Examiner shall have the authority to direct the person to answer or produce the discovery item in question. If the person continues to refuse, the Hearing Examiner shall take such action in regard thereto as is just, including but not limited to the following:
- 7.611 Infer that the admission, testimony, documents or other evidence sought would have been adverse to the party.
 - 7.612 Order that for the purposes of the proceeding, the matter or matters concerning which the order or subpoena was issued be taken as established adversely to the party.
 - 7.613 Order that the party may not introduce into evidence or otherwise rely, in support of any claim or defense, upon testimony by such party, officer, or agent, or the documents or other evidence.
 - 7.614 Order that the party may not object to introduction and use of secondary evidence to show what the withheld admission, testimony, documents or other evidence would have shown.
 - 7.615 Order that a pleading, or part of a pleading, or a motion or other submission by the party concerning which the order or subpoena was issued, be stricken or that a decision of the proceeding be rendered against the party, or both.
 - 7.616 The Hearing Examiner has the authority to render any remedy necessary to achieve justice between parties.
- 7.62 It shall be the duty of parties to seek, and the Hearing Examiner to grant, such of the foregoing means of relief or other appropriate relief as may be sufficient to compensate for the lack of withheld testimony, documents, or other evidence.
- 7.63 In case of failure to make discovery or to comply with an order, the Hearing Examiner may invoke the aid of the City Attorney who shall apply to the appropriate court for an order or other court action necessary to secure enforcement of such discovery orders.

7.7 Submission of Documentary Evidence in Advance

Where practicable, the Hearing Examiner may require:

- 7.71 That all documentary evidence which is to be offered during the taking of evidence be submitted to the Hearing Examiner and to the other parties to the proceeding sufficiently in advance of such taking of evidence to permit study and preparation of cross-examination and rebuttal evidence.
- 7.72 That documentary evidence not submitted in advance, as may be required by subsection 7.71, be not received in evidence in the absence of a showing that the offering party has good cause for his/her failure to produce that evidence sooner.

7.8 Oath or Affirmation

All public testimony before the Hearing Examiner shall be taken under oath or by affirmation.

7.9 Rights of Parties

Every party shall have the right of due notice, cross-examination, presentation of evidence, objection, argument, motion, and all other rights essential to a fair hearing, except where such rights have been forfeited due to default or failure to comply with discovery or other orders of the Commission.

7.10 Pleadings

7.101 Respondent's Answer

Respondent shall file with the Hearing Examiner and serve on all parties an answer within ten (10) days after service of the Notice of Hearing. An answer may be amended as a matter of right within ten (10) days of service and thereafter at the discretion of the Hearing Examiner, if justice will be served thereby.

7.102 Default

7.1021 Motion. When a party against whom a judgment for affirmative relief is sought has failed to appear, plead, or otherwise defend as provided by these rules and that fact is made to appear by motion and proof of service of the pleading and notice of hearing, a motion for default may be made with the Hearing Examiner.

7.1022 Notice. All parties shall be served with a written copy of the motion for default and the supporting proof of service. It is within the discretion of the Hearing Examiner to call for oral argument prior to ruling on the motion.

7.1023 Setting Aside Default. For good cause shown and upon such terms as the Hearing Examiner deems just, she or he may set aside a default judgment.

7.10231 Either party may appeal to the Commission the Hearing Examiner's decision on a Motion to Set Aside Default Judgment. Said appeal must be in writing and must be filed with the Commission and served on the opposing party within fifteen (15) days after issuance of the Hearing Examiner's decision.

8. Conduct of a Hearing

8.1 Hearings in administrative proceedings shall be presided over by a duly qualified Hearing Examiner.

8.2 Evidence

The rules of evidence governing these hearings shall be the same as those prescribed by the Wisconsin Administrative Procedure Act, under 227, Wis. Stat., for hearings in contested cases.

8.3 Nature of Proceedings

Proceedings in contested cases are those formal proceedings conducted under the Equal Opportunities Ordinance and Sections 7 and 8 of the Rules of the EOC. Such proceedings are required to be determined on the record after a hearing by the Hearing Examiner.

8.4 Content of the Record. The record of a hearing conducted by the Hearing Examiner shall include, but need not be limited to, the following materials:

8.41 All pleadings and the Commission's complaint;

8.42 All evidence received or considered which shall include all exhibits and other materials filed;

8.43 A statement of all matters officially noticed;

8.44 A recommended decision containing the recommended findings, conclusions, and order of the Hearing Examiner; and

8.45 Recordings made on electronic equipment, after the case has been certified to hearing, or certified transcripts thereof.

8.5 Hearing Format

A public hearing shall include, but need not be limited to, the following elements:

8.51 A brief introductory statement by the Hearing Examiner;

8.52 Presentation of the Complainant's case;

8.53 Presentation of the Respondent's case;

8.54 Opportunity for cross-examination;

- 8.55 Opportunity for a rebuttal presentation; and
- 8.56 Opportunity for questions by the Hearing Examiner.
- 8.6 Both parties shall appear at the hearing, may call, examine and cross-examine witnesses, and may introduce papers, documents or other evidence, in person, by counsel, or other representative as authorized by these rules. The rules of evidence prescribed by the Wisconsin Administrative Procedure Act, ch. 227, Wis. Stats., for hearings in contested cases, shall be followed.
- 8.7 Should the Complainant fail to appear within one-half hour of the scheduled time for the hearing, in the absence of a clear showing that the Complainant had good cause for not appearing at the hearing, the Hearing Examiner shall issue an order dismissing the complaint.
- 8.8 Should the Respondent fail to appear within one-half hour of the scheduled time for the hearing, and in the absence of a clear showing that the Respondent had good cause for not appearing at the hearing, and if the Complainant makes a prima facie showing of a violation of the Ordinance, the Hearing Examiner shall issue a finding of violation and order such relief as is appropriate.
- 8.9 If any party fails to appear at the hearing, she/he must submit a written explanation stating good cause for the failure to appear. The Hearing Examiner may then issue an order declaring why a default judgment should not be entered against the party and may reopen the hearing.
- 8.10 Electronic Recordation. Except as otherwise provided, hearings shall be electronically recorded and such recordings shall be a part of the official hearing record. Copies of the electronic recording of a particular proceeding shall be made available to the public on request and the cost of such copying shall be the burden of the requester. Upon leave of the Hearing Examiner and upon terms and conditions that she/he designates, a written transcript may be made a part of the official hearing record in lieu of an electronic recordation.
- 8.11 If, after hearing, the Hearing Examiner designee finds that the Respondent has engaged in discrimination, he/she shall make recommended findings of fact and conclusions of law and shall order such remedy as authorized by Rule 10, and shall effectuate the purposes of the Ordinance. The Hearing Examiner shall serve a copy of the recommended findings of fact and conclusions of law and order upon the parties.
- 8.12 If the Hearing Examiner finds that the Respondent has not engaged in discrimination as alleged in the complaint, she or he shall make recommended findings of fact and conclusions of law and prepare an order dismissing the complaint. She or he shall serve a copy of the recommended findings of fact and conclusions of law and order dismissing the complaint on the Complainant and the Respondent.

9. Decision

9.1 Recommended Decision

9.11 The Hearing Examiner who presided at the hearing shall file a recommended decision after completion of the hearing. The contents shall include a statement of:

9.111 The findings of fact and conclusions of law as well as the reasons or basis therefore, upon all the material issues of fact, and law presented on the record. The findings and conclusions shall be based exclusively on the evidence and on matters officially noticed; and

9.112 An appropriate order. The recommended decision shall be based upon a consideration of the whole record.

9.2 At any time prior to the filing of the recommended decision, the Hearing Examiner may reopen the proceeding for good cause shown for the reception of further evidence.

10. Relief/Remedies

10.1 Compensatory losses, reasonable attorney fees and costs may be ordered along with any other appropriate remedies where the Commission finds that a Respondent has engaged in discrimination.

10.11 This rule does not - by express reference to compensatory losses, attorney fees and costs - limit in any way the Commission's authority to order any other remedies permitted or required under Sec. 39.03, M.G.O

10.2 Injunctive Relief

10.21 The DCR Director or the Director's designee may, in appropriate cases, request that the City Attorney file a civil action in circuit court for the purpose of securing injunctive relief pending final action by the Commission with respect to a complaint alleging housing discrimination under Sec. 39.03(4), M.G.O. provided that: (a) any such request be made in accordance with the provisions of MEOC Rules 10.21 through 10.23; (b) an EOD Investigator has conducted an expedited investigation pursuant to MEOC Rule 10.22, and has concluded that (i) there is probable cause to believe an act of discrimination has been or is being committed, and (ii) temporary injunctive relief is necessary to prevent the Respondent from performing an act which would tend to render ineffectual any order the Commission or its designee may enter with respect of the complaint, which act the Respondent is likely to perform unless restrained from doing so; and (c) the DCR Director or the Director's designee has determined that (i) the Complainant has a reasonable likelihood of success on the merits; (ii) temporary injunctive relief is necessary to preserve the status quo, (iii) the Complainant will suffer irreparable harm unless an injunction issues, and (iv) the Complainant does not have an adequate remedy at law.

10.22 Upon the filing of a formal complaint alleging housing discrimination under Sec. 39.03(4), M.G.O, an EOD Investigator shall immediately determine, on the basis of the complaint and other available information, whether a request for injunctive relief

may be appropriate. In the event it is determined that injunctive relief may be appropriate, the Investigator shall immediately undertake an expedited investigation of the complaint and make reasonable efforts to promptly notify the Respondent that a housing discrimination complaint has been filed and that an expedited investigation of the complaint will be conducted. The expedited investigation shall be completed no later than the close of the second working day following the day the complaint is filed.

- 10.23 In the event the Investigator determines there is probable cause to believe discrimination has been or is being committed, and that temporary injunctive relief is necessary to prevent the Respondent from performing an act which would tend to render ineffectual any order the Commission or its designee may enter with respect to the complaint, which act the Respondent is likely to perform unless restrained from doing so, the Investigator shall promptly forward the complaint file, together with a written summary of the investigation and the conclusions reached by the Investigator, to the DCR Director or the Director's designee. A written initial determination need not be issued at this time, but shall be issued as soon as practicable.
- 10.24 Upon receipt of the Investigator's written summary and the complaint file, the DCR Director or the Director's designee shall review the same and determine whether to request that the City Attorney file a civil action in the circuit court for the purpose of securing temporary injunctive relief pending final action by the Commission. Said determination shall be made not later than close of the third working day following the day the complaint is filed.
- 10.25 In the event the DCR Director or the Director's designee elects to request that the City Attorney file an action in the circuit court for the purpose of securing temporary injunctive relief, the DCR Director or the Director's designee shall forward a written request to the City Attorney that such an action be filed. In addition, the DCR Director or the Director's designee shall attempt to notify the Respondent or the Respondent's representative, attorney or agent of the decision to seek temporary injunctive relief by any means likely to promptly convey notice to the Respondent, and shall make a written record of all such attempts.
- 10.26 Whenever the circuit court grants temporary injunctive relief against the Respondent, the Commission shall endeavor to hold a conciliation conference with the parties within three working days after the date the injunction or restraining order is issued. In the event conciliation is unsuccessful, is waived by either party, or a conciliation conference cannot be held within the period prescribed by this rule, within three working days the complaint shall be certified to a public hearing.
- 10.27 A public hearing shall be held no more than fourteen days after the complaint is certified to hearing. The Hearing Examiner shall issue recommended findings of fact, conclusions of law and an order within five working days following the date the hearing concludes.
- 10.28 Any of the time limits prescribed by MEOC Rules 10.21 through 10.27 may be waived by agreement of the parties and of the DCR Director or the Director's designee. Any such agreement must be in writing and subscribed to by the parties

and the DCR Director or the Director's designee, or made on the record at the hearing.

11. Appeals to the EOC Commission

- 11.1 Either party may appeal the recommended findings of fact, conclusion of law and order of the Hearing Examiner by filing a written request for an appeal with the Equal Opportunities Division no later than fifteen (15) days after issuance of said findings, including appeals of No Probable Cause under Rule 5.4.
- 11.2 All appeals to the Equal Opportunities Commission shall be heard by the Appeals Committee except as specified in rule 11.4.
- 11.3 The Appeals Committee shall be comprised of three (3) members and one (1) alternate member to be appointed by the President of the EOC. The alternate shall serve in place of one of the members should one of the Appeals Committee members be unable to carry out their duties for any reason. If more than one (1) member of the committee is unable to carry out the duties of the committee, the committee shall notify the President of the Equal Opportunities Commission as promptly as possible. The President of the Equal Opportunities Commission shall then appoint another member of the Equal Opportunities Commission to fill the position.
- 11.31 To the extent possible, the Appeals Committee shall have two (2) members who have some experience in conducting appeals before the Commission. The committee shall, to the extent that such a member is available, have at least one (1) member who has relatively little experience in conducting appeals before the Equal Opportunities Commission.
- 11.32 Each member of the Appeals Committee shall serve on the committee for three (3) months.
- 11.33 The members of the committee shall serve until his or her successor is named and will consider all appeals within the three (3) month period. Successor members of the committee shall be appointed by the President of the EOC Commission.
- 11.34 The Appeals Committee shall endeavor to complete the review of a decision appealed to the Equal Opportunities Commission within forty-five (45) days.
- 11.4 The majority of the Appeals Committee may certify an appeal for consideration by the Equal Opportunities Commission, as a whole, if in the opinion of the committee the appeal presents:
- A serious question of constitutional law;
 - A novel and serious question of the interpretation of the MEOC Ordinance;
 - A new legal or policy question under the MEOC ordinance, and not involving the application of established law to the facts.
- 11.41 The Certification from the Appeals Committee shall state the relevant facts of the case, the options for a decision, and the reason under Rule 11.3 why the appeal should be heard by the full Equal Opportunities Commission.

- 11.42 The Certification from the Appeals Committee shall be served upon the parties, who shall have fifteen (15) days from the date of the Certification to respond to the Certification. Any response filed by the parties shall be served upon the Equal Opportunities Commission as provided for in Rule 12.
- 11.43 Once certified to the Equal Opportunities Commission, the Commission shall endeavor to conduct the appeal proceeding and issue a decision within forty-five (45) days.
- 11.5 Should an appeal be decided by the Appeals Committee, the committee shall report the results of its review to the Equal Opportunities Commission. The decision of the Appeals Committee will stand as a final order of the Equal Opportunities Commission.
- 11.6 The original and six (6) copies of each appeal and/or cross appeal and subsequent briefs must be submitted to the office of the Department of Civil Rights, Equal Opportunities Division for an appeal and/or cross appeal.
- 11.7 The Appeals Committee or the Equal Opportunities Commission shall consider only the record for the particular appeal before it. The record shall consist of the following for the specified type of appeal:
- 11.71 Hearing Examiner's Recommended Findings of Fact, Conclusions of Law and Order. The record is comprised of the Notice of Hearing, the hearing record, the Recommended Findings of Fact, Conclusions of Law and Order, written exceptions to the recommended findings, conclusions and order, any brief properly submitted before the Appeals Committee or the Equal Opportunities Commission, and any oral arguments presented by the parties as scheduled by the Appeals Committee or the Equal Opportunities Commission.
- 11.72 Hearing Examiner's Review of an Initial Determination's Finding of No Probable Cause. The record shall consist of the investigation file as supplemented during the review process, the Decision and Order of the Hearing Examiner, written exceptions to the Hearing Examiner's Decision and Order, any brief properly submitted before the Appeals Committee or the Equal Opportunities Commission, and any oral arguments presented by the parties as scheduled by the Appeals Committee or the Equal Opportunities Commission.
- 11.73 Finding of No Jurisdiction. The record consists of the motion to dismiss, the briefs and supporting affidavits and documentary evidence of the parties, written exceptions to the Hearing Examiner's Decision and Order, any brief properly submitted before the Appeals Committee or the Equal Opportunities Commission, and any oral arguments presented by the parties as scheduled by the Appeals Committee or the Equal Opportunities Commission.
- 11.74 Administrative Dismissal. The record consists of any documents setting forth the requirement which the Complainant is alleged to have failed to meet, evidence of the Complainant's failure to do something required of him or her, the order dismissing the complaint, any brief properly submitted before the Appeals Committee or the Equal Opportunities Commission, and any oral arguments presented by the parties as scheduled by the Appeals Committee or the Equal Opportunities Commission.

- 11.8 Any party's request for oral arguments must be submitted to the office of the Department of Civil Rights, Equal Opportunities Division in writing and must be supported by good cause. Requests shall be granted or denied within the sound discretion of the Appeals Committee or the Equal Opportunities Commission.
- 11.9 If an appeal, or appeal and cross appeal is made to the Commission, the Commission shall consider only the record of the hearing, written exceptions to the recommended findings, conclusions and order, any brief properly submitted before it, and oral arguments presented by the parties as scheduled by the Commission.
- 11.10 To be properly submitted, briefs by any party must be served upon opposing parties or their counsel and received by the Appeals Committee of the Equal Opportunities Commission in accordance with a schedule established by the Appeals Committee of the Equal Opportunities Commission.
- 11.11 Any party requesting a written transcript of the hearing that was held by the Hearing Examiner from which an appeal is being taken shall pay the actual cost of preparing the transcript, including copying costs.
- 11.12 With respect to an appeal of Recommended Findings of Fact, Conclusions of Law and Order, the Appeals Committee or the Equal Opportunities Commission shall affirm, reverse or modify the recommended findings, conclusions, and order. Any modification or reversal shall be accompanied by a statement of the facts and ultimate conclusions relied upon in rejecting the recommendations of the Hearing Examiner. Such decision of the Appeals Committee or the Equal Opportunities Commission shall be the final findings of fact, conclusions of law and order, unless otherwise specified.
- 11.121 In lieu of affirming, reversing or modifying, the Appeals Committee or the Equal Opportunities Commission may remand the proceeding to the Hearing Examiner for further findings of fact, conclusions of law or both. The Appeal Committee or the Equal Opportunities Commission shall specify in its order of remand what aspects of the record need supplementation.
- 11.13 Final orders of the Equal Opportunities Commission are enforceable as provided in the Ordinance. If the Appeals Committee or the Equal Opportunities Commission finds that the Respondent has not engaged in discrimination as alleged in the complaint, it shall serve a copy of its findings on the Complainant together with an order dismissing the complaint.
- 11.14 The Appeals Committee and the Equal Opportunities Commission shall utilize the Equal Opportunities Division for all necessary support services. The Hearing Examiner shall assist in a manner consistent with the due process rights of the parties. The official record shall be returned to the Equal Opportunities Division subsequent to the Equal Opportunities Commission's final decision.

12. Service of Papers and Other Documents

- 12.1 Documents **SHALL NOT** be served upon the Commission by facsimile transmission or e-mail. However, service is deemed effective on date of receipt, except as set forth in 13.21.

- 12.2 Service may be made in person or by mail.
- 12.21 Service by mail on a Complainant shall be made at the last address provided by the Complainant.
- 12.22 Service by mail on a Respondent shall be made at Respondent's residence, principle place of business, or at the location where the alleged act of discrimination occurred.
- 12.23 If service is made by mail, the papers shall be deposited in the Post Office addressed to the party, attorney or representative to whom they are being served, with the postage prepaid. Unless earlier receipt is shown, service by mail shall be deemed complete upon the third day following the day upon which the papers are placed in the mail, unless the third day falls on a Saturday, Sunday, or holiday observed by the City of Madison, in which case service shall be deemed complete on the first business day thereafter.
- 12.3 Notwithstanding any other provisions of Rule 12, actual receipt of a document by an individual or any other person specified in Rule 12 shall constitute service.
- 12.4 The Hearing Examiner shall cause to be served all orders, notices and other papers issued by the Hearing Examiner, together with other papers which the Hearing Examiner is required by law or these rules to serve. Every other paper shall be caused to be served by the party filing it.
- 12.41 All papers served by the Hearing Examiner, EOD Manager, DCR Director, the Commission or any party shall be served upon all counsel of record at the time of such service and upon parties not represented by counsel and their designated representatives. Any counsel or representative entering an appearance subsequent to the initiation of the proceeding shall serve a notice of appearance on the Commission, all other counsel or other representative then of record for the parties and all parties not represented by counsel.
- 12.5 Subsequent to the filing of a complaint with the Commission, any person submitting written materials to the Commission with respect to that complaint shall send copies of those documents to the opposing party or parties, attorney(s) or representatives(s).
- 12.51 Where the requirement to provide the opposing party(s), attorney(s) or representative(s) with copies of documents as specified in paragraph 12.6 of this section presents an economic or other hardship, the party(s) may submit a written request for a waiver, stating reasons for the request. Exemptions from the requirement of 12.5 shall be granted liberally.

13. General Provisions

13.1 Representation

A party may be represented before the Division and/or Commission by the following persons: Any attorney at law entitled to practice as authorized by the State of Wisconsin, any attorney at law entitled to practice before the highest court of record of any other state or any lay advocate of the parties to the complaint.

13.11 Any person appearing on behalf of another must file a notice of appearance in the proceedings.

13.2 Computation of Time

Computation of any period of time prescribed or allowed by these rules shall begin with the first business day following that on which the act or event initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or holiday observed by the city of Madison, the period shall run until the end of the next business day.

13.21 All appeals authorized by these rules must be received at the Commission offices no later than 4:30 p.m. on the date due; it shall not be sufficient for an appeal to be merely postmarked by the due date.

13.3 Oral Arguments

Any request for oral arguments made pursuant to these rules shall be made in writing and must be supported by good cause. Requests shall be granted or denied within the sound discretion of the decision maker.

14. If future ordinance changes are adopted by the Common Council that conflict with the Rules of the EOC, said Rule(s) shall be returned to the Commission for resolution.