COLUMBUS HUMAN RIGHTS COMMISSION
COLUMBUS, INDIANA

RULES AND REGULATIONS CONCERNING PRACTICES AND PROCEDURES BEFORE THE HUMAN RIGHTS COMMISSION OF COLUMBUS, INDIANA

I. APPLICATION:

These rules shall supplement the provisions of Ordinance No. 3090 of the City of Columbus, Indiana, in governing practices and procedures in investigation, hearing, and determination of issues or cases of discrimination practices.

II. DEFINITIONS:

As used in these rules, unless a different meaning clearly appears from the context, the following terms shall have the meaning described in this section:

A. **ADMINISTRATIVE ASSISTANT** - The employee of the City of Columbus who is designated to provide administrative and other assistance to the Director.

B. **CHAIRPERSON** - The duly elected Chairperson of the Commission or, in the event of his or her absence, the Vice-Chairperson of the Commission.

C. **COMMISSION** - The Columbus Human Rights Commission as established by the Columbus City Ordinance.

D. **COMMISSIONER** - One of the members of the Columbus Human Rights Commission.

E. **COMMISSION ATTORNEY** - The City Attorney or such assistant of such attorney as may be assigned to the Commission.

F. **COMMISSION OFFICE** - The office of the Columbus Human Rights Commission.

G. **COMPLAINANT** - The term "Complainant" means any individual charging on his/her own behalf to have been personally aggrieved by a discriminatory practice, or the Director or Deputy Director of the Commission charging that a discriminatory practice was committed against an individual, other than himself/herself, or a class of people, in order to vindicate the public policy of the state of Indiana as defined in 1C 1971, 22-9-1-2.

H. **COMPLAINT** - Any written grievance filed by a complainant with the Commission.

I. **CONCILIATION AGREEMENT** - A written document which details terms and conditions for the settlement of a complaint which are accepted by and agreed to by

both the complainant and the respondent; i.e. a formal agreement entered into in lieu of adjudication.

J. **DIRECTOR** - The Director of the Human Rights Commission.

K. **DISCRIMINATORY ACT OR PRACTICE** - The exclusion of an individual from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, age, sexual orientation, or gender identity; or a system which excludes individuals from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, age, sexual orientation or gender identity; or the promotion of racial segregation or separation in any manner, including but not limited to, the inducing of, or the attempting to induce, for profit, any individual to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of an individual or individuals of a particular race, religion, color, sex, disability, national origin, ~~or~~ ancestry, age, sexual orientation or gender identity. In housing, the definition of "family" includes families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

L. **EXECUTIVE COMMITTEE** - The Executive Committee shall be composed of the officers and the Director will act as ex-officio member.

M. **HEARING OFFICER** - The person or persons designated by the Chairperson and Director to conduct a hearing or administrative adjudication.

N. **INVESTIGATOR** - Any Commissioner, agent, independent contractor, or employee of the Commission designated or authorized by the Commission or the Commission Chairperson to make investigations.

O. **PARTY OR PARTIES** - The Complainant, the Respondent and/or interveners.

P. **PERSON** - One (1) or more individuals, partnerships, associations, organizations, corporations, labor organizations, cooperatives, legal representatives, trustee, trustees in bankruptcy, receivers, and other organized groups or persons.

Q. **PROBABLE CAUSE** - Probable Cause exists when facts and circumstances are sufficient so a reasonably prudent individual would be justified in believing that a discriminatory act has been or is being committed.

R. **PUBLIC HEARING** - A hearing held by the Commission to determine whether or not an act of discrimination has occurred. The hearing shall be held in the event that the investigation of a complaint has resulted in a finding of probable cause to believe that discrimination has occurred, and the discrimination charged has not been eliminated through a successful attempt at reaching a conciliation agreement.

S. **RESPONDENT** - The individual alleged in a complaint of discrimination to have

committed or to be committing a discriminatory act or practice.

T. **AGE DISCRIMINATION -** The prohibitions in these Rules and Regulations regarding age and the process of Voluntary Mediation shall be limited to Complainants who are at least 40 years of age.

U. **GENDER IDENTITY -** a person's actual or perceived gender-related attributes, self-image, appearance, expression or behavior, whether or not such characteristics differ from those traditionally associated with the person's assigned sex at birth.

V. **SEXUAL ORIENTATION -** an individual's identity or practice as a lesbian woman, gay male, bisexual person or heterosexual person, whether actual or perceived.

W. **VOLUNTARY MEDIATON** - a process by which Complainant and Respondent, solely of their own volition, are invited to meet with a Commission-appointed mediator to assist them in resolving their dispute and reaching a settlement between the Complainant and Respondent. Voluntary Mediation is a process available to all parties appearing before the Commission. In complaints of discrimination filed on the basis of age, sexual orientation, or gender identity, or marital status the Commission's authority shall be limited to voluntary mediation.

III. COMMISSION STRUCTURE:

A. MEMBERSHIP:

1. Full membership shall be not less than nine (9) nor more than eleven (11) citizens serving without compensation and broadly representative of racial, ethnic, sexual, political, religious, economic and educational groups in the community.

2. Members shall be appointed by the Common Council of the City of Columbus. Appointment will be for a term of three (3) years commencing on the first of April. Terms of Appointment are to be so arranged that no more than four (4) members' terms expire in any given calendar year. If a member dies or resigns, the successor shall be appointed to serve for the unexpired period of the term for which the member had been appointed.

3. The Common Council may remove Commissioners only for cause. The Commission will recommend removal of Commissioners only for failure to participate actively, conduct unbecoming a Commissioner or demonstrated insensitivity to problems of citizens based on race, sex, color, national origin, religion, age, sexual orientation, gender identity, or disability status.

4. After appointment and before assuming the office of Columbus Human Rights Commissioner, the prospective Commissioner-elect shall successfully complete the Commissioner Training Program.

B. OFFICERS:

1. **TERMS OF OFFICE -** The Officers shall take office each year on the first of

April for a one (1) year term.

2. **CHAIRPERSON -** The Chairperson shall preside at regular monthly meetings and any special meetings. The Chairperson shall be responsible for the creation of all standing and Ad Hoc Committees necessary to fulfill the Commission objectives and assigned responsibilities. The Chairperson may issue all Commission position statements and media releases that are approved by the Executive Committee or the Commission as a whole. The Chairperson shall be the liaison to the Common Council. The Chairperson shall establish the agenda for each regular Commission meeting.

3. **VICE-CHAIRPERSON -** The Vice-Chairperson shall act in the capacity of the Chairperson when the Chairperson is unable to serve due to absence or other causes. The Vice-Chairperson shall make appointments to all standing and Ad Hoc Committees.

4. **SECRETARY -** The Secretary shall keep the minutes of actions taken at all regular and special Commission meetings and make them available to the Commissioners, volunteers and press. These minutes are to be made available to the Commissioners, volunteers and press. These minutes are to be made available for distributions no later than ten (10) calendar days following the meeting. The Secretary shall also perform other official functions as authorized by the Chairperson or Commission.

5. **TREASURER -** The Treasurer shall be responsible for auditing the budget records of the Commission and handling and disbursing funds received from sources other than the funds appropriated by the City budget.

6. **RESIGNATION OF AN OFFICER -** In the event of the resignation of an officer, the vacancy thus created will be filled by an action of the Commission as soon as practicable. In the event the filling of this vacancy creates another vacancy in the Executive Committee, the process shall continue by selection from the Commission membership until the Executive Committee Membership is completely filled.

C. **APPOINTMENT OF OFFICERS**:

1. At the regular January Commission meeting a Nominating Committee will be appointed. This Committee will be composed of three Commissioners.

2. At the regular January Commission meeting each Commissioner will submit a slate of nominations for officers.

3. The Nominating Committee will put together a slate of candidates from the recommendations submitted at the January meeting. The Committee will make sure the candidates are willing to serve, if elected.

4. At least one week before the February meeting the Nominating Committee will notify all the Commissioners, in writing, of the slate of candidates.

5. At the regular February meeting, additional nominations will be accepted.

Commissioners will then be given a written ballot and each Commissioner will cast one vote for each office.

D. **EXECUTIVE COMMITTEE**:

The Executive Committee shall exercise all powers of the Columbus Human Rights Commission between meetings of the Commission. All proceedings of the Executive Committee, in which it acted for the Commission, shall be reported to the Commission at its next regular meeting. These actions shall be subject to revision or alteration by the Commission by a two-thirds majority vote of the Commissioners present, providing no irrevocable rights of third parties shall be affected by such revision of alteration.

1. **APPOINTMENTS AND COMPOSITION**: The Executive Committee shall be composed of the officers. The Chairperson of the Commission will act as chair. The Director of the Columbus Human Rights Commission will act as ex-officio member, with no voting privileges.

    a. The Executive Committee shall meet at such times as the Committee may find necessary to properly transact the business of the Commission. A meeting may be called either by the Chairperson or by a majority of the Executive Committee. The Commission shall comply with state public notice meeting requirements for all executive committee meetings and members of the Executive Committee shall receive the public notice of the executive committee meeting.

    b. A majority of the membership of the Executive Committee shall be present in order to constitute a quorum.

2. **RESPONSIBILITIES**:

    a. Transact business between Commission meetings.

    b. Provide and maintain the job description for the Director of the Columbus Human Rights Commission.

    c. Review and evaluate performance of the Director at least once a year.

    d. Review salary action for the Director and recommend it for approval by the Commission and presentation to the Council.

    e. Hear grievances of Director level staff and recommend a solution to the Commission

f. Provide guidance and assistance to the Director relative to the management and operation of the Commission office.

g. Monitor the performance of the Commission in the execution of its goals and objectives.

h. Review and approve the Annual Report.

E. **COMMISSION MEETINGS:**

1. Special meetings may be called by the Chairperson or a majority of the Commissioner members. Such meetings need not be public; however, official action can take place only at public meetings.

2. Regular monthly meetings will be open to the public and held the last Wednesday of each month from January thru November. The December meeting will be held on the third Wednesday of that month. The regular monthly meetings will be held in the Council Chambers. A majority of the Commission may act to change the meeting time and location within City Hall. No Formal Complaints will be received at the Commission meetings (see Section IV). Persons bringing matters before the Commission shall be a part of the public record.

   a) A quorum shall consist of a simple majority physically present at the meeting.

   b) The Chairperson may vote on all action items on the agenda.

3. The Commission may conduct programs or initiate activities intended to improve human relations and achieve equal opportunity.

F. **HUMAN RIGHTS COMMISSION VOLUNTEER**:

1. **REQUIREMENTS**

   a. The Human Rights Commission Volunteer shall be interviewed by the Commission Chairperson and at least one designated Commissioner prior to serving with the Commission.
   b. The Human Rights Commission Volunteer shall attend the Commission training sessions prior to serving with the Commission.

2. **RESPONSIBILITIES**

   a. The Human Rights Commission Volunteer shall be responsible for following the rules and the regulations of the Commission.

3. **ACTIVITIES -** Activities of the Human Rights Commission Volunteer may Include, but not be limited to, the following:

a. Assisting in investigations when assigned.
b. Participating in Commission meetings.
c. Serving on the Commission Committee(s) when there is a least one Commissioner serving on the same.
d. Participating in Commission programs as assigned.
e. Receiving the regular monthly meeting agenda, minutes and other documents or correspondence deemed appropriate.

4. **LIMITATIONS**

a. Human Rights Commission Volunteers shall have no voting privileges.
b. The Commission activities of the Human Rights Commission Volunteer shall be regulated by the Director, Chairperson, and the Commission.
c. The Commission is not responsible for, or bound by, the acts of volunteers.

IV. **COMPLAINT**:

A. A complaint may be filed with the Commission by any person claiming to be aggrieved by a discriminatory act or practice in violation of the Columbus Human Rights Ordinance. A complaint may be initiated or received by any member of the Commission. Such complaints will be directed to the Director who will assist the Complainant in filling the required standard form. The complaint is initiated when the form is completed, signed, notarized and given a claim number. A complaint may also be filed with the Commission by any person claiming to be aggrieved by a discriminatory act or practice, as defined by Section II (K) of the Rules and Regulations Concerning Practices and Procedures Before the Columbus Human Rights Commission. A complaint alleging age discrimination, sexual orientation discrimination, and/or gender identity discrimination shall be limited to voluntary mediation. Such complaints will be directed to the Director who will assist the Complainant in filling out the required standard form. The complaint is initiated when the form is completed, signed, notarized and given a claim number.

B. The Complaint shall set forth:

1. The full name and address of the Complainant,
2. The name and address of the Respondent,
3. The alleged discriminatory act(s) or practice(s) and a statement of the particulars thereof.
4. The date(s) of the alleged discriminatory act(s) or practice(s)
5. A statement as to any other action, instituted in any other forum, based upon the same act or practice that is alleged in the complaint, describing the status or disposition of each such action.

C. No complaint is within the jurisdiction of the Commission unless:

1. It is filed within ninety (90) days from the date of the occurrence of the alleged discrimination, or from the date of the termination of a published and meaningful grievance procedure provided by a respondent employer or union, or

2. It is filed not later than 180 days after an alleged discriminatory housing practice has occurred or is terminated, whichever is later and the complaint is alleging a violation under Chapter 12 Section 3.5 which occurs after September 13, 1992 and is committed by a covered entity as defined by section 3.5 of Chapter 12.

D. **COMPLAINANT WITHDRAWAL OF COMPLAINT:**

A complaint, or any part thereof, may be withdrawn by the complainant upon written notice to the Commission or to the Hearing Officer if the case has been noticed for public hearing. The withdrawal is effective upon signing of the complaint closure form by the Director and Chairperson of the Commission. Notice of such withdrawal shall be given to all parties by certified mail upon receipt of the withdrawal by the Commission. If circumstances indicate, the Director may delay closure of the complaint until the complainant gives written confirmation that the withdrawal was signed without duress or coercion.

E. **ADMINISTRATIVE CLOSURE OF COMPLAINT**:

A complaint may be administratively closed for the following:

1. Jurisdictional dismissal: Whenever it appears upon investigation of a complaint that the Commission lacks jurisdiction over the parties or the subject matter of the complaint, the Commission shall dismiss the complaint without further action. Such dismissal is effective upon the signature of the complaint closure form by the Director and the Chairperson of the Commission.

2. Administrative Dismissal: The Commission may upon its own initiative dismiss a complaint upon agreement by the Chairperson and the Director for the following reasons:

   a. A showing of discharge in bankruptcy of the respondent or that the complainant no longer has a right to file as a creditor or that such filing would be unproductive.

   b. Failure to locate the complainant; provided that reasonable effort has been made by the Commission staff to locate the complainant. Such effort shall include the following:

      i. Verification from the County Clerk of the complainant's last known address from voter registration records;

ii. Return of certified and regular mail stating that the party has moved and left no forwarding address or written verification from the US Postal Service that no forwarding address is available for the complaint; and

iii. Address information requested from the complainant's contact person listed on the complaint form and no location obtained.

c. Complainant's failure or refusal to cooperate. Upon refusal by complaint to cooperate with the processing of the complaint or otherwise to cooperate with the Commission's staff, the complainant shall be notified via certified mail or personal service, that failure to provide the Commission with the information or cooperation sought within fifteen days of receipt of the letter may result administrative dismissal of the complaint.

d. Death of the complainant provided that heirs do not wish to proceed.

e. Mootness of the allegations of the complaint. The complainant shall be notified via certified mail or personal service of (1) The rationale supporting mootness and (2) That failure to provide the Commission with information showing why the complaint is not moot within fifteen days of receipt of the letter may result in administrative dismissal of the complaint. The above dismissals are effective upon the signing of the complaint closure form by the Director and the Chairperson of the Commission. Notice of such closure will be given to all parties by certified mail.

F. A complaint may be amended at any time subsequent to its filing, provided that, if a notice of hearing has been issued, a complaint may not be amended less than ten (10) days prior to the date of such a hearing, unless permission is granted for later amendment by the Hearing Officer. Proper notice of any amendment shall be given to all parties.

V. **INVESTIGATION:**

A. The Director screens the Complainant.

1. The Director screens the complaining party to determine if the allegations fall within the jurisdiction of the Commission.

2. If the allegations fail to meet the jurisdictional requirements, the Director may refer the party to the appropriate agency, if any, and prepare the written summary of the allegations and any action taken.

3. If the complaining party's allegations meet the jurisdictional requirements, a

complaint is signed by the Complainant and notarized. The director assigns a claim number, a file, and prepares a filecard.

4. The Director prepares or has prepared a typed copy of the complaint.

B. The Director sends the Chairperson a copy of the complaint.

C. The Director notifies the Respondent of the charge and a statement of the Commission procedures is made available to the Respondent.

D. The Chairperson designates the investigator(s). The Chairperson may assign more than one investigator to a complaint.

E. The Investigator proceeds with the investigation of the complaint promptly and completely, with the option to discuss any part of the case with the Administrative Assistant, Director, Chairperson, or Commission Attorney during the investigation. The Investigator shall not communicate his or her opinion and recommendations to the Commissioners and others not designated in this section.

F. The Investigator completes the investigation and submits the recommended Summary of Findings to the Chairperson or his/her designee within sixty (60) days of the initial complaint, an extension of which requires the approval of the Chairperson.

G. The Director, the Chairperson and the Commission Attorney shall discuss the recommendation, and the Chairperson or his/her designee shall issue the official determination of the Commission.

H. The Director sends letters of Commission findings to the Complainant and the Respondent. The letters of findings from the Commission shall be signed by the Director and the Chairperson or designee.

I. In the case of a No Probable Cause Finding there shall be an appeals process whereby:

1. A party who believes himself to be aggrieved by a finding of No Probable Cause may file, within fifteen (15) days after receipt of notice of such finding, a written request for reconsideration of such findings with the Commission. Notice of such right to request reconsideration shall be contained in the notice of the finding of No Probable Cause. The Chairperson of the Commission shall appoint a Commissioner who has not been previously involved in the investigation of the complaint to review and rule on such request. The Director shall schedule a meeting to be attended by the appointed Commissioner and the Complainant. The Commissioner shall base the decision on the investigation results submitted by the director and the Complainant's arguments presented at the meeting.

a. If the Commissioner determines that the finding of No Probable

Cause should be reversed, the case shall be processed as though an original finding of Probable Cause had been made.

b. If the Commissioner determines that the original finding should be upheld, the complaint shall be dismissed and the Complainant and the Respondent shall be sent notice of such findings by first class mail.

J. The Commissioner who reverses a No Probable Cause Finding shall take no further part in the proceedings on the complaint which was the subject of the appeal. Provided, however, that if such Commissioner's disqualification would deprive the Commission of a quorum, the Commissioner who ruled on the appeal need not be disqualified.

K. Notice of a Probable Cause Finding shall be sent to the Respondent by certified mail with a return receipt requested. The notice shall specify that if the Respondent fails within ten (10) days of the receipt of the notice to notify the Director of his or her willingness to arrange a conciliation meeting, that the matter will be set for a Public Hearing.

VI. **CONCILIATION:**

A. If a Respondent notifies the Commission of a desire to attempt a conciliation, the Commission shall, through its Chairperson, Director, Commission attorney or any other Commissioners designated at the discretion of the Chairperson, but excluding the Investigators, arrange a meeting with the Respondent to discuss the terms of a conciliation agreement which will compensate the Complainant for the discrimination suffered and which will prevent similar acts of discrimination in the future.

B. Subsequent to the conciliation meeting the Commission shall reduce the agreement to writing and submit a copy of the agreement to the Respondent for approval. The agreement shall be mailed to the Respondent by certified mail with return receipt requested together with a letter specifying that the Respondent is to sign and return the agreement or submit any proposed changes to the agreement in writing to the Director within ten (10) days of the receipt of the agreement and stating that noncompliance with the ten (10) day provision will result in the Commission's proceeding to have the matter set for Public Hearing.

C. The final conciliation agreement will be signed by the Respondent, the Complainant, the Director and the Chairperson. It will set forth in writing all measures to be taken by any party, including provisions for compliance reports if deemed appropriate.

D. If the Complainant declines to sign the agreement between the Respondent and the Commission, the Director will notify the Complainant of his or her right to seek further relief from the Indiana Civil Rights Commission or any other appropriate agency.

E. If the Commission determines that there is Probable Cause but is unable to arrange

a conciliation agreement which the Respondent will sign, the Commission will set a date for a Public hearing to be held within sixty (60) days but not less than ten (10) days after notice of the hearing is issued. The Director will send notice of the Hearing to the Respondent and the Complainant.

VII. **SERVICE OF PROCESS:**

A. **SUBPOENA:**

Any subpoena issued by the Commission on its own motion or at the request of any party shall be served in a manner consistent with the applicable provisions of the Indiana Rules of Trial Procedure.

B. **OTHER NOTICES:**

Unless otherwise provided in these Rules and Regulations, notice of any action taken by the Commission including but not limited to copies of any motions filed or orders requested or issued, shall be given to the parties involved in a manner consistent with any applicable provisions of the Indiana Rules of Trial Procedure. Any action taken or order issued by the Commission which includes any specific time limits applicable to any party to the Commission proceeding shall be sent to the parties by certified mail, return receipt requested.

VIII. HEARING PROCEDURES:

A. **NOTICE OF HEARING:**

After a finding by the Commission of Probable Cause to support the allegations of the complaint and in case of failure to eliminate the alleged discriminatory practice by conciliation in advance thereof, if, in the judgment of the Commission circumstances so warrant, the Chairperson shall cause to be issued in the name of the Commission and served upon the Respondent a written notice of hearing, together with a copy of the complaint. The notice of hearing shall state the time and place of hearing, inform the Respondent that he or she may file an Answer or Motion to Dismiss or a Motion for a More Definite Statement and that a failure to answer shall be deemed a denial of the allegations of the Complaint. The notice of hearing and the complaint shall be served by certified mail, return receipt requested, or personal service on all parties at least ten (10) days before the date of hearing. If personal service is utilized, it shall be made upon the party in person or by leaving a copy at his or her last known place of residence. If an attorney-at-law has previously appeared on behalf of the party, a copy of the notice of hearing and complaint shall be furnished to said attorney. Simultaneously with the setting of a hearing by the Commission, the said Commission shall certify a copy of the complaint to the State Commission with notations attached thereto of all local action to the date of such certification.

B. **ORDER OF DEFAULT**:

The notice of hearing shall advise the parties that upon the failure of a party to appear at the hearing, the appearing party may apply to the Commission for an Order of Default to be entered against the party who failed to appear. The nonappearance of a party must be verified by affidavit of the party requesting the Order of Default. The Hearing Officer's notice of an Order of Default must be sent to the non-appearing party by certified mail with return receipt requested, addressed to the non-appearing party at his or her last known place of residence or place of business. The Order of Default may be set aside by the Chairperson of the Commission for good cause shown and upon application within 45 days from the date the Order of Default is issued. If it is found necessary in order to enter an Order of Default, or to make such order effective, or to determine the amount of damages, or to establish the truth of any allegation by evidence, or to investigate any other matter, the Commission may conduct a hearing with regard to such matters in accordance with the Hearing Procedures set out under Section VII.

C. **MOTION TO DISMISS:**

A respondent, after receiving a notice of hearing, may within seven (7) days thereafter file in duplicate with the Commission Chairperson a Motion to Dismiss for procedural error, which motion shall specifically set forth the grounds therefore. Upon the filing of a Motion to Dismiss, the Chairperson shall set said motion for argument before the whole Commission and shall immediately serve a copy thereof upon the Complainant. If the Motion to Dismiss is granted, the Complainant shall have the right to amend the Complaint, and file the same within fifteen (15) days from the date of dismissal.

D. **MOTION FOR A MORE DEFINITE STATEMENT:**

The Respondent may file a motion in writing within seven (7) days after service of the notice of hearing and complaint, requesting that the allegations of the complaint be made more definite. The motion shall state the deficiencies of the complaint and the details desired. The Hearing Officer shall rule on the motion and, if the motion is granted, fix the time within which the Complainant shall comply. The Motion for a More Definite Statement shall be granted only for the limited purpose of clarifying the issues sufficiently so that the party making such motion shall be able to prepare his or her defense to the allegations made in the complaint.

E. **ANSWER:**

1. **Time of filing:**

The party against whom a complaint is filed and on whom a notice of hearing and a copy of such complaint has been served may file an answer to the complaint, if desired, but not later than six (6) days before the date of the hearing.

2. **Place and Manner of Filing**:

The answer must be filed in duplicate with the Commission Office and a copy mailed to the Complainant concurrent with the filing of same with the Commission Office.

3. **Form:**

The answer shall be in writing, and verified by the Respondent. The answer shall contain the post office address of the Respondent, his telephone number, and, if he is represented by an attorney, the name, telephone number and address of said attorney. Any allegation in the complaint which is not denied or admitted in the answer, unless the Respondent shall state in the answer that he is without knowledge or information sufficient to form a belief, shall be deemed admitted.

4. **Amendment:**

The Respondent shall have the power to amend his/her answer at any time until three (3) days prior to the date of hearing as a matter of right, and thereafter at the discretion of the Hearing Officer. A duplicate copy of an amended answer must be supplied to the Complainant prior to or concurrent with, filing of the same with the Commission.

5. **Failure to File Answer**:

The hearing of any cause may proceed, notwithstanding any failure of the Respondent to file an answer within the time provided herein.

F. **HEARINGS:**

1. **Place:**

Hearings shall be held at a place designated by the Commission Chairperson with due regard given to the convenience of the parties and witnesses.

2. **Hearing Officer:**

The Hearing Officer will conduct the Public Hearing and rule on all pre-hearing motions and petitions. The Hearing Officer shall be named by the Chairperson and Director at the time any complaint is set for Public Hearing. The parties shall be notified promptly of the selection of the Hearing Officer.

3. **Appearances:**

A notice to appear shall be issued and served on the Complainant. The Complainant shall be present at the hearing with or without counsel, and submit oral testimony and other evidence. A notice to appear shall be issued and served on the Respondent. He or she may submit, or counsel may submit, oral testimony and other evidence on his or her own behalf.

4. **Parties:**

a. At the discretion of the Hearing Officer and other organization, person or group of persons may be allowed to intervene or to make statements in person or by counsel on matters relevant to the issues before the Commission and for such purposes and to such extent as the Hearing Officer shall determine. In the event that permission is granted to any person to intervene, such intervener shall be subject to all rules applicable to Public Hearings.

b. The Hearing Officer may permit or order the joinder as a party of any person subject to service of process whose presence as a party is necessary to obtain complete relief for those already parties, or who claims an interest in the subject matter of the hearing and whose absence may impede his or her ability to protect that interest or leave any of those already parties subject to a substantial risk of incurring double, multiple or otherwise inconsistent obligations by reason of that claimed interest. When such a person is not made a party, the Hearing Officer may treat that absent person as not necessary for just adjudication and allow the hearing to continue or treat that person as necessary for just adjudication and dismiss the action if the person is not subject to process.

5. **Subpoenas:**

The Commission may subpoena witnesses, the Complainant, the Respondent, and any books, records, or written evidence pertaining to the question in controversy. Any person who resists or fails to comply with a subpoena without justifiable cause shall be subject to sanction as provided in the Indiana Rules of Trial Procedure, including, but not limited to, the payment of the costs of the other party incurred as a result of said refusal of compliance, including attorney's fees.

6. **Continuances:**

For good cause shown, the Hearing Officer may grant a continuance on the motion of either party. The Hearing Officer may at any time order a continuance upon his or her own motion as the interests of justice so require; however, any continuance in excess of thirty (30) days must be approved by the Chairperson of the Commission. If any party is not present at the time a continuance is granted, such party shall be promptly notified of such continuance. Any such notice of continuance shall be confirmed in writing by certified mail, return receipt requested, subsequent to any other method of notice.

7. **Pre-hearing Conference:**

Prior to any hearing, the Hearing Officer may, in his or her own discretion or upon motion of any party, direct the attorneys or parties to appear before the Hearing Officer for a Pre-Hearing Conference. A party not represented by counsel shall appear on his or her own behalf. Such Pre-Hearing conference shall be for the purpose of simplifying issues, arriving at stipulations, exchanging documents and witness lists and dealing with other such matters as may aid in the orderly disposition of the action at Public Hearing. Where all parties are represented by counsel, the Hearing Officer may order the attorneys to meet and confer at least three (3) days prior to the Pre-Hearing Conference. Such meeting of counsel shall be for the purposes of, and conducted in accordance with, the applicable provisions of the Indiana Rules of Trial Procedure.

8. **Order of Procedure at Hearing:**

The hearings shall be conducted in accordance with the following order of procedure:

a. The Hearing Officer shall announce that the Commission is convened to hear the case and shall call it by title and claim number.

b. The Hearing Officer shall read the pertinent parts of the complaint and statement of facts filed by the Investigators.

c. The Hearing Officer shall read the pertinent parts of the answer, if any has been filed by the Respondent.

d. All witnesses who are present to give testimony in the hearing shall rise and be sworn by the Hearing Officer.

e. Upon motion of the Complainant or Respondent, the Hearing Officer may order the separation of witnesses.

f. The Complainant, his or her attorney, or other representative may

make an opening statement briefly stating the Complainant's contentions and the evidence to be presented.

g. The Respondent, his or her attorney, or other representative shall make an opening statement briefly stating the Respondents contentions and the evidence to be presented.

h. The Complainant, his or her attorney, or other representative shall present evidence showing a violation of the Ordinance. The Complainant and any witnesses called to support the Complainant's case may be cross-examined by the Respondent or the Respondent's attorney and may also be cross-examined by any other member of the Commission. The Complainant's offered exhibits will be marked by the letters of the alphabet beginning with "A".

i. The evidence of the Respondent shall be presented. The Respondent and any witnesses called by the Respondent may be cross-examined by the Complainant, the Complainant's attorney, and may also be questioned by any other member of the Commission. The Respondent's offered exhibits will be marked with Arabic numerals, beginning with "I".

j. The Complainant may offer rebuttal evidence.

k. The Respondent may offer surrebuttal evidence.

l. The Commission may allow evidence to be offered out of order, as herein prescribed.

m. Closing statements will be made in the following sequence:

(1) Complainant
(2) Respondent
(3) Complainant rebuttal

n. The Hearing Officer may recess the hearing upon request of either party or on his or her own motion as is deemed appropriate.

o. After all participants have been offered an opportunity to be heard, the Hearing Officer shall excuse all witnesses and declare the evidence closed. The evidence in the case may be reopened at a later date for good cause shown by order of the Hearing Officer upon his or her motion or motion of any party to the proceeding.

p. At the close of the hearing the Hearing Officer shall order the parties to submit a proposed decision to the Commission. The proposed decision shall include proposed findings of fact, conclusions of law and the final order of the Commission which the party desires.

q. The Hearing Officer may exclude from the hearing room or from further participation in the proceeding any person who engages in improper conduct before the Hearing Officer except a party, his or her attorney or a witness engaged in testifying. Improper conduct shall consist of any action which severely impedes or prevents an orderly adjudicatory process.

9. **Procedural Rules:**

a. **Evidentiary Rules**:

The Commission shall not be bound by the technical common-law rules of evidence required in proceedings in judicial courts.

b. **Presentation of Evidence:**

The Hearing Officer shall have full authority to control the procedure of hearing, to admit or exclude testimony or other evidence and to rule upon evidentiary motions and objections.

c. **Oral Testimony:**

All oral testimony shall be given under oath or affirmation, and a verbatim record of the proceedings shall be made and kept.

d. **Waiver of Objections:**

Any objection not duly urged before the Commission shall be deemed

waived unless the failure to urge such objection shall be excused for cause by the Commission.

e. **Joinder of Proceedings**

Two (2) or more proceedings under this chapter against the same Respondent may be joined by the Commission if the Complainants agree to said joinder.

f. **Post-Hearing Motions:**

All post-hearing motions shall be in writing, stating briefly the order of relief applied for and the grounds for such motions. Said motions shall be filed with the Commission no later than three (3) days after the conclusion of any hearing. One (1) copy shall be supplied to each other party concurrent with filing of the motion with the Commission.

g. **Depositions:**

The Commission on its own motion or on the application of one of the parties shall, whenever necessary, and on such terms and conditions as it determines, take or cause to be taken depositions of witnesses residing within or without the state. Said depositions may be used at the Public Hearing if the Hearing Officer determines that the interests of justice so require.

h. **Discovery:**

Following the setting of a Public Hearing, the parties shall be entitled to all discovery pursuant to the provisions of Rules 26 through 37 of the Indiana Rules of Trial Procedure. Protective and enforcement orders shall be issued by the Hearing Officer. Such orders may be enforced in the same manner as any other order issued by the Commission. Such discovery procedures are also available to the Commission prior to the setting of a Public Hearing. In such instance, the Chairperson or a Commissioner appointed by the Chairperson shall issue all enforcement and protective orders as needed. Such orders may be enforced in the same manner as any other order issued by the Commission.

10. **Final Orders:**

a. **Contents:**

An order of the Commission issued after Public Hearing shall set forth in writing the findings of fact of the Commission. The final decision may include an opinion containing the reasons for said decision.

b. **Issuance:**

Orders of the Commission shall be issued after the Commission has made its findings following a Public Hearing.

c. **Service:**

Copies of orders shall be sent by registered or certified mail, return receipt requested, to the Complainant, Respondent, and all interveners, and all attorneys of record.

d. **Filing:**

All orders shall be filed in the Commission office and a copy thereof certified to the State Commission. A copy of said order shall also be transmitted to such other public officers as the Commission deems proper. Such orders shall be open to public inspection during regular business hours.

11. **Reopen Proceedings:**

The Commission may, on its own motion or on the verified motion of any affected parties for good cause shown, whenever justice so requires, reopen any proceeding or determination upon notice to all such affected parties, which shall include a copy of the motion therewith. No matter shall be reopened more than one (1) calendar year after the date the Final Order
was issued therein.

12. **Record of proceedings:**

a. **Definition of record**:

The record of the proceedings before the Commission in any hearing shall consist of the recording of testimony adduced and exhibits admitted, together with notice, all pleadings, exceptions, motions, requests and papers filed, other than briefs or arguments of law, findings, and final order. The findings of fact of the Commission
and its Final Order shall also be included in the record.

b. **Certification:**

The Commission Chairperson, or in his or her absence the Vice-Chairperson, is authorized to certify all documents or records which
are a part of the files and records of the Commission.

IX. <u>TEMPORARY RESTRAINING ORDERS:</u>

A. <u>ISSUOR:</u>

The Chairperson of the Commission, any Commissioner designated by the Chairperson, or the Hearing Officer, may rule on the issuance or continuance of a Temporary Restraining Order. In the event that the Temporary Restraining Order is issued or ruled on by the Chairperson or a Commissioner designated by the Chairperson, that person may not thereafter take part in any further proceedings on the complaint. If the Temporary Restraining Order is issued or ruled on by the Hearing Officer, said Hearing Officer shall

not be disqualified from further participation in the case.

B. **NOTICE**

A Temporary Restraining Order may be granted without notice if it clearly appears that an emergency exists or that irreparable loss to the Complainant's remedy will result if the Respondent is not restrained from the conduct complained of.

C. **CONTENTS:**

Any Temporary Restraining Order issued shall specify the date and hour of issuance, that an emergency exists, an explanation of the nature of the emergency or the injury described and why it is irreparable. It shall also describe in reasonable detail the acts sought to be restrained and the party or parties upon whom it is binding. If the order was issued without notice, an explanation as to why it was so issued, and that it shall expire within ten (10) days unless continued shall be included.

D. **PRELIMINARY HEARING**:

Subsequent to the issuance of a Temporary Restraining Order, the Hearing Officer, Chairperson or designated Commissioner who issued the Temporary Restraining Order shall schedule a Preliminary Hearing and notify the parties of the date, time and place of the Preliminary Hearing. Such hearing shall be held as expeditiously as the ends of justice require but never without proper notice to the parties. The date set for the Preliminary Hearing must be within ten (10) days of the issuance of the Temporary Restraining Order unless a clear case of good cause is made out by the Complainant or upon motion of the Respondent; in such cases Temporary Restraining Orders shall remain in effect beyond the ten (10) day period until a Preliminary Hearing may be held. At the Preliminary Hearing, the Hearing Officer, Chairperson or designated Commissioner who issued the Temporary Restraining Order shall determine whether or not to continue the Temporary Restraining Order pending a final resolution of the complaint. The Hearing Officer, Chairperson or designated Commissioner who issued the Temporary Restraining Order may modify the effect of the Temporary Restraining Order as the ends of justice require. The determination of the Hearing Officer, Chairperson or designated Commissioner at a Preliminary Hearing shall be sent to the parties and made a part of the permanent record of the case. The determination of the Hearing Officer, Chairperson, or designated Commissioner who issued the Temporary Restraining Order shall state the reasons for the continuance of the Temporary Restraining Order.

E. **STANDARDS OF ISSUANCE:**

When issuing a Temporary Restraining Order, the Hearing Officer, Chairperson or designated Commissioner who issues the Temporary Restraining Order shall consider he effect upon the Complainant's health, safety and well-being as well as the effect upon the Complainant's potential remedy if such order is not issued, and shall consider the hardship to the Respondent in complying with such order. When determining whether or not to continue the Temporary Restraining Order intact or as modified at a Preliminary Hearing,

the Hearing Officer, Chairperson or designated Commissioner shall balance the equities of the respective parties and shall not continue such orders except for good cause shown. This, however, shall not require the Complainant to prove facts necessary for a successful adjudication of the complaint before issuing such a continuance of the Temporary Restraining Order.

F. **ENFORCEMENT:**

Enforcement of any Temporary Restraining Order issued by the Commission may be had in the same manner prescribed by the Commission Ordinance and the Rules and Regulations for enforcement of any other Commission order.

X. JUDICIAL REVIEW:

A. **PERSONS ENTITLED TO REVIEW:**

Any party or person aggrieved by a Final Order or determination made by the Commission shall be entitled to judicial review.

B. **PROCEEDINGS ON JUDICIAL REVIEW:**

All proceedings on judicial review of Final Orders of the Commission shall be governed substantially by the provisions of the Administrative Adjudication and Court Review Act, IC 1971, 4-22-1.

XI. SEVERABILITY:

The provisions of the "Rules and Regulations Concerning Practices and Procedures Before the Human Rights Commission of Columbus, Indiana" are severable, and, if any provision, sentence, clause, section or parts thereof is held illegal, invalid, unconstitutional, or inapplicable, it shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of the Ordinance or their application to other legislative intent that this set of "Rules and Regulations Concerning Practices and Procedures Before the Human Rights Commission of Columbus, Indiana" would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included therein.

AMENDMENTS

May 3, 1976		William S. Norman, Chairperson
March 26, 1986		Duff Green, Chairperson
December 16, 1987		Tom Handley, Chairperson
November 18, 1992		adopted by the Commission
? 1993		_____
January 26, 1994		Merlyn C. Bartlett, Chairperson
January 23, 2004	02-2004	Gilbert A. Palmer, Chairperson
January 23, 2004	03-2004	Gilbert A. Palmer, Chairperson
December 20, 2006	Sexual Orientation, Age, Gender I.D.	Gilbert A. Palmer, Chairperson
February 27, 2013	Housing- definition of “family” II K	Gilbert A. Palmer, Chairperson
February 27, 2013	Voluntary Mediation-or marital status II W	Gilbert A. Palmer, Chairperson