COOK COUNTY COMMISSION ON HUMAN RIGHTS

69 W. Washington Street, Suite 3040

Chicago, Illinois 60602

SUBSTANTIVE AND PROCEDURAL RULES

GOVERNING THE COOK COUNTY HUMAN RIGHTS ORDINANCE

Revised December 9, 2021

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PART 100 DEFINITIONS

SUBPART 110 GENERAL DEFINITIONS

"**ADMINISTRATIVE HEARING"** means the administrative hearing commenced by a Hearing Officer subsequent to a determination by the Executive Review Committee that substantial evidence of a violation of the Ordinance exists.

"CHAIRPERSON" means one of the eleven Commissioners who is elected by the body of Commissioners to serve as Chairperson of the Commission.

"COMMENCEMENT OF ADMINISTRATIVE HEARING" means that point in time when a case is assigned by Commission Staff to a Hearing Officer.

"COMMISSION" means the Cook County Commission on Human Rights.

"COMMISSION STAFF" means those individuals who shall perform investigative, clerical, administrative or other duties as described and delegated by the Commissioners through the Executive Director.

"COMMISSIONERS" means the members of that body of eleven Commissioners appointed by the President of the Cook County Board and approved by the County Board pursuant to the Ordinance.

"COMPLAINANT" means any person who files a Complaint with the Commission.

"COMPLAINT" means a sworn statement filed with the Commission either on the form provided for this purpose by the Commission, or on a form that is substantially equivalent, alleging a violation(s) of the Ordinance as defined by these rules.

"COUNTY" means the County of Cook, State of Illinois, including both incorporated and unincorporated areas of the County.

"COUNTY BOARD" means the Cook County Board of Commissioners.

"EVIDENCE DETERMINATION" means a determination by the Commission subsequent to an investigation into the allegations of a Complaint by the Commission that either substantial evidence or a lack of substantial evidence exists of a violation(s) of the Ordinance.

"EXECUTIVE DIRECTOR" means that individual appointed by the President of the County Board who shall supervise the Commission Staff, and who shall coordinate all administrative functions of the Commission.

"EXECUTIVE REVIEW COMMITTEE" means members of the Commission Staff recommended by the Executive Director and approved by the Commissioners, to carry out with the Executive Director's approval various duties and responsibilities including but not limited to Evidence Determinations.

"FINAL ORDER" means: (1) an order dismissing a Complaint if no Request for Reconsideration is filed within the prescribed 30-day time period; (2) a Commission Order ruling on a Request for

Reconsideration filed after an order dismissing a Complaint; (3) the later of either a Commission order ruling on an Administrative Hearing, or a Commission order ruling on a Request for Reconsideration filed within the 30-day time period; or (4) a Commission order ruling on attorney fees and costs subsequent to an Administrative Hearing.

"HEARING OFFICER" means an individual who is an attorney duly licensed by the State of Illinois, and who is designated by the Commission to conduct an Administrative Hearing.

"MEDIATION CONFERENCE" means a conference convened by the Commission with the goal of securing a resolution of a Complaint without an Administrative Hearing on the merits of the Complaint. This conference shall be conducted by a Mediator designated by the Commission and may be convened by the Commission at any time during the pendency of a Complaint. (Amended 7-17-14)

"MEDIATOR" means an individual who is trained and experienced in alternative dispute resolutions and is designated by the Commission (or by a mediation organization designated by the Commission) to conduct a Mediation Conference. (Amended 7-17-14)

"ORDINANCE" means the Cook County Human Rights Ordinance passed by the County Board on March 16, 1993, effective May 21, 1993.

"PARTY OR PARTIES" means any person who files a Complaint with the Commission (i.e., Complainant), including a person who has alleged or has proved to have been injured by a violation of the Ordinance or believes he/she will be injured by a violation of the Ordinance that is about to occur, and any person alleged by the Complainant to have committed a violation of the Ordinance (i.e., Respondent).

"PERSON" means one or more individuals; partnerships, associations, or organizations; labor organizations, labor unions, joint apprenticeship committees, or union labor associations; corporations; recipients of funds from Cook County government; legal representatives, trusts, trustees in bankruptcy, or receivers; state governments other than that of Illinois; or commercial operations or entities controlled by governments other than those of Illinois or the United States.

"REQUEST FOR RECONSIDERATION" means a request for reconsideration of a Commission decision or order, either prior to an Administrative Hearing or subsequent to an Administrative Hearing, pursuant to the rules set forth herein.

"RESPONSE" means a statement which must be filed with the Commission either on the form provided for this purpose by the Commission, or on a form that is substantially equivalent, setting forth the Respondent's Response to the allegation(s) of a violation(s) of the Ordinance as defined by these rules and set forth in the Complaint.

"RESPONDENT" means any person alleged by the Complainant to have committed a violation of the Ordinance.

"UNLAWFUL DISCRIMINATION" means discrimination against a person because of the actual or perceived fact, practice or expression of a person's race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status,

military discharge status, source of income or housing status, or because of the actual or perceived association with such a person.

SUBPART 120 PROCEDURAL DEFINITIONS

Section 120.100 Time Computation

For purposes of computing any period of time provided for under the Ordinance, or under these rules, the date of any act, event, service or default from which such period of time begins to run shall not be included. If the last day of such period of time shall fall on a Saturday, a Sunday or a federal, state, or County government legal holiday, such time period shall continue to run until the end of the next day which is not a Saturday, a Sunday, or a federal, state, or County government legal holiday. Unless otherwise stated herein, all days shall be calendar days.

Section 120.110 Service

All Complaints, motions, orders, notices, discovery, and other items required to be served under these rules, shall be served by electronic mail, by personal delivery, by messenger service, or by depositing them in a United States mailbox, with appropriate postage prepaid. If service is by personal delivery or by messenger service, service shall be presumed complete upon receipt. If service is by United States mail, service shall be presumed complete three business days after mailing. If service is by electronic mail, service shall be presumed complete upon sending. (Amended 12-9-21)

Section 120.120 Certificate of Service

In all instances where service is required, a certificate of service shall be filed with the Commission, consisting of the verified statement of the individual making service, specifying the person on whom or on which service was made, and the manner and date of such service.

Section 120.130 Filing with the Commission

Except as provided in Section 420.100 herein, all documents required by the Ordinance or by these rules to be filed with the Commission shall be considered filed when received by the Commission during regular business hours in person, by United States mail, or by private messenger service. Unless otherwise specified herein, an original and one copy are required of all documents filed with the Commission.

Any document required to be filed in accordance with these rules, or by order of the Commission or Hearing Officer (if any assigned), within a time period of 7 or fewer days, may be filed with the Commission via facsimile, provided the original and one copy are received in the Commission's office within 3 days of the facsimile transmission.

Section 120.140 Representation of Parties

(A) Representation by Supervised Senior Law Students or Graduates

Any student in or graduate of a law school who satisfies all of the eligibility requirements set forth in Illinois Supreme Court Rule 711 may represent any party, except a

respondent corporation, before the Commission to the extent permitted by, and under the same conditions as set forth in that section. A respondent corporation must be represented by a licensed attorney. (Amended 7-17-14)

(B) Appearance of Attorney/Representative

A respondent corporation must be represented by a licensed attorney during all proceedings before the Commission after an Evidence Determination. All other parties may choose to be represented by counsel or other representative at any stage of the proceedings before the Commission. If a Complainant or Respondent is represented by counsel or other representative, such counsel or representative must file with the Commission his or her appearance form before the Commission Staff will discuss the Complaint with him or her, and before he or she will be permitted to have access to Commission files or to attend a Mediation Conference or an Administrative Hearing on behalf of his or her client. The appearance form must be served on all other parties to the proceeding or, if another party is represented, on that party's counsel or representative. (Amended 7-17-14)

(C) Nonresident Attorneys

An attorney who is not licensed by the State of Illinois may appear on behalf of a party on a pro hac vice basis for a particular case. To do so, the nonresident attorney must acknowledge out-of- state status in the attorney appearance and specify the jurisdictions where licensed to practice. Upon doing so, the nonresident attorney shall be deemed admitted without Commission order and shall be treated the same as attorneys licensed in Illinois. (Amended 9-8-16)

PART 200 COMMISSION RULEMAKING

Section 200.100 Construction of Rules

These rules shall be liberally construed to accomplish the purposes of the Ordinance.

Section 200.110 Effect of Rules

These rules shall constitute the policy and practice of the Commission and shall govern activities of the Commission, provided that such rules are consistent with the Ordinance.

Section 200.120 Amendment of Rules

Changes in these rules may be made by a vote of a majority of the full membership of the Commissioners at a regular or special meeting of the Commissioners.

Section 200.130 Availability of Rules

The rules of the Commission shall be available to the public, and copies may be obtained from the Office of the Cook County Commission on Human Rights, 69 W. Washington Street, Suite 3040, Chicago, Illinois 60602. (Amended 2-20-14)

Section 200.140 Petition for Rulemaking

Any person may request that the Commission promulgate, amend, or repeal a rule by submitting a written petition to the Chairperson. The petition, which shall be in writing, shall set forth in particular the rulemaking action desired, and should contain the person's arguments or reasons in support thereof. The Commission shall be notified of any petition filed in accordance herewith. Any rulemaking undertaken in response to such petition shall be conducted in accordance with Section 200.120 herein. (Amended 2-20-14)

PART 300 DELEGATION OF AUTHORITY BY COMMISSIONERS

Section 300.100 Delegation

Except as to those matters specifically enumerated below, the Commissioners may delegate to the Commission Staff, as the Commissioners consider necessary, any matter properly before the Commission. Such delegation to the Commission Staff, where permissible, shall be presumed, subject to recall as to specific items at any time by a vote of the majority of Commissioners present at a meeting of the Commission. Any delegation of authority by the Commissioners to the Commission Staff shall be effectuated in accordance with both the Ordinance and the rules adopted and approved by the Commissioners. (Amended 2-20-14)

Section 300.110 Exceptions

The following matters are reserved for consideration of and disposition by the Commissioners:

(A) Rulemaking and similar proceedings involving the promulgation of Commission rules;

(B) Conducting Commission meetings;

(C) Commencing Commission-initiated Complaints;

(D) Final decision on a Complaint subsequent to completion of an Administrative Hearing and subsequent to review of the Hearing Officer's final proposed decision and order;

(E) Final decision on a petition for attorney fees subsequent to completion of an Administrative Hearing and subsequent to review of the Hearing Officer's final proposed decision and order on attorney fees; and

(F) Conducting public hearings to ascertain the status and treatment of various racial, ethnic, religious, cultural and social groups within society, and finding means of alleviating discrimination and bias, and of improving human relations within Cook County. (Amended 2-20-14)

PART 400 PROCEDURAL REQUIREMENTS

SUBPART 410 JURISDICTION

Any person, including persons not able to work lawfully in the United States, may file with the

Commission a Complaint alleging a violation of the Ordinance, if the alleged violation occurred in whole or in part in the County.

SUBPART 420 COMPLAINT PROCESS

Section 420.100 Filing of Complaint by Complainant

(A) Time of Filing

A Complaint must be filed with the Commission within 180 days from the date of the alleged occurrence of the violation of the Ordinance. If the alleged violation is of a continuing nature, the date of occurrence may be any date subsequent to the commencement of the violation, up to and including the date on which it may have ceased.

(B) Filing

Except as provided in Section 420.120, a Complaint must be filed with the Commission in person, by United States mail, with appropriate postage prepaid, or by private messenger service. A Complaint shall be considered filed upon receipt thereof by the Commission. The Complaint must be in writing and verified. The Commission may waive any of the requirements in this paragraph upon a showing of extraordinary circumstances.

Section 420.105 Complaint Content

A Complaint shall be in such detail as to substantially apprise any party of the date, place and facts with respect to the alleged violation of the Ordinance. A Complaint must contain the following:

(A) the full name and address of the Complainant or a statement that the Complaint is filed in the name of the Commission itself;

(B) the full names(s), address(es) and telephone number(s) (if known) of the Respondent(s); and

(C) a statement of the facts alleged to constitute the violation of the Ordinance, including the date(s) and place(s) thereof, and the basis of discrimination.

The failure of a Complaint to contain any matter required by this section is not jurisdictional and may be cured by amendment under section 420.140 herein.

Section 420.110 Form

The Complaint shall be substantially in the same form as the form attached hereto as Exhibit A. The Complainant may attach documentation in support of his/her Complaint.

Section 420.115 Effect of Filing a Complaint

The filing of a Complaint or the failure to file a Complaint with the Commission does not bar any person from seeking any other remedy that may be provided by law.

Section 420.120 Commission Initiated Complaints

The Commission itself may initiate a Complaint. A Complaint initiated by the Commission shall be signed by the Chairperson and shall be in the same form and shall follow the same content requirements as specified in Sections 420.105 and 420.110 herein.

Section 420.125 Docketing of Complaint

Each Complaint, once filed, shall be docketed and assigned a case number by the Commission.

Section 420.130 Service of Complaint

The Commission shall serve upon the Respondent a copy of any Complaint (original or amended) filed against the Respondent along with a copy of the Response statement form, within 10 days of the filing of the Complaint with the Commission.

Section 420.135 Maintenance of Records by Parties

Complainant(s) and Respondent(s) shall preserve all records and other material which may be relevant to the Complaint or any defenses until the matter has been closed by the Commission. Provided that a party has not previously incurred a duty to preserve evidence through agreement, contract, statute or its own affirmative conduct, a Complainant's preservation obligation begins when the Complainant files the Complaint with the Commission, and a Respondent's preservation obligation begins when the Complaint has been served on the Respondent. A party's failure to meet its preservation obligations under this Rule may result in the Commission drawing an adverse assumption about the content of the missing record or other material against the party that failed to preserve that record or other material. (Amended 5-7-18)

Section 420.140 Amendment of Complaint

(A) Technical Defects or Omissions

A Complaint, or any part thereof, may be amended as a matter of right to cure technical defects or omissions at any time, and such amendments shall relate back to the original filing date.

(B) Amendment Prior to Evidence Determination

A Complaint, or any part thereof, may in good faith be amended by the Complainant as a matter of right to clarify or amplify allegations made therein, or to set forth additional facts or allegations related to the matter of the original charge, at any time prior to an Evidence Determination, and such amendment shall relate back to the original filing date.

(C) Amendment Subsequent to Determination of Substantial Evidence

(1) The Commission, if before the Commencement of Administrative Hearing, or the Hearing Officer, if after the Commencement of Administrative Hearing, may grant a Complainant's motion to amend his/her Complaint after a finding of

substantial evidence, upon a finding that:

(a) Either the claims to be added did not arise before the original Complaint was filed, or, if they did, the Complainant did not know about them when he/she filed the original Complaint (such as when the Complainant first learns of the information during discovery); and

(b) Any objecting party fails to demonstrate that the inclusion of such allegations would prejudice it in maintaining its action or defense upon the merits.

(2) When issues not raised by the Complaint are presented at an Administrative Hearing by either express or implied consent of the parties, they shall in all respects be treated as if they had been raised in the Complaint. Amendment of the Complaint may occur at any time, even after judgment, upon motion of any party, as may be necessary to cause the Complaint to conform to the evidence. If the evidence is objected to at the Administrative Hearing on the grounds that it is not within the issues set forth in the Complaint, the Hearing Officer may allow the Complaint to be amended and shall do so freely when the presentation of the merits of the action will be served thereby and the objecting party fails to satisfy the Hearing Officer that the admission of such evidence would prejudice the party in maintaining the party's action or defense upon the merits. The Hearing Officer may grant a continuance to enable the objecting party to meet such evidence.

(D) Motions to Amend Complaint

Any motion to amend the Complaint made pursuant to Section 420.140 (C) must be filed with the Commission and the Hearing Officer (if any assigned) and must be served on all other parties. Any other party may respond to the motion by filing a response with the Commission and serving it on the Hearing Officer (if any assigned) and the other parties within 14 days of receipt of the motion.

(E) Substitution or Addition of Complainant

(1) Grounds

A Complainant may amend his or her Complaint to substitute or name an additional Complainant(s) and have that amendment relate back to the original filing date by filing a written motion setting forth the elements described below:

(a) The cause of action alleged by the person sought to be made a Complainant arises out of the same transaction or occurrence set forth in the original Complaint;

(b) The Respondent(s) had timely knowledge of the original Complaint and the fact that the person sought to be added or substituted might be involved as a Complainant;

(c) The additional or substituted Complainant(s) sought to be added could have independently filed a Complaint against the Respondent(s) in the first instance;

(d) If the motion is made after a finding of substantial evidence, the addition or substitution of the person sought to be joined as a Complainant does not raise new factual questions which were not considered by the Commission in its investigation; and

(e) Any objecting party fails to demonstrate that such amendment would prejudice it in maintaining its action or defense upon the merits.

(2) Procedure

Any motion to substitute or name an additional Complainant(s) must be filed with the Commission and served on all other parties and the person(s) sought to be joined. Any other party or the person(s) sought to be joined may file with the Commission a response with the Commission to the motion and serve it on the other parties and the person(s) sought to be joined within 14 days of receipt of the motion.

(F) Substitution or Addition of Respondent

(1) Grounds Prior to an Evidence Determination

A Complainant may amend his or her Complaint to substitute or name an additional Respondent(s) prior to an Evidence Determination, and such an amendment shall relate back to the original filing date, by filing with the Commission a written motion showing that, at the time of the amendment, a separate Complaint could be filed against such additional or substituted Respondents(s), or such additional or substituted Respondent(s) had received notice of the original charge and the fact that Respondent(s) might be involved therein so that the Respondent(s) will not be prejudiced in maintaining its defense on the merits.

(2) Grounds After a Finding of Substantial Evidence

A Complainant may amend his or her Complaint to substitute or name additional Respondents after a finding of substantial evidence, and such an amendment shall relate back to the original filing date, by filing with the Commission a written motion setting forth the elements described below:

(a) The original Complaint in the case was filed within 180 days after the date of the alleged Ordinance violation allegedly committed by the person sought to be added or substituted as a Respondent;

(b) The person sought to be added or substituted as a Respondent was given notice or had knowledge of the filing of the original Complaint;

(c) The nature of the original Complaint was such that the person sought to be added or substituted knew or should have known, within the 180-day period, that the Complaint grew out of a transaction or occurrence involving or concerning the person;

(d) The addition or substitution of the person does not raise new factual questions which were not considered by the Commission in its investigation; and

(e) Any objecting party fails to demonstrate that such amendment would prejudice it in maintaining its claim or defense upon the merits.

(3) Procedure

Any motion to substitute or name additional Respondent(s) must be filed with the Commission and served on all other parties and the person(s) sought to be joined. Any other party or the person(s) sought to be joined may file a response to the motion and must serve it on the other parties and the person(s) sought to be joined within 14 days of receipt of the motion.

(G) Misnomer

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

(H) Death of a Party

When a party dies at any time during the pendency of the proceedings, such party's legal representative may be substituted for the deceased upon amendment of the Complaint.

(I) Form of Amended Complaint

The amended Complaint shall be in writing, shall be verified, and shall be in the same form and shall follow the same content requirements as specified in Sections 420.105 and 420.110 herein with respect to the original Complaint.

(J) Response to Amended Complaint

Unless otherwise specified by the Commission or the Hearing Officer (if any assigned), a response to an amended Complaint pursuant to Section 420.140 (B), (C), (E) or (F) must be made in accordance with Section 420.165 herein.

Section 420.145 Class Actions

Class actions, as defined by 735 ILCS 5/2-801, are not permitted to be filed at the Commission.

Section 420.150 Consolidation

Whenever two or more Complaints involve a common question of law or fact, the

Commission may consolidate them or it may order a joint Mediation Conference or Administrative Hearing concerning the common questions whenever this can be done without prejudice to the parties. (Amended 7-17-14)

Section 420.155 Counterclaims

Counterclaims are not permitted to be filed in any matter pending before the Commission.

Section 420.160 Withdrawal of Complaint

A Complainant may request to withdraw a Complaint or any part thereof at any time. A

Complainant's request to withdraw a Complaint shall be in writing and shall be signed by the Complainant or his/her attorney of record. Under such circumstances, the request may be presumed to be knowingly and voluntarily made, and the Commission may approve the request and enter an order dismissing the Complaint. The Commission shall serve notice of the dismissal upon all parties. (Amended 2-20-14)

Section 420.165 Response

(A) The Respondent shall file a Response to the Complaint within 30 days of service of the Complaint by the Commission. This Response must be signed by the Respondent, or one of its partners, officers, or agents. The Response shall be verified. A Response shall be filed with the Commission in accordance with Section 120.130 herein.

(B) The Response shall contain appropriate identification of the Respondents, including but not limited to their names, addresses and names of representatives, if any. The Respondent shall state in the Response, in short and plain terms, his/her/its defenses to each claim asserted, and shall admit or deny the allegations upon which the Complaintis

based. The Respondent may attach documentation, including a position statement, in support of his/her/its Response. If he/she/it is without knowledge or information sufficient to form a belief as to the truth of an allegation, he/she/its shall so state which statement shall have the effect of a denial. Any allegation not responded to shall be deemed admitted.

(C) Failure to file a Response may result in a negative inference being drawn against the Respondent, or in a default order and judgment being entered against the Respondent.

(D) Default Procedure for Failure to Respond

(1) If the Respondent fails to file a timely Response, the Commission may issue a Notice of Default. If the Respondent fails to respond to a Notice of Default within 30 days, an Order of Default will be entered against the Respondent. The Respondent may file a Request for Reconsideration of the Order of Default pursuant to Section 480.100(A) herein. The Respondent must show good cause as to why a Response was not timely filed (i.e., present with

specificity any reason for Respondent's failure to file a timely Response). If a Request for Reconsideration is granted, the Order of Default will be set aside, and the Commission will proceed with its investigation of the Complaint.

(2) If a Request for Reconsideration is not made or if a Request for Reconsideration is made and denied, an Administrative Hearing will be scheduled. The Commission shall send all parties notice stating the time and place of the Administrative Hearing. The Administrative Hearing will be conducted by a Hearing Officer designated by the Commission. The Complainant, at the Administrative Hearing, will have an opportunity to establish a prima facie case of discrimination and to prove up any damages.

(3) Subsequent to an Administrative Hearing and within 30 days of entry of the Commission's Default Order and Judgment, a Respondent may obtain review of the Default Order and Judgment by filing with the Commission a Motion to Vacate. The Respondent either through affidavits or other relevant documentation must establish due diligence and set forth the existence of a meritorious defense which through no fault of Respondent was never heard by the Commission. If the Motion to Vacate is denied, the Default Order and Judgment is considered a final Commission order. If the Motion to Vacate is granted, and the Default Order and Judgment is vacated, the Commission will proceed with its investigation of the Complaint.

Section 420.170 Motions

(A) Any motions, including motions to dismiss, directed to the Commission must be made in writing, must be served upon all parties, and must be filed with the Commission, except as otherwise provided for by the Commission, or as otherwise set forth in these rules.

(B) Any objection or response to a written motion or brief shall be filed with the Commission, if at all, within 14 days after service of any such motion or brief, or within such other time period as the Commission shall order, and shall be served within the same time period upon all other parties.

Section 420.175 Briefing

If the Commission determines that written submissions may help clarify any question of law or fact, the Commission may require the parties to submit, by a specified date, briefs not to exceed any page limit set by the Commission.

SUBPART 430 SUBPOENAS

Section 430.100 Issuance of Subpoenas

(A) Commission-Initiated

The Commission may issue a subpoena on its own initiative at any time, for the

appearance of witnesses, the production of evidence, or both, as set forth in the Ordinance. If a person does not comply with a subpoena on the date set for compliance, whether because of refusal, neglect, or a change in the compliance date (such as due to continuation of an Administrative Hearing), or for any other reason, the subpoena shall continue in effect for up to one year, and a new subpoena need not be issued. Noncompliance with subpoenas is also subject to Section 430.120 of these rules.

(B) Party-Initiated

After the Commencement of Administrative Hearing, a party may request leave from the Hearing Officer to have the Commission issue a subpoena for the appearance of witnesses, the production of evidence, or both, in connection with an Administrative Hearing. Such a request must be made in writing and must state the reasons for which the information sought is relevant to the Complaint and could not be obtained through discovery pursuant to Section 460.145. The request must be served on the Hearing Officer and all other parties and filed with the Commission no fewer than 28 days before the date for examination or production. Any other party shall have 7 days to serve any response on the Hearing Officer and the requesting party, and to file it with the Commission. The Hearing Officer shall rule on the request no fewer than 14 days before the date for examination or production.

If the request is granted, the Commission shall issue the subpoena. The requesting party is responsible for service of the subpoena, for the cost of service, and for all witness and mileage fees. The Commission will not seek enforcement of the subpoena unless it is served in accordance with Section 430.105 herein. If a person does not comply with a subpoena on the date set for compliance, whether because of refusal, neglect, or a change in the compliance date (such as due to a continuation of an Administrative Hearing), the subpoena shall continue in effect for up to one year or until full compliance is made or waived, and a new subpoena need not be issued. Noncompliance with subpoenas is also subject to Section 430.120 of these rules.

Section 430.105 Manner of Service of Subpoenas

(A) Mail

Service of a subpoena by mail may be proved prima facie by:

(1) A return receipt showing delivery, by certified or registered mail, at least 7 days before the date on which appearance or production of documents is required, to:

(a) the person to whom the subpoena is directed,

(b) a member of his or her household who is over 14 years of age, or

(c) his or her agent; and

(2) an affidavit showing that:

(a) the mailing was prepaid,

(b) it was sent for restricted delivery,

(c) it was addressed to the person to whom the subpoena is directed,

(d) a return receipt was requested which shows who received it, and the date received and address of delivery, and

(e) a check or money order for the witness fee and mileage was enclosed.

(B) In Person

In the alternative, a subpoena may be served by a person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personally delivering a copy of the subpoena to such person, a member of his or her household who is over 14 years of age, or his or her agent, and by tendering to that person the fee(s) for attendance and the mileage allowed by these rules.

Section 430.110 Witness and Mileage Fees for Subpoenas

(A) Commission-Initiated

When the Commission issues a subpoena on its own initiative, it shall pay witness fees of $20.00 (twenty dollars) per day and mileage fees of $.20 (twenty cents) per mile to the person subpoenaed.

(B) Party-Initiated

When a subpoena is issued upon the request of a party, that party shall pay witness fees of $20.00 (twenty dollars) per day and mileage fees of $.20 (twenty cents) per mile to the person subpoenaed. A party may file a written motion with the Hearing Officer requesting that the party be excused from paying these charges. Such motion must be part of the initial subpoena request and it shall be granted only upon submission of an affidavit substantially similar to the affidavit attached hereto as Exhibit B, setting forth objective evidence demonstrating that the requesting party is unable to pay the charges. If such a motion is granted, the Commission shall pay the charges.

Section 430.115 Objections to Issued Subpoenas

The person to whom the subpoena is directed may object to the subpoena, in whole or in part. The objection may be made to the Commission, or to the Hearing Officer (if one has been assigned), no later than 5 days prior to the time for appearance or production required by the subpoena. The objection shall be in writing, filed with the Commission, served on all parties, and on the Hearing Officer (if any assigned), and shall specify the grounds for objection. The party opposing the objection may file a written response to the objection specifying the need for certain witnesses or documentation. The Commission, or if assigned, the Hearing Officer, shall consider the objection and render a decision on the objection.

Section 430.120 Failure to Comply with Subpoena

Failure to comply with a subpoena issued by the Commission shall constitute a separate violation of the Ordinance. Every day that a person fails to comply with said subpoena shall

constitute a separate and distinct violation. Whenever a party believes that there has been a failure to comply with a subpoena requested by that party, the party must file a motion with the Commission and serve it on the Hearing Officer seeking a determination that there has not been compliance with the subpoena. The motion must be served on the other parties as well as on the person who allegedly failed to comply with the subpoena.

The other parties and the person to whom the subpoena was directed shall have 7 days to file a response, if any, to such a motion. The response must be served on all parties and filed with the Commission.

Additionally, if the time for appearance or production required by the subpoena is within 5 days of the date of the Administrative Hearing or is the date of the Administrative Hearing, a party who believes that there has been a failure to comply may make an oral motion at the Administrative Hearing seeking a determination that there has not been compliance with the subpoena. All other parties and the person to whom the subpoena was directed shall have an opportunity to respond orally at the Administrative Hearing.

If the Hearing Officer finds that there has been a failure to comply with a subpoena, he or she shall issue an order advising the Commission to seek judicial enforcement of the subpoena.

SUBPART 440 COMPLAINT INVESTIGATION

Section 440.100 Investigation

After a Complaint has been filed, the Commission shall commence an investigation to ascertain the facts relating to the alleged violation of the Ordinance. The investigation shall be completed and an Evidence Determination made within 180 days from the date the Complaint or any amendment thereto was filed with the Commission, unless impracticable. The Commission's 180-day investigation period does not include the time in which parties are engaging in settlement negotiations and/or participating in formal mediation ordered by the Commission. (Amended 12-9-2021)

Section 440.105 Investigation Deferral

The Commission on its own initiative may defer investigation of a timely filed Complaint when the same Complaint, or a substantially similar Complaint, has been filed by the Complainant with another similar administrative agency. In addition, any party may file a motion, in accordance with Section 420.170 herein, requesting that the Commission defer investigation into a timely filed Complaint pending resolution of the same Complaint, or a substantially similar Complaint, which has been filed by the Complainant with another similar administrative agency. The following is a non-exhaustive list of factors which the Commission may consider in determining whether to exercise its discretion to defer an investigation:

(A) Conservation of administrative resources;

(B) Complainant's right to a timely investigation;

(C) Minimization of Respondent's burden;

(D) Procedural or investigative status of charges/complaints filed with the administrative agency as evidenced by one or more of the following: completion of document exchange, witness interviews, response to questionnaires, and the holding of fact-finding conferences; and

(E) Administrative agency backlog.

If the Commission defers its investigation of a Complaint in favor of the investigation or adjudication of the same Complaint, or a substantially similar Complaint, with another similar administrative agency, then the factual findings and conclusions of law of that other similar administrative agency shall be binding on the parties to the Complaint pending before the Commission unless the Commission orders otherwise. (Amended 2-20-14)

Section 440.110 Fact-Finding or Evidentiary Conference

The Commission may order the parties to attend either a Fact-Finding Conference or an Evidentiary Conference.

(A) Fact-Finding Conference:

These conferences may be ordered in an attempt to clarify disputed issues of fact or to obtain relevant evidence. The Commission may order the parties to provide written submissions, including affidavits, which would further clarify any disputed issues of fact or to provide additional evidence which would assist the Commission in making an Evidence Determination. A Fact- Finding Conference will be led by the Commission investigator assigned to a case.

(B) Evidentiary Conference:

(1) These conferences may be ordered to resolve simple factual disputes arising from conflicting testimonial evidence by parties and/or witnesses that is potentially determinative as to whether there is substantial evidence of a violation of the Human Rights Ordinance. The Commission may order the parties and/or witnesses to provide in-person, sworn testimony on the disputed fact before a Hearing Officer who will make a determination as to the credibility of any testifying party or witness with respect to the disputed fact. An order of an Evidentiary Conference will provide the parties with notice of the disputed issue of fact and the identity of the testifying parties and/or witnesses. Additional witnesses may be added by the parties as provided in subsection (3). An Evidentiary Conference will be led by a Hearing Officer assigned by the Commission.

(2) The Hearing Officer assigned by the Commission to an Evidentiary Conference cannot:

a. Be a person who was otherwise involved in the investigation of the case that is the subject of the Evidentiary Conference; or

b. Be designated by the Commission as the Hearing Officer for the case that

is the subject of the Evidentiary Conference if that case proceeds to an Administrative Hearing under Subpart 460 of these Rules.

(3) At an Evidentiary Conference, the testifying parties and/or witnesses will be examined by the Hearing Officer. The parties to the case, or their attorneys or representatives of record, will then have the opportunity to examine and cross-examine any party or witness testifying at an Evidentiary Conference. The parties to the case, or their attorneys or representatives of record, may also present any additional witnesses or documentary evidence to the Hearing Officer that the parties believe will assist the Hearing Officer in resolving the disputed issue of fact. A party must provide advance notice of any such additional evidence to the Commission and the other party at least five (5) business days before the Evidentiary Conference. The Evidentiary Conference is limited to hearing evidence relevant to resolving the dispute of fact identified in the order of an Evidentiary Conference.

(4) Within 21 days of the Evidentiary Conference, the Hearing Officer will present in writing any findings of fact, including any determinations of testimonial credibility, to the Commission investigator assigned to the case that is the subject of the Evidentiary Conference. The Hearing Officer's findings shall be considered an additional piece of evidence for inclusion in the investigation report. Such findings shall be used only for purposes of making an evidentiary determination and shall not be considered binding in any Administrative Hearing or other subsequent hearing.

(C) Right to Representation:

A party may be represented at a Fact-Finding Conference or an Evidentiary Conference by one or more persons who may or may not be attorneys. Once a conference has been ordered, if a party fails to attend, and such failure is not excused, the party shall be subject to the same penalties as those set forth in Section 440.145(B)(5). (Amended 3-10-16)

Section 440.115 Investigation Report

After investigation of a Complaint which has not been either settled, dismissed, or withdrawn, a written report of the investigation shall be prepared by the assigned investigator and submitted to the Commission's Executive Review Committee for review.

Section 440.120 Evidence Review

(A) The Executive Review Committee shall review the evidence compiled in the course of an investigation and either make an Evidence Determination or recommend additional action (i.e., further investigation required).

(B) In the event that a Complaint, or any portion thereof, is determined to lack substantial evidence, or jurisdiction is determined to be lacking, the Commission shall enter an order dismissing the Complaint or the relevant portion thereof, and serve it upon the

parties within 10 days of the determination. The order shall state the grounds for dismissal, and shall advise that either party, in accordance with Section 480.100 may file with the Commission a Request for Reconsideration of the Commission's decision dismissing the Complaint or the pertinent portion thereof. (Amended 12-18-14)

(C) In the event that substantial evidence of an alleged violation of the Ordinance is found, the Commission shall enter an order finding the same and serve it upon the parties within 10 days of the substantial evidence determination. A Request for Reconsideration of the Commission decision may be made only pursuant to the procedures described in Section 480.100(B). (Amended 12-18-14)

Section 440.125 Dismissal or Default Due to Failure to Cooperate

Complainants and Respondents have the responsibility to promptly provide the Commission with notice of any change in address or any prolonged absence from their current address so that they can be located when necessary at any time while a Complaint is pending before the Commission. In addition, Complainants and Respondents are responsible for providing the Commission with necessary information and being available for interviews and conferences upon reasonable notice or request by the Commission. If a Complainant or a Respondent cannot be located or does not adequately respond to reasonable requests by the Commission, the Commission may dismiss the Complaint or default the Respondent as the case may be. The Commission shall enter and serve upon the parties the order of dismissal or default. The order shall be addressed to the Complainant and Respondent at their last known addresses. A Complainant or Respondent may file with the Commission, in accordance with Section 480.100(A) herein, a Request for Reconsideration of the Commission's dismissal or default order.

Section 440.130 Access to Files

Investigation files maintained by the Commission pertaining to an individually filed or Commission-initiated Complaint shall be confidential and not subject to disclosure to the general public, unless otherwise required by law.

Section 440.135 Access to Files by Parties

(A) A party or the party's attorney or representative of record may review documents in the Commission investigation file at any time after the Commission has served notice of an Evidence Determination; except where the Commission has ordered an Evidentiary Conference pursuant to Rule 440.110(B), in which case, a party or the party's attorneyor representative of record may review documents in the Commission investigation file before an Evidentiary Conference even when such conference occurs before the Commission has served notice of an Evidentiary Determination. In all cases, a party must provide the Commission with at least 48 hours' notice of the party's intent to inspect the file. (Amended 3-10-16)

(B) Notwithstanding Subsection (A) above, the Commission shall not allow parties to inspect internal memoranda, work papers, notes, or other materials generated by

Commission staff or agents in the course of an investigation, which reflect the deliberative process, mental impressions, or legal theories or recommendations of the staff or agents of the Commission. In addition, parties shall not be allowed to inspect materials or documents otherwise protected from disclosure by applicable state or federal law.

(1) If the Commission deems it necessary, or if a party files a written motion setting forth good cause, the Commission may require a party seeking access to the files to enter into a protective order limiting the use of information from the files to an Administrative Hearing only, and prohibiting any other disclosure of information from the files.

(2) The Commission may acknowledge publicly the existence of a Complaint, including the case number, the identities of the parties, the type of case, and the stage of proceedings at which it is pending, unless the Commission deems it necessary to withhold this information for good cause. A party may request, in writing, that the Commission not include the party's name in any public acknowledgment. The party must state the reasons for any such request.

Section 440.140 Access to Files by Governmental Agencies

Nothing in these rules shall preclude the Commission from sharing materials in its files with other agencies of federal, state, or local government having concurrent jurisdiction, pursuant to such agreements as the County Board may approve with such agencies. All such agreements, which shall themselves be available for public inspection, shall be subject to confidentiality requirements to the extent provided by law. A federal agency with which the Commission has such an agreement may, however, to the extent required by the federal Freedom of Information Act (5 U.S.C. Section 552) allow inspection and copying of materials obtained from the Commission.

Section 440.145 Settlement and Mediation

(A) Informal Settlement Agreement

Once a Complaint has been filed and at any time prior to an Evidence Determination, any party may request Commission Staff assistance in engaging in informal settlement discussions. The Commission Staff will assist the parties in reaching a settlement agreement. The Commission Staff may schedule a meeting to facilitate settlement discussions, may work as an intermediary between the parties, and may draft proposed settlement terms.

(B) Mediation Conference

(1) Once a Complaint has been filed with the Commission, and at any time prior to an Administrative Hearing, any party to the Complaint may request the Commission to order a Mediation Conference. The Commission in its discretion may grant or deny the request. The Commission may also sua sponte enter an order requiring the parties to participate in a Mediation Conference at any time

during the pendency of a Complaint. (Amended 7-17-14)

(2) If a Mediation Conference is ordered by the Commission, the parties are required to attend the Mediation Conference. The Mediation Conference will be conducted by a Mediator. The Mediator shall facilitate a settlement discussion with the parties in an attempt to obtain a mutually agreeable resolution of the Complaint. Except as provided in Section 120.140, each party may bring up to three individuals, who may or may not be attorneys, to accompany the party atthe Mediation Conference. Each party may also bring an additional individual to act as interpreter as necessary to facilitate the Mediation Conference. (Amended 7- 17-14)

(3) Unless excused in advance by the Commission for reasons of impracticality or impossibility (e.g., final approval is subject to action by a legislative body or a board of directors), all necessary parties or representatives with full settlement authority and full authority to sign a settlement agreement are required to be present at the Mediation Conference. A party or representative with less than full settlement authority or less than full authority to sign a settlement agreement is required to disclose to the Mediator in advance of the Mediation Conference the existence of the party's or representative's limited authority. (Amended 7-17-14)

(4) Unless excused in advance by the Commission, the failure of a party or representative to come to a Mediation Conference with full settlement authority and/or full authority to sign a settlement agreement, or to knowingly misrepresent the extent of one's settlement authority, or failure to have available a necessary participant, may result in the Commission's assessing fees and/or costs against such party. (Amended 7-17-14)

(5) If the Complainant fails to attend the Mediation Conference, and if the Complainant's absence is not excused for good cause shown, the Commission may dismiss the Complaint and/or the Complainant may be ordered to pay fees and/or costs. If the Respondent fails to attend the Mediation Conference, and this failure to attend is not excused for good cause, a default judgment may be entered against the Respondent and/or the Respondent may be ordered to pay fees and/or costs. Additionally, if an order is entered against the Respondent at an Administrative Hearing, the Hearing Officer shall consider the Respondent's unexcused absence from the Mediation Conference in determining the amount of reasonable attorney fees to be awarded to the Complainant (including attorney fees and costs incurred as a result of Respondent's failure to attend). (Amended 7-17-14)

(6) While attendance at the Mediation Conference is mandatory for the parties, the parties or the Mediator may voluntarily terminate the Mediation Conference at

any point if they deem it appropriate to do so. Parties are not required by virtue of the Commission's order to mediate to enter into a settlement agreement. (Amended 7-17-14)

(7) Parties who participate in the Mediation Conference are required to do so in good faith and with candor promoting the free exchange of truthful information and settlement options. (Amended 7-17-14)

(8) Within 14 days of the Mediation Conference, the Mediator shall prepare and submit a report to the Commission with the following information: (i) a list of the participants in the Mediation Conference; (ii) the date, time and location of the Mediation Conference and the date, time and location of any scheduled continuance(s) of the Mediation Conference; (iii) the name of the Mediator;and

(iv) whether the Complaint could not be resolved at the Mediation Conference, the parties signed a settlement agreement resolving all or some of the claims in the Complaint, or the parties have requested a continuation of the Mediation Conference to continue to discuss settlement of the Complaint. The report shall be placed in the Commission file on the Complaint. The report shall note any unexcused absences by any party and any party that failed to participate in good faith. If the Mediation Conference is held subsequent to a substantial evidence determination, and if the Complaint has not or, in the sole estimation of the Commission, cannot be resolved through mediation, the Commission shall then promptly send an order to all parties advising them that a Hearing Officer will be appointed and an Administrative Hearing will be held. (Amended 7-17-14)

(C) Private Settlement Agreements

Nothing in these rules shall prevent the parties to a Complaint filed with the Commission from entering into a private settlement agreement which disposes of the allegations contained in the Complaint without the intervention of the Commission. A private settlement agreement does not require the approval of the Commission, and absent such approval, will not be enforced by the Commission. (Amended 7-17-14)

Section 440.150 Nondisclosure

The Mediation Conference is confidential. Unless otherwise required by law or court order, neither the Mediator, the participants in (and other attendees at) the Mediation Conference, members of the Commission Staff, the Executive Director, nor any Commissioner shall disclose publicly anything which occurs during the course of a Mediation Conference or during the course of informal settlement discussions. With the exception of the Mediator's report, no stenographic or other formal record shall be made of settlement efforts at a Mediation Conference.

Additionally, neither party may use the fact that an offer was made, accepted, or rejected either at a Mediation Conference or during the course of informal settlement discussions as

evidence at an Administrative Hearing. All oral statements made and any notes taken during the course of mediation or settlement are privileged information, and made without prejudice to any party's legal position, and are non-discoverable and inadmissible for any purpose in this or any other legal proceeding. Disclosure of any records, reports, or other documents received or prepared by the Mediator during the course of a Mediation Conference cannot be compelled. The Mediator shall not be compelled to disclose or to testify in this or in any proceeding as to the information disclosed, or as to representations made in the course of a Mediation Conference or communicated to the Mediator in confidence. (Amended 7-17-14)

Section 440.155 Terms of Mediation or Settlement

(A) Except as provided by Section 440.145(C), if the parties agree to a settlement agreement resolving a Complaint, the settlement agreement shall be reduced to writing and signed by the parties. If the parties enter into a signed settlement agreement that resolves the claims in the Complaint, the Commission shall enter an order dismissing the Complaint. (Amended 7-17-14)

(B) The parties to a settlement agreement may request in the settlement agreement thatthe Commission retain jurisdiction over the case to monitor or enforce the agreement.The Commission may in its sole discretion choose to retain jurisdiction over the case to monitor and enforce the settlement agreement, and in no instance will exercise its discretion to do so unless (i) the parties submitted the settlement agreement to the Commission in advance for approval and (ii) each party to the settlement agreement

acknowledges in the settlement agreement that the Commission has jurisdiction to monitor and/or enforce the settlement agreement. (Amended 7-17-14)

Section 440.160 Noncompliance with Mediation or Settlement Terms

Whenever a party believes that there has been a violation of a mediation or settlement agreement over which the Commission has retained jurisdiction, it may inform the Commission in writing of the alleged violation. The Commission may conduct an investigation into the alleged violation. If the Commission determines that there is substantial evidence that a party has violated the terms of the agreement, the Commission shall promptly notify the parties in writing, and it may seek judicial enforcement of the settlement agreement. If the Commission concludes that substantial evidence of a violation is lacking, it shall so notify the parties in writing. (Amended 4-17-14; 7-17-14)

SUBPART 450 [RESERVED]

(Amended 1-14-16)

SUBPART 460 ADMINISTRATIVE HEARING PROCEDURES

Section 460.100 Commencement of Administrative Hearing

In the event that substantial evidence of a violation(s) of the Ordinance has been found and the Complaint remains unresolved, the Commission shall assign the Complaint to a Hearing Officer and send all parties notice stating the time and place of the Administrative Hearing and of the Pre-Hearing Meeting. The Administrative Hearing and the Pre-Hearing Meeting shall be conducted by a Hearing Officer designated by the Commission. (Amended 7-17-14)

Section 460.105 Powers and Duties of the Hearing Officer

The Hearing Officer shall have full authority to control the procedures of the Administrative Hearing, to question any party regarding the Complaint at issue, to rule upon all motions and objections, and to admit or exclude testimony or other evidence. The Hearing Officer shall not be bound by the strict rules of evidence applicable in courts of law or equity.

Section 460.110 Motions to Disqualify

If a party wishes to make a motion to disqualify the Hearing Officer from hearing a case, the party must make such a motion in writing as soon as the party learns of the alleged reason for such disqualification. The motion shall set forth in detail the reason that the movant believes that the Hearing Officer's impartiality might reasonably be questioned, including, but not limited to, those circumstances set forth in Illinois Supreme Court Rule 63 (C). The motion must be served on all parties and the Hearing Officer and filed with the Commission. All other parties shall have 14 days from receipt of the motion to respond to it. The Hearing Officer shall rule by mail.

Section 460.115 Interlocutory Review of Disqualification Decisions

Any party wishing to object to a decision upon a motion for disqualification must file a Request for Reconsideration of the decision with the Commission and serve it on the Hearing Officer and all other parties within 10 days of receipt of the disqualification decision. The Request for Reconsideration must state with specificity the reasons supporting a reversal of the disqualification decision. Each other party must file with the Commission and serve on the Hearing Officer and all other parties the party's response to the Request for Reconsideration, if any, within 7 days from receipt of the Request for Reconsideration. The Commission shall rule by mail within 30 days.

Section 460.120 Rights of Parties at Administrative Hearing

Each party may be represented at an Administrative Hearing by one or more person(s) who may or may not be attorneys and may call, examine, and cross-examine witnesses. All parties may offer documents or other evidence for inclusion in the record of proceedings. The admissibility of all matters presented shall be subject to the ruling of the Hearing Officer.

Section 460.125 Briefing

If a party believes that a written submission may help to clarify or resolve any question of law

or fact, that party may, by written motion, pursuant to Section 460.165, seek permission from the Hearing Officer to submit a short brief on the issue. If permission is granted, the parties must each serve their briefs upon the other parties and the Hearing Officer, and must each file a copy with the Commission. The briefs may not exceed any page limit that the Hearing Officer sets, and are due by the dates set by the Hearing Officer.

If the Hearing Officer determines that a written submission may help to clarify any question of law or fact, the Hearing Officer may require that parties submit, by a specified date, simultaneous briefs not to exceed any page limit set by the Hearing Officer.

Section 460.130 Failure to Appear

If a party or its representative fails to appear at an Administrative Hearing, the Hearing Officer may enter an order recommending a decision of dismissal or default, or may recommend some other remedy that the Hearing Officer deems appropriate and just under the circumstances.

Section 460.135 Pre-Hearing Meeting

(A) Upon the Commencement of Administrative Hearing, a Pre-Hearing Meeting will be scheduled and conducted by the Hearing Officer. Unless waived by the Hearing Officer, the parties will be required to complete a Pre-Hearing Memorandum in accordance with Section 460.140 herein. The Commission shall send notice to all parties stating the time and place for the scheduled Pre-Hearing Meeting and the requirements for the Pre-Hearing Memorandum. Each party may be represented by one or more persons who may or may not be attorneys.

(B) The attendance of the parties or their representatives of record is mandatory at the Pre- Hearing Meeting. If the Complainant or his/her representative of record fails to attend a Pre-Hearing Meeting, the Complaint may be dismissed and/or the Complainant may be ordered to pay to the Commission the cost of the Hearing Officer's fees for the time incurred as a result of the unexcused absence, unless the absence is excused by the Commission for good cause. If the Respondent or the Respondent's representative fails to attend the Pre-Hearing Meeting, without good cause, and an order is entered against the Respondent at an Administrative Hearing, the Hearing Officer shall consider the unexcused absence in determining in what amount to award the Complainant reasonable attorney fees. Additionally, the Respondent may be ordered to pay to the Commission the cost of the Hearing Officer's fees for the time incurred as a result of the unexcused absence. In addition, a default judgment may be entered against the Respondent unless the absence is excused by the Commission for good cause.

Section 460.140 Pre-Hearing Memorandum

(A) Unless the requirement of a Pre-Hearing Memorandum is waived by the Hearing Officer, the parties shall confer in person, if possible, to exchange information, documents, and other materials which are expected to be relied upon at the

Administrative Hearing and are necessary for preparation of the Pre-Hearing Memorandum. Counsel for the Complainant, if any, or the Complainant, if proceeding pro se, has primary responsibility to prepare the initial draft of the Pre-Hearing Memorandum and shall submit it to opposing counsel, if any, or to the Respondent, if proceeding pro se, as early as possible for review, but not fewer than 10 days prior to the date set for filing with the Commission. Not fewer than 5 days prior to the date set for filing, counsel for the Respondent or the Respondent shall either accept the Complainant's draft or submit to the Complainant's counsel or to the Complainant a revised draft, which shall indicate any additions or deletions in an obvious manner, such as by redline and strikeout, editor's or proofreader's marks, etc. Full cooperation and assistance of all counsel or parties, if unrepresented, is required. The Pre-Hearing Memorandum shall be served on the Hearing Officer and filed with the Commission no later than 7 days before the Pre- Hearing Meeting. The Pre-Hearing Memorandum shall be signed by each party or counsel for each party. Unless otherwise ordered by the Hearing Officer, the Pre-Hearing Memorandum shall include the following:

(1) Stipulation of facts not in dispute. A party is under a duty to stipulate to any fact that is true. A party may object to the materiality or relevance of any stipulated fact.

(2) Complainant's theory of the case (in a short statement of 3 or fewer paragraphs).

(3) List of witnesses (with full names and complete addresses), including expert witnesses, whom the Complainant intends to call at the Administrative Hearing, and a brief description of their expected testimony.

(4) Copies of all documents the Complainant intends to introduce at the Administrative Hearing, or, in the alternative, a brief description of the substance of each document(s), including the author(s) of the document(s), date of authorship, and the intended uses and/or recipients of the document(s).

(5) The Complainant's itemization of damages, with specificity.

(6) The Respondent's defense or theory of the case (in a short statement of 3 or fewer paragraphs).

(7) List of witnesses (with full names and complete addresses), including expert witnesses, whom the Respondent intends to call at the Administrative Hearing, and a brief description of their expected testimony.

(8) Copies of all documents the Respondent intends to introduce at the Administrative Hearing, or, in the alternative, a brief description of the substance of each document(s), including the authors of the document(s), date of authorship, and the intended uses and/or recipient(s) of the document(s).

(9) Any alternative damage theories asserted by the Respondent, with specificity.

(B) In cases where the Hearing Officer waives preparation of a Pre-Hearing Memorandum, as set forth in Section 460.135 herein, each party shall serve on the other party a written list of all witnesses the party intends to call at the Administrative Hearing at least 7 days prior to the scheduled date of a Pre-Hearing Meeting, including a description of the substance about which each witness will testify. A copy shall be served upon the Hearing Officer and filed with the Commission. In addition, each party shall serve on each party copies of all documents that it intends to introduce at the Administrative Hearing, unless otherwise agreed, or it is impracticable, as determined by the Hearing Officer, at least 7 days before the scheduled date of a Pre-Hearing Meeting. If it is impracticable, the parties shall serve a summary of the documents, including a statement of the author, date of authorship, intended recipient, and substance of each document. Copies of the documents and/or the summaries shall also be served upon the Hearing Officer and filed with the Commission.

Section 460.145 Discovery

(A) Except as provided in Subsection (B) herein, discovery shall be limited to interrogatories (not to exceed in the aggregate 21, including subsections), requests for admissions, and requests for documents reasonably related to a party's claim or defense.

(B) No other discovery requests shall be made except upon agreement by all parties, or upon the Hearing Officer's granting a motion, based on good cause shown. The moving party must show the following:

(1) Discovery will not in any way unreasonably delay the proceeding;

(2) The information to be obtained is not otherwise obtainable; and

(3) Such information has significant probative value.

(C) Any discovery request must be served at least 42 days before the scheduled date of a Pre- Hearing Meeting and must be returnable no fewer than 21 days before the date of the Pre- Hearing Meeting, unless otherwise ordered by the Hearing Officer. A copy of any such request shall also be served upon the Hearing Officer and filed with the Commission. All responses to such requests shall be served upon the other parties, but need not be served upon the Hearing Officer or the Commission. However, the party responding to such request shall serve on the Hearing Officer a copy of the certificate of service which verifies service of the discovery response and shall file a copy of the certificate of service with the Commission.

(D) All objections to a discovery request must be made in writing and must be served on all other parties and the Hearing Officer no later than 10 days after receipt of the request. In no event shall an objection be served after the discovery return date. Copies of all objections shall also be filed with the Commission.

(E) If any party fails to comply with a reasonable discovery request, the requesting party may move the Hearing Officer to issue an order compelling compliance, or imposing any other sanction the Hearing Officer deems appropriate. Any such motion shall be

filed with the Commission, and served on all parties and the Hearing Officer no more than 3 days after the failure to comply.

(F) At any time, the Hearing Officer may, either sua sponte or upon the motion of any party or witness, issue protective orders which may deny, limit, condition, or regulate discovery to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or oppression.

Section 460.150 Privileges

All matters that are privileged against disclosure in civil cases in the courts of the State of Illinois shall be privileged against disclosure through any discovery procedure hereunder.

Section 460.155 Stipulations

Parties may stipulate to the truth of any facts involved in the Administrative Hearing. Unless a party notes an objection to materiality or relevance in the stipulation, the facts stipulated shall be considered as evidence at the Administrative Hearing, and shall become part of the hearing record. In cases where the Hearing Officer waives preparation of a Pre-Hearing Memorandum, as set forth in Section 460.135, the parties shall offer any proposed stipulations at the Pre-Hearing Meeting.

Section 460.160 Motions for Summary Judgment

The Commission shall not accept motions for summary judgment.

Section 460.165 Motions and Objections

Motions and objections made during an Administrative Hearing, including objections to the introduction of evidence, may be stated orally and shall be included in the recorded report of the Administrative Hearing.

All other motions made after the Commencement of Administrative Hearing shall be in writing, shall be served upon all parties and the Hearing Officer at least 3 days before the scheduled date of the Pre-Hearing Meeting, and shall be filed with the Commission.

Section 460.170 Waiver of Objections

Any objection not duly presented at an Administrative Hearing shall be deemed waived unless the failure or neglect to make such objection is excused for good cause by the Hearing Officer.

Section 460.175 Commission Employees as Witnesses

No Commission employee shall testify on behalf of a party at an Administrative Hearing with respect to the contents of any files, documents, reports, memoranda, or records of the Commission or the results of any investigation conducted by the Commission, except upon order of the Commission. Any party may apply by motion for such an order, and such motion shall identify the Commission employee whose testimony is desired, the nature of such person's testimony, and the specific purpose to be served thereby. The motion shall be granted only upon a showing that the information to be elicited from such testimony is admissible and cannot be obtained through any other means.

A motion seeking an order to compel a Commission employee to testify shall be served by the moving party on the Hearing Officer and filed with the Commission in accordance with Section 460.165 herein.

Additionally, the Hearing Officer may, sua sponte, order a Commission employee to testify regarding relevant information which is admissible and cannot be obtained through any other means. If any party objects on the ground that such testimony would be unduly prejudicial, the Hearing Officer may grant a continuance to enable the objecting party to meet such evidence.

Section 460.180 Presentation of Case

The Complainant shall be allowed to present an opening statement, after which the Respondent shall be allowed the same. Next, the Complainant shall present his or her case, and then the Respondent shall present the Respondent's. The Hearing Officer may, upon request, allow the Complainant to present a rebuttal case. The Complainant shall be allowed to present a closing statement, after which the Respondent shall be allowed the same. The Complainant shall be allowed to present a rebuttal closing statement upon leave of the Hearing Officer.

Section 460.185 Exclusion of Evidence of Discussions During Mediation Conference or Settlement Discussions

No testimony or evidence shall be given or received at any Administrative Hearing relating to discussions at a Mediation Conference or to any other settlement discussions. (Amended 7-17- 14)

Section 460.190 Ex Parte Communications

Neither a party nor its representative shall communicate, directly or indirectly, with the Hearing Officer or any Commissioner regarding any issue or matter which is the subject of an Administrative Hearing, except upon notice and opportunity for all parties to participate.

Section 460.195 Continuation of Hearing

At the discretion of the Hearing Officer, an Administrative Hearing may be continued or adjourned to a later date or to a different place by announcement thereof at the Administrative Hearing or by other appropriate notice.

Section 460.200 Expedition of Proceedings

The Hearing Officer, sua sponte or upon motion of any party to a Complaint, for good cause shown, may expedite the Administrative Hearing process or shorten any time period set forth in these rules, with the exception of shortening the 180-day Complaint filing period set by the Ordinance. Any non-moving party may file with the Hearing Officer and serve on the moving party and file with the Commission a response setting forth the party's objection to the expedition of any time period.

Section 460.205 Hearing Record

(A) Official Record

The official record of every Administrative Hearing shall consist of the Complaint, any amended Complaint(s), the notice of hearing, and all subsequent pleadings, notices, motions, briefs, and memoranda, and objections and rulings/orders thereon, and transcripts as set forth in Section 460.205(B) below, including all exhibits thereto. The official record shall also include the Hearing Officer's initial and final proposed decisions concerning liability and damages and the Hearing Officer's initial and proposed decisions concerning attorney fees and costs, if any, as well as the parties' objections to such initial proposed decisions, the responses and replies thereto, and the Commission's final orders concerning both liability and attorney fees and costs, if any. Except for those items listed in the preceding paragraph, none of the materials in the Commission's investigation files shall be a part of the official record.

The official record (except such evidence as is placed under seal by the Commission) shall be available for public inspection upon making appropriate arrangements with the Commission subsequent to the entry of a final decision and order. In order to avoid unreasonable annoyance, embarrassment or oppression, the Commission may, sua sponte or upon motion of a party or witness, seal all or part of the official record to prevent disclosure of:

(1) Information specifically protected from disclosure by federal, state, or county law or rules and regulations adopted pursuant thereto; or

(2) Information which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless such disclosure is consented to in writing by the individual subjects of such information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. Information exempted under this subparagraph shall include but is not limited to:

(a) files and personal information maintained with respect to clients, patients, residents, students, or other individuals receiving social, medical, educational, vocational, financial, supervisory, or custodial care or services directly or indirectly from federal agencies or other public bodies;

(b) personnel files and personal information maintained with respect to employees, appointees, or elected officials of any public body or applicants for such positions;

(c) files and personal information maintained with respect to any applicant, registrant, or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure, or

discipline;

(d) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by statute;

(e) information revealing the identity of any person who files Complaints with or provides information to administrative, investigative, law enforcement, or penal agencies; and

(f) any other information as set forth in 5 ILCS 116/207.

(B) Transcript

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

SUBPART 470 DECISION AFTER HEARING

Section 470.100 Hearing Officer's Decisions

(A) Within 60 days after the conclusion of an Administrative Hearing or within 60 days after submission of the last of any post-hearing briefs ordered by the Hearing Officer, the Hearing Officer shall submit to the parties and file with the Commission his/her initial proposed decision and order including: (i) a summary of the respective contentions of the parties; (ii) findings of fact based upon and limited to the testimony and other evidence of record; (iii) a determination as to whether or not a preponderance of the evidence sustains the Complaint, or each claim thereof; (iv) conclusions of law, including an analysis of each legal claim and reasoning to support the Hearing Officer's determinations; and (v) an initial proposed order, including any appropriate relief and a recommendation as to whether to award reasonable attorney fees and costs.

(B) The parties shall each have 21 days from the date of the Hearing Officer's initial proposed decision and order to serve simultaneously on all other parties and the Hearing Officer, and to file with the Commission, all exceptions to the initial proposed decision and order and to file any Request for Reconsideration of any interlocutory orders (i.e., substantial evidence determinations, motions to dismiss). The exceptions should include relevant legal analysis for any objections to legal conclusions, grounds for reversal or modification of any finding of fact including specific references to the record and transcript, and/or grounds for modification or reversal of relief ordered, if any. The parties shall each have 14 days from the date of service of the objections to

serve simultaneously on all other parties and the Hearing Officer, and to file with the Commission, any response to any other party's exceptions, if any; such a response must include relevant legal analysis for any response to objections to legal conclusions. Replies shall be permitted only upon leave of the Hearing Officer upon good cause shown. (Amended 1-14-16)

(C) Within 21 days of receipt of the last response or reply, the Hearing Officer shall rule upon all exceptions and shall submit to the Commission: (i) his/her final proposed decision and order, including the reasons for acceptance or rejection of the exceptions; ii) his /her initial proposed decision and order; and iii) all of the parties' exceptions, responses, and replies.

Section 470.105 Commissioners' Decisions

(A) The Commissioners, or a panel of three Commissioners, as so designated by the Chairperson, shall review the entire record, including the Hearing Officer's final proposed decision and order. The panel of Commissioners will recommend to the full body of Commissioners a final Commission decision and order.

(B) The Commissioners shall adopt, reject, or modify the Hearing Officer's final proposed decision and order, in whole or in part, or may remand for additional hearings on some or all of the issues presented. The Hearing Officer's findings of fact shall be adopted unless the Commissioners determine that they are against the manifest weight of evidence. The Commissioners shall adopt the Hearing Officer's final proposed decision and order if it is not contrary to the evidence presented at the Administrative Hearing.

(C) If the Commissioners find that a Respondent has not violated the Ordinance, the Commissioners shall promptly issue a written decision and order dismissing the Complaint as to such Respondent, and setting forth findings of fact and conclusions of law. If the Commissioners find that a Respondent has engaged in a violation of the Ordinance, the Commissioners shall promptly issue a written decision and order stating the Commission's findings of fact, conclusions of law, and order for relief.

(D) The decision of the Commission shall be in writing and shall be issued within 60 days of the submission of the Hearing Officer's final proposed decision and order. The written decision and order shall be sent to all parties by mail. Any party may request a rehearing of the matter by the Commission by filing a Request for Reconsideration in accordance with Section 480.100(C) herein within 30 days of the date of the Commission's decision and order. (Amended 1-14-16)

(E) All final decisions and orders of the Commission shall have precedential effect.

Section 470.110 Statement of Attorney Fees and Costs

(A) No later than 21 days after the date of the Commission's decision and order upon an Administrative Hearing awarding attorney fees or costs, a Complainant who is awarded attorney fees or costs may serve upon the Hearing Officer a statement of fees and/or costs, supported by argument and affidavits. Such supporting

documentation shall include the following:

(1) The number of hours for which compensation is sought, itemized according to the work that was performed and the individual who performed the work;

(2) The hourly rate customarily charged by each individual for whom compensation is sought, or, in the case of a public law office which does not charge fees or which charges fees at less than market rates, documentation of the rates prevalent in the practice of law for attorneys in the same locale with comparable experience and expertise; and

(3) Documentation of costs for which the party seeks reimbursement. (Amended 1- 14-16)

(B) Copies of such statements and supporting documents shall also be served by the Complainant on all other parties and shall be filed with the Commission, and proof of service shall be provided. Neither fees nor costs will be awarded in the absence of a proper statement thereof.

(C) If a statement of fees and/or costs is timely filed by the Complainant as provided above, all other parties shall have the opportunity to file written responses thereto. Such responses shall be served upon the Hearing Officer and filed with the Commission within 14 days after the service of such statement, and copies thereof shall be served at the same time on all other parties.

(D) The Complainant may submit a reply brief by serving it on the Hearing Officer and the other parties and filing it with the Commission no more than 5 days after receipt of the response.

(E) A party may request additional time to file a pleading governed by this section pursuant to Section 490.180.

(F) Within 21 days of receipt of the parties' final submission, the Hearing Officer shall submit to the parties and the Commission his/her final proposed decision regarding the petition for attorney fees and costs. (Amended 9-8-16)

(G) The decision of the Commission adopting, rejecting or modifying the Hearing Officer's final proposed decision regarding the petition for attorney fees and costs shall be in writing and shall be issued within 60 days of submission of the Hearing Officer's final proposed decision. The written decision and order shall be sent to all parties by mail. (Amended 9-8-16)

SUBPART 480 REVIEW OF DETERMINATIONS AND DECISIONS

Section 480.100 Request for Reconsideration

(A) Review Other than After an Administrative Hearing

After the Commission has issued an order dismissing a Complaint other than after an

Administrative Hearing, including a dismissal because of a finding of lack of substantial evidence, or after the Commission has issued a default order and judgment, either party may obtain review of the order by filing a Request for Reconsideration with the Commission and serving copies on all other parties within 30 days from the date of the Commission's order. The other parties shall each have 21 days from the date of service of the Request for Reconsideration to file a response to the Request for Reconsideration.

(B) Interlocutory Order

After the Commission or a Hearing Officer has issued an interlocutory order (i.e., any order not covered by Subsection (A) of this section or by Section 470.105), such as a ruling on a motion challenging jurisdiction, any party may obtain review of the interlocutory order only after the Commission has issued an order dismissing the Complaint, or as part of its objections to the Hearing Officer's initial proposed decision and order following an Administrative Hearing. The requesting party must file its objections, if any, to the interlocutory order, within 21 days from the date of the initial proposed decision and order. Any other party must respond to the interlocutory order objections, if at all, as part of its response to the objections to the Hearing Officer's initial proposed decision and order as set forth in Section 470.100(B).

Notwithstanding the foregoing, a party may file a Request for Reconsideration of a decision ruling upon a motion to disqualify, upon receipt of such a decision as provided in Section 460.115.

(C) Rehearing

After the Commission has issued its final order and decision on an Administrative Hearingeither party may file within 30 days of the date of this order a Request for Reconsideration seeking a rehearing before the Commission. The Request for Reconsideration shall state briefly and specifically the legal issues claimed to have been overlooked or misapprehended by the Commission in its final order and decision. The Commission, at its discretion may order that a response to the Request for Reconsideration be filed. A rehearing will be granted by the Commission only when it is clear that the Request for Reconsideration raises legal issues of significant impact. A Request for Reconsideration allowing a rehearing will be granted sparingly. (Amended 1-14-16)

Section 480.105 Content of Request for Reconsideration and Responses

Any party requesting review pursuant to Section 480.100 must state with specificity the reason(s) supporting the Request for Reconsideration, such as relevant evidence which is newly discovered and not available at the time of the original determination, or the presentation of new, legal precedent not available at the time of the original determination, or the Commission's misapprehension or misapplication of law. Any party responding to a Request for

Reconsideration pursuant to Section 480.100 must state with specificity the reasons for opposing the Request for Reconsideration.

Section 480.110 Grant or Denial of Request for Reconsideration

(A) Other Than After an Administrative Hearing

After receipt of a response, if any, to a Request for Reconsideration regarding an order dismissing a Complaint other than after an Administrative Hearing (such as a finding of lack of substantial evidence), the Commission's Executive Review Committee shall determine whether the grounds stated in such request are sufficient to compel reopening of the matter. If the Executive Review Committee determines that the grounds are not sufficient, it will promptly notify the parties of such determination. The Executive Review Committee may require the parties to submit written briefs or other documents on a particular question of law or fact in connection with the Request for Reconsideration.

(B) Interlocutory Orders

For a Request for Reconsideration of an interlocutory order made in conjunction with objections to the Hearing Officer's initial proposed decision, the Hearing Officer shall include his/her ruling on this Request for Reconsideration in his/her final proposed decision.

Section 480.115 Appeal of a Final Order of the Commission

Any party may seek a writ of certiorari from the Chancery Division of the Circuit Court of Cook County according to applicable law for purposes of appealing any Final Order of the Commission. Nothing in these rules requires parties to exhaust any or all available Commission remedies before seeking an appeal of a Final Order.

Section 480.120 Compliance with Decision

Compliance with a Commission order shall occur no later than 31 days after the date of any Final Order after Administrative Hearing.

Section 480.125 Enforcement of Judgment

Whenever a party believes there has been a failure to comply with any Final Order of the Commission, the party must file a motion with the Commission and serve it on all other parties seeking a determination that there has not been compliance with the Final Order. All other parties shall each have 7 days from service to file a response, if any, to such motion. The response must be served on all other parties and filed with the Commission.

If the Commission finds that there has been a failure to comply, the Commission shall issue an order to that effect. The Commission may then seek enforcement of the Final Order by a court or collection service or authorize the moving party to do the same. (Amended 2-20-14)

SUBPART 490 MISCELLANEOUS

Section 490.100 Commission Deadlines

All deadlines related to actions to be taken by the Commission or its agents are directory, not mandatory. No such deadline is jurisdictional. The Commission's failure to meet any deadline shall not prejudice the parties.

Section 490.110 Withdrawal of Attorney or Representative Appearance

An attorney or representative of record may not withdraw his or her appearance before a Commencement of Administrative Hearing without leave of the Commission, and may not withdraw after a Commencement of Administrative Hearing without leave of the Hearing Officer. An attorney or representative seeking to withdraw his or her appearance shall file with the Commission and with the Hearing Officer (if any assigned) and serve upon all parties a written motion setting forth the reasons for seeking the withdrawal.

Section 490.120 Attorney Fees and Costs

The Commission, subsequent to the completion of an Administrative Hearing, may award to a prevailing Complainant reasonable costs, including attorney fees.

Section 490.130 Interpreters

(A) If a qualified sign language or a qualified foreign language interpreter is required at a Fact-Finding or Evidentiary Conference, a Mediation Conference, a Pre-Hearing Meeting, an Administrative Hearing, or any other significant Commission-related event, the Commission shall provide one, where feasible, at no cost to the parties upon request at least 72 hours in advance of the event at which it is needed. (Amended 7-17-14)

(B) The Commission will provide, where feasible, a qualified foreign language interpreter or a qualified sign language interpreter at all public meetings or hearings of the Commission upon request at least 72 hours in advance of the event at which it is needed.

Section 490.140 Accessibility

All Mediation Conferences, Fact-Finding or Evidentiary Conferences, Pre-Hearing Meetings, Administrative Hearings, and meetings of the Commission shall be held in buildings and rooms accessible to persons with disabilities. (Amended 7-17-14)

Section 490.150 Effect of Other Laws

In interpreting the Ordinance, the Commission shall look to decisions interpreting other relevant laws for guidance.

Section 490.160 Separability

In the event any provision or term of these rules, or any amendment thereto, is determined

by a court or other authority of competent jurisdiction to be invalid, such determination shall not affect the remaining provisions, which shall continue in full force and effect.

Section 490.170 Copying Fees

The Commission shall, upon reasonable notification, furnish copies of documents which are available for inspection under Section 440.135 or applicable law at a charge of 10 cents per page, plus postage if the copies are mailed. Copies shall not be released to the requester until payment in full has been received by the Commission. A requester may file a written motion, which shall be granted only upon submission of an affidavit substantially similar to the affidavit attached hereto as Exhibit B, setting forth objective evidence that the requester is unable to pay these charges.

Section 490.180 Motions for Extensions of Time and Continuances

(A) Any motion for an extension of time in which to file any pleading, brief, or other document, shall be served on all parties and filed with the Commission (and the Hearing Officer, if one has been assigned) as soon as the reasons for the extension are known to the moving party. Any such motion must include the number of previous motions for extensions of time filed by the movant, the disposition of such motions, and the reasons for which this extension is sought. Such motions will be granted only for good cause shown. The Commission will issue an order and serve it on all parties. Additionally,any such motion filed less than 7 days prior to the deadline sought to be extended shall be granted only if extraordinary circumstances are shown.

(B) Any motion for continuance of any Mediation Conference, Fact-Finding or Evidentiary Conference, Pre-Hearing Conference, or Administrative Hearing shall be served on all parties and filed with the Commission (and the Mediator or Hearing Officer, if one has been assigned) as soon as the reasons for the continuance are known to the moving party. Any such motion must include the number of previous motions for continuance filed by the movant, the disposition of such motions, and the reasons for which this continuance is sought. Such motions will be granted only for good cause shown. Additionally, any such motion filed less than 7 days prior to the date sought to be continued will be granted only if extraordinary circumstances are shown. A motion for continuance of an Administrative Hearing to permit discovery shall not be granted unless due diligence is shown. (Amended 7-17-14)

(C) All objections to a motion for extension of time or a motion for continuance shall be filed, if at all, within 3 days after service of the motion, or within such other period as the Hearing Officer or Commission shall order and shall be served at the same time upon all other parties.

Section 490.190 Verification

Any pleading, certificate, or other paper that these rules require or permit to be verified shall be verified in one of the following ways:

(A) By a signature affixed to an oath or affirmation and notarized by a duly authorized notary

public or other officer authorized to administer oaths by the law of the United States or of the jurisdiction where the pleading, certificate, or other paper is signed;

(B) By a signed certification stating that the matters stated are true and correct, except as to matters stated to be on information or belief and as to such matters the undersigned certifies that he/she believes to be true. The certification shall be substantially similar to the form required by Section 1-109 of the Illinois Code of Civil Procedure; or

(C) For certificates of service under Section 120.120 only, by the signature of any counsel who has filed an appearance in that matter under Section 120.140(B).

Section 490.200 Statements by the General Public at Commission Meetings

(A) Public Statements

The Chairperson, with the consent of the members, shall recognize a presenter who asks to address the Commission and has completed a Notice of Public Statement form. Notice forms will be available at all Commission meetings and may be obtained in advance at the Commission office. The Commission will accept public statements prior to the commencement of, or at the conclusion of, the Commission's official business as set forth in the Commission agenda. Where a public speaker wishes to address the Commission with respect to an agenda item that the Commission will discuss in executive session, the Commission may receive this comment in executive session if (1) the Commission so desires, (2) the public speaker so desires, and (3) doing so would be consistent with the Illinois Open Meetings Act, 5 ILCS 120/1 et seq., as amended.

Anyone seeking to make a public statement is obligated to comply with the provisions set forth in Section 490.200. Failure to abide by any of the provisions set forth herein may be grounds for denial of the opportunity to make a public statement before the Commission. (Amended 12-18- 14)

(B) Subject Matter of Statements

The Notice of Public Statement form shall include the name and address of the person wishing to speak, the name of the organization to be represented, if any, and a summary of the presentation, with sufficient specificity as to apprise the Commission of the nature of the presentation.

Presentations must be limited to issues of concern relating to Commission business and jurisdiction.

All presenters are encouraged, but not required, to submit their comments in writing. (Amended 12-18-14)

(C) Prohibited Presentations

No presentation shall be permitted which alludes or refers to any pending cases before the Commission, including but not limited to complaint investigations, mediation conferences, administrative hearings, requests for reviews, Commission orders,

hearing officer orders, Commission decisions and orders or appeals from the Commission. Presentations shall not contain comments of a personal nature, including but not limited, to attacks of character or motives directed toward individual Commissioners or employees of the Commission. (Amended 7-17-14)

(D) Time Allotted for Presentation

All presentations shall be limited to a maximum of five (5) uninterrupted minutes unless the Commission grants additional time. This time allocation may be reduced if an individual presenter fails to comply with Section (C) of this Rule.

When more than three persons desire to comment for or against a given issue/item, the Chairperson may direct the group of similar voice to designate representatives so as not to exceed three voices for or three voices against the issue/item. (Amended 12-18-14)

Section 490.210 Access to Documents at Commission Meetings

Members of the public attending Commission meetings are entitled to a copy of the Commission agenda for that meeting. During the course of a Commission meeting, members of the public are not entitled to documentation disseminated to Commissioners as support materials for agenda items or materials submitted for Commission discussion purposes.

Section 490.220 Recording Commission Meetings (Added 12-18-14)

Any person may record the proceedings of a Commission meeting by tape, film or other means subject to the following rules:

(A) Meetings, or any portions of a meeting, which are closed to the public may not be recorded except as required and authorized by the Illinois Open Meetings Act, 5 ILCS 120/1 et seq., as amended.

(B) The person intending to record a Commission meeting shall provide prior written notice 24-hours in advance, or as soon as practicable, to the Executive Director of his or her intent to record, and shall also give a verbal indication at the start of the meeting to the Chairperson or other person running the meeting that he or she will record the meeting

(C) The Chairperson or the Executive Director may designate a location for recording equipment, restrict the movements of individuals who are using the recording equipment or take other steps that are deemed necessary to preserve the decorum of the meeting and facilitate the conduct of business.

(D) At the start of any meeting which is to be recorded, the Chairperson shall notify all present of the recording, and advise any witnesses of their right to refuse to testify during any recording.

(E) If a witness refuses to testify on the grounds that he or she maynot be compelled to testify if any portion of his or her testimony is to be broadcast or televised or if motion pictures are to be taken of him or her while he or she is testifying, the Chairperson or other person

running the meeting shall prohibit such recording during the testimony of the witness.

(F) The Chairperson or other person running the meeting shall order the immediate termination of any recording which is disruptive to the meeting, or which distracts, disturbs or is offensive to the Board members, witnesses, or other members of the public inattendance.

Section 490.230 Distance Participation (Added 12-18-14)

The Commission, by majority vote, may allow a member to attend by video or audio conference, based on reasons of illness, disability, employment or public body business, family or other emergency in accordance with the applicable provisions of the Illinois Open Meetings Act, 5 ILCS 120/1 *et seq*., as amended. The member shall give advance notice of his or her distance attendance to the Executive Director, if practical. In all cases, a quorum of members of public body must be physically present.

Section 490.240 Open Meetings Act Training Requirements (Added 12-18-14)

Each member of the Commission must register as an "OMA Public Body Member" and complete the Illinois Attorney General's online training program on the Open Meetings Act (available at the Public Access Counselor's website, http://foia.ilattorneygeneral.net/default.aspx). Commission members must complete this training within 90 days after assuming Commission member responsibilities, and must print and file a copy of the certificate of completion with the Executive Director.

Section 490.250 Attendance Requirement (Added 12-18-14)

Notwithstanding Rule 490.230, each Commissioner is expected to attend at least half of the Commission meetings held each year in person. If any member fails to do so, any other member of the Commission can move to make a recommendation that the President of the Cook County Board of Commissioners remove the absentee Commissioner for substantial neglect of duty pursuant to County Code, § 42-34(a)(5). The Executive Director shall convey this recommendation if the motion carries by a majority vote.

Section 490.255 Limits on Serial Complainants (Added 3-10-16)

(A) The Executive Director is primarily responsible for managing the Commission's administrative resources. This involves fairly and efficiently allocating the limited investigative and legal staff time among pending cases in order to provide timely resolution of all human rights claims filed at the Commission. In rare instances, a just distribution of resources among current and potential litigants may require placing reasonable restrictions on particular complainants whose multiple prior non-meritorious complaints have used an inordinately large percentage of Commission staff time. To address this concern, the Executive Director is authorized to request the Commission to issue an order limiting a serial complainant's ability to file additional claims at the Commission, as follows.

(B) In requesting such an order, the Executive Director must present the Commission with

evidence that the complainant in question is a serial complainant. For purposes of this Rule, a "serial complainant" is defined to mean a person who has done either or both of the following:

(1) Filed three or more complaints at the Commission in a two-year period, five or more complaints at the Commission in a ten-year period, or both, where the majority of such claims have been dismissed for lack of substantial evidence of a violation of the Human Rights Ordinance, failure to cooperate or for lack of jurisdiction; or

(2) Filed a second complaint at the Commission while he or she has another complaint currently pending at the Commission.

(C) In determining whether to exercise its discretion to grant the Executive Director's request for an order limiting a serial litigant's ability to file any additional claims at the Commission, the Commission shall consider the following non-exhaustive list of factors:

(1) Availability of administrative resources;

(2) Availability of alternative administrative and non-administrative forums;

(3) The number, recentness and extent of administrative resources dedicated to Complaints currently on file with the Commission by the same Complainant; and

(4) The number, frequency, outcome and extent of administrative resources dedicated to Complaints previously filed by the same Complainant at the Commission and other similar administrative agencies.

(D) An order issued pursuant to this Rule 440.107:

(1) Shall enjoin the affected person, and anyone acting on his or her behalf, from filing any new complaints at the Cook County Commission on Human Rights without first obtaining leave from the Commission by filing a motion captioned "Motion Seeking Leave to File Pursuant to Order of Commission," which motion shall be accompanied by the new complaint sought to be filed.

(2) Shall include a term of one year from the date issued, unless the Commission makes a specific finding, based on affected serial complainant's history of filings at the Commission, that a longer term is reasonable and necessary.

(3) Shall not affect cases pending prior to the entry of such an order, which cases shall proceed as usual.

(E) Upon receiving any motion and complaint filed pursuant to subsection (D)(1), the Executive Director or other staff shall send it to the Commission for consideration and decision at its next regular meeting; provided that, a special meeting of the Commission shall be called to decide this motion if necessary for the proffered complaint to satisfy the applicable limitations period.

(F) The Commission shall examine any such complaints to determine whether they should be filed. If the Commission determines that a complaint is frivolous or merely duplicative of matters already litigated, it shall deny leave to file the complaint. If it does not so find, then the Commission shall enter an order granting leave to file the submitted complaint. Commission staff shall then serve complainant with a copy of such order, file-stamp and serve the complaint upon the named respondent, and begin an investigation in accordance with the Rules.

(G) Whenever the Commission enters an order limiting a serial complainant's ability to file complaints with the Commission, Commission staff shall create and maintain a miscellaneous file with the title "In the matter of_____" and a case number in the following format: [year] M [number of case filed in the category] (*e.g.*, 2016M001), which file shall serve as the repository of such order, any related order, and any materials received from the affected serial litigator during the term of such order which are not related to a case pending at the Commission.

(H) A person to whom the Commission issues an order:

(1) under subsection (D), enjoining him or her or anyone acting on his or her behalf from filing any new complaints at the Cook County Commission on Human Rights without first obtaining leave from the Commission; or

(2) under subsection (F), denying leave to file a submitted complaint, may file with the Commission, in accordance with Section 480.100(A) herein, a Request for Reconsideration of such an order.

PART 500 PREGNANCY, CHILDBIRTH AND CHILD-REARING

Section 500.100 Prohibition of Discrimination

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

Section 500.110 Disabilities Caused by Pregnancy or Childbirth

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

terms and conditions as they are applied to other disabilities.

Section 500.120 Temporary Disabilities

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

Section 500.130 Non-Disability Leaves

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

PART 600 INTERPRETIVE RULES ON DISABILITY DISCRIMINATION

SUBPART 610 AUTHORITY AND APPLICABILITY

Section 610.100 Authority

These interpretive rules are adopted in accordance with the authority vested in the Cook County Commission on Human Rights pursuant to Article X (E)(5) of the Cook County Human Rights Ordinance to adopt rules and regulations necessary to implement the Commission's powers.

Section 610.110 Applicability

These interpretive rules shall have full force and effect immediately upon their adoption and shall apply to all matters pending before the Commission as of the date of adoption. The rules shall apply to parties bringing actions before the Commission and to all duly appointed investigators, Hearing Officers, and other agents of the Commission.

SUBPART 620 DISABILITY DISCRIMINATION DEFINITIONS

Section 620.100 General Interpretive Principle

The rules of Subpart 620 shall be interpreted broadly so as to achieve the goals of independent living and full integration into society of and by people with disabilities, and provide the maximum protection for individuals with disabilities. While federal law interpreting the Americans with Disabilities Act, 42 U.S.C. §12101 et seq., and state or local law interpreting state or local statutes and ordinances that concern disability discrimination and/or definitions of disability may provide guidance in interpreting some types of claims arising under the Ordinance, all such law is non-binding upon the Commission.

Section 620.110 Definition of "Physical or Mental Impairment"

The language "physical or mental impairment" of Article II(C) of the Ordinance shall include all physical and mental medical conditions that are diagnosable by recognized medical, diagnostic, and laboratory techniques and which are not transitory or insubstantial in nature. Temporary, non-chronic impairments are not to be considered impairments within the meaning of this definition because they do not have a long term or permanent impact upon an individual.

The existence of an impairment is to be determined without regard to mitigating measures such as medicines, or assistive or prosthetic devices. For example, an individual with epilepsy would be considered to have an impairment even if the symptoms of the disorder were completely controlled by medicine. Similarly, an individual with hearing loss would be considered to have an impairment even if the condition were correctible through the use of a hearing aid.

Section 620.120 Definition of "Substantially Limits"

The language "substantially limits" of Article II(C) of the Ordinance shall be interpreted to provide coverage for any individual whose physical or mental condition significantly impacts his or her ability to perform any major life activity to a degree greater than the average individual within the general population can perform that particular function. To be covered by the Ordinance's protections, an individual claiming to be disabled need not demonstrate any particular degree of impairment beyond that threshold level.

Section 620.130 Definition of "Major Life Activities"

The language "one or more major life activities" of Article II(C) of the Ordinance shall be interpreted to include those basic physical or mental activities of the ordinary life of the average individual within the general population. The definition shall not be interpreted so as to provide coverage only for individuals who are substantially limited in their ability to perform critical or essential life activities. "Major life activities" under the Ordinance's definition shall include such activities as breathing, walking, talking, seeing, hearing, working, lifting, and mobility in general. This list is not exhaustive and should not be construed as a limitation on activities considered "major life activities." To the extent that an individual seeks to prove that he or she is disabled in regard to the major life activity of working, the individual need prove only that he or she is substantially limited in performing a range or category of jobs. The individual need not prove that he or she is substantially limited in performing most jobs.

Section 620.140 Definition of "Record of" of an Impairment

The language "a record of such impairment" of Article II(C) of the Ordinance shall be interpreted to mean any demonstrable history of having in the past experienced any mental or physical medical condition which, at some period in the past, met the basic definition of disability. An individual has "a record of such impairment" regardless of the individual's current medical status and regardless of the proximity in time of having experienced such an impairment to the present. For purposes of Article II(C) of the Ordinance, "a record of such

impairment" shall include, but not be limited to, a history of diagnosis of any form of cancer or heart disease and specifically shall include individuals who have had a myocardial infarction or undergone "bypass" heart surgery.

Section 620.150 Definition of "Regarded as" Impaired – In General

The language "being regarded as having such an impairment" of Article II(C) of the Ordinance shall be interpreted to mean:

(A) Has a physical or mental impairment that does not substantially limit major life activities but is treated by a covered entity as constituting such limitation;

(B) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(C) Has no impairment but is treated by a covered entity as having a substantially limiting impairment.

Section 620.160 Definition of "Regarded as" Impaired in Cases of Mental Impairment

With regard to mental impairments, the language of Article II(C) of the Ordinance "being regarded as having such an impairment" shall be interpreted to provide coverage for individuals who an employer, or agent of an employer, believes or suspects has any degree of mental illness, even where the employer, or agent of the employer, lacks any medical basis for said belief and even where the employer, or agent of employer, is unaware of the identity, name, or classification of any such illness or condition. This section shall not preclude an employer, or agent of employer, from taking any action with respect to an individual based upon the individual's temperament or personality traits which are not symptoms or regarded as symptoms of a mental disorder.

Section 620.170 Illegal Drug Use

As provided in Article II(C) of the Ordinance, "disability" does not include an impairment relating to the illegal use, possession or distribution of "controlled substances." However, "disability" shall include an individual who has successfully completed or is participating in a supervised drug rehabilitation program and is no longer engaged in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaged in the illegal use of drugs; or is erroneously regarded as engaging in such use, but is not engaging in such use. An employer may adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual is no longer engaging in the illegal use of drugs.

SUBPART 630 DISABILITY DISCRIMINATION IN EMPLOYMENT

Section 630.100 Definition of "Essential Functions" of Job

In order to gain the Ordinance's protections against disability discrimination in employment under Article III(B), an individual must show that, the disability at issue notwithstanding, he or she is able to perform the essential functions of the job at issue, either with or without a

reasonable accommodation. “Essential functions” means the basic, fundamental duties of the employment position in question. It does not include rare, potential, speculative, or marginal functions of a position.

Section 630.110 Effect of Written Job Description and Testimony Regarding the “Essential Functions”

An employer’s written job description as to the essential functions of a position shall be deemed relevant and admissible, although not definitive, evidence of the essential functions of a position. Similarly, an individual’s observations or assessments of what constitutes an essential function of a position shall be relevant, admissible, but not definitive evidence, as to the issue.

Section 630.120 Duty to Reasonably Accommodate

In order to fully effectuate the prohibitions of disability discrimination in employment in Article III(B), an employer has a duty to reasonably accommodate an employee’s disability so as to attempt to enable the employee to perform the essential functions of the position in question. To facilitate compliance with the Ordinance, the following guidance is provided:

(A) What Is a Reasonable Accommodation

Reasonable accommodation is a modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity to be considered for a job, to perform the essential functions of the job, or to enjoy equal benefits and privileges of the job. An equal employment opportunity means an opportunity to attain the same level of performance or to enjoy equal benefits and privileges of employment as are available to an average similarly situated employee without a disability.

(B) Some Basic Principles of Reasonable Accommodation

A modification or adjustment must be “reasonable” and “effective.” It must provide an opportunity for an individual with a disability to achieve the same level of performance or to enjoy benefits or privileges equal to those of an average similarly situated nondisabled individual. However, the accommodation does not have to ensure equal results or provide exactly the same benefits or privileges.

The reasonable accommodation obligation applies only to accommodations that reduce barriers to employment related to an individual’s disability; it does not apply to accommodations that a disabled individual may request for some other reason.

A reasonable accommodation need not be the best accommodation available, as long as it is effective for the purpose; that is, it gives the individual with a disability an equal opportunity to be considered for a job, to perform the essential functions of the job, or to enjoy equal benefits and privileges of the job.

An employer is not required to provide an accommodation that is primarily for personal use. Reasonable accommodation applies to modifications that specifically

assist an individual in performing the duties of a particular job. Equipment or devices that assist an individual in daily activities on and off the job are considered personal items that an employer is not required to provide. However, in some cases, equipment that otherwise would be considered "personal" may be required as an accommodation if it is specifically designed or required to meet job- related rather than personal needs.

Employers are not prevented from providing accommodations beyond those required by the Ordinance.

(C) Some Examples of Reasonable Accommodation

Accommodations may include:

(1) making facilities readily accessible to and usable by an individual with a disability;

(2) restructuring a job by reallocating or redistributing marginal job functions;

(3) altering when or how an essential job function is performed;

(4) part-time or modified work schedules;

(5) obtaining or modifying equipment or devices;

(6) modifying pre-employment screening examinations, employment examinations, training materials or policies;

(7) providing qualified readers and interpreters;

(8) reassignment to a vacant position;

(9) permitting use of accrued paid leave or unpaid leave for necessary treatment;

(10) providing reserved parking for an individual with a mobility impairment;

(11) allowing an employee to provide equipment or devices that an employer is not required to provide.

The foregoing examples are illustrative of possible accommodations and are not intended to be an exhaustive list.

Every reasonable accommodation must be determined on an individual basis. A reasonable accommodation always must take into consideration two unique factors: a) the specific abilities and functional limitations of a particular applicant or employee with a disability; and b) the specific functional requirements of a particular job.

In considering an accommodation, the focus should be on the abilities and limitations of the individual, not on the name of a disability or a particular physical or mental condition. This is necessary because people who have any particular disability may have very different abilities and limitations. Conversely, people with different kinds of disabilities may have similar functional limitations.

Section 630.130 Duty to Notify Employer of Accommodation Request

An individual seeking a reasonable accommodation of a disability has a duty to notify his or her employer, or an appropriate agent thereof, of the need for, basis for, and nature of a requested accommodation, unless the accommodation which would possibly enable the individual to

perform the position in question would be obvious to a reasonable person without notice. The request need not use the words "reasonable accommodation."

Section 630.140 Duty to Engage in Interactive Process

Once an individual notifies his or her employer of a request for an accommodation or once it should become obvious to a reasonable person that an accommodation would possibly enable the individual to perform the position in question both the individual and the employer have a duty to engage in an interactive process with the goal of arriving at a reasonable accommodation to which both parties could agree. Proof by an employer that an individual has failed to meet his or her duty to do so will defeat any claim of discrimination based upon a failure of the employer to accommodate. Proof by an individual that an employer has failed to meet his duty to accommodate shall constitute a separate violation of the Ordinance, even without the presence of an adverse employment action.

Section 630.150 Prima Facie Case and Defenses to Workplace Accommodation Claims

An individual makes out a prima facie case for accommodation of disability discrimination in employment when he or she comes forward with evidence:

(A) That he or she meets the Ordinance's definition of an individual with a disability;

(B) That he or she can perform the essential functions of the job with or without a provision of a reasonable accommodation;

(C) If an accommodation is necessary, that he or she has requested said accommodation or that the accommodation is or should be obvious to a reasonable individual; and

(D) That the employer failed to provide the individual with a reasonable accommodation.

Where an individual makes the prima facie showing, an employer can defend the case either by refuting any of those elements or by proving by a preponderance of the evidence that the requested or obvious accommodation would constitute an undue hardship to the employer. An employer may establish undue hardship by proving either that the requested or obvious accommodation would be prohibitively expensive or unduly disruptive to the employer's normal business. "Undue hardship" with respect to cost is to be assessed with regard to the size and resources of the employer.

Section 630.160 Duty of Employer to Reasonably Fund Accommodation

To avail itself of the defense that an accommodation is too costly, an employer, unless it contends that any expenditure toward the cost of the accommodation would be too costly, must have offered to fund such portion of the cost of the accommodation as would not reach the level of undue hardship and provide and communicate to the individual the option to fund

the remainder of the cost of the accommodation.

Section 630.170 Verification of Disability

Where an individual requests an accommodation of a disability in employment, the employer may require reasonable verification of the disability from a health care provider when the need for an accommodation is not obvious. An individual must reasonably cooperate with his or her employer's requests to provide same by complying with any reasonable method or format requested by the employer.

Written confirmation from a qualified health care provider which describes the individual's disability and corresponding need for the requested accommodation shall be presumed to be reasonable verification. Reasonable verification does not require or permit a blanket review of the individual's medical history; rather such request must be narrowly tailored and focused on the disability and requested accommodation.

An employer may request additional verification, including additional examinations only when the employer makes specific allegations that the individual's proffered verification is untrustworthy or insufficiently descriptive.

Section 630.180 Special Duties in Cases Requesting Absenteeism as Accommodation

Where an individual's request for accommodation of a disability in employment involves any period of absenteeism of at least one full day or shift of employment beyond that to which the individual is otherwise entitled on the basis of accrued sick or vacation or personal leave time, the individual must provide to the employer, upon request, sufficient medical documentation of the basis for the absenteeism and its likely duration. The requesting individual must reasonably cooperate with his or her employer's requests to provide same by complying with any reasonable methods, time frame, or format requested by the employer.

Within three business days of receiving said medical documentation, the employer must notify the individual in writing of whether and, if so, for what period of time the employer will grant said accommodation beyond the time frame originally approved by the employer. If an individual seeks approval of absenteeism beyond the timeframe originally approved by the employer, it is the responsibility of the individual to provide to the employer additional medical documentation in advance of the expiration of the approved excused period, setting forth the basis for the absenteeism and its likely duration. Within three business days of receiving said documentation, the employer must notify the individual in writing whether and, if so, for what additional period of time, the employer will grant said accommodation.

Nothing in this section is intended to relieve or supersede any other legal obligations that the parties have, including but not limited to those arising under the Family and Medical Leave Act, the Employee Retirement Income Security Act, or the operation of any benefit program in place and applicable to the parties.

Section 630.190 Relaxation of the Rules of Evidence Regarding Admissibility of Medical Evidence at Hearing

Pursuant to Section 460.105 of these rules, which provision specifies that the Hearing Officer shall not be bound by the strict rules of evidence applicable in courts of law or equity, an individual seeking to establish that he or she meets the Ordinance's definition of an individual with a disability, or seeking to establish that he or she is capable of performing the essential functions of a position with or without a reasonable accommodation, shall be permitted to introduce into evidence at hearing medical evidence in the form of medical records from the health care provider maintaining same without regard to objections based upon hearsay or foundation. An individual must notify in writing the employer and the Hearing Officer, if assigned, within thirty days of issuance of a Notice of Substantial Evidence pursuant to Section 440.120 (C) of these Rules that he or she intends to seek the benefits of this section and within an additional thirty days must provide a copy of any such evidence sought to be introduced in said fashion to the employer and to the assigned Hearing Officer.

Section 630.200 Pre-employment Health Inquiries Prohibited

An employer may not seek medical information of any nature from an applicant for a position. An employer may inquire only as to whether the applicant is able to perform the essential functions of the position under consideration with or without a reasonable accommodation. An employer may condition a final offer of employment upon successful completion of a medical examination and may require such an examination as a condition of employment, but only after having offered the position contingent upon successful completion of the examination.

Section 630.210 Confidentiality of Medical Records

All information regarding the medical condition or history of the applicant obtained by an employer as the result of a pre-employment health inquiry or request for accommodation shall be collected and maintained on separate forms and in separate medical files and be treated as a confidential medical record, except that:

(A) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(B) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(C) Commission members and staff and agents of the Commission investigating or adjudicating complaints filed under this Ordinance shall be provided relevant information on request.

PART 700 JUST HOUSING AMENDMENT INTERPRETIVE RULES (added 12/31/19)

Section 700.100 Prohibition of Discrimination

Article II of the Cook County Human Rights Ordinance ("Ordinance") prohibits unlawful discrimination, as defined in §42-31, against a person because of any of the following: race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge, source of income, gender identity or housing status.

Additionally, any written or unwritten housing policy or practice that discriminates against applicants based on their criminal history, as defined in § 42-38(a) of the Ordinance, is a violation of the Ordinance. Any written or unwritten housing policy or practice which discriminates against applicants based on their convictions, as defined in § 42-38(a) of the Ordinance, prior to the completion of an individualized assessment violates the Ordinance.

Nothing in this section shall be interpreted as prohibiting a housing provider from denying housing to an applicant based on their criminal conviction history when required by federal or state law.

SUBPART 710 AUTHORITY AND APPLICABILITY

Section 710.100 Authority

These rules are adopted in accordance with the authority vested in the Cook County Commission on Human Rights ("Commission"), pursuant to § 42-34(e)(5) and §42-38(c)(5)(c) of the Ordinance, to adopt rules and regulations necessary to implement the Commission's powers.

Section 710.110 Applicability

These rules shall go into effect on the effective date of the Just Housing Amendment (No. 19-2394) to the Ordinance and shall only apply to claims that arise out of actions that occur on or after the effective date of the amendments.

SUBPART 720 DEFINITIONS

Section 720.100 Business Day

"Business Day" means any day except any Saturday, Sunday, or any day which is a federal or State of Illinois legal holiday.

Section 720.120 Demonstrable Risk

"Demonstrable risk," as referenced in § 42-38(c)(5)(c), refers to the likelihood of harm to other residents' personal safety and/or likelihood of serious damage to property. When the applicant is a person with a disability, "demonstrable risk" must be based on (a) objective evidence and (b) a conclusion that any purported risk cannot be reduced or eliminated by a reasonable accommodation.

Section 720.130 Individualized Assessment

"Individualized Assessment," as referenced in § 42-38(a) means a process by which a person considers all factors relevant to an individual's conviction history from the previous three (3) years. An individualized assessment is not required for convictions that are more than three (3) years old. Factors that may be considered in performing the Individualized Assessment include, but are not limited to:

(1) The nature and severity of the criminal offense and how recently it occurred;

(2) The nature of the sentencing;

(3) The number of the applicant's criminal convictions;

(4) The length of time that has passed since the applicant's most recent conviction;

(5) The age of the individual at the time the criminal offense occurred;

(6) Evidence of rehabilitation;

(7) The individual history as a tenant before and/or after the conviction;

(8) Whether the criminal conviction(s) was related to or a product of the applicant's disability; and

(9) If the applicant is a person with a disability, whether any reasonable accommodation could be provided to ameliorate any purported demonstrable risk.

Section 720.140 Relevance

"Relevance," as referenced in § 42-38(e)(2), refers to the degree to which an individual's conviction history makes it likely that the applicant poses a demonstrable risk to the personal safety and/or property of others.

Section 720.150 Tenant Selection Criteria

"Tenant selection criteria," as referenced in § 42-38(e)(2)(a), means the criteria, standards and/or policies used to evaluate whether an applicant qualifies for admission to occupancy or continued residency. The criteria, standards and/or policies concerning the applicant's conviction history from the previous three (3) years shall apply only after a housing applicant has been pre-qualified. The criteria must explain how applicants' criminal conviction history from the previous three (3) years will be evaluated to determine whether their conviction history poses a demonstrable risk to personal safety or property.

SUBPART 730 <u>TWO STEP TENANT SCREENING PROCESS</u>

Section 730.100 Notice of Tenant Selection Criteria and Screening Process

Before accepting an application fee, a housing provider must disclose to the applicant the following information:

(A) The tenant selection criteria, which describes how an applicant will be evaluated to

determine whether to rent or lease to the applicant;

(B) The applicant's right to provide evidence demonstrating inaccuracies in the applicant's conviction history, or evidence of rehabilitation as defined in Cook County Code §42-38(a), and other mitigatingfactors pursuant to §740.110 below; and

(C) A copy of Part 700 of the Commission's procedural rules or a link to the Commission's website, with the address, email address, and phone number of the Commission.

Section 730.110 Step One: Pre-Qualification

No person shall inquire about, consider, or require disclosure of covered criminal history, as defined in Cook County Code §42-38(a), except current sex offender registration under Cook County Code §42-38(c)(5)(a) and (c)(5)(b), before the prequalification process is complete, and the housing provider has determined the applicant has satisfied all other application criteria for housing or continued occupancy.

Section 730.120 Notice of Pre-Qualification

Once a housing provider determines an applicant has satisfied the pre-qualification standards for housing, the housing provider shall notify the applicant that the first step of the screening procedure has been satisfied and that a criminal background check will be performed or solicited.

Section 730.130 Step Two: Criminal Background Check

After a housing provider sends the notice of pre-qualification required by Section 730.120, a housing provider may conduct a criminal background check on the prequalified applicant.

However, the housing provider may not consider any information related to the criminal convictions that are more than three (3) years old or any covered criminal history as defined in Section 42-38(a) of the Ordinance.

SUBPART 740 CONVICTION DISPUTE PROCESS

Section 740.100 Notice

Within five days of obtaining a background check on an applicant, the housing provider must deliver a copy of the background check to the applicant. The housing provider must complete delivery in one of the following ways: (1) in person, (2) by certified mail, or (3) by electronic communication (e.g., text, email).

Section 740.110 Opportunity to Dispute the Accuracy and Relevance of Convictions

Once a housing provider complies with the requirements of Section 740.100, the applicant shall have an additional five (5) business days to produce evidence that disputes the accuracy or relevance of information related to any criminal convictions from the last three (3) years.

Section 740.120 Dispute Procedures and Other Applicants

Nothing in these rules shall prevent a housing provider from approving another pre-qualified

individual's housing application during the pendency of the criminal conviction dispute process.

SUBPART 750 REVIEW PROCESS

Section 750.100 General

After giving an applicant the opportunity to dispute the accuracy and/or relevance of a conviction, a housing provider shall conduct an individualized assessment, in accordance with Sections 720.120 through 720.140. of these rules, to determine whether the individual poses a demonstrable risk. If the applicant poses a demonstrable risk, the housing provider may deny the individual housing.

Section 750.110 Exceptions

A housing provider must perform an individualized assessment prior to denying an individual housing based on criminal conviction history, except in the following circumstances:

(A) A current sex offender registration requirement pursuant to the Sex Offender Registration Act (or similar law in another jurisdiction); and/or

(B) A current child sex offender residency restriction.

Section 750.120 Prohibited Factors

Any person conducting an individualized assessment, as defined in Section 720.130 of these rules, is prohibited from basing any adverse housing decision, in whole or in part, upon a conviction that occurred more than (3) years from the date of the housing application.

SUBPART 760 NOTICE OF FINAL DECISION

Section 760.100 Decision Deadline

A housing provider must either approve or deny an individual's housing application within three (3) business days of receipt of information from the applicant disputing or rebutting the information contained in the criminal background check.

Section 760.110 Written Notice of Denial

(A) Any denial of admission or continued occupancy based on a conviction must be in writing and must provide the applicant an explanation of why denial based on criminal conviction is necessary to protect against a demonstrable risk of harm to personal safety and/or property.

(B) The written denial must also contain a statement informing the housing applicant of their right to file a complaint with the Commission.

Section 760.120 Confidentiality

The housing provider must limit the use and distribution of information obtained in

performing the applicant's criminal background check. The housing provider must keep any information gathered confidential and in keeping with the requirements of the Ordinance.

SUBPART 770 EVALUATION

Section 770.100 Evaluation and Report

The Commission on Human Rights shall conduct an evaluation of the rules implementing the Just Housing Amendment to the Cook County Human Rights Ordinance to determine whether the rules should be amended to better effectuate the Amendment's purpose. The evaluation shall include an analysis of whether applicants who receive a positive individualized assessment from housing providers are ultimately admitted into the unit that they applied for. This analysis will inform the Commission on Human Rights on whether it needs to modify the rules to re-instate a requirement that housing providers hold the unit open during the individualized assessment process. In addition, the evaluation should include data about complaints brought under the Just Housing Amendment. The evaluation shall be completed and made publicly available by March 31, 2021.