



Minneapolis

Commission
on Civil
Rights

Handbook

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Section I. Understand Commission Basics

The Role of a Commission

Commissions serve as a link between the public and City government. The information and advice that Commissions provide about community needs, concerns and opinions can have a profound impact on City policies and lead to improved services for all residents.

Commissions are most effective when they engage members of the public, outside experts, and individuals within City government to develop timely, relevant, well-researched, thoughtfully analyzed recommendations and reports on issue of importance.

About the Minneapolis Commission on Civil Rights

Established in 1975, Minneapolis Commission on Civil Rights implements the City's Civil Rights policies through public information, education, mediation, conciliation and enforcement as stated in the Minneapolis Code of Ordinances. The primary objective of the Commission is to promote and protect the civil rights of the citizens of Minneapolis.

History

Protection of civil rights within the City of Minneapolis can be traced back over a half century, to 1946, when, by executive order, Mayor Hubert H. Humphrey established the Mayor's Fair Employment Practices Commission to assure that equal access to jobs in the City for all citizens.

During the 1950s, the City remained engaged in implementing fair employment practices. In fact, the Fair Employment Practices Commission (FEPC) gained national recognition for its work and some members were chosen to serve on a special committee to advise the President of the United States on the formation of the Federal Equal Opportunity Commission under Title VII of the U.S. Civil Rights Act of 1964.

In August 1967, the City passed the Minneapolis Civil Rights Ordinance. The ordinance created the Department of Civil Rights as an administrative and investigative body and the Human Rights Commission (renamed the Commission on Civil Rights in 1975) as an advisory and adjudicative body.

Subsequent amendments to the Minneapolis Civil Rights Ordinance extended civil rights protections, prohibiting discrimination in employment, labor organization membership, property rental and purchase agreements, lending, access to and use of public accommodations and public services, and membership in professional organizations. In addition, "redlining" - the practice of failing to offer access to mortgages, loans and insurance to residents of certain neighborhoods - and reprisals based on a person's association with individuals of other protected classes, filing a complaint, participating in an investigation or protesting discrimination in the workplace were made illegal. Finally, coercion regarding the exercise of real estate rights and the aiding and abetting of discrimination was proscribed.

In 1991, a new section was added providing for the registration of Domestic Partners with the Office of the City Clerk, and, in 1995, another amendment provided an option

for parties to a case to voluntarily enter into mediation prior to the holding of a public hearing on the complaint.

Currently, the Minneapolis Civil Rights Ordinance enumerates human rights for all residents of the City of Minneapolis. It is one of the most comprehensive in the nation, prohibiting discrimination based on race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, status with regard to public assistance, or familial status. Equally important, the ordinance establishes mechanisms for implementing and enforcing the strict anti-discrimination provisions. The Commission on Civil Rights can use their capacity as an advisory and adjudicative body to educate, persuade, conciliate, enforce, mediate, and adjudicate disputes in order to prevent and eliminate bias and discrimination on the basis of the listed classes.

Minneapolis Commission on Civil Rights Mission

- Seek to prevent and eliminate bias and discrimination in the City of Minneapolis
- Provide leadership in the area of civil rights
- Encourage and educate the public in the promotion of civil rights
- Identify principal civil rights concerns of the community members and set priorities and objectives
- Advise the Mayor, City Council, City agencies and departments on civil rights matters
- Conduct research and studies to best carry out the objectives of the Civil Rights Ordinance
- Adjudicate complaints of discrimination occurring in the City of Minneapolis

Basic Functions of Minneapolis Commission on Civil Rights

Adjudicative

One of the Commission's functions is adjudicative. The Commission hears complaints of discrimination that the Minneapolis Department of Civil Rights Complaint Investigations Division (Division) has determined to have "Probable Cause", or reviews a "No Probable Cause" or "Dismissal" determination made by the Division that are appealed by the Charging Party. In order to exercise this function, Commissioners serve on administrative hearing panels.

When the Charging Party appeals a "No Probable Cause" or "Dismissal" decision, Commissioners serve on Review Committees. The Review Committee consists of three commissioners, who have the power to sustain the Division's determination, reverse the determination, or remand the case back to the Division for further investigation. *This panel is led by a Presiding Commissioner, who is an attorney.*

If the Division finds probable cause and the matter has not been settled, the case is referred to Hearing Committee made up of three Commissioners, one of whom must be an attorney in order to conduct the hearing. The Commissioners hear the case as *an administrative hearing*, make their written findings, and issue an order either dismissing the case or to remedying the discrimination. The Hearing

Committee has broad powers to remedy discrimination: the ability to award damages, punitive damages, attorney fees, and other relief. Commission orders may be appealed for review by the Minnesota State Court of Appeals.

The review process is set up the way it is in order to give the Charging Party a neutral third-party review of the Division's decision. This ensures fairness to both parties. Therefore, when sitting on an administrative hearing panel, it is important for Commissioners to remain unbiased in exercising their powers.

Advisory

The Commission also serves in an advisory capacity to the Mayor, the City Council, and City departments. Commissions recommend solutions, but do not have final decision-making authority to set governmental policy. When presenting recommendations to the Mayor, the Minneapolis City Council, or to a City department, keep the following essential points in mind:

- Provide recommendations in writing
- Express your ideas clearly and succinctly
- Propose solutions that are viable and cost effective
- Explain the reasons for the suggested changes
- Ensure that your advice has been approved by the full commission
- Ensure that your recommendations do not *inadvertently* conflict with current laws

As independent advisory bodies, commissions sometimes take positions contrary to that of the Mayor, the Minneapolis City Council, or a particular City department. When this arises, notify your Commission Liaison or Commission Chair prior to making a public statement. This will give the Commission and the governmental policy-makers an opportunity to discuss the issue before releasing information to the public.

Research, Study, and Public Forums

As stated earlier, commissions often serve as a link between the public and City government. One of the ways the Commission accomplishes this service is to conduct research and study on contemporary civil rights issues affecting Minneapolis residents. Commissioners work to gather data on the issue, hold public forums to address community concerns, publish the results of the study, and make recommendations on how to solve the civil right issues at hand.

Public forums are especially important because they allow community members affected by civil rights issues to have direct involvement in solving the issue. Community members can voice their opinions and provide information on the how civil rights issues affect their daily life. Forums also help to disseminate information to community members, government agencies and officials, and others who may not be aware of civil rights issues affecting their community.

When conducting research and study and when holding public forums, commissioners should keep in mind the overall mission and purpose of the

Commission: to eliminate bias and discrimination in the City of Minneapolis. All actions the Commission takes should be understood and implemented within that context.

Section II. Structure of Commission on Civil Rights

Membership

As a Commissioner, you are one of 21 members appointed to the Commission by the Mayor and the City Council. Commissioners must be residents of Minneapolis and must favor the principles of equal opportunity and non-discrimination.

Once on the Commission, Commissioners have the opportunity to run for one of four elected officer positions.

Chair

The Chair is responsible for representing the Commission in its business before the Mayor, City Council, Department of Civil Rights, and community, in person and in correspondence. The Chair convenes and sets the agenda for all Executive Committee and Commission meetings. The Chair also appoints members to standing committees, assures processing of contested case hearings, and delegates tasks as necessary to assure that Commission work gets done.

Vice-Chair

The Vice-Chair assists the Chair in duties related to the Commission, as directed by the Chair and attends Executive Committee meetings. The Vice-Chair is also responsible for filling in for the Chair when the Chair is unavailable.

Treasurer

The Treasurer oversees the Commission's bank account, reports to the Commission on the Commission's finances, prepares and submits the Commission's budget. The Treasurer also attends Executive Committee meetings, is third in line to chair Commission meetings.

Secretary

The Secretary takes notes and produces minutes from Commission and Executive Committee meetings to submit to the Commission Liaison for formatting and distribution. The Secretary also tracks attendance and records votes at Commission meetings, and is fourth in line to chair Commission meetings.

Executive Committee

The Executive Committee is comprised of the Chair, Vice-Chair, Treasurer, Secretary, and officers of each standing committee. The Committee meets monthly to set an agenda for regular Commission meetings.

Standing Committees

There are three standing committees in MCCR. As a Commissioner you will be a part of *at least* one of the three committees and will carry out the committee's responsibilities while serving. If you are an attorney, you will be placed on the Standards and Procedures committee.

Public Relations and Education

If you are a part of the Public Relations and Education committee, you will:

- Create and manage the Commission's public image
- Educate constituencies about the Commission and the actions the Commission is taking
- Monitor treatment of protected classes within the educational system
- Organize and plan the Reverend Dr. Martin Luther King Jr. Essay Contest

Standards and Procedures

If you are a part of the Standards and Procedures committee, you will:

- Monitor and revise internal and external standards, rules, and procedures of the Commission

Contract Compliance

If you are a part of the Contract Compliance committee, you will

- Assist the Contract Compliance Division in ensuring that the companies take affirmative steps to treat people fairly, pay appropriately and provide equal access to business contracts and employment opportunities

Section III. Use Available Resources

Commissions by their nature are collaborative bodies. Therefore, it is important to use the resources available to you. In addition to your fellow Commissioners, there are many resources available to help you provide excellent service to the City of Minneapolis.

Minneapolis Department of Civil Rights

One of your primary resources is the Minneapolis Department of Civil Rights (MDCR). MDCR is an Executive Department, which means that the MDCR Director reports directly to the Mayor. MDCR is divided into four divisions:

- Office of Police Conduct Review
- Contract Compliance Division
- Complaint Investigations Division
- Employment Equity Division

The Commission on Civil Rights has the power to review cases from the Complaint Investigations Division and the Contract Compliance Division. The Office of Police Conduct Review has its own Commission called the Police Conduct Oversight Commission.

This Commission has been assigned a Liaison from the Complaint Investigations Division who will be your primary contact with MDCR. The Liaison provides analytical and administrative support to help the commissions successfully complete their work. Your Liaison can help in the following ways:

- Assist with research on policy issues and legislative analysis
- Help develop and monitor annual reports
- Serve as a liaison with elected officials, City of Minneapolis departments, and community organizations
- Staff monthly meetings
- Draft correspondence
- Respond to requests directed to the Commission
- Assist in recruitment and nomination efforts

Other MDCR staff members may be available to assist with research, clarify a particular issue or policy, help organize an event or special project, make connections with other departments, or help in other ways to ensure successful Commission work. This cooperative relationship is at the request of the Commission is on a case-by-case basis.

Media Contacts

News media outlets can be a valuable resource for the Commission. They can help you meet your obligation to inform the public about issues related to the Commission's mission. Anticipate when an event or issue will stir the interest of the media; it may be appropriate to send information packets or initiate contact with the media in order to take a proactive rather than a reactive stance. The Commission should maintain a cooperative and open relationship with the media. MDCR staff can provide background information and media contacts.

When working with the media it is important to:

- Designate a media spokesperson for the commission or for a specific issue
- Follow any established policies for media relations
- Focus on the commission's perspective, not individual opinions
- Avoid airing conflicts with other Commissioners or City of Minneapolis staff
- Refer the matter to the Assistant Director if you feel uncomfortable or unsure answering a question

In communications with the media, every statement you make *is a public, quotable statement*. These statements may appear in the press and may be highlighted in other public arenas. Make sure your statements are accurate, unbiased, and represent the commission.

Electronic Communication

MDCR maintains a website for the Commission. You should familiarize yourself with its contents and may submit updated web content when necessary. All suggested changes or additions to web content should be coordinated with your Liaison.

On the website, you will have access to the Commission's calendar, <http://www.minneapolismn.gov/CommissionCalendar>, the Commission's meeting agendas, <http://www.minneapolismn.gov/meetings/civilrights/index.htm?timeRange=2015>, and the Commission's meeting minutes, <http://www.minneapolismn.gov/meetings/proceedings/index.htm?nx=1012&proYear=2015>

The Commission routinely use email to communicate amongst each other and with the public. The Commission has a public email: mccr@minneapolismn.gov

Commissioners may list a personal or business email address on the Commission website. If you do so, your e-mail address is then a matter of public record. Also, remember that commission related e-mails that you send and receive, even on your personal computer, are subject to Open Meeting Law. Therefore it is important to carbon copy the Commission Liaison to *any* Commission emails *circulating to a majority or quorum of the Commission or any subcommittee members* so he or she can ensure Open Meeting Law is being followed.

The Commission also has a Facebook account: *Minneapolis Commission on Civil Rights*. The Public Relations and Education Committee and other Commissioners should utilize the Facebook page to their advantage when publicizing Contested Case Hearings and events the Commission hosts.

Other Resources

The City Council's membership list, agendas, and informational material can be found on the council website, www.minneapolismn.gov/council/index.htm. The Mayor's website, www.minneapolismn.gov/mayor/index.htm, contains the Mayor's office news, lists the Mayor's priorities, and identifies key staff. If you have a question about ethics, contact the Ethical Practices Board at 612-673-3230 or EthicsOfficer@minneapolis.gov. The City Attorney's Office can answer legal questions such as questions about Open Meeting Law or the Data Practices Act; ask your Liaison for the appropriate contact for your commission. More information about city services and departments can be found on the website, www.minneapolismn.gov/index.htm.

Section IV. Adhere to Laws Affecting Commission on Civil Rights

Minneapolis Civil Rights Ordinance

The Commission was established under and is governed by Minneapolis Code of Ordinances Chapter 141. The rules and procedures outlined in this handbook are consistent with the ordinance. As a Commissioner, it is important to read and understand the Minneapolis Civil Rights Ordinance so you can carry out your duties consistent with the law's purpose and parameters. The ordinance is included in Appendix A.

Ethics in Government

Commissioners must uphold high ethical standards established by Minnesota Code of Ordinances Title 2, Chapter 15, Ethics in Government. It is important that Commissioners avoid conflicts of interest or the appearance of conflict of interest, and that the Commission adopts policies and procedures to ensure their advisory status and independence. The Ethics in Government statute sets standards of conduct to ensure that public employees and commissioners perform their duties in the public interest.

As a Commissioner, you are required to:

- Disclose conflicts of interest
- Exercise your judgment and carry out your duties in a way that would further the best interests of the City of Minneapolis
- Refrain from participating in decisions in which you have a financial or personal interest
- Refrain from using your position to gain privileges or special treatment, including using public and government property for private or personal purposes
- Refrain from soliciting or accepting gifts from individuals who have a personal or financial interest in a Commission decision
- Report evidences of fraud, theft, embezzlement, or other unlawful use of public funds or property
- Refrain from disclosing any proprietary information or disclosing information in way that would violate your duty to the Data Practices Act (see below)
- Avoid bias or favoritism when making decisions

Commissioners can avoid a conflict of interest by following statutory restrictions, using good judgment, being fair at all times, and maintaining an appearance of fairness. If you perceive a potential conflict of interest while serving as a Commissioner, bring this to the attention of your Liaison right away. The City of Minneapolis Ethical Practices Board (EPB) can also discuss concerns with you and suggest alternative actions to take. You can request an advisory opinion about ethical standards or conflicts of interest. You should feel free to call

or e-mail with any questions (612-673-3230, EthicsOfficer@minneapolis.gov). For complicated questions, you should make your request in writing and explain all of the pertinent facts and circumstances. Advisory opinions are intended to guide future conduct. More information about EPB can be obtained at their website at www.ci.minneapolis.mn.us/epb/index.htm.

Open Meeting Law

The Open Meeting Law is a statutory law found in Minnesota Statutes Chapter 13D that imposes certain requirements on public bodies when holding meetings. The purpose of the law is to promote openness in governmental proceedings ensuring that the interested public has the opportunity to be fully informed and has the opportunity to present its views.

A meeting is subject to the Open Meeting Law if the following elements are present:

- A gathering of a quorum or more members. A quorum is typically a majority of members of the Commission but can also be a majority of members in one of the committees, task forces, review committees, or hearing committees.
- A body subject to the Open Meeting Law
- Members discuss, decide, or receive information as a group
- And the discussions, decisions, or information are related to the official business of that body

If any of these elements are not present, then the meeting is not subject to the Open Meeting Law. The Minneapolis Commission on Civil Rights, and its committees, task forces, review committees and hearing committees, are subject to the Open Meeting Law.

With technology advancements, meetings that are subject to the Open Meeting Law may not look like traditional, in-person meetings. For example, an email conversation among a majority of Commissioners discussing information related to civil rights in Minneapolis would qualify as a meeting under the Open Meeting Law. So, the old adage 'it's better safe than sorry' is applicable here. Courts tend to decide Open Meeting Law cases in the public's favor; therefore, it is better to make public any gathering or conversation discussing Commission business whenever possible in order to avoid unintentional violations of the Open Meeting Law.

Because the Minneapolis Commission on Civil Rights is a public body subject to the Open Meeting Law, as a Commissioner, you need to make sure the meetings held by the Commission and by its committees, task forces, review committees, and hearing committees are consistent with the Open Meeting Law. Under the Open Meeting Law, meetings must generally be open to the public and proper notice must be provided regarding the meetings.

Most Commission meetings must be open to the public. There are a few exceptions to having a meeting open, such as to discuss potential settlement of a case against the Commission with the Commission's attorney. However, these exceptions will rarely occur for Commission meetings.

Notice of public meetings must be provided to the public. Notice of public meetings can be provided in two ways: (1) through a schedule of meetings; or (2) through a “special meeting” notice. The first way to provide notice is to have a schedule of the regular meetings of the Commission, committee, or task force, on file with the MDCR that includes the date, time and location of the meeting to be held.

The second way to provide notice is to provide notice of a “special meeting.” A special meeting notice must comply with all of the following:

(1) A special meeting notice must include the date, time, location and specific purpose of the meeting. The specific purpose must state more than that the business of the Commission/committee/task force will be discussed; it must list the specific subjects that will be discussed at the meeting. Only those subjects that are listed on the special meeting notice can be discussed at the meeting.

(2) A special meeting notice must be placed, at least 3 days before the meeting, on the door of the Commission’s (if a Commission meeting) or the committee’s (if a committee meeting) or the task force’s (if a task force meeting) usual meeting room.

(3) A special meeting notice must be mailed or otherwise delivered at least three days before the meeting to each person who has filed a written request for notice of special meetings of the Commission, committee, or task force, or a subject to be discussed at the special meeting, whichever is applicable.

Emergency meetings are an exception to the 3day notice rule. Emergency meetings are special meetings called because of circumstances that require immediate consideration by the public body. However, time constraints alone are not sufficient for a meeting to qualify as an emergency meeting. Emergency situations should be used rarely and for circumstances where public safety is jeopardized. Examples of emergency situations would include holding a meeting to respond to a natural disaster, a health epidemic, or a disaster caused by humans such as a train derailment or explosion.

A Commission meeting may only be conducted by telephone when all of the following requirements are met:

- Health pandemic or emergency declared by Governor, Mayor or Chair of County Board of Commissioners
- All members can hear one another and all discussions
- Generally, at least one member must be in the meeting room
- All votes are conducted by role call
- Compliance with specific statutory notice requirements for telephonic meetings

At least one copy of the following printed materials must be available for public inspection at a meeting, unless the data is “not public” data:

- Material distributed at the meeting to all members of the governing body;
- Material distributed before the meeting to all members; and
- Material available in the meeting room to all members.

At a meeting, the vote of each Commissioner must be recorded so that the individual vote of each Commissioner can be determined, except when the vote relates to payments of judgments, claims and amounts fixed by statute. The recording of the votes can be done by placement into a journal, or more commonly, into meeting minutes.

Minnesota Government Data Practices Act

The Government Data Practices Act found in Minnesota Statutes chapter 13 creates a presumption that state and local government records are accessible to the public, unless a state statute, federal law, or temporary classification provides otherwise. Data covered by the Act are all forms of information collected, created, received, maintained, or disseminated by government.

The Government Data Practices Act contains many of the rules for when state and local government records are not accessible to the public. The Act also contains:

- Procedures for government agencies to follow in collecting and keeping records
- Procedures for individuals to follow in inspecting and copying government records
- Special protections for individuals who are being asked to supply information about themselves, seeking to obtain government records on themselves, or wishing to correct erroneous government data about themselves
- Procedures for getting advisory opinions on access to government data
- Civil and administrative remedies and criminal penalties for violating the act

As a Commissioner you should make sure to consult and follow the Government Data Practices Act provisions when any record is produced by the Commission. Your Commission Liaison can help with any questions regarding the Data Practices Act.

Americans with Disabilities Act

The Americans with Disabilities Act sets criteria for accessibility and accommodation. Under the ADA, people who have disabilities have a right to an equal opportunity for effective participation in Commission activities, whether as Commissioners or members of the public.

Meetings and other Commission activities should be held in wheelchair accessible locations with accessible restrooms nearby. Qualified sign language interpreters, materials in accessible format such as Braille, large print, audio recording, or other aids for effective communication should be provided upon request. Reasonable modifications in policies and procedures should be made whenever they create a barrier to full and equal participation of a person with a disability. All advertising for meetings and events should include a telephone number and email address for requesting information and accommodations.

Minnesota Administrative Procedures Act

The Minnesota Administrative Procedures Act found in Minnesota Statutes Chapter 14 is a useful tool to use when drafting, revising, or updating the rules and procedures of the Commission. Since the Commission is a local body and not a state body, it is not technically bound by the Act. However, many of the guidelines and procedures are applicable to the Commission and the Act should be used as a resource when relevant.

Other Restrictions and Requirements

The following restrictions and requirements affect you during the time you serve as a Commissioner:

- Commissioners must abide by their commission's bylaws, policies and procedures. The Commission's Internal Operating Rules are included in Appendix B
- Commissioners must not make unilateral decisions or take action without the consent of the commission as a whole
- Commissioners must ensure that they are not misinterpreted as speaking on behalf of the commission when they lack authorization
- Commissions exist to serve the public, so it is not appropriate to use commissioner status for a personal platform
- Use of municipal funds, equipment, or services such as photocopying and telephone is restricted for commission business only
- Questions or concerns about commission issues are best directed to the Commission Liaison or the Minneapolis Department of Civil Rights Director, who will make sure all Commissioners receive full information in a timely manner

Section V. Duties and Responsibilities of a Commissioner

Participate Effectively

One of the fundamental responsibilities of any Commissioner is to stay informed about current issues, legislative activities, and laws that affect the work of the commission and those whom it serves. This makes your services to the community more responsive and effective.

Secondly, come prepared and actively participate in commission meetings. Active participation in meetings by all Commissioners ensures that a diversity of perspectives are included in decision-making. The bylaws of each commission define attendance requirements. A Commissioner may forfeit his or her position on the commission as a result of poor attendance.

In addition, effective service as a Commissioner means that you:

- Devote time outside of commission meetings for research, analysis, outreach, meetings, or other activities as needed
- Focus on serving the public interest when making recommendations
- Be willing to take sides in a controversy and weather criticism
- Cooperate with other Commissioners to effectuate the decisions made by the Commission as a body – adhere to the democratic process

- Communicate with members of the public, the Liaison, other Commissioners, and others in government
- Accept leadership opportunities consistent with your availability and competencies
- Develop a questioning attitude toward commission procedures and maintain openness to continual improvement

Meeting Attendance

Since the effectiveness of the Commission depends on participation of the Commissioners, attendance at meetings is essential. Therefore, the Commission has an attendance policy to ensure Commissioners make attending meetings a priority.

The Commission holds regular meetings once a month for a total of twelve meetings a year. Any Commissioner who has four absences from the Commission's monthly meetings will automatically forfeit their membership on the Commission.

The standing committees hold regular meetings once a month. Any Commissioner who has four absences from their standing committee's meetings will also automatically forfeit their membership.

Commissioners approaching the four absences deadline for regular Commission meetings and/or standing committee meetings will be notified by the Chair of the Commission.

Task Forces and Working Groups

The Commission has the power to appoint Commissioner's to Task Forces and Working Groups to conduct research on contemporary civil rights issues affecting Minneapolis. Both Task Forces and Working Groups function similar to the Standing Committees but are designed to focus on a specific civil rights issue. Task Forces are created when the Commission can complete its recommendations and work on the issue within a year. Task Forces are task oriented and are usually created to achieve a directed goal. Working Groups on the other hand, tackle larger issues that need more research and study. There won't necessarily be a defined task to complete and the Commission may need longer than a year to complete its recommendations and work on the issue.

Public Forum

When a civil rights issue that the Commission or a particular Working Group or Task Force is working on affects the community at large, the Commission may choose to hold a public forum to hear community voices share their thoughts on how to solve the issue. The public forums are designed to facilitate a conversation between the Commission, policy makers, community organizers, and the general public in order to tackle the civil rights issue from all perspectives, thus reaching a solution that benefits the most amount of people and organizations as possible.

The format of public forums is dependent on the issue and the Commissioners planning the forum, but it is common to have a moderator ask prepared questions to a panel of policy makers, community organizers, and scholarly experts, and then open the floor for community discussion with community attendees.

Reverend Dr. Martin Luther King, Jr. Essay Contest

Every year the Public Relations and Education Committee runs an essay contest with the Minneapolis school system. Specific grader levels are given the opportunity to write an essay on a question related to Reverend Dr. Martin Luther King, Jr. and civil rights issues. The Commission chooses winners from each grade and the winners receive a modest scholarship.

The purpose of the program is to promote awareness and understanding of civil rights issues at a young age to ensure that future generations are engaged and interested in issues that affect the rights of people in their communities.

Case Review Process

The Commission's main responsibility is to adjudicate claims of civil rights violations. There are three types of hearings that the Commission holds to review cases: contested case hearings, oral hearings, and non-oral hearings.

Contested Case Hearing

Contested case hearings are held when the Minneapolis Department of Civil Rights Claims Investigations Division (Division) determines that a claim of a civil rights violation has probable cause. The claim is then given to the Commission for adjudication.

Contested case hearings function like a traditional court trial. A hearing committee of three Commissioners is appointed by the Chair, including a presiding commissioner who is an attorney. Evidence is presented by the Complainant and the Respondent. After the evidence is presented, the hearing committee drafts a decision determining whether the Complainant's civil rights were violated. More specific procedural rules of contested case hearings are included in Appendix C.

Oral and Non-Oral Hearings

Either a non-oral hearing or an oral hearing is held when the Complainant appeals the Division's "Dismissal" or "No Probable Cause" determination. An oral hearing is granted if the Complainant has newly discovered material evidence that could not with reasonable diligence have earlier been made known to the Division. Otherwise, the Complainant will have their appeal decided at a non-oral hearing.

An oral hearing is similar to a contested case hearing. The newly discovered evidence will be presented at the hearing and any other relevant *and admissible* evidence. Then the appointed committee will issue a decision.

In a non-oral hearing, Commissioners review written statements from the Complainant and Respondent and make a decision based on the statements and the investigative file provided by the Division. Procedural rules for non-oral and oral hearings are included in Appendix C.

Annual Report

Every year, Commissioners will complete an Annual Report, cataloguing the Commission's activities and accomplishments from the past year. In addition to stating what the Commission has accomplished for the year, the Annual Report should include a vision statement for the following year.

The Chair and Vice Chair are responsible for completing the introduction, which should include the vision statement, and the conclusion. Each Standing Committee drafts a paragraph about what the committee has done over the past year and a vision statement for what the committee would like to accomplish in the next year. Then each Standing Committee sends its report to the Chair. If any Task Force or Working Group existed during the year, they will draft a report similar to that of the standing committees and send it to the Chair.

The Chair revises the committee reports and sends them and the Commission's introduction and conclusion to the Commission Liaison, who will combine data and other information to the reports the Chair sends into a 2-3 page final Annual Report to be posted on the Commission's website.

APPENDIX A

CITY OF MINNEAPOLIS
DEPARTMENT OF CIVIL RIGHTS



MINNEAPOLIS CIVIL RIGHTS ORDINANCE

141.10. Commission on civil rights established.

There is hereby created a Minneapolis Commission on Civil Rights for the purpose of carrying forward the policies of the city in the field of human relations to promote civil rights and to enforce the provisions of this title. (Ord. of 12-30-75, § 7)

141.20. Commission membership.

- (a) *Composition and qualifications.* The commission shall consist of twenty-one (21) members all of whom shall be persons known to favor the principles of equal opportunity, nondiscrimination and the objectives of this title. A minimum of six (6) and a maximum of eight (8) shall be lawyers. All members shall be residents of the city, unless the residency requirement is waived in accordance with section 14.180 of this Code. All members shall be appointed in conformance with the open appointments process as outlined in Minneapolis Code of Ordinances Title 2, Chapter 14.180
- (b) *Appointment, terms.* On and after June 1, 2012, members shall be appointed as follows:
 - (1) *Seven (7) appointments—Four (4) by the city council and three (3) by the mayor.*
 - a. Four (4) appointments have a scheduled term end date of August 31, 2012. One (1) appointment has a scheduled term end date of December 31, 2012. Two (2) membership seats are vacant. The appointments scheduled to end on August 31, 2012 shall have a term end date of December 31, 2012. The appointment scheduled to end on December 31, 2012 shall have a term end date of December 31, 2012. The vacant membership seats shall have a term end date of December 31, 2012. The next term for these four (4) appointments of the city council and three (3) appointments of the mayor shall be January 1, 2013 through December 31, 2015.
 - b. All subsequent terms of these seven (7) appointments shall be three-year terms starting on January 1 and ending on December 31. Four (4) of these appointments shall be appointments of the city council and three (3) of these appointments shall be appointments of the mayor.
 - (2) *Seven (7) appointments—Three (3) by the city council and four (4) by the mayor.*
 - a. Seven (7) appointments have a scheduled term end date of December 31, 2013. These seven (7) appointments scheduled to end on December 31, 2013 shall have a term end date of December 31, 2013. The next term for these three (3) appointments of the city council and four (4) appointments of the mayor shall be January 1, 2014 through December 31, 2016.
 - b. All subsequent terms of these seven (7) appointments shall be three-year terms starting on January 1 and ending on December 31. Three (3) of these appointments shall be appointments of the city council and four (4) of these appointments shall be appointments of the mayor.
 - (3) *Seven (7) appointments—Seven (7) by the mayor.*
 - a. Seven (7) appointments have a scheduled term end date of August 31, 2014. These seven (7) appointments scheduled to end on August 31, 2014 shall have a term end date of December 31, 2014. The next term for these seven (7) appointments of the mayor shall be January 1, 2015 through December 31, 2017.
 - b. All subsequent terms for these seven (7) appointments shall be three-year terms starting on January 1 and ending on December 31. All seven (7) of these appointments shall be appointments of the mayor.

All mayoral appointments shall be subject to city council confirmation; all city council appointments are subject to mayoral consent or veto as provided in the Minneapolis City Charter, Chapter 3, Section 1. Members shall continue to serve until their successors have been appointed.

- (c) *Removal and vacancies; compensation; quorum.* Any member may be removed by the appointing authority for incompetence, neglect of duty, misconduct or malfeasance. Any vacancy occasioned by resignation, death or removal shall be filled for the balance of the unexpired term in the same manner as provided for original appointment. Members of the commission shall be compensated at the rate of thirty-five dollars (\$35.00) per monthly meeting attended and further as provided in section 141.50(k)(2) and (3). Nine (9) members of the commission shall constitute a quorum.

Any member who has four (4) absences from regular meetings in a calendar year shall automatically cease to be a member of the commission. Any member appointed to a standing committee or task force who has four (4) absences from any scheduled committee or task force meeting in a calendar year shall automatically cease to be a member of the commission. Any member of a hearing committee who misses two (2) public hearings to which the member has been assigned by the chairperson of the commission without providing a substitute in any calendar year shall automatically cease to be a member of the commission.

Any time a member has been automatically removed from the commission by operation of this section, the chairperson shall immediately inform the appointing authority of the vacancy. (Ord. of 12-30-75, § 7; 78-Or-166, § 1, 8-24-78; 82-Or-115, § 1, 6-25-82; 84-Or-067, § 1, 4-27-84; 85-Or-061, § 1, 3-22-85; 96-Or-131, § 1, 12-13-96; 2006-Or-062, § 1, 6-16-06; 2012-Or-051, § 1, 8-3-12)

141.30. Organizational and administrative powers and duties of commission.

The commission shall:

- (1) Annually designate from among its own membership a chairperson, a vice-chairperson, and such other officers and committees as it may deem appropriate.
- (2) Meet once per month at a regularly scheduled time and place to be decided by the commission and meet at such other times and places as may be determined by the commission, by standing or special rule, or on call of the chairperson.
- (3) Adopt suitable rules and regulations for the conduct of its internal operations.
- (4) Designate and appoint such additional committees as it may from time to time deem appropriate. The membership of such committees may consist of both members and nonmembers of the commission or may consist entirely of nonmembers of the commission. Such committees shall assist and advise the commission in carrying out the objectives of this title. (Ord. of 12-30-75, § 7)

141.40. Substantive and procedural powers and duties of commission.

The commission shall:

- (1) Seek to prevent and eliminate bias and discrimination because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, gender identity, disability, age, marital status, status with regard to public assistance, or familial status by means of education, persuasion, conciliation and enforcement, mediation and the impartial resolution and adjudication of disputes, and utilize all the powers at its disposal to carry into execution the provisions of this title. The commission may obtain as part of mediation the administrative costs incurred by the commission in handling the complaint.
- (2) Conduct a program of research and study for the purpose of ascertaining how the objectives of this title may best be attained and sustained.
- (3) Publish results of such research and studies.
- (4) Advise the mayor, the city council and departments or agencies of government with respect to matters relating to the commission's purposes.
- (5) Cooperate with and seek to advise and coordinate the activities of persons or groups interested in the objectives of this title.
- (6) Receive, or on the basis of its own information, initiate, complaints alleging discrimination and conduct such investigations and inquiries as may reasonably appear necessary to find the facts with respect thereto.
- (7) Conduct public meetings and hearings, and gather and disseminate information to governmental agencies and to the public.
- (8) Utilize the records and services of municipal, state and federal governmental departments and agencies to the extent permitted by law, and pursuant to agreement with departments and agencies may refer matters for preliminary inquiry, conciliation, hearing and findings.
- (9) Furnish to any appropriate state or federal agency having jurisdiction in the premises a transcript of the proceedings and findings in any case in which the court of competent jurisdiction of the commission has, after hearing, found that any person has unlawfully discriminated.
- (10) Adopt and promulgate, pursuant to Chapter 14 of Minnesota Statutes, suitable rules and regulations for effectuating the purposes of this title. The procedure for adopting, amending, suspending or revoking rules shall be in the following manner: The commission shall hold a public hearing affording all interested parties an opportunity to participate; thirty (30) days' prior notice to the hearing shall be published once in the Minneapolis Star or Tribune newspaper and once in two (2) minority newspapers; free copies of the proposed rule shall be available to the public at the Minneapolis Department of Civil Rights; a tape recording or other transcription of the public hearing shall be made; after allowing written material to be submitted to the commission for twenty (20) days after the public hearing ends the commission shall meet to consider and take action; if the commission adopts the rule, it shall be submitted with the tape recording or other transcription of the public hearing to the city attorney who shall review the rule as to form and legality. The city attorney shall, within twenty (20) days, either approve or disapprove the rule. If the city attorney approves the rule, the city attorney shall promptly forward it to the city council for its approval, disapproval, amendment or referral back to the commission for further consideration; the city council shall so act within thirty (30) days of the referral from the city attorney; a rule approved or amended by the city council shall be filed in the office of the city clerk and shall be effective upon publication unless a later date is specified in the rule; if the city attorney disapproves the rule, the city attorney shall state in writing the reasons therefor and return the proposed rule to the commission. When the director has submitted to the commission any suggested rule or regulation which the commission, after six (6) months has not acted upon, the commission shall hold a public hearing and pass a resolution to either commence the procedures set out in this subdivision or refuse the suggested rule or regulation. (Ord. of 12-30-75, § 7; 76-

Or-172, § 1, 9-24-76; 84-Or-043, § 1, 3-30-84; Pet. No. 249821, § 3, 7-14-89; 93-Or-133, § 1, 8-27-93; 95-Or-164, § 1, 12-29-95; 2011-Or-068, § 1, 8-5-11)

141.50. Procedure for complaints; investigations, conciliations, mediations, and hearings before commission.

- (a) *Complaint filing.* Any person believing discrimination has occurred may file with the director a verified written complaint under oath which shall state the name and address of each person complained against (respondent), and shall set forth the pertinent facts as known to the complainant. A complaint may be filed only if the matter complained of occurred within one year prior to filing the complaint. The running of the one-year limitation period is suspended during the time a potential complainant and respondent are voluntarily engaged in a dispute resolution process involving a claim of unlawful discrimination under this title, including arbitration, conciliation, mediation or grievance procedure pursuant to a collective bargaining agreement or statutory, charter, ordinance provisions for a civil service or other employment system or a school board sexual harassment or sexual violence policy. A potential respondent who participates in such a process with a potential complainant before a charge is filed shall notify the department and the complainant in writing of the participation in the process and the date the process commenced and shall also notify the department and the complainant of the ending date of the process. A respondent who fails to provide this notification is barred from raising the defense that the limitation period has run unless on year plus a period of time equal to the suspension period has passed.
- (b) *Service.* The director, within ten (10) days of the receipt of the verified complaint, shall serve a copy of the complaint on the respondent personally or by first class mail. The respondent shall file a written response with the department setting out the respondent's position relative to the complaint within twenty (20) days of the receipt of the complaint. If the respondent fails to respond with a written position statement within thirty (30) days after receipt of the complaint, and the respondent has not requested an extension of time for response, the director may bring an action for default in district court.
- (c) *Preliminary inquiry into complaint.* Promptly upon the filing of any complaint, the director shall make such investigation as the director may deem appropriate to determine whether there is probable cause to believe that the allegations of discrimination are well founded. While the director is investigating a complaint, the director may attempt to conciliate the matter complained of prior to the signing of a verified complaint or prior to making a determination of probable cause. Where the complaint alleges an unfair discriminatory act under section 139.40(e), the director of the department of inspections shall be notified of the pendency of the complaint and of its subsequent resolution.
- (d) *Probable cause.* After investigating a complaint and after consulting with the city attorney's office, the director shall make a determination as to whether there is probable cause to believe that the allegations of discrimination are well founded.
- (e) *Finding of no probable cause and review thereof.* If the director makes a determination of no probable cause, the director shall notify by mail the complainant and respondent of such a determination and of the complainant's right to appeal the determination to a review committee. The complainant may within fifteen (15) days after receiving such notice file an appeal in writing with the director, who shall promptly transmit said appeal to the chairperson of the commission. The chairperson shall designate three (3) members of the commission, at least one of whom shall be a lawyer, to review the director's determination. Upon request the complainant shall be able to make a presentation to the review committee. The review committee may then either affirm or reverse the director's decision or send the complaint back to the director for additional

investigation. No member of a review committee shall act as a member of a hearing committee in the same case.

- (f) *Finding of probable cause and conciliation.* If the director or a review committee, following an appeal, makes a determination of probable cause, the director shall immediately endeavor to eliminate the acts or practices complained of by conciliation and persuasion. If the director cannot do so, then the director shall refer the complaint to the commission. A conciliation agreement arising out of such conciliation shall be an agreement between the complainant, respondent and the department and shall be subject to approval by the director. Each such conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the director determines that disclosure is not required to further the purposes of this title.

At the time the director refers a case involving a violation of Chapter 139.40 (e), (f), (g), or (g)(1), (h), or (i) and where such case has been dual-filed with the department of housing and urban development as a violation of Title VIII of the National Fair Housing Act prohibiting discrimination in housing pursuant to the contractual agreement existing between the director and the department of housing and urban development, the director shall notify the complainant of the referral and of the complainant's option to proceed with the charge before the commission on civil rights or in Minnesota district court. This notice shall provide that an attorney will be furnished by the city should the complainant decide to proceed before the commission or the district court.

- (g) *Director's authority to dismiss a complaint and review thereof.* If at any time subsequent to the signing of a verified complaint and prior to referral of the complaint to the commission the director shall determine the charge is without merit, is frivolous, or the complainant has consistently failed to provide or has refused to provide requested information, the director may dismiss the complaint. The director shall set forth the reasons for the dismissal in writing and shall mail to the complainant and the respondent a copy of this written decision and a statement explaining the complainant's right to file a civil action or to appeal the determination to a review committee and subsequently file a civil action. The complainant's filing of an appeal with the director and the appointment and operation of the review committee shall follow the procedures set forth in section 141.50(d).
- (h) *Notice to commissioners.* Whenever the director makes a finding of no probable cause or dismisses a complaint, the director shall provide written notice of this action to the commission.
- (i) *Hearing procedure.* Within thirty (30) days following the referral of a complaint, the chairperson of the commission shall designate three (3) members of the commission, at least one of whom shall be a lawyer, to serve as a hearing committee, shall designate a chairperson of the hearing committee and shall set a time and place within the city for the hearing of such complaints and the answers to the allegations thereof.
 - (1) If, at the time of the prehearing conference, scheduled pursuant to Rule 12 of the Rules of Procedure for Contested Case Hearings, Minneapolis Commission on Civil Rights (Aug. 3, 1989), the parties request mediation of their dispute, the presiding chairperson shall appoint a mediator from a rotating list consisting of those commissioners not currently on the hearing committee who meet the requirements of Rule 114.12 of the for district courts, or any other such mediator or mediation service meeting the same requirements, which is agreeable to all parties. If the dispute is mediated to resolution, and the parties sign a mediated agreement, the chairperson of the hearing shall be notified of the agreement by the mediator. The chairperson of the hearing committee shall notify the members of the hearing committee, who shall incorporate the agreement into the order by reference and shall dismiss the complaint with prejudice.

- (j) *Determination prior to public hearing.* At any time after a complaint has been referred to a hearing committee, but before the public hearing has been completed, the hearing committee may issue an order dismissing a complaint because it has been conciliated, because it appears the allegations were not well founded or for any other justifiable reason. However, the hearing committee shall attach to its order written findings of fact and conclusions of law supporting the dismissal, and shall serve a copy upon all parties by mail. Any such dismissal shall be reviewable the same as any other final decision in a contested case, as provided in Chapter 14 of Minnesota Statutes.
- (k) *Hearings.*
- (1) Public hearings shall be conducted by the hearing committee who shall conduct the hearing in accordance with Chapter 14 of Minnesota Statutes.
 - (2) Each member of a hearing committee, review committee or a presiding officer of a prehearing conference, shall be paid fifty dollars (\$50.00) per day while actually sitting and serving at the public hearing, the review hearing, the prehearing conference, or the mediation. Such committee members, presiding officers, and mediators shall be paid thirty-five dollars (\$35.00) when service does not exceed four (4) hours in any one day. No fee shall be paid for any work done prior or subsequent to the holding of the public hearing, the review hearing, the prehearing conference, or the mediation, except that the presiding officer shall be paid fifty dollars (\$50.00) per day, up to a maximum of two (2) days, for each day subsequent to the public hearing, when conducting legal research and preparing the findings of fact, conclusions of law and order, and the mediator shall be paid fifty dollars (\$50.00) per day, up to a maximum of three (3) days, for each day of mediation, when conducting mediation and preparing the mediated agreement and order. Such fees shall be authorized by the director after being requested in writing by the member.
 - (3) Whenever, in the director's judgment, a public hearing will take longer than two (2) full days to complete, the director shall certify such fact to the commission and the chairperson of the commission may appoint a hearing examiner who is a lawyer and who may or may not be a member of the commission to conduct the public hearing. In such cases, the hearing examiner shall have the same duties, obligations and powers as a hearing committee except that the hearing examiner shall be paid fifty dollars (\$50.00) per day while actually sitting and serving at the public hearing and shall, in addition thereto, be entitled to fifty dollars (\$50.00) per day, up to a maximum of two (2) days, for each day subsequent to the public hearing actually spent deciding the case and preparing the findings of fact, conclusions of law and order.
- (l) *Subpoenas.* The chairperson of the commission, a hearing examiner or a hearing committee may, at the request of any party, apply to the district courts for subpoenas to require witnesses to appear at any regularly scheduled public hearing before a hearing committee to give testimony and to bring with them for examination any books, papers or documents relative to any verified complaint which is the subject matter of a public hearing. The chairperson of the commission may apply to the district court to punish a person who disobeys a subpoena obtained at the chairperson's request in like manner as a contempt proceeding is initiated in the district courts of this state.
- (m) *Findings.* If the hearing committee finds that the respondent has engaged in discrimination, the hearing committee shall make written findings of fact and conclusions of law, and shall issue an order directing the respondent to cease and desist from the discriminatory act or practice found to exist, and to take such other affirmative action as in the judgment of the hearing committee will effectuate the purposes of this title. Such order shall be a final decision for purposes of appeal or enforcement. The hearing committee shall order any respondent found to be in violation of any provision of section 139.40 to pay a civil penalty to the City of Minneapolis. This penalty is in addition to compensatory and punitive damages to be paid to an aggrieved party. The

hearing committee shall determine the amount of the civil penalty to be paid, taking into account the seriousness and extent of the violation, the public harm occasioned by the violation, whether the violation was intentional, the cost of investigation incurred by the City of Minneapolis, and the financial resources of the respondent. Any penalties imposed under this provision shall be paid into the general fund of the city. In all cases, the hearing committee may order the respondent to pay an aggrieved party, who has suffered discrimination, compensatory damages in an amount up to three (3) times the actual damages sustained. In all cases, the hearing committee may also order the respondent to pay an aggrieved party, who has suffered discrimination, damages for mental anguish or suffering and reasonable attorney's fees in addition to punitive damages in an amount not more than eight thousand five hundred dollars (\$8,500.00). Punitive damages shall be awarded pursuant to Minnesota Statutes Section 549.20. In any case where a political subdivision is a respondent, the total punitive damages awarded an aggrieved party may not exceed eight thousand dollars five hundred (\$8,500.00) and in that case if there are two (2) or more respondents, the punitive damages may be apportioned among them. Punitive damages may only be assessed against a political subdivision in its capacity as a corporate entity and no regular or ex officio member of a governing body of a political subdivision shall be personally liable for the payment of punitive damages pursuant to this subdivision. In addition to the aforesaid remedies, in a case involving discrimination in:

- (1) *Employment*: The hearing committee may order the hiring, reinstatement or upgrading of an aggrieved party who has suffered discrimination, with or without back pay, admission or restoration to membership in a labor organization, or his or her admission to or participation in an apprenticeship training program, on-the-job training program or other retraining program, or any other relief the hearing committee deems just and equitable.
- (2) *Housing*: The hearing committee may order the sale, lease or rental of the housing accommodation or other real property to an aggrieved party who has suffered discrimination, or the sale, lease or rental of a like accommodation or other real property owned by or under the control of the person against whom the complaint was filed, according to terms as listed with a real estate broker; or if no such listing has been made, as otherwise advertised or offered by the vendor or lessor, or any other relief the hearing committee deems just and equitable.

The hearing committee shall cause the findings of fact, conclusions of law and order to be served on the complainant and respondent personally, or by first class mail, and shall furnish copies to the director and the city attorney.

- (n) *Respondents subject to city's licensing or regulatory power*. In the case of a respondent which is subject to the licensing or regulatory power of the City of Minneapolis or any board, commission, or agency thereof, if the hearing committee determines that the respondent has engaged in a discriminatory practice, and if the respondent does not cease to engage in such discriminatory practice, the director may so certify to the licensing or regulatory agency, unless such determination of discriminatory practice is reversed in the course of judicial review, a final determination is binding on the licensing or regulatory agency. Such agency may take appropriate administrative action, including suspension or revocation of the respondent's license or certificate of public convenience and necessity, if such agency is otherwise authorized to take such action.
- (o) If a complainant has met its burden of showing that a practice is responsible for a statistically significant adverse impact on a particular class of persons protected by section 139.40, a respondent must justify that practice by demonstrating one of the following justifications:
 - (1) The practice is manifestly related to the job.
 - (2) The practice is manifestly related to the product, facility or the service being offered.

(3) The practice significantly furthers an important business purpose. Upon establishment of this justification, the complainant may prevail upon demonstration of the existence of a comparably effective practice that the commission finds would cause a significantly lesser adverse impact on the identified protected class. (Ord. of 12-30-75, § 8; 77-Or-157, § 1, 7-29-77; 82-Or-115, § 2—4, 6-25-82; 83-Or-325, § 1, 12-30-83; 84-Or-043, §§ 2, 3, 3-30-84; 86-Or-203, § 1, 8-22-86; 87-Or-178, §§ 1, 2, 10-9-87; 88-Or-215, §§ 1, 2, 11-23-88; 89-Or-091, § 1, 5-26-89; 92-Or-064, §§ 1, 2, 5-22-92; 93-Or-133, §§ 2—5, 8-27-93; 95-Or-164, § 2, 12-29-95; 2006-Or-062, §§ 2, 3, 6-16-06)

141.60. Civil action, judicial review and enforcement.

(a) *Civil actions.* A complainant may bring a civil action at the following times:

- (1) Within forty-five (45) days after the director, a review committee or a hearing committee has dismissed a complaint for reasons other than a conciliation or mediation agreement to which the complainant is a signatory; or
- (2) After forty-five (45) days from the filing of a verified complaint if a hearing has not been held pursuant to section 141.50 and the complainant has not entered into a mediated agreement with the respondent, or the department has not entered into a conciliation agreement to which the complainant is a signator. The complainant shall notify the department of his/her intention to bring a civil action, which shall be commenced within ninety (90) days of giving the notice.

A complainant bringing a civil action shall mail, by registered or certified mail, a copy of the summons and complaint to the department and upon receipt of same, the director shall terminate all proceedings before the department relating to the complaint and shall dismiss the complaint. No complaint shall be filed or reinstated with the department after a civil action relating to the same unfair discriminatory practice has been brought unless the civil action has been dismissed without prejudice.

(b) *Judicial review.* Any person aggrieved by a final decision of a hearing committee or a review committee in a contested case, reached after a hearing held pursuant to section 141.50, may seek judicial review in accordance with Chapter 14 of Minnesota Statutes.

(c) *Enforcement.*

- (1) When a respondent fails or refuses to comply with a final decision of a hearing committee, the director may file with the district court a petition requesting the court to order the respondent to comply with the order, thereupon the court shall issue an order to show cause directed to the respondent why an order directing compliance should not be issued. Notwithstanding the provisions of any law or rule of civil procedure to the contrary, the court shall examine at the hearing on the order to show cause all the evidence in the record and may amend the order in any way the court deems just and equitable. If the hearing committee ordered an award of damages and if the court sustains any or all of the award, it shall enter judgment on that order in the same manner as in any civil suit.
- (2) In a case involving a violation of Chapter 139.40 (e), (f), (g), or (g)(1), (h) or (i), where the case has been dual filed with the department of housing and urban development pursuant to the contractual agreement existing between the director and the department of housing and urban development and where probable cause has been found and conciliation has not been successful, the complainant may, at his/her option, elect to proceed before the commission on civil rights as specified in 141.50 (i), (j), (k), (l) and (m); or elect to bring an action in Minnesota District Court. In either instance, the city will furnish legal counsel for the complainant.

- (3) In the event that the complainant or respondent elects to bring the action in the district court, the court shall have the same authority as the commission on civil rights to award appropriate remedy and shall make such awards pursuant to 141.50 (m). (82-Or-115, § 5, 6-25-82; 84-Or-043, § 4, 3-30-84; 92-Or-064, § 3, 5-22-92; 93-Or-133, § 6, 8-27-93; 95-Or-164, § 3, 12-29-95)

141.70. Duties of the city attorney.

The city attorney shall provide sufficient staff to handle all legal matters for the commission, hearing committee, review committees and the department of civil rights. A member of the legal department shall attend public hearings at the request of a hearing committee member and shall provide legal services in the event of judicial review or enforcement of hearing committee or review committee decisions.

The city attorney shall, at the request of the director, provide an attorney to prosecute a case, as specified in 141.60 (c) (2), on behalf of the complainant before the commission on civil rights or in Minnesota District Court. (82-Or-115, § 6, 6-25-82; 92-Or-064, § 4, 5-22-92)

141.80. Department of civil rights.

- (a) *Creation.* There is hereby created a department of the City of Minneapolis which shall be known as the department of civil rights, which department shall be under the direction of and responsible to the mayor.
- (b) *Duties generally.* Such department shall provide all administrative services for the commission and the Minneapolis Police Civilian Review Authority.
- (c) *Appointment of director; powers and duties.* The mayor shall appoint and the council shall confirm a director of such department who shall be the head of the department and such director may appoint such other employees as may from time to time be authorized by the city council. The director shall:
 - (1) *Complaints:* Receive verified complaints alleging discrimination from persons who believe discrimination has occurred.
 - (2) *Investigation:* Make such investigation as the director may deem appropriate to determine whether there is reason to believe that the allegations of discrimination are well founded.
 - (3) *Conciliation:* Engage in conciliation and persuasion to try to eliminate the acts or practices complained of, and may obtain as part of conciliation the administrative costs incurred by the department in handling the complaint.
 - (4) *Referral:* When deemed necessary, refer a complaint to the commission.
 - (5) *Subpoenas:* Subpoena witnesses and require the production for examination of any books, papers or documents relative to any verified charge under investigation or in question as the director deems appropriate to carry out the purposes of this title.
 - (6) *Enforcement of a subpoena:*
 - a. Apply to the district court to punish a person who disobeys a subpoena issued by the director in like manner as a contempt proceeding is initiated in the district courts of this state.
 - b. It is not a violation of rights conferred by chapter 13 or any other statute related to the confidentiality of government data for a city department or independent board or agency to provide data or information under a subpoena issued by the director under this section.
 - c. A subpoena issued under this section must be served personally or by mailing a copy of the subpoena, by first class

mail, postage prepaid, to the person to be served. A subpoena served by mail must include two copies of a notice and acknowledgment of service on a form to be provided by the director and a return envelope, postage prepaid, addressed to the director. If acknowledgment of service is not received by the director within twenty (20) days, service is not effective. Unless good cause is shown for not doing so, a court or administrative law judge shall order the payment of the costs of personal service by the person served if the person does not complete and return the notice and acknowledgment of receipt of the subpoena within the time allowed.

- (7) *Temporary relief:* If at any time after the filing of a complaint, the director has reason to believe that a respondent has engaged in any unfair discriminatory practice, the director has determined that there is probable cause to believe that a respondent has engaged in discrimination, the director may file a petition in the district court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceeding under this title, including an order or decree restraining the respondent from doing or procuring any act tending to render ineffectual any order the director or commission may enter with respect to the complaint. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, but no such relief or order extending beyond ten (10) days shall be granted except by consent of the respondent or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in discrimination. The Minnesota Rules of Civil Procedure shall apply to such application, and the district court shall have authority to grant or deny such relief sought on such conditions as it deems just and equitable. All hearings under this section shall be given precedence as nearly as practicable over all other pending civil actions.
- (8) *Leadership:* Exercise leadership under the direction of the mayor in the development of civil rights policies and programs, and make recommendations to the mayor, the commission and the city council for consideration and implementation.
- (9) *Programs:* Develop and conduct programs of formal and informal education designed to eliminate discrimination and intergroup conflict, programs which will help determine compliance throughout the city with the provisions of this title, and programs which will benefit personally and economically those persons who have been subjected to discrimination.
- (10) *Research:* Conduct research and study discriminatory practices.
- (11) *Publications:* Furnish and distribute the results of research and study when in the judgment of the director the purposes of this title will be served thereby.
- (12) *Manpower services:* To the extent permitted by federal law and regulation, utilize the records of the department of manpower services of the state when necessary to effectuate the purposes of this title
- (13) *Requests for services:* Obtain upon request and utilize the services of all city and state governmental departments and agencies.
- (14) *Technical assistance:* Develop and disseminate technical assistance to persons subject to the provisions of this title, and to agencies and officers of governmental and private agencies.

- (15) *Receive grants*: Receive grants and payments from public agencies and charitable nonprofit corporations and deposit them with the Minneapolis City Treasurer.
- (16) *City contracts*: Adopt and promulgate, pursuant to Chapter 14 of Minnesota Statutes, suitable rules and regulations that explain which city contractors and subcontractors are subject to or exempt from the provisions of section 139.50. The procedure for adopting, amending, suspending or revoking such rules and regulations shall be that procedure set out in section 141.10. Receive complaints, investigate and monitor city contractors and subcontractors to insure that they are complying with all of the terms of this title and report the director's findings to the city council.
- (17) *Issuance of charge*: Whenever the director has reason to believe that a person is engaging in an unfair discriminatory practice, the director may issue a charge stating in ordinance language an alleged violation of a particular section of section 139.40 or a violation of section 139.50. (Ord. of 12-30-75, § 9; 76-Or-172, § 2, 9-24-76; 82-Or-115, § 7, 6-25-82; 83-Or-325, § 2, 12-30-83; 92-Or-064, § 5, 5-22-92; 2003-Or-029, § 1, 3-21-03; 2006-Or-062, § 4, 6-16-06)

State law reference— Special act relating to the appointment of director of department of human rights, Laws 1969, Ch. 937; as amended by Laws 1973, Ch. 132; Laws 1974, Ch. 105; Laws 1980, Ch. 448; Laws 1983, Ch. 220 (accepted by 83-R-340 on Aug. 26, 1983); and Laws 1986, Ch. 473 (accepted by 86-R-143 on April 11, 1986).

141.90. Conflict with state action.

No matter shall be heard or complaint issued pursuant to the provisions of this title when the matter has been previously considered by the State of Minnesota Commissioner of Human Rights as a matter within the commissioner's jurisdiction. (Ord. of 12-30-75, § 10; 82-Or-115, § 7, 6-25-82; Pet. No. 249821, § 3, 7-14-89; 98-Or-042, § 1, 5-8-98)

141.100. Continuity.

Any complaints pending as of the date of this ordinance [adopted December 30, 1975] shall be processed from this date on, in conformance with the procedural and enforcement provisions of this title. The mayor shall comply with the requirement of appointing a minimum of five (5) and a maximum of seven (7) lawyers as vacancies occur or as terms of office expire. (Ord. of 12-30-75, § 11; 82-Or-115, § 7, 6-25-82)

APPENDIX B

**CITY OF MINNEAPOLIS
MINNEAPOLIS COMMISSION ON CIVIL RIGHTS
INTERNAL OPERATING RULES**

**ARTICLE I
Officers – Election**

Section 101 Commission Officers

101.1 CHAIR

- (1) Represents Commission in its business before the Mayor, City Council, Department of Civil Rights, and community in person and in correspondence;
- (2) Convene and Chair all Executive Committee and Commission meetings;
- (3) With input from the Commission, sets agenda for Commission meetings;
- (4) Appointments members to standing committees;
- (5) Ex-officio member of all Commission committees;
- (6) With Department of Civil Rights, assures processing of contested case hearings (signing needed forms, constituting panels, etc.)
- (7) Delegates tasks as necessary to assure that Commission work gets done.

101.2 VICE-CHAIR

- (1) Assist Chair in duties related to the MCCR, as directed by the Chair;
- (2) Fill in for Chair when the Chair is unavailable; and
- (3) Attend Executive Committee meetings.

101.3 TREASURER

- (1) Oversight over MCCR's separate bank account, and expenditures from - can sign checks alone up to \$100.00; above \$100.00 requires co-signature of Chair;
- (2) Report to Commission on MCCR's finances quarterly or upon request;
- (3) Prepares and submits a Commission budget for inclusion in the Department of Civil Rights annual budget;
- (4) Attend Executive Committee meetings;
- (5) Third in line to run Commission meetings; and
- (6) Other tasks as directed by Chair.

101.4 SECRETARY

- (1) Attend regular MCCR meetings, take notes, produce minutes and submit them to the Liaison for formatting and distribution;
- (2) Track attendance, record votes at MCCR meetings;
- (3) Attend Executive Committee meetings, take minutes;
- (4) Fourth in line to chair meetings; and
- (5) Other tasks as directed by Chair.

Section 102 Election Procedure

- 102.1 The election of the Commission Chair shall take place at the first regular commission meeting in December of any given year. The election of the remaining officers shall take place at the first regular Commission meeting in January of any given year. The elected officials will formally hold their positions beginning at the first regular Commission meeting the month immediately after their election into office.
- 102.2 The current Chair shall preside through the entire election process. The tally of the ballots and election of each office shall be completed before proceeding to elect the next office.
- 102.3 The order of election shall be: Chair, Vice-Chair, Treasurer and Secretary. All four offices are one-year terms. There is no limit on the number of terms a Commissioner may hold an office. No Commissioner shall hold more than one office at a time.
- 102.4 Nominations for an office may be made by any commissioner to the Commission's liaison. Nominations for the office of Chair will be received up and until the second Friday in December. Nominations can be made from the floor on the day of elections provided the nominee is nominated by at least two commissioners. After nominations are closed, each candidate will be allowed a maximum of three minutes for a speech at the next full commission meeting. After all candidates have completed their speeches, a question and answer period will follow for a maximum time limit of five (5) minutes. The question and answer period shall involve all candidates. The process shall not involve a screening or nominating committee.
- 102.5 Election shall be by written and signed ballots by each voting Commissioner. Election shall be by simple majority of the Commissioners present and voting. Immediately after all ballots are cast, the person holding the most votes for each office shall be read into the record. There shall be no absentee ballots or proxy voting.
- 102.6 Any vacancy in a Commission office shall be filled by special election at the second regular Commission meeting after the vacancy occurs with the elections held in accordance with section 102.1 to 102.5. The nomination procedure shall be determined by the highest ranking officer.

ARTICLE II **Regular Commission Meeting Procedure**

Section 201 Meeting Agenda and Minutes

- 201.1 The agenda of all regular meetings of the Commission shall be set by the Chair of the Commission, after consultation with the Executive Committee, before each regular Commission meeting. Agenda items shall be described with as great a degree of particularity as the nature of the item allows.

201.2 The first item on the agenda shall be approval of the agenda; once the agenda is approved by majority vote, it may not be modified except upon motion by a Commissioner and approval by majority vote or by unanimous consent.

201.3 Copies of the agenda shall be available to the public at the Department of Civil Rights office at all regular meetings of the Commission. Copies of the minutes of the regular Commission meetings shall be available to the public at the Department of Civil Rights office.

Section 202 Public Participation in Regular Commission Meetings

202.1 Any member of the public who wishes to place an item on the written agenda of any regular Commission meeting shall notify the Commission Liaison, who shall notify the Chair who shall place the request before the Executive Committee. Upon a majority vote of the Executive Committee, an item may be placed on the proposed agenda for the following regular Commission meeting. At such meeting, the member of the public proposing the agenda item may speak for such time and upon such conditions as the Executive Committee shall approve in advance.

202.2 Members of the public may speak at regular Commission meetings during the Public Commentary portion of the regular Commission meeting agenda. Members of the public wishing to address the Commission should notify the Commission Liaison or the Commission Secretary prior to the Public Commentary portion of the agenda. No person addressing the Commission under this section may speak for more than two minutes. A speaker's time may be extended upon a majority vote of the Commission. Speakers shall speak in the order in which they are called on by the Chair.

202.3 Any Commissioner may request a roll call vote on any item.

ARTICLE III Committees

Section 301 Executive Committee

Consists of the Officers of the Commission and the Chair of each Standing Committee. The Executive Committee shall meet monthly to set the agenda for the regular Commission meeting.

Section 302 Standing Committees

302.1 Public Relations and Education is responsible for creating a public image for the Commission and educating the various constituent communities about the Commission; monitors treatment of protected classes within the educational system.

302.2 Standards and Procedures monitors and revises Commission internal procedures and external rules and procedures.

Section 303 Standing Committee Membership and Procedure

303.1 STANDING COMMITTEE APPOINTMENT

- (1) Commissioners shall indicate their committee preferences in writing to the newly elected Chair of the Commission at the January meeting;
- (2) A newly appointed Commissioner shall indicate his/her committee preferences at his/her second regular Commission meeting;
- (3) The Chair shall appoint the members of each Committee based on each Commissioner's preference; and
- (4) Attorney Commissioners shall be members of the Standards and Procedures Committee, but membership in this committee is not limited to attorneys.

303.2 STANDING COMMITTEE PROCEDURE

- (1) Each committee shall meet briefly at the February regular Commission meeting to elect a Chair of the committee and schedule the committee meetings;
- (2) Election of each committee Chair shall be by simple majority of the committee members present and voting;
- (3) Committees may, but need not, schedule regular meetings;
- (4) Each committee shall set its own agenda and may also be assigned tasks by the Commission, Executive Committee or Chair of the Commission;
- (5) Following the resignation of a Chair of a committee, the committee shall elect a new chair at its next meeting.
- (6) The quorum at any meeting of a Standing Committee shall consist of 1/3 of the committee membership.¹

Section 304 Task Force

304.1 Task forces may be appointed by the Commission from time to time to address or make recommendations to the Commission concerning specific issues.

304.2 Unless otherwise specified by the Commission, a task force shall remain in existence until completion of its assigned duties but not in excess of one year. A task force's existence may be extended by the Commission.

304.3 Task forces shall operate in accordance with Section 303.2.

¹ Added 4/19/04.

**ARTICLE IV
Public Hearings**

Section 401 Chair-Related Procedure

- 401.1 The Chair of the Commission shall appoint a hearing panel chairperson and two additional panel members. In addition, an alternate shall be appointed to each panel. The designated alternate shall be available and on call by telephone during the first half-hour of the scheduled hearing.
- 401.2 Once a hearing has been commenced, an alternate may not be substituted for a panel member.
- 401.3 The hearing panel chair shall notify the Chair of the Commission as soon as possible if a panel member misses a scheduled pre-hearing conference, public hearing or review hearing. The Chair shall immediately send a letter to the commissioner, with a copy of the letter to the commissioner's appointing authority, stating that such conduct cannot be condoned, and directing the commission's attention to Minneapolis Code of Ordinance, Chapter 141.20 (c).

Section 402 Full Commission Issue-Related Procedure

- (1) The public hearing will be chaired by the Chair of the Commission on Civil Rights.
- (2) Testifiers will be asked, but not required, to give sworn testimony.
- (3) The time limit for individual testimony will depend upon the number of individuals wishing to testify.
- (4) Commissioners may conduct a five-minute follow-up question and answer period after each individual's testimony. If time permits, the Chair may recognize questions from the public.
- (5) All testimony given will become part of the Commission's public record.
- (6) Persons wishing to give private testimony can do so by contacting the Commission Liaison.

Section 403 Full Commission Charge-Related Procedure

Reserved for later addition.

**ARTICLE V
Official Communications**

Section 501 Commission Stationary

The Commission officers, committee chairs and hearing panel chairs shall use official letterhead only for official duties that are specifically authorized by the commission or for such notices and requests for information as are necessary for specific commission business. Letters sent on commission letterhead must be filed concurrently with the Commission Liaison.

Section 502 Written Communications

Any written communication by a commissioner shall clearly indicate that the commissioner is writing in his or her individual capacity and not on behalf of the commission unless specifically authorized to represent the position of the commission. A specific disclaimer is not required.

Section 503 Oral Communications

In speaking before a public agency, a commissioner shall make clear by giving a disclaimer that he/she is not representing the commission when presenting individual views.

ARTICLE VI
Attendance and Removal

Section 601 Removal of Commission Members

601.1 When a commissioner has missed three regular commission meetings or two unexcused scheduled charge-related public hearings in any twelve-month period, he/she shall automatically cease to be a member of the commission. The Chair shall send to the former commissioner a copy of the letter notifying the appointing authority pursuant to Minneapolis Code of Ordinances, Chapter 141.20 (c).

601.2 Whenever a commissioner is removed from the commission pursuant to any provision of Minneapolis Code of Ordinances, Chapter 141.20 (c), he/she shall immediately be barred from participating in all commission activities and functions. The portion of the Minneapolis Code of Ordinances, Chapter 141.20 (b) providing that a commissioner shall continue to serve until his/her successor has been appointed shall not apply to any commissioner removed pursuant to Chapter 141.20 (c)

ARTICLE VII
Miscellaneous Rules

Section 701 Orientation and Retreat

A retreat of the full commission shall be held each fall on a date determined by the commission at its September meeting. Orientation for new commissioners shall be held upon appointment.

Section 702 Commission Roster

A roster of commission members, their addresses and telephone numbers shall be distributed to all commissioners, the Mayor's office, City Council and the Director of the Department of Civil Rights. The roster shall be stamped 'Confidential', and no information in it shall be disclosed without the consent of the commissioner. Any person

who wishes to speak to a member of the commission shall contact the Commission Liaison who will then contact the commissioner.

Section 703 Informative Materials

Except for documents prepared by the Commission, the Department or commissioners, no informative materials of more than five (5) pages in length shall be duplicated or distributed to commission members. Material in excess of five (5) pages may be filed with the Commission and a copy shall be sent to any commissioner who specifically requests it.

Section 704 Minnesota Clean Indoor Air Act

Smoking is prohibited at all commission meetings and public hearings.

Section 705 Accessibility of Meeting

All commission meetings, public hearings and other functions shall be held in facilities that are architecturally accessible and barrier free to people with mobility impairments.

Section 706 Martin Luther King, Jr. Education Fund: Guidelines for Distributions

Moneys will be dispersed from this account for civil rights education related activities for the Minneapolis elementary and secondary schools and which support the principles and philosophies of Dr. Martin Luther King, Jr. Activities which promote civil rights education should include the development of curriculum, or other written or audio/visual material and should have long term impact on its proposed audience.

Section 707 Conference/Travel Expenses

Any Commissioner may request that the Commission approve a request to the Department of Civil Rights to pay conference and travel expenses for the Commission to attend a civil rights related event. The Department is not bound by the recommendation from the commission, but may pay such expenses on a funds available basis.

Section 708 Transcript Orders

The presiding officer of an oral or public hearing may request the ordering of a transcript at the Department's expense with the Chair's approval. If the Chair is serving on the hearing panel, the approval of the Vice-Chair shall be required.

APPENDIX C

CITY OF MINNEAPOLIS COMMISSION ON CIVIL RIGHTS



RULES OF PROCEDURE FOR CONTESTED CASE HEARINGS

Last updated February 29, 2008

MINNEAPOLIS COMMISSION ON CIVIL RIGHTS

Rules of Procedure for Commission Hearings Conducted Pursuant to Chapter 141.50 (d) (*Probable Cause*), Chapter 141.50 (e) (*No Probable Cause*) and Chapter 139.50 (*Contract Compliance*).

MINNEAPOLIS COMMISSION ON CIVIL RIGHTS
RULES OF PROCEDURE FOR CONTESTED CASE HEARINGS

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RULES APPLICABLE TO ALL HEARINGS

RULE 1. Definitions

Subpart 1. 'Chair' means the Chair of the Minneapolis Commission on Civil Rights or that member of the commission who is then discharging the duties of the Chair.

Subpart 2. 'Chapter 139 and Chapter 141' mean the Minneapolis Code of Ordinances, Title 7, Chapters 139 and 141.

Subpart 3. 'Civil Rights Ordinance' means the Minneapolis Code of Ordinances, Title 7, Chapters 139 and 141. ***Subpart 4. 'Commission'*** means the Minneapolis Commission on Civil Rights.

Subpart 5. 'Contract Compliance Panel' means the panel of three members of the Commission, one of whom shall be a lawyer, appointed by the Chair to hear a case following the referral of a complaint pursuant to the provisions of Chapter 139.50 (e), or any hearing examiner duly appointed to hear such a case in lieu of a Commission panel.

Subpart 6. 'Department' means the Minneapolis Department of Civil Rights.

Subpart 7. 'Director' means the Director of the Minneapolis Department of Civil Rights.

Subpart 8. 'Hearing Committee.' means a panel of three members of the Commission, one of whom shall be a lawyer, appointed by the Chair to hear a case following the Director's or review committee's determination of probable cause pursuant to Chapter 141.50 (d), or any hearing examiner duly appointed to hear such a case in lieu of a commission committee.

Subpart 9. 'Party' means any person having a legally cognizable interest in a proceeding covered by the civil rights ordinance, or such person's attorney of record or other representative.

Subpart 10. 'Presiding Commissioner' means the attorney member of a contract compliance panel, hearing committee, or review committee, or any hearing examiner who is duly appointed to hear such a case in lieu of a Commission panel or committee.

Subpart 11. ‘Review Committee’ means the panel of three members of the Commission, one of whom shall be a lawyer, appointed by the Chair to hear an appeal of the Director’s determination that no probable cause exists pursuant to Chapter 141.50(d) or any hearing examiner duly appointed to hear such a case in lieu of a Commission committee.

Subpart 12. ‘Service or serve’ means personal service or, unless otherwise provided by law, service by first class United States mail or a licensed overnight express mail service, postage prepaid and addressed to the party at his or her last known address. An affidavit of service shall be made by the person making the service. Service by mail or licensed overnight express mail service is complete upon placing the item to be served in the mail or delivering it to the authorized agent of the express mail service. Personal service may be accomplished by either delivering a document to the person or by leaving a document at the person’s home or place of business with someone of suitable age and discretion who resides in the same house or who is located at the same business address of the person to be served. If a person is confined to a federal or state institution, a copy of the document must also be served upon the chief executive officer of the institution.

RULE 2. Documents Filed

Forms, documents, or written materials prepared specifically for and used or filed in any hearings before the Commission must be on standard size 8 ½ inch by 11 inch paper, must be served on the opposing party, and the original and two copies of the form, document or written material must be filed with the Commission along with an affidavit of service on the opposing party.

RULE 3. Access to Department Investigative Files and Personnel

Subpart 1. Access by parties following finding of no probable cause or probable cause. Following the Department’s finding of no probable cause or probable cause, the charge and the Director’s determination are public data. The remaining data contained in the Department’s investigative file is accessible to the parties, except the following data is protected non-public data:

- (a) Opinions of the City Attorney relating to the case;
- (b) Memoranda between or among City Departments unless such memoranda constitute substantive evidence in the case;
- (c) Internal memoranda of or between the Department and the Commission relating to the case;

- (d) Documents relating to mediation or conciliation efforts by the Department or Commission; and
- (e) Medical or private information of the parties or third parties, unless the party receives written consent by the third party, or such information constitutes substantive evidence in the case; or
- (f) Information identified by a party as trade secrets, confidential research development, commercial information, or other security interests of the parties, unless such information constitutes substantive evidence in the case.

The Department shall describe the nature of any redacted or withheld data in a manner that, without revealing information itself privileged or protected, enables the parties to determine the applicability of this Rule.

Upon request of a party, the party shall be informed by a case investigator of the content and meaning of that data contained in the Department's investigative file. After a party has been informed of its meaning, the data need not be explained to that party for six months thereafter unless a dispute or action pursuant to Minn. Stat. § 13.04 is pending or additional data on the party has been collected or created.

Subpart 2. Access to Department investigative file by Commissioners following finding of no probable cause. The Commissioners assigned to a no probable cause review committee pursuant to Rule 31 may examine the Department's investigative data, except for the data noted in Subpart 1 (a) - (f).

Subpart 3. Access by Presiding Commissioner on probable cause proceedings. The Presiding Commissioner may examine the Department's investigative data on a charge assigned to the Presiding Commissioner for purposes of deciding a motion to compel under subpart 4.

Subpart 4. Discoverability of data during probable cause review by Commission. If a party seeks access to removed or redacted data contained in the Department's investigative file during a probable cause review by the Commission, the party seeking access may bring a motion to compel before the Presiding Commissioner pursuant to Rule 14, and shall also serve a copy of the motion upon the Director. Within ten (10) working days after the motion is filed, the Director may intervene with written notice to the Presiding Commissioner and the parties. Prior to ruling on the motion to compel, the Presiding Commissioner may conduct an *in camera* review of the file, and may make the Department's investigative data subject to a protective order, as provided under *Minn. R. Civ. P. 26.03*.

Subpart 5. Copies by parties. A party may make copies of any record in the Department investigative file, except those excluded under Subpart 1(a) - (f), for a reasonable cost as determined by the Department.

RULE 4. Right to Counsel

Parties may be represented by an attorney, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law.

RULE 5. Time

Subpart 1. Computation of time. In computing any period of time prescribed by these rules, the day of the last act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday.

Subpart 2. Extra Time; Service by Mail. Whenever a party has the right or is required to do some act or take some action within a prescribed period after the service of a notice or other paper upon the party, or whenever service is required to be made within a prescribed period before a specified event, and the notice or paper is served by mail, three (3) days shall be added to the prescribed period.

RULE 6. Commissioner/Hearing Officer Disqualification

Subpart 1. Withdrawal. A commissioner serving on a contract compliance panel, hearing committee, or review committee or a duly appointed hearing examiner shall withdraw at any time if he or she deems himself or herself disqualified for any reason.

Subpart 2. Affidavit of Prejudice. Upon the filing in good faith by a party of any affidavit of prejudice, the Chair shall determine the matter as part of the record provided the affidavit shall be filed no later than five (5) days prior to the date set for the hearing. If the Chair is the subject of the affidavit, the Commission (without participation of the Chair) will decide the question at its next regular meeting or at a special meeting called for that purpose.

RULES APPLICABLE TO PROBABLE CAUSE HEARINGS

RULE 7. Hearing Committee

Subpart 1. Appointment. Within thirty (30) days following the referral of a complaint pursuant to Chapter 141.50 (d), the Chair shall appoint a presiding officer or a hearing examiner and shall notify the Department of the appointment. If a hearing committee is to hear the case, the Chair shall appoint a hearing committee within forty-five (45) days prior to the date of the public hearing and shall notify the Department of the appointment. If a hearing committee is to hear the case, the Chair shall also appoint a fourth commissioner to serve as an alternate committee member.

Subpart 2. Notification. Upon notification of the appointment, the Department shall promptly notify the members of the hearing committee and the alternate or the hearing officer of the appointment. The Department will include with this notice a copy of the complaint and answer, if any. In addition, the presiding commissioner shall also be sent a copy of the Department's proposed settlement terms (with a rationale for them) and a summary of the Department's investigation. The Department shall also at this time notify the parties of the names of the hearing committee members or the hearing examiner.

Subpart 3. Substitutions. The Chair may, if necessary, make substitutions as to the membership of the hearing committee or the appointment of the hearing examiner. Upon notification of such changes, the Department shall promptly provide notice to the hearing committee or hearing examiner and to the parties of such changes.

RULE 8. Notice Of and Order for Hearing

Subpart 1. Commencement of Case. The case is commenced, subsequent to the appointment of the hearing committee, by the service of a notice and order or hearing by the Department.

Subpart 2. Contents of Notice and Order. A notice of and order for hearing, which shall be a single document, shall be served upon all parties by the Department and shall contain, among other things, the following:

- A. The time, date and place of the prehearing conference;
- B. A statement of the determination of the Director or the review committee pursuant to Chapter 141.50 (d) together with a citation to the relevant provisions of the civil rights ordinance;
- C. Notification of the right of the parties to be represented by an attorney, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law;

- D. A citation to these rules and notification of how copies thereof may be obtained;
- E. A brief description of the procedures to be followed at the prehearing conference and the hearing;
- F. A statement advising the parties to bring to the hearing all documents, records, and witnesses they need to support their position;
- G. A statement that subpoenas may be available to compel the attendance of witnesses or the production of documents;
- H. A statement advising the parties that failure to appear at the hearing may result in default and a statement which explains the possible results of default; and
- I. A statement advising the parties that if not public data is admitted into evidence it may become public data unless a party objects and asks for relief.

Subpart 3. Service. The notice of and order for the prehearing conference shall be served at least 14 days prior to the scheduled prehearing conference.

RULE 9. Reserved

RULE 10. Intervention by the City Attorney

Subpart 1. Request for Intervention. Within ten (10) days after the referral of a complaint by the Director to the Commission under Chapter I41.50 (d), the Director may request the Minneapolis City Attorney to intervene in the case for the purpose of representing the general welfare and civil rights of the people of Minneapolis.

Subpart 2. Notice of, objection to, and effect of intervention. If the City Attorney intervenes, these Rules shall apply to the City Attorney in the same manner as they apply to the other parties in the case. Intervention by the City Attorney shall be made by notice to all parties; any objection to the intervention shall be made by written motion in accordance with these rules.

RULE 11. Consolidation of Cases

Subpart 1. Standards for Consolidation. Cases pending before the Commission shall be consolidated in the following circumstances:

- A. Any case filed pursuant to Chapter 139.50 (k)(3) shall be consolidated with the case underlying the Chapter 139.50 (k)(3) complaint; and
- B. Whenever two or more separate cases present substantially the same issues of fact and law, that a holding in one case would affect the rights of parties in another case, that consolidating the cases for hearing would save time and costs, and that consolidation would not prejudice any party, such cases may be consolidated for hearing.

Subpart 2. Service of Petition. A party requesting consolidation shall serve a petition for consolidation on all parties to the cases to be consolidated and shall file the original with the presiding commissioner assigned to the cases, together with a proof of service showing service as required herein. Any party objecting to the petition shall serve and file their objections within ten (10) calendar days following service of the petition for consolidation.

Subpart 3. Determination of Petition. When more than one hearing committee is assigned to the cases which are the subject of the petition for consolidation, the petition will be determined by the presiding commissioner assigned to the first case referred to the Commission pursuant to Chapter 141.50 (d).

Subpart 4. Order. Upon determining whether cases should be consolidated, the presiding commissioner shall serve a written order on all parties which shall contain, among other things, a description of the cases for consolidation, the reasons for the decision, and notification of a consolidated prehearing conference if one is being scheduled.

Subpart 5. Stipulations. Nothing contained in this rule shall be deemed to prohibit parties from stipulating and agreeing to a consolidation which shall be granted upon submission of a written stipulation, signed by all parties, to the presiding commissioner. A presiding commissioner may consolidate two or more cases presently pending before the same hearing committee on the presiding commissioner's own motion, applying the standards in

Subpart 6. Petition for Severance. Following receipt of a notice or order for consolidation, any party may petition for severance by serving it on all other parties and filing it with the presiding commissioner at least seven (7) business days prior to the first scheduled hearing date. If the

presiding commissioner finds that the consolidation will prejudice the petitioner, the presiding commissioner shall order the severance or other relief which will prevent the prejudice from occurring.

RULE 12. Prehearing Conference

Subpart 1. Scheduling. The presiding commissioner shall set the date of the initial prehearing conference and shall notify the Department. The time, place and date of the initial prehearing conference shall be included in the notice of and order for the prehearing conference. Upon the request of any party or upon his or her own motion, the presiding commissioner may, in his or her discretion, hold additional prehearing conferences prior to the probable cause hearing.

Subpart 2. Purpose. The purpose of the prehearing conference is to simplify the issues to be determined, to obtain stipulation in regard to foundation for testimony or exhibits, to determine whether the parties are interested in mediation by the Commission, to obtain stipulations or agreement on nondisputed facts or the application of particular laws, to consider the proposed witnesses for each party, to identify and exchange documentary evidence intended to be introduced at the hearing, to determine deadlines for the completion of any discovery, to establish hearing dates, to consider such other matters that may be necessary or advisable and, if possible, to reach a settlement without the necessity of further hearing.

Subpart 3. Prehearing Statements. The parties must file and serve on all parties a completed prehearing statement at least seven (7) days before the scheduled prehearing conference. The prehearing statement shall include, at a minimum, the following information: whether or not a party is interested in mediation by the Commission; statement of legal issues; brief factual statement; proposed exhibits; list of proposed witnesses; and a statement regarding the length of time for presentation of the party's case in chief.

Subpart 4. Procedure. The prehearing conference shall be an informal proceeding conducted expeditiously by the presiding commissioner. Agreements on the simplification of issues, stipulations, or other matters may be entered on the record or may be made the subject of a prehearing order by the presiding commissioner.

Subpart 5. Settlement. The parties, their attorneys or other persons with full authority to settle the case shall appear at the prehearing conference. Any final settlement shall be set forth in a Stipulation for Dismissal and Order for Dismissal. Both the Stipulation and Order shall set forth the terms of the settlement, and may contain a provision providing for enforcement of their terms by application to the District Court by means of an Order to Show Cause, as authorized by

Chapter 41.60 (c). Upon receipt of the stipulation signed by all parties, the hearing committee will sign the Order of Dismissal and file it and the Stipulation for Dismissal with the Department.

Subpart 6. Length of Hearing. If the case is not settled at the prehearing conference, the presiding commissioner shall determine how many hours are likely to be needed for the hearing. If the presiding commissioner determines that the hearing will take more than 16 hours, he or she shall so notify the Chair. Thereafter, the Chair may, in his or her discretion, appoint a hearing examiner in lieu of a hearing committee.

Subpart 7. Scheduling Hearing: Notice. Following the prehearing conference, the presiding commissioner, in consultation with the other members of the hearing committee, or the hearing examiner shall determine the date of the hearing and shall so notify the Department. The Department shall then notify the parties thereof. .

RULE 13. Mediation

Subpart. 1. Selection of a mediator. If the parties agree to mediation by the Commission, or other qualified mediators, the presiding commissioner shall notify the Chair of the Commission, the Chair of the Commission shall provide the parties with a list of Commissioners who are qualified neutrals and who are not members or alternates of the hearing committee. From such list or otherwise, the parties may mutually agree on selection of a mediator. Absent such agreement, the Chair of the Commission shall provide the parties with a list of three (3) Commissioners who are so qualified, each party may strike the name of one mediator from such list and the mediator not so stricken shall serve as the designated mediator.

Subpart. 2. Mediation agreement. After selection of a mediator, the parties and the mediator shall execute a mutually acceptable Mediation Agreement, covering such matters as the confidentiality of the proceedings, the scheduling of the proceedings and other matters as the parties and the mediator may agree.

Subpart. 3. Scheduling of mediation. When the parties have agreed to pursue mediation by the Commission, the presiding commissioner shall not schedule a public hearing or take any other action with respect to such matter until the earlier of (i) the date the matter is settled through mediation; (ii) the date the parties or the mediator have advised the presiding commissioner that the parties have reached an impasse; or (iii) 90 days after a mediator has been selected. If the mediation is not successful or if matter is not settled within 90 days after appointment of the mediator, the presiding commissioner shall schedule a public hearing

consistent with these rules. Additional time for consolidation may be granted by the presiding commissioner upon the request of the parties and the mediator.

Subpart. 4. Conduct of mediation. The mediator shall conduct mediation at such time and in such manner as the parties and the mediator may agree. Any party or the mediator may determine that settlement is not likely and declare that an impasse has occurred. If any party or the mediator declares that an impasse has occurred, the presiding commissioner shall be notified and a public hearing shall be scheduled in accordance with these rules.

Subpart. 5. Successful mediation. In the event the mediation successfully settles the dispute, the mediator and the parties shall prepare such agreements as they deem appropriate, including a stipulation of dismissal to be submitted to the presiding commissioner and the Chair.

RULE 14. Motions

Any application to the presiding commissioner for an order shall be made by motion which, unless made during a hearing, shall be made in writing, shall state with particularity the grounds there for, and shall set forth the relief or order sought. Motions shall be served on all parties and the presiding commissioner. The written motion shall advise the other parties that should they wish to contest the motion they must file a written response with the presiding commissioner and serve copies on all parties within ten (10) working days after it is received. If any party desires a hearing on the motion, they shall make a request for a hearing at the time of the submission of their motion or response. A response shall set forth the nonmoving party's objections. A hearing on a motion will be ordered by the presiding commissioner only if it is determined that a hearing is necessary to the development of a full and complete record on which a proper decision can be made. All orders on such motions, other than those made during the course of the hearing, shall be in writing and shall be served upon all parties of record. In ruling on motions where these rules are silent, the presiding commissioner shall apply the Rules of Civil Procedure for the District Court for Minnesota to the extent it is determined appropriate in order to promote a fair and expeditious proceeding.

RULE 15. Discovery

Subpart 1. Witnesses; Statement by Parties or Witnesses. Each party shall, within ten (10) days of a demand by another party, disclose the following: A. The names and addresses of all witnesses that a party intends to call at the hearing. All witnesses unknown at the time of said disclosure shall be disclosed as soon as they become known; B. Any relevant written or recorded statements made by the party or by witnesses on behalf of a party. The demanding party shall be permitted and reproduce any such

statements. Any party unreasonably failing upon demand to make the disclosure required by this subpart may, in the discretion of the presiding commissioner, be foreclosed from presenting any evidence at the hearing through witnesses not disclosed or through witnesses whose statements are not disclosed.

Subpart 2. Discovery of other information. Any means of discovery available pursuant to the Rules of Civil Procedures for the District Court of Minnesota is allowed. If the party from whom discovery is sought objects to the discovery, the party seeking discovery may bring a motion before the presiding commissioner to obtain an order compelling discovery. In the motion proceeding, the party seeking discovery shall have the burden of showing that the discovery is needed for the proper presentation of the party's case, is not for the purpose of delay, and that the issues or amounts in controversy are significant enough to warrant the discovery. In ruling on a discovery motion, the presiding commissioner shall recognize all privileges recognized by law.

Subpart 3. Noncompliance. Upon the failure of a party to reasonably comply with an order of the presiding commissioner made pursuant to subpart 2, the presiding commissioner may make a further order as follows: A. An order that the subject matter of the order for discovery or any other relevant facts shall be taken as established for the purposes of the case in accordance with the claim of the party requesting the order; B. An order refusing to allow the party failing to comply to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence.

Subpart 4. Protective Order. When a party is asked to reveal material considered to be proprietary information or trade secrets, that party shall bring the matter to the attention of the presiding commissioner, who shall make such protective orders as are reasonable and necessary or as otherwise provided by law.

Subpart 5. Filing. Copies of a party's requests for discovery as well as the responses to those requests and copies of discovery depositions shall not be filed with the Commission unless otherwise ordered by the presiding commissioner or unless they are filed in support of any motion or unless they are introduced as evidence in the hearing.

RULE 16. Requests for Admission of Facts or Opinions

A party may serve upon any other party a written request for the admission of relevant facts or opinions, or of the application of law to relevant facts or opinions, including the genuineness of any document. The request must be served at least fifteen (15) days prior to the hearing, and it shall be answered in writing by the party to whom the request is directed within ten (10) days of

receipt of the request. The written answer shall either admit or deny the truth of the matters contained in the request or shall make a specific objection thereto. Failure to make a written answer within ten (10) days will result in the subject matter of the request being admitted unless it can be shown that there was a justifiable excuse for failing to respond.

RULE 17. Depositions to Preserve Testimony

Upon the request of any party, the presiding commissioner may order that the testimony of any witness be taken by deposition to preserve that witness's testimony in the manner prescribed by law for depositions in civil actions. The request shall indicate the relevancy of the testimony and shall make a showing that the witness will be unable or cannot be compelled to attend the hearing or show other good cause.

RULE 18. Subpoenas.

Subpart 1. Request. Pursuant to Chapter 141.50 (I), any party may request in writing that the Chair, the presiding commissioner or the hearing committee apply to the District Court for a subpoena to require a witness to appear at any hearing (or at any deposition held pursuant to the authority of Chapter 141.80 (c)(5) to give testimony or to require the production at the hearing or deposition of any books, papers or documents relative to the complaint which is the subject of the proceeding. The request for subpoena(s) must be filed within fourteen (14) days of the hearing or deposition, and state the name(s) and last known home or business address of the person(s) to be subpoenaed, and shall describe with sufficient particularity the books, papers or documents desired. The person to whom the request is made may require the proponent of the request to state reasons why such witnesses or other materials are needed.

Subpart 2. Procurement; Service; Challenge. The Chair, the presiding commissioner, or the hearing committee shall, if it grants the request for the subpoenas, direct the Department to arrange for the procurement of the requested subpoenas pursuant to Chapter 141.80 (c)(5). The party requesting the subpoenas shall make the request within fourteen (14) days of the hearing or deposition, and shall tender to the Department a check payable to the District Court Administrator for the cost of the subpoenas. The party requesting the subpoena(s) is responsible for serving it in a proper and timely manner. Any person who wishes to challenge a subpoena must do so by proper motion before the issuing court, after giving notice to the requesting party and the City Attorney.

RULE 19. Sanctions

If either party believes that the other is intentionally and frivolously delaying the proceedings in bad faith, they may bring a motion before the presiding

commissioner by following the procedures in RULE 14. If the presiding commissioner determines that a party has deliberately delayed the proceedings for immaterial, meritless, trivial or unjustifiable reasons, after also giving consideration to the number of issues and amount of damages in controversy, any pattern of similar acts by the party, and the effects of delay, the presiding commissioner shall issue an order containing any of the following:

- A. That the party shall cease and desist from the acts;
- B. Compelling cooperation during further pendency of the case;
- C. Dismissing any or all charges or defenses to charges, which ever may be appropriate;
- D. Foreclosing the testimony of specified witnesses or the presentation of evidence on specified issues;
- E. That the delay will be taken into consideration in awarding damages or attorney fees; or
- F. Any sanctions available in civil cases in the District Court of Minnesota.

RULE 20. Rights and Responsibilities of Parties

Subpart 1. Generally. All parties shall have the right to present evidence, rebuttal testimony, and argument with respect to the issues, and to cross-examine witnesses.

Subpart 2. Necessary Preparation. A party shall have all evidence to be presented, both oral and written, available on the date for hearing. Requests for subpoenas, depositions, or continuances shall be made within a reasonable time after their need becomes evident to the requesting party. In cases where the hearing time is expected to exceed one day, the parties shall be prepared to present their evidence at the date and time ordered by the presiding commissioner or as agreed upon at a prehearing conference.

Subpart 3. Responding to Orders. If the presiding commissioner orders that parties do an act or not do an act, the parties shall comply with the order. If a party objects to an order, the objection shall be stated in advance of the order as part of the record. If the party has no advance knowledge that the order was to be issued, any objection shall be made as part of the record as soon as the party becomes aware of the order.

Subpart 4. Copies. The presiding commissioner and hearing committee shall send copies of all orders or decisions to all parties simultaneously. Any party sending a letter, exhibit, brief, memorandum, or other document to the presiding commissioner or the hearing committee shall simultaneously send a copy to all other parties; provided, however, that this requirement shall not apply to requests for subpoenas.

Subpart 5. Representation by Attorney. A party need not be represented by an attorney. If a party has notified other parties of that party's representation by an attorney, all communications shall be directed to that attorney.

RULE 21. Witnesses

Any party may be a witness and may present witnesses on the party's behalf at the hearing.

All oral testimony at the hearing shall be under oath or affirmation. At the request of a party or upon the presiding commissioner's own motion, the presiding commissioner shall exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

RULE 22. Rules of Evidence

Subpart 1. Admissible Evidence. The presiding commissioner may admit all evidence which possesses probative value, including hearsay, if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs. The presiding commissioner shall give effect to the rules of privilege, recognized by law. Evidence which is incompetent, irrelevant, immaterial, or unduly repetitious shall be excluded.

Subpart 2. Evidence Part of Record. All evidence to be considered in the case, including all records and documents in the possession of the Department not otherwise excluded under these Rules, or a true and accurate photocopy thereof, must be offered by a party and made a part of the record of the case. No other factual documentary or testimonial information or evidence not so offered shall be considered in the determination of the case.

Subpart 3. Documents. Documentary evidence in the form of copies or excerpts may be received or incorporated by reference in the discretion of the presiding commissioner or upon agreement of the parties. Copies of a document shall be received to the same extent as the original document unless a genuine question is raised as to the accuracy or authenticity of the copy or, under the circumstances, it would be unfair to admit the copy in lieu of the original.

Subpart 4. Official Notice of Facts. The hearing committee may take notice of judicially cognizable facts but shall do so on the record and with the opportunity for any party to contest the facts so noticed.

Subpart 5. Burden of Proof. The complainant must prove the fact at issue by a preponderance of the evidence. If the respondent asserts an

affirmative defense, the respondent shall have the burden of proving the existence of the defense by a preponderance of the evidence.

Subpart 6. Examination of Adverse Party. A party may call an adverse party or managing agent, or employees or an officer, director, managing agent, or employee of the state or any political subdivision thereof or of a public or private corporation or of a partnership or association or body politic which is an adverse party, and interrogate that party by leading questions and contradict and impeach that party on material matters in all respects as if that party had been called by the adverse party. The adverse party may be examined by that party's counsel upon the subject matter of that party's examination in chief under the rules applicable to direct examination, and may be cross-examined, contradicted, and impeached by any other party adversely affected by the testimony.

RULE 23. Hearing Record

Subpart 1. Content The hearing record shall contain the complaint, the answer; the Director's or review committee's determination; prehearing statement; motions; orders; evidence offered or considered; offers of proof; objections and rulings thereon; all memoranda and briefs; a transcript of the proceedings, if one was prepared; and the Findings of Fact, Conclusion of Law, Orders and Memoranda after a decision in the case.

Subpart 2. Verbatim Record. A verbatim record of the hearing shall be taken. The presumptive method of recording the proceeding shall be by using a court reporter, whose presence shall be secured and paid for by the Department, unless all parties agree at the prehearing conference to use a tape recorder. However, the hearing committee may order that a tape recorder be used in lieu of a court reporter at a given hearing if exigent circumstances

Subpart 3. Transcript; Prior to Appeal. The verbatim record shall be transcribed if requested by a party. If a transcription is made, a copy of the transcript shall be provided by the requesting party to the hearing committee. The cost of the transcript shall be paid by the requesting party and other persons who request copies.

Subpart 4. Transcript; Appeal. In the event a decision is appealed pursuant to Chapter 141.60 (b), the petitioner shall order and pay for the necessary transcript according to the pertinent provisions of the 'Minnesota Rules of Appellate Procedure.' In the event the decision is enforced pursuant to Chapter 141.60 (c), the respondent shall bear the cost of any full or partial transcript which the District Court deems necessary to decide the matter. In either event, a party who is responsible for the cost of a transcript and who claims indigency may file the necessary affidavits

with the hearing committee, who shall decide whether to certify the party's indigent status in the same manner and with the same authority as a trial court. If indigence status is certified by the hearing committee, the Department shall pay for the transcript.

RULE 24. Continuances

Requests for a continuance of a hearing shall be granted upon a showing of good cause. Unless time does not permit, a request for continuance of the hearing shall be made in writing to the presiding commissioner and shall be served upon all parties of record. In determining whether good cause exists, due regard shall be given to the ability of the party requesting a continuance to effectively proceed without a continuance. A request for continuance filed within five business days of the hearing shall be denied unless the reason for the request could not have been earlier ascertained.

'Good cause' shall include: Death or incapacitating illness of a party, representative, or attorney of a party; a court order requiring a continuance; lack of proper notice of the hearing; a substitution of the representative or attorney of a party if the substitution is shown to be required; a change in the parties or pleadings requiring postponement; and agreement for a continuance by all parties provided that it is shown that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the case and the parties and the presiding commissioner have agreed to a new hearing date, or the parties have agreed to a settlement of the case.

'Good cause' shall not include: Intentional delay; unavailability of counselor or other representative due to engagement in another judicial or administrative proceeding unless all other members of the attorney's or representative's firm familiar with the case are similarly engaged, or if the notice of the other proceeding was received subsequent to the notice of the hearing for which the hearing is sought; unavailability of a witness if the witness' testimony can be taken by deposition; and failure of the attorney or representative to prepare for the hearing in a timely manner. During a hearing, if it appears in the interests of justice that further testimony should be received and sufficient time does not remain to conclude the testimony, the hearing committee shall either order the additional testimony be taken by deposition or continue the hearing to a future date and oral notice on the record shall be sufficient.

RULE 25. Hearing Committee Conduct

Subpart 1. Ex Parte Communication. The members of the hearing committee or a hearing examiner shall not communicate, directly or indirectly, in connection with any issue of fact or law with any person, other than another member of the hearing committee, concerning any pending case except upon notice and opportunity for all parties to

participate. When these rules authorize communications contrary to this rule, the communications shall be limited to only those matters permitted by these rules. Members of the hearing committee or the hearing examiner may respond to questions relating solely to procedures for the hearing without violating this rule. Members of the hearing committee or the hearing examiner may also communicate with the City Attorney's office, as authorized by Chapter 141.70, without violating this part.

Subpart 2. Investigation; Questioning. The hearing committee shall take no part in any independent investigation into the facts or issues involved in the case. However, the hearing committee may ask questions of witnesses called by the parties. Additionally, prior to the conclusion of the hearing and after the parties have rested, the hearing committee may call any witness, by subpoena or otherwise, to testify to any material issue and may receive any exhibit.

Subpart 3. Role of Alternate. The commissioner appointed as an alternate member of the hearing committee shall be available and on-call by telephone during the first half-hour of the first scheduled hearing session to serve in the event that either of the non-attorney members of the hearing committee are unable to be present. If an alternate hears any evidence in the case, the alternate shall replace the original member of the hearing committee in all subsequent proceedings in the case.

Subpart 4. Role of Presiding Commissioner. The presiding commissioner shall decide all questions of law raised during the proceedings. Whenever the presiding commissioner deems it appropriate, he or she may consult with the other members of the hearing committee before ruling on a question of law. However, to avoid the appearance of impropriety, the Presiding Commissioner is the only member of the hearing panel who may attend any pre-hearing conference or proceeding prior to the public hearing, where issues of fact are likely to be discussed or raised by the parties.

RULE 26. Conduct of Hearing

Subpart 1. Procedures. The hearing shall be conducted in substantially the following manner:

- A. The presiding commissioner shall open the hearing by reading the title of the case, briefly stating the issues, including, where applicable, the amount of any monetary claim made by any party.
- B. After opening the hearing, the presiding commissioner shall, unless all parties are represented by counsel or are otherwise familiar with the procedures, state the procedural rules for the hearing including the following:

- (1) All parties may present evidence and argument with respect to the issues and cross-examine witnesses. At the request of the party or the attorney for the party whose witness is being cross-examined, the presiding commissioner may make such rulings as are necessary to prevent repetitive or irrelevant questioning and to expedite the cross-examination, to the extent consistent with disclosure of all relevant testimony and information.
 - (2) All parties have a right to be represented by an attorney at the hearing.
 - (3) The rules of evidence in RULE 22.
- C. Any stipulations, settlement agreements, or consent orders entered into by any of the parties prior to the hearing shall be entered into the record
 - D. The complainant may make an opening statement. All other parties may make statements in a sequence determined by the presiding commissioner.
 - E. After any opening statements, the complainant shall begin with the presentation of evidence unless the parties have agreed otherwise or the presiding commissioner determines that requiring another party to proceed first would be more expeditious and would not jeopardize the rights of any other party. It shall be followed by the other parties in a sequence determined by the presiding commissioner.
 - F. Cross-examination of witnesses shall be conducted in a sequence and in a manner determined by the presiding commissioner to expedite the hearing while ensuring a fair hearing. At the request of a party whose witness is being cross-examined, the presiding commissioner shall make rulings as are necessary to prevent argumentative, repetitive, or irrelevant questioning and to expedite the cross-examination to the extent consistent with the disclosure of all relevant testimony and information.
 - G. Any party may be a witness or may present other persons as witnesses at the hearing. All evidentiary testimony presented to prove or disprove a fact at issue shall be under oath or affirmation.
 - H. When all parties and witnesses have been heard, opportunity shall be offered to present oral final argument, in a sequence determined by the presiding commissioner. Final argument may, in the discretion of the presiding commissioner, be in the form of written memoranda or oral argument, or both. Final argument need not be recorded, in the discretion of the presiding commissioner. Written memoranda may, in the discretion of the presiding commissioner, be submitted simultaneously or sequentially and within time periods as the presiding commissioner may prescribe.
 - I. After final argument, the hearing shall be closed unless a continuance has been ordered. If continued, it shall be either: Continued to a certain time and day, announced at the time of the hearing and made a part of

the record; or continued to a date to be determined later, which must be upon no less than five (5) days' written notice to the parties.

- J. The record of the proceeding shall be closed upon receipt of the final written memorandum, transcript, if any, or late filed exhibits which the parties and the presiding commissioner have agreed should be received into the record, whichever occurs latest.

Subpart 2. Minnesota Clean Indoor Act. The Minnesota Clean Indoor Air Act shall be in effect and strictly enforced at all hearings.

Subpart 3. Accessibility. All hearings will be held in facilities which are architecturally accessible and barrier-free to people with impaired mobility.

RULE 27. Disruption of Hearing

Subpart 1. Cameras. Television, newsreel, motion picture, still or other cameras may be operated in the hearing room while the hearing is in progress only with permission of the hearing committee. Audio recording devices may be operated in the hearing room during the course of the hearing only with the permission of the hearing committee.

Subpart 2. Other Conduct. Pursuant to and in accordance with Minnesota Statutes, Section 624.72, no person shall interfere with the free, proper and lawful access to or egress from the hearing room. No person shall interfere with the conduct of, disrupt, or threaten interference with or disruption of the hearing. In the event of interference, disruption, or threat, the presiding commissioner shall read this subpart to those persons causing such interference or disruption and thereafter proceed as deemed appropriate, which may include ordering the disruptive person to leave or be removed from the hearing.

RULE 28. Hearing Committee Decision

Subpart 1. Based on Record. No factual information or evidence which is not a part of the record shall be considered by the hearing committee in the determination of a case.

Subpart 2. Administrative Notice. The hearing committee may take administrative notice of general, technical, or scientific facts within their specialized knowledge in conformance with Minnesota Statutes, Section 14.60.

Subpart 3. Completion. After conclusion of the hearing, the hearing committee shall make written findings of fact, conclusion of law and an order, which may be supplemented by a written memorandum. Such order

shall constitute the final decision of the Commission and shall be appealable in accordance with Chapter 141.60 (b).

Subpart 4. Service. Service of the findings of fact, conclusion of law and order shall be made in accordance with Chapter 141.50 (m).

Subpart 5. Failure to Make Decision. If a hearing committee fails to render a decision and order within ninety (90) days after the close of the record, any party may petition the Court of Appeals for an order requiring the hearing committee to render a decision and order on the case within such time as the court determines to be appropriate. The order shall be issued unless the hearing committee shows that further delay is reasonable.

RULE 29. Reserved

RULES APPLICABLE TO NO PROBABLE CAUSE HEARINGS

RULE 30. Request for Oral Hearing

Subpart 1. Time for Filing Request. If the complainant wishes to have an oral hearing on an appeal from the Directors determination of No Probable Cause, a request for such hearing must be included in the complainant's notice of appeal filed pursuant to Chapter 141.50 (e).

Subpart 2. Contents of Request. The request for oral hearing must be accompanied by a statement demonstrating the existence of material evidence newly discovered which was not considered by the Department during its investigation and which with reasonable diligence could not have been found and presented to the Department during its investigation.

Subpart 3. Service. The complainant shall serve a copy of the appeal, request for hearing and accompanying statement upon all parties, and shall file an affidavit of service confirming compliance with this subpart.

RULE 31. Review Committee

Subpart 1. Appointment. Within thirty (30) days following the transmittal of an appeal by the complainant of the Director's determination of No Probable Cause, pursuant to Chapter 141.50 (e), the Chair shall assign a case to the next panel of the rotating roster and shall notify the Department of the appointment. If a review committee is to conduct an oral hearing, the Chair shall also appoint a fourth Commissioner to serve as an alternate committee member.

Subpart 2. Notification. Upon notification of the appointment, the Department shall promptly notify the members of the review committee and the alternate or the hearing examiner of the appointment. The Department shall also at this time notify the parties of the names of the review committee members or the hearing examiner.

Subpart 3. Substitutions. The Chair may, if necessary, make substitutions as to the membership of the review committee or the appointment of a hearing examiner. Upon notification of such changes, the Department shall promptly provide notice to the review committee and to the parties of such changes. Should a panelist be unable to participate in the panel to which she or he has been assigned, the panelist requiring replacement shall notify the Chair one month in advance of the panelist' assigned hearing and the Chair shall be responsible for appointing the alternate.

Subpart 4. Review Committee Conduct. The review committee will take no part in any independent investigation into the facts or issues

involved in the case. The review committee will not communicate with any person, including a party or Department staff, with respect to any substantive aspect of the case, except upon prior notice and opportunity for all parties to participate. No member of the review committee shall serve as a member of any hearing committee which may later be named to decide the merits of the case.

RULE 32. Consideration of Hearing Request

The presiding commissioner shall review the complainant's hearing request and accompanying statement to determine whether or not the request for hearing should be granted. Unless the presiding commissioner affirmatively determines that there is material evidence newly discovered which the complainant could not with reasonable diligence have earlier been made known to the Department, the presiding commissioner shall deny the complainant's request for an oral hearing.

RULE 33. Procedure When Request for Oral Hearing is Denied

The presentation to the review committee which the complainant is allowed to make pursuant to Chapter 141.50 (e) shall be made in writing. The complainant's written submission shall be made no later than thirty (30) days after receiving notice of the denial of an oral hearing. The respondent may then file a responsive written presentation within twenty (20) days of receiving the complainant's presentation. The review panel's hearing shall be scheduled as soon as practicable following the submission of the respondent's written presentation, or following the expiration of the twenty-day period in which it may be submitted, whichever is earlier. The notice and order for the hearing shall be served on all parties at least ten (10) days prior to the scheduled date.

RULE 34. Procedure When Request for Oral Hearing Is Granted

Subpart 1. Scheduling of Hearing. The date, time and place of the hearing shall be determined by the presiding commissioner. The notice and order for the hearing shall be served on all parties at least twenty (20) days prior to the scheduled date.

Subpart 2. Notice of Rebuttal Evidence. The opposing parties must notify the complainant and the review committee of any evidence (including witnesses) which they intend to use to rebut the complainant's new evidence at least ten (10) days prior to the hearing.

Subpart 3. Conduct of Hearing.

- A. The complainant may make an opening oral statement. All other parties may then make an oral statement in a sequence determined by the presiding commissioner.
- B. The complainant may present evidence to the review committee; only that evidence which was designated in the complainant's request for

hearing shall be heard or considered at the hearing. The opposing parties may then present any rebuttal evidence; only that rebuttal evidence which was disclosed pursuant to Subpart 2 shall be heard or considered at the hearing.

- C. The review committee may call for testimony by the Director or any other Department staff which the review committee deems appropriate to hear, for the purpose of clarifying the investigation process and/or for the finding of no probable cause.
- D. After all evidence has been heard, the parties may make final presentations. The complainant shall give the first presentation, and the respondent(s) shall be heard last. The final presentations may be made in writing, orally, or both, at the discretion of the review committee.

Subpart 4. Continuance. At the discretion of the hearing committee, the hearing may be continued to a date certain.

Subpart 5. Rules of Evidence. The rules of evidence for administrative hearings as set forth in Minnesota Statutes 14.60 and Minneapolis Code of Ordinances Chapter 141.50 (i) shall govern the hearing proceeding. The presiding commissioner shall determine all evidentiary and other legal issues.

Subpart 6: Verbatim Record. A verbatim record of the hearing shall be made, and shall be available to a complainant appealing the review committee's decision. The presumptive method of recording the hearing shall be by using a court reporter, whose presence shall be secured and paid for by the Department, unless all parties agree beforehand to use a tape recorder.

Subpart 7. Counsel. All parties may be represented by counsel at the hearing.

Subpart 8. Other Rules. The provisions of Rule 25, Subpart 4 and Rule 26, Subparts 2 and 3 shall apply to hearings held under this rule.

RULE 35. Record

The record in proceedings pursuant to Chapter 141.50(e), whether by written presentation or after hearing, shall consist of the following:

- (1) Complaint, answer of respondent (if any), all other records and documents in the Department file, not otherwise excluded under these Rules, and all legal motions and rulings on them;
- (2) Any testimony and other evidence received at a review hearing;
- (3) Matters judicially noticed;
- (4) Questions and offers of proof, objections, and rulings on them which arise at a review hearing;

- (5) The written presentations submitted by the parties, including legal briefs and memoranda (if any);
- (6) Any transcript prepared.

RULE 36. Decision of Review Committee

A decision of the review committee shall be made within twenty (20) days of the hearing, unless otherwise ordered by the review committee. The review committee may orally notify both parties of the result of its decision, and may request the prevailing party to submit written findings of fact and conclusions of law, if required by Rule 37.

RULE 37. Standard of Review

The review committee shall view the entire record in the light most favorable to the Director's determination of no probable cause. The Director's determination shall be sustained unless the review committee, applying this standard, finds that the Director's determination of no probable cause was clearly erroneous. If the complainant has presented new evidence (regardless of whether the respondent has presented rebuttal evidence) and the review committee either reverses the Director's determination outright or remands the case to the Department for further investigation, the review committee's decision must contain express findings of fact and conclusions of law. If the decision is to remand the case for further investigation, the decision must indicate specific areas in which the investigation is to be supplemented. A decision sustaining the Director's determination may be made summarily, but the review committee may make findings of fact and conclusions of law at its discretion.

RULE 38. Action Following Remand

If the review committee orders the case remanded to the Department for further investigation, and if after conducting that investigation the Director determines that probable cause is still lacking, the Director shall report that opinion, and the results of the further investigation, in writing, to the original review committee appointed to hear the case. The review committee shall then make a final decision on the entire record, without further written or oral presentations by the parties.

RULE 39. Appeal

A complainant who is aggrieved by a decision of the review committee sustaining the Director's determination of no probable cause may seek judicial review pursuant to Chapter 141.60 (b).

RULES APPLICABLE TO CONTRACT COMPLIANCE HEARINGS

RULE 40. Panel Appointment

No later than three business days after a complaint alleging contract non-compliance is certified to the Commission by the Department pursuant to Chapter 139.50 (a)(8)(d), the Chair shall appoint either a panel of three members of the Commission or a hearing examiner to hear the case. If a Commission panel is appointed, the presiding commissioner shall be an attorney. Once the Chair has informed the Department of the appointment(s), neither the Director nor the complaining official may withdraw the complaint except upon motion to the contract compliance panel.

RULE 41. Prehearing Conference

Immediately upon receiving notice of appointment to a contract compliance panel, the presiding commissioner shall schedule a prehearing conference for a date no later than seven (7) days after receipt of notice of the appointment, and shall notify the Department of the date. The Department shall immediately procure suitable facilities in which to hold the prehearing conference, shall notify the parties of the date and location by telephone and letter, and shall transmit to each party a prehearing statement form which must be completed by each party.

An affidavit of notice by telephone and mail shall be filed by the Department staff member who contacts the party or the party's attorney of record. The presiding commissioner shall serve as the prehearing officer. The provisions of Rule 12 shall govern the prehearing conference. If the case is not settled at the prehearing conference, the date of the final hearing shall be scheduled so as to comply with the thirty (30) day limit established by Chapter 139.50 (a)(8)(d). The presiding commissioner and the Department shall act with all the dispatch necessary to issue and serve the prehearing order so as to give all parties as much notice as possible regarding the terms of the prehearing order. The order shall set strict deadlines for the submission of requests for subpoenas so as to ensure compliance with the thirty (30) day limit.

RULE 42. Hearing

The provisions of Rules 14, 18 and 26 shall govern the conduct of the hearing. The provisions of Minnesota Statutes §14.60 and Rule 22 shall govern the receipt of evidence at the hearing.

RULE 43. Panel Decision

After the conclusion of the hearing, the contract compliance panel shall determine whether the respondent contractor is or is not in compliance with the requirements of Chapter 139.50 and shall make specific findings of fact to support its conclusions. If the contract compliance panel concludes that the respondent contractor is not in compliance with the requirements of Chapter

139.50, the panel shall order the imposition of whatever sanctions authorized by Chapter 139.50 (a) (7) the panel deems just and proper.

CONSTRUCTION OF RULES

RULE 44. Construction

Rules 1 - 44 are to be liberally construed so as to provide for the just and efficient resolution of disputes arising out of the civil rights ordinances. Unless a provision of the rules conflicts with an express prohibition contained in a controlling statute, ordinance or court ruling, these rules shall be given the full force and effect of law at all hearings governed by them.