STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION

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CARL W. GLATT
Executive Director

May 17, 1971

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 5/17/71

The Honorable John D. Rockefeller IV
Secretary of State
State of West Virginia
State Capitol
Charleston, West Virginia

Dear Sir:

Enclosed are copies of the rules and regulations issued by the West Virginia Human Rights Commission. These rules and regulations are designated Series I of chapter 5-11 of the West Virginia Administrative Regulations.

I hereby certify that the attached regulations are true and accurate copies adopted by this Commission on May 13, 1971.

Very truly yours,

Carl W. Glatt

Carl W. Glatt
Executive Director

CWG/ae

obsolete
effective June 17, 1971
to June 14, 1975

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STATE OF WEST VIRGINIA

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS
WEST VIRGINIA HUMAN RIGHTS COMMISSION

Chapter 5-11
Series I
(1971)

Subject: Rules and Regulations Pertaining to the West Virginia Human Rights Commission

Section I. General

1.01. Authority - These regulations are issued under authority of West Virginia Code, chapter 5, article 11, section 8, subsection h, in accordance with the provisions of chapter 29-a, article 3, of the West Virginia Code.

1.02. Effective Date - These regulations were promulgated on the 13th day of May, 1971 and became effective on the 17th day of June, 1971.

1.03. Filing Date - These regulations were filed in the Office of the Secretary of State on the 17th day of May, 1971.

Section 2. Definitions
When used in these regulations:

2.01. The term "Commissioner" shall mean one of the duly appointed members of the Human Rights Commission.

2.02. The term "Chairman" shall mean the Chairman of the Human Rights Commission elected by the Commissioners.

2.03. The term "Investigating Commissioner" shall mean the Commissioner duly designated by the Commission to make investigation of a verified complaint filed with this Commission.

2.04. The term "Hearing Commissioner" shall mean the Commissioner

designated by the Chairman to be a member of the hearing panel.

2.05. The term "Commission's Attorney" shall mean the attorney assigned by the Attorney General to render legal services to the Commission.

2.06. The term "complaint" shall mean a written statement signed under oath before a notary public and filed with the Commission alleging an unlawful discriminatory practice.

2.07. The term "complainant" shall mean any person, Commission member, or the Attorney General filing a complaint with the Commission.

2.08. The term "respondent" shall mean any person against whom a complaint has been filed alleging an unlawful discriminatory practice within the meaning of this chapter and article.

2.09. The term "party" or "parties" shall mean the complainant, the respondent, and any person authorized by the Commission to intervene in any proceeding.

2.10. The term "Hearing Examiner" shall mean the attorney employed by the Commission for the conduct of the public hearings authorized by subdivision (d) (3), section eight of this article.

2.11. The term "panel" shall mean the Commission member and Hearing Examiner appointed under the provisions of Code 5-11-8 (d) (3).

Section 3. Complaints

3.01. Complaint Assistance - Assistance in drafting and filing complaints shall be available to complainants at the Commission offices or through the Commission and its professional staff.

3.02. Forms - The complaint shall be in writing, the original and two copies being signed by the complainant and verified before a notary public or other person duly authorized by law to administer oaths and take acknowledgements. The complaint, where feasible, shall be on forms prepared by the Commission, blanks of which shall be supplied by the Commission upon request.

3.03. Contents - A complaint shall contain the following:

a. The full name and address of the complainant.

b. The full name and address of the respondent.

c. The alleged unlawful discriminatory practice and a statement of the particulars thereof.

d. The date or dates of the alleged unlawful discriminatory practice, and if the alleged unlawful discriminatory practice is of a continuing nature, the dates between which said continuing acts of discrimination are alleged to have occurred.

e. Names and addresses of witnesses, if known and willing to be identified.

f. A statement as to any other action instituted in any other forum based on the same grievance as is alleged in the complaint, together with a statement as to the status or disposition of such other action.

3.04. Place of Filing - A complaint shall be filed with the Commission at its office in Charleston.

3.05. Time of Filing - The complaint must be filed within ninety (90) days after the date of the occurrence of the alleged unlawful discriminatory practice. If the unlawful discriminatory practice is of a continuing nature, the date of the occurrence of said unlawful discriminatory practice shall be deemed to be any date subsequent to the commencement of the unlawful discriminatory practice up to and including the date upon which the unlawful discriminatory practice shall have ceased.

3.06. Manner of Filing - The complaint may be filed by personal delivery, ordinary mail, or certified mail, addressed to the Commission's office.

3.07. Amendment - The Commission or the complainant shall have the power reasonably and fairly to amend the complaint as a matter of right at any time before hearing thereon, and thereafter at the discretion of the panel.

3.08. Withdrawal - A complaint may be withdrawn at any time by the complainant.

Section 4. Conciliation

4.01. If the Investigating Commissioner and/or the Executive Director find that probable cause exists for crediting the allegations of the complaint, he (or such other Commissioner as the Commission may designate) and/or the Executive Director and the Commission's staff shall immediately endeavor to eliminate the unlawful discriminatory practice by conference and conciliation.

4.02. Before commencing such conference and conciliation, the Executive Director shall enter into the record of the case progress a statement that formal conference and conciliation procedures are to be commenced based on the finding of probable cause.

4.03. If the Investigating Commissioner (or such other Commissioner as the Commission may designate) and/or the Executive Director and the Commission's staff shall succeed in endeavors under conference and conciliation, the case shall be closed as a satisfactory adjustment and the parties shall be notified by certified mail, return receipt requested, of the terms of the adjustment.

Section 5. Notice of Hearing

5.01. Notice of Hearing - The notice of hearing, together with a copy of the complaint as the same may have been amended, shall be in writing and shall be served upon the respondent in the manner provided by law for the service of summons in civil actions. It shall inform the respondent he may file a written answer to the complaint.

5.02. Time of Notice - The notice of hearing shall be served at least 30 days prior to the time set for the hearing.

Section 6. Answer

6.01. Time of Filing - The respondent against whom a verified complaint, as the same may have been amended, is filed and on whom a notice of hearing and a copy of such complaint has been served, may file a written verified answer in person or through an attorney-at-law within ten (10) days from the service of such complaint and notice of hearing.

6.02. Place and Manner of Filing - The answer must be filed in triplicate at the office of the Commission. The filing shall be by personal delivery or by certified mail, return receipt requested.

6.03. Extension of Time For Filing - Upon application at any time prior to the specified time for filing an answer, as set forth in 6.01., above, the Chairman may for good cause shown extend the time within which the answer may be filed.

6.04. Form of Answer - The answer shall contain a general or specific denial of each and every allegation of the complaint controverted by the respondent or a denial of any knowledge or information thereof sufficient to form a belief and a statement of any matter constituting a defense. The answer shall contain the post office address of the respondent, and if he is represented by an attorney, the name and post office address of said attorney.

6.05. Failure to Deny or Admit - Any allegation in the complaint which is not denied or admitted in the answer, unless the respondent shall state in the answer that he is without knowledge or information sufficient to form a belief, shall be deemed admitted.

6.06. Amendment of Answer - The answer or any part thereof may be amended as a matter of right at any time before the hearing and thereafter in the discretion of the panel on application duly made therefor. An original with two copies of the amended answer shall be filed with the Commission.

6.07. Amendment of Answer Upon Amendment of Complaint - In any case where a complaint has been amended, the respondent shall have an

opportunity to amend his answer within such period as may be fixed by the panel, and the hearing shall be postponed to a date at least 15 days after the filing of such amended complaint.

6.08. Service of Answer - The Commission shall, within 10 days after the date of the filing of an answer or amended answer, but in any case not less than 3 days before the date set for hearing, serve a copy of such answer or amended answer on the complainant at his last known address.

6.09. Failure to File Answer - The panel may proceed, notwithstanding any failure of the respondent to file an answer within the time provided herein, to hold a hearing at the time and place specified in the notice of hearing and may make its findings of fact and enter its order upon the testimony taken at the hearing.

6.10. Filing of Late Answer - Where respondent has failed to answer as set forth in 6.01., above, or under an extension granted pursuant to 6.03., above, upon application the Chairman may for good cause shown permit an answer to be filed.

Section 7. Hearings

7.01. Appearances - In the discretion of the panel, any other person may be allowed to intervene, in person or by counsel, for such purposes and to such extent as the panel shall determine, provided, such person makes application to intervene at least ten (10) days before the hearing.

7.02. Who Shall Conduct - Hearings shall be conducted by one Commissioner designated by the Chairman and a Hearing Examiner, except the Investigating Commissioner assigned to this complaint shall not serve as

a Hearing Commissioner. The Hearing Examiner shall preside and conduct the hearing.

7.03. Place of Hearing - Hearings shall be held in the county of residence of the respondent or, when agreed to by the parties, where the acts complained of occurred. In either case the place of the hearing will be designated by the Chairman of the Commission.

7.04. Procedure of Hearing - Pursuant to the pertinent provisions of chapter 29-a, article 5, of the West Virginia Code:

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

b. The Hearing Examiner may call and examine witnesses, direct the production of papers or other matter present in the hearing room, and introduce documentary or other evidence.

7.05. Stipulations - Written stipulations may be introduced in evidence, if signed by the persons sought to be bound thereby, or by their attorneys. Oral stipulations may be made on the record at open hearings.

7.06. Continuation and Adjournments - The panel may continue a hearing from day to day or adjourn it to a later date or to a different place by announcement thereof at the hearing or by appropriate notice to all parties.

7.07. Motions and Objections - Motions made during a hearing and objections with respect to the conduct of a hearing, including objections to the introduction of evidence, shall be stated orally and shall be included in the stenographic report of the hearings.

7.08. Oral Arguments and Briefs - The panel shall permit the parties to submit oral arguments and to file briefs within such time limits as the panel may determine.

7.09. Improper Conduct - The Hearing Examiner may exclude from the hearing room or from further participation in the proceedings any person who engages in improper conduct.

7.10. Rights of Parties at Hearings - All parties to a hearing may call, examine and cross examine witnesses and introduce papers, documents or other evidence into the record of the proceedings, subject to the ruling of the Hearing Examiner.

Section 8. Transcript

8.01. Transcript of the Record - Pursuant to the pertinent provisions of chapter 29-a, article 5, of the West Virginia Code, the record of the proceedings before the Commission shall consist of the complaint and the amended complaint, if any, notices of hearing, written applications, stipulations, motions, orders, stenographic transcript of the record on the hearing, exhibits, depositions, the final order, and along with the final order any modifications thereof.

Section 9. Orders

9.01. Contents of Order - Every final order of the Commission

issued after a hearing shall be made pursuant to the pertinent provisions of chapter 29-a, article 5, section 3, of the West Virginia Code.

9.02. Service of Orders -

a. Copies of orders shall be delivered in all cases by the Commission to the complainant, respondent, Attorney General, and to such other public officers as the Commission may deem proper.

b. Copies of orders shall be sent certified mail, return receipt requested, accompanied by a notice of the statutory right to judicial review.

9.03. Filing of Orders - All orders rendered after a hearing shall be filed at the office of the Commission and shall be open to public inspection during regular office hours of the Commission.

Section 10. Certification

10.01. Certification - The Chairman or the Executive Director shall be authorized to certify all documents or records of the Commission.

Section 11. Availability of Regulations

11.01. Availability of Regulations - The regulations of the Commission shall be on file in the office of the Secretary of State.

11.02. Additional Copies - Additional copies shall be available to the general public at the office of the Commission and upon request.

Section 12. Construction

12.01. Construction - These rules and regulations shall be liberally construed to accomplish the purposes of the Act and the policies of the Commission.