

RULES OF PROCEDURE FOR HEARINGS

BEFORE

THE PRINCE GEORGE'S COUNTY HUMAN RIGHTS COMMISSION

(As amended June, 2024)

PREAMBLE

These rules are subordinate to all provisions of the Maryland Administrative Procedure Act; Prince George's County Charter ("Charter"); and Prince George's County Code, Subtitle 2, Division 12, Office of Human Rights ("Act").

The rules of parliamentary practice and procedure as set forth in the latest edition of Robert's Rules of Order shall govern the Commission in all cases to which they are applicable and not in conflict with the rules found herein.

1. PUBLICATION AND INDEXING OF THE RULES

(a) These Rules and amendments are promulgated pursuant to Section 2-188 of the Act and have the approval of the County Executive. Any proposed changes are subject to the approval of the County Executive.

(b) These Rules and any Rules adopted subsequently, shall be presented in full in a codification which shall be available from the Human Rights Commission ("Commission") to the public upon request. The charge, if any, for copies of these Rules shall not exceed the cost of publication and distribution.

2. ADOPTION, AMENDMENT AND REPEAL OF RULES

(a) The public shall be notified through the Prince George's County website and at least two county newspapers of record, either print or electronic media, as defined in Section 1008 of the Charter and on a special bulletin board in the Prince George's County Office of Human Rights (hereinafter, Office of Human Rights), of any proposed changes to these Rules; and the public shall be afforded an opportunity to comment prior to final adoption in a public meeting. No Rules shall be adopted, amended, or repealed by the Commission without having first been considered at a previously announced public meeting.

(b) Any resident of Prince George's County or any person who may be covered by the Act, may petition the Commission requesting the promulgation, amendment or repeal of any Rule. Such petition must be by letter (e-mail or regular mail) addressed to the Chair of the Commission. Upon receipt of the petition, the Commission shall schedule consideration of the petition within a period of not less than ten (10) business days and not more than thirty (30) calendar days. Upon a finding by the Commission of sufficient merit, the petition shall be processed in accordance with the procedure set forth in Sections 1(a)(b) and 2(a). If the petition is not accepted for formal action by the Commission, the petitioner shall be informed of the Commission decision within ten (10) business days from the date of the Commission decision.

3. COMPLAINTS

(a) The Executive Director of the Office of Human Rights (hereinafter, Executive Director) shall develop a standard form for persons to file complaints under the Act, except in cases where dual reporting Federal or State Agencies under contract with the Office of Human Rights require use of another complaint form.

(b) Any person alleging a violation of their civil rights under the Act may file a complaint with the Office of Human Rights.

(c) Any staff person in the Office of Human Rights may assist a Complainant with completing the complaint form.

(d) Each complaint must be signed by the charging party unless they are unable to sign, in which case, their designated representative may sign the complaint.

4. CONFIDENTIALITY OF INVESTIGATIONS

During the investigation of any complaint alleging a violation of the Act and these Rules, and until the complaint is heard at a public hearing, the activities of all staff in the Office of Human Rights in connection with the investigation shall be conducted with due regard for the privacy of those involved; and all matters shall be treated as confidential. Release of any investigation material by the Office of Human Rights or the Commission is prohibited until the public hearing.

5. REQUISITES FOR PUBLIC HEARINGS

(a) Public hearings shall be convened in cases in which the Executive Director has, after a thorough investigation, made a written determination that probable cause exists to find that discrimination has occurred, and after conciliation has failed.

A public hearing shall be either before the full Commission or a Hearing Panel, as described below. In this section, all references to a Hearing Panel shall also apply to the full Commission, should the public hearing be before the full body of Commissioners.

(1) The Executive Director will submit a Notice of Intent to Certify to the Complainant and Respondent (and their respective counsel, if represented) in advance of the scheduled conciliation. The Notice of Intent to Certify shall inform the Complainant and Respondent of their respective rights in the hearing process before the Commission if conciliation is unsuccessful. Along with the Notice of Intent to Certify, the Executive Director shall provide the parties with these Rules and the Act.

(2) The Executive Director shall, within fifteen (15) business days of the failure of a conciliation, file a Certification for Public Hearing with the Commission. The Certification shall constitute the Executive Director's charging statement. The Certification shall specify the actions of the Respondent that the Executive Director considers to be violations of the Complainant's civil rights and the supporting evidence that is anticipated to be introduced at the public hearing.

(3) Neither the Notice of Intent to Certify nor the Certification for Public Hearing shall include any charge of a probable violation that the Executive Director is not prepared to support with relevant evidence.

(b) At the first Commission meeting following issuance of a Certification for Public Hearing, as specified in Section 5(a)(2), the Executive Director shall bring the case to the attention of the Commission by adding the case to the Closed Agenda of the Commission Meeting for action. All Commissioners shall receive a copy of the Certification for Public Hearing, Letter of Determination, and a blank draft Case Scheduling Order. The complaint file shall not be made available to the Commission at this time.

(c) Once the Executive Director certifies a case to the Commission for public hearing in accordance with Section 5(a)(2), the Commission Chair shall assign the case to a Hearing Panel of Commissioners during the Closed Session of the Commission meeting at which the matter is brought before the Commission. The Hearing Panel shall agree upon proposed public hearing dates. Upon returning to Open Session, the Commission shall report the members of the Hearing Panel and the proposed public hearing dates. Public hearing dates shall be finalized in consultation with Commission Counsel and, to the extent practicable, mutually agreed to by all parties no later than three (3) business days from the Commission's report at the Commission meeting.

(d) Within three (3) business days of receiving the final hearing dates from the Hearing Panel Chair, Commission Counsel shall draft a Case Scheduling Order. The Chair shall cause the Case Scheduling Order and a written Notice of Public Hearing to be sent by the Commission's Clerk to all parties, along with a copy of the complaint and Letter of Determination from the Executive Director that requires the Respondent to appear to answer the charges of a probable violation at a public hearing, at such time and place, as stated in the written notice.

(e) The Respondent shall be permitted to file a written answer to the complaint in accordance with the Case Scheduling Order. The Respondent shall appear at the public hearing and may be represented by counsel. Respondent may testify, present witnesses, and examine and cross-examine witnesses.

(f) The Hearing Panel Chair or the Commission Chair, as needed, in consultation with Commission Counsel, shall issue orders on motions filed prior to the public hearing.

6. PRE-HEARING CONFERENCE

The Hearing Panel Chair may, at their discretion, schedule one or more pre-hearing conference(s).

7. SUBPOENA

(a) The power to issue subpoenas shall be by majority vote of the full Commission in accordance with Section 2-194 of the Act. Response to a Commission subpoena shall be within a specified time. The Commission shall consider any reasonable request for an extension of time to respond to the Commission subpoena.

8. REQUIREMENTS OF A QUORUM

A majority of appointed Commissioners shall constitute a quorum for a monthly Commission meeting. A minimum of three (3) appointed Commissioners shall constitute a quorum for a Hearing Panel to conduct a public hearing. No decision of the Commission or a Hearing Panel shall be made without a quorum present.

9. THE RULES OF EVIDENCE IN HEARINGS

(a) The Commission shall receive and consider all relevant evidence, including affidavits and testimony from witnesses, documentary evidence, electronic evidence, statistical evidence, and tangible evidence. The introduction and probative weight of evidence shall be at the discretion of the Hearing Panel using the Maryland Rules of Evidence as a guide only.

(b) All evidence introduced and received by the Commission in any case, shall be made a part of the record in the case. Evidence may be received in the form of portable document format (PDF), copies, excerpts or incorporated by reference, or as otherwise directed by the Clerk of the Commission.

(c) Exhibits must be presented in hard copy binders or digital binders that are searchable via digital bookmarks.

(i) When public hearings are held in person, a total of five (5) copies of the exhibits must be provided to the Clerk of the Commission at the public hearing, for distribution as follows: three (3) copies of each exhibit shall be provided to the Hearing

Panel; one (1) copy of each exhibit shall be provided to the Counsel for the Commission; and one (1) copy of each exhibit shall be provided to the Court Reporter.

(ii) When public hearings are held virtually, exhibits must be sent in PDF form to the Clerk of the Commission three (3) business days in advance of the public hearing. Exhibits shall be pre-labeled by each party as Respondent's Exhibit (Number) and Executive Director's Exhibit (Number), as appropriate.

(d) Evidence not submitted in accordance with this section may be excluded on motion of the opposing party, subject to the discretion of the Hearing Panel.

(e) Evidence available during the investigative process and not provided may be excluded on motion of the opposing party, subject to the discretion of the Hearing Panel.

10. HEARING PROCEDURES

Hearings shall be chaired by the Hearing Panel Chair. Testimony taken at all public hearings shall be under oath and recorded by a Court Reporter. The Court Reporter shall prepare a transcript of the hearing. The hearings shall be guided by, but not limited to, the following procedures:

(a) The case in support of the complaint that a violation of the County, State or Federal anti-discrimination laws has occurred shall be presented at the hearing by the Executive Director or designee, beginning with a brief opening statement.

(b) The Respondent or Respondent's representative shall be allowed to make a brief opening statement.

(c) The Executive Director or designee shall have the opportunity to present its case in chief, including calling the Complainant as a witness.

(d) The Respondent or Respondent's representative shall have the opportunity to cross-examine witnesses, including calling the Complainant as a witness.

(e) The Respondent or Respondent's representative shall have the opportunity to present its case in chief.

(f) The Executive Director or designee shall have the opportunity to cross-examine witnesses.

(g) The Executive Director or designee shall be allowed the opportunity to make a brief closing statement.

(h) The Respondent or Respondent's representative shall be allowed the opportunity to make a brief closing statement.

(i) The Executive Director or designee shall be allowed the opportunity to make a rebuttal statement.

(j) At any point in the hearing, any member of the Hearing Panel may question any witness, including the Complainant, after being recognized by the Hearing Panel Chair for that purpose.

(k) After all evidence has been presented by the parties and each has rested their case, the public hearing shall be closed for the taking of additional evidence, unless a party requests prior to the close of the hearing that the record remain open for the taking of additional documentary evidence only. The grant of a request to keep the record open shall be at the sole discretion of the Hearing Panel Chair. The party submitting post-hearing evidence shall have twenty (20) calendar days from the close of the hearing to file any additional documentary evidence with the Hearing Panel Chair and the non-submitting or responding party. Upon receipt of the additional documentary evidence, the non-submitting party or responding party, shall have five (5) calendar days to note any objections to such evidence. In no case shall the record remain open more than thirty (30) calendar days from the close of the hearing. Post-hearing briefs may be requested by the Hearing Panel Chair.

(l) If a party, without just cause, fails to appear at the time and place set by the Commission, or otherwise fails to participate in good faith in Commission proceedings, the Hearing Panel may proceed ex parte.

(m) Pro-se parties are held to the same standards of conduct as represented parties.

(n) No party may file any false or knowingly-inaccurate information or documents. Should such filings occur, the Hearing Panel shall reject those filings.

(o) The Hearing Panel Chair may, upon motion of either party or a member of the Commission, postpone or adjourn the Hearing to a future date, in the interest of justice. Notice of such a future date shall be accomplished in the same manner as that of an initial hearing.

11. FINDINGS, CONCLUSIONS AND RECOMMENDATIONS OF THE HEARING PANEL

(a) All members of the Hearing Panel, including the Alternate Panel Member, must be present at the hearing on all scheduled public hearing dates. Should a Hearing Panel Member be absent from a hearing on any of the scheduled public hearing dates, that member can no longer serve on the Hearing Panel and can neither deliberate nor vote on the case. In the event of such an absence, the Alternate Panel Member will then assume the duties of the absent Hearing Panel Member for the duration of the applicable case[s].

The Hearing Panel shall deliberate and reach a decision on the merits of the case in executive sessions. The Hearing Panel must provide Commission Counsel with a decision

memorandum within fifteen (15) calendar days from the date of the Hearing Panel's receipt of the final transcript of the public hearing. The decision memorandum shall reflect the Hearing Panel's majority vote on the merits of the case. With the assistance of Commission Counsel, the Hearing Panel shall produce a final draft Opinion and Order within forty-five (45) calendar days from the date of the Hearing Panel's decision memorandum.

The Hearing Panel Opinion and Order shall include: (1) a statement of the alleged discriminatory conduct or actions, wrongful actions, and violations of the Act; (2) findings of fact; (3) an analysis of the applicable laws and findings of fact; (4) conclusions of law and a determination of whether or not discrimination or wrongful actions occurred in violation of the Act; (5) any remedies and fines ordered; and (6) an advisal of applicable appeal rights. A Hearing Panel Member who disagrees with any component of the Opinion may file a minority report. Such a minority report need not contain all the same elements of the majority Panel Opinion and Order, but instead may simply articulate the dissenting member's opinion.

(b) Copies of the Hearing Panel Opinion and Order, including any minority report[s], shall be e-mailed to each Commissioner at least five (5) calendar days before the Commission meeting at which the case is scheduled to be voted by the full Commission. If the Opinion and Order are received by the full Commission in four (4) or fewer calendar days before the Commission meeting, the Commission can vote to proceed with a vote on the Opinion and Order during the Closed Session of the meeting.

12. COMMISSION ACTION ON HEARINGS

Upon receipt of the Hearing Panel Opinion and Order and any minority report, the full Commission shall discuss and vote in Closed Session to adopt the Opinion and Order. The Commission shall report their ruling in Open Session.

After the Commission adopts the Opinion and Order as its decision, the adopted Opinion and Order (along with any minority reports) shall be sent to all parties and the Complaining Witness by e-mail or certified mail within three (3) business days from the close of the Commission meeting wherein the matter is heard. Personal service, acknowledged in writing, or e-mail service with delivery receipt, may suffice in lieu of certified mail.

13. APPEAL OF A COMMISSION ORDER

Under Subtitle 2, Division 12, Section 2-197(c) of the Prince George's County Code, if either party is aggrieved by a final decision by the Commission, they are entitled to file an appeal with the Circuit Court, pursuant to Title 7, Chapter 200 of the Maryland Rules of Procedure.

14. DUTIES OF COUNSEL TO THE COMMISSION

Counsel to the Commission shall act in an advisory capacity only. Counsel to the Commission shall not be the agent for the Commission.

15 ENFORCEMENT OF COMMISSION ORDERS

If a Respondent refuses or fails to comply with a Commission Order made within the scope of this Division, then the County may initiate a suit in equity in the Circuit Court, on behalf of the Human Rights Commission, to enforce compliance with any of the provisions of Division 12 § 2-197.

- (a) Following the issuance of a final Commission Order, any involved person may file a notice with the Office of Human Rights asserting a lack of compliance by the Respondent.
- (b) The Office of Human Rights may initiate such a proceedings, *sua sponte*, to ensure compliance.

Amended by a Majority of the Human Rights Commission at the regular Commission Meeting on June , 2024.

Attest: Chair, Charlene Proctor, Esq.

Attest: Vice-Chair, Joseph Reed

APPROVED this _____ day of _____, 2024

By: _____
ANGELA ALSOBROOKS, County Executive
Prince George's County, Maryland