

RULE VI

DISCRIMINATION COMPLAINTS

SECTION 6.1.1 IMPLEMENTATION OF NONDISCRIMINATION POLICY OF THE COUNTY CHARTER

Pursuant to Section 901 of the County Charter, the County shall hire, transfer, promote, discipline or dismiss individuals on the basis of job related qualification, merit and equal opportunity without regard to age, color, creed, disability, national origin, political affiliation, race, religion, sex, sexual orientation or any other non-job related factor, including but not limited to retaliation based on protected activity. (Amended 9-27-05)

In furtherance of that Charter requirement, the duty of the Commission to prescribe, amend and enforce rules for the classified service and the duty of the Commission to enforce the Civil Service provisions of the County Charter through the investigation of the conduct and operation of all departments, it shall be the policy of the Civil Service Commission to investigate complaints of violation of Charter Section 901 and to make such findings and orders as are necessary to insure compliance with Section 901 in accordance with the following procedure.

SECTION 6.1.2 RECEIPT OF COMPLAINT

Except as otherwise provided in the Civil Service Rules, including but not limited to Rule VII, upon receipt of a complaint alleging a violation of Charter Section 901 within 60 days of the alleged discriminatory practice, or knowledge thereof, the Commission shall refer the complaint to the Office of Ethics and Compliance (OEC) for review and report to the Commission. (Amended 9-27-05) (Amended 9-16-14)

SECTION 6.1.3 INVESTIGATION AND HEARING

The Commission may, but need not, appoint one of its members or a hearing board or officer to investigate the matter concurrently with OEC. The Commission shall review the findings of OEC and/or its appointed investigating officer(s). If the complaint is resolved through procedures established by the County for the resolution of such complaints by OEC, the Commission shall receive and file the report. (Amended 9-16-14)

If OEC finds probable cause of a violation of Charter Section 901, and a remedy is requested which is not within the jurisdiction of OEC or the Chief Administrative Office, the Commission shall conduct a hearing in accordance with the following process. In the event OEC does not find probable cause, the Commission may proceed with a hearing in the matter or may receive and file the report. (Amended 9-27-05) (Amended 9-16-14)

SECTION 6.1.4 ISSUANCE OF TEMPORARY ORDERS

Upon the filing of a complaint, the Commission may issue such orders as are necessary to maintain the status quo, to bar further actions relative to the employment process in issue, or to avoid potential continuing damages. Notice and opportunity to be heard shall be given to the respondent and/or the respondent's appointing authority immediately thereafter.

Any such temporary orders shall be served on the complainant, respondent and respondent's appointing authority (parties) and shall be enforced and followed by them. During the preliminary investigation and hearing, if any the Commission may, upon notice to the parties for good cause shown, modify or revoke such orders. The Commission shall serve notice of such action upon the parties. (Amended 11-24-81)

SECTION 6.1.5 DETERMINATION TO CONDUCT HEARING

In the event the Commission makes a determination to conduct a hearing, the Commission will set a hearing date within 20 working days from date of determination. A copy of the discrimination complaint along with the report(s) of OEC and the designated Commission hearing officer, if any, shall be served upon the parties within five working days after Commission determination to proceed with the hearing. (Amended 9-27-05) (Amended 9-16-14)

The Commission in its discretion may appoint one of its members or a hearing board or officer to hear the matter and submit findings and a proposed decision to the Commission. The Commission shall review the findings and the proposed decision before taking final action in the matter.

SECTION 6.1.6 ANSWER

Respondent and/or Respondent's appointing authority shall have five working days from date of service to file an answer with the Commission and serve a copy thereof upon Complainant.

SECTION 6.1.7 FAILURE TO ANSWER

Failure on the part of the Respondent and/or Respondent's appointing authority to file an answer within the time allowed may be construed as an admission of the truth of the charges made and judgment against Respondent may be entered forthwith and filed by the Commission. The Commission may upon the receipt from the Respondent of a statement setting forth reasons acceptable to the Commission for the failure to file such answer, set aside such judgment and proceed with the hearing of evidence submitted in the matter.

SECTION 6.1.8 CONDUCT OF HEARING

The parties shall be entitled to appear personally, produce evidence, have counsel and a public hearing. Technical rules of evidence shall not apply to such hearing, except that all testimony shall be under oath. No informality in any of the proceedings or in the manner of taking testimony shall invalidate any order, decision, rule or regulations made or approved by the Commission.

SECTION 6.1.9 SUBPOENAS

The Commission has the power to issue subpoenas and subpoenas duces tecum, and to compensate persons subpoenaed in accordance with Rule VII.

SECTION 6.1.10 INSPECTION OF DOCUMENTS AND INTERVIEW OF EMPLOYEES

A party who has appealed to the Commission, or a representative designated in writing by such party, shall have the right to inspect any documents in the possession of or under the control of the Respondent or Respondent's appointing authority which are relevant to such hearing and which would be admissible in evidence at a hearing. The Complainant, or designated representative, shall also have the right to interview other employees having knowledge of the acts or omissions upon which the charge was based. Interviews of other employees and inspection of documents shall be at times and places reasonable for the employee(s) and the appointing authority(ies).

SECTION 6.1.11 EXAMINATION OF COMPLAINANT, RESPONDENT AND OTHER PERSONS

At the hearing the Complainant may be examined and may examine or cause any persons to be examined in the manner provided in the Evidence Code. If the Complainant refused to answer any relevant questions upon examination and after being directed by the Commission, hearing board, or officer to answer, the Commission may order that the hearings be stayed until the order is obeyed or may dismiss the complaint.

SECTION 6.1.12 FAILURE TO APPEAR

If the Complainant fails to appear, the Commission may order that the hearing be stayed until the party appears or shall dismiss the complaint if good cause is not shown by Complainant to warrant a continuance.

SECTION 6.1.13 FINDINGS AND DECISION

The findings and decision of the Commission shall be final and shall be certified to the parties and shall forthwith be enforced and followed by all parties.

Upon a determination that a violation of Section 901 of the Charter has occurred, the Commission shall issue such remedial orders as are necessary to correct such violation including, but not limited to, the cancellation of an examination, rescission of certification or termination of an appointment. The Commission may also order the Director to add the name of an injured party to the appropriate regular eligible list. In the event the violation resulted in loss of ascertainable wages or benefits, the Commission may order payment of such wages or other benefits and any and all such other relief as may be appropriate.