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NEBRASKA ADMINISTRATIVE CODE

TITLE 140 - NEBRASKA EQUAL OPPORTUNITY COMMISSION

CHAPTER 4 – COMMISSION RECORDS

Issue Date:

NEBRASKA ADMINISTRATIVE CODE

TITLE 140 NAC 4

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TITLE 140: NEBRASKA EQUAL OPPORTUNITY COMMISSION

CHAPTER 4: COMMISSION RECORDS

001 Confidentiality of Records under the Fair Housing Act

001.01 Conciliation Records

001.01A Conciliation Agreement. Each fully executed conciliation agreement made is a public record unless the parties otherwise agree and the Commission determines that disclosure is not required to further the purposes of the Act.

001.01B Conciliation Proceedings. Except as provided in 001.01A:

001.01B1 nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under the Act without the written consent of the persons concerned.

001.01B2 all records compiled in the course of conciliation are exempt from public disclosure.

001.02 Investigation Records

001.02 Availability to Aggrieved Person and Respondent. The Commission shall:

001.02A make information available to the aggrieved person and respondent derived from an investigation and any final investigative report relating to that investigation, upon request, following the completion of the investigation, as provided by section 20-330(2) of the Act.

001.02A1 Limitation on Release. Under section 20-330(2)(b) of the Act, this release is subject to the federal Privacy Act of 1974, Public Law 93-579, as such act existed on January 1, 2005, and any other state or federal laws limiting the release of confidential information obtained in the course of an investigation under the Act.

001.02B disclose materials in the investigative file to the complainant and respondent to the extent reasonably necessary to further the investigation or conciliation process, as provided by section 20-330(3) of the Act.

001.03 Records of Hearings. The transcript and record of hearing on any contested case is a public record, except for any evidence received in camera pursuant to the Rules of Practice and Procedure, 144 NAC 1 - 007.02A, or otherwise protected under the rules applicable to civil cases in Nebraska district courts pursuant to section 20-336(1) of the Act, or under state public records laws.

001.04 Dismissals. An order dismissing a charge is subject to public disclosure under sections 20-333 (1)(c) and 20-337(7) of the Act.

002 Process for Review of Investigative Records under 20-330(2)

002.01 Location of Review. Any review of records by an aggrieved person or respondent under section 20-330(2), not otherwise confidential or privileged, shall occur at one of the Commission offices in Lincoln, Omaha, or Scottsbluff.

002.02 Request for Review. An aggrieved person or respondent seeking review shall submit a request for review by delivery, by mail, by facsimile, or electronically. All requests for review shall be:

002.02A made in writing to the Executive Director;

002.02B directed to the principal office of the Commission;

002.02C include the appropriate NEB case number and case name;

002.02D be accompanied with a copy of a letter of representation, if the record is to be reviewed by counsel for a party; and

002.02E provide the date and Commission office for which review is requested.

002.03 Timeline for Requests for Review. Because all investigative files are stored in Lincoln at the principal office of the Commission or in off-site storage, requests for review must be submitted:

002.03A at least ten (10) days prior to the date on which review is requested' for parties who wish to review records at Commission offices outside of Lincoln; or

002.03B at least three (3) days prior to the date on which review is requested for parties who wish to review records at Commission offices in Lincoln.

The Commission will provide the files for review within such times if the files are available. In all cases, when the file becomes available at the site for review, the Commission will notify the requester. If, within seven (7) days after such notice, the requester has not conducted the review or made other arrangements for review, the file will be returned.

002.04 Reproduction of Files. Documents may not be copied in the course of a file review but tapes may be listened to and documents may be examined. If the file review is not completed on the arranged date, it may be continued at a date and time thereafter as arranged between the Commission and requester, without submission of an additional request.

003 Review of Public Records

Public records shall be made available to the public for examination, free of charge, during regular business hours, at the Commission's principal office in accordance with Public Records Law, *Neb. Rev. Stat*. § 84-712 et seq.