

NEBRASKA ADMINISTRATIVE CODE

TITLE 142
NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT
RULES AND REGULATIONS

CHAPTERS 1 – 10

Last Issue Date: March 16, 1983
Issue Date: Proposed June , 2012

NEBRASKA ADMINISTRATIVE CODE

ISSUE DATE:

TITLE 142 NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT

TABLE OF CONTENTS

Subject	Statutory Authority	Sections
Definitions	48-1001 to 48-1010	Chapter 1
Procedure	48-1005, 48-1007, 48-1008	Chapter 2
Filing, Amendment and Withdrawal of Charge	48-1005, 48-1007, 48-1008	2.001
Commission Action Upon Charge	48-1007, 48-1008	2.002
Respondent Action Upon Charge	48-1007, 48-1008	2.003
Investigations and Investigative Powers	48-1007 to 48-1009	Chapter 3
Investigative Stage	48-1007	3.002
Service	48-1007	Chapter 4
Manner of Service	84-915	4.001
Proof of Service	84-915	4.002
Service on Parties' Attorney	84-915	4.003
Construction of Rules and Regulations	84-901 to 84-920	Chapter 5
Availability of Rules and Regulations	84-930	Chapter 6
Adoption, Amendment and Recision	84-901 to 84-910	Chapter 7, 7.002
Effective Date	84-906	7.001
Rules; Petition for Promulgation, Amendment or Repeal	84-912.01	7.003
Confidentiality	48-1118	Chapter 8
Confidentiality of Charges	48-1118	8.001
Request for File Review	84-901	8.002
Subpoenas Regarding Case File		
Reviews	48-1007	8.003
Education and Outreach	48-1007	Chapter 9
Declaration of Validity	84-901 to 84-911	Chapter 10

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: March 16, 1983

ISSUE DATE:

TITLE 142 NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT

Chapter 1 – Definition

1.001. As used herein, the term “Act” shall mean the ~~Nebraska Act Prohibiting Unjust Discrimination in Employment Because of Age~~ Age Discrimination in Employment Act, Sections 48-1001 to 48-1010 as amended.

1.002. ~~“Person” shall include one or more individuals, partnerships, associations, labor organizations, corporation, business trusts, legal representatives, or any organized group of persons.~~ As used herein, the terms and phrases, “Person,” “Employer,” “Labor Organization,” “Employee,” and “Employment agency” shall have the same meaning as set forth in Section 48-1002 of the Act, as amended.

1.003. ~~“Employer” shall mean a person having in her or his employ twenty-five (25) or more individuals, and any person acting for or in the interest of an employer, directly or indirectly, but such term does not include (a) the United States, (b) a corporation wholly owned by the government of the United States, or (c) any person or political entity acting with respect to any peace officer or firefighter.~~

1.004. ~~“Labor Organization” shall mean any organization of employees which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment, or for other mutual aid or protection in connection with employment.~~

1.005. ~~“Employee” shall mean an individual employed by any employer.~~

1.003. 1.006. As used herein, the term “Unlawful Age Discriminatory Employment Age Practice or Practices” shall mean the an acts, conduct and matters defined as constituting an that is unlawful age employment practice or practices by under Sections 48-1003(1) and 48-1004 of the Act, as amended.

1.004. 1.007. The term “CommissionChair” shall mean the Chairperson of the Nebraska Equal Opportunity Commission (hereinafter referred to as the Commission). The term “Commissioner” shall mean any member, including the Vice Chair and the Chair of the Nebraska Equal Opportunity Commission. In the absence of the Chair, the Vice Chair shall have all of the duties, powers and authority conferred upon the Chair by the Act and by these Rules and Regulations. In the absence of the Chair and the Vice Chair, a majority of the Commission shall designate a member of the Commission to serve as Chair.

1.005. 1.008. The term “ComplaintCharge” shall mean a written statement under oath or affirmation, filed with the Commission by a complainant person claiming to be aggrieved, setting forth the time, place, and facts of an unlawful the discriminatory age employment age practice or practices alleged to have been committed by an employer, or employment agency (hereinafter referred to as “Respondent.”)

1.006. 1.009. “Respondent” shall mean a person against whom a complaint charge has been filed.

1.007. 1.010. “Complainant” shall mean any person filing a complaint charge.

1.008. 1.011. “The term “Party” or “Parties” shall mean either the Complainant or the Respondent, or both.

1.009. 1.012. The term “Executive Director” shall mean an employee of the Commission, selected by, and serving at the will of the Commission as Executive Director, who shall have such duties, powers and authority as may be conferred upon her or him by the Commission, subject to the provisions of the Act.

1.013. The term “Chairman” shall mean the Chairperson of the Nebraska Equal Opportunity Commission; and the term “Commissioner” shall mean any member, including the Chairman, of the Nebraska Equal Opportunity Commission. The chairman or a majority of the Commission may designate any member of the Commission to serve, in the absence of the Chairman, as Acting Chairman; and in the absence of the Chairman, the Acting Chairman shall have all duties, powers and authority conferred upon the Chairman by the Act and by these Rules and Regulations.

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: March 16, 1983

ISSUE DATE:

TITLE 142 NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT

Chapter 2 – Procedure.

2.001. Filing, Amending Amendment and Withdrawal of ComplaintCharge.

2.001.01. Who May File. ~~Any person who claims to have been injured charging on her or his own behalf to have been personally aggrieved by a an discriminatory unlawful age employment age practice or practices may make, sign and file a complaint with the Commission~~ The complaint a charge shall be in writing under the oath or affirmation of the Complainant. A charge may be filed by a legal guardian or an individual with power of attorney on behalf of another person who claims to be personally aggrieved by an unlawful age employment practice or practices.

2.001.02. Time of Filing. The charge must be filed within three hundred (300) days from the date of the occurrence of the alleged unlawful age employment practice or practices.

2.001.03. ~~2.001.02.~~ Form. A charge complaint shall be filed with the Commission. The charge complaint shall be signed by the Complainant or legal guardian or an individual with power of attorney on behalf of another person who claims to be personally aggrieved by an unlawful age employment practice or practices under oath or affirmation before a notary public or other person duly authorized by law to administer oaths and affirmations. The charge complaint may be filed on forms provided by the Commission, blank copies of which will be supplied by the Commission upon request and will be available at the Commission offices. The original charge shall be duly affirmed within three hundred (300) days of the alleged discriminatory act if it was not notarized in its original form. Notarial service will be without charge by the Commission.

2.001.04. ~~2.001.03.~~ Contents. A complaint charge shall contain the following:

2.001.04A. ~~2.001.03A.~~ The full name, address, and telephone number, if any, of the person making the charge, claiming to be aggrieved.

2.001.04B. ~~2.001.03B.~~ The full name, address, and telephone number, if known, of the Respondent.

2.001.04C. ~~2.001.03C.~~ A plain and concise statement of the facts alleged to constitute a discriminatory employment unlawful age employment practice or practices.

2.001.04D. ~~2.001.03D.~~ The date and place in the State of Nebraska where the alleged discriminatory employment unlawful age employment practice or practices was committed.

2.001.04E. ~~2.001.03E.~~ A statement as to any other action, ~~if any, civil or criminal,~~ instituted by or on behalf of the Complainant in any other forum, or under the grievance or arbitration provisions of a collective bargaining agreement, based on the same facts as alleged in the complaint charge, together with a statement as to the status or disposition of such other action.

2.001.05. ~~2.001.04.~~ **Place and Manner of Filing.** ~~The complaint Charges meeting the~~ forementioned requirements may be filed with the Commission, and shall be done so by personal delivery, ~~ordinary mail, or registered or certified mail,~~ facsimile or electronic transmission addressed to any of the offices of the Commission. ~~in Lincoln or any branch office of the Commission.~~

2.001.06. ~~2.001.05.~~ **Amendment of Complaint Charge.** Notwithstanding the provisions of Rule 2.001.04 ~~2.001.03~~ of these Rules and Regulations, a complaint charge may be amended as follows: to cure technical defects or omissions; to clarify and amplify allegations made therein; to allege additional acts which constitute a discriminatory an unlawful age employment age practice or practices which are related to or growing out of the subject matter of the original complaint charge if such facts were not known at the time the original charge was filed. All such amendments will relate back to the original filing date. Upon any amendment of a complaint charge, a copy thereof shall ~~promptly~~ be served by the Commission on the Respondent by certified ~~or registered~~ mail or through personal service within ten (10) days.

2.001.06. ~~Answer to Complaint.~~ ~~The respondent may file an answer to the complaint at any time prior to the expiration of twenty (20) days after the date she or he receives the complaint. The answer shall be sworn to before a notary public. With leave of the Commission an answer may be amended at any time. The Commission will permit answers to be amended whenever it believes it would be reasonable and fair to do so.~~

2.001.07. **Withdrawal of Charge.** A Complainant filed complaint or any part thereof may be withdrawn, by request in writing by the complainant that a filed charge or any part thereof be withdrawn. The Commission may reject a request for withdrawal in the interests of

justice if it believes that such action was taken as a result of coercion or intimidation, or when the request has been made at the close of a full investigation, and Written notice of the final action taken by the Commission such withdrawal shall be sent by the Commission by registered or certified mail, to all parties who have been previously notified of the complaint charge.

2.001.08. Complainant Files Action in District Court. A Complainant who has filed a charge with the Commission may file an action pertaining to the same unlawful age employment practice or practices allegation in state district court prior to the dismissal of the charge by the Commission. The Complainant shall immediately notify the Commission in writing when he or she files such an action in state District Court. Upon receipt of notification of such a state court suit, the Commission shall terminate all related proceedings before it and close the case. Notification that such a case has been closed shall thereafter be sent to the Complainant and the Respondent by certified and regular mail respectively.

2.002. Commission Action Upon Complaint Charge.

2.002.01. Duties of Commission Staff. Service of Charge Upon Respondent. Each charge complaint filed by a complainant shall be docketed and given a case number, and a copy of said complaint shall promptly be served by The Commission shall serve notification of the charge on the Respondent in person or by registered or certified mail within ten (10) days of the filing of the charge by the Complainant. In addition to including the charge affidavit, said notification shall advise the Respondent that a written response must be filed with the Commission within thirty (30) days or a mandatory reasonable cause finding shall be made against the Respondent.

2.002.02. Investigation. Administrative Dismissal. After service or notification on the Respondent, the Commission shall review the charge. If it appears that the charge does not set forth a complaint cognizable under the Act, the Commission shall administratively dismiss the charge and the Commission shall take no further action upon it.

2.002.03. 2.002.02. Mandatory Investigation. Except for those charges administratively dismissed as provided for in Rule 2.002.02 of these Rules and Regulations, the Commission shall institute an investigation by its employees to ascertain all of the facts relating to the alleged discriminatory unlawful age employment age practice or practices set forth in the complaint duly filed charges. At the outset of such an investigation, the Commission The staff shall initially solicit information from all parties and utilize interrogatories, depositions, or subpoenas to facilitate a prompt investigation. Interrogatories shall be answered within fifteen (15) days of receipt and the person to whom the interrogatories are directed shall be so informed.

2.002.04. 2.002.03. Dismissal. ~~The report of the investigation shall be presented to the Commission by the Executive Director.~~ The Commission shall dismiss the complaint charge ~~(i)~~ if: ~~(1)~~ it is determined that the Complainant Commission does not have jurisdiction over the matter; ~~or (ii)~~ if ~~(2)~~ it is determined that there is not reasonable cause to believe that the alleged discriminatory unlawful age employment age practice or practices has been committed; ~~or (iii)~~ if ~~(3)~~ the matter is adjusted and settled during the investigation; ~~or (iv)~~ if ~~(4)~~ the Complainant has voluntarily withdrawn the charge; ~~(5)~~ the Complainant has failed to cooperate fully in the investigation of the complaint charge; ~~or (v)~~ if ~~(6)~~ the Complainant could not be located after reasonable efforts; ~~(7)~~ the Complainant complaint has been filed an action in any court of competent jurisdiction alleging the same causes of action; ~~(8)~~ the same issues have been resolved by the Office of Dispute Resolution and/or any of the mediation centers within the State of Nebraska; or ~~(9)~~ the Complainant has obtained a Right to Sue letter from the Equal Employment Opportunity Commission.

~~No Commission employee, during the investigation of a complaint, shall propose terms of settlement and adjustment to the respondent's attorney or the respondent, may advise the respondent of possible terms of settlement and adjustment, and shall communicate to the complainant and to the Commission any terms of settlement and adjustment proposed by the respondent. Any terms of settlement arrived at during the investigation shall be submitted to the Commission and the complaint shall be dismissed, and the case closed as having been adjusted and settled during investigation.~~

The Commission shall notify all parties of any dismissal of a complaint charge by ~~personal service or registered or certified~~ regular mail; ~~which such~~ notification shall specify the reason or reasons for dismissal.

2.002.05. 2.002.04 Reasonable Cause Findings. If the Commission, based upon the report of its investigation by its employees, determines that there is reasonable cause to believe that the alleged unlawful age discriminatory employment age practice has been committed, it may bring a civil action in its name against the respondent in any court of competent jurisdiction.

2.002.06 Charges Filed with Other Civil Rights Agencies. When an age charge is dually filed with any other civil rights investigative agency and the Commission, where such a civil rights investigative agency has investigated and made a determination based upon a factual investigation, the Commission may take the following actions:

1. Refrain from processing the charge until such time the other civil rights agency notifies the Commission that it is no longer investigating said charge; and
2. The Commission shall accord substantial weight to the final findings and the orders of the other civil rights agency.

2.003. Respondent Action Upon Charge.

2.003.01 Written Answer to Charge. The Respondent shall file with the Commission a written response to the charge within thirty (30) days after service of the charge upon the Respondent. The Respondent shall file a written response to new allegations contained in an amended charge within thirty (30) days after service of the amended charge upon the Respondent. The response shall respond in full to each specific allegation contained in the charge affidavit. The Commission may reject and refuse to file any response which does not respond in full to each specific allegation in the charge affidavit. Prior to rejecting a response, the Commission shall notify the Respondent in writing that the response is deficient and which allegations are incomplete.

2.003.02 Failure to File Written Answer to Charge. Failure to file a full written response to a charge or an amended charge within thirty (30) days, except upon good cause shown, shall result in a reasonable cause finding against the Respondent by the Commission. If a Respondent believes it has good cause for failing to file a response within thirty (30) days, the Respondent shall make a request for extension of time to the office of the Commission. Such request must be filed within the original thirty (30) day time period. Good cause shall be determined on a case-by-case basis, in light of all the surrounding facts. No extension of time will be granted for a period beyond sixty (60) days from the date of service of the charge upon the Respondent.

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: March 16, 1983

ISSUE DATE:

TITLE 142 NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT

Chapter 3 – Subpoenas; Attendance; Fees; Oaths and Affirmations. Investigations and Investigative Powers

3.001. Subpoenas. Respondent Records. The Commission shall have the power to require the keeping of records necessary or appropriate for the administration of the Act. If a Respondent knowingly destroys records, knowingly fails to maintain records, refuses to provide records, or otherwise takes action with the intent to defeat the purpose of the statute, the Commission may draw an adverse inference to establish facts relevant to a finding on the merits.

3.001.01. Issuance of Subpoena. ~~Whenever in the discretion of the Commission it is deemed necessary to compel the attendance of witnesses or the production for examination of any books and papers relating to any matter under investigation or in question before the Commission, the Commission may issue a subpoena and thereby compel such attendance of witnesses or production for examination of books and papers.~~

3.001.02. Issuance of Subpoena at Instance of Party. ~~The Commission shall issue such subpoena at the instance of any party to a proceeding upon a showing of necessity therefore.~~

3.002. Fees. Investigative Stage. ~~Where a subpoena is applied for and issued at the instance of any party to a complaint or other proceeding, the cost of service, witness and mileage fees shall be borne by the party at whose instance it has been requested and issued unless otherwise ordered by the Commission. Where a subpoena is issued at the instance of the Commission or by any member thereof, the cost of such service, witness and mileage fees shall be borne by the Commission. Such witness and mileage fees shall be made in an amount allowed under the rules governing such payment by the district court of the State of Nebraska.~~

3.002.01. Interrogatories. The Commission or its authorized agents may, at any time after a charge is filed, issue or cause to be served interrogatories on any person being investigated or proceeded against. Such interrogatories shall be relevant or material to the investigation of the charge, and shall pursue the presentation of evidence constituting part of the official record of the case on which a finding may be made.

3.002.02. Access to Tangible Things. In connection with any investigation of a charge, the Commission shall have at all reasonable times access to, for the purposes of examination, and the right to copy any records, books, payrolls, correspondence, documents, papers, or other evidence of any person being investigated or proceeded against that are relevant to the charge.

3.002.03. Testimony, Interviews and Other Evidence. Whenever undertaking any action or investigation contemplated by Sections 48-1007 through 48-1009 of the Act, the Commission or its authorized agents may utilize any legal process available through the district courts of the State of Nebraska, not mentioned heretofore in these rules and regulations, to gain access to evidence, records, testimony and other evidence relevant to the action or charge under investigation. Such discovery and legal processes shall conform to the rules of the district courts for the State of Nebraska.

The Commission or the Commission staff may contact non-management persons employed by the Respondent or former management persons without notifying the Respondent or Respondent's attorney.

The Respondent is entitled to have a representative present during the interview of current management level employees. If a question exists as to whether an employee is a management level employee, the Commission shall make a determination as to the matter. In making the determination, the Commission shall consider a variety of factors, including but not limited to the employee's authority to hire, fire, discipline, assign tasks and make and implement policies.

3.002.04. Oaths and Affirmations. Any Commission staff member who is a notary public may administer an oath or affirmation during the investigation of a charge.

3.002.05. Recordings. All investigative interviews shall be recorded by Commission staff unless a written and/or verbal objection is made by one of the parties. Should such a written and/or verbal objections to the recording of an investigative interview be received by the Commission, the objected recording shall not be made. Recordings will be deleted nine (9) months after case with which the recordings are associated is dismissed by the Commission.

3.002.06 ~~3.002.~~ **Witness and Mileage Fees.** Where a subpoena is applied for and issued at the instance request of any a party to a complaint or other the proceedings, the cost of service and witness and mileage fees associated with that subpoena shall be borne by the party at whose request instance-it has been requested and issued. unless otherwise ordered by the Commission. Where a subpoena is issued at the instance of the Commission or by any member thereof, the cost of such service, witness and mileage fees shall be borne by the Commission.

Such witness and mileage fees shall be made in an amount allowed under the rules governing such payment the same as are paid witnesses in by the District Court of the State of Nebraska.

3.002.07. Witness Testimony. The testimony or deposition of any witness who resides outside the State of Nebraska or who, because of illness or any other reason, is unable to testify in an investigation may be taken within or without the State of Nebraska in the same manner as provided for in civil cases under the applicable law or laws of the State of Nebraska, as now in effect or hereafter amended. The transcript of any such testimony or deposition, when duly authenticated and filed with the Commission in any investigation, shall constitute a part of the official record of the case.

3.002.08. Interference with Commission's Investigative Process. Any person who forcibly resists, opposes, impedes, intimidates, or interferes with the Commission or any of its duly authorized representatives while engaged in its, his or her duties under the Act shall be guilty of a crime and may be fined and/or imprisoned in accordance with Section 48-1005 of the Act.

After the charge has been filed and served on the Respondent, neither party, during the Commission's investigative process, is allowed to conduct their own formal investigation of the Commission's charge that would consist of the scheduling of depositions, the serving of interrogatories, or requests for production of documents on the opposing party outside of the Commission's investigation procedure. Any person who attempts to conduct such an investigation will be deemed to have interfered with the Commission's investigative process. This provision does not preclude Respondents from conducting an internal investigation, or participating in any lawful recognized tribunal.

3.003. Petition to Revoke Subpoena.

~~**3.003.01.** Within five (5) days (excluding Saturdays, Sundays and official State holidays) after the service of a subpoena on any person, including the Chairman or any Commissioner, requiring the attendance of said person as a witness at an investigation, or requiring the production of any evidence in her or his possession or under her or his control, such person may petition the Commission in writing, personally or by registered or certified mail, to revoke the subpoena. The Commission shall revoke such subpoena if, in its opinion, the attendance of the person subpoenaed or the evidence, the production of which is required, does not relate to any matter under investigation or to any matter in question in such proceedings before the Commission, or if in its opinion, such subpoena does not describe with sufficient particularity the reasons requiring the attendance of a person as a witness, or the evidence, the production of which is required. If the Chairman or any Commissioner has been served with a subpoena, then~~

~~the Chairman or Commissioner so served shall not participate in the decision of the Commission with respect to such petition.~~

~~**3.003.02.** If a petition to revoke a subpoena is properly served, the person on whom the subpoena has been served shall not be required to respond to such subpoena until the Commission has acted upon the petition.~~

~~**3.004. Failure to Obey Subpoena.** On the failure of any person to obey a subpoena issued by the Commission, the Commission shall make application to the district court of the county in which the witness resides or transacts business or is found, for an order from the court for such person to show cause why she or he shall not be held in contempt of court except as provided in 3.003.~~

~~**3.005.** Any Commissioner participating in an investigation may administer oaths or affirmations.~~

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: March 16, 1983

ISSUE DATE:

TITLE 142 NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT

Chapter 4 – Service.

4.001. Manner of Service. ~~Complaints, orders~~ Charges, findings and other process and proper papers may be served personally or by ~~registered or~~ certified mail, unless otherwise allowed by the Act and by these Rules and Regulations, in which event, service may be made by ~~ordinary~~ first-class mail, postage ~~required~~ prepaid.

4.002. Proof of Service. Proof of service, where required by the Act, or by these Rules and Regulations, shall consist of either the verified return of the individual who made service, ~~which said return shall set forth the manner of such service or the~~ confirmed return receipt ~~from~~ of service by certified ~~or registered~~ mail.

4.003. Service on Parties' Attorneys. The attorney representing any party in any proceedings under the Act shall file her or his appearance with the Commission, and ~~therefore~~ thereafter all notices ~~orders~~ and other documents served by the Commission ~~shall~~ may be served upon said attorney instead of upon the party she or he represents, until said attorney or said party notifies the Commission in writing that said attorney no longer represents or is authorized to represent said party.

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: March 16, 1983

ISSUE DATE:

TITLE 142 NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT

Chapter 5 – Construction of Rules and Regulations.

5.001. **Construction of Rules and Regulations.** These Rules and Regulations shall be construed and applied so as to effectuate the purposes of the Act, and the public policy of the State of Nebraska as expressed in the Act, and shall not be construed ~~to~~ or applied in a manner inconsistent with the purposes provisions of the Act or the public policy of the State of Nebraska as expressed in the Act.

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: March 16, 1983

ISSUE DATE:

TITLE 142 NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT

Chapter 6 – Availability of Rules and Regulations.

6.001. **Availability of Rules and Regulations.** The Rules and Regulations of the Commission shall be available to the public at the offices of the Commission.

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: March 16, 1983

ISSUE DATE:

TITLE 142 NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT

Chapter 7 – Adoption, Amendment and Rescission.

7.001. Effective Date. These Rules and Regulations shall become effective five (5) days after the filing of a certified copy thereof with the ~~Revision~~ Revisor of Regulations of the State of Nebraska.

7.002. Adoption, Amendment and Rescission. The Commission may adopt, amend or rescind any Rule or Regulation not inconsistent with the provisions of the Act at a regular or special meeting of the Commission, provided that at least a quorum of the Commission is present at such meeting and that written notice of the proposed adoption, amendment or rescission has been given to all members of the Commission at least five (5) days before the meeting at which such action is to be taken and provided further that the ~~Nebraska Rules of Administrative Procedure Act Agencies Rule 2 has~~ Section 84-901 to 84-910 have been satisfied. Any Rule or Regulation so adopted, amended or rescinded shall become effective five (5) days after filing of a certified copy thereof with the Revisor of Regulations of the State of Nebraska.

7.003. Rules; Petition for Promulgation, Amendment or Repeal. Any interested person may petition the Commission requesting the promulgation, amendment or repeal of any rule. Such petitions shall be in writing and signed by the petitioner or petitioners and shall clearly state the Rule or amendment desired, if such be the case. The petition shall further state the grounds urged in support of the requested promulgation, amendment or repeal. If, in the judgment of the Commission, it should appear that the requested Rule, amendment or repeal would serve no useful or beneficial purpose, the Commission may reject the same, with or without having first afforded the petitioner a hearing.

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: March 16, 1983
ISSUE DATE:

TITLE 142 NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT

Chapter 8 — Declaration of Validity Confidentiality.

8.001. Confidentiality of Charges. Charges filed with the commission shall not be made public. Information obtained pursuant to Section 48-1008 will not at any time be made public by the Commission or its staff members. Subsequent to the issuance of a reasonable cause finding or subsequent to the issuance of a no reasonable cause finding, either party or counsel for either party may request a review of the information contained in the Commission's official file on said charge. Such requests must be submitted in writing to the Commission's Executive Director at its principal office, at least ten (10) days prior to the date said file examination is being requested. All reviews of information contained in the official file, not otherwise confidential or privileged, shall occur at one of the Commission's offices .

8.002 Request for File Review. The request for a file review must reflect the appropriate NEB case number and case name. Once the file is available, a letter will be sent stating such. The Commission must be contacted within seven (7) days to arrange for the review, or the file will be returned to storage.

Documents may not be copied in the course of a file review, but recordings may be listened to and documents may be examined. If the file review is not completed on the arranged upon date, a subsequent written request must be submitted prior to completion of the file review.

8.003. Subpoenas Regarding Case File Reviews. Subpoenas will only be honored on cases that have been officially closed by the Commission. Case files are not public records; thus, the Freedom of Information Act and the Public Records law Section 84-712.05 do not apply. Case files will not be released to individuals who are not parties to the case. The Commission will challenge such subpoenas by filing a motion to quash with the relevant court. If counsel is representing a party, the counsel must be the attorney of record. If a letter of representation has not been received by the Commission, the Commission will not comply with the subpoena.

The properly completed subpoena must reflect the appropriate NEB case number, name of Complainant and Respondent, and court docket number, and should be sent to the attention of the Executive Director at the principal office a minimum of ten (10) days in advance of the date

the file is to be retrieved. The party submitting the subpoena will retrieve the file unless other arrangements are made by the Executive Director. A letter confirming the availability of the file will be sent, and the file must then be retrieved within seven (7) days. Upon retrieval, the party must sign for receipt of the file. The file should not be made available to another party. If counsel representing each party wishes to review the file, separate subpoenas must be submitted. If counsel is located out of state, local counsel must be obtained unless approved by the Executive Director. It is not the Commission's normal practice to send case files out of state.

Following receipt of the case file, copies of documents and/or recordings may be made. The file may only be kept for a period of ten (10) days. Files may be returned to any Commission office and must be in the same condition they were in when received. Files returned by mail must be sent certified. Failure to return the file within ten (10) days may result in a motion to compel and request for sanctions.

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: March 16, 1983

ISSUE DATE:

TITLE 142 NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT

Chapter 9 – Education and Outreach.

9.001. Education and Outreach. The Commission shall conduct such educational activities as in the Commission's judgment will further the purposes of the Nebraska Age Discrimination in Employment Act. The Commission shall consult with local officials and entities for the purpose of developing coalitions of persons interested and engaged in eradicating age discrimination in the state.

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: March 16, 1983

ISSUE DATE:

TITLE 142 NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT

Chapter 8 Chapter 10 – Declaration of Validity.

10.001. Declaration of Validity. If any article of this Act or any part of any Section shall be declared invalid or unconstitutional, such declaration of invalidity shall not affect the validity of the remaining portions thereof.

NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: March 16, 1983

ISSUE DATE:

TITLE 142 NEBRASKA AGE DISCRIMINATION IN EMPLOYMENT ACT

ALPHABETICAL INDEX

Subject	Statutory Authority	Section	Page
Access to Tangible Things	48-1008	3.002.02	
Age Discrimination in Employment Act	48-1001 to 48-1010	1.001	
Administrative Dismissal	48-1008	2.002.02	
Adoption, Amendment & Recision	84-901 to 84-910	7.002	
Amendment of Charge	48-1008	2.001.06	
Availability of Rules and Regulations	84-903	6.001	
Charges Filed With Other Civil Rights Agencies	48-1007	2.002.06	
Commission Action Upon Charge	48-1008	2.002	
Complainant Files Action District Court	48-1008	2.001.08	
Confidentiality of Charges	48-1118	8.001	
Construction of Rules and Regulations	84-901 to 84-920	5.001	
Contents of Charge	48-1008	2.001.04	
Declaration of Validity	84-901 to 84-911		
Definitions	48-1002	Chapter 1	
Dismissal	48-1008	2.002.04	
Education and Outreach	48-1007	9.001	
Effective Date	84-906	7.001	
Failure to File Written Answer to Charge	48-1008	2.003.02	
Filing, Amendment and Withdrawal of Charge	48-1007	Chapter 2	
Form	48-1008	2.001.03	
Interference with Commission's Investigative Process	48-1005	3.002.08	
Interrogatories	48-1007, 48-1008	3.002.01	
Investigative Stage	48-1008	3.002	
Mandatory Investigation	48-1007	2.002.03	
Manner of Service	48-1007	4.001	
Oaths and Affirmations	48-1007, 48-1117	3.002.04	

Place and Manner of Filing	48-1008	2.001.05
Proof of Service	84-915	4.002
Reasonable Cause Findings	48-1008	2.002.05
Recordings	48-1007	3.002.05
Respondent Action Upon Charge	48-1008	2.003
Respondent Records	48-1008	3.001
Request for File Review	84-901	8.002
Rules; Petition for Promulgation, Amendment or Repeal	84-912	7.003
Service of Charge Upon Respondent	84-915	2.002.01
Service on Parties' Attorneys	84-915	4.003
Subpoenas Regarding Case File Reviews	84-901	8.003
Testimony, Interviews and Other Evidence	48-1008	3.002.03
Time of Filing	48-1008	2.001.02
Withdrawal of Charge	48-1007, 48-1008	2.001.07
Witness and Mileage Fees	48-1007	3.002.06
Witness Testimony	48-1007	3.002.07
Who May File	48-1008	2.001.01
Written Answer to Charge	48-1008	2.003.01