NEBRASKA ADMINISTRATIVE CODE

LAST ISSUE DATE: **August 29, 2001**

TITLE 138 **NEBRASKA FAIR EMPLOYMENT PRACTICE ACT**

Chapter **11** **Confidentiality**

11.002. 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 ~~tapes~~ 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.

11.003. 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 at 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 subpoena will not be complied with.

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 ~~tapes~~ 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.