NEBRASKA ADMINISTRATIVE CODE

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

TITLE 138 **NEBRASKA FAIR EMPLOYMENT PRACTICE ACT**

Chapter **2** **Procedure**

2.002.02. Investigation. Except for those charges administratively dismissed as provided for in 2.002.01, the Commission shall institute an investigation by its employees to ascertain all of the facts relating to the alleged unlawful employment practice or practices set forth in the charge. The staff shall initially solicit information from all parties and utilize requests for production of documents, interrogatories, depositions, subpoenas or any legal discovery process recognized by the district courts for the State of Nebraska to facilitate a prompt investigation. The legal process shall conform to the rules of the district courts for the State of Nebraska. 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 determination on the merits. At its discretion, the Commission may conduct individual interviews and/or a Fact Finding Conference to assist in its investigation and its attempts at mediation.

Any member of 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 only during the interview of current management level employees. If a question exists as to whether an employee is a management level employee, the Executive Director shall make a determination as to the matter. In making that determination, the Executive Director 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.

All interviews will be recorded ~~taped~~ by the investigator unless a written and/or verbal objection is made by one of the parties. No recording ~~taping~~ shall be done after a written and/or verbal objection is received by the Commission. The recordings ~~tapes~~ will be erased nine (9) months after the case is dismissed by the Commission.

2.004.04B. Place and Manner of Filing. The answer shall be filed ~~in duplicate~~ at the office of the Commission in which the original charge was filed by personal delivery, certified mail, or facsimile; and at the same time the party filing the answer shall similarly serve a copy of such answer on all other parties and upon the Hearing Officer. Proof of service upon the other party or parties and the Hearing Officer shall accompany the copies of the answer filed with the Commission.