

**SEATTLE HUMAN RIGHTS RULES
CHAPTER 46**

**SEATTLE HUMAN RIGHTS COMMISSION
APPEALS RULES**

SHRR 46-010. General Guidelines and Definitions

- (1) This Chapter shall apply to the duties of the Seattle Human Rights Commission (the “Commission”) mandated by Seattle’s Fair Employment Practices Ordinance (SMC 14.04), Unfair Public Accommodations Practices Ordinance (SMC 14.06) and Unfair Housing Practices Ordinance (SMC 14.08). These duties include:
 - a. Hearing appeals from the Seattle Office of Civil Rights (SOCR) determinations of no reasonable cause,
 - b. Hearing appeals from determinations of reasonable cause and remedial orders on employment discrimination complaints involving respondents who are City of Seattle departments,
 - c. Reviewing disputed dismissals and administrative closures, and
 - d. Hearing and determining complaints jointly with the Hearing Examiner in contested cases.

- (2) The liaison between the Commission and the Seattle Office of Civil Rights (“liaison”) shall act on behalf of the Commission for purposes of receiving and issuing all statements of appeal, notices or other written documents required or permitted by this Chapter.

- (3) (a) Filings. A document is considered filed when: i) If it is sent via certified mail, on the date that appears on the certificate of mailing; ii) If it is sent via regular mail, on the date that appears on a proof of service or similar form; and 3) If it is sent via regular mail but without a proof of service, the date that appears on the postmark.

(b) Extensions. The Commission, through the appropriate committee and subcommittee set forth in SHRR 46-020, may extend the time requirements of this Chapter if the requesting party files a written request and the Commission determines the party has established good cause for granting an extension. Except in circumstances that would otherwise result in manifest injustice: 1) the Commission may grant no more than one thirty (30) day extension; and, 2) the extension request must be filed before expiration of the time limit in question. If the Commission grants an extension, the liaison shall inform all parties in writing.

- (4) No Commissioner shall hear and decide an appeal if she or he has:
 - a. Been involved in the charge, investigation, fact finding, or other aspect of the case;
 - b. Already formed an opinion about the merits of the case;
 - c. A pecuniary, private, or personal interest or bias in the case; or

- d. Had any ex parte communication with a party regarding the merits of the appeal, unless the communication has been fully disclosed to all parties and does not violate any other part of this subsection .

SHRR 46-020. Hearing and Appeals Committee and Subcommittees

- (1) There shall be an Appeals Committee (the “Committee”) which shall be comprised of a minimum of six (6) members of the Commission, appointed by the Chair of the Commission.
- (2) The six (6) Committee members shall elect one Committee member to serve as Chair of the Committee. If possible, the Committee Chair shall be an attorney. The Committee Chair shall form a subcommittee of three members. If possible, at least one member of the subcommittee shall be an attorney. Two subcommittee members shall constitute a quorum. Members may attend in person or by telephone.
- (3) The subcommittee shall carry out the following functions:
 - a. Consider and act upon appeals of no reasonable cause determinations issued by the SOCR, as provided by Seattle Municipal Code 14.04 (Fair Employment Practices Ordinance), 14.06 (Unfair Public Accommodations Practices Ordinance) and 14.08 (Unfair Housing Practices Ordinance).
 - b. Consider and act upon appeals of reasonable cause determinations and SOCR’s orders in cases in which a City department is a respondent, as provided under SMC 14.04.
 - c. Review disputed administrative closures and disputed dismissals issued by the SOCR as provided under SHRR 46-050.
 - d. Determine whether to appoint Commissioners to serve with the Hearing Examiner to hear contested cases under SMC 14.04, 14.06, and 14.08.
- (4) Mixed Appeals – Whenever a no reasonable cause determination and a reasonable cause determination on the same charge are appealed, pursuant to SMC 14.04.130 and 14.04.160, the Committee Chair shall determine whether the appeals will be heard separately or jointly. Whenever the Committee Chair determines that such mixed appeals will be heard jointly, the procedures set forth in SHRR 46-040 shall govern such hearings.
- (5) Oral Presentations
 - a. Purpose and Scope. The Committee may at its discretion determine that an oral presentation is appropriate in a particular case. An oral presentation is an opportunity for the parties to present additional information and/or argument to the Commission for the limited purpose of assisting the Commission determine the issues before it in that appeal (In a “no reasonable cause” appeal, for example, the issues are limited to whether the SOCR investigation was adequate and

whether a preponderance of the evidence supports the SOCR findings.) Information and argument presented at an oral presentation are not evidence and do not become part of the SOCR investigatory record. All presentations will be electronically recorded and are part of the Commission's appeal record.

- b. **Scheduling.** The liaison shall notify the parties at least ten (10) days before the date of an oral presentation. Such notification shall specify the time, date and place the presentations are to be heard, the time to be allowed each party for presentation, and the issues on which the subcommittee wants to hear presentations. Due to the time considerations inherent in scheduling an oral presentation, requesting or participating in an oral presentation constitutes an agreement to a thirty (30) day extension of any applicable deadlines that would otherwise apply to issuance of a Commission decision on the appeal.

SHRR 46-030. Appeal Procedure for No Reasonable Cause Findings

- (1) To appeal a no reasonable cause determination issued by SOCR, the charging party must file a written statement of appeal with the Commission within thirty (30) days after the Director signs the determination. A determination is signed when the Director places her signature on the determination and it is mailed to the parties. The statement of appeal shall state specifically the grounds for appeal, either SOCR's investigation was inadequate or the finding was not supported by a preponderance of the evidence. The appeal statement shall fully describe any evidence that the charging party thinks SOCR should have considered. The liaison shall promptly mail a copy of the statement of appeal to the respondent.
- (2) The subcommittee shall promptly consider and act upon appeals. The subcommittee shall consider the appeal, SOCR's findings of fact, the charge, appeal brief, and such other materials as the subcommittee may request of SOCR, the charging party, or the respondent.
- (3) In its discretion, the subcommittee may call for oral presentations by the parties. The subcommittee may permit the attendance of any party or person during such presentation(s). Any oral presentations shall be electronically recorded.
- (4) In considering appeals the only issues before the subcommittee are whether:
 - a. SOCR's investigation was adequate; and
 - b. The findings are supported by a preponderance of the evidence.

The burden is on the charging party to convince the subcommittee to exercise its discretion to re-open the investigation. The subcommittee will not make a finding on the merits of the case.

- (5) The subcommittee shall act upon appeals within sixty (60) days of the liaison's receipt of the appeal by issuing a written order either affirming SOCR's determination or remanding it to SOCR with appropriate instructions. If an oral presentation is scheduled, the sixty (60) day period will be extended by an additional thirty (30) days. The order shall include a brief statement of supporting reasons. Any dissenting subcommittee member may file a statement of dissent. A copy of the order and any dissenting statement shall be promptly furnished by the liaison to SOCR, charging party, and respondent.
- (6) If the subcommittee affirms SOCR's no reasonable cause determination, the determination shall be final and the charge dismissed, and the same shall be entered on the records of SOCR. This final determination and dismissal shall in no way prejudice the rights of the charging party under any other law or in any other proceeding.
- (7) If the subcommittee remands SOCR's determination, the liaison will provide a copy of the finding after remand to SOCR, charging party, and respondent.
- (8) The subcommittee's consideration of appeals shall not be a contested case within the meaning of the Seattle Administrative Code, SMC 3.02.

SHRR 46-040. Appeals of Reasonable Cause Determinations and Remedial Orders in Cases Involving City Departments as Respondents

- (1) Appeals of determinations of reasonable cause and remedial orders issued by the Director under Seattle's Fair Employment Practices Ordinance (SMC 14.04) shall be considered and acted upon by a subcommittee of three Commissioners appointed as provided in SHRR 46-020. The subcommittee's consideration of such appeals shall not be a contested case within the meaning of the Seattle Administrative Code, SMC 3.02.
- (2) The charging party or respondent, or both, may appeal a reasonable cause determination, remedial order, or both. In order to appeal, a party must file a written statement of appeal with the Commission within 30 days after issuance of the Director's remedial order. The statement of appeal shall state specifically the grounds for appeal and shall fully describe any evidence the party thinks SOCR should have considered. The liaison shall promptly mail a copy of the statement of appeal to all other parties.
- (3) Any party may file a written statement of position regarding the appeal with the subcommittee. Such statements shall be filed with the subcommittee within thirty (30) days of the date the statement of appeal is mailed.
- (4) Within 30 days of the date the appeal is filed, the Department shall submit to the subcommittee the record of the case, which shall include at least the following:

- a. The determination of reasonable cause and a record of the case.
 - b. The remedial order and supporting documentation.
 - c. Any written comments to the proposed finding and determination submitted by the parties pursuant to SMC 14.04.120.
- (5) The subcommittee shall review and consider the record submitted by the Department and any written statements of positions submitted by the parties and shall act upon such appeals in the manner provided by Section (7) of this rule within 60 days of the filing of the appeal.
- (6) The subcommittee shall act upon appeals of reasonable cause determinations and remedial orders in the following manner:
- a. Affirm the Director's determination and order;
 - b. Remand the determination or order to the Director for further investigation; or
 - c. Reverse the Director's determination or order only upon a finding that such determination or order is clearly erroneous.
 - i. In order to find that the determination or order is clearly erroneous, the subcommittee must, based on its review of the record, be left with the definite and firm conviction that a mistake has been committed. The subcommittee may not substitute its judgment for that of the Director. Where there is room for two reasonable opinions, the determination or order cannot be found to be clearly erroneous.
 - ii. Whenever the subcommittee finds the determination or order to be clearly erroneous, a written order to that effect shall be entered remanding the entire case to the Director with instructions for further administrative action. All parties shall be served with a copy of the order.
- (7) Whenever the subcommittee affirms the determination and order, an order to that effect shall be entered and the determination shall be deemed a finding that an unfair employment practice has been committed by the Respondent and shall be dispositive of this issue for all future proceedings pursuant to SMC 14.04.150. A copy of the order shall be served on all parties.
- (8) Whenever the subcommittee remands the case to the Director, the Director shall carry out the instructions for further administrative action.

SHRR 46-050. Review of Disputed Dismissals and Disputed Administrative Closures

- (1) The subcommittee will review disputed dismissals and administrative closures issued by SOCR, pursuant to SHRR 40-305 and SHRR 40-310, to determine whether the decision to dismiss or close the case was reasonable under the circumstances.
- (2) In order to challenge a dismissal or administrative closure the charging party must file a written statement challenging the dismissal or closure with the Commission within thirty (30) days after SOCR issued its notice dismissing or closing the case. The charging party's statement shall state specifically why the charging party believes SOCR's decision to dismiss or close the case was not reasonable based on the circumstances.
- (3) The subcommittee shall review the disputed dismissal or closure within thirty (30) days after the charging party's challenge is received by the liaison.
- (4) The subcommittee's review will consist of an evaluation of SOCR's reasons for dismissal or closure, and the charging party's reasons for challenging SOCR's decision.
- (5) In considering the appeal, the only issue before the subcommittee is whether the SOCR's decision to dismiss or to close the case was reasonable based on the circumstances. The subcommittee shall not make a finding on the merits of the case. The subcommittee may either affirm SOCR's decision or request SOCR reconsider its decision to dismiss or close the case.

SHRR 46-060. Appointment of Commissioners to Hear Contested Cases Jointly with the Hearing Examiner

- (1) Whenever a case is submitted to the City Attorney for prosecution, SOCR shall promptly notify the liaison and the liaison shall notify the Committee of the upcoming hearing.
- (2) Upon notification, the Committee Chair must decide whether to appoint Commissioners from the Committee to hear and determine the discrimination complaint jointly with the Hearing Examiner as provided by SMC 14.04, 14.06 and 14.08.
 - a. If the Committee Chair determines the Hearing Examiner alone should hear the case, the liaison shall notify the parties and the Hearing Examiner in writing no later than thirty (30) days after the City Attorney has filed the complaint with the Hearing Examiner.
 - b. If the Committee Chair determines that Commissioners should be appointed to hear and determine cases jointly with the Hearing Examiner, the Chair shall appoint two (2) Committee members to hear and determine the case with the Hearing Examiner.
- (4) The Committee Chair shall ask the liaison to notify the Hearing Examiner in writing within fifteen (15) days after notice of the date of hearing of the name, address and

telephone number of the appointed Commissioners who will jointly hear and decide the particular case.

- (5) Prior to the commencement of the hearing, the appointed Commissioners shall file with the Office of the Hearing Examiner a signed document in substantially the following form:

I accept appointment as a member of the hearing subcommittee that will hear the case captioned above for the Seattle Human Rights Commission.

I certify that, to my knowledge, I have no conflicts of interest which would interfere with my ability to judge fairly and impartially.

I promise to judge this case with fairness and impartiality to all parties and persons.

I agree with the purposes of Seattle's Fair Employment Practices Ordinance, Unfair Housing Practices Ordinance and Unfair Public Accommodations Practices Ordinance, and I will follow and apply these ordinances and any rules and regulations promulgated under authority of these ordinances.

I am willing to devote the time necessary to fully hear the case and decide it with reasonable promptness.

Dated _____

(Signature)