

TITLE 5 EQUAL RIGHTS¹

Chapter 5.10 EQUAL RIGHTS COMMISSION²

5.10.010 Policy.

The public policy of the municipality is declared to be equal opportunity for all persons. The assembly finds that invidious discrimination in the sale or rental of real property, financing practices, employment practices, public accommodations, educational institutions, and practices of the municipality, based upon race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability, adversely affects the welfare of the community. Accordingly, such discrimination is prohibited.

It is the express intent of this title to guarantee fair and equal treatment under law to all people of the municipality, consistent with federal and state constitutional freedoms and laws, including freedom of expression, freedom of association and the free exercise of religion.

(AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 1, 10-15-93; AO No. 2002-163, § 1, 1-7-03; AO No. 2015-96(S-1), § 1, 9-29-15)

5.10.015 Scope of coverage.

Title 5 shall be liberally construed to effectuate its goal of nondiscrimination.

(AO No. 2021-30(S) , § 1, 5-25-21)

5.10.020 Establishment.

Pursuant to the provisions of Charter section 17.02, there is established an equal rights commission of nine persons, which shall be known as the Anchorage Equal Rights Commission.

¹Cross reference(s)—Protection for whistleblowers, ch. 3.75; equal rights commission, § 4.40.080; municipal women's commission, § 4.60.210; equal employment opportunity contract compliance, ch. 7.50; disadvantaged and woman-owned business enterprises, ch. 7.60.

²Charter reference(s)—Equal rights, § 17.01; equal rights commission, § 17.02.

Cross reference(s)—Code of ethics, ch. 1.15; public meetings, ch. 1.25; boards and commissions, tit. 4.

State law reference(s)—Local human rights commission, AS 18.80.290.

5.10.030 Appointment of members.

The mayor shall appoint members of the equal rights commission, subject to confirmation by the assembly, to three-year terms. A member chosen to fill a vacancy other than by expiration of a term shall be appointed for the unexpired term of the member whom they are to succeed. A member of the commission shall be eligible for reappointment.

(AO No. 2002-163, § 1, 1-7-03; AO No. 2021-30(S) , § 10, 5-25-21)

5.10.040 Powers and duties.

A. The equal rights commission is authorized to:

1. Develop programs designed to bring about the prevention and elimination of unlawful discrimination;
2. Investigate complaints of discrimination brought under this title;
3. Administer oaths and affirmations, certify its official acts, and issue subpoenas, subpoenas duces tecum, and other legal process to compel the attendance of witnesses and the production of testimony, books, records, papers, accounts, documents or things in any inquiry, investigation, hearing or proceeding before the commission; the commission may petition the superior court of the state having jurisdiction to enforce its subpoenas, subpoenas duces tecum, and other legal process;
4. Conduct exit interviews with parties to the commission proceedings;
5. Hold public hearings and issue orders under this title;
6. Grant all appropriate forms of relief as described in this title;
7. Intervene in any court proceeding brought under this title;
8. Enter into agreements with counterpart agencies at all governmental levels to promote effective and efficient enforcement of the law;
9. Review complaints of discriminatory acts and practices made to the commission and prioritize allocation of its staff and commission resources among complaints received in order to best fulfill the purposes of Charter Article XVII, Section 17. In prioritizing its investigatory and enforcement activities, the commission shall seek to eliminate unlawful discriminatory practices in the most cost efficient and effective manner possible;
10. Hire an executive director, subject to the approval of the mayor, who shall serve at the pleasure of the commission; and hire administrative staff as is required in the execution of its duties;
11. Exercise general supervision of and direct the activities of the executive director;
12. Delegate to the executive director all powers and duties given it by this title, except the powers to designate hearing panels and reconsideration panels, hold public hearings, issue orders, and hire the executive director;
13. Recommend to the mayor and assembly new legislation, and adopt such procedural and evidentiary rules as are necessary to fulfill the intent of this title; and
14. Provide an annual report to the mayor and assembly.

(CAC 2.64.330; AO No. 2002-87, § 1, 6-11-02; AO No. 2002-163, § 1, 1-7-03; AO No. 2006-128, § 3, 9-26-06; AO No. 2021-30(S) , § 1, 5-25-21)

Cross reference(s)—Principal executive personnel, boards and commissions, § 1.35.010.

5.10.050 Standing committees.

The commission may establish such standing committees as the commission deems necessary to carry out its duties and responsibilities.

(AO No. 2002-87, § 2, 6-11-02; AO No. 2002-163, § 1, 1-7-03; AO No. 2006-128, § 2, 9-26-06)

5.10.060 Legal counsel.

- A. The municipal attorney is the legal counsel for the commission. The municipal attorney shall advise the commission in legal matters arising in the discharge of its duties, shall assist in the preparation and presentation of complaints to the commission, and shall represent the commission in legal actions to which it is a party.
- B. The commission may employ temporary legal counsel for proceedings before the commission and court actions involving the commission in which proceedings or actions the municipal attorney is representing another agency of the municipal government.

(AO No. 2021-30(S) , § 1, 5-25-21)

Chapter 5.20 UNLAWFUL DISCRIMINATORY PRACTICES³

5.20.010 Definitions.

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accusation means the charging document, based on a substantial evidence determination, issued by the executive director after determination of conciliation failure under AMC 5.70.010B.

Age is not intended to conflict with the provisions of AS 23.10.325—23.10.370, or any other laws relating to the rights and activities of minors.

Amicus curiae means [Latin for "a] "friend of the court" in Latin. An amicus curiae brief is usually filed by one who has no standing to appear in a suit, but is interested in intervening to provide evidence, information or authority regarding a matter before the decision-making authority.

Blockbusting means any effort, for profit, to induce or attempt to induce a person to sell or rent a dwelling based on representations that a change has occurred, or will or may occur regarding the entry into a block, neighborhood or area, in which the real property is located, of a person or persons of a particular race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability, including but not limited to lower property values, an increase in criminal or antisocial behavior or decline in the quality of the schools or other facilities.

Chair means the duly elected chairperson of the Anchorage Equal Rights Commission, or in the absence of the chair, the vice-chairperson or other commissioner designated by the chair or the remaining members of the commission.

³Cross reference(s)—Personnel rules, ch. 3.30; business licenses and regulations, tit. 10; transportation, tit. 11.

Closure means a decision issued by the executive director or his or her designee, to not pursue and dismiss a complaint, pursuant to sections 5.60.020 and 5.60.060 under this title.

Commission means the volunteer Anchorage Equal Rights Commission (AERC) established in Charter section 17.02 and the members of the staff to whom the powers of the AERC are delegated, if applicable to those provisions.

Commissioner means one of the members of the Anchorage Equal Rights Commission (AERC).

Complainant means the person who files a complaint with AERC, alleging discrimination in violation of Anchorage Municipal Code title 5.

Complaint means the document that is filed with the AERC under section 5.40.010, alleging discrimination in violation of Anchorage Municipal Code title 5.

Conciliation means a process by which staff attempts to resolve a complaint by conferring and negotiating with the respondent after a determination of substantial evidence.

Determination means a written decision, prepared by staff and signed by the executive director, that is served on the parties at the conclusion of the investigation or processing of a complaint.

Discrimination means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal or denial or any other act or practice of differentiation or preference in the treatment of a person because of actual or perceived race, color, religion, national origin, age, sex, sexual orientation, gender identity, marital status, or physical or mental disability, or the aiding, abetting, inciting, coercing or compelling thereof.

Educational institution means any day care center, nursery, kindergarten, elementary or secondary school, academy, college, university, extension course, or nursing, secretarial, business, vocational, technical, trade or professional school.

Employee means an individual employed by an employer, but does not include an individual employed in the domestic service of any person.

Employer means a person, public or private, who has one or more employees.

Employment agency means any person undertaking to procure employees or to procure for employees' opportunities to work.

Executive director means the executive director of the AERC or his or her designee.

Fact finding conference is an initial meeting where evidence is produced and the complaint is discussed with the parties, and is held approximately 30 days after service of the complaint, unless waived as specified in section 5.50.040 under this title.

Familial status means one or more individuals (who have not attained the age of 18 years) being domiciled with (1) a parent or another person having legal custody of such individual or individuals; or (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Financial institution means commercial banks, trust companies, mutual savings banks, cooperative banks, homestead associations, credit unions, bonding companies, surety companies or other commercial institutions which extend secured or unsecured credit or offer insurance.

Gender identity means the gender with which a person identifies, and also includes the person's appearance, mannerisms, behavior, expression, or other characteristics of the person that are or are perceived to be related to gender, regardless of the individual's designated sex at birth or identified in documents.

Hearing or public hearing means an administrative adjudication held pursuant to chapter 5.70.

Hearing examiner means the person appointed by the hearing panel pursuant to section 5.70.040.

Hearing panel means the commissioners designated by the chair to either conduct a public hearing or to appoint a hearing examiner pursuant to sections 5.70.020 and 5.70.040.

Labor organization means any organization which is constituted for the purpose, in whole or in part, of collective bargaining or in dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employees.

Make whole means a remedy intended to eliminate a continuing unlawful discriminatory practice or the discriminatory effect of any past unlawful discriminatory act or practice, and may include actual damages, injunctive and equitable relief as specified in this title.

Marital status means any differential treatment because of a person's marital status or change in marital status. This includes differential treatment shown toward a person because the person is unmarried, married, widowed, divorced, an unmarried parent, or is pregnant and unmarried.

National origin includes birthplace, ancestry, culture, ethnicity, accent, or linguistic characteristics, or appearing to be a certain ethnic background, even if they are not.

Order means a decision made by the commission constituting a final administrative order at the completion of a public hearing pursuant to chapter 5.70, or an order on reconsideration pursuant to subsection 5.60.030F.

Party or parties means the complainant, respondent, intervener, amicus curiae and/or executive director.

Person means one or more individuals, landlords, owners, lessors, managers, real estate brokers or agents, real estate salespeople, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, employees, employers, employment agencies, labor organizations, joint apprenticeship committees or other legal or commercial entities, or successors to any of the preceding.

Physical or mental disability means, with respect to an individual:

1. A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
2. A history of, or a misclassification as, having a physical or mental impairment that substantially limits one or more major life activities; or
3. Having:
 - a. A physical or mental impairment that does not substantially limit a person's major life activities but that is treated by the covered entity as constituting such a limitation;
 - b. A physical or mental impairment that substantially limits a person's major life activities only as the result of the attitudes of others towards the impairment; or
 - c. None of the impairments defined in this subsection but being treated by others as having such an impairment.

Physical or mental impairment means:

1. A physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine;

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2. A mental or physiological disorder, including mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

Pre-determination settlement means a process by which staff assists the parties to resolve a complaint prior to a determination on the merits of a complaint.

Public accommodation means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, (1) whose goods, services, facilities, privileges, advantages or accommodations are made available to the general public, or (2) that accepts public funds with non-discrimination contractual requirements.

Real property means a housing accommodation, unimproved property, vacant land offered or intended for the construction or location of housing accommodations, a building or a portion of a building, whether constructed or to be constructed, structures, real estate, lands, tenements, leaseholds, interest in real estate cooperatives, condominiums and hereditaments, corporeal and incorporeal, or any interest therein, or a trailer park.

Reconsideration panel means the commissioners designated by the chair of the commission to review an investigative case file pursuant to subsection 5.60.030D. under this title.

Respondent means the person against whom a complaint is made and may include any entity listed in Anchorage Municipal Code section 5.20.010, definition of Person.

Request for essential information is served with the complaint on the respondent and commences the investigation into the allegations of the complaint.

Sex discrimination means differential or preferential treatment shown toward a person because of one's sex, pregnancy or parenthood.

Sexual orientation means actual or perceived heterosexuality, homosexuality, bisexuality, or asexuality.

Staff means those paid employees who assist the executive director in carrying out the provisions of Anchorage Municipal Code Title 5.

Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Unlawful discriminatory act or practice means an act or practice prohibited by Anchorage Municipal Code chapter 5.20.

(AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 2, 10-15-93; AO No. 96-99, § 1, 10-22-96; AO No. 2002-163, § 2, 1-7-03; AO No. 2015-96(S-1), § 2, 9-29-15 ; AO No. 2021-30(S) , § 2, 5-25-21)

Cross reference(s)—Definitions and rules of construction generally, § 1.05.020.

5.20.020 Unlawful practices in the sale, rental or use of real property.

- A. It is unlawful for the owner, lessor, manager, agent, brokerage service, or other person having the right to sell, lease, rent, advertise, or an owner's association having the powers of governance and operation of real property to:
 1. Refuse to sell, lease or rent, or to otherwise make unavailable, the real property to a person because of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, familial status, or physical or mental disability.
 2. Discriminate against a person because of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, familial status, or physical or mental disability in a term, condition or privilege relating to the use, sale, lease or rental of real property.

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3. Make a written or oral inquiry or record of the race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, familial status, or physical or mental disability of a person seeking to buy, lease or rent real property.
 4. Offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or sources in connection therewith because of a person's race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, familial status, or physical or mental disability.
 5. Represent to a person that real property is not available for inspection, sale, rental or lease when in fact it is available, or refuse a person the right to inspect real property, because of the race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, familial status, or physical or mental disability of that person or because of any person associated with that person.
 6. Engage in blockbusting for profit.
 7. Circulate, issue or display, make, print or publish, or cause to be made or displayed, printed or published, any communication, sign, notice, statement or advertisement with respect to the use, sale, lease or rental of real property that indicates any preference, limitation, specification or discrimination based on race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, familial status, or physical or mental disability.
 8. To discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of that person, or a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available, or any person associated with that person.
 9. For purposes of subsection A., discrimination consistent with federal and state law includes but is not limited to:
 - a. A refusal to permit, at the expense of a disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; or
 - b. A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling.
- B. Notwithstanding the provisions of this section, this section does not apply where the renter or lessee shares common living areas in an individually or privately owned home or dwelling unit with the owner, lessor, manager, agent or other person and the owner, lessor, manager, agent actually occupies the home or dwelling unit as a resident. This section also does not apply to places which are institutional in nature and for which housing is merely incidental to a broader purpose, such as rehabilitation or medical care. Such institutional places may still be covered under section 5.20.050.

(CAC 8.36.090; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03; AO No. 2008-16, § 1, 3-18-08; AO No. 2015-96(S-1), § 3, 9-29-15 ; AO No. 2021-30(S) , § 2, 5-25-21)

5.20.030 Unlawful financing practices.

- A. It is unlawful for an insurance company, a financial institution or other commercial institution extending secured or unsecured credit, upon receiving an application for financial assistance or credit for the

acquisition, construction, rehabilitation, repair or maintenance of a housing accommodation or other property or services, or the acquisition or improvement of unimproved property, or upon receiving an application for any sort of loan of money, or upon receiving an application for insurance, to permit one of its officials or employees during the execution of his or her duties to:

1. Discriminate against the applicant because of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability, in a term, condition or privilege relating to the obtainment or use of the institution's financial assistance, insurance or credit.
2. Make or cause to be made a written or oral inquiry or record of the race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability, of a person seeking the institution's financial assistance, insurance or credit unless the inquiry is for the purpose of ascertaining the applicant's creditworthiness or insurability.
3. Refuse to extend credit, issue a credit card, insure or make a loan to a single, divorced, pregnant or married person who is otherwise creditworthy, if so requested by the person, or to refuse to extend credit, issue a credit card, insure or make a loan to a creditworthy person based on that person's sexual orientation or gender identity.
4. Refuse to insure or to issue a credit card to a married person in th at person's name, if so requested by the person, provided, however, that the person so requesting a card may be required to open an account in that name if so requested by that person.
5. Notwithstanding the provisions of this section, any practice permitted by federal or state law applicable to financial or credit transactions of the same character as those covered by this section does not constitute discrimination under this section.
6. This section does not prohibit an institution described in subsection 1. of this section from refusing to contract with a person if the person lacks the legal capacity to contract or if the institution is reasonably in doubt about the person's legal capacity to contract.

(CAC 8.38.020; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03; AO No. 2015-96(S-1), § 4, 9-29-15)

5.20.040 Unlawful employment practices.

A. It is unlawful for:

1. An employer to refuse employment to a person, or to bar him or her from employment, or to discriminate against him or her in compensation, or in a term, condition or privilege of employment or to discharge, expel, reduce, suspend or demote him or her because of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability, unless the reason for the discrimination is a bona fide occupational qualification.
2. A labor organization to exclude or to expel a person from its membership or to discriminate against one of its members or an employer or employee because of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability.
3. A person, employer or employment agency to broadcast, publish, print, circulate or cause to be broadcasted, published, printed or circulated a statement or advertisement in connection with prospective employment, or to use a form of application for employment that expresses, directly or indirectly, a limitation, specification, preference or discrimination as to race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability.

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4. A person to discriminate in the payment of wages as between sexes, or to employ a person of one sex in an occupation at a salary or wage rate less than that paid to a person of another sex for work of comparable character or work in the same operation, business or type of work in the same locality.
 5. An employer, labor organization or employment agency to discharge, expel, retaliate or to otherwise discriminate against a person because the person has opposed any practice forbidden under sections 5.20.010 through 5.20.070, or because they have filed a complaint, testified or assisted in a proceeding under this title.

(CAC 8.40.040; AO No. 92-116(S); AO No. 93-99; AO No. 93-77; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03; AO No. 2015-96(S-1), § 5, 9-29-15 ; AO No. 2021-30(S) , § 10, 5-25-21)

5.20.050 Unlawful practices in places of public accommodation.

- A. It is unlawful for a person, whether the owner, operator, agent or employee of an owner or operator of a public accommodation, to:
 1. Refuse, withhold from or deny to a person any of its accommodations, advantages, facilities, benefits, privileges, services or goods of that place on account of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age or physical or mental disability.
 2. Publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that:
 - a. Any of the services, goods, facilities, benefits, accommodations, advantages or privileges of the public accommodation will be refused, withheld from or denied to a person of a certain race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability; or
 - b. The patronage or presence of a person belonging to a particular race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability is unwelcome, not desired, not solicited, objectionable or unacceptable.
 3. Make a written or oral inquiry concerning the race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability of an individual in connection with the solicitation, reservation, booking, sale or dispensing of its accommodations, advantages, facilities, benefits, privileges, services or goods.

(CAC 8.40.020; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03; AO No. 2015-96(S-1), § 6, 9-29-15)

5.20.060 Unlawful practices in educational institutions.

- A. It is unlawful for a person operating or assisting in the operation of an educational institution to:
 1. Refuse to admit or otherwise to discriminate against an individual with respect to the terms, conditions, accommodations, advantages, facilities, benefits, privileges or services of that institution on account of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or in a manner inconsistent with federal disability protections such as the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, or the Individuals with Disabilities Education Act (IDEA), on account of physical or mental disability.
 2. Make or use a written or oral inquiry or form of application for admission that elicits information concerning the race, color, sex, sexual orientation, gender identity, religion, national origin, marital

status, age, or physical or mental disability, of an applicant for admission, unless otherwise required by law.

3. Require or cause to be required that a photograph of an applicant for admission be submitted with an application for admission.
4. Publish, circulate or display, or cause to be published, circulated or displayed, a written, printed, oral or visual communication, advertisement or catalog or any other form of publicity relating to admission that expresses or indicates a preference, limitation, specification or discrimination on account of the race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability, of an applicant for admission.
5. Establish, announce or follow a policy of denial or limitation of education opportunities for members of a group on account of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability.
6. Use in the recruitment of potential applicants for admission, a service or agency that discriminates against individuals on account of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability.

(CAC 8.40.030; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 4, 1-7-03; AO No. 2015-96(S-1), § 7, 9-29-15 ; AO No. 2021-30(S) , § 2, 5-25-21)

5.20.070 Unlawful practices by municipality.

- A. It is unlawful for the municipality or any public agency of the municipality to:
1. Refuse, withhold from or deny to a person any local, state or federal funds, services, goods, facilities, advantages or privileges because of race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability.
 2. Publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that any local, state or federal funds, services, goods, facilities, advantages or privileges of the office or agency will be refused, withheld from or denied to a person of a certain race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability, or that the patronage of a person belonging to a particular race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability is unwelcome, not desired or not solicited.
- B. Where the provisions of this section 5.20.070 conflict with provisions of Title 7 of this code, this section 5.20.070 shall govern.

(AO No. 91-173(S); AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 5, 1-7-03; AO No. 2015-96(S-1), § 8, 9-29-15)

5.20.075 Retaliation, opposition, coercion, aiding, abetting and inciting.

It shall be unlawful for a person to discharge, expel, evict, retaliate or to otherwise discriminate against a person because they have filed a complaint, testified, assisted in a proceeding under this title or because the person has opposed any practice forbidden under this title. It is unlawful for a person to aid, abet, incite, compel or coerce the doing of an act forbidden under this title or to attempt to do so.

(AO No. 96-99, § 4, 10-22-96; AO No. 2002-163, § 6, 1-7-03; AO No. 2021-30(S) , § 10, 5-25-21)

5.20.080 Lawful practices.

- A. Notwithstanding any provision of this chapter, it shall not be unlawful for a person in connection with the sale or rental of real property, financing practices, employment practices, public accommodations, educational institutions, and practices of the municipality to make or keep records identifying race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, age, or physical or mental disability, if the purpose of the record is to comply with federal or state equal opportunity laws or regulations or in furtherance of a program designed to ensure compliance with this title.
- B. The prohibitions against discrimination based on sexual orientation and gender identity in this chapter do not prohibit an employer or an operator of a place of public accommodation from:
 - 1. Maintaining and enforcing gender-segregated restrooms, locker-rooms or dressing rooms, provided that persons are allowed to use such facilities consistent with their gender identity and nothing in this chapter shall be deemed to require the provision of special facilities to accommodate any person(s) based upon sexual orientation or gender identity.
 - 2. Imposing reasonable dress codes and grooming standards, provided that persons are allowed to dress or groom consistent with their gender identity.

(AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 7, 1-7-03; AO No. 2015-96(S-1), § 9, 9-29-15)

5.20.090 Religious exemptions.

- A. Religious-preference exception: It shall be lawful for a bona fide religious or denominational institution, organization, corporation, association, educational institution, or society, to limit, select or give preferential treatment in employment, admissions, accommodations, advantages, facilities, benefits, or services, to persons of the same religion or denomination, that is reasonably calculated to promote the religious principles for which it is established or maintained. Such organizations otherwise remain subject to the other provisions in this title with regard to race, color, sex, sexual orientation, gender identity, national origin, marital status, age, or physical or mental disability.
- B. Ministerial exception: This chapter shall not apply with respect to the employment of individuals whose positions would fall within the "ministerial exemption" as described by the United States Supreme Court in *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 132 S. Ct. 694 (2012).
- C. Nothing in this chapter shall be construed to violate any rights to free speech or religious exercise guaranteed by the Constitution of the State of Alaska or the Constitution of the United States.

(AO No. 92-116(S); AO No. 93-99; AO No. 2002-163, § 4, 1-7-03; AO No. 2015-96(S-1), § 10, 9-29-15 ; AO No. 2021-30(S) , § 2, 5-25-21)

5.20.100 Construction of ordinance. (Repealed)

(AO No. 92-116(S); AO No. 93-99)

Chapter 5.25 FAIR HOUSING ACT⁴

5.25.010 Policy.

(AO No. 2002-164(S), § 1, 1-15-03)

5.25.015 Powers and duties.

(AO No. 2002-164(S), § 1, 1-15-03)

5.25.020 Definitions.

(AO No. 2002-164(S), § 1, 1-15-03)

5.25.025 Unlawful practices in the sale or rental of real property or related transactions.

(AO No. 2002-164(S), § 1, 1-15-03)

5.25.030 Lawful practices.

(AO No. 2002-164(S), § 1, 1-15-03)

5.25.040 Investigation and conciliation of fair housing complaints.

(AO No. 2002-164(S), § 1, 1-15-03)

5.25.060 Election between public hearing and judicial action.

(AO No. 2002-164(S), § 1, 1-15-03)

5.25.070 Penalty.

(AO No. 2002-164(S), § 1, 1-15-03)

Chapter 5.30 GENERAL PROVISIONS*

;footrule;

Cross reference—General penalties and enforcement, ch. 1.45.

;footrule;

5.30.010 Complaints.

(CAC 8.36.020; AO No. 2002-163, § 10, 1-7-03)

Note(s)—Renumbered as § 5.40.010. See the Code Comparative Table.

5.30.020 Investigation and conciliation.

(CAC 8.36.040; AO No. 96-99, § 2, 10-22-96; AO No. 2002-163, § 14, 1-7-03)

Note(s)—Renumbered as § 5.50.010. See the Code Comparative Table.

⁴Editor's note(s)—AO No. 2021-30(S), § 3, effective May 25, 2021, repealed §§ 5.25.010—5.25.070, which pertained to Fair Housing Act and derived from AO No. 2002-164(S), § 1, 1-15-03.

5.30.030 Public hearing.

(CAC 8.36.050; AO No. 96-99, § 3, 10-22-96; AO No. 2002-163, § 17, 1-7-03)

Note(s)—Renumbered as § 5.70.010. See the Code Comparative Table.

5.30.040 Injunctive relief.

(CAC 8.36.060; AO No. 2002-163, § 23, 1-7-03)

Note(s)—Renumbered as § 5.80.010. See the Code Comparative Table.

5.30.050 Orders.

Note(s)—Renumbered as § 5.70.140. See the Code Comparative Table.

5.30.060 Retaliation, opposition, coercion, aiding, abetting and inciting.

(AO No. 96-99, § 4, 10-22-96; AO No. 2002-163, § 6, 1-7-03)

Note(s)—Renumbered as § 5.20.075. See the Code Comparative Table.

5.30.070 Penalty.

(AO No. 93-167(S-1), § 5, 4-13-94; AO No. 2002-163, § 24, 1-7-03)

Note(s)—Renumbered as § 5.80.020. See the Code Comparative Table.

5.30.080 Judicial review and enforcement.

(AO No. 2002-163, § 24, 1-7-03)

Note(s)—Renumbered as § 5.80.030. See the Code Comparative Table.

5.30.090 Effect of compliance with order.

(AO No. 2002-163, § 24, 1-7-03)

Note(s)—Renumbered as § 5.80.040. See the Code Comparative Table.

5.30.100 Legal assistance. (Repealed)

(AO No. 78-175)

5.30.010 Record of inquiry.

Staff shall make a written record of all inquiries. The purpose of this record is to document the volume and nature of inquiries. The commission will not disclose the names of individuals making inquiries unless required by law or court order.

(AR No. 92-223(S); AO No. 2002-163, § 8, 1-7-03)

Note(s)—Formerly AMCR 5.10.002.

5.30.020 Staff assistance to inquirer.

A. Staff shall:

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1. Counsel a potential complainant regarding the filing of a complaint if the facts and circumstances related allege a violation of Anchorage Municipal Code title 5;
 2. Assist complainants in the preparation and filing of a complaint with the commission;
 3. Advise complainants of their rights and responsibilities under title 5 of the Anchorage Municipal Code;
 4. Provide appropriate referral information; and
 5. Furnish free notary service for matters relating to commission business.

(AR No. 92-223(S); AO No. 2002-163, § 8, 1-7-03)

Note(s)—Formerly AMCR 5.10.003.

5.30.030 Correspondence.

Correspondence regarding potential or pending complaints shall be addressed to the executive director or his or her designated staff member. Correspondence to commissioners shall be sent in care of the executive director when the correspondence regards potential or pending complaints. No commissioner may consider pending complaints until the case is before the commissioners at the public hearing stage under chapter 5.70, or upon a request for reconsideration under section 5.60.030.

(AR No. 92-223(S); AO No. 2002-163, § 8, 1-7-03; AO No. 2021-30(S) , § 4, 5-25-21)

Note(s)—Formerly AMCR 5.10.004.

5.30.040 Service.

- A. The commission staff shall serve documents upon a party represented by an attorney by mailing the documents to the attorney by first class mail.
- B. Service shall be made upon a party either by mailing or delivering a copy to his or her last known address. Delivery of a copy means handing it to the party or leaving it at a party's office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein, or leaving it at the party's dwelling or usual place of abode. Service of the complaint shall be made as specified in section 5.40.030 under this title.
- C. Whenever a party has a right or is required to do some act within a prescribed period after the service of a notice or other document upon him or her and the notice or document is served by mail, three days shall be added to the prescribed period.

(AR No. 92-223(S); AO No. 2002-163, § 8, 1-7-03)

Note(s)—Formerly AMCR 5.10.005.

5.30.050 Entry of appearance.

An attorney must give notice that they represent a party by filing an answer or by filing an entry of appearance. Once notice of appointment of a hearing panel or hearing examiner has been issued, an attorney may withdraw only with the consent of the hearing panel or hearing examiner.

(AR No. 92-223(S); AO No. 2002-163, § 9, 1-7-03; AO No. 2021-30(S) , § 10, 5-25-21)

Note(s)—Formerly AMCR 5.10.006.

5.30.060 Support person.

- A. If a party chooses, they may be accompanied by a support person on his or her behalf, and the following guidelines shall be applied:
 - 1. The party may confer with and be assisted by a support person.
 - 2. The support person shall execute an agreement to maintain confidentiality.
 - 3. The support person may not act, speak or negotiate on behalf of the party.
 - 4. The support person may not engage in the unauthorized practice of law in violation of AS 8.08.250.

(AR No. 92-223(S); AO No. 2002-163, § 9, 1-7-03; AO No. 2021-30(S) , § 10, 5-25-21)

Note(s)—Formerly AMCR 5.10.007.

Chapter 5.40 COMPLAINT AND ANSWER

5.40.010 Complaints.

- A. A person who sincerely believes they are aggrieved or injured by any discriminatory act or practice prohibited by this title may file a verified written complaint with the equal rights commission within 180 days from the date of the alleged discriminatory act or practice, stating the name and address of the person alleged to have engaged in the discriminatory act or practice, and a short plain statement of each alleged unlawful discriminatory act or practice. For purposes of this chapter, no protected class may be asserted for an improper purpose.
- B. Consistent with subsection A., the executive director, with the approval of a panel of three commissioners selected on a rotating basis by the commission chair, may also file a verified written complaint on behalf of a person or persons aggrieved by an alleged discriminatory act or practice within 180 days from the date of the alleged discriminatory act or practice or within 60 days after the alleged discriminatory act or practice comes to the executive director's attention, whichever is later, including an identification of the person or persons affected by the alleged unlawful practice which is sufficient to enable staff to investigate the complaint.
- C. If the alleged act or practice is of a continuing nature, the date of its occurrence shall be considered to be any date after the commencement of the practice up to and including the date on which the practice ceased.

(CAC 8.36.020); AR No. 92-223(S); AO No. 2002-163, § 10, 1-7-03; AO No. 2021-30(S) , §§ 5, 10, 5-25-21)

Note(s)—Formerly § 5.30.010. See the Code Comparative Table.

5.40.020 Contents of the complaint.

- A. The complaint shall contain:
 - 1. The complainant's full name, address and telephone number;
 - 2. The respondent's full name, address and telephone number;
 - 3. A statement of the section(s) of Title 5 of the Anchorage Municipal Code allegedly violated;
 - 4. A short and plain statement of each alleged unlawful discriminatory act or practice;

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5. The date or dates the alleged discriminatory practice occurred. If the discriminatory practice charged is of a continuing nature, the date of the practice shall be any date from the date it is alleged to have begun until the date the complaint is signed, and unless otherwise indicated, to and beyond the date the complaint is signed;
 6. The location where the alleged discrimination took place, or is taking place; and
 7. A statement of the alleged harm the complainant has experienced or is experiencing.

(AR No. 92-223(S); AO No. 2002-163, § 11, 1-7-03)

Note(s)—Formerly AMCR 5.20.004. See the Code Comparative Table.

5.40.030 Service of the complaint.

The executive director shall serve a copy of a complaint or an amended complaint upon a respondent by personal service or by certified mail return receipt requested within ten days after the filing of the complaint. The complainant will also be provided a copy of the complaint, which may be served by regular mail.

(AR No. 92-223(S); AO No. 2002-163, § 11, 1-7-03)

Note(s)—Formerly AMCR 5.20.005. See the Code Comparative Table.

5.40.040 Answer.

- A. A respondent may file a written answer to the complaint within 20 days of service of the complaint and may provide any other information that it believes is relevant to the investigation of the allegations in the complaint.
- B. The answer should include:
 1. The full name and address of respondent;
 2. The name and address of respondent's attorney, if any;
 3. A statement that the respondent admits, denies or does not have and is unable to obtain sufficient information to admit or deny each allegation made in the complaint. A statement of lack of information shall have the effect of a denial. Any allegation that is not denied shall be deemed admitted; and
 4. Each and every affirmative defense and a statement of the facts supporting each affirmative defense.
- C. The respondent may direct a written request for an extension of time to file its answer to the executive director or his or her designee prior to unsuccessful conciliation.

(AR No. 92-223(S); AO No. 2002-163, § 12, 1-7-03; AO No. 2021-30(S) , § 5, 5-25-21)

5.40.050 Amendments to complaint and answer.

- A. Complaints may be reasonably and fairly amended at any time. All amendments shall be in writing and shall be served within ten days on the respondent in the manner specified for complaints.
- B. Whenever the claim asserted in the amended complaint arises from the same facts as the original complaint, the amendment relates back to the date of the original complaint. In all other cases the timeliness of an amendment shall be calculated pursuant to Anchorage Municipal Code section 5.40.010 of this title as if it were a new complaint.

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- C. Respondent must file its answer to the amended complaint within the time remaining to respond to the original complaint or within ten days after service of the amended complaint, whichever period is longer.
 - D. The respondent shall have the right to reasonably and fairly amend the answer. The amendment shall be in writing.

(AR No. 92-223(S); AO No. 2002-163, § 13, 1-7-03)

Note(s)—Formerly AMCR 5.20.006. See the Code Comparative Table.

5.40.060 Withdrawn complaint.

- A. A complainant may request to withdraw a complaint by filing a written request with the executive director at any time prior to the issuance of the accusation.
- B. The executive director shall prepare and serve on all parties a closure or notice of dismissal when a complaint has been withdrawn.
- C. After the commencement of the public hearing under chapter 5.70, a complaint may only be withdrawn with the approval of the hearing panel or hearing examiner.
- D. The executive director may substitute himself or herself for a complainant by giving written notice to that effect within 15 days after a withdrawal has been granted pursuant to subsection C. of this section. The substitution relates back to the date of the original complaint.

(AR No. 92-223(S); AR No. 96-174, § 2, 10-22-96; AO No. 2002-163, § 13, 1-7-03; AO No. 2021-30(S) , § 5, 5-25-21)

Note(s)—Formerly AMCR 5.20.007. See the Code Comparative Table.

5.40.070 Class action complaint at public hearing.

- A. A class action is an action brought on behalf of other persons similarly situated.
A class action complaint may be filed by any person or the executive director if:
 - 1. The class is so numerous that joinder of all members is impractical;
 - 2. There are questions of law or fact common to the class;
 - 3. The claims of the representative party are typical of the claims of the class;
 - 4. The representative party is able to fairly and adequately protect the interests of the class; and
 - 5. The complaint is sufficiently specific to allow staff to determine the nature of the class.

(AR No. 92-223(S); AO No. 2002-163, § 13, 1-7-03)

Note(s)—Formerly AMCR 5.20.008. See the Code Comparative Table.

5.40.080 Procedure for class action complaint.

- A. As soon as practical after the commencement of an action brought as a class action, the commission chair shall determine, by order, whether the complaint shall be maintained and certified as a class action.
- B. A respondent who believes that the requirements of section 5.40.070 of this title have not been met may, within 15 days of the commission chair's order, move to dismiss the action or for consideration of the complaint as an individual complaint.

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- C. If a motion is filed pursuant to subsection 5.40.080.B. of this title, the hearing panel shall hear the motion and issue an order as to whether the complaint shall be certified as a class action.
 - D. If the hearing panel does not certify the class, within 15 days of its order, the representative party may file a motion with the commission requesting review of the hearing panel's order. The commission may:
 - 1. Order that the hearing panel's order not to certify the class is affirmed; or
 - 2. Order that the complaint shall be certified as a class action.
 - E. Upon certification of a class action, notice of the class action shall be given to the class members:
 - 1. Within 30 days after issuance of an order pursuant to subsection A., if no motion is filed pursuant to subsection B.; or
 - 2. Within 15 days after the issuance of an order pursuant to subsection D. that a class action lies.
 - F. The notice of the class action shall include the following:
 - 1. The pendency of the class action;
 - 2. The option of the class member to join the action or to drop out of the class;
 - 3. The option of the class member to appear and present claims and defenses.
 - G. Any class member who cannot be notified through ordinary and reasonable methods, or who, within 30 days of notification, fails to exercise his or her option to join the action, shall be deemed to have dropped out of the class.
 - H. Notice of the following shall be given to class members who have joined the action:
 - 1. Any proposed settlement; and
 - 2. Final commission orders.
 - I. No settlement shall become final until it has been approved by the commission.
 - J. If the executive director determines that the complaint is supported by substantial evidence, the executive director shall promptly notify the parties and the chair of such determination.
 - K. As used in this section, "notice" means the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.
 - L. The preceding procedures for a class action complaint are in addition to all other procedures in this title that are not inconsistent with this section.

(AR No. 92-223(S); AO No. 2002-163, § 13, 1-7-03)

Note(s)—Formerly AMCR 5.20.009. See the Code Comparative Table.

Chapter 5.50 IMPARTIAL INVESTIGATION

5.50.010 Investigative overview.

The commission shall investigate promptly and impartially the matters set out in the filed complaint. If it determines the allegations are supported by substantial evidence, it shall immediately attempt to eliminate the alleged discriminatory act or practice by conference, persuasion and conciliation. If the commission determines the allegations are not supported by substantial evidence, the complaint shall be closed or dismissed. The commission

shall, unless good cause is shown, issue its determination within 240 days after the filing of the complaint. If good cause is shown to extend an investigation beyond 240 days, the commission shall notify the parties.

(CAC 8.36.040; AO No. 96-99, § 2, 10-22-96; AO No. 2002-163, § 14, 1-7-03; AO No. 2021-30(S) , § 6, 5-25-21)

Note(s)—Formerly AMC 5.30.020

5.50.020 Fact finding procedures.

- A. After a complaint has been filed, staff shall convene a fact finding conference with the parties to define issues, receive and exchange information relevant to the complaint and response, if any, and negotiate a voluntary resolution of the complaint, if possible, through a pre-determination settlement agreement. Parties shall be permitted to be fully represented by legal counsel at the fact finding conference. Legal counsel shall be entitled to speak and present on behalf of the represented party at the fact finding conference. Legal counsel may not, however, cross-examine the other party and must submit any questions through staff.
- B. Staff shall provide the following information and instructions to the parties, in writing, at least 21 days prior to the fact finding conference:
 - 1. The date, time, and place of the conference;
 - 2. The information to be provided by the parties to staff, and the date on which this information is due; and
 - 3. The procedures to be followed at the conference.
- C. Each allegation of the complaint and response, if any, shall be closely examined and fully discussed. Each party shall be allowed a reasonable time to present evidence in support of their position. Staff may limit the number of persons in attendance. Complainant and Respondent may be accompanied by an attorney. In addition, Respondent may choose no more than two representatives to attend and Complainant may choose to be accompanied by a support person.
- D. (Reserved.)
- E. Staff may take notes at the conference and accept exhibits and documents from the parties. No person may make an audio or video recording of the conference.
- F. Exhibits and documents received at a fact finding conference may be used as evidence in making a determination pursuant to section 5.60.010.
- G. Statements made by a party during a fact finding conference may be used as evidence in making a determination pursuant to section 5.60.010 and may be used as evidence at the public hearing held pursuant to chapter 5.70.
- H. Neither the executive director nor staff may disclose or use as evidence offers or counteroffers of settlement made during a fact finding conference, or use such offers or counteroffers as evidence in making a determination under section 5.60.010 or at the public hearing under chapter 5.70.
- I. If, at the conclusion of the fact finding conference, additional information is required from either party, staff and the parties shall determine the specific time frame and method required for submission of that additional information.
- J. A pre-determination settlement agreement must be approved by the executive director or his or her designee.

(AR No. 92-223(S); AR No. 96-174, § 3, 10-22-96; AO No. 2002-163, § 15, 1-7-03; AO No. 2015-96(S-1), § 11, 9-29-15 ; AO No. 2021-30(S) , §§ 6, 10, 5-25-21)

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Note(s)—Formerly AMCR 5.30.001.

5.50.030 Effect of failure to furnish responses to requests for essential information or produce witnesses or attend fact finding conference.

- A. The executive director may dismiss a complaint if the complainant fails to attend the fact finding conference or to furnish the information requested in subsection 5.50.020B.2. of this title, without good cause, or if the executive director has determined that the complainant has unreasonably obstructed the fact finding conference.
- B. If the respondent fails to timely furnish the information requested in subsection 5.50.020B.2. of this title, or if the respondent fails to provide responses to a request for essential information or interrogatories, or fails to attend the fact finding conference without good cause or unreasonably obstructs the fact finding conference, the commission's staff shall analyze the available evidence and determine whether the complaint is supported by substantial evidence; staff may seek enforcement of a subpoena or subpoena duces tecum (requiring the production of documents or other evidence) in superior court.

(AR No. 92-223(S); AR No. 96-174, § 4, 10-22-96; AO No. 2002-163, § 15, 1-7-03; AO No. 2015-96(S-1), § 12, 9-29-15; AO No. 2021-30(S), § 6, 5-25-21)

Note(s)—Formerly AMCR 5.30.002.

5.50.040 Waiver by executive director.

- A. The executive director may waive the fact finding conference by providing written notice to the parties:
 - 1. Upon receipt of a written request to waive the fact finding conference from either party explaining or stating the reasons for the request; or
 - 2. If a fact finding conference is unlikely to significantly aid in the investigation and resolution of a complaint.

(AR No. 92-223(S); AO No. 2002-163, § 15, 1-7-03)

Note(s)—Formerly AMCR 5.30.003.

5.50.050 Impartial investigation.

The staff shall impartially investigate the allegations of a complaint by interviewing witnesses, inspecting documents, and examining written submissions of parties and witnesses. Any party or witness may offer any statements or other evidence for consideration.

(AR No. 92-223(S); AO No. 2002-163, § 15, 1-7-03)

Note(s)—Formerly AMCR 5.40.001.

5.50.060 General investigations.

- A. The commission, on its own motion, or the executive director with the approval of a panel of three commissioners selected on a rotating basis by the Commission Chair, may initiate a general investigation to determine the extent to which an individual, group, corporation, business, industry, agency, or organization is complying with the provisions of chapter 5.20.

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- B. In the course of a general investigation, the executive director may require the submission of information by an individual, group, corporation, business, industry, agency or organization being investigated, concerning the race, color, sex, religion, national origin, marital status, age, or physical or mental disability, of any employee or other person, if available, and all other information relevant to the investigation.
 - C. A general investigation may be as broad in scope as may be necessary to effectuate the purposes of title 5. (AR No. 92-223(S); AR No. 93-266, § 1, 10-15-93; AO No. 2002-163, § 15, 1-7-03; AO No. 2021-30(S) , § 6, 5-25-21)

Note(s)—Formerly AMCR 5.40.008.

5.50.070 Discovery.

- A. After a complaint is filed, the executive director may issue written interrogatories, requests for production, and requests for admissions to any party.
- B. After issuance of a determination of conciliation failure, a party may serve interrogatories, requests for production, and requests for admissions upon any other party.
- C. Interrogatories, requests for production, and requests for admissions may address any matter not privileged which is relevant to the subject matter involved in the pending action. Information sought need not be admissible at the hearing, if it appears reasonably calculated to lead to the discovery of admissible evidence.
- D. A party shall respond in writing to the interrogatories, requests for production, and requests for admissions within 30 days after the date of receipt. Upon written request and a showing of good cause, the executive director may extend the time within which the response may be completed and returned to the executive director.
- E. A party may file with the executive director written objections to an interrogatory, request for production, or request for admission. Objections shall be submitted on a document separate from the document containing answers to interrogatories, and shall include a statement of the reason(s) for each objection. All objections shall be submitted within the 30 days allowed for responding to interrogatories, requests for production, and requests for admissions. Untimely objections shall not be considered.
- F. The executive director shall submit a party's objections, along with staff's written response, to the chair of the commission, who shall either sustain the objection or order that the interrogatory, request for production, or request for admission be answered within 15 days after receipt of the chair's order by the objecting party.
- G. In the event that a party fails to respond fully or object to an interrogatory, request for production, or request for admission or to obtain an extension of time within 30 days after being served, the executive director shall file with the chair, a motion to compel production and/or response.

(AR No. 92-223(S); AO No. 2002-163, § 15, 1-7-03; AO No. 2008-16, § 2, 3-18-08)

Note(s)—Formerly AMCR 5.40.002.

5.50.080 Subpoena.

- A. Before issuance of a determination of conciliation failure:
 - 1. The executive director may issue a subpoena upon his or her own motion or upon written request and good cause shown by a party, whenever necessary to compel the attendance and testimony of witnesses at interviews, conferences, hearings or depositions. Before issuance of a determination of conciliation failure, the executive director may issue a subpoena duces tecum whenever necessary to

compel the production of books, records, papers, payroll or personnel records, correspondence, documents or any other evidence relating to any matter under investigation before the commission.

2. Within five days after the service on a person of a subpoena requiring the production of any evidence in his or her possession or under his or her control, that person may file a motion requesting the commission chair to revoke the subpoena. The commission chair shall revoke the subpoena if it finds the evidence required to be produced does not relate to any matter under investigation, or the subpoena does not describe with sufficient particularity the evidence required to be produced.
- B. The party requesting the subpoena shall be responsible for serving the subpoena.
- C. A subpoena served under this section is enforceable in superior court. In the event that a person issued a subpoena does not respond, the executive director or the chair shall proceed with the civil remedy set forth in Anchorage Municipal Code subsection 5.80.010B., or 5.80.030B., by seeking an appropriate order from the court.

(AR No. 92-223(S); AO No. 2002-163, § 15, 1-7-03; AO No. 2021-30(S) , § 6, 5-25-21)

Note(s)—Formerly AMCR 5.40.003.

Chapter 5.60 COMPLETION OF INVESTIGATION

5.60.010 Determination.

- A. At the conclusion of the investigation, the staff shall conduct exit interviews and prepare a determination that a complaint is or is not supported by substantial evidence.
- B. In making a determination, the executive director may consider analogous guidelines and precedents of the federal Equal Employment Opportunity Commission, the Department of Housing and Urban Development, and state and local enforcement agencies, as well as applicable federal and state judicial precedent.
- C. If the executive director determines that a complaint is not supported by substantial evidence, they shall promptly serve a written determination and closure on the parties. The closure shall contain a brief statement of the reconsideration process.
- D. If the executive director determines that a complaint is supported by substantial evidence, they shall promptly serve a written determination on the parties.

(AR No. 92-223(S); AR No. 96-174, § 5, 10-22-96; AO No. 2002-163, § 16, 1-7-03; AO No. 2021-30(S) , § 10, 5-25-21)

Note(s)—Formerly AMCR 5.40.004. See the Code Comparative Table.

5.60.020 Administrative closure.

- A. The executive director may administratively close a complaint in the following instances:
 1. If the complainant has failed to attend or cooperate in the fact finding conference, as provided in subsection 5.50.020A.;
 2. If the complainant has otherwise failed to cooperate in the investigation of the complaint;
 3. If the whereabouts of the complainant are unknown and have remained unknown for at least 30 days despite reasonable efforts to locate the complainant;

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4. If the commission lacks jurisdiction over the subject matter or a necessary party to the action or is otherwise unable to proceed with the investigation;
 5. If the complainant refuses to accept a settlement reasonably calculated to make them whole and there are no overriding public interest issues in the complaint;
 6. If the complaint is settled by the parties;
 7. If the complainant makes a request to withdraw the complaint which is approved pursuant to section 5.40.060;
 8. If the commission cannot investigate the complaint because of a conflict of interest. In such case, the complaint may be referred for investigation to the Alaska State Commission for Human Rights or any other appropriate agency with jurisdiction;
 9. If the complainant files a complaint in court alleging discrimination based on the same facts and issues as are currently pending before the commission;
 10. If the commission reviews the complaint and makes a determination to prioritize allocation of staff and commission resources among complaints received to eliminate unlawful discriminatory practices in the most cost efficient and effective manner possible, pursuant to the commission's powers authorized under subsection 5.10.040A.9.

(AR No. 92-223(S); AO No. 2002-163, § 16, 1-7-03; AO No. 2008-16, § 3, 3-18-08; AO No. 2021-30(S) , §§ 7, 10, 5-25-21)

Note(s)—Formerly AMCR 5.40.005. See the Code Comparative Table.

5.60.030 Reconsideration.

- A. When a complaint has been closed pursuant to subsection 5.60.010C. or 5.60.020A.1.—5., the complainant may apply to the chair of the commission for reconsideration. If there is no documentation that the request for reconsideration was served on the respondent, the commission staff shall serve a copy on the respondent.
- B. A written application for reconsideration shall be filed within 15 days after service of the closure.
- C. The complainant may request an extension of time in which to apply for reconsideration. The request must be filed with the chair of the commission within 15 days after service of the closure. The chair shall grant or deny the request within five days after it is received. Complainant will then be notified, in writing, if the request for an extension of time to apply for reconsideration is granted or denied.
- D. The chair shall determine whether a request for reconsideration is timely. If the request is timely, the chair shall appoint a reconsideration panel of three commissioners to review the investigative and reconsideration files. Neither party may present any new information or evidence during reconsideration without providing a reasonable explanation as to why, with due diligence, the newly discovered information or evidence could not have been discovered and submitted to the investigator during the investigation. If the reconsideration panel determines there is a reasonable explanation for a delay in the submission of new evidence, the panel may receive argument and evidence, request additional evidence or take other appropriate action in the course of reaching a decision.
- E. A request for reconsideration may be granted on the grounds of a mistake in determination of a fact or in the application of the law to the facts. If the request for reconsideration is granted, the matter shall be remanded to the executive director with directions for further action, which may include further investigation.
- F. If the request for reconsideration is denied, an order shall be issued sustaining the dismissal.

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- G. The reconsideration panel shall meet and grant or deny reconsideration within 30 days of receipt of complainant's request. This 30-day period may be extended upon notice to the complainant. After the panel has made their determination, notice shall be sent to the parties.

(AR No. 92-223(S); AR No. 96-174, § 6, 10-22-96; AO No. 2002-163, § 16, 1-7-03; AO No. 2021-30(S) , § 7, 5-25-21)

Note(s)—Formerly AMCR 5.40.006. See the Code Comparative Table.

5.60.040 Conciliation procedures.

- A. If the executive director determines that the allegations of a complaint are supported by substantial evidence, staff shall conduct a conciliation conference with the respondent within 45 days of the substantial evidence determination. The purpose of the conciliation conference is to develop an agreement between the respondent, the complainant, and the commission, and shall require commission approval.
- B. The respondent shall be given at least 15 days' notice of the conciliation conference date. Notice of a conciliation conference may be combined with a notice of determination issued pursuant to subsection 5.60.010D.
- C. The complainant shall not attend the conciliation conference.
- D. At the conciliation conference, staff shall propose remedies and shall negotiate terms to provide a remedy that is reasonably calculated to make the complainant whole and to eliminate the discriminatory practice or policy.

(AR No. 92-223(S); AO No. 2002-163, § 16, 1-7-03; AO No. 2021-30(S) , § 7, 5-25-21)

Note(s)—Formerly AMCR 5.50.001. See the Code Comparative Table.

5.60.050 Determination of conciliation failure.

- A. The executive director shall determine that conciliation efforts have failed when:
1. The respondent fails to attend a conciliation conference or advises the staff in writing of its refusal to conciliate; or
 2. Within 30 days after the conciliation conferences, the respondent refuses to agree to a remedy which is reasonably calculated to make the complainant whole and to eliminate the discriminatory practice or policy.
- B. If the executive director determines that conciliation efforts have failed pursuant to subsection A. of this section, the executive director may proceed in accordance with chapter 5.70.
- C. The executive director may grant an extension of time to agree to terms of conciliation for good cause shown.

(AR No. 92-223(S); AO No. 2002-163, § 16, 1-7-03; AO No. 2021-30(S) , § 7, 5-25-21)

Note(s)—Formerly AMCR 5.50.002. See the Code Comparative Table.

5.60.060 Administrative dismissal after conciliation conference.

- A. If the respondent agrees to a remedy which the executive director believes is reasonably calculated to make the complainant whole and eliminate the discriminatory practice or policy, the provisions of which are

acceptable to the complainant, the executive director shall administratively dismiss the complaint pursuant to subsection 5.60.020A.6. of this title.

- B. If the complainant refuses to accept a remedy offered by respondent, which the executive director believes is reasonably calculated to make the complainant whole, the executive director may seek to remedy the discriminatory practice identified in the determination without the complainant's participation, and any agreement reached must be signed by the executive director and respondent; or the executive director may administratively dismiss the complaint.
- C. If the executive director determines that a public hearing would not advance the purposes of title 5 or represent the best use of commission resources, the executive director shall administratively dismiss the complaint pursuant to subsection 5.60.020A.10.

(AR No. 92-223(S); AO No. 2002-163, § 16, 1-7-03; AO No. 2021-30(S) , § 7, 5-25-21)

Note(s)—Formerly AMCR 5.50.003. See the Code Comparative Table.

Chapter 5.70 PUBLIC HEARING

5.70.010 Public hearing overview.

- A. When conciliation efforts have failed to eliminate the alleged discriminatory practice or policy, or to otherwise make a complainant whole, the executive director shall inform the commission chair and serve written notice of conciliation failure on all parties. Within 30 days of conciliation failure, the executive director shall either file an accusation with the commission or dismiss the complaint. Upon receiving an accusation, the commission chair shall then appoint a hearing panel in accordance with section 5.70.030.
- B. Within 30 days of appointment of the hearing panel, the executive director shall serve written notice of the hearing panel appointment, along with a copy of the accusation as it may be amended, on all parties.
- C. Any person may obtain a transcript of the hearing upon payment of costs of reproduction.

(CAC 8.36.050; AO No. 96-99, § 3, 10-22-96; AO No. 2002-163, § 17, 1-7-03; AO No. 2021-30(S) , § 8, 5-25-21)

Note(s)—Formerly AMC 5.30.030.

5.70.020 Public hearing process.

- A. The case in support of the accusation shall be presented before the commission by the executive director or his or her designee. The complainant may be represented by counsel at the public hearing.
- B. The respondent may file a written answer to the accusation within 20 days of service of the accusation and may appear at the public hearing in person or by counsel and submit testimony. After issuance of an accusation, respondent may direct a written request for an extension of time to file an answer to the hearing panel or hearing examiner. The executive director or his or her designee has the power to reasonably and fairly amend the accusation, and the respondent has the power to reasonably and fairly amend its answer at any time up to and including the time of public hearing.
- C. Any person may obtain a transcript of the hearing upon payment of costs.

(AR No. 92-223(S); AO No. 2002-163, § 18, 1-7-03; AO No. 2021-30(S) , § 8, 5-25-21)

Note(s)—Formerly AMCR 5.60.001. See the Code Comparative Table.

5.70.030 Appointment of public hearing panel.

- A. The chair shall appoint three commissioners to serve as members of a public hearing panel.
- B. Appointment of commissioners to serve on the hearing panel shall be on a rotating basis.
- C. Should a vacancy on the hearing panel occur, the chair shall appoint another member of the commission to fill the vacancy.

(AR No. 92-223(S); AO No. 2002-163, § 18, 1-7-03; AO No. 2021-30(S) , § 8, 5-25-21)

Note(s)—Formerly AMCR 5.60.002. See the Code Comparative Table.

5.70.040 Powers and duties of hearing panel and hearing examiner.

- A. The hearing panel may conduct hearings or appoint a hearing examiner to conduct the hearing. If the hearing panel elects to appoint a hearing examiner, the parties shall receive written notice of the appointment.
- B. Any party may challenge the appointment of a particular hearing examiner for cause, by submitting a motion to the chair within five days of notice of the hearing examiner appointment. The chair will rule on this motion within five days of receiving it.
- C. Each side is entitled as a matter of right to change the hearing examiner once. Two or more parties aligned on the same side of an action, whether or not consolidated, shall be considered one side for this purpose. In order to exercise this right, a party must submit a motion or written request to the chair within five days of notice of the appointment.
- D. A hearing examiner shall be a member of the Alaska Bar Association in good standing.
- E. In conducting a hearing, the hearing panel or hearing examiner will have full authority to rule on the admissibility of evidence and other procedural matters. When complaints involving a common question of law or fact are awaiting public hearing, the hearing panel or hearing examiner may order them to be consolidated. On any question which would be determinative of the jurisdiction of the commission or of the liability of any party, the hearing examiner or hearing panel may only make recommendations to the full commission.
- F. The hearing panel or hearing examiner may, on its own motion or upon the motion of a party, conduct a pre-hearing conference to consider procedural motions, to establish a schedule for discovery, briefing or exchange of witness lists and other matters as appropriate.
- G. The hearing panel or hearing examiner may issue orders pertaining to discovery upon the motion of a party.

(AR No. 92-223(S); AR No. 96-174, § 7, 10-22-96; AO No. 2002-163, § 18, 1-7-03; AO No. 2008-16, § 4, 3-18-08; AO No. 2021-30(S) , § 8, 5-25-21)

Note(s)—Formerly AMCR 5.60.003. See the Code Comparative Table.

5.70.050 Hearing date.

- A. The hearing panel or hearing examiner shall, within 30 days of appointment, establish a hearing date.
- B. The hearing panel or examiner shall serve written notice of hearing on all parties within ten days after the hearing date has been established. The notice of hearing shall state the date, time and place of the hearing.
- C. A motion for a continuance of the hearing date shall be in writing and shall state the reason for the continuance.

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- D. Any time before the hearing date, the full commission may, on its own motion, or upon the motion of any party, decide to hear a case when it finds that the case involves factual and/or legal matters of particular importance, significance or impact.

(AR No. 92-223(S); AO No. 2002-163, § 18, 1-7-03; AO No. 2021-30(S) , § 8, 5-25-21)

Note(s)—Formerly AMCR 5.60.004. See the Code Comparative Table.

5.70.060 Staff attorney.

- A. If the executive director is an attorney, the executive director shall not serve as legal advisor to the commission in issuing any non-procedural orders, in reconsideration matters, in any public hearings, or in any matters where the executive director has advised or supervised the staff during an investigation under this title.
- B. The staff attorney may present a case at hearing on behalf of the executive director.
- C. The staff attorney shall not serve as legal advisor to the commission in any adjudication involving a conflict of interest with a complainant, respondent or any other party to the complaint.

(AR No. 92-223(S); AO No. 2002-163, § 18, 1-7-03; AO No. 2021-30(S) , § 8, 5-25-21)

Note(s)—Formerly AMCR 5.60.005. See the Code Comparative Table.

5.70.070 Public hearing pleadings.

- A. All pleadings in public hearings shall be in writing.
- B. A party shall file the original of any public hearing pleading with the hearing panel or hearing examiner in care of the executive director. A party shall promptly serve upon all other parties a copy of any pleading. Service upon a party represented by an attorney may be made by mailing the pleading to the attorney by first class mail or by electronic service such as fax and/or email.

(AR No. 92-223(S); AO No. 2002-163, § 19, 1-7-03; AO No. 2021-30(S) , § 8, 5-25-21)

Note(s)—Formerly AMCR 5.60.006. See the Code Comparative Table.

5.70.080 Public hearing motions.

- A. Any motions made prior to the public hearing shall be submitted in writing to the hearing panel or hearing examiner. Motions at hearing may be made orally or in writing.
- B. All motions shall contain a brief, complete statement of the basis for the motion and legal authorities upon which the moving party relies.
- C. Parties may not file dispositive motions, such as motions to dismiss, motions for summary judgment, motions for failure to state a claim, or motions for judgment on the pleadings, except parties may file motions for lack of jurisdiction. The hearing panel or hearing examiner shall permit prehearing briefs in all cases and allow posthearing briefs only for good cause shown or by stipulation of the parties.
- D. An opposing party may file a written opposition to a motion within ten days after being served with the motion, unless otherwise agreed by the parties.
- E. The moving party may file a reply to an opposition to a motion within three days after being served with the opposition, unless otherwise agreed by the parties.

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- F. A motion shall be decided without oral argument unless otherwise ordered by the hearing panel or hearing examiner.
 - G. A motion shall be decided by the hearing panel or hearing examiner in writing.
 - H. The hearing panel will not review hearing orders of the examiner until the examiner submits a recommended decision under subsection 5.70.150.

(AR No. 92-223(S); AO No. 2002-163, § 20, 1-7-03; AO No. 2021-30(S) , § 8, 5-25-21)

Note(s)—Formerly AMCR 5.60.007. See the Code Comparative Table.

5.70.085 Discovery at public hearing.

- A. After issuance of the accusation, the executive director or a party may issue written interrogatories, requests for production, and requests for admissions to any party.
- B. Interrogatories, requests for production, and requests for admissions may address any matter not privileged which is relevant to the subject matter involved in the pending action. Information sought need not be admissible at the hearing, if it appears reasonably calculated to lead to the discovery of admissible evidence.
- C. A party, including the executive director, shall respond in writing to the interrogatories, requests for production, and requests for admissions within 30 days after the date of receipt. Upon written request and a showing of good cause, the hearing panel or hearing examiner may extend the time within which the response may be completed and returned.
- D. A party, including the executive director, may file with the hearing panel or hearing examiner written objections to an interrogatory, request for production, or request for admission. Objections shall be submitted on a document separate from the document containing answers to interrogatories, and shall include a statement of the reason(s) for each objection. All objections shall be submitted within the 30 days allowed for responding to interrogatories, requests for production, and requests for admissions. Untimely objections shall not be considered.
- E. The hearing panel or hearing examiner shall either sustain the objection or order that the interrogatory, request for production, or request for admission be answered within 15 days after receipt of the order by the objecting party.
- F. In the event that a party fails to respond fully or object to an interrogatory, request for production, or request for admission or to obtain an extension of time within 30 days after being served, the hearing panel or hearing examiner shall file with the superior court, a motion to compel production and/or response.

(AO No. 2021-30(S) , § 8, 5-25-21)

5.70.087 Subpoena.

- A. After issuance of the accusation, the hearing panel or hearing examiner may issue a subpoena upon written request and good cause shown by a party or the executive director, whenever necessary to compel the attendance and testimony of witnesses at hearings, or may issue a subpoena duces tecum whenever necessary to compel the production of books, records, papers, payroll or personnel records, correspondence, documents or any other evidence relating to any matter before the hearing panel or hearing examiner.
- B. Within five days after the service on a person of a subpoena requiring the production of any evidence in his or her possession or under his or her control, that person may file a motion requesting the hearing panel or hearing examiner to revoke the subpoena. The hearing panel or hearing examiner shall revoke the subpoena

if it finds the evidence required to be produced does not relate to any matter under investigation, or the subpoena does not describe with sufficient particularity the evidence required to be produced.

- C. The party requesting the subpoena, including the executive director, shall be responsible for serving the subpoena.
- D. A subpoena served under this section is enforceable in superior court. In the event that a person issued a subpoena does not respond, the hearing panel or hearing examiner shall proceed with the civil remedy set forth in subsection 5.80.010B. or 5.80.030B., by seeking an appropriate order from the court.

(AO No. 2021-30(S) , § 8, 5-25-21)

5.70.090 Intervention.

Any person may file a motion to intervene no later than 20 days prior to the date of the hearing. A motion to intervene shall be granted if the intervenor may be bound by an order of the commission or has a legal interest which may not be adequately represented by existing parties, or the executive director, and intervention would not unduly broaden the issues or delay the proceedings.

(AR No. 92-223(S); AO No. 2002-163, § 20, 1-7-03; AO No. 2021-30(S) , § 8, 5-25-21)

Note(s)—Formerly AMCR 5.60.008. See the Code Comparative Table.

5.70.100 Amicus curiae.

A person may file a motion requesting permission to file an amicus curiae brief. The motion shall identify the interest of the amicus curiae and the reasons the brief is desirable. The hearing panel or hearing examiner shall grant or deny the motion and notify the parties of the decision in writing.

(AR No. 92-223(S); AO No. 2002-163, § 20, 1-7-03)

Note(s)—Formerly AMCR 5.60.009. See the Code Comparative Table.

5.70.110 Conduct of hearings.

- A. All hearings shall be conducted in accordance with chapter 5.70. When a matter arises at hearing, the procedure for which is not set out in Anchorage Municipal Code chapter 5.70 or in this title, the hearing panel or hearing examiner is not strictly bound by, but may look to chapter 3.60, the Alaska Rules of Civil Procedure, the Alaska Rules of Evidence, or other pertinent legal precedent, texts or treatises for guidance in making its rulings.
- B. All parties shall be given the opportunity to be present at the hearing and may appear in person or through counsel.
- C. If any party with notice fails to appear, the hearing examiner or hearing panel may issue an order to show cause why judgment by default should not be entered against that party. If, within ten days after service of the order, the party does not submit evidence demonstrating good cause for the absence, the hearing examiner or hearing panel may enter a judgment by default and may either set a hearing to take evidence regarding the appropriate remedy or issue an order granting appropriate relief.
- D. The executive director or staff attorney shall be present at all hearings. The executive director has the burden of proving the allegations of the complaint.
- E. A certified court reporter or electronic recording device shall record the proceedings.

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- F. All testimony shall be given under oath or affirmation.
 - G. The record of the hearing shall include: the notice of hearing, the verified complaint and accusation as amended, the answer as amended, a transcript of the testimony taken at the hearing, the exhibits and deposition testimony admitted as evidence, written applications and motions, briefs, stipulations, preliminary orders, findings of fact and conclusions of law, the final order and all other pleadings.

(AR No. 92-223(S); AO No. 2002-163, § 20, 1-7-03; AO No. 2021-30(S) , § 8, 5-25-21)

Note(s)—Formerly AMCR 5.60.010. See the Code Comparative Table.

5.70.120 Evidence.

- A. The hearing panel or hearing examiner shall have full authority to admit or exclude testimony or other evidence and to rule upon all motions or objections regarding evidence.
- B. The hearing panel or hearing examiner shall give effect to the rules of privilege recognized by the Alaska Rules of Evidence.

(AR No. 92-223(S); AO No. 2002-163, § 20, 1-7-03; AO No. 2021-30(S) , § 8, 5-25-21)

Note(s)—Formerly AMCR 5.60.011. See the Code Comparative Table.

5.70.130 Findings of fact, proposed orders, and final order after public hearing.

- A. An order shall be in writing.
- B. At the completion of the public hearing provided for in this chapter,
 1. The hearing panel or hearing examiner shall serve on all parties proposed findings of fact, conclusions of law, and a proposed order.
 - a. The findings of fact shall demonstrate that each element of an allegation or defense was or was not proven by a preponderance of the evidence.
 - b. When demeanor, inconsistency, or personal credibility are bases for a recommendation or order, the hearing panel or hearing examiner shall specifically note these observations in findings accompanying the recommendation or order.
 2. A party may present to the hearing panel or hearing examiner written objections to the proposed findings of fact, conclusions of law and order within 15 days after receipt or such other time as fixed by the hearing panel or hearing examiner.
 3. Upon consideration of objections submitted, review of the record and the proposed order, if the case is heard by a hearing examiner, the hearing panel shall issue a final order in the case.
 4. A final order shall be issued within 60 days after the time for objections to be filed has run. A final order shall be subscribed to by a majority of the commissioners on the hearing panel. A separate concurring or dissenting opinion may be filed by a hearing panel commissioner.
 5. Copies of the final order and notice of right to judicial review shall be sent to all parties and to the municipal attorney.
- C. If the equal rights commission finds that a respondent has engaged in discriminatory conduct, it shall order the respondent to refrain from engaging in discriminatory conduct. The order may prescribe conditions on the respondent's future conduct relevant to the type of discrimination complained of in the complaint or amended complaint.

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- D. The commission may order the following types of relief:
1. In cases involving employment practices, the commission may order any equitable relief, including but not limited to the hiring, reinstatement or upgrading of an employee or group of employees with or without back pay, restoration to membership in a labor organization, or admission to or participation in an apprenticeship training program, on-the-job training program or other retraining program, and any other appropriate relief.
 2. In cases involving the sale or rental of real property, the commission may order any equitable relief, including but not limited to the sale, lease or rental of the housing accommodation to the aggrieved person if it is still available, or the sale, lease or rental of the next vacancy in like accommodations owned by the person against whom the complaint was filed, and any other appropriate relief.
 3. In cases involving public accommodations, the commission may order any equitable relief, including but not limited to restoration to membership in a place of public accommodation, or admission to or service in a place of public accommodation, and any other appropriate relief.
 4. In cases involving financial institutions, the commission may order any equitable relief, including but not limited to the issuance of a credit card to a person, the approval of a loan to a person or the issuance of insurance to a person, and any other appropriate relief.
 5. In cases involving educational institutions, the commission may order any equitable relief including, but not limited to admission to the institution or admission to the programs of the institution, and any other appropriate relief.
- E. The commission may monitor compliance with orders. The order may require reports to be made to the commission on the manner of compliance.
- F. If the commission finds that a respondent has not engaged in the discriminatory conduct alleged in the complaint, the commission shall issue and cause to be served on the complainant and respondent an order closing or dismissing the complaint.

(AO No. 96-99, § 4, 10-22-96; AO No. 2002-163, § 21, 1-7-03; AO No. 2021-30(S), § 8, 5-25-21)

Note(s)—Formerly 5.30.050. See the Code Comparative Table.

5.70.140 Relief. (Repealed)

(AR No. 92-223(S); AR No. 96-174, § 9, 10-22-96; AO No. 2002-163, § 22, 1-7-03; AO No. 2021-30(S), § 8, 5-25-21)

5.70.150 Dismissal. (Repealed)

(AR No. 92-223(S); AR No. 96-174, § 10, 10-22-96; AO No. 2002-163, § 22, 1-7-03; AO No. 2021-30(S), § 8, 5-25-21)

Chapter 5.80 MISCELLANEOUS PROVISIONS

5.80.010 Injunctive relief.

- A. If, at any time after a complaint has been filed, the executive director determines that the interests of the complainant may be irreparably damaged before the complaint can be resolved, or that equitable interests demand preservation of the status quo, the executive director may institute a civil action for injunctive relief pursuant to this section.

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- B. In cases of noncompliance with a lawful order of the equal rights commission, the commission may file a petition in any superior court of the state having jurisdiction seeking appropriate relief, including temporary or permanent injunctive relief. This includes the granting of a temporary restraining order not to exceed ten days in duration, unless a longer period is agreed to by the parties, and the granting of preliminary or permanent injunction, or both, following a court hearing.

(CAC 8.36.060; AO No. 2002-163, § 23, 1-7-03)

Note(s)—Formerly AMC 5.30.040. See the Code Comparative Table.

5.80.020 Penalty.

A person who willfully resists, prevents, impedes or interferes with the equal rights commission or any of its authorized representatives because of or in the performance of duty under this title is subject to a civil penalty as set forth in section 14.60.030, or, if such violation is not listed in the fine schedule set forth in section 14.60.030, a civil penalty as set forth in section 1.45.010.

(AO No. 93-167(S-1), § 5, 4-13-94; AO No. 2002-163, § 24, 1-7-03; AO No. 2014-42, § 36, 6-21-14)

Note(s)—Formerly AMC 5.30.070. See the Code Comparative Table.

5.80.030 Judicial review and enforcement.

- A. A complainant, or person against whom a complaint is filed, or other person aggrieved by an order of the commission, may obtain judicial review of the order in accordance with AS 44.62.560—44.62.570.
- B. The commission may obtain a court order for the enforcement of any of its orders by filing a complaint with the superior court in the Third Judicial District.

(AO No. 2002-163, § 24, 1-7-03)

Note(s)—Formerly AMC 5.30.080. See the Code Comparative Table.

5.80.040 Effect of compliance with order.

Immediate and continuing compliance with all the terms of an order of the equal rights commission is a bar to prosecution for the particular instances of discriminatory conduct described in the complaint and/or accusation filed before the commission.

(AO No. 2002-163, § 24, 1-7-03; AO No. 2021-30(S), § 9, 5-25-21)

Note(s)—Formerly AMC 5.30.090. See the Code Comparative Table.

5.80.050 Conflict of interest.

- A. Only an impartial commissioner or hearing examiner shall participate in a matter before the commission. A commissioner or hearing examiner is not impartial if:
1. They fail to meet the requirements of Anchorage Municipal Code chapter 1.15, Anchorage Municipal Code section 4.05.110, or any other applicable conflict of interest legislation; or
 2. Has a relationship, financial or otherwise, with any party which could reasonably be expected to influence, or which appears to influence, the commissioner's judgment concerning the matters to be adjudicated.

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- B. No commissioner shall engage in ex parte communications with any party concerning a case pending before the commission, including with the executive director or staff attorney.
 - C. A commissioner may excuse himself or herself on his or her own motion, or may be declared ineligible by a majority vote of the remaining members of the commission.
 - D. Any commissioner who becomes aware of a violation of this section shall immediately disclose the violation to the Anchorage Board of Ethics.

(AR No. 92-223(S); AO No. 2002-163, § 25, 1-7-03; AO No. 2021-30(S) , §§ 9, 10, 5-25-21)

Note(s)—Formerly AMCR 5.70.002. See the Code Comparative Table.

5.80.060 Confidentiality.

- A. Except as may be necessary for the proper investigation and adjudication of a complaint, fulfillment of statutory reporting requirements or cooperation with other governmental agencies, or to report imminent threats of harm to self or others to the proper authorities, the commission members, commission staff, and executive director shall not make public the identity of complainants and respondents and the contents of investigative files, including documents produced by the parties.
- B. Except as provided for in section 5.50.020 or otherwise provided by law, evidence contained in the investigative files shall not be made public by the commission members, commission staff, nor the executive director. However, the evidence compiled by the staff during an investigation shall be available to the complainant or respondent in the following circumstances:
 - 1. At least 30 days before a public hearing is held under chapter 5.70;
 - 2. In accordance with the rules of discovery if an action relating to the complaint is commenced in a court of competent jurisdiction including an administrative appeal of a commission order; or
 - 3. To comply with a subpoena issued by a court in which the complainant filed a complaint alleging discrimination based on the same facts and issues as were raised in the commission complaint or investigation.
- C. In addition, the commission may issue public statements describing or warning of a course of conduct that constitutes or will constitute an unlawful practice under this title, and the commission may also make information public if necessary to perform its duties or exercise its powers under title 5.

(AR No. 92-223(S); AR No. 96-174, § 11, 10-22-96; AO No. 2002-163, § 25, 1-7-03; AO No. 2008-16, § 5, 3-18-08; AO No. 2021-30(S) , § 9, 5-25-21)

Note(s)—Formerly AMCR 5.70.003. See the Code Comparative Table.

5.80.070 Reopening of proceedings.

When the interests of justice so require, the commission may, on its own motion or on the motion of any party or intervenor, reopen a proceeding and take appropriate action after notice to all parties. A motion to reopen shall be made by a party or intervenor within 30 days after any final determination or order is received by the moving party. A motion to reopen may be made by the commission at any time after the determination is made.

(AR No. 92-223(S); AO No. 2002-163, § 25, 1-7-03)

Note(s)—Formerly AMCR 5.70.004. See the Code Comparative Table.

5.80.080 Availability of rules.

Copies of the Anchorage Municipal Code governing the commission shall be available to the public at the office of the commission.

(AR No. 92-223(S); AO No. 2002-163, § 25, 1-7-03)

Note(s)—Formerly AMCR 5.70.007. See the Code Comparative Table.