

Administrative Rules and Procedures

Introduction, Purpose & Authority

The Los Angeles Civil and Human Rights Law, established under Article 16, Chapter IV of the Los Angeles Municipal Code (LAMC) (“Ordinance”) prohibits discrimination under [Section 51.03](#) as follows: “*No person shall discriminate against another person in private employment, housing, education or commerce, because of that person’s actual or perceived*” protected status. All defined terms referenced in the Ordinance shall have the same meanings in these Administrative Rules.

Under LAMC Section 51.00, the City tasks the Commission on Civil Rights (“Commission”) and the Civil, Human Rights, and Equity Department (“Department”) to investigate complaints of discrimination, based on real or perceived protected status occurring within the boundaries of the City, and to enforce against violators. The enforcement process, penalties, and other remedies as detailed in the LAMC Sections 51.05, 51.06, and 51.07 provide guidance as to the implementation of the discrimination enforcement operations. The rules for the fair and efficient conduct of administrative hearings, under Section 51.08, and administrative appeals, Section 51.09, are hereby promulgated in this document.

The Commission “*shall promulgate and enforce rules and administrative procedures, including, but not limited to, evidentiary rules created for the fair and efficient conduct of hearings and appeals in order to better carry out the purposes of this article,*” as set forth in LAMC Sec. 51.11.

In order to implement the administrative hearing and appeal provisions of the Ordinance, and to establish time limits, the following outline details the implementation of these provisions by the Commission and the Department as its designee.

I. Time Limits

In an effort for the Department to effectively carry out its duties, ensure successful investigations, maximize limited resources, and to focus on prioritizing more recent incidents for which evidence may be more likely available, the Department will be limited to considering discrimination complaints regarding alleged incidents which occurred no earlier than three (3) years prior to the filing of the complaint with the Department. If the alleged incident includes more than one (1) date, then the most recent date of the alleged incident will be used to determine this time limitation.

II. Data & Information Related to Protected Communities

In accordance with Mayoral Executive [Directive No.20](#) issued on March 21, 2017, the Department shall adhere to the following:

“No City employee shall collect information from individuals that is not necessary to perform the employee’s duties. In particular, no City employee shall collect information regarding a person’s citizenship or immigration status unless legally required to do so or mandated by policy to protect victims and witnesses of crimes.”

III. Administrative Hearing Process

Upon a written determination issued by the Department pursuant to LAMC Section 51.05 (“Notice of Violation”), the person against whom a complaint is filed (“Respondent”) may challenge the Notice of Violation by requesting an Administrative Hearing (“Administrative Hearing”). The Administrative Hearing refers to the process in which an independent decision maker (“Hearing Officer”) accepts evidence including testimony from witnesses and supporting documents throughout an official proceeding (“Hearing”). Following the Hearing, the Hearing Officer makes findings in the form of an administrative ruling to uphold or reject the Notice of Violation in part or in whole. The General Manager of the Department (“General Manager”) and the Respondent are parties to the Hearing and must abide by the Administrative Hearing process as outlined below:

A. Hearing Requests: A Respondent may request a Hearing to challenge the Notice of Violation. Both the Respondent and General Manager, or representative from the Department designated by the General Manager, must appear before the Hearing Officer and present evidence to support their positions. The General Manager has the burden of proof.

1. **Request Time Frame:** A Respondent may challenge the Notice of Violation by filing a request for Hearing within fifteen (15) calendar days from the date the Notice of Violation is served upon the Respondent. The date of service of the Notice of Violation shall be the date of the postmark on the First Class mailing. In order to be considered timely, the request for Hearing must be postmarked or received by the Department within fifteen (15) calendar days of the date of service of the Notice of Violation. The request for Hearing must: 1) be in writing, which may be via electronic mail; 2) specify in detail the objection(s) to the Notice of Violation; and 3) indicate the Respondent’s preferred return mailing address.
2. **Failure to Request a Hearing:** If the Respondent fails to file a Hearing request in accordance with the provisions of the Ordinance, and as detailed above, the

Notice of Violation shall immediately become final and enforceable.

3. Notice of Hearing: The Department is responsible for coordinating the parties' availability with the Hearing Officer and mailing a written notice of Hearing ("Notice of Hearing"). The written Notice of Hearing must include the name of the Hearing Officer, as well as the time and place of the Hearing. The Notice of Hearing must be served on the General Manager and on the Respondent, at the address indicated on the request for a Hearing, by First-Class Mail, postage prepaid, and shall be effective on the date of mailing, as evidenced by a proof of service. The Department may also send the Notice of Hearing via other means including, but not limited to, electronic mail, with a pdf (or similar) attachment of the formal Notice of Hearing letter. Service of the Notice of Hearing must be made at least twenty (20) calendar days prior to the date of the Hearing. The Hearing shall be held no later than forty-five (45) calendar days after service of the Notice of Hearing, unless that time is extended by mutual agreement. Once a hearing date is set, all requests for a continuance shall, whenever possible, also be by mutual agreement of the parties and must be coordinated with the Hearing Officer's availability. In the event that no mutual agreement is reached, the Hearing Officer will have the discretion to determine whether a continuance is warranted. Any new hearing date shall be confirmed in writing in accordance with the Notice of Hearing requirements set forth above. Hearings shall be held at an accessible location within the City of Los Angeles.
4. Failure to Appear: If the Respondent fails to appear at the Administrative Hearing, the Notice of Violation shall immediately become final and enforceable.
5. Submittals for the Hearing: No fewer than seven (7) calendar days prior to the hearing, the General Manager and the Respondent shall submit to the Hearing Officer, with simultaneous service by First-Class Mail as well as electronic mail and/or certified mail, to one another, a statement of issues to be determined by the Hearing Officer, the evidence to be offered, the witnesses to be presented at the Hearing, and any other relevant evidence.
6. Ex Parte Communications: The Hearing Officer shall not communicate with the General Manager or Department staff (excluding the Commission's designee for the limited purpose of scheduling and other logistical matters) or the Respondent regarding a pending Hearing outside of the Hearing. If a Hearing Officer receives an ex parte communication, they shall immediately notify the designated staff and any legal counsel for the Hearing Officer.

- B. **Selection of Hearing Officer:** The Hearing Officer must be an independent decision maker and can include, but not be limited to, pro tem judges provided by the Los Angeles Superior Court, administrative law judges from the State of California's Office of Administrative Hearings, and individuals trained in dispute resolution in accordance with the requirements of the California Dispute Resolution Programs Act of 1986.

As soon as practicable after receiving the request for a Hearing, a Hearing Officer shall be assigned to hear and rule on the Notice of Violation.

A roster of Hearing Officers shall be compiled and maintained by the Department. The Hearing Officers must be assigned on a rotating basis such that if a Hearing Officer has heard an appeal, that person shall not hear another appeal until all other Hearing Officers on the roster have been assigned to hear one (1) appeal. If a Hearing Officer is unavailable or unable to conduct a scheduled Hearing, the next Hearing Officer in the rotation shall be assigned.

- C. **Disqualification of Hearing Officer:** A Hearing Officer shall be subject to disqualification for bias, prejudice, conflict, or any other reason provided by law. The Hearing Officer shall disclose any potential conflict of interest, including any financial or relationship-based conflicts, as soon as practicable after they are selected and prior to the Hearing date.

If a Respondent or the General Manager believes the Hearing Officer should be disqualified, the Respondent or the General Manager shall submit in writing a detailed explanation of the grounds for disqualification and provide all supporting evidence. The Los Angeles City Attorney's Office shall review the submission and determine whether grounds for disqualification exist.

In the event a Hearing Officer is disqualified, a new Hearing Officer will be selected in accordance with the established selection process as detailed above. The Hearing may be continued as mutually agreed by both parties as well as the newly assigned Hearing Officer.

- D. **Conduct of Hearing:** The Hearing Officer shall conduct hearings and may accept evidence on which a reasonable person would commonly rely. The Hearing Officer will have the authority to determine which evidence is relevant and admissible, including, but not limited to, the following:

- A Notice of Violation issued by the General Manager, which shall be considered to be prima facie evidence of the violation(s) specified therein;

- Oral and written testimony under penalty of perjury relating to the violation(s) and the appropriate means of correcting the violation(s).

The General Manager shall have the burden of proof by a preponderance of the evidence. Below is an outline of the process:

1. Each party at the Hearing may choose its Hearing representatives and call witnesses in support of its case. The Hearing Officer may exclude a witness from the Hearing until it is time for them to testify.
2. The Hearing shall be open to the public and shall be audio-recorded. Any party to the Hearing may, at their own expense, cause the Hearing to be video-recorded or transcribed by a certified court reporter. There shall be no other recording other than as authorized by LAMC Section 51.08 G.
3. After the audio-recording system is turned on, the Hearing Officer shall read the date, title of the matter, and ask for appearances from all parties. The Hearing Officer will inquire if all parties are ready to proceed, then explain the Hearing process, and confirm that all parties understand the process.
4. The Hearing Officer shall first identify and admit the following evidence into the record:
 - Notice of Violation decision being challenged
 - The written request for a Hearing filed by the Respondent
 - The Notice of Hearing
 - The General Manager's and Respondent's pre-Hearing submittals
 - Any other evidence the Hearing Officer deems appropriate
5. The Hearing Officer shall allow the parties to present evidence, subject to the following rules:
 - Since the General Manager has the burden of proof by a preponderance of the evidence, the General Manager shall have the first opportunity to present argument and evidence concerning the case. The Respondent shall then have an opportunity to present argument and evidence concerning the case.
 - Each party may present its case in the manner of its choosing, including, but not limited to, argument from a representative, witness

testimony, or submission of documentary evidence.

- Parties may also make objections to witness testimony or documentary evidence, which shall be ruled upon by the Hearing Officer. Generally, any evidence that the Hearing Officer determines to be relevant shall be admitted if it is the sort of evidence a reasonable person would commonly rely on in this context. If the evidence meets this standard, the Hearing Officer may not exclude it solely because it was introduced in a manner that would not meet the evidentiary standards in a formal judicial proceeding; notwithstanding, the Hearing Officer is free to exclude evidence that is irrelevant, duplicative, consumes undue time, lacks sufficient credibility or authenticity, or is outside the scope of the Hearing.
- A party who seeks to prevent the disclosure at a Hearing of information they believe is confidential may do the following:
 - Redact sensitive personally identifiable information from their own documentary evidence prior to presenting it at the Hearing. Examples of information which may be protected in this manner include, but are not limited to, social security numbers, home addresses, personal phone numbers, and bank account numbers.
 - After conferring with the other party, enter into an agreement, which may be in the form of an evidentiary stipulation, to protect privileged or otherwise confidential information from disclosure, consistent with the requirements that the Hearing be open to the public and audio recorded. Any such agreement shall be stated on the record with sufficient specificity to identify the nature of the information to be protected, without revealing its substance, and shall be subject to the Hearing Officer's authority to clarify and rule on evidentiary matters.
 - If an agreement cannot be reached between the parties, the party who seeks non-disclosure may move for or otherwise request a ruling to protect the confidentiality of the information at issue, which the Hearing Officer shall issue on the record after allowing argument from both sides.

6. The Hearing Officer shall administer the following oath to all witnesses who testify, prior to testifying:

“You do solemnly state, under penalty of perjury under the laws of the State of California, that the testimony you may give in the cause now pending in this hearing shall be the truth, the whole truth, and nothing but the truth.”

7. Each party shall be allowed a reasonable opportunity to conduct a direct examination of each witness they call. Direct examination is then followed by an opportunity for the other party to cross-examine that witness. The Hearing Officer, at their discretion, may permit a redirect (or re-cross) examination of each witness.
8. The Hearing Officer may ask questions of either party or a witness, as necessary, to clarify testimony and evidence.
9. Each party is entitled to a fair and reasonable amount of time to present their case, taking into account the quantity and complexity of the claims at issue and the nature of the evidence the parties intend to present. Each party shall have a reasonable opportunity to present rebuttal evidence.
10. The Hearing Officer shall confirm, on the record, when each party has no further evidence to present, after which each party shall be allowed a reasonable opportunity to summarize its position through a closing argument or statement. The Hearing Officer may ask questions of either party, as necessary, to clarify their arguments.
11. Unless the Hearing is continued to permit the parties to submit additional information requested by the Hearing Officer, the Hearing Officer will close the Hearing. If there is no such continuance, then, prior to turning off the audio recording system, the Hearing Officer should clearly state that the Hearing has been completed and the record has been closed.
12. The Hearing Officer may issue evidentiary and procedural decisions during the course of the Hearing as necessary to maintain an efficient process and ensure the Hearing is conducted in adherence to the City’s laws and the requirements of due process.

- E. **Hearing Officer’s Findings and Determination:** Within thirty (30) calendar days after the conclusion of the Hearing, the Hearing Officer shall make findings in the form of a written administrative ruling based on the record of the hearing and may uphold or reject

the violation(s) referenced in the General Manager’s Notice of Violation in whole or in part. The Hearing Officer also may uphold the Notice of Violation and increase, reduce, waive, or conditionally increase, reduce, or waive the penalties, or both, based on specific findings of aggravating or mitigating circumstances drawn from the evidence presented at the Hearing. The Hearing Officer may impose, reduce, waive, or conditionally reduce or waive conditions imposed by the General Manager, including the modification of deadlines for the correction of violations or the payment of outstanding penalties.

The Hearing Officer shall serve the administrative ruling, by First-Class Mail, as well as electronic mail, on the General Manager and Respondent. The date of service shall be the date of the postmark on the mailing.

IV. Administrative Appeal (LAMC Sec. 51.09)

An Administrative Appeal process is initiated when a Notice of Appeal (“Notice of Appeal”) is filed by the General Manager or Respondent with the Commission to contest the administrative ruling issued by a Hearing Officer. The Commission shall review the Hearing Officer’s ruling under an abuse of discretion standard. The Commission shall conduct an administrative record review, as its primary appeal process and as promulgated in this Administrative Rules document.

- A. **Notice of Appeal:** The General Manager or Respondent may file a Notice of Appeal with the Commission within fifteen (15) calendar days of the date of service of the administrative ruling rendered by the Hearing Officer.

In order to be considered timely, the Notice of Appeal must be postmarked or received by the Commission within the fifteen (15) calendar days. The Notice of Appeal must: 1) be in writing; 2) specify in detail the basis for the appeal; and 3) indicate the Appellant’s preferred return mailing address.

- B. **Failure to File:** The failure to file a Notice of Appeal in accordance with the provisions of this section, pursuant to LAMC Section 51.09, or to appear at the Commission appeal hearing shall constitute a failure to exhaust administrative remedies. In such instances, the Hearing Officer’s ruling shall become final and enforceable.

- C. **Commission Review & Consideration:** In order to ensure timely consideration of the appeal, the Notice of Appeal shall be considered at a publicly held Commission meeting as soon as practicable after receiving the written Notice of Appeal.

- a. Setting the Commission Meeting Date: The Department must work with the Commissioners to ensure a timely Commission meeting date for the purpose of review and consideration of the Administrative Appeal. A “special” meeting must

be set if the regularly scheduled Commission meeting will not occur within thirty (30) calendar days of receipt of the Notice of Appeal.

- b. Notice of Commission Meeting Date: The General Manager and the Respondent shall be notified of the date, time, and location of the Commission meeting at which the Notice of Appeal will be considered.
 - c. Notice of Appeal Response: The non-appealing party has the option to file a written response to the Notice of Appeal. The response, if any, must be submitted no later than seven (7) calendar days prior to the Commission meeting date. The written response must be sent via electronic mail to the Commission with a copy provided to the party that filed the appeal.
- D. **Administrative Record Review**: The Commission shall conduct an Administrative Record Review and issue its ruling within thirty (30) calendar days of receipt of the Notice of Appeal. The Department must prepare a record, (the “Administrative Record”) to include Hearing transcripts and copies of all written exhibits that were submitted during the Hearing. No new evidence will be introduced or allowed for inclusion in the Administrative Record.

The Administrative Record must be provided to each of the Commissioners, as soon practicable, but no later than seven (7) calendar days prior to the set Commission meeting. Commissioners must individually review all records ahead of the formally scheduled meeting in order to be prepared for discussion and deliberation during the public meeting. The Commission’s ruling must be rendered before the conclusion of the public meeting, at which time the Respondent and General Manager have the opportunity to address the Commission.

The Commission may elect to hold a hearing in place of the Administrative Record Review set forth in these Administrative Rules. If the hearing process is chosen by the Commission in place of the Administrative Record Review, the notice, scheduling, and other applicable requirements set forth in LAMC Sections 51.08 and 51.09 must be followed.

- E. **Commission Ruling**: The Commission may reject the ruling of the Hearing Officer in whole or in part if an abuse of discretion is found. In doing so, the Commission may:
- a. Reinstate, reduce, waive, or conditionally reduce or waive the Administrative Penalties;

- b. Reinstate, reduce, waive, or conditionally reduce or waive the Compensatory Penalties;
- c. Impose, reduce, waive, or conditionally reduce or waive conditions imposed in the ruling;
- d. Alter deadlines for the correction of violations or the payment of the outstanding penalties.

If the Commission finds no abuse of discretion, the Hearing Officer's ruling shall stand and is enforceable.

F. **Final Order:** The ruling of the Commission pursuant to this section shall constitute a final order, which shall be served on the General Manager and the Respondent by certified mail. The Commission's final order is subject to judicial review, pursuant to California Code of Civil Procedure Section 1094.5.

G. **Enforcement of the Administrative Rules:** The Commission's approval of these Administrative Rules, as set forth in this document, shall be deemed officially promulgated.

V. **Date of Service and Methods of Communication**

Unless otherwise provided, the date of service for required communications shall be the date of mailing, as evidenced by a proof of service. Whenever First Class mail is required by any rule, the parties must abide by such rule. Notwithstanding, the Department shall include additional communication methods, including but not limited to, certified mail, electronic mail, and/or personal delivery as deemed necessary by the Department.

VI. **Amendments**

Any future amendments to this document must be considered by the Commission for approval during a regularly scheduled meeting.