

Discrimination Enforcement Practice Overview

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.

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. In accordance with LAMC Section 51.03, *“No person shall discriminate against another person in private employment, housing, education or commerce, because of that person’s actual or perceived race, color, ethnicity, creed, age, national origin, religion, citizenship status, gender, gender identity or expression, sexual orientation, disability, medical condition, genetic information, marital status, partnership status, employment status, income status, military status or veteran status.”*

This article *is intended to remedy those discriminatory actions in housing and employment and provide remedies to those protected classes that are not encompassed by the provisions of FEHA.*” The City’s ordinance under LAMC Section 51.14 states that this article shall be interpreted to be compatible with state enactments and in furtherance of the public purposes that those enactments encompass. To the extent that the Fair Employment and Housing Act (FEHA), Cal. Gov. Code, § 12900 etseq., has occupied the field of enforcement of discrimination in employment and housing encompassed by the provisions of that act, this article shall provide no separate remedy.

The Department does not have the authority to investigate complaints against public entities including other City departments. In such cases, the Department will refer the individual to the appropriate City agencies and processes as well as other state and federal agencies such as California Department of Fair Employment and Housing (DFEH) or Equal Employment Opportunity Commission (EEOC).

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 ordinance further prohibits retaliation under LAMC Section 51.04, against any complainant for filing a complaint with the Department.

The Department has the discretion during the assessment phase to identify whether or not a case meets the criteria as set forth in the Ordinance. While we strive to prevent discrimination through

education and engagement, the Department will enforce penalties in accordance with the authority of the Ordinance. Below is an overview of the discrimination enforcement process in accordance with the Civil and Human Rights Ordinance.

Enforcement Process

I- Assessment

Under LAMC Section 51.05, any person whose rights, granted or protected by this article, have been violated may submit a complaint. The enforcement process is initiated by a person who files a complaint with the Department alleging that a right under the Los Angeles Civil and Human Rights law has been violated (“Complainant”).

- a. Inquiry: A person may initiate a general inquiry (“Inquiry”) related to discrimination enforcement services, including referrals and consultations. An inquiry, however, is not required in order to initiate a complaint intake.
- b. Discrimination Complaint Intake: A person may initiate the complaint process by filing a detailed intake form explaining the discriminatory practices alleged to have been violated (“Complaint”).
- c. Contact methods: A person may complete an inquiry or a complaint intake form by regular mail, in person, by phone, or through the on-line web form available on the Department's website.

The Department’s designated staff can be available to assist with completing an inquiry or complaint intake form upon request. Language accessibility and ADA assistance will be provided upon request.

- d. Initial Assessment: The submitted inquiry or complaint intake form is logged into the case management database, and a record number will be generated and provided as a point of reference to the person who submitted the intake form. The record is assigned to a Human Relations Advocate (HRA) by the supervisor to perform an initial review.

The HRA will perform an initial review to determine if the inquiry or complaint intake form alleging discrimination is prohibited under LAMC Sec. 51.03, is within the jurisdiction of the Department, and meets the following criteria:

- ✓ Must be in the private sector in commerce, education, employment, or housing only.

- ✓ Must pertain to a protected class in accordance with the City of LA Human Rights Law.
- ✓ Must have taken place within the City of Los Angeles.
- ✓ Alleged incident must have occurred no earlier than three (3) years prior to the date of the filing of the complaint intake form 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.

The HRA may call the person who submitted the intake form to collect further details and to verify the information provided. If the criteria are not met, the person who submitted the intake form may be referred to outside mediation services or other relevant agencies as appropriate.

- e. Confidentiality: In accordance with the LAMC Section 51.05 (A), the Department will keep confidentiality to the maximum extent required or permitted by law. This includes keeping confidential the name and other identifying information of the Complainant. With the authorization of the Complainant, the Department may disclose the Complainant's name and identifying information as necessary to conduct investigations under this article or for other appropriate purposes.

The Department shall disclose the name and identifying information of the Complainant if and when the Executive Director issues a written public document, which will list found violation(s) ("Notice of Violation") to the Respondent.

- f. Collection of Data: The data collected through the Inquiry and Complaint intake records and during the course of investigation will be kept in a secure environment via the City's ServiceNow (SNow) with restricted access and needed encryptions to protect information. Physical files will be kept in a secure location with authorized staff access only.

Moreover, in accordance with Mayoral Executive Directive No.20 issued on March 21, 2017, "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."

II- Investigation

Once the initial assessment is completed, and it is determined that the Complaint is within the authority of the Department, and meets the criteria as noted above, the Complaint record status will be updated to reflect that there is an investigation in progress. Upon review by the Supervisor, an investigator will be assigned.

The assigned investigator will initiate further communications with the Complainant, will contact the person against whom a Complaint is filed (“Respondent”), will gather additional detail, and will request supporting documents from the Complainant and Respondent, as needed. A Respondent shall cooperate fully in any investigation initiated by the Department in accordance with Sec. 51.05 B.

- a. Subpoena: In accordance with *Sec. 51.05 B* “The General Manager may request the Commission to subpoena witnesses, compel their attendance and testimony, and require by subpoena the production of any books, papers, records or other items relevant to inquiries, investigations and enforcement actions under this article.” Subpoenas requested by the Commission shall be issued and served in accordance with Charter Section 217.
- b. Outside Mediation: Voluntary outside mediation may be offered as an option to the Complainant and Respondent if both parties see it as a viable option at any point in the investigative process.

Mediation referrals will be implemented based on mutual agreement by both Respondent and Complainant. The Department will only track the final outcome of the mediation process. If there is no resolution at mediation, the matter may return to the enforcement process.

- c. Settlement: The Department may negotiate a settlement agreement with the Respondent at any point during the process, including during the investigative phase. Once a settlement is reached, the General Manager shall present the settlement agreement to the Commission for approval, which shall have the authority only to approve or disapprove of the settlement agreement in whole or in part in accordance with LAMC 51.05 C.

If the Commission does *not* approve the settlement agreement in whole or in part, the Commission shall remand it to the General Manager to resume enforcement authority over the matter, including the authority to present a new settlement to the Commission.

- d. Referral: If there is insufficient evidence to establish a violation of LAMC Section 51.03 or 51.04, the case may be closed or referred to other services, including DFEH or EEOC as appropriate.

III- Enforcement

If based on the investigation, it is determined that violations of LAMC Section 51.03 or 51.04 have occurred, a Notice of Violation will be publicly issued by the General Manager and served upon the respective Complainant and Respondent by First-Class mail. The date of service shall be the date of the postmark on the mailing. The Notice of Violation may also be sent via electronic mail or other delivery methods as deemed appropriate by the Department. The General Manager shall disclose the name and identifying information of the Complainant at the time the Notice of Violation is publicly issued.

- a. Notice of Violation: The Notice of Violation is a public document, which will describe the violation(s), impose administrative penalties, and may also include compensatory penalties, as well as corrective actions, if any.
- b. Penalties and Corrective Actions: As directed in Section 51.07 A, compensatory penalties may be imposed. “The cumulative amount of the penalties imposed shall not exceed \$125,000, except upon a finding by the General Manager that a violation was the result of a Respondent's harassing or violent act, in which case the cumulative amount of the penalties shall not exceed \$250,000.” 51.07 A. If no timely request for an Administrative Hearing is filed by the Respondent, the Respondent must pay the penalties to the City within 30 calendar days from the date of the Notice of Violation. The City will distribute any collected compensatory penalties to Complainants based on the exact amount (if any) imposed in the Notice of Violation.

The City may collect any unpaid penalty, including the late fee, by means of a civil action, injunctive relief, specific performance and the recordation of a lien against real property in accordance with applicable law. Any administrative penalties recovered pursuant to this section shall be paid to the City. Any Compensatory Penalties recovered pursuant to this section shall be paid to the Complainant.

- c. Severity of Penalties: In accordance with (Sec. 51.07 D) the Executive Director “shall impose penalties for violations of this article only after considering factors, including but not limited to: 1) the extent of harm caused by the violation; 2) the nature and persistence of the violation; 3) the length of time over which the violation occurs; 4) past violations; 5) any action taken to mitigate the violation; and 6) the financial burden to the Respondent.”

Payments to City & Late Payment Penalty: Any imposed penalties must be paid to the City within 30 days from the date of the Notice of Violation (Sec. 51.07 C). Failure to remit penalties within the 30 days results in late fees assessed daily at the rate of 7%.

- d. Civil Enforcement: LAMC (Sec. 51.06 A) states that a “Complainant may bring a civil action in a court of competent jurisdiction against any person violating this article and shall be entitled to such legal or equitable relief as may be appropriate, including, without limitation, damages, restitution, injunctive relief, and reasonable attorneys' fees and costs. Nothing in this section shall preclude, or otherwise limit a civil action by the City, or a separate or criminal prosecution under the Municipal Code or state law. Jeopardy shall not attach as a result of any administrative or civil enforcement action taken pursuant to this article. The right of a Complainant to bring a civil action under this section shall not be waived by private agreement.”
- e. Criminal Penalties: Any person who willfully resists, obstructs or interferes with the Commission, the Director, or the Hearing Officer in the performance of any duty under this article shall be guilty of a misdemeanor and be punishable by a fine of not more than \$1,000 and by imprisonment in the County Jail for a period of not more than six months.

The Respondent has the option to negotiate a settlement, or comply with the Notice of Violation and pay the imposed penalties. Upon remittance of the penalties, the case will be closed and considered resolved.

Otherwise, the Respondent may challenge the Notice of Violation and request for an Administrative Hearing Process within 15 calendar days from the date of the Notice of Violation. The Administrative Rules Document detailing the Administrative Hearing as well as the Administrative Appeals process.