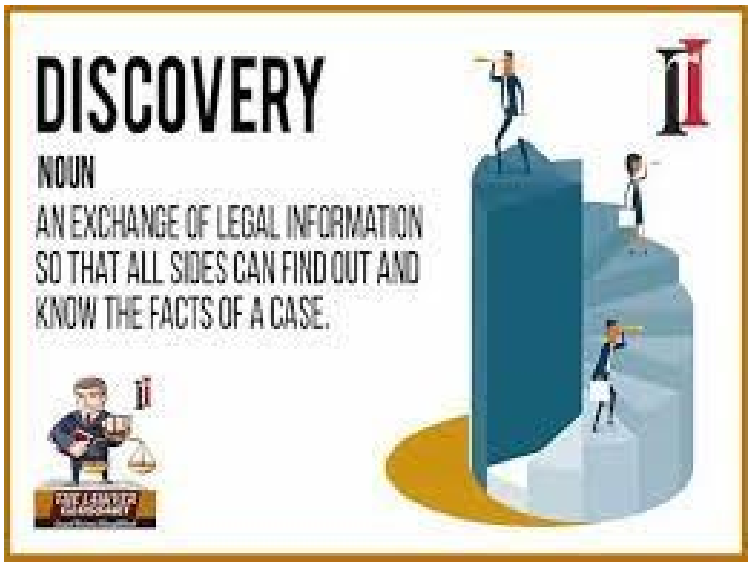
DISCOVERY HANDBOOK FOR SELF-REPRESENTED LITIGANTS

D.C. Commission on Human Rights

D.C. Office of Human Rights

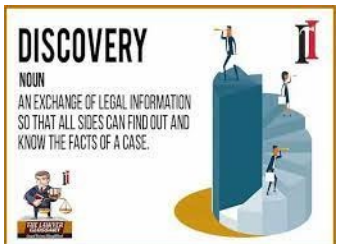


PREFACE

This guide is provided to help *pro se* litigants (persons who represent themselves) in cases before the Commission on Human Rights (private sector cases) and the Office of Human Rights (public sector cases). It is provided as a courtesy and not meant to be legal advice. These guidelines summarize the procedures concerning where and how to file the necessary legal papers, the exchange of information between opposing parties, trial preparation, and certain other legal procedures which you and your opponent may need to use before your case is finally resolved. This guide should not be cited as authoritative legal or administrative policy. The management of any matter is within the discretion of the presiding judge. **This manual replaces and supersedes: "A Guide to the D.C. Commission on Human Rights' Adjudication Process," dated September 2015.**

Erika L. Pierson
Chief Administrative Law Judge
D.C. Commission on Human Rights
D.C. Office of Human Rights
2019-2024

Table of Contents



DISCOVERY

What is Discovery? "Discovery" is how one side gets information from the other side and finds out about what the other side will say and present at trial. Parties may obtain discovery regarding any matter not protected by the law that is relevant to the claim or defense of any party, including information about documents and the identity and location of persons who have information. **Unless otherwise ordered by the presiding judge, discovery responses are due 30 days after they are received. The Commission rules on discovery and sanction can be found in Chapter 4 of Title 4 of the District of Columbia Municipal Regulations ("DCMR") and are in Attachment A.**

A. **Who can request discovery?**

Any *party* to the case can request discovery. A complainant representing themself is called the "*pro se* litigant." The employer, agency, or public entity is called the "Respondent." An attorney representing the other side of the case is called the "opposing counsel." In private sector cases, the Office of Human Rights (OHR) represents the complaint or the public interest. If the opposing side is represented by an attorney, you must communicate with that attorney only. The Administrative Law Judge (ALJ) assigned to the case is referred to as the "presiding judge" or "ALJ."

B. **Do I file my discovery responses with the Court/ Administrative Law Judge?**

You do not have to file your discovery responses with the Court. Instead, you only need to file a **certificate of discovery** – a document stating that you served discovery or discovery responses on the other side. A blank certificate of discovery is attached to these instructions (Attachment B) and is available on the website. You only need to file your discovery responses if there is a dispute about discovery and you are asking the judge to help resolve the dispute.

C. **Automatic Discovery (Rule 417)**

The discovery process begins with both sides disclosing to one another (and to OHR in private sector cases) the following information after the initial scheduling conference. These are referred to as **"Rule 417 Disclosures."** A blank fillable form (Attachment C) can be downloaded from the website.

(1) **Witnesses.** The name, and, if known, the address, email, and telephone number of each individual believed to have discoverable information relevant to the facts

alleged in the complaint. **Remember--include yourself on the witness list. You may also include: "any person called by Respondent as a witness;"** *and*

(2) **Documents.** A copy of, or a description by category and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party that are relevant to the facts alleged in the complaint.

D. Discovery Tools

In addition to Rule 417 automatic disclosures, there are five available tools for discovery:

1. **Interrogatories.**

Interrogatories are questions that the other side and OHR can ask you to answer and questions you can ask the other side to answer. For example, you can ask a party to explain their position or to identify a person with relevant information. The interrogatories must be answered within 30 days and must be signed. You may not serve the other side with more than **40 questions**, including subparts. *See* 4 DCMR § 417.3. An evasive or incomplete answer to a request for discovery is considered a failure to comply.

2. **Requests for Documents.**

A party can ask another party to produce documents or to allow the other party to review or copy documents. The requesting party must provide a detailed description of the document sought. Parties are not required to produce documents that you are able to obtain from other available sources if it is not in their possession. For example, a party is not required to provide a public document that is available from a public agency such as the Department of Consumer and Regulatory Affairs (DCRA). If you have been served with a request for production of documents, you must give a response within 30 days (unless you get an extension from the requesting party or the ALJ).

a) ***What documents must I provide (and can request)?*** All types of information may be discoverable, including documents (e.g., contracts, deeds, photographs), electronically stored information (e.g., emails, word processing documents, spreadsheets), tangible items (real or personal property, e.g., shoes and clothes worn in a slip-and-fall case), and knowledgeable persons (e.g., witnesses to the incident). Document discovery is limited to items in the party's possession or control.

b) *What documents do I not have to provide?* You do not have to provide documents that are confidential or protected by attorney-client privilege or work product doctrine.[1] However, if you believe a document falls into one of these categories, you must state that in your response. You may also redact confidential information from the documents you provide such as social security or account numbers.

c) *What if I already provided the documents?* If a party requests you provide a document that you have already provided, you can instead, state that the document was already provided and state the date it was provided and the method by which it was provided. For example, "This document was already provided to opposing counsel on January 1, 2022, in an email with the subject 'Documents Requested'."

d) *What if I need more time to respond?* If you need more time to answer discovery, you may ask the opposing party for an "extension." **Be sure to get opposing party's agreement to extensions in writing.**

e) *Duty to Supplement Responses.* In most cases, you receive discovery requests in the early stages of litigation. As a result, you may not know all the answers to your opponent's questions, and you may not have all the documents necessary for answering the requests. You must still respond to your opponent's discovery requests within the time requirements. If you later receive additional information, you must "supplement" your prior response promptly.

3. **Requests for Admissions.**

A request for admission requires the other side to admit or deny a fact. We encourage the parties to stipulate (agree) to as many facts as possible to simplify the hearing. Failure to answer is treated as an admission. The ALJ will consider anything admitted in response to a request for admission as a proven fact.

[1] Attorney-client privilege refers to a legal privilege that works to keep confidential communications between an attorney and his or her client secret. Attorney work product privilege permits attorneys to withhold from production documents and other tangible things prepared in anticipation of litigation by or for another party or its representative.

4. Depositions

A deposition is a chance to get a party or a witness to answer questions under oath before trial. One purpose of the deposition is to give both sides an idea of what will be said on the witness stand at trial. The other purpose is to create a written transcript of sworn testimony that can be used at trial. The party that wants to take a deposition has to give written notice of the deposition. The notice can be informal or a subpoena You have the right to attend the deposition of any witness being deposed by the other side and they have a right to attend any deposition you conduct. You may cross-examine (ask questions to) the witness at the deposition.

a) **Who will be present at the deposition?**
No judge is present during depositions. The attorneys will be present. There will be a court reporter or stenographer present to record what is said. The deposition might be videotaped.

b) **Where will the deposition take place?**
Depositions can be taken in person, virtually (e.g., Zoom, Webex, etc.), or by telephone. While the rules do not specify *where* a deposition should take place, it should occur at a mutually agreed upon location that is not inconvenient. Unless otherwise agreed to by the parties, 21 days' notice should be provided for a deposition. *See* D.C. Sup. Ct. Civ. R. 30**.**

c) **How long is a deposition?**
The amount of time for a deposition varies. Unless the parties agree or the ALJ otherwise orders, depositions are limited to one day or 7 hours. What is said in the deposition can be used against the witness or party at the trial.

d) **Do I have to answer all the questions asked at a deposition?**
In most cases, you cannot refuse to answer a question at a deposition unless the answer would reveal privileged or irrelevant private information. You can object to questions in a deposition, but you may be compelled to answer if the ALJ overrules the objection. You may object to any questions that you think are improper or have no bearing on the outcome of the case. Just because a question may be unsettling or used against you does not mean it is improper or you do not have to answer.

e) **What if I refuse to be deposed?**
It is very important that you appear for any deposition and answer the questions in good faith. If you refuse to attend a deposition, the opposing side may request the ALJ issue a subpoena to compel you to attend. If you fail to

appear for a scheduled deposition or refuse to attend, the opposing side may seek sanctions under Commission Rule 434. Sanctions could include monetary sanctions or limitations on the evidence you are permitted to present at a trial.

f) Who pays for a deposition, and can I get a copy of the transcript?

The party requesting a deposition is responsible for all costs associated with taking the deposition. You are entitled to a copy of the transcript or video. However, transcripts are obtained directly from the court reporter and each party is responsible for the costs associated with purchasing a copy.

5. **Physical or Mental Exams.**

In extremely limited circumstances, the opposing party might request a complainant be ordered to undergo a physical or mental exam if the complainant's mental or physical condition is in controversy. Unlike other discovery procedures, physical or mental examinations can be obtained only by filing a motion with the ALJ or by agreement of the parties. It is usually the respondent requesting that the complainant be examined in relation to the injuries the complainant is seeking to be compensated for. A showing of good cause is a required and the order will define the circumstances of the examination. Such an examination is not confidential.

E. **Discovery Disputes**

1. **Do not ignore discovery requests!**

- The Commission Rules require that you respond and work with the opposing party to meet all discovery deadlines.
- Be timely in your response. If you cannot meet the deadlines for responding, request a reasonable extension.
- Courts do not like it when parties spring surprises on each other.

- Do not try to hold back information so that you can "surprise" the opposing party later.
- If there are witnesses you would like to call at trial, be sure to disclose their identities.

2. **What if I think the discovery requests received are unreasonable?**
You can object to another party or OHR's discovery requests before the expiration of the time to respond. You may object to an interrogatory seeking privileged information or that is overbroad, vague, or unduly burdensome.

You must explain fully the reason for your objection. Before asking the administrative law judge to get involved you must meet with the party who requested the discovery and try to resolve the issue. This is referred to as **"meet and confer."** For example, if the opposing side has asked you to produce 10 years of documents and you think it is unreasonable, you can meet and confer with the opposing side. Often, the opposing side will agree to limit the information requested.

3. **What happens if a party does not respond to discovery?**

If you fail to respond to discovery, the requesting party may file a motion asking the ALJ to compel (force) you to respond. *See* Rule 417.6. If the opposing side does not respond to your discovery requests, you may file a motion asking the ALJ to compel the other side to respond.

4. **Motion to Compel Discovery**

Sometimes, the parties will disagree about the disclosures, discovery, or objections filed. If the parties cannot agree after meeting and discussing the problem, then you may file a motion asking the ALJ to limit the discover or require the opposing party to answer discovery. A sample motion is attached **(Attachment D)** A motion to compel MUST include:

a) A certification that you have met and conferred with the other side and tried in good faith to resolve the problem without help from the ALJ; AND

b) An explanation of the problem and what you want the ALJ to do; AND

c) If the problem involves discovery, a copy of the discovery questions and answers; AND

d) An explanation of the facts that make it appropriate for the ALJ to grant your motion.

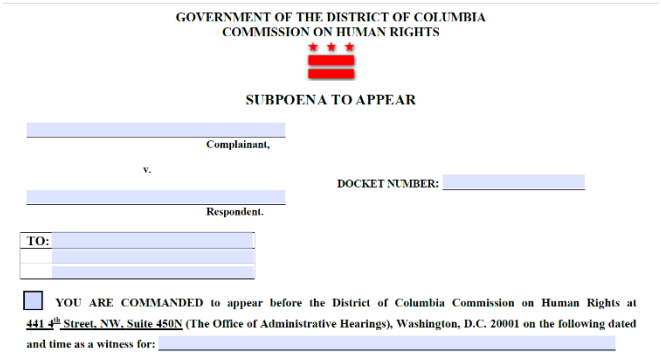
5. **Sanctions for failing to comply.**

If an Order is issued compelling a party to provide discovery responses and the party still does not comply, a party may file a motion asking the court to "sanction" the opposing side. Sanctions are listed in Rule 434. Examples of sanctions are the payment of attorney's fees, the exclusion of evidence at trial, or limiting the issues at trial. It is very important you respond to discovery requests to keep from being sanctioned which can hurt your case.

F. **Protective Orders**

A protective order limits discovery or imposes conditions on discovery to protect a party or a person from annoyance, embarrassment, oppression, or undue burden or expense. For example, a protective order can (a) prohibit a party from getting certain discovery or from inquiring into specified matters, or (b) prohibit a party from publicly disclosing information obtained in discovery, including confidential personal or business information. An employer will often request a protective order regarding information provided about other employees. A complainant will often request a protective order regarding their medical records.

G. Subpoenas



GOVERNMENT OF THE DISTRICT OF COLUMBIA
COMMISSION ON HUMAN RIGHTS

SUBPOENA TO APPEAR

Complainant,

v.

DOCKET NUMBER:

Respondent.

TO:

YOU ARE COMMANDED to appear before the District of Columbia Commission on Human Rights at 441 4th Street, NW, Suite 450N (The Office of Administrative Hearings), Washington, D.C. 20001 on the following dated and time as a witness for:

A subpoena (pronounced "suh-*pee*-nuh") is a request for the production of documents, or a request to appear in court or other legal proceeding. It is a court-ordered command that essentially requires you to *do* something, such as testify or present information that may help support the facts that are at issue in a pending case. There are two types of subpoenas. The first, called *subpoena ad testificandum*, requires you to testify at a hearing. The second, called *subpoena duces tecum*, requires you to produce documents, materials, or other tangible evidence. The rules on subpoena are found un 4 DCMR § 418 **(Attachment A).**

1. **What if I need evidence from someone who is not a party?**
   Parties may need to obtain information, documents or testimony from other witnesses who are not parties. Some information may be sought by subpoena. To request a subpoena, download a **"Subpoena Duces Tecum"** (subpoena for production of documents) from the website.[2] Fill out the subpoena and email it to the presiding ALJ who will obtain the signature of the Chief Judge. However, if the ALJ decides the subpoena is not appropriate, the ALJ may deny the subpoena.

2. **Serving the subpoena.** You may request that this administrative court serve the subpoena, or you may serve the subpoena yourself. The Court will serve the subpoena by either certified mail or with delivery confirmation. If you choose to serve the subpoena, you may serve it by mail, email, or in person by a process server. **Please be aware that this administrative court does not provide or pay for process servers.**

H. Expert Witnesses

Expert witnesses are persons with some special knowledge or experience relevant to a case who are allowed to give their opinions. Most commonly litigants call doctors as expert witnesses. Any party who may want to call an expert to testify at trial has to give the other parties notice, as part of discovery – identifying the person and stating the subject matter on which

[2] For private sector cases use the "Subpoena Duces Tecum_PRIVATE." For a public sector case (involving a D.C. Government agency), use the "Subpoena Duces Tecum_PUBLIC."

the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion. An expert witness who is not disclosed in advance may not be permitted to give an opinion at trial.

1. **Is my treating doctor an expert witness?** *Maybe*
   The Commission rules do not provide any specific requirements for the disclosure of expert witnesses. Therefore, we look to the rules of D.C. Superior Court. Rule 26(a) requires that an expert witness provide a written report if the *witness is one retained or specially employed to provide expert testimony in the case.* D.C. Super. Ct. R. Civ. P. 26(a)(2)(B). While treating physicians are experts under Rule 26(a)(2), they are not expert witnesses "retained or specially employed to provide expert testimony" that must be disclosed and provide a written report under Rule 26(a)(2)(B). However, there may be some things a treating physician cannot give an opinion on if not disclosed as an expert. The reason for a written report is to enable the other side to prepare its cross-examination and defense.

2. **Do I have to pay my expert?**
   Often, experts charge a fee to testify or prepare a report. It the responsibility of the party calling the expert to pay any required fee. However, a complainant (in a private sector case) who is a prevailing party, is entitled to be awarded attorney's fees and costs from the opposing side and can be reimbursed at that time for the expert costs.

ATTACHMENT A

COMMISSION RULES ON DISCOVERY

417 DISCOVERY

417.1 Any party may obtain discovery from any other party who is subject to the jurisdiction of the Commission. Discovery may be obtained in regard to any matter not privileged, which is or may be reasonably calculated to lead to admissible evidence.

417.2 Except as otherwise ordered by the hearing examiner, a party shall, without awaiting any discovery request, provide to all parties the following information:

(a) The name, and, if known, the address and telephone number of each individual believed to have discoverable information relevant to the facts alleged in the complaint; and

(b) A copy of, or a description by category and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party that are relevant to the facts alleged in the complaint.

417.3 Unless otherwise stipulated or ordered by the hearing examiner, these disclosures shall be made at or within thirty (30) days following the status conference provided for in § 412.1.

417.4 Consistent with the scheduling order of each case, parties may obtain discovery by one or more of the following methods:

(a) Deposition upon oral examination or written questions;

(b) Written interrogatories, except that no party shall serve upon another party at one time or cumulatively more than forty (40) written interrogatories, including parts and subparts, unless otherwise ordered by the hearing examiner for good cause shown;

(c) Production of documents or things;

(d) Physical and mental examinations; and

(e) Requests for admission.

417.5 Unless otherwise specified by order of the hearing examiner, responses to any discovery request shall be made within thirty (30) days of the service of that request.

417.6 Upon failure of a party to comply with a discovery request, the requesting party may move for an order of the hearing examiner compelling discovery; provided, that the requesting party shows a substantial need for the requested discovery in preparing its case and is unable to obtain substantially equivalent material by alternate means without undue hardship.

417.7 An evasive or incomplete answer to a request for discovery shall be considered a failure to comply. Upon such finding, the hearing examiner shall issue an order compelling production of the discovery requested. If the compelled party fails to comply with the order, the hearing examiner may order sanctions including, but not limited to, the following:

(a) Award of costs and attorney’s fees to the compelling party;

(b) Limitation as to issues or to the admissibility of certain evidence at the hearing; and

(c) Disqualification of the compelled party’s representative.

417.7 Upon motion of a party from whom discovery is requested, the hearing examiner may issue any order which justice requires to protect any party or person from unnecessary annoyance, embarrassment, oppression, or undue burden or expense, including but not limited to, the following:

(a) Denial of the requested discovery;

(b) Limitation of the requested discovery as to scope, time, method, or other terms and conditions;

(c) Protective order of confidentiality as to all or part of the material or information requested; or

(d) Requirement that the parties simultaneously file specified documents or information in sealed envelopes to be opened at the direction of the hearing examiner.

SOURCE: Final Rulemaking published at 42 DCR 1429, 1441-43 (March 24, 1995).

418 SUBPOENAS

418.1 Any party, or the hearing examiner, may apply to the Commission for the issuance of a subpoena in the name of the Chief Judge of the Superior Court of the District of Columbia, requiring the appearance and testimony of a witness, or the production of a document or other evidence. The application for a subpoena shall state with particularity the testimony or evidence being sought, and the time and place of appearance or production; and shall be made on a form obtainable from the Commission. The applicant need not show that the appearance or production of the witness or evidence in question will not be made voluntarily.

418.2 The party seeking a subpoena shall direct the application for subpoena to the Chairperson through the hearing examiner. The hearing examiner shall obtain the signature of the Chairperson on the subpoena form.

418.3 Service shall be effected in accordance with § 411. The party who sought the issuance of the subpoena shall be responsible for service of the subpoena, or may elect to have the subpoena served by the Commission by certified mail. If made by anyone other than the Commission, service shall be attested by the person making service, in an affidavit stating the date, time, place, and method of service.

418.4 Any witness subpoenaed to appear before a hearing examiner shall be entitled to the same fee paid in the same manner as are paid to witnesses appearing before the Superior Court of the District of Columbia in civil cases, except that the party on whose behalf the subpoena is issued need not tender the fees in advance of appearance and testimony of the witness or production of evidence pursuant to the subpoena. A witness who is employed by the District of Columbia shall not be entitled to the fees if that witness remains on active duty status while appearing before the hearing examiner.

418.5 Any person to whom a subpoena is directed may file with the Hearing Tribunal a motion to limit or quash the subpoena, stating the reasons that the subpoena should be limited or quashed. The motion shall be filed in writing on or before the date specified in the subpoena for compliance.

418.6 The Hearing Tribunal may, in its discretion, issue *sua sponte* an order limiting or quashing a subpoena.

418.7 Any duly subpoenaed person who refuses or neglects to obey a subpoena without filing a motion to limit or quash the subpoena, or after a motion to limit or quash the subpoena has been denied, may be subject to citation for contempt of the Commission or the Superior Court of the District of Columbia. The Chairperson shall report the failure to obey the subpoena to the - Office of Attorney General for enforcement by Chief Judge of the Superior Court of the District of Columbia.

434 SANCTIONS

434.1 The hearing examiner may impose or recommend sanctions against any person present at or connected with a hearing proceeding who fails to comply with the hearing examiner's instructions, engages in willful dilatory conduct, resists the Commission, disrupts the proceeding, or engages in any other form of misconduct.

434.2 The sanctions that are generally applicable to such misconduct shall include, but shall not be limited to, the following:

(a) Exclusion from any part or all of the remainder of the proceedings; and

(b) Recommendation by the hearing examiner that the Office of Attorney General institute, in the name of the District of Columbia, criminal proceedings that may result in fines or imprisonment, pursuant to D.C. Official Code § 1-1402.64 (2001).

434.3 The sanctions that may be specifically applicable to misconduct engaged in by parties or their representative shall include, but shall not be limited to, the following:

(a) Recommendation by the hearing examiner that the Hearing Tribunal dismiss the complaint in accordance with § 426 or institute default proceedings in accordance with § 427 when the complainant or the respondent fails to appear at or be prepared for any scheduled phase of the hearing process preceded by proper notice;

(b) Inference adverse to the interest of any party engaging in ex parte communications, on any issue which is the subject of the communications;

(c) Inference of facts sought to be established through discovery, in favor of the party seeking discovery, when the party from whom discovery is sought fails to comply with an order of the Commission compelling discovery;

(d) Prohibition of a party failing to comply with an order of the Commission compelling discovery, from asserting a claim or defense or introducing evidence regarding matters which are the subject of the order compelling discovery;

(e) Striking of pleadings or parts thereof which relate to matters which are the subject of an order of the Commission compelling discovery with which the pleading party failed to comply;

(f) Invocation of D.C. Official Code § 2-1402.64 (2001), when a party fails or refuses to comply with an Order of the Commission compelling discovery;

(g) Striking of pleadings that have not been signed in good faith;

(h) Inference that evidence is adverse to the interest of any party failing to comply with the hearing examiner's instructions to produce the evidence; provided, that it is reasonably available and not subject to any privilege;

(i) Inference of admission when a party refused to respond to a request for admission of genuineness of an exhibit or of the truth of a fact;

(j) Exclusion of testimony of witnesses whose appearances are not preceded by reasonable efforts of the calling party to provide other parties with notice of their appearances; and

(k) Recommendation by the hearing examiner that the Commission suspend the privilege of a representative to practice before it when the representative's misconduct is of an egregious or repeated character. Any party whose representative has been excluded from the proceedings shall be granted a reasonable continuance within which to obtain alternate representation.

434.4 The sanctions that may be specifically applicable to misconduct engaged in by witnesses called before the Commission shall include, but shall not be limited to, the following:

(a) Recommendation by the hearing examiner that the Chairperson report to the Office of Attorney General the failure of any witness to appear pursuant to a duly issued and served subpoena. The Chairperson shall seek enforcement of the subpoena by the Office of Attorney General in the Superior Court of the District of Columbia.

(b) Inference that the answer to a question ruled proper by the hearing examiner, which the witness refuses to answer, is favorable to the interest of the party on whose behalf the question is propounded; or striking of all of the witness' testimony; provided, that the testimony is not subject to any privilege;

(c) Invocation of D.C. Official Code § 2-1402.64 (2001), when a witness refuses to answer a question ruled proper by the hearing examiner; provided, that the testimony is not subject to any privilege;

(d) Invocation of D.C. Official Code § 2-1402.64 (2001), or exclusion or striking of testimony of any witness failing to comply with § 423.3 of this chapter; and

(e) Recommendation by the hearing examiner that the -Office of Attorney General institute, in the name of the District of Columbia, criminal proceedings that may result in the punishment prescribed by law for perjury when a witness willfully testifies falsely.

SOURCE: Final Rulemaking published at 42 DCR 1429, 1454-56 (March 24, 1995). Mayor's Order 2004-92 (5-26-04).

ATTACHMENT B
CERTIFICATE OF DISCOVERY

GOVERNMENT OF THE DISTRICT OF COLUMBIA
COMMISSION ON HUMAN RIGHTS * OFFICE OF HUMAN RIGHTS

Email: Commission.COHR@dc.gov

Complainant, **v.** **Respondent.**	**Docket No:**

CERTIFICATE REGARDING DISCOVERY

I certify that the following is a complete list of all discovery that has occurred to date:

I further certify that:

(1) I will retain the original of these documents without alteration:
(2) I will retain, in their original and unaltered form, any deposition transcripts that have been made at my request, until this case is concluded, the time for noting an appeal has expired, any such appeal has been decided.

_____
Signature of Attorney

_____
Typed Name of Attorney

_____
Address

_____
City State Zip Code

_____
Bar Number

_____
Typed Name (unrepresented party)

_____
Signature

_____
_ Address

_____
_ City State Zip Code

Date:_____

DO NOT FILE DISCOVERY DOCUMENTS WITH THIS FORM.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
COMMISSION ON HUMAN RIGHTS * OFFICE OF HUMAN RIGHTS

Complainant, **v.** **Respondent.**	**Docket No.:**

CERTIFICATE OF SERVICE

You must send copies of any papers you file at the Commission or Office to the other parties. By signing this form, you are stating that you sent copies and how they were sent. Attach this certificate of service to anything you file.

I certify that a copy of this document was sent to the parties named below on _____
(date)

☐ **By Email:**

_____ _____
(Name of Party) (Name of Party)

_____ _____
(Email address) (Email address)

Or ☐ **By Mail** ☐ **Hand Delivery at the following addresses:**

_____ _____
Address Address

_____ _____
City State Zip City State Zip

My Name: _____

My Address: _____

_____
City State Zip Code

My Email:_____

_____
My Signature

ATTACHMENT C
RULE 417 DISCLOSURE FORM

GOVERNMENT OF THE DISTRICT OF COLUMBIA
COMMISSION ON HUMAN RIGHTS * OFFICE OF HUMAN RIGHTS

Marion S. Barry, Jr. Building
441 Fourth Street, NW, Suite 290N
Washington, DC 20001-2714
TEL: (202) 727-0656 FAX: (202) 727-3781 Email: Commission.COHR@dc.gov

Complainant,	**Docket No.:**
v.	☐ **Original** ☐ **Amended** ☐ **Supplemental**
Respondent.	

OHR **RULE 417 AUTOMATIC DISCLOSURES**

Pursuant to Rule 417.2 (4 DCMR § 417.2), each side must exchange certain information within 30 days of the initial scheduling hearing without receiving a request for discovery. It is important that your Disclosures are complete. You are required to provide all the information that you currently know and that you can reasonably figure out.

A. Please provide the name, and if known, the address, email, and telephone number of each individual you believe has information relevant to the case, including any person you intend to call as a witness at hearing:

Name of Person	Address, Phone, Email	Description of what person knows

Additional persons with knowledge can be added on a second page.

B. Please identify and provide a copy of any documents that are in your possession and control, including electronically stored information (e.g., emails) that are relevant to the facts alleged in the complaint that you may use to support your claims or defenses. Be sure to include yourself if you might testify. If you are unable to provide a copy at this time, describe the document and indicate when it will be available:

Category **Of document or item**	**Location** **of Document or item if a copy not provided**
	☐ Copy Provided or:
	☐ Copy Provided or:

	☐ Copy Provided or:
	☐ Copy Provided or:
	☐ Copy Provided or:
	☐ Copy Provided or:
	☐ Copy Provided or:

Additions documents or items can be added on a second page.

_____ _____

Date Signature

ATTACHMENT D
MOTION TO COMPEL

GOVERNMENT OF THE DISTRICT OF COLUMBIA
COMMISSION ON HUMAN RIGHTS * OFFICE OF HUMAN RIGHTS

Guide to Discovery:

Motion to Compel

Consider Filing a Motion to Compel if:

- **A party fails to answer interrogatories**
- **A party's response to a discovery request is incomplete or evasive**
- **A person fails to answer a question during a deposition**
- **A non-party objects to a request for documents under subpoena**

When not to file a motion to compel:

What is a Motion to Compel?

A Motion to Compel is a request to the Administrative Law Judge to order party or a non-party to comply with a discovery request such as a request for production, request for admission, interrogatory, or subpoena. A Motion to Compel is governed by Commission Rule 417 (4 DCMR § 417). The Commission also looks to the Civil Rules of the District of Columbia Superior Court for guidance. In particular, Rules 26 (Experts), 33 (interrogatories), 34 (Documents), 35 (mental/physical exams), 36 (Admissions), and 37 (Sanctions). The party who files a Motion to Compel is called the **"moving party"** and he or she may file a Motion to Compel when another party or non-party has either not provided a response or provided an inadequate response to a discovery request.

When Can You File a Motion to Compel Discovery?

A motion can be filed after you have made a formal request for discovery, the opposing side had not responded or requested an extension, and you have met and conferred with the other side or attempted to meet and confer and did not receive a response.

If you believe that you have a legal basis for filing a Motion to Compel, file it within a reasonable time after you receive the improper discovery response. The ALJ may reject your Motion to Compel as untimely if you file it after your discovery deadline or long after you became aware of the insufficient response to your discovery request.

Meet and Confer.

Courts rely on the parties to cooperate when discovery disputes arise with a "full and diligent effort to resolve any disagreements with a *meaningful view towards reasonable compromise*." Discovery is not a perfect mechanism and there is no guarantee that every possible responsive document will be found and/or produced. Before filing a motion to compel

you must make a good faith effort to resolve the discovery dispute with the other side. Do not be afraid to ask opposing counsel to agree to whatever it is you are asking for in your motion. If the opposing counsel says no, explain that you will then be filing a formal motion with the Court. Your motion should include a meet and confer statement or a copy of correspondence you sent to the opposing side requesting they meet and confer and specifying the issues to be resolved. A sample meet and confer statement is:

> "Complainant certifies that prior to filing this motion he/she conferred in good faith with counsel for the Respondent in order to resolve this matter by agreement, but the parties have been unable to do so. Specifically, Complainant_____ _____.
> [specify the actions you have taken to resolve the dispute]

What Should be Included in the Motion to Compel?

- Case caption
- Title of the Motion (e.g., "Complainant's Motion to Compel Discovery Responses from Respondent")
- A description of the issue and what you are seeking from the ALJ
- A certificate of service
- A copy of the Discovery requests
- A copy, if any, of the discovery responses received that are at issue
- If you are compelling a non-party, a copy of the subpoena and certificate of service showing when and how the subpoena was served

What happens after I file my motion to compel?

Depending on the issue and the sufficiency of the information provided, the ALJ may decide the motion on the papers. Or the ALJ might schedule a hearing on the motion. You should expect either a decision or a hearing to be scheduled within 30 days of the motion being filed.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
COMMISSION ON HUMAN RIGHTS * OFFICE OF HUMAN RIGHTS

Marion S. Barry, Jr. Building
441 Fourth Street, NW, Suite 290N
Washington, DC 20001-2714

, Complainant, **v.** **, Respondent.**	**Docket No.:** [Category] ☐ **Hearing Requested** ☒ **Please decide on papers**

COMPLAINANT'S MOTION TO COMPEL DISCOVERY RESPONSES

The Choose an item. in this case moves this administrative court to {describe the nature of your motion} Click or tap here to enter text.

I certify that prior to filing this motion I conferred in good faith with counsel for the Respondent to resolve this matter by agreement, but the parties have been unable to do so. Specifically, I Click or tap here to enter text.. [specify the actions you have taken to resolve the dispute].

This motion is based upon the following facts: Click or tap here to enter text.

Based on this information, I request that the Court take the following action: Click or tap here to enter text.

Submitted by:

Click or tap here to enter text.
Typed Name

_____ Date: Click or tap to enter a date.
Signature