

Fact Sheet 26-02
Enforcement Areas & Public Resources (English)
Office of Human Rights (OHR)
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OHR's Role in Commission Proceedings and the Voluntary Compliance Agreement ("VCA")

The D.C. Human Rights Act ("DCHRA") provides the D.C. Office of Human Rights ("OHR") with broad authority to address unlawful discrimination in employment, housing, public accommodations, and educational institutions in the District of Columbia.¹ One tool to address discrimination is a Voluntary Compliance Agreement ("VCA").

What is OHR's Role in Commission Proceedings?

After OHR finds probable cause in a private sector case, and if the case does not settle at conciliation, the matter is certified to the D.C. Commission on Human Rights ("Commission") for a public hearing. The DCHRA requires OHR's Office of General Counsel to "present the case in support of the complaint" at the public hearing. See § 2-1403.12 (b). As a result, OHR enters its appearance in support of the complaint and the public interest. See D.C. Code § 2-1403.12(b); 4 DCMR § 408.1. OHR participates in Commission proceedings as a third-party litigant and may pursue public interest relief, including through a Voluntary Compliance Agreement (VCA).

What is a Voluntary Compliance Agreement or VCA?

A VCA is a voluntary agreement between OHR and a Respondent that is made at the Commission stage of the process. The DCHRA authorizes OHR to "conciliate" complaints after finding "probable cause" to eliminate discriminatory practices in the District.² At the Commission stage, OHR may offer to resolve complaints against a Respondent through a VCA, which settles the "public interest" relief. In addition to a VCA, OHR may also seek "make whole relief" for the Complainant, including monetary relief. 4 DCMR § 408.1.

What Is Included in a VCA?

Under a VCA, the Respondent agrees to injunctive (non-monetary) relief and submits to a period of compliance monitoring by OHR. Compliance monitoring involves submitting policies, training materials, and compliance reports to OHR for periodic annual or semi-annual review. VCAs are tailored to each case, but most include:

¹ D.C. Code § 2-1401.01 *et seq.*

² See D.C. Code § 2-1403.06. ("the Office . . . may, at any time after the filing of the complaint, endeavor to eliminate such unlawful discriminatory practice by conference, conciliation, or persuasion.").



- **Immediate compliance with the law:**³ The Respondent agrees not to engage in any unlawful action under the DCHRA or other relevant law.
- **Posting of Notices:**⁴ OHR has broad authority to require District businesses to post required notices addressing anti-discrimination. Under a VCA, the Respondent agrees to post the relevant OHR notice posters (e.g., [OHR's Equal Employment Opportunity Poster](#) or [Fair Housing Poster](#)) in a prominent physical location, on its website, and/or in its employee handbook, and will certify to OHR it has done so.
- **Training Requirement:**⁵ As part of a VCA, the Respondent agrees to provide training to its staff or managers on the DCHRA and/or other applicable laws. The Respondent may be required to submit training materials to OHR for review prior to the training, include specific topics in its training, and/or certify that its training has been completed by providing training materials and attendance logs.
- **Policies:**⁶ OHR also has the authority to require businesses and parties to submit documents, data, and reports for OHR review and inspection. As part of a VCA, the Respondent agrees to submit relevant non-discrimination policies, such as its reasonable accommodation or sexual harassment policies, to OHR for review. The Respondent also agrees to consider and incorporate any feedback that OHR provides.
- **Annual Compliance Report:**⁷ OHR monitors compliance with a VCA through compliance reports. Under a VCA, the Respondent agrees to submit an annual compliance report on or before the effective date of the VCA for the duration of the monitoring period, detailing its compliance and alerting OHR to any changes in its policies or trainings.

When can a VCA be negotiated with OHR?

After a probable cause finding has been certified to the Commission for a hearing on the merits, OHR and the Respondent may decide to enter into a VCA. Typically, OHR does not seek a VCA unless the Respondent has also offered “make whole relief” to the Complainant.⁸ If a Complainant rejects a “make whole offer of relief,”

³ See 4 DCMR § 717.6 (“The terms of a conciliation agreement may require a respondent to refrain from committing specified discriminatory practices in the future....”)

⁴ Postings may be required regardless of whether a respondent enters into a VCA. See D.C. Code § 2-1402.51 (Posting of notice)

⁵ See *id.* (“The terms of a conciliation agreement may require a respondent... to take such affirmative action as will effectuate the purpose of the Act.”)

⁶ See D.C. Code § 2-1402.52(c)(1) (“All persons subject to this unit shall furnish to the Office, at the time and in the manner prescribed by the Office, such data, documents, information, records, and reports relating to information under their control as the Office may require.”).

⁷ See *id.*

⁸ See 4 DCMR § 717.9 (“If during conciliation efforts, the respondent offers a remedy that would place the complainant in the same position that the complainant would have been in had the alleged discriminatory practice not occurred, and the complainant

and a Respondent enters a VCA with OHR, OHR may withdraw from the Commission case after obtaining the VCA. The Complainant is not a party to the VCA, and the VCA does not resolve the matter between the Respondent and the Complainant. The Respondent may enter into a separate settlement agreement with the Complainant.

What Is OHR's Authority to Enter Into a VCA?

The DCHRA gives OHR broad authority to “pursue public interest relief and appropriate relief for the complainant.” 4 DCMR § 408.1. Under the DCHRA, OHR may “endeavor to eliminate such unlawful discriminatory practice by conference, conciliation, or persuasion.” D.C. Code § 2-1403.06 . This includes the VCA process, which requires a respondent to refrain, in the future, from committing specified discriminatory practices and to take affirmative steps to ensure that such practices do not re-occur. *Id.*

How Are VCA's Enforced?

- **OAG Referrals:** A VCA is deemed an order of the Commission and is enforceable as such. *See* D.C. Code § 2-1403.06. If a Respondent violates the VCA and does not take corrective measures to cure the breach, OHR may certify the matter to the D.C. Office of the Attorney General (“OAG”) to institute civil enforcement proceedings, including restraining orders and temporary or permanent injunctions, to obtain compliance with the VCA. D.C. Code § 2-1403.15. The OAG may also institute criminal action if civil proceedings are ineffective. *Id.*
- **Licensing Referrals:** After finding probable cause, OHR retains the authority to refer Respondents to appropriate licensing agencies or authorities if the Respondent is a holder of a permit, license, franchise, benefit, or advantage issued by a District agency or authority. *See* D.C. Code § 2-1403.17.

Director's Inquiries and VCAs

The Office also has the authority to investigate pattern and practice violations through a Director's Inquiry, by initiating an investigation of alleged violations of the DCHRA. *See* D.C. Official Code § 2-1403.04(a); § 2-1403.05; and 4 DCMR § 902.2 (Director's *sua sponte* inquiry). After an initial inquiry, if the Director finds probable cause to believe a Respondent has engaged in violations of the DCHRA, and if the prohibited conduct is continuing or is likely to continue, the Director “shall advise the person or organization of the opportunity for voluntary compliance,” including by entering into a VCA or submitting a corrective action plan to OHR.

refuses to accept the offer, and if the Director determines that the offered remedy would make the complainant whole, the Director may order the complaint dismissed.”).