

419 HEARING: GENERAL REQUIREMENTS

- 419.1 When the objectives of the pre-hearing conference have been accomplished, the Hearing examiner shall serve on the parties written notice of the formal hearing, including the date, time, and place of the hearing, not less than fifteen (15) calendar days nor more than thirty (30) calendar days prior to the designated date of the Hearing.
- 419.2 The formal hearing shall be open to the public.
- 419.3 The formal hearing shall be conducted in accordance with the Act, and in accordance with the provisions of the D.C. Administrative Procedure Act pertaining to contested cases.
- 419.4 In the event of any direct, irreconcilable conflict between this chapter and the Administrative Procedure Act, or any other act or title of the District of Columbia Code, or where this chapter is silent, the Administrative Procedure Act or other Act or title of the District of Columbia Code shall control.

source: Final Rulemaking published at 42 DCR 1429, 1444 (March 24, 1995).

420 RIGHTS OF PARTIES AT HEARING

- 420.1 Any party may call, examine, and cross-examine witnesses.
- 420.2 Any party may offer papers, documents, or other exhibits for inclusion in the official record of the hearing process.
- 420.3 Any party may file briefs, memoranda of law, or proposed decisions and orders with respect to any questions of fact or issues of law within such time limits as the hearing examiner may establish.

source: Final Rulemaking published at 42 DCR 1429, 1444 (March 24, 1995)

421 ORDER OF PROCEDURE

- 421.1 At the commencement of every hearing, the hearing examiner shall announce the title of the complaint, explain the nature of the proceedings, and state the issues involved.
- 421.2 The complainants representative(s) shall present the complainant's case first. The complainants case may be preceded by an opening statement and followed by an oral summation and motion for dispositive ruling. The complainant may waive the opening statement, oral summation, and motion for ruling.

- 421.3 The respondent's representatives shall present the respondent's case in chief second, which may be preceded by a motion for dismissal an opening statement, and followed by an oral summation. The respondent's representative may waive the motion for dismissal, opening statement, and oral summation.
- 421.4 The complainants representative(s) may present a rebuttal case in support of the complaint after the respondent's case in chief, and the respondent's representative may present a surrebuttal case

source: Final Rulemaking published at 42 DCR 1429, 1445 (March 24, 1995).

422 EVIDENCE

- 422.1 The hearing examiner may exclude evidence from the record if it is incompetent, irrelevant, immaterial, or unduly repetitious.
- 422.2 Admissions or representations made in connection with prior settlement negotiations shall be excluded from the record.
- 422.3 Hearsay evidence may be admitted into the record at the discretion of the hearing examiner and accorded such weight as the hearing examiner deems warranted by the circumstances.
- 422.4 The parties may stipulate as to any matter of fact. A stipulation shall satisfy a party's burden of proving that fact.
- 422.5 The hearing examiner may, on the motion of a party or *sua sponte*, take official notice of matters of common knowledge or of any information contained in the records of the Commission, or of other matters that can be verified. Official notice of any fact shall satisfy a party's burden of proving that fact.
- 422.6 Where any decision of the hearing examiner or the Hearing Tribunal rests on official notice of a material fact not appearing in the evidence of the hearing record, any party shall, upon timely request, be given the opportunity to introduce evidence showing to the contrary.
- 422.7 The hearing examiner and the Hearing Tribunal shall not be bound by any other rules of evidence.

source: Final Rulemaking published at 42 DCR 1429, 1445 (March 24, 1995).

423 WITNESSES

- 423.1 Testimony of all witnesses shall be given under oath or affirmation.
- 423.2 The order of examination of witnesses shall be direct, cross, redirect, and recross.
- 423.3 The hearing examiner shall exclude from the hearing room all witnesses who have not testified, while any other witness is testifying. Parties who will testify shall not be subject to this requirement. The hearing examiner shall admonish all persons present during the rendering of testimony to refrain from discussing that testimony with any witness yet to testify, and shall admonish witnesses who have yet to testify to refrain from discussing testimony already rendered with any person present during the rendering of that testimony. Any person failing to comply with the hearing examiner's instructions in this connection shall be subject to the sanctions in §434.3(d).

source: Final Rulemaking published at 42 DCR 1429, 1446 (March 24, 1995).

424 ALTERNATE FORMS OF TESTIMONY

- 424.1 When a witness is unavailable, as defined by the Civil Rules of the Superior Court of the District of Columbia, to testify in person, or upon the agreement of the parties, the hearing examiner may admit the content of the proffered testimony in an alternate form, such as the following:
- (a) An affidavit attested by the witness;
 - (b) A transcript of the deposition of the witness; or
 - (c) Written responses by the witness to interrogatories propounded by the parties.
- 424.2 The hearing examiner shall require the party seeking the admission of the alternate form of testimony to provide notice and evidence of the witness unavailability, as well as a proffer of the relevance of the testimony.
- 424.3 In the absence of the parties's agreement as to admissibility of an alternate form of testimony of a witness not subject to the subpoena power of the Commission, the hearing examiner may exclude the testimony if the rights of the opposing party would be substantially prejudiced by its admission into evidence.
- 424.4 With the exception of non-hearsay deposition testimony, the hearing examiner shall give testimony admitted into evidence under this section the same weight as other hearsay evidence.

source: Final Rulemaking published at 42 DCR 1429, 1446 (March 24, 1995).

425 BURDEN OF PROOF

- 425.1 The initial burden of production of evidence shall rest with the Office and the complainant to establish a *prima facie case* of an unlawful discriminatory act or practice.
- 425.2 Upon the satisfaction of the Office's and the complainant's burden of production, the burden shall shift to the respondent to articulate a legitimate, nondiscriminatory explanation for the alleged act or practice.
- 425.3 Upon the satisfaction of the respondent's burden of production, the complainant shall be afforded an opportunity to demonstrate that the respondent's explanation is a pretext or is otherwise invalid.
- 425.4 The complainants representative(s) may present a rebuttal case in support of the complaint after the respondent's case in chief, and the respondent's representative may present a surrebuttal case.

426 DISMISSAL

- 426.1 The Hearing Tribunal may order the dismissal of any certified complaint at any time after receipt by the Commission, upon the motion of a party, upon the recommendation of the hearing examiner or the designee of the Chairperson, or *sua sponte*. The order shall be considered a Final Decision and Order within the meaning of §430, shall be preceded by a Proposed decision and Order if the hearing of the complaint was delegated to one or more hearing examiners who do not constitute the Hearing Tribunal, and may be appealed in accordance with §431.
- 426.2 The Hearing Tribunal may dismiss the complaint prior to the commencement of the hearing process upon the recommendation of the person designated by the Chairperson to review letters of determination, for any of the following reasons:
- (a) Lack of jurisdiction over the subject matter;
 - (b) Lack of jurisdiction over the respondent;
 - (c) Untimely filing of the complaint;
 - (d) Prior filing in court; or

(e) Prior settlement of the complaint.

426.3 For failure of the Office and the complainant to appear in person or through a representative, the Hearing Tribunal, when sitting as hearing examiner, may dismiss the complaint at the commencement of the hearing process, or when not sitting as hearing examiner, may dismiss the complaint upon the hearing examiner's recommendation, following:

(a) Duly served notice to the Office and the complainant of the conference or hearing; or

(b) Failure to locate the complainant after reasonable, recorded efforts to do so.

426.4 The Hearing Tribunal sitting as hearing examiner may dismiss the complaint at the end of the case in chief in support of the complaint, for failure to present a *prima facie* case of unlawful discriminatory act or practice. When not sitting as hearing examiner, the Hearing Tribunal may dismiss the complaint upon the hearing examiner's recommendation. The hearing examiner may recess the hearing in order to prepare a Proposed Decision and Order recommending dismissal of the complaint, or may postpone a recommendation of dismissal until all the evidence has been adduced.

426.5 The Hearing Tribunal sitting as hearing examiner may dismiss the complaint after the conclusion of the hearing, based on all of the evidence adduced in the hearing. When not sitting as hearing examiner, the Hearing Tribunal may dismiss the complaint upon the hearing examiner's recommendation.

426.6 Pursuant to §416, the Commission may dismiss the complaint at any time prior to the Hearing Tribunal's rendering of a Final Decision and Order.

source: Final Rulemaking published at 42DCR 1429, 1447 (March 24, 1995).

427 DEFAULT

427.1 The respondent may be held in default when, after being duly served notice of a status conference, the pre-hearing conference, or the hearing, it fails to appear in person or through its representative.

427.2 In the event of the respondent's default, the hearing process shall proceed with the evidence offered in support of the complaint. The Hearing Tribunal's Final Decision and Order shall find against the respondent if it finds that the evidence establishes a *prima facie* case of unlawful discriminatory act or practice.

427.3 A default may be set aside only for good cause shown, and upon equitable terms and conditions.

Source: Final Rulemaking published at 42 DCR 1429, 1448 (March 24, 1995).

428 OFFICIAL RECORD

428.1 All oral testimony, argument, rulings, and instructions shall be recorded electronically, or transcribed by a court reporter.

428.2 The recording of the proceedings or the transcription by the court reporter, together with all exhibits admitted into evidence, written rulings, and papers issued or accepted by the hearing examiner shall constitute the official and exclusive record of the complaint before the Commission.

428.3 The official record shall remain in the custody and control of the Commission at all times.

428.4 The Commission shall, upon the request of a party, make the official record available for examination without charge.

428.5 Any party may engage the services of a court reporter of its own choosing at its own expense to record the proceedings during the course of the hearing, or the cost may be apportioned according to agreement between the parties.

428.6 Any party may assume the expense of transcription of electronic recording after the close of the hearing by a stenographer selected by the Commission, or the cost may be apportioned according to an agreement between the parties. The resulting transcript shall remain in the custody of the Commission, and copies shall be provided to the party or parties assuming the expense.

428.7 The hearing examiner may adopt the transcript resulting from the services of a stenographer retained by a party or from the Commission's electronic recording as the official record of the proceedings after all parties have been afforded an opportunity to submit proposed corrections; Provided, that the transcript includes the totality of the hearing.

429 BRIEFS

429.1 All parties may submit pre-hearing or post-hearing briefs *sua sponte*, or may be required to do so by the hearing examiner.

- 429.2 Post-hearing briefs shall include proposed findings of fact, proposed conclusions of law, point and authorities, and proposed orders.
- 429.3 The hearing examiner may establish the time within which such briefs shall submitted.

source: Final Rulemaking published at 42 DCR 1429, 1449 (March 24, 1995).

430 DECISION AND ORDER

- 430.1 If the hearing was conducted by one or more hearing examiners who do not constitute the Hearing Tribunal:
- (a) After consideration of any timely-filed post-hearing briefs, the hearing examiner(s) shall prepare and forward to the Hearing Tribunal a signed Proposed Decision and Order which shall include the following:
 - (1) A procedural summary;
 - (2) Proposed Findings of Fact;
 - (3) Proposed Conclusions of Law, with points and authorities; and
 - (4) A Proposed Order recommending the sustention or dismissal of any or all of the allegations of the complaint credited with probable cause;
 - (b) If sustention is recommended, the Proposed Decision and Order shall include a recommended order of remedy for the complainant in accordance with D.C. Code §2-1403.13 (2001 Ed.), and the Guidelines for payment of Compensatory Damages and Attorney's Fees;
 - (c) The hearing examiner's Proposed Decision and Order shall be forwarded to the Hearing Tribunal within fifteen (15) calendar days after receipt of the parties' post-hearing briefs or, if no briefs are filed, upon expiration of the period established by the hearing examiner for the submission of briefs;
 - (d) The Chief of the Hearing Tribunal shall cause to be served on the parties, in the name of the Hearing Tribunal, the hearing examiner's Proposed Decision and Order together with notice that any party adversely affected may file written exceptions with the Hearing Tribunal within fifteen (15) calendar days of receipt of the proposed Decision and Order;
 - (e) The Hearing Tribunal shall prepare a signed Final Decision and Order which shall include the following;

- (1) A procedural summary
 - (2) Findings of fact;
 - (3) Conclusions of Law, with points and authorities; and
 - (4) An order sustaining or dismissing any or all of the allegations of the complaint credited with probable cause or remanding the complaint to the hearing examiner for further processing;
- (f) If sustention is ordered, the final Decision and Order shall include an order Or remedy for the complainant in accordance with D.C. Code §2-1403.13 (2001 Ed), and the Guidelines for Payment of Compensatory Damages and Attorney’s Fees. The order shall be appealability in accordance with §431;
- (g) The Chairperson shall serve on the parties, in the name of the Commission, the Final Decision and Order of the Hearing Tribunal, together with notice that any party adversely affected may file a written application for reconsideration of the Final Decision and Order within fifteen (15) calendar days of receipt of the Final Decision and Order; and
- (h) The Final Decision and Order shall be served within fifteen (15) calendar days after receipt of the parties’ exceptions to the hearing examiner’s Proposed Decision and Order or, if no exceptions are filed, upon expiration of the period established for filing of exceptions.

430.2 If the hearing was conducted by the Hearing Tribunal sitting as hearing examiner:

- (a) The Hearing Tribunal shall prepare a Final Decision and Order consistent with §§430.1(e) and (f);
- (b) The Chief of the Hearing Tribunal shall cause to be served on the parties the Final Decision and Order pursuant to §430.1(g); and
- (c) The Final Decision and Order shall be served within fifteen (15) calendar days after receipt of the parties’ post-hearing briefs or, if no briefs are filed, upon expiration of the period established by the Hearing Tribunal for the submission of briefs.

430.3 The order of remedy for the complainant may require the respondent to do any of the following:

- (a) Cease and desist from unlawful discriminatory practices;

- (b) Act affirmatively to correct the effects of practices found to be unlawfully
- (c) Pay compensatory damages to the complainant; or
- (d) Pay reasonable attorney's fees to the complainant; or
- (e) Reimburse the complainant for expenses incurred as a result of having Resorted to the administrative process under the Act.

430.4 If at any time after the issuance of a Final Decision and Order requiring the payment of reasonable attorney's fees and expenses, and the parties are unable to stipulate as to the amount, either party may request a hearing as to the amount of the fees and expenses to be paid. The hearing shall be conducted by the hearing examiner who shall issue a Proposal Decision and Order getting out the amount of fees and or expenses to be paid. The Hearing Tribunal assigned to the case shall issue a Final Decision and Order. A request for a hearing under this provision shall not affect the appealability of a Final Decision and Order under §431 of this chapter

source: Final Rulemaking published at 42 DCR 1429, 1450 (March 24, 1995).

431 APPEAL FROM COMMISSION DECISION

431.1 Any party adversely affected by a Final Decision and Order of the Commission may file a written application for reconsideration with the Chairperson, within fifteen (15) calendar days of receipt of the Final Decision and Order. The grounds for requesting reconsideration shall be stated with particularity and shall include reference to any of the following, if applicable:

- (a) Discovery of competent, relevant, and material evidence that was not reasonably discoverable during the course of the hearing process;
- (b) Failure of the hearing examiner to admit into the record competent, relevant, and material evidence that proffered during the hearing process; or
- (c) Failure of the Hearing Tribunal to consider particular items of competent, relevant, and material evidence that were admitted into the record of the hearing process.

431.2 Parties seeking reconsideration shall serve a copy of the application for reconsideration on all other parties in accordance with §411. Parties opposing reconsideration may file replies within seven (7) calendar days of receipt of the application for reconsideration.

- 431.3 Whenever possible, the matter shall be assigned to the Hearing Tribunal that rendered the Final Decision and Order. The Hearing Tribunal shall review the application, the replies, the Final Decision and Order, and other elements of the official record of the matter as required, and shall enter an order affirming, reversing, or modifying the Final Decision and Order, or remanding the matter to the hearing examiner for further processing. The Hearing Tribunal's order shall be served on all parties.
- 431.4 Failure to apply for reconsideration of a Final Decision and Order shall not be considered a failure to exhaust the administrative remedies available under the Act or this chapter.
- 431.5 Any party adversely affected by a Final Decision and Order may file with the District of Columbia Court of Appeals a petition for review within such time limits as that Court may prescribe.

source: Final Rulemaking published at 42 DCR 1429, 1452 (March 24, 1995).

432 ENFORCEMENT

- 432.1 Whenever the Commission determines that a respondent has not complied with the Commission's Final Decision and Order, and the Commission has received no notice of a stay of enforcement from the District of Columbia Court of Appeals, the Chairperson shall certify the matter to the Corporation Counsel for institution in the name of the District of Columbia of such civil proceedings as are necessary to obtain compliance with the Commission's Order.

source: Final rulemaking published at 42 DCR 1429, 1453 (March 24, 1995).

433 REOPENING OF PREVIOUSLY CLOSED PROCEEDING

- 433.1 In the interests of justice, the Commission may reopen *sua sponte* any matter previously closed.
- 433.2 Any party may apply in writing to the Chairperson at any time for reopening of a previously closed proceeding upon discovery of competent, relevant, and material evidence that was not reasonably discoverable during the course of the proceeding.
- 433.3 The party seeking reopening of a previously closed proceeding shall serve the application for reopening on all parties in accordance with §411. Parties opposing reopening may file replies within fifteen (15) calendar days of receipt of the application for reopening.
- 433.4 The Chairperson shall assign the matter to a Hearing Tribunal for review of the

application, the replies, and the new evidence. Whenever possible, the matter shall be assigned to the Hearing Tribunal that rendered the challenged Final Decision and Order. The Hearing Tribunal shall enter an order denying the application or prescribing further processing of the matter as justice may require.

source: Final Rulemaking published at 42 DCR 1429, 1454 (March 24, 1995).

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 Corporation Counsel institute, in the name of the District of Columbia, criminal proceedings that may result in fines or imprisonment, pursuant to D.C. Code §2-1402.64.(2001 Ed.)
- 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. Code §2-1402.64 (2001 Ed.), 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 Corporation Counsel 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 Corporation Counsel 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 refuse 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. Code §2-1402.64 (2001 Ed.), 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 D.C. Code §2-1402.64 (2001 Ed.), 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 Corporation Counsel 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 (March 24, 1995).

435 SEVERABILITY OF PROVISIONS

- 435.1 If any provision, or part of a provision, of this chapter, or application thereof to any person or circumstance is held invalid, the remainder of this chapter, and the application of the provision, or part of a provision, to other persons not similarly situated, or to other circumstances, shall not be affected thereby.

source: Final Rulemaking published at 42 DCR 1429, 1457 (March 24, 1995).

499 DEFINITIONS

- 499.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Act – the Human Rights Act of 1977, as amended, D.C. Code §2-1401.01 et seq. (2001 Ed.).

Calendar Days – consecutive days including Saturdays, Sundays, and legal holidays; except that in computing any period of time prescribed or allowed by this chapter, the day of the act, event, or default from which the designated period of time begins to run shall not be included; and the last day of the period so computed shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or a legal holiday.

Chairperson – the duly appointed Chairperson of the Commission on Human Rights, or a member of the Commission specifically designated to act for the Chairperson.

Chief of the Hearing Tribunal – the member of a Hearing Tribunal appointed by the Chairperson as the Head of the Hearing Tribunal.

Commission – The District of Columbia Commission on Human Rights, sitting as a body.

Complainant – any person filing a complaint with the Office of Human Rights, alleging an unlawful discriminatory act or practice.

Complaint - a verified complaint filed with the Office of Human Rights.

D.C. Administrative Procedure Act – the District of Columbia Administrative Procedure Act, as amended, D.C. Code §2-501 et seq. (2001 Ed.).

Default – the failure of a respondent to answer a complaint after it has been certified to the Commission for public hearing.

Evidence – any piece of information offered in proof of the facts in controversy, including testimony of witnesses and exhibits if records, documents, or objects.

Ex Parte communication – oral or written communication between a party and the hearing examiner, or any member of the Hearing Tribunal, or any Commissioner assigned to consider the merits of a complaint, regarding the merits of the complaint, under circumstances in which any other party is not afforded and opportunity to participate.

Guidelines for Payment o Compensatory Damages and Attorney’s Fees – District of Columbia Commission on Human Rights Guidelines for Payment of Compensatory Damages, Civil penalties and Attorney’s Fees Under the Human Rights Act of 1977, adopted pursuant to D.C. Code §2-1403.13, 46 DCR 2804 (March 19, 1999).

Hearing Examiner – and official or officials appointed by the Chairperson to conduct the hearing of a complaint including the Hearing Tribunal when the Hearing Tribunal conducts the hearing of a complaint.

Hearing Tribunal – three (3) members of the Commission appointed by the Chairperson to adjudicate a complaint.

Hearing process – the status conference, the pre-hearing conference, the hearing, and All processes related to the adjudication of a complaint.

Legal Holiday – New Year’s Day, Dr. Martin Luther King’s Birthday, George Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran’s Day, Thanksgiving Day, Christmas Day, and any other day designated as a holiday by the President or the Congress of the United States, or by the Mayor or the Council of the District of Columbia.

Office – the District of Columbia Office of Human Rights.

Party, parties – the complainant, the respondent, the Office, an intervenor, or any

combination.

Preponderance of the evidence – evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

Probable Cause – an apparent state of facts found to exist upon reasonable inquiry which would induce a reasonably intelligent person to believe that the *prima facie* elements of the unlawful discriminatory act or practice alleged in the complaint are present, and that a legitimate, nondiscriminatory, nonpretextual explanation for the alleged Discriminatory act or practice does not exist.

Respondent – any person or organization specified in the complaint as having engaged in an unlawful discriminatory act or practice.

Unlawful discriminatory act or practice – any discriminatory act or practice specified in the Act as unlawful.

source: Final Rulemaking published at 42 DCR 1429, 1457 (March 24, 1995).