



**Alaska State Commission  
for Human Rights**

**ALASKA  
HUMAN RIGHTS LAW**

**February 2016**

**2017  
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## NOTICE

This booklet has been prepared for the general information of all persons protected by or subject to Alaska Human Rights Law. The reader is cautioned, however, that the only officially accurate text of the Alaska Human Rights Law is codified in the Alaska Statutes and the Alaska Administrative Code. Additionally, court decisions and commission decisions and orders apply and interpret Alaska Human Rights Law. The reader should also be aware that regulatory changes may be made at any time in accordance with the Alaska Administrative Procedures Act. Copies of the Alaska Statutes, Alaska Administrative Code, court decisions, and commission decisions and orders are maintained in state law libraries.

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**ALASKA STATUTES TITLE 18**

**CHAPTER 80. STATE COMMISSION FOR HUMAN RIGHTS**

**Article 1. Creation and Organization of Commission.**

**Sec. 18.80.010. Creation.** There is created in the office of the governor a State Commission for Human Rights.

**Sec. 18.80.020. Composition and appointment.** The commission consists of seven commissioners, appointed by the governor for staggered terms of five years, and confirmed by the legislature.

**Sec. 18.80.030. Chairman of commission.** The commission shall elect one of its members as chairman.

**Sec. 18.80.040. Commission meetings.** The commission shall hold a regular annual meeting and shall hold special meetings as necessitated by AS 18.80.120.

**Sec. 18.80.050. Regulations.** (a) The commission shall adopt procedural and substantive regulations necessary to implement this chapter.

(b) The commission shall adopt regulations relating to discrimination because of physical and mental disability. The regulations must furnish guidance concerning the circumstances under which it is necessary to make a reasonable accommodation for a physically or mentally disabled person when providing employment, financing or credit, public accommodations, the sale or rental of real property, or other goods, services, facilities, advantages, or privileges under this chapter.

**Sec. 18.80.060. Powers and duties of the commission.** (a) In addition to the other powers and duties prescribed by this chapter the commission shall

- (1) appoint an executive director approved by the governor;
- (2) hire other administrative staff as may be necessary to the commission's function;
- (3) exercise general supervision and direct the activities of the executive director and other administrative staff;
- (4) accept complaints under AS 18.80.100;
- (5) study the problems of discrimination in all or specific fields of human relationships, foster through community effort or goodwill, cooperation and conciliation among the groups and elements of the population of the state, and publish results of investigations and research as in its judgment will tend to eliminate discrimination because of race, religion, color, national ancestry, physical or mental disability, age, sex, marital status, changes in marital status, pregnancy, or parenthood;
- (6) make an overall assessment, at least once every three years, of the progress made toward equal employment opportunity by every department of state government; results of the assessment shall be included in the annual report made under AS 18.80.150.

(b) In addition to other powers and duties prescribed by this chapter, the commission may

- (1) delegate to the executive director all powers and duties given it by this chapter except the duties and powers given it by AS 18.80.120 and 18.80.130;

(2) call upon the departments and agencies of the state, with the approval of the governor, for cooperation and assistance in carrying out this chapter;

(3) hold hearings under AS 18.80.120;

(4) establish the amount and manner of payment of fees for educational services, information, and materials that the commission provides to public and private organizations and other persons.

(c) A commissioner or an employee authorized by the commission may administer oaths, certify to all official acts, and issue subpoenas, subpoenas duces tecum, and other process to compel the attendance of witnesses and the production of testimony, records, papers, accounts, and documents in any inquiry, investigation, hearing, or proceeding before the commission in the state. The commission, a commissioner, or an employee authorized by the commission may petition a court of this state to enforce its subpoenas, subpoenas duces tecum, and other process.

**Sec. 18.80.070. Compensation.** The members of the commission are authorized per diem and travel allowances allowable to members of other boards and commissions.

**Sec. 18.80.075. Legal counsel.** (a) The attorney general is the legal counsel for the commission. The attorney general shall advise the commission in legal matters arising in the discharge of its duties, shall assist in the preparation and presentation of complaints to the commission, and shall represent the commission in legal actions to which it is a party.

(b) The commission may employ temporary legal counsel for proceedings before the commission and court actions involving the commission in which proceedings or actions the attorney general is representing another agency of the state government.

## **Article 2. Commission Investigation and Hearing.**

**Sec. 18.80.100. Complaint; withdrawal.** (a) A person who is aggrieved by a discriminatory practice prohibited by this chapter may sign and file with the commission a written, verified complaint stating the name and address of the person alleged to have engaged in the discriminatory practice, and the particulars of the discrimination. A complainant may withdraw the complaint at any time before the service of an accusation under AS 18.80.120. A withdrawal must be signed by the complainant and be in writing. A withdrawal does not limit the discretion of the executive director provided in (b) of this section.

(b) The executive director may file a complaint in the manner provided in (a) of this section when a discriminatory practice comes to the attention of the executive director.

**Sec. 18.80.105. Temporary restraining order.** At any time after a complaint is filed under AS 18.80.100, alleging an unlawful discriminatory practice, the commission may file a petition in the superior court in the judicial district in which the subject of the complaint occurs, or in the judicial district in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this chapter, including an order or decree restraining the respondent from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court has the power to grant the temporary relief or restraining order it considers just and proper; however, no relief or order extending beyond 10 days may be granted except by consent of the respondent or

after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in discriminatory practices.

**Sec. 18.80.110. Investigation and conciliation.** The executive director or a member of the commission's staff designated by the executive director shall informally investigate the matters set out in a filed complaint, promptly and impartially. If the investigator determines that there is substantial evidence of an unlawful discriminatory practice under this chapter, the investigator shall immediately try to eliminate or remedy the discriminatory practice through an agreement reached by conference, conciliation, and persuasion. If an agreement is reached, it must be reduced to writing and signed by the complainant, executive director, and respondent. The agreement is binding and enforceable under this chapter as an order of the commission. An agreement reached under this section may include the compromise of damages authorized under this chapter.

**Sec. 18.80.112. Dismissal of complaint without prejudice.** (a) If an investigation of a complaint under AS 18.80.110 fails to discover substantial evidence of an unlawful discriminatory practice under this chapter, the executive director shall issue an order dismissing the complaint without prejudice.

(b) At any time before the issuance of an accusation under AS 18.80.120, the executive director may dismiss without prejudice a complaint if the executive director determines that

(1) the complainant's objection to a proposed agreement under AS 18.80.110 is unreasonable;

(2) the complainant is unavailable or unwilling to participate in a hearing;

(3) relief is precluded by the absence of the person alleged to have engaged in the discriminatory practice;

(4) the person aggrieved by the discriminatory practice has initiated or has notified in writing the commission of the intent to initiate an action or proceeding in another forum based on the same facts;

(5) a hearing will not represent the best use of commission resources;

(6) a hearing will not advance the purposes stated in AS 18.80.200; or

(7) the probability of success of the complaint on the merits is low.

(c) The commission, in its discretion, may, but is not required to, review the executive director's order of dismissal under (a) or (b) of this section and may affirm the order, remand the complaint for further investigation, or, if the commission concludes that substantial evidence supports the complaint of an unlawful discriminatory practice, refer the complaint for conference, conciliation, and persuasion as provided in AS 18.80.110, or for hearing.

(d) Dismissal under this section does not prevent a complainant from

(1) initiating an action or proceeding in another forum, or

(2) filing a new complaint under AS 18.80.100 that resolves the grounds for the dismissal under this section.

**Sec. 18.80.115. Confidential information.** Except as provided in AS 18.80.105, the commission may not make public the name of a person initiating a complaint or a person alleged to have committed an act or practice declared unlawful in this chapter during an investigation conducted by the commission under AS 18.80.110. The records of investigation and information obtained by the commission during an investigation under AS 18.80.110 are confidential and may not be made available by the commission for inspection by the public. However, the records and

information compiled by the commission during an investigation shall be available to the complainant or respondent (1) at least 10 days before a hearing is held under AS 18.80.120 or upon receipt by the complainant or respondent under AS 18.80.120 of a notice of failure of conciliation under AS 18.80.110, whichever occurs earlier; and (2) in accordance with the rules of discovery if an action relating to the charge is commenced in court. In addition, the commission may issue public statements describing or warning of a course of conduct that constitutes or will constitute an unlawful practice under this chapter, and the commission may also make information public if necessary to perform its duties or exercise its powers under AS 18.80.105 and 18.80.120 - 18.80.145.

**Sec. 18.80.120. Hearing.** (a) If no agreement is reached under AS 18.80.110 and the executive director determines to refer the complaint for hearing, the executive director shall issue an accusation based on the investigator's determination of substantial evidence and serve the person charged in the accusation and the complainant with notice of the referral and a copy of the accusation. The executive director's decision to refer the complaint to hearing is not reviewable by the commission under this chapter. The location of the hearing is the commission office unless the commission designates another location. The executive director, or the executive director's designee, shall present the case in support of the accusation before the commission. The person charged in the accusation may file a written answer and may appear at the hearing, with or without counsel, and submit evidence.

(b) The commission shall request the chief administrative law judge to appoint, under AS 44.64.020, an administrative law judge employed or retained by the office of administrative hearings to preside over a hearing conducted under this section. AS 44.64.040 – 44.64.055, 44.64.070 – 44.60.200, and the procedures in AS 44.62.330 – 44.62.630 (Administrative Procedure Act) apply to the hearing except as otherwise provided in this chapter.

(c) An accusation may be reasonably and fairly amended by the commission. An amendment to name a different discriminatory practice must be supported by substantial evidence, and the discriminatory practice must be referred for conference, conciliation, and persuasion as provided in AS 18.80.110, before a hearing may proceed.

(d) In a hearing on an accusation, each element of an accusation or defense must be proven by a preponderance of the evidence.

(e) At any time after the issuance of an accusation, the executive director or the person charged in the accusation may petition for a summary decision on the accusation. The commission shall grant a petition if, after a reasonable opportunity for discovery, the record shows that there is no genuine issue of material fact and the petitioner is entitled to an order under AS 18.80.130 as a matter of law.

**Sec. 18.80.130. Order; interest rate.** (a) At the completion of the hearing or after consideration of a petition for summary decision under AS 18.80.120(e), if the commission finds that a person charged in an accusation has engaged in the discriminatory practice alleged in the accusation, it shall order the person to refrain from engaging in the discriminatory practice. The order must include findings of fact, and may order the person to take affirmative action to correct the discriminatory practice. The commission may not order an award of noneconomic or punitive damages in a case. In a case involving a discriminatory practice in

(1) employment, the commission may order any appropriate relief, including one or more of the following: training of an employer, labor organization, or employment agency and its



employees concerning discriminatory practices; an accommodation for a person with a disability; removal of or changes to a personnel record; posting of signs; back pay; the hiring, reinstatement, or upgrading of an employee with or without back pay; the payment of front pay for a period of not more than one year if hiring, reinstatement, or upgrading of an employee is inappropriate because a vacancy does not exist, the employer's discriminatory practice rendered the employee incapable of returning to work, or the relationship between the employer and employee has so deteriorated as to make working conditions intolerable; restoration to membership in a labor organization; admission to or participation in an apprenticeship training program, on-the-job training program, or other retraining program; or restoration of seniority; however, an order for back pay or front pay must be reduced by the amount the employee could have earned or could earn by making reasonably diligent efforts to obtain similar employment;

(2) housing, the commission may order the sale, lease, or rental of the housing accommodation to the aggrieved person if it is still available, or the sale, lease, or rental of a like accommodation owned by the person charged in the accusation if one is still available, or the sale, lease, or rental of the next vacancy in a like accommodation, owned by the person charged in the accusation; the commission may award actual damages, which shall include the expenses incurred by the complainant for obtaining alternative housing or space; for storage of goods and effects; and for moving and other costs actually incurred as a result of the unlawful practice or violation.

(b) The order may require a report on the manner of compliance.

(c) If the commission finds that a person charged in an accusation has not engaged in the discriminatory practice alleged in the accusation, it shall issue and cause to be served on the complainant an order dismissing the complaint.

(d) A copy of the order shall be filed in all cases with the attorney general of this state.

(e) The commission may order payment of reasonable expenses, including reasonable attorney fees to any private party before the commission when the commission, in its discretion, determines the allowance is appropriate.

(f) The interest rate for an award under this section is determined in the manner provided in AS 09.30.070.

**Sec. 18.80.135. Judicial review and enforcement.** (a) A complainant, or person against whom a complaint is filed or other person aggrieved by an order of the commission, may obtain judicial review of the order in accordance with AS 44.62.560 - 44.62.570.

(b) The commission may obtain a court order for the enforcement of any of its orders by filing a complaint with the superior court in the judicial district in which the unlawful practice is alleged to have occurred.

**Sec. 18.80.140. Effect of compliance with order.** Immediate and continuing compliance with all the terms of a commission order is a bar to criminal prosecution for the particular instances of discriminatory practice described in the accusation issued under AS 18.80.120.

**Sec. 18.80.145. Intervention by State Commission for Human Rights.** (a) When an action is brought under AS 22.10.020(i), the plaintiff shall serve a copy of the complaint on the commission. Upon timely application, the commission may intervene as a party to the action as a matter of right. If the commission certifies in writing to the court that it is presently investigating or actively dealing with the act, practice, or policy of the defendant giving rise to the cause of action, the court shall, at the request of the commission, defer proceedings for a period of not more than 45

days or such extended period as the court may allow; except that the court may enter an order or injunction if necessary to prevent irreparable injury to the plaintiff.

(b) If within the period allowed, a hearing is conducted and a decision is reached under AS 18.80.120 and 18.80.130, the decision of the commission is binding on the parties to the court action as to all issues resolved in the hearing but not as to any issues not resolved in the hearing.

(c) When proceedings in the superior court are deferred for a hearing and decision under this section, the plaintiff may proceed, after the decision of the commission, as an aggrieved party for the purpose of obtaining judicial review under AS 18.80.135, whether or not the person was a party to, or complainant in, the administrative proceedings.

(d) If the commission does not intervene or file a certificate and conduct a hearing as provided in this section, the court has complete jurisdiction of the case, notwithstanding the provisions of AS 18.80.280.

### **Article 3. Commission Reports and Publications.**

**Sec. 18.80.150. Annual report.** The commission shall report annually to the governor on civil rights problems it has encountered in the preceding year, and may recommend legislative action. The commission shall provide the Legislative Affairs Agency with 40 copies of the report during the week preceding the convening of the annual legislative session for library distribution. The commission shall make copies of the report available to the public and notify the legislature that the report is available.

**Sec. 18.80.160. Informative publications.** The commission may prepare and distribute pamphlets and press releases to inform the public of its constitutional and statutory civil rights. The commission shall submit proposed publications to the Department of Law for a review of legal accuracy.

### **Article 4. Discriminatory Practices Prohibited.**

**Sec. 18.80.200. Purpose.** (a) It is determined and declared as a matter of legislative finding that discrimination against an inhabitant of the state because of race, religion, color, national origin, age, sex, physical or mental disability, marital status, changes in marital status, pregnancy, or parenthood is a matter of public concern and that this discrimination not only threatens the rights and privileges of the inhabitants of the state but also menaces the institutions of the state and threatens peace, order, health, safety, and general welfare of the state and its inhabitants.

(b) Therefore, it is the policy of the state and the purpose of this chapter to eliminate and prevent discrimination in employment, in credit and financing practices, in places of public accommodation, in the sale, lease, or rental of real property because of race, religion, color, national origin, sex, age, physical or mental disability, marital status, changes in marital status, pregnancy or parenthood. It is also the policy of the state to encourage and enable physically and mentally disabled persons to participate fully in the social and economic life of the state and to engage in remunerative employment. It is not the purpose of this chapter to supersede laws pertaining to child labor, the age of majority, or other age restrictions or requirements.

**Sec. 18.80.210. Civil rights.** The opportunity to obtain employment, credit and financing, public accommodations, housing accommodations, and other property without discrimination

because of sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, race, religion, color, or national origin is a civil right.

**Sec. 18.80.215. Activities in aid of housing for minority groups.** The activities of a nonprofit and noncommercial organization on a nonremunerative basis in aiding minority group members to obtain housing opportunities so as to further the purpose of this chapter are not considered a violation of AS 08.88.161.

**Sec. 18.80.220. Unlawful employment practices; exception.** (a) Except as provided in (c) of this section, it is unlawful for

(1) an employer to refuse employment to a person, or to bar a person from employment, or to discriminate against a person in compensation or in a term, condition, or privilege of employment because of the person's race, religion, color, or national origin, or because of the person's age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, or parenthood;

(2) a labor organization, because of a person's sex, marital status, changes in marital status, pregnancy, parenthood, age, race, religion, physical or mental disability, color, or national origin, to exclude or to expel a person from its membership, or to discriminate in any way against one of its members or an employer or an employee;

(3) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication, or to use a form of application for employment or to make an inquiry in connection with prospective employment, that expresses, directly or indirectly, a limitation, specification, or discrimination as to sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, age, race, creed, color, or national origin, or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(4) an employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against a person because the person has opposed any practices forbidden under AS 18.80.200 - 18.80.280 or because the person has filed a complaint, testified, or assisted in a proceeding under this chapter;

(5) an employer to discriminate in the payment of wages as between the sexes, or to employ a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character or work in the same operation, business, or type of work in the same locality; or

(6) a person to print, publish, broadcast, or otherwise circulate a statement, inquiry, or advertisement in connection with prospective employment that expresses directly a limitation, specification, or discrimination as to sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, age, race, religion, color, or national origin, unless based upon a bona fide occupational qualification.

(b) The state, employers, labor organizations, and employment agencies shall maintain records on age, sex, and race that are required to administer the civil rights laws and regulations. These records are confidential and available only to federal and state personnel legally charged with administering civil rights laws and regulations. However, statistical information compiled from records on age, sex, and race shall be made available to the general public.

(c) Notwithstanding the prohibition against employment discrimination on the basis of marital status or parenthood under (a) of this section,

(1) an employer may, without violating this chapter, provide greater health and retirement benefits to employees who have a spouse or dependent children than are provided to other employees;

(2) a labor organization may, without violating this chapter, negotiate greater health and retirement benefits for employees of an employer who have a spouse or dependent children than are provided to other employees of the employer.

(d) In this section, “dependent child” means an unmarried child, including an adopted child, who is dependent upon a parent for support and who is either

(1) less than 19 years old;

(2) less than 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education and Early Development; or

(3) of any age and totally and permanently disabled.

**Sec. 18.80.230. Unlawful practices in places of public accommodation.** (a) It is unlawful for the owner, lessee, manager, agent, or employee of a public accommodation

(1) to refuse, withhold from, or deny to a person any of its services, goods, facilities, advantages, or privileges because of sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, race, religion, color, or national origin;

(2) to publish, circulate, issue, display, post, or mail a written or printed communication, notice, or advertisement that states or implies

(A) that any of the services, goods, facilities, advantages, or privileges of the public accommodation will be refused, withheld from, or denied to a person of a certain race, religion, sex, physical or mental disability, marital status, color, or national origin or because of pregnancy, parenthood, or a change in marital status, or

(B) that the patronage of a person belonging to a particular race, creed, sex, marital status, color, or national origin or who, because of pregnancy, parenthood, physical or mental disability, or a change in marital status, is unwelcome, not desired, or solicited.

(b) Notwithstanding (a) of this section, a physical fitness facility may limit public accommodation to only males or only females to protect the privacy interests of its users. Public accommodation may be limited under this subsection only to those rooms in the facility that are primarily used for weight loss, aerobic, and other exercises, or for resistance weight training. Public accommodation may not be limited under this subsection to rooms in the facility primarily used for other purposes, including conference rooms, dining rooms, and premises licensed under AS 04.11. This subsection does not apply to swimming pools or golf courses.

**Sec. 18.80.240. Unlawful practices in the sale or rental of real property.** It is unlawful for the owner, lessee, manager, or other person having the right to sell, lease, or rent real property

(1) to refuse to sell, lease, or rent the real property to a person because of sex, marital status, changes in marital status, pregnancy, race, religion, physical or mental disability, color, or national origin; however, nothing in this paragraph prohibits the sale, lease, or rental of classes of real property commonly known as housing for “singles” or “married couples” only;

(2) to discriminate against a person because of sex, marital status, changes in marital status, pregnancy, race, religion, physical or mental disability, color, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of real property; however, nothing in this paragraph prohibits the sale, lease, or rental of classes of real property commonly known as housing

for “singles” or “married couples” only;

(3) to make a written or oral inquiry or record of the sex, marital status, changes in marital status, race, religion, physical or mental disability, color, or national origin of a person seeking to buy, lease, or rent real property;

(4) to offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or sources in connection therewith because of a person’s sex, marital status, changes in marital status, pregnancy, race, religion, physical or mental disability, color, national origin, or age;

(5) to represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to refuse to allow a person to inspect real property because of the race, religion, physical or mental disability, color, national origin, age, sex, marital status, change in marital status, or pregnancy of that person or of any person associated with that person;

(6) to engage in blockbusting;

(7) to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of real property that indicates any preference, limitation, or discrimination based on race, color, religion, physical or mental disability, sex, or national origin, or an intention to make the preference, limitation, or discrimination.

**Sec. 18.80.250. Unlawful financing practice.** (a) It is unlawful for a financial institution or other commercial institution extending secured or unsecured credit, upon receiving an application for financial assistance or credit for the acquisition, construction, rehabilitation, repair, or maintenance of a housing accommodation or other property or services, or the acquisition or improvement of unimproved property, or upon receiving an application for any sort of loan of money, to permit one of its officials or employees during the execution of the official’s or the employee’s duties

(1) to discriminate against the applicant because of sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, race, religion, color, or national origin in a term, condition, or privilege relating to the obtainment or use of the institution’s financial assistance or credit, except to the extent of a federal statute or regulation applicable to a transaction of the same character;

(2) to make or cause to be made a written or oral inquiry or record of the sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, race, religion, color, or national origin of a person seeking the institution’s financial assistance or credit, unless the inquiry is for the purpose of ascertaining the creditor’s rights and remedies applicable to the particular extension of credit and is not made or used in order to discriminate in a determination of creditworthiness;

(3) to refuse to extend credit, issue a credit card, or make a loan to a married person or a person with a physical or mental disability, who is otherwise creditworthy, if so requested by the person;

(4) to refuse to issue a credit card to a married person in that person’s name, if so requested by the person, provided, however, that the person so requesting a card may be required to open an account in that name.

(b) Notwithstanding the provisions of (a) of this section, any practice permitted by federal statute or regulation applicable to financial or credit transactions of the same character as those covered by this section does not constitute discrimination under this section.

(c) An action by a financial institution or other commercial institution extending credit taken in

compliance with (a) of this section, including the extension of credit or the making of a loan, is not a violation of AS 06.20.240, unless done with the intent or purpose of obtaining a higher rate of interest than would otherwise be permitted by AS 06.20.230.

(d) This section does not prohibit an institution described in (a) of this section from refusing to contract with a person if the person lacks the legal capacity to contract or if the institution is reasonably in doubt about the person's legal capacity to contract.

**Sec. 18.80.255. Unlawful practices by the state or its political subdivisions.** It is unlawful for the state or any of its political subdivisions

(1) to refuse, withhold from, or deny to a person any local, state, or federal funds, services, goods, facilities, advantages, or privileges because of race, religion, sex, color, or national origin;

(2) to publish, circulate, issue, display, post, or mail a written or printed communication, notice, or advertisement that states or implies that any local, state, or federal funds, services, goods, facilities, advantages, or privileges of the office or agency will be refused, withheld from, or denied to a physically or mentally disabled person or a person of a certain race, religion, sex, color, or national origin or that the patronage of a physically or mentally disabled person or a person belonging to a particular race, creed, sex, color, or national origin is unwelcome, not desired, or solicited; it is not unlawful to post notice that facilities to accommodate the physically or mentally disabled are not available;

(3) to refuse or deny to a person any local, state, or federal funds, services, goods, facilities, advantages, or privileges because of physical or mental disability.

**Sec. 18.80.260. Aiding, abetting, or coercing a violation of chapter.** It is unlawful for a person to aid, abet, incite, compel, or coerce the doing of an act forbidden under this chapter or to attempt to do so.

**Sec. 18.80.270. Penalty.** A person, employer, labor organization, or employment agency, who or that willfully engages in an unlawful discriminatory practice prohibited by this chapter, or willfully resists, prevents, impedes, or interferes with the commission or any of its authorized representatives in the performance of duty under this chapter, or who or that willfully violates an order of the commission, is guilty of a misdemeanor and upon conviction by a court of competent jurisdiction, is punishable by a fine of not more than \$500, or by imprisonment in a jail for not more than 30 days, or by both.

**Sec. 18.80.280. Acquittal bars other actions.** The acquittal of a person by the commission or a court of competent jurisdiction of any alleged violation of this chapter is a bar to any other action, civil or criminal, based on the same act or omission.

**Sec. 18.80.290. Local human rights commissions.** (a) The legislative body of a municipality may, by ordinance or resolution, authorize the establishment of membership in and support of a local human rights commission. The number and qualifications of the members of a local commission and their terms and method of appointment or removal shall be as determined by the legislative body, except that a member may not hold office in a political party.

(b) The legislative body of a municipality has the authority to appropriate funds in amounts as considered necessary for the purpose of contributing to the operation of a local commission, including the payment of its share of the salary of an investigator or staff member acting jointly for

it and one or more other local commissions.

(c) The local commission has the power to appoint employees and staff as it considers necessary to fulfill its purpose, including the power to appoint an investigator or staff member to act jointly for it and one or more other local commissions.

(d) The governing body of a municipality has the authority under AS 29.20.320 to grant to local commissions powers and duties similar to those exercised by the commission under the provisions of this chapter.

**Sec. 18.80.295. Apprenticeship programs.** The provisions of this chapter affecting discrimination in employment on the basis of age do not apply to apprenticeship programs registered by the Bureau of Apprenticeship and Training, United States Department of Labor, or apprenticeship programs that meet standards equivalent to apprenticeship programs registered by the Bureau of Apprenticeship and Training.

## **Article 5. General Provisions.**

**Sec. 18.80.300. Definitions.** In this chapter,

(1) “blockbusting” means an unlawful discriminatory practice by real estate brokers, real estate salesmen, or employees or agents of a broker or another individual, corporation, partnership, or organization for the purpose of inducing a real estate transaction from which any such person or its stockholders or members may benefit financially, to represent directly or indirectly that a change has occurred or will or may occur from a composition with respect to race, religion, color, or national origin of the owners or occupants of the block, neighborhood, or area in which the real property is located, and to represent directly or indirectly that this change may or will result in undesirable consequences in the block, neighborhood, or area in which the real property is located, including the lowering of property values, an increase in criminal or antisocial behavior, or decline in the quality of the schools or other facilities;

(2) “commission” means the State Commission for Human Rights;

(3) “complainant” means a person who is aggrieved by a discriminatory practice prohibited by this chapter and who has filed a complaint as provided in AS 18.80.100;

(4) “employee” means an individual employed by an employer but does not include an individual employed in the domestic service of any person;

(5) “employer” means a person, including the state and a political subdivision of the state, who has one or more employees in the state but does not include a club that is exclusively social, or a fraternal, charitable, educational, or religious association or corporation, if the club, association, or corporation is not organized for private profit;

(6) “employment agency” means a person undertaking to procure employees or opportunities to work;

(7) “executive director” means the executive director of the State Commission for Human Rights;

(8) “financial institution” means a commercial bank, trust company, mutual savings bank, cooperative bank, homestead association, mutual savings and loan association, or an insurance company;

(9) “labor organization” means an organization and an agent of the organization, for the purpose, in whole or in part, of collective bargaining, dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection of employees;

(10) “major life activities” means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

(11) “national origin” includes ancestry;

(12) “pay” means wages, salaries; commissions; amounts an employer contributes to retirement, health, or other fringe benefit plans; and other forms of remuneration paid to an employee for personal services;

(13) “person” means one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, employees, employers, employment agencies, or labor organizations;

(14) “physical or mental disability” means

(A) a physical or mental impairment that substantially limits one or more major life activities;

(B) a history of, or a misclassification as having, a mental or physical impairment that substantially limits one or more major life activities;

(C) having

(i) a physical or mental impairment that does not substantially limit a person’s major life activities but that is treated by the person as constituting such a limitation;

(ii) a physical or mental impairment that substantially limits a person’s major life activities only as a result of the attitudes of others toward the impairment; or

(iii) none of the impairments defined in this paragraph but being treated by others as having such an impairment; or

(D) a condition that may require the use of a prosthesis, special equipment for mobility, or service animal;

(15) “physical or mental impairment” means

(A) physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine;

(B) mental or psychological disorder, including intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(16) “public accommodation” means a place that caters or offers its services, goods, or facilities to the general public and includes a public inn, restaurant, eating house, hotel, motel, soda fountain, soft drink parlor, tavern, night club, roadhouse, place where food or spirituous or malt liquors are sold for consumption, trailer park, resort, campground, barber shop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company, and all other public amusement and business establishments, subject only to the conditions and limitations established by law and applicable alike to all persons;

(17) “real property” means a building or portion of a building, whether constructed or to be constructed, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein;

(18) “state” includes the University of Alaska and the judicial, legislative, and executive branches of state government including all departments, agencies, commissions, councils, boards, divisions, and sections.



**ALASKA STATUTES TITLE 22**

**CHAPTER 10. THE SUPERIOR COURT**

**Sec. 22.10.020. Jurisdiction of the superior court.** (i) The superior court is the court of original jurisdiction over all causes of action arising under the provisions of AS 18.80. A person who is injured or aggrieved by an act, practice, or policy which is prohibited under AS 18.80 may apply to the superior court for relief. The person aggrieved or injured may maintain an action on behalf of that person or on behalf of a class consisting of all persons who are aggrieved or injured by the act, practice, or policy giving rise to the action. In an action brought under this subsection, the court may grant relief as to any act, practice, or policy of the defendant which is prohibited by AS 18.80, regardless of whether each act, practice, or policy, with respect to which relief is granted, directly affects the plaintiff, so long as a class or members of a class of which the plaintiff is a member are or may be aggrieved or injured by the act, practice, or policy. The court may enjoin any act, practice, or policy which is illegal under AS 18.80 and may order any other relief, including the payment of money, that is appropriate.

**ALASKA ADMINISTRATIVE CODE TITLE 6**

**CHAPTER 30. RULES GOVERNING PRACTICE AND PROCEDURE  
BEFORE THE STATE COMMISSION FOR HUMAN RIGHTS**

- Article 1. Inquiries (6 AAC 30.011 - 6 AAC 30.041)
- Article 2. Complaints (6 AAC 30.210 - 6 AAC 30.230)
- Article 3. Investigation, Determination and Conciliation (6 AAC 30.310 - 6 AAC 30.375)
- Article 4. Hearing Procedures (6 AAC 30.410 - 6 AAC 30.497)
- Article 5. Hearing Discovery (6 AAC 30.510)
- Article 8. Reports and Recordkeeping (6 AAC 30.810 - 6 AAC 30.860)
- Article 9. General Provisions (6 AAC 30.905 - 6 AAC 30.990)

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**ARTICLE 1. INQUIRIES.**

Section

- 011. Acceptance of inquiry
- 021. Record of inquiry
- 031. Counseling of inquirer
- 041. Correspondence

**6 AAC 30.011. Acceptance of inquiry.** A person may inquire about the human rights law or secure technical assistance to comply with AS 18.80 by telephoning, writing, or visiting a commission office. The commission's staff may accept collect calls. (Eff. 3/12/81, Register 77)

**Authority:** AS 18.80.050            AS 18.80.060            AS 18.80.100

**6 AAC 30.021. Record of inquiry.** The commission's staff will make a written record of an inquiry. Anonymous inquiries will be accepted. The purpose of this record is to document the volume and nature of inquiries and to establish the date of initial contact with the commission if the inquirer later files a complaint. The commission will not disclose its record of individual inquiries unless required by law or court order. Statistical compilations of inquiries will be released periodically. (Eff. 3/12/81, Register 77)

**Authority:** AS 18.80.050            AS 18.80.060            AS 18.80.100

**6 AAC 30.031. Counseling of inquirer.** The commission's staff will counsel an inquirer to file a complaint if the inquirer relates facts and circumstances which constitute a violation of AS 18.80. If the facts related do not constitute a violation of the human rights law, the staff will accept a complaint only after advising the inquirer that the case will be closed for lack of jurisdiction. (Eff. 3/12/81, Register 77)

**Authority:** AS 18.80.050            AS 18.80.060            AS 18.80.100

**6 AAC 30.041. Correspondence.** Correspondence to the commissioners may be sent in care of the executive director. No commissioner may consider an inquiry, a potential violation of AS 18.80 or a pending complaint until the case is before the commissioners at the hearing stage. Names and addresses of commissioners and commission offices are available from any commission office. (Eff. 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.060 AS 18.80.100

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## ARTICLE 2. COMPLAINTS.

### Section

- 210. Complaints by individuals
- 220. Complaints by the executive director
- 230. Filing date

**6 AAC 30.210. Complaints by individuals.** (a) An individual aggrieved by an alleged practice prohibited by AS 18.80 may file a written complaint with the commission. A complaint may be filed in person or by mail at any commission office.

(b) The commission's staff will assist in drafting and filing the complaint.

(c) A complaint must contain

(1) the complainant's full name and address;  
(2) the full name and address of the person or entity against whom the complaint is made (known as "respondent");

(3) a statement of the alleged harm the complainant has experienced or is experiencing;

(4) the reason complainant believes the respondent took or is taking the alleged discriminatory action;

(5) the reason given complainant by respondent for the alleged discriminatory action;

(6) where appropriate, a statement that one or more individuals are allegedly aggrieved in the same manner as the complainant. The statement must be sufficiently specific that the commission's staff can identify these individuals through investigation;

(7) the date of the alleged discriminatory practice. If the practice is continuing, the complaint must state when the practice began, if known to the complainant;

(8) repealed 8/9/84;

(9) the complaint must be verified. If a notary or postmaster is not available, the complainant shall state under penalty of perjury that the statements contained therein are true and correct to the best of his or her knowledge, and that a notary or postmaster is not available.

(d) The commission's staff will furnish free notary service.

(e) An attorney may represent a complainant by filing a notice of appearance with the commission's staff.

(f) The complaint will be served promptly upon respondent in person or by certified mail, return receipt requested. The complainant will receive a copy of the complaint.

(g) If the acts or practices complained of also constitute a violation of federal law, the commission's staff will give to the appropriate federal enforcement agency a copy of the complaint, unless the complainant directs otherwise. The commission's staff will assist in filing complaints with federal agencies which enforce federal laws similar to AS 18.80, even if the complainant does not want to file a complaint with the commission. (Eff. 12/07/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 1/14/77, Register 61; am 5/2/79, Register 70; am 3/12/81, Register 77; am 8/9/84, Register 91)

**Authority:** AS 18.80.050 AS 18.80.060 AS 18.80.100

**Editor's note:** This section was based on 6 AAC 30.010(a), (c), (d), and (e) and 6 AAC 30.020(a) before 3/12/81. The history note to this section contains the history of 6 AAC 30.010(a) and (c) - (e) and 6 AAC 30.020(a) before 3/12/81.

**6 AAC 30.220. Complaints by the executive director.** (a) The executive director may file a complaint on behalf of an individual or a class of persons when acts or practices allegedly contrary to AS 18.80 come to his or her attention. A complaint made by the executive director must contain

(1) An identification of the class which is sufficiently specific to enable the commission's staff to determine the nature of the class through investigation;

(2) A statement of the alleged harm each individual or class has experienced or is experiencing;

(3) The date the alleged discriminatory practice occurred. If the practice is continuing, the complaint must state when the practice began, if known to the executive director.

(b) A complaint made by the executive director must be notarized.

(c) The executive director may file the complaint with the federal enforcement agency having jurisdiction over the alleged unlawful acts or practices. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 1/14/77, Register 61; am 5/2/79, Register 70; am 3/12/81, Register 77; am 8/9/84, Register 91)

**Authority:** AS 18.80.050 AS 18.80.060 AS 18.80.100

**Editor's note:** This section was based on 6 AAC 30.010(a)(2) and (d) before 3/12/81. The history note to this section contains the history of 6 AAC 30.010(a)(2) and (d) before 3/12/81.

**6 AAC 30.230. Filing date.** (a) The complaint filing date is the date when postmarked or received by the commission, whichever date is earlier.

(b) A complaint alleging a discriminatory act or practice not of a continuing nature must be filed no later than

(1) 300 days after the alleged discriminatory act or practice occurred, if the act or practice occurred before 8/22/97; or

(2) 180 days after the alleged discriminatory act or practice occurred, if the act or practice occurred on or after 8/22/97.

(c) A complaint alleging a discriminatory act or practice of a continuing nature must be filed no later than

(1) 300 days after the alleged act or practice stopped, for an alleged act or practice that stopped before 8/22/97; or

(2) 180 days after the alleged act or practice stopped, for an alleged act or practice that stopped on or after 8/22/97. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 1/14/77, Register 61; am 5/2/79, Register 70; am 3/12/81, Register 77; am 8/9/84, Register 91; am 8/22/97, Register 143)

**Authority:** AS 18.80.050                      AS 18.80.100                      AS 18.80.110  
AS 18.80.060

**Editor's note:** This section was based on 6 AAC 30.010(f) before 3/12/81. The history note to this section contains the history of 6 AAC 30.010(f) before 3/12/81.

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### ARTICLE 3. INVESTIGATION, DETERMINATION AND CONCILIATION.

#### Section

- 310. Resolution conference procedures
- 320. Investigation methods by commission staff before conciliation
- 325. Rebuttal
- 330. Determinations
- 340. Conciliation procedures
- 350. Amendment of complaint before conciliation
- 360. Withdrawal of complaint and substitution as party
- 375. Finality of staff decisions

**6 AAC 30.310. Resolution conference procedures.** (a) The commission's staff may convene a conference between the complainant and the respondent to define the issues of the complaint, receive information relevant to the investigation and, if possible, to negotiate a resolution of the complaint.

(b) The complainant shall attend a resolution conference unless excused by the commission's staff for good cause shown. Respondent's attendance at a resolution conference is voluntary. The commission staff will make no adverse inference concerning the merits of the complaint against a respondent who fails to attend a resolution conference.

(c) The commission's staff will advise complainant and respondent in writing of the conference date, the procedures to be followed, and what information should be brought to the conference to assist with the investigation and resolution.

(d) The commission's staff will informally and impartially conduct a resolution conference to inquire into facts relevant to the complaint and, at the request of the parties, will assist the complainant and respondent to negotiate a resolution of the complaint.

(e) No person may make a transcript or tape recording of the resolution conference. The commission staff will take investigative notes and will accept written evidence from the parties. Evidence received by the staff at this conference may be admissible as evidence in any subsequent hearing before the commission.

(f) The commission's staff may not disclose offers and counter offers of settlement made during the conference.

(g) The commission's staff member will adjourn the conference when a party fails to cooperate with the commission's staff, acts in bad faith, or in a way which unreasonably annoys, embarrasses or oppresses a participant. (Eff. 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.060(b) AS 18.80.110

**6 AAC 30.320. Investigation methods by commission staff before conciliation.** (a) The commission's staff will determine the nature and scope of the investigation. The commission's staff will impartially obtain and analyze facts relevant to the complaint and determine if the allegations are supported by substantial evidence. During the investigation, the staff may also investigate matters that are like, related to, or growing out of the complaint. The commission's staff may obtain evidence by resolution conference, interview, inspection of documents and premises, or examination of written submissions of parties and witnesses. Any party or witness may offer a relevant statement or evidence for consideration by the commission's staff.

(b) To carry out its impartial investigation, the commission's staff may issue requests for production, interrogatories, subpoenas, and subpoenas duces tecum. A party must mail the answers to interrogatories and responses to requests for production within 30 days after service unless the commission's staff grants an extension or modification for good cause shown. The commission's staff may set reasonable times for appearances in response to subpoenas and subpoenas duces tecum. In addition, the following rules apply:

(1) the commission's staff shall notify the party to whom interrogatories, subpoenas duces tecum, or requests for production are directed that failure to answer, appear, or produce may result in an adverse determination by the staff on the merits of the complaint and a loss of the right to offer evidence sought by the interrogatories, subpoenas duces tecum, or requests for production at a later hearing on the complaint;

(2) if a complainant fails to answer, appear, or produce information necessary to reach a determination on the merits of the complaint, the commission's staff shall close the case;

(3) if a respondent fails to answer, appear, or produce, the commission's staff shall analyze the available evidence and determine whether the complaint is supported by substantial evidence; the staff may base a determination on inferences drawn from the failure to answer an interrogatory, appear, or produce documents, and proceed as follows:

(A) if the complaint is supported by substantial evidence, the commission's staff shall issue its determination in writing and try to conciliate the complaint; if conciliation fails and a hearing is convened, the hearing commissioners will not receive any evidence that should have been offered in response to the interrogatories, subpoenas duces tecum, or requests for production issued by the commission's staff;

(B) if the complaint is not supported by substantial evidence, the commission's staff may refer the refusal to comply with a subpoena, subpoena duces tecum, request for production, interrogatories, or other process to the Department of Law for appropriate enforcement action in superior court; if the state is a respondent, the commission may employ temporary legal counsel to enforce its investigation process.

(4) repealed 12/14/2007.

(c) No party may serve interrogatories, requests for production, subpoenas, subpoenas duces tecum, and other process on another party, on the commission's staff, or on any other person before certification of conciliation failure by the executive director. The commission's staff may issue process on any person at the request of a party if the staff determines that the process is reasonably necessary for an impartial investigation, determination, or conciliation of the case.

(d) The commission's staff may issue subpoenas and subpoenas duces tecum to take the deposition of any person as part of its impartial investigation. A deposition taken during an investigation may be offered in evidence at a hearing convened under 6 AAC 30.410 - 6 AAC 30.497 if the party taking the deposition informs the parties to the investigation and the person whose deposition is taken of its intended use. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 1/14/77, Register 61; am 8/16/78, Register 67; am 5/2/79, Register 70; am 3/12/81, Register 77; am 8/9/84, Register 91; am 3/31/90, Register 113; am 7/3/96, Register 138; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050            AS 18.80.075            AS 18.80.120  
                 AS 18.80.060            AS 18.80.110            AS 18.80.130

**Editor's note:** 6 AAC 30.320(a) and (b)(3)(B) were based on 6 AAC 30.020; 6 AAC 30.320(b) (1), (b)(3)(A), and (b)(4) were based on 6 AAC 30.022(b) and (g), and 6 AAC 30.320(c) and (d) were based on 6 AAC 30.025 before 3/12/81. The history note to this section contains the history of 6 AAC 30.020, 6 AAC 30.022(b) and (g), and 6 AAC 30.025 before 3/12/81.

**6 AAC 30.325. Rebuttal.** If the commission's staff intends to issue a determination that a complaint is not supported by substantial evidence, the staff shall inform the complainant of its proposed determination and review the evidence supporting the determination with the complainant. The commission's staff shall provide the complainant with an opportunity for rebuttal before a determination that a complaint lacks substantial evidence is made. (Eff. 12/14/2007, Register 184)

**Authority:** AS 18.80.050            AS 18.80.110            AS 18.80.115  
                 AS 18.80.100

**6 AAC 30.330. Determinations.** (a) If the commission's staff determines that a complaint is not supported by substantial evidence, or if it determines that closure of a case for any other reason is necessary, it shall deliver written findings of fact and a determination on each alleged violation of AS 18.80, along with a closing order, to the parties in person or by regular mail.

(b) If the commission's staff determines that the complaint is supported by substantial evidence, it will deliver a written determination to the parties in person or by certified mail, return receipt requested. If the commission's staff identifies during the investigation an issue of discrimination or a person not named in the complaint who has been similarly discriminated against, the commission's staff shall identify this issue or person in the determination either by name or with enough specificity that the respondent can identify the issue or the person. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 1/14/77, Register 61;

am 5/2/79, Register 70; am 3/12/81, Register 77; am 8/9/84, Register 91; am 1/2/2004, Register 168)

**Authority:** AS 18.80.050 AS 18.80.100 AS 18.80.110  
AS 18.80.060

**Editor's note:** 6 AAC 30.330(a) was based on 6 AAC 30.010(k) and 6 AAC 30.330(b) was based on 6 AAC 30.020(a) (5) before 3/12/81. The history note to this section contains the history of 6 AAC 30.010(k) and 6 AAC 30.020(a) (5) before 3/12/81.

**6 AAC 30.340. Conciliation procedures.** (a) The commission's staff will provide the parties with proposed terms of conciliation along with the determination that a complaint is supported by substantial evidence. The commission's staff will propose remedies for each issue and individual identified in the determination.

(b) If the commission's staff negotiates conciliation terms that provide a remedy for a person who is not named in the complaint but identified in the determination, the commission's staff will invite the person identified to accept or reject the remedy.

(c) The commission's staff or either party shall direct to the class identified in the findings the best notice practicable to those class members who can be identified through reasonable effort.

(d) Conciliation by the commission will not prevent an individual who has not filed a complaint from seeking relief outside of the conciliation agreement.

(e) Conciliation terms must be agreed to within 30 days after service of the conciliation agreement proposed by the commission's staff. The executive director may grant an extension of time to agree to the terms of conciliation up to 30 days for good cause shown. The executive director will determine that conciliation efforts have failed if

(1) the respondent fails to discuss conciliation in a timely manner with the commission's staff;

(2) the commission's staff and the parties do not resolve the issues alleged in the complaint; or

(3) the respondent fails to fulfill its obligations under the conciliation agreement.

(f) For complaints filed

(1) before September 13, 2006, if the executive director determines that conciliation efforts have failed, the executive director shall inform the commission's chairperson in writing and refer the complaint to the commission for hearing;

(2) on or after September 13, 2006, if the executive director determines that conciliation efforts have failed, the executive director shall inform the commission's chairperson in writing and shall, within 45 days of the determination of the failure, refer the complaint to the commission for hearing or dismiss without prejudice the complaint in accordance with AS 18.80.112 (b); a referral must be accompanied by an accusation as provided in AS 18.80.120 and must be served on the parties in person or by certified mail, return receipt requested; if the executive director dismisses the complaint, the executive director must give notice to the commission and serve the parties in person or by regular mail.

(g) The executive director may dismiss without prejudice a complaint when the complainant refuses to accept conciliation terms offered by the respondent which the executive director believes are reasonable. Dismissal for this reason does not prevent a complainant from



seeking a remedy in other forums or filing a new complaint under AS 18.80.100 that resolves the grounds for dismissal.

(h) The commission's staff will attempt conciliation on behalf of a class of persons identified through investigation as described in 6 AAC 30.330(b) even if the individual complainant fails to participate in or cooperate with conciliation efforts. Complainant's refusal to cooperate will not prevent a settlement on behalf of the class members or result in a determination that conciliation efforts on behalf of the class are unsuccessful. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 1/14/77, Register 61; am 5/2/79, Register 70; am 3/12/81, Register 77; am 3/31/90, Register 113; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.100 AS 18.80.112  
AS 18.80.060 AS 18.80.110

**Editor's note:** 6 AAC 30.340(a), (b), (c), (d), and (f) were based on 6 AAC 30.020(b) and (d). The history notes dated before 3/12/81 which follow 6 AAC 30.340 refer to the former sections.

**6 AAC 30.350. Amendment of complaint before conciliation.** A complaint may be amended at any time before certification by the executive director that conciliation has failed. A complaint must be amended if

(1) an issue of discrimination or a class of persons adversely affected comes to the attention of the complainant or the commission's staff; and

(2) the new issue differs substantially from the issue identified in the original complaint or the person was not named in the complaint. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 1/14/77, Register 61; am 5/2/79, Register 70; am 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.060 AS 18.80.100

**Editor's note:** This section was based on 6 AAC 30.010(i) before 3/12/81. The history note to this section contains the history of 6 AAC 30.010(i) before 3/12/81.

**6 AAC 30.360. Withdrawal of complaint and substitution as party.** (a) For complaints filed before September 13, 2006, an individual complainant may withdraw the individual's complaint at any time before the executive director certifies that conciliation has failed. After the commission's staff has determined that the complaint is supported by substantial evidence, the executive director must approve the withdrawal. Withdrawal of a complaint does not prevent an individual from filing a complaint that alleges a similar related violation of AS 18.80.

(b) For complaints filed on or after September 13, 2006, a complainant may withdraw a complaint by submitting a signed, written request to the commission's staff at any time before the executive director serves an accusation under AS 18.80.120.

(c) The executive director may substitute the executive director as a party in the place of a complainant who requests withdrawal. The commission's staff shall promptly notify the respondent of the substitution, and the case shall proceed as if the executive director had filed the original complaint. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54;

am 1/14/77, Register 61; am 5/2/79, Register 70; am 3/12/81, Register 77; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.060 AS 18.80.100

**Editor's note:** The substance of this section was based on 6 AAC 30.010(j) before 3/12/81. The history note to this section contains the history of 6 AAC 30.010(j) before 3/12/81.

**6 AAC 30.375. Finality of staff decisions.** (a) A dismissal of a complaint by commission staff is a final agency action for the purposes of judicial review.

(b) Review of dismissals under AS 18.80.112 (c) is limited to those instances in which the commission, on its own volition, determines review furthers the purposes of AS 18.80. (Eff. 5/3/2007, Register 182)

**Authority:** AS 18.80.050 AS 18.80.112

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#### ARTICLE 4. HEARING PROCEDURES.

##### Section

- 410. Commencement of hearing process
- 415. Subpoenas
- 420. Class action complaint at hearing
- 430. Notice of hearing
- 435. Motions and other filings
- 440. Conduct of hearing
- 450. Amicus curiae
- 460. Evidence
- 470. Recommended decision
- 480. Orders by hearing commissioners
- 490. Expenses
- 492. Attorney's fees or costs
- 495. Sanctions
- 497. Hearing record

**6 AAC 30.410. Commencement of hearing process.** (a) If the executive director refers a complaint to the commission for hearing, the chairperson shall appoint at least three commissioners to hear and decide the case. The chairperson may replace a hearing commissioner at any time before issuance of a final order.

(b) The commission shall request that the office of administrative hearings appoint an administrative law judge to preside as the hearing examiner at the hearing.

(c) The administrative law judge or hearing examiner shall conduct a prehearing conference to establish a schedule for discovery, briefing, and exchange of witness lists, and to set the hearing date.

(d) Repealed 7/3/96.

(e) The original pleadings, motions, stipulations, briefs, and other documents required to be filed before the hearing must be filed with the administrative law judge or hearing examiner, and served on the parties. Documents must be captioned in the same manner as the accusation and must include the commission's case number.

(f) Repealed 7/3/96.

(g) Repealed 12/14/2007.

(h) Repealed 7/3/96.

(i) The respondent shall file and serve an answer to the accusation within 20 days after service of notice of assignment of an administrative law judge or hearing examiner. The answer must fairly meet the substance of the accusation and must contain a general or specific admission or denial of the allegations in the accusation. If the respondent lacks knowledge or information, a statement of that lack has the effect of a denial. The answer must state any matter that is a defense. Any allegation in the accusation that is not denied or admitted in the answer will be considered admitted.

(j) If an accusation is amended, the respondent shall file and serve an answer to the amended accusation within 20 days after service. If any part of an amended accusation is referred for conciliation under AS 18.80.120(c) and conciliation efforts are not successful, the respondent shall file an answer to the amended accusation within 10 days of the executive director's notice of the failure of the conciliation. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 12/17/76, Register 60; am 1/14/77, Register 70; am 3/12/81, Register 77; am 7/3/96, Register 138; am 1/2/2004, Register 168; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.060 AS 18.80.120

**Editor's note:** 6 AAC 30.410(a), (b), (g), and (j) were based on 6 AAC 30.060(b), 30.055, 30.010(i), and 30.050 respectively before 3/12/81. The history note in this section contains the history of 6 AAC 30.060(b), 30.055, 30.010(i), and 30.050 before 3/12/81.

**6 AAC 30.415. Subpoenas.** The administrative law judge or hearing examiner may issue subpoenas or subpoenas duces tecum upon the written application of the executive director or the respondent. (Eff. 12/7/63, Register 13; am 6/6/75, Register 54; am 3/12/81, Register 77; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.060 AS 18.80.120

**Editor's note:** This section was based on 6 AAC 30.025 before 3/12/81. The history note to this section contains the history of 6 AAC 30.025 before 3/12/81.

**6 AAC 30.420. Class action complaint at hearing.** (a) A complaint may be maintained as a class action at a hearing.

(1) The executive director may maintain a complaint as a class action only by identifying the class with specificity and by showing that

(A) the class is so numerous that joinder of all members is impracticable;

(B) there are questions of law or fact common to the class; and

(C) the executive director will fairly and adequately protect the interests of

the class.

(2) An individual may maintain a complaint as a class action only if the executive director determines that it is practicable and in the public interest to certify the complaint as a class action and the executive director can show that

- (A) the class is so numerous that joinder of all members is impracticable;
- (B) there are questions of law or fact common to the class;
- (C) the claims of the complainant are typical of the claims of the class; and
- (D) the complainant will fairly and adequately protect the interests of the

class.

(b) An action may be maintained as a class action complaint if (a)(1) or (a)(2) of this section is satisfied, and

(1) the prosecution of separate actions by the individual members of the class would create a risk of

(A) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class; or

(B) adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other class members not parties to the adjudications or which would substantially impair or impede their ability to protect their interests;

(2) the party opposing the class has acted or refuses to act on grounds generally applicable to the class which makes final injunctive relief or corresponding declaratory relief appropriate for the entire class; or

(3) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and a class action complaint is superior to other available methods for the fair and efficient adjudication of the controversy.

(c) The matters pertinent to a determination that the proposed class qualifies as a class under (b)(3) of this section include

(1) the interest of members of the class in individually pursuing the prosecution of separate administrative actions;

(2) the extent and nature of any litigation concerning the controversy before the action under this chapter is started;

(3) the desirability or undesirability of concentrating the litigation of the claims in the administrative hearing; and

(4) the difficulties which may be encountered in the management of a class action.

(d) The class and its members shall be identified and notified as follows:

(1) as soon as practicable after the examiner serves the complaint on the parties, the examiner shall determine whether the complaint is to be maintained as a class action; an order issued under this subsection is conditional and may be altered or amended before the decision on the merits;

(2) in any class action complaint maintained under (b)(3) of this section, the examiner shall give the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort;

(3) the findings of fact and conclusions of law in an action maintained as a class action under (b)(1) or (2) of this section must describe the members of the class; the findings of fact and conclusions of law in an action maintained as a class action under (b)(3) of this section must describe the members of the class who: (i) were notified as provided in (2) of this

subsection, (ii) have not requested exclusion, and (iii) the hearing commissioners determine are members of the class; and

(4) when appropriate

(A) an action may be brought and maintained as a class action with respect to particular issues; or

(B) a class may be divided into subclasses and each subclass treated as a class.

(e) In the conduct of a class action under this section, the examiner may make orders which

(1) determine the course of proceedings or prescribe measures to prevent repetitious or complicated evidence or argument;

(2) protect the members of the class or provide for the fair conduct of the hearing by notifying the members of any stage of the hearing of the extent of the proposed order, and of the opportunity for members to object to the representation as unfair and inadequate or to otherwise come into the action;

(3) impose conditions on the parties;

(4) require the amendment of the complaint to eliminate allegations as to representation of absent class members, and that the action proceed without those absent class members; and

(f) An order issued under (e) of this section may be altered or amended by the examiner and is not a final decision of the hearing commissioners.

(g) A class action may not be dismissed or compromised without the approval of the hearing commissioners. Notice must be given to all members of the class as directed by the examiner before an order of dismissal or compromise takes effect.

(h) An order issued in accordance with AS 18.80.130 must describe those persons who are members of the class. (Eff. 1/14/77, Register 61; am 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.100 AS 18.80.130  
AS 18.80.060 AS 18.80.120

**Editor's note:** This section was based on 6 AAC 30.015 before 3/12/81. The history note to this section contains the history of 6 AAC 30.015 before 3/12/81.

**6 AAC 30.430. Notice of hearing.** The administrative law judge or hearing examiner shall give notice of the hearing to the parties at least 15 days before the start of the hearing, unless a shorter time is agreed to by the parties. The notice must state the time and place of the hearing. (Eff. 12/7/63, Register 13; am 6/6/75, Register 54; am 3/12/81, Register 77; am 7/3/96, Register 138; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.060 AS 18.80.120

**Editor's note:** This section was based on 6 AAC 30.040(b) before 3/12/81. The history note to this section contains the history of 6 AAC 30.040(b) before 3/12/81.

**6 AAC 30.435. Motions and other filings.** (a) Unless otherwise ordered for good cause or required by this chapter, the rules for filing, service, and consideration of motions in civil proceedings in the courts of this state apply to proceedings under AS 18.80.

(b) The administrative law judge or hearing examiner shall promptly rule on motions filed in a case. A request to the hearing commissioners to review an order by an administrative law judge or hearing examiner that is not a final order may only be made upon a showing that the standards set out in the rules for petitions for review in civil proceedings in the courts of this state have been met.

(c) If the executive director or the respondent files a motion for a summary decision, the opposing party may request additional time to respond to the motion in order to have a reasonable opportunity for discovery. The administrative law judge or hearing examiner shall grant the request unless it is shown that a reasonable opportunity for discovery has already been provided or additional discovery will not lead to evidence that could support an opposition to the motion.

(d) The administrative law judge or hearing examiner shall permit prehearing briefs in all cases and allow post-hearing briefs only for good cause shown, or by stipulation of the parties.

(e) Unless otherwise ordered for good cause shown, the rules for computation and enlargement of time and additional time after service in civil proceedings in the courts of this state apply to proceedings under AS 18.80. (Eff. 7/3/96, Register 138; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.060 AS 18.80.120

**6 AAC 30.440. Conduct of hearing.** (a) The executive director has the burden of proving the allegations of the accusation.

(b) The parties may attend the hearing in person, telephonically, or by counsel, may present oral testimony or other evidence, and may examine and cross-examine witnesses. The party attending telephonically is responsible for arranging the call and paying the associated costs. The parties may enter into procedural or substantive stipulations that comply with AS 18.80 or this chapter.

(c) The administrative law judge or hearing examiner may, upon reasonable notice, call and examine witnesses, and direct the production and inclusion in the record of documentary evidence.

(d) The administrative law judge or hearing examiner may leave the record open after the hearing to permit the inclusion of evidence which was unavailable during the hearing.

(e) The administrative law judge or hearing examiner shall conduct the hearing, and rule on the admissibility of evidence, the order and allocation of proof, and all motions and objections. The rule for exclusion of witnesses in civil proceedings in the courts of this state applies to proceeding under AS 18.80. The administrative law judge or hearing examiner may exclude from the hearing room or from further participation in the proceeding any person who engages in improper conduct during the hearing.

(f) The hearing may be continued from day to day or adjourned to a later date or to a different place by announcement at the hearing or by appropriate notice to the parties and the executive director.

(g) Oral testimony must be given under oath or affirmation. The examiner may administer the oath.

(h) The administrative law judge or hearing examiner shall ensure that the proceedings are recorded. A party may obtain a duplicate audiotape of a hearing by submitting a request in writing to the commission and paying the cost of preparing the duplicate audiotape. (Eff. 12/7/63, Register 13; am 6/6/75, Register 54; am 12/17/76, Register 60; am 3/12/81, Register 77; am 7/3/96, Register 138; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.060 AS 18.80.120

**Editor's note:** 6 AAC 30.440(c) and (e) were based on 6 AAC 30.055(a), and 6 AAC 30.440(a), (b), (d), and (f) were based on 6 AAC 30.060 before 3/12/81. The history note in this section contains the history of 6 AAC 30.055(a) and 6 AAC 30.060 before 3/12/81.

**6 AAC 30.450. Amicus curiae.** A brief of an amicus curiae may be filed only if the parties consent in writing or if the examiner grants a motion which requests permission to file the brief. A motion for permission to file a brief must identify the interest of the amicus and must state the reasons why a brief of the amicus is desirable. (Eff. 12/7/63, Register 13; am 6/6/75, Register 54; am 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.120  
AS 18.80.060 AS 18.80.130

**Editor's note:** This section was based on 6 AAC 30.060(a) before 3/12/81. The history note to this section contains the history of 6 AAC 30.060(a) before 3/12/81.

**6 AAC 30.460. Evidence.** (a) The administrative law judge or hearing examiner shall admit and give probative effect to evidence that is admissible in the superior court. The administrative law judge or hearing examiner shall admit and weigh other evidence on which reasonable persons are accustomed to rely in the conduct of their serious affairs.

(b) Repealed 12/14/2007.

(c) A party may introduce an affidavit as evidence at a hearing if the party serves a copy of the affidavit at least 10 days before the hearing. The affidavit must be accompanied by a notice of intent to introduce the affidavit into evidence at the hearing and must notify the opposing party that he or she has seven days in which to request cross-examination. Unless the opposing party serves the proponent with a request to cross-examine an affiant within seven days after service of the affidavit, his or her right to cross-examine the affiant is waived and the affidavit, if introduced in evidence, will be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not given after request for it is made, the affidavit may only be used to supplement or explain direct testimony and is not sufficient by itself to support a finding. (Eff. 6/6/75, Register 54; am 12/17/76, Register 60; am 3/12/81, Register 77; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.060 AS 18.80.120

**Editor's note:** This section was based on 6 AAC 30.055(a) before 3/12/81. The history note in this section contains the history of 6 AAC 30.055(a) before 3/12/81.

**6 AAC 30.470. Recommended decision.** (a) The administrative law judge or hearing examiner shall promptly recommend findings of fact, conclusions of law, and an order to the hearing commissioners. A copy of the recommendations will be served on the parties.

(b) On any question that is determinative of the jurisdiction of the commission or the culpability of any party, the administrative law judge or hearing examiner may only make recommendations to the hearing commissioners.

(c) When demeanor, inconsistency, or personal credibility is a basis for the recommendations, the administrative law judge or hearing examiner shall specifically note these observations in the recommendations.

(d) Within 15 days after receipt of the examiner's recommendations, any party may file objections with the administrative law judge or hearing examiner and serve copies on the parties. Responses to objections may not be filed except at the direction of the administrative law judge or hearing examiner. The administrative law judge or hearing examiner may reconsider the recommendations objected to and may order oral argument. If reconsideration is denied, the hearing record together with the recommendations and the objections, if any, will be sent to the hearing commissioners for issuance of a final order. If the administrative law judge or hearing examiner does not rule on the objections within 20 days after the objections were filed, the objections will be considered denied.

(e) The administrative law judge or hearing examiner may grant a reasonable extension to file objections if a party shows that a transcript is essential to make an objection, or for other good cause shown. (Eff. 6/6/75, Register 54; am 12/17/76, Register 60; am 3/12/81, Register 77; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.060 AS 18.80.120

**Editor's note:** 6 AAC 30.470(a), (b), and (c) were based on 6 AAC 30.055(b), (c), and (e), and 6 AAC 30.470(d) was based on 6 AAC 30.095(a) before 3/12/81. The history note in this section contains the history of 6 AAC 30.055(b), (c), and (e) and 6 AAC 30.095(a) before 3/12/81.

**6 AAC 30.480. Orders by hearing commissioners.** (a) The hearing commissioners will review the hearing record and issue a final order determining the controversy, making corrections, amendments or changes in the recommended findings of fact, conclusions of law, and proposed order as they consider necessary; or the hearing commissioners may remand the matter to the administrative law judge or hearing examiner with directions to take additional evidence, rewrite the proposed findings, conclusions, and proposed order; or take any other action they consider appropriate. The hearing commissioners will provide a period for objections to revised findings, conclusions, or proposed orders of the administrative law judge or hearing examiner.

(b) The remedial authority of the commission under AS 18.80.130(a) includes the authority to order any legal or equitable relief that is reasonably calculated to prevent future violations of a similar nature or that reasonably compensates the complainant or the class for losses incurred as a result of the unlawful conduct, including out-of-pocket expenses. A monetary award under this section may include an order that interest on the amount due be paid as provided in AS 09.30.070(a).

(c) The decision of the hearing commissioners must be by majority vote and is a final administrative order. A hearing commissioner may file a concurring or dissenting opinion.



(d) A copy of the commission's order will be served upon the parties. The parties will be advised of their right to seek judicial review under AS 44.62.560 - AS 44.62.570.

(e) A copy of final orders of the commission will be maintained at each office of the commission, and will be filed with state law libraries and with the attorney general. (Eff. 12/7/63, Register 13; am 6/6/75, Register 54; am 3/12/81, Register 77; am 5/22/81, Register 78; am 8/9/84, Register 91; am 12/29/2004, Register 172; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.130

**Editor's note:** 6 AAC 30.480(a) was based on 6 AAC 30.095(b), and 6 AAC 30.480(b), (c), (d), and (e) were based on 6 AAC 30.100(b), (c), (d), and (e) before 3/12/81. The history note in this section contains the history of 6 AAC 30.095(b) and 6 AAC 30.100(b), (c), (d), and (e) before 3/12/81.

**6 AAC 30.490. Expenses.** The executive director will determine what hearing expenses shall be paid by the commission to present the facts in support of the accusation. The expenses will be made in the public interest and when state money is available. Complainant and respondent, at their own expense, may incur additional costs and apply for reimbursement under 6 AAC 30.492. (Eff. 3/12/81, Register 77; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.120 AS 18.80.130  
AS 18.80.060

**6 AAC 30.492. Attorney's fees or costs.** (a) Not later than 10 days after the decision of the hearing commissioners is served, a party may request by motion the commission to order the payment of attorney's fees or costs. The motion shall be filed with the administrative law judge or hearing examiner. After providing a reasonable opportunity to respond, the administrative law judge or hearing examiner shall issue a recommended decision on the motion. The recommended decision is subject to the procedures in 6 AAC 30.470(d) and (e). The hearing commissioners will issue a final order on the motion in accordance with the procedures set out in 6 AAC 30.480(a) and (c) - (e).

(b) An award of attorney's fees and costs will be made against a complainant upon a showing that he or she pursued an action not authorized by the executive director that was frivolous, unreasonable, or groundless, or that an action authorized by the executive director was based upon information furnished in bad faith by complainant.

(c) No award will be made for attorney's fees and costs incurred by a party before issuance of notice of conciliation failure. (Eff. 3/12/81, Register 77; am 3/22/2014, Register 209)

**Authority:** AS 18.80.050 AS 18.80.130 AS 18.80.135

**6 AAC 30.495. Sanctions.** The examiner may order a party or counsel who knowingly uses these regulations for delay, or who fails to comply with these regulations or other procedures previously ordered, to pay costs, including attorney's fees and damages, to any other person who has been harmed by the delay or failure to comply. (Eff. 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.120 AS 18.80.130  
AS 18.80.060

**6 AAC 30.497. Hearing record.** (a) The hearing record consists of the accusation and answer, as amended, the recording of the hearing, exhibits and depositions admitted or excluded by the administrative law judge or hearing examiner, affidavits, stipulations, briefs, orders, the recommended decision and objections to it, and the final order of the hearing commissioners.

(b) A party may purchase from the commission

(1) a copy of the audiotape of the hearing; or

(2) a transcript of the audiotape of the hearing, if the commission prepares a transcript. (Eff. 12/7/63, Register 13; am 6/6/75, Register 54; am 3/12/81, Register 77; am 7/3/96, Register 138; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.120 AS 18.80.130  
AS 18.80.060

**Editor's note:** 6 AAC 30.497(a) was based on 6 AAC 30.070 before 3/12/81. The history note in this section contains the history of 6 AAC 30.070 before 3/12/81.

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## ARTICLE 5. HEARING DISCOVERY.

Section

510. Discovery

**6 AAC 30.510. Discovery.** (a) The executive director and the respondent may engage in reasonable discovery. Unless otherwise ordered or agreed to by the parties, the rules for discovery in civil proceedings in the courts of this state apply, except that the initial disclosure requirements of those rules do not apply. The commission strongly encourages informality and cooperation between parties in the discovery process.

(b) The executive director shall make the investigative file available to the complainant and respondent upon request within a reasonable time after issuing the accusation. Records and information required to be kept confidential by law must be withheld from disclosure. (Eff. 12/7/63, Register 13; am 6/6/75, Register 54; am 3/12/81, Register 77; am 7/3/96, Register 138; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.115 AS 18.80.130  
AS 18.80.060 AS 18.80.120

**Editor's note:** This section was adapted from Rule 26 of Alaska Rules of Civil Procedure, as amended January 1, 1979. This section was based on 6 AAC 30.035 before 3/12/81. The history note to this section contains the history of 6 AAC 30.035 before 3/12/81.

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## ARTICLE 6. RESERVED.

**ARTICLE 7. RESERVED.**

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**ARTICLE 8. REPORTS AND RECORDKEEPING.**

Section

- 810. Employer records
- 820. Labor union records
- 830. Employment agency records
- 840. Retention of records
- 850. Failure to keep records
- 860. Commission studies

**6 AAC 30.810. Employer records.** (a) An employer subject to AS 18.80 shall make, and keep for two years, records of the race, age, and sex of its applicants for employment and its employees.

(b) An employer who is being investigated under AS 18.80 shall retain, until final disposition of the complaint, all records relevant to the determination of the complaint. These records include

- (1) application forms, including records of the race, age, and sex of applicants;
- (2) position descriptions;
- (3) classification studies;
- (4) payroll data;
- (5) personnel files, including employment application forms and other records pertaining to hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship;
- (6) any other records relevant to the employment status of employees and applicants which the employer makes in the ordinary course of business.

(c) An employer may request of applicants or employees the information listed in (a) of this section if the information is obtained to further a good-faith affirmative action plan designed to avoid or overcome conspicuous imbalance in a work force. (Eff. 12/20/68, Register 27; am 6/6/75, Register 54; am 3/12/81, Register 77; am 8/9/84, Register 91)

**Authority:** AS 18.80.050 AS 18.80.220

**Editor's note:** This section was based on 6 AAC 30.13(a) and (d) before 3/12/81. The history note to this section contains the history of 6 AAC 30.130(a) and (d) before 3/12/81.

**6 AAC 30.820. Labor union records.** (a) A labor organization subject to AS 18.80 shall make, and keep for two years, records of the race, age, and sex of its members, applicants for membership, and others using its services.

(b) A labor organization that is being investigated under AS 18.80 shall retain, until final disposition of the complaint, all records relevant to the determination of the complaint. These records include

- (1) logs and other records which document the dispatch of members and others for employment;

(2) application forms and other records relevant to selection and training of apprentices;

(3) membership logs and registers, including records of dues payments, contributions to benefit programs and hours worked; and

(4) other records relevant to the affiliation of persons with the labor organization or the use of its services which the labor organization makes in the ordinary course of business.

(c) A labor organization may request of applicants the information listed in (a) of this section if the information is obtained to further a good-faith affirmative action plan designed to avoid or overcome conspicuous imbalance in its membership, dispatch, and apprenticeship program. (Eff. 12/20/68, Register 27; am 6/6/75, Register 54; am 3/12/81, Register 77; am 8/9/84, Register 91)

**Authority:** AS 18.80.050 AS 18.80.220

**Editor's note:** This section was based on 6 AAC 30.130(a) before 3/12/81. The history note to this section contains the history of 6 AAC 30.130(a) before 3/12/81.

**6 AAC 30.830. Employment agency records.** (a) An employment agency subject to AS 18.80 shall make, and keep for two years, records of the race, age, and sex of candidates for job referrals.

(b) An employment agency which is being investigated pursuant to AS 18.80 shall retain, until final disposition of the complaint, all records relevant to the determination of the complaint. These records include

(1) job orders placed by prospective employers and records of the selection and referral of candidates to employers;

(2) applications and files of persons seeking referral by the employment agency to prospective employers, including reference checks and verification of employment history; and

(3) other records relevant to the acceptance of job orders or the referral of prospective candidates which the employment agency makes in the ordinary course of business.

(c) An employment agency may request of persons seeking referral the information listed in (a) of this section if the information is obtained to further a good-faith affirmative action plan designed to avoid or overcome conspicuous imbalance in referral patterns. (Eff. 12/20/68, Register 27; am 6/6/75, Register 54; am 3/12/81, Register 77; am 8/9/84, Register 91)

**Authority:** AS 18.80.050 AS 18.80.110 AS 18.80.220 (b)

**Editor's note:** This section was based on 6 AAC 30.130(a) before 3/12/81. The history note to this section contains the history of 6 AAC 30.130(a) before 3/12/81.

**6 AAC 30.840. Retention of records.** (a) The records specified in 6 AAC 30.810 - 6 AAC 30.830 must be maintained for inspection and copying by the commission for at least two years after the record is made.

(b) In addition to the requirement in (a) of this section, a respondent must maintain the records of a person who has filed a complaint with the commission, or records of a class of persons named in a complaint filed with the commission, and the records of persons or classes in

similar or related circumstances until final disposition of the complaint by the commission. (Eff. 12/20/68, Register 27; am 6/6/75, Register 54; am 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.110 AS 18.80.130  
AS 18.80.100 AS 18.80.120 AS 18.80.220

**Editor's note:** This section was based on 6 AAC 30.130(d) before 3/12/81. The history note to this section contains the history of 6 AAC 30.130(d) before 3/12/81.

**6 AAC 30.850. Failure to keep records.** The executive director may file a complaint alleging a violation of AS 18.80.220(b) if an employer, labor organization or employment agency fails to make and retain the records specified in 6 AAC 30.810 - 6 AAC 30.830. If this failure is discovered during investigation of a complaint, the commission's staff may include in its determination a finding of noncompliance with AS 18.80.220(b). Conciliation efforts will seek to secure compliance with 6 AAC 30.810 - 6 AAC 30.830, and failure of conciliation will result in a hearing on the recordkeeping issue. (Eff. 12/20/68, Register 27; am 6/6/75, Register 54; am 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.110 AS 18.80.220  
AS 18.80.100

**Editor's note:** This section was based on 6 AAC 30.130(e) before 3/12/81. The history note to this section contains the history of 6 AAC 30.130(e) before 3/12/81.

**6 AAC 30.860. Commission studies.** The commission will study employment practices periodically to discover potential violations of AS 18.80 and will request access to records kept under 6 AAC 30.810 - 6 AAC 30.830. These requests are "inquiries" as specified in AS 18.80.060(b)(4) and are subject to the compulsory process in that subsection. The commission may publish the results of its study in a form which does not disclose the identity of a reporting entity. (Eff. 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.060 AS 18.80.220

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## ARTICLE 9. GENERAL PROVISIONS.

### Section

- 905. Access to investigative files
- 910. Substantive standards
- 920. Cases filed in superior court
- 940. Reopening
- 950. Publication of case results
- 960. Local human rights commissions
- 970. Availability of regulations
- 975. Construction of regulations

- 980. Validity of regulations
- 985. Exemption
- 990. Definitions

**6 AAC 30.905. Access to investigative files.** Records of investigation and information obtained during an investigation or inquiry are confidential and may not be disclosed except in accordance with AS 18.80.115 . Records and information required to be kept confidential by law must be withheld from disclosure. (Eff. 5/22/81, Register 78; am 11/21/82, Register 84; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.110 AS 18.80.115

**6 AAC 30.910. Substantive standards.** (a) Determinations by the commission’s staff, recommendations by examiners and adjudications by hearing commissioners will be made consistent with state decisions on AS 18.80, commission decisions, commission guidelines, regulations, and policy statements.

(b) The commission considers instructive, but not binding, relevant federal case law, statutes, regulations, and guidelines if they do not limit the commission’s obligation to construe AS 18.80 liberally. In deciding complaints of alleged discrimination under AS 18.80 in employment, state and local government services, or public accommodations because of physical or mental disability, the commission may use 42 U.S.C. 12101 - 12213 (Americans with Disabilities Act) and relevant federal case law as a guideline. If there is a conflict between these federal laws and AS 18.80 and the regulations in this chapter, the provisions of state law will govern when state law is more liberal than federal law.

(c) It is a defense to a complaint of unlawful discrimination to establish by clear and convincing evidence that a distinction in employment prohibited by AS 18.80.220(a)(1) is required by business necessity or the reasonable demands of the position. “Business necessity” or “reasonable demands of the position” means that the distinction is necessary to the safe and efficient operation of the business; the business purpose is sufficiently compelling to override any disproportionate impact on an individual protected by AS 18.80.220(a), and the challenged business practice efficiently carries out the business purpose it is alleged to serve, and there is no available or acceptable policy or practice which would better accomplish the business purpose advanced or accomplish it equally well with less discriminatory impact on the complainant. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 12/17/76, Register 60; am 1/14/77, Register 61; am 5/2/79, Register 70; am 3/12/81, Register 77; am 4/15/94, Register 130; am 7/13/2012, Register 203)

**Authority:** AS 18.80.050 AS 18.80.120 AS 18.80.145  
AS 18.80.060

**Editor’s note:** 6 AAC 30.910(a) and (b) were based on 6 AAC 30.010(m) and 6 AAC 30.055(d) before 3/12/81. The history note to this section contains the history of 6 AAC 30.010(m) and 6 AAC 30.055(d) , before 3/12/81.

**6 AAC 30.920. Cases filed in superior court.** When a complaint is filed in superior court alleging a violation of AS 18.80, the plaintiff shall promptly serve a copy of the complaint

on the executive director. If the same parties or issues are currently before the commission, the commission, in its discretion, will seek intervention in the civil action or deferral of the civil action to the commission, or it will close or hold in abeyance the complaint before the commission. (Eff. 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.120 AS 18.80.145  
AS 18.80.110

**6 AAC 30.940. Reopening.** The hearing commissioners may reopen a case closed under 6 AAC 30.480 on their own motion or on a motion of a party. A motion for reopening must be filed with the commission within 15 days after service of the final order. The power to reopen a case expires 30 days after the service of the order. If no action is taken on a motion for reopening within the time allowed, the motion is considered denied. (Eff. 12/7/63, Register 13; am 6/6/75, Register 54; am 3/12/81, Register 77; am 12/14/2007, Register 184)

**Authority:** AS 18.80.050 AS 18.80.110 AS 18.80.130  
AS 18.80.060 AS 18.80.120

**Editor's note:** This section was based on 6 AAC 30.110 before 3/12/81. The history note to this section contains the history of 6 AAC 30.110 before 3/12/81.

**6 AAC 30.950. Publication of case results.** The executive director will publish the result of complaints when the public interest will be served by educating persons as to their rights, remedies and obligations under AS 18.80. Names of parties will not be disclosed by the commission without their consent if the case is resolved before certification of conciliation failure by the executive director. The commission will disclose the identity of parties to cases which are resolved after certification of conciliation failure. (Eff. 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.120 AS 18.80.130  
AS 18.80.110

**6 AAC 30.960. Local human rights commissions.** The commission will, in its discretion, sign agreements with local human rights commissions which share responsibility for resolving discrimination cases to avoid duplication and overlap in processing. The commission will accord substantial weight to the findings and orders of local human rights commissions if the result is consistent with the requirements of AS 18.80 and this chapter. (Eff. 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.290

**6 AAC 30.970. Availability of regulations.** Copies of AS 18.80, commission regulations, commission decisions and case law on AS 18.80 are available for public inspection at all offices of the commission and at state law libraries. (Eff. 12/7/63, Register 13; am 6/6/75, Register 54; am 3/12/81, Register 77)

**Authority:** AS 18.80.050

**Editor’s note:** This section was based on 6 AAC 30.150 before 3/12/81. The history note to this section contains the history of 6 AAC 30.150 before 3/12/81.

**6 AAC 30.975. Construction of regulations.** The regulations in this chapter shall be liberally construed to accomplish the purposes of AS 18.80 and the policies of the commission. A party appearing before the commission without counsel will not be penalized or prejudiced if the party has made a good-faith effort to comply with these regulations. (Eff. 12/7/63, Register 13; am 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.120 AS 18.80.150  
AS 18.80.060 AS 18.80.130 AS 18.80.160  
AS 18.80.110

**Editor’s note:** This section was based on 6 AAC 30.160 before 3/12/81. The history note to this section contains the history of 6 AAC 30.160 before 3/12/81.

**6 AAC 30.980. Validity of regulations.** If a provision of this chapter or its application to any person or circumstance is adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any regulation loses its force and effect, that judgment or action does not affect the remainder of this chapter. (Eff. 6/6/75, Register 54; am 3/12/81, Register 77)

**Authority:** AS 18.80.050

**Editor’s note:** This section was based on 6 AAC 30.180 before 3/12/81. The history note to this section contains the history of 6 AAC 30.180 before 3/12/81.

**6 AAC 30.985. Exemption.** Any organization operated for charitable or educational purposes and supervised or controlled by or in connection with a religious organization is not prohibited from limiting admission to or giving preference to persons of the same religion or denomination or otherwise making a hiring decision that will promote the religious principles for which it is established or maintained. (Eff. 3/12/81, Register 77)

**Authority:** AS 18.80.050 AS 18.80.210 AS 18.80.230  
AS 18.80.200 AS 18.80.220 AS 18.80.300

**6 AAC 30.990. Definitions.** (a) Unless the context indicates otherwise, in this chapter or in AS 18.80

(1) “practice or practices contrary to practice or practices contrary to” AS 18.80.220 - AS 18.80.260;<sup>1</sup>

(2) “place of public accommodation, resort or amusement” includes but is not limited to educational institutions and all places included in the meaning of that term as it appears in AS 18.80.300 (7);

(3) “commission” means the State Commission for Human Rights;

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<sup>1</sup> So in original.



(4) “commissioner” means one of the members of the State Commission for Human Rights;

(5) “chairperson” means the duly elected chairman or chairwoman of the State Commission for Human Rights, or in the absence of the chairperson, the vice-chairperson or other commissioner designated by the remaining members of the commission;

(6) “hearing commissioners” means the commissioners designated by the chairperson to conduct a hearing;

(7) “party” or “parties” means the complainant, respondent or executive director;

(8) “discrimination because of marital status or changes in marital status” includes unjustified adverse action taken against a person because that person is single, married, widowed or divorced, or because of that person’s marriage or termination of marriage to another person;

(9) “executive director” includes the designee of the executive director who presents the case in support of the accusation;

(10) “investigative files” means all information acquired during the course of investigation of a complaint but does not include

(A) information whose release is prohibited by federal law or regulation, or state law;

(B) intra-agency memoranda or staff work product;

(C) attorney work product;

(11) “public” means persons other than the parties, but does not include those government agencies

(A) which are investigating or taking formal action under AS 18.80.200 - AS 18.80.295;

(B) whose stated policy and purpose is to eradicate discrimination in employment; credit and financing practices; places of accommodation; practices by the state or its political subdivisions; or the sale, lease, or rental of real property.

(b) Repealed 12/14/2007.

(c) Repealed 12/14/2007.

(d) For purposes of AS 18.80.240 , the terms “lease” or “rental” of real property does not apply to the payment of rent for a room in a dwelling unit when the lessor and lessee will be sharing common living areas in the dwelling unit and the lessor actually occupies the dwelling unit as a resident. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 3/12/81, Register 77; am 5/22/81, Register 78; am 5/19/82, Register 82; am 8/9/84, Register 91; am 4/9/94, Register 130; am 12/14/2007, Register 184)

<b>Authority:</b>	AS 18.80.050	AS 18.80.210	AS 18.80.250
	AS 18.80.060	AS 18.80.220	AS 18.80.255
	AS 18.80.110	AS 18.80.230	AS 18.80.260
	AS 18.80.115	AS 18.80.240	AS 18.80.300
	AS 18.80.200		

**Editor’s note:** This section was based on 6 AAC 30.170 before 3/12/81. The history note to this section contains the history of 6 AAC 30.170 before 3/12/81.