

Office of Public Hearings
Commission on Human Rights and Opportunities
Contested Case Processes and Procedures

Section I – Purpose of memorandum

The purpose of this memorandum is to acquaint interested persons and parties with the processes and procedures utilized by the Office of Public Hearings (OPH) at the Commission on Human Rights and Opportunities (CHRO) to implement its public hearing functions in contested case proceedings. **By publishing this memorandum, OPH and CHRO do not intend that any person or party should rely on it in lieu of applicable statutes and regulations that govern contested case proceedings.** Public hearings are contested case proceedings within the meaning of the Uniform Administrative Procedure Act (UAPA). As such, the process is governed by General Statutes § 4-166 et seq., as well as by General Statutes § 4-166 et seq., and by §§ 46a-54-78a through 46a-54-98a of the Regulations of Connecticut State Agencies (Regulations).

Section II – Office of Public Hearings (OPH)

The functions of OPH include, but are not limited to, the following: (1) assigning human rights referees to contested case proceedings; (2) scheduling hearings and issuing notices thereof; (3) providing a reporting service to transcribe hearings and produce verbatim transcripts; (4) monitoring the timely production of hearing transcripts; (5) transmitting orders entered by human rights referees; (6) maintaining the original, official records in all contested proceedings; (7) ensuring the timely issuance of decisions and orders; and (8) filing certified copies of the record in Superior Court when an appeal of a human rights referee's decision is filed.

Section III – Assignment of human rights referees; powers, duties and responsibilities of human rights referees.

The chief human rights referee assigns the human rights referees on a rotating basis to hear complaints. Human rights referees have those powers, duties and responsibilities as set forth in the UAPA and General Statutes §§ 46a-54, 46a-57, 46a-84, 46a-85 and 46a-86. The powers of human rights referees are further defined in §§ 46a-54-78a through 46a-54-98a of the Regulations. In general, human rights referees have the authority to control the entire contested case process.

Section IV – Contested case proceedings

Hearing Conference

When an investigator finds "reasonable cause" and is unable to eliminate the unfair practice by conference or conciliation, the investigator certifies the complaint. By law, a hearing conference must be held within 45 days following the certification of the complaint. OPH sends a Notice of Public Hearing to CHRO, the complainant and the respondent informing them of the date and time of the hearing conference. The hearing conference is held at OPH, 450 Capitol Ave., Hartford, CT. All parties shall appear for the hearing conference. If a party is represented by an attorney, the attorney may appear with or without the client at the hearing conference. An attorney appearing without a client shall have knowledge of the client's schedule.

At the hearing conference, the presiding human rights referee assigns a settlement conference date, as well as dates for production of documents, exchange of witness and exhibit lists, a pre-hearing conference, and public hearing trial dates. No evidence or testimony is taken at the hearing conference.

Answer

Section 46a-54-86a of the Regulations requires that a respondent file with OPH and serve on both the complainant and CHRO an answer to the complaint within 15 days of the receipt of the Notice of Public Hearing. Even if it is the respondent's intent to adopt the answer that was filed during the earlier investigation of the complaint, an answer must be filed and served. If the complaint is amended, an answer to the amended complaints must be filed and served.

Failure to file an answer may result in an order of default by the presiding human rights referee.

Settlement Conference

The settlement conference is conducted by a human rights referee other than the one who will preside at the public hearing. The settlement referee meets with the parties and their attorneys, and reviews the factual and legal issues with them in an attempt to reach a settlement. If the case does not settle, it is referred back to the presiding human rights referee for a public hearing. The settlement referee does not discuss the terms of the settlement or the settlement negotiations with the presiding referee.

Prior to the settlement conference, the parties send a settlement report to the settlement referee. The settlement report summarizes the parties' factual contentions and legal issues. The complainant and CHRO also include the remedy sought and their calculations of damages, including lost benefits and efforts at mitigation. The respondent includes its defenses to the complaint.

Status conference

A human rights referee, on his or her own motion, or upon motion of a party, may order the convening of such status conferences as are needed to facilitate and expedite the proceedings. Any motion by a party for a status conference shall be in writing, filed with

OPH, and served on all parties to the complaint. The moving party shall consult with the other parties prior to the filing of the motion and, in the motion, include three alternative dates when all parties are available for the status conference. The motion shall also set forth the reason for the conference.

Public hearing

If the parties are unable to settle the case, it proceeds to a public hearing. At the public hearing, each party is able to submit exhibits and examine witnesses under oath. At the close of evidence, the presiding human rights referee may permit the filing of briefs. The presiding human rights referee issues a written decision within ninety days of the close of evidence or the filing of briefs, whichever is later.

Public hearings are usually conducted at OPH, 450 Capitol Ave., Hartford, CT.

Section V – Legal representation

The case in support of the complaint is presented by CHRO, through its attorney. The attorney for CHRO does not represent the complainant. If a complainant chooses to be represented by his/her own attorney, the complainant's attorney may participate in the presentation of CHRO's case as the CHRO attorney deems appropriate.

Attorneys appearing in contested cases shall be duly admitted to practice law in Connecticut. Attorneys shall file an appearance prepared in accordance with §§ 46a-54-16a and 46a-54-82a of the Regulations. An attorney seeking to withdraw an appearance shall file and serve written notice in accordance with § 46a-54-82a (e) of the Regulations.

Upon written motion, an attorney in good standing from other jurisdictions or law student interns may request permission to appear at specific proceedings. Even if the motion is granted, an attorney admitted to practice in Connecticut must also be present during all of the proceedings. The Connecticut-licensed attorney must also sign all pleadings and other papers filed in the case and take full responsibility for the conduct of the attorney or law student intern and the representation of the case. See § 46a-54-15a (b) of the Regulations.

Section VI – Motions for telephonic conferences and telephonic appearances

Prior to filing a motion for a telephonic conference or to appear telephonically, the moving party shall contact all parties to inform them of the motion and determine which parties also request to participate in the conference by telephone. The motion shall be in writing, filed with OPH and served on all parties. The motion shall: (1) state that all parties have been contacted and informed of the motion; (2) indicate which parties also request to participate in the conference telephonically; (3) describe the arrangements for the telephone conference call and (4) state that the moving party will be responsible for arranging the telephone conference call and for all costs associated therewith. Motions may be granted at the discretion of the human rights referee.

If a human rights referee, on his or her own initiative, orders a telephonic conference call, such call shall be arranged by OPH.

Section VII – Motions for continuance

Absent a showing of good cause, motions for continuance shall be filed no later than 10 days prior to the proceeding for which a continuance is sought. Prior to submitting a motion for continuance, the moving party must confer with the other parties and, in the motion, represent their position with respect to a continuance. The motion shall also the reason for the proposed continuance and include three alternative dates and times that all parties have agreed are mutually convenient if the motion is granted.

No matter shall be considered as continued until the human rights referee enters an order so stating.

The hearing conference must be held within forty-five (45) days of the certification of the complaint.

Section VIII – Filing of motions and other documents

The original and one copy of all pleadings, motions, briefs and other documents in contested case proceedings shall be filed with OPH, located at: Commission on Human Rights and Opportunities, Office of Public Hearings 450 Capitol Ave., Hartford, CT 06106.

Papers are deemed filed when they have been date stamped as received by OPH. Papers may be filed with OPH Monday through Friday between the hours of 9:00 AM and 4:30 PM.

The party filing documents with OPH must certify that a copy of the document has been mailed to all parties of record.

All papers that do not meet these requirements may be returned.

Section IX – Filing of documents – redaction of personal identifying information

Motions, exhibits and other documents filed with OPH shall not include personal identifying information, and if any such personal identifying information is present, the person filing the paper shall redact it from any papers filed, unless otherwise required by law or ordered by the presiding referee. "Personal identifying Information" means an individual's date of birth, motor vehicle operator's license number, Social Security number, other government-issued identification number, health insurance identification number, or any financial account number, security code or personal identification number (PIN). The responsibility for redacting personal identifying information rests solely with the person filing the paper. The Office of Public Hearings need not review any filed paper for compliance.

Section X – Records, exhibits and transcripts

(A) Records

The records in all contested case proceedings shall be retained by OPH. The parties have the right to inspect and copy documents, statements of witnesses and other evidence pertaining to the complaint, except as otherwise provided by federal or state law. A reproduction cost may be imposed in accordance with General Statutes § 1-212.

(B) Exhibits

A party desiring to introduce an exhibit into evidence shall tender an original (or a copy if the original is available for comparison) which shall become a part of the official record. In addition, the party shall provide a copy for each party to the proceeding.

(C) Transcripts

A reporting service will record the public hearing and produce a verbatim transcription thereof. OPH will not provide transcripts for the parties. The parties must make their own arrangements with the reporting service.

Section XI – Availability of decisions issued by the human rights referees

Rulings and decisions of human rights referees are available for public inspection at OPH. Copies are available at \$0.25 per page hard copy or, when available, gratis by e-mail. Requests to review orders, decisions and case files shall be made in advance so that suitable arrangements can be made.

Referees' decisions and index, summaries of hearing officers' decisions and CHRO's regulations can also be accessed through CHRO's website, <http://www.ct.gov/chro>. In addition, referees' decisions are also accessible through Westlaw, www.westlaw.com, database CT-CIVDEC.

Section XII – Contacting OPH or a human rights referee

OPH is located at 450 Capitol Ave., 2nd floor, Hartford, Connecticut, 06106. The telephone number is 860-418-8770. The fax number is 860-418-8780. The hours are 8:30 a.m. to 5 p.m. The e-mail address is chro.publichearings@ct.gov.

No party, attorney, or representative of a party or an attorney may directly contact a human rights referee, unless that party obtains the consent of all the other parties.

Section XIII – General information

These proceedings may be recorded, photographed, broadcast, or recorded for broadcast in accordance with General Statutes § 1-226. To minimize disruption of the proceedings, the human rights referee may impose reasonable limits on any person engaged in the recording, photographing, or broadcasting of the proceedings.

CHRO's offices are wheelchair accessible. If any party requires additional assistance (such as a language interpreter or signer for the hearing impaired), please contact OPH in writing to ensure that special needs are addressed through reasonable accommodation.

Questions regarding this notice may be directed to OPH.

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