OVERVIEW OF ANTI-DISCRIMINATION LAWS

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OVERVIEW OF ANTI-DISCRIMINATION LAWS

Title VII of the Civil Rights Act of 1964

Title VII prohibits discrimination based on race, color, sex, religion, or national origin. The enactment of Title VII of the Civil Rights Act of 1964 drastically altered the manner in which employers conducted employment practices. The 1991 Civil Rights Act reinforces those duties and obligations and applies in a much broader content. Title VII applies to private employer having 15 or more employees.

Administrative Prerequisites: A charge must be filed within 180 days of the alleged discrimination in the Illinois Department of Human Rights or within 300 days of the alleged discriminatory act in the EEOC.

Legal Action: The EEOC and the charging party have the right to bring a civil action in federal district court where the EEOC has been unable to secure an acceptable conciliation agreement. Any such action must be filed with 90 days of receipt by the charging party of the Notice of Right to Sue from the EEOC.

Damages Under Title VII

Back Pay: If the employer discriminated against the employee in (failing to hire or promote/terminating/constructively discharging), then a jury is instructed to determine the amount of damages caused by the illegal employment practice. The jury can award damages "in an amount that reasonable compensates the plaintiff for any lost wages and benefits, taking into account any increases in salary and benefits, including pension, that the plaintiff would have received had there

been no illegal discrimination." Basically, the jury has the ability to make the plaintiff whole for any wages and other benefits that were lost due to the discrimination from the date of the illegal act to the date of the verdict. The standard back pay formula of lost wages is reduced by the amount of interim earnings and benefits.

Reinstatement/Front Pay: A plaintiff is entitled to reinstatement to the position. In lieu of reinstatement, a plaintiff my seek "front pay" which is a monetary amount equal to the present case value of wages and benefits that the plaintiff will receive from other employment during that time.

Compensatory and Punitive Damages: Under the Civil Rights Act of 1991, a Title VII plaintiff may recover punitive damages by showing the defendant engaged in the discrimination "was malice or reckless indifference to the plaintiffs right to be free from discrimination." The 1991 CRA places caps on the amount of such damages in proportion to the size of the employer. The jury is not informed of the caps as they are to be applied by the court. The caps are combined for compensatory and punitive damages: (1) $50,000 for employers with 15-100 employees; (2) $100,000 for employers with 101-200 employees; (3) $200,000 for employers with 201-500 employees and (4) $300,000 for employers with over 500 employees.

Duty to Mitigate: The plaintiff has a duty under the law to mitigate his damages–that is, to exercise reasonable diligence under the circumstances to minimize or reduce his damages for loss of compensation by seeking employment.

If the plaintiff failed to seek or take advance of an opportunity that was reasonably to available to him, then the damages must be reduced by that amount that reasonably could have been avoided had the plaintiff sought or taken advantage of such opportunity.

Defenses: The defendant may avoid an award of damages or reinstatement by showing that it would have taken the same action in the absence of the impermissible motivating factor.

TYPES DISCRIMINATION UNDER TITLE VII

Race Discrimination

It is unlawful to discriminate against any employee or applicant for employment because of his/her race or color in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. Title VII also prohibits employment decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups. Title VII prohibits both intentional discrimination and neutral job policies that disproportionately exclude minorities and that are not job related.

Harassment on the basis of race and/or color violates Title VII. Ethnic slurs, racial "jokes," offensive or derogatory comments, or other verbal or physical conduct based on an individual's race/color constitutes unlawful harassment if the conduct creates an intimidating, hostile, or offensive working environment, or interferes with the individual's work performance.

Discrimination Based on National Origin

It is unlawful to discriminate against any employee or applicant because of the individual's national origin. No one can be denied equal employment opportunity because of birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group. Equal employment opportunity cannot be denied because of marriage or association with persons of a national origin group; membership or association with specific ethnic promotion groups; attendance or participation in schools, churches, temples or mosques generally associated with a national origin group; or a surname associated with a national origin group.

Harassment on the basis of national origin is a violation of Title VII. An ethnic slur or other verbal or physical conduct because of an individual's nationality constitute harassment if they create an intimidating, hostile or offensive working environment, unreasonably interfere with work performance or negatively affect an individual's employment opportunities.

Employers have a responsibility to maintain a workplace free of national origin harassment. Employers may be responsible for any on-the-job harassment by their agents and supervisory employees, regardless of whether the acts were authorized or specifically forbidden by the employer. Under certain circumstances, an employer may be responsible for the acts of non-employees who harass their employees at work.

Religious Discrimination

Title VII prohibits employers from discriminating against individuals

because of their religion in hiring, firing, and other terms and conditions of employment. The Act also requires employers to reasonably accommodate the religious practices of an employee or prospective employee, unless to do so would create an undue hardship upon the employer. Flexible scheduling, voluntary substitutions or swaps, job reassignments and lateral transfers are examples of accommodating an employee's religious beliefs.

Employers cannot schedule examinations or other selection activities in conflict with a current or prospective employee's religious needs, inquire about an applicant's future availability at certain times, maintain a restrictive dress code, or refuse to allow observance of a Sabbath or religious holiday, unless the employer can prove that not doing so would cause an undue hardship.

An employer can claim undue hardship when accommodating an employee's religious practices if allowing such practices requires more than ordinary administrative costs. Undue hardship also may be shown if changing a bona fide seniority system to accommodate one employee's religious practices denies another employee the job or shift preference guaranteed by the seniority system.

Discrimination Based on Sex

Employment decisions that are impermissibly based on a persons gender. Types of sexual discrimination include: (1) Basing employment terms or conditions of employment on the submission to or the rejection of sexual conduct known as "quid pro quo" discrimination; (2) sexual harassment so "severe or pervasive" as

to alter the employee's work environment (see below) by unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive work environment; and/or (3) subjecting the employee or others to acts of retaliation for complaints regarding sexual harassment.

Hostile Work Environment Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.

The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.

The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

Unlawful sexual harassment may occur without economic injury to or discharge of the victim.

The harasser's conduct must be unwelcome.

It is helpful for the victim to directly inform the harasser that the conduct is unwelcome and must stop. The victim should use any employer complaint mechanism or grievance system available.

When investigating allegations of sexual harassment, EEOC looks at the whole record: the circumstances, such as the nature of the sexual advances, and the context in which the alleged incidents occurred. A determination on the allegations is made from the facts on a case-by-case basis.

Prevention is the best tool to eliminate sexual harassment in the workplace. Employers are encouraged to take steps necessary to prevent sexual harassment from occurring. They should clearly communicate to employees that sexual harassment will not be tolerated. They can do so by establishing an effective complaint or grievance process (distributing a written policy against harassment) and taking immediate and appropriate action when an employee complains.

Establishing a Cause of Action Under Title VII

There are two ways a Plaintiff bringing a discharge claim under Title VII can establish a prima facie case of discriminatory discharge: either by direct evidence that his termination was based on a discriminatory motivation, or by employing the burden-shifting method which requires a Plaintiff to initially establish, by a preponderance of the evidence, a prima facie case of discrimination pursuant to McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973). The establishment of a prima facie case in effect creates a presumption that the employer unlawfully discriminated against the employee.

Sample v. Aldi, 61 F.3d 544, 547 (7th Cir. 1995). This presumption places upon a Defendant the burden of producing "evidence which, taken as true, would permit the conclusion that there was a non-discriminatory reason for the adverse action." St. Mary's Honor Center v. Hicks, 509 U.S. 502, 509, 113 S.Ct. 2742, 2748, 125 L.Ed.2d 407 (1993).

If Defendant meets this burden of proof, the McDonnell Douglas presumption "drops from the case" and is no longer relevant. The Plaintiff must prove by a preponderance of the evidence that "the legitimate reasons offered by the Defendant were not its true reasons, but were a pretext for discrimination." To establish an indicia of pretext, Plaintiff must show more than the employer's decision was incorrect: the plaintiff must also show that the employer lied about its proffered explanation. Russell v. Acme Evans Co., 51 F.3d 64, 68 (7th Cir. 1995). Even an employer's erroneous decision-making, exhibiting poor business judgment, is not sufficient to establish pretext. Richter v. Hook-Supe RX, Inc., 142 F.3d 1024, 1031-32 (7th Cir. 1998).

Federal law provides that an employee is to be free from discrimination in the workplace, which includes freedom from a hostile work environment. Vore v. Indiana Bell Telephone Corp., Inc., 32 F.3rd 1161 (7th Cir. 1994). It does not guarantee a utopian workplace or even a pleasant one. If the workplace is unsavory for any reason other than hostility generated on the basis of race, gender, ethnicity, or religion, no federal claim is implicated. In short, personality conflicts between employers are not the business of the federal courts.

The harassment must be sufficiently severe or pervasive so as to alter the conditions of the victim's employment and to create an abusive working atmosphere. McKenzie v. Illinois Dept. of Transportation, 92 F.3d 473, 479-80 (7th Cir. 1996).

Isolated and innocuous incidents in discrimination are insufficient to support the hostile environment claim. Because Title VII is not directed against unpleasantness per se but only . . . discrimination and the conditions of employment, the Court will consider "the frequency of the discriminatory conduct, its severity, whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance." Drake v. Minnesota Mining & Manufacturing Co., 134 F.3d 878, 885 (7th Cir. 1998).

In 1998, the Supreme Court decided the landmark cases of Faragher v. Boca Raton and Burlington Industries v. Ellerth. 524 U.S. 742, 118 S.Ct. 2257, 2270, 141 L.Ed.2d 633 (1998). The decisions establish that while an employee's supervisor will be vicariously liable for creating a sexually hostile environment, the defendant may avoid liability for a hostile work environment where the defendant has a written policy against harassment of the which the plaintiff was aware and where the plaintiff has not suffered from a tangible employment action.

Particularly, in Faragher and Ellerth, the Court set forth the following standard for determining whether an employer could establish an

affirmative defense to avoid liability for a supervisors harassment of an employee in a case where no tangible employment action occurred, stating:

> "An employer is subject to vicarious liability to a victimized employee for an actionable hostile environment created by a supervisor with immediate (or successively higher) authority over the employee. When no tangible employment action is taken, a defending employer may raise affirmative defenses to liability or damages, subject to proof by a preponderance of evidence . . . The defense comprises of two necessary elements: (a) that the employer exercised reasonable care to prevent and correct promptly any . . . harassing behavior and (b) that plaintiff employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise."

As indicated, the employer is not entitled to this affirmative defense if the supervisor's harassment resulted in a tangible employment action. According to Ellerth, a tangible employment action comprises a "significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits."

In establishing the first prong of the affirmative defense, the Seventh Circuit in Schoiber v. Emro Marketing Company, 1999 WL 825275 (N.D. Ill.1999) applied Ellerth Defense and stated "With regard to the first element of a successful affirmative defense, the employer must exercise "reasonable care to prevent and correct promptly any....harassing behavior..." Id. at 11. While not required as a matter of law...the existence of an appropriate anti-harassment policy

will often satisfy the first prong...because Title VII is designed to encourage the creation of anti-harassment policies and effective grievance mechanisms. Id.

Another threshold issue in applying the affirmative defense is the definition of "supervisor." In Shaw v. Autozone, Inc., 180 F.3d 806 (7th Cir. 1999), the Court provided an instructive analysis. In Shaw, the plaintiff accused her supervisor of sexually harassing her by creating a hostile work environment. Under the defendant's organizational structure, the store managers did not have authority to hire, fire, promote employees on their own. Area advisers made hiring and promotion decisions, and termination decision were made by an area advisor or district manager after consulting with the director of human resources or the equal opportunity manager. The court stated that the essence of supervisory status is the authority to affect the terms and conditions of the victim's employment. This authority primarily consists of the power to hire, fire, demote, promote, transfer, or discipline an employee. Absent an entrustment of at least some of this authority, an employee does not qualify as a supervisor for purposes of imputing liability to the employer.

The Ellerth and Faragher standard which provides for vicarious liability for harassment caused by supervisory employees, has also been applied by the courts to other actions under Title VII including harassment because of race, national origin and religion.

Under the Illinois Human Rights Act, the Cook County Human Rights Act, and the Chicago Human Rights Ordinance, the employer will be liable for the actions of a supervisor whether or not the plaintiff has suffered from a tangible employment action.

Nevertheless, state and local agencies may look to Ellerth and Faragher decisions as instructive. Additionally, the effective use of a policy against harassment will demonstrate the employers attempt to comply with the law and reflect negatively on the plaintiff's claim if she failed to report the conduct despite her knowledge of the policy.

The Age Discrimination In Employment Act of 1967 (ADEA)

The ADEA protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants. Under the ADEA, it is unlawful to discriminate against a person because of his/her age with respect to any term, condition, or privilege of employment -- including, but not limited to, hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on age or for filing an age discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADEA. The ADEA applies to employers with 20 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.

Administrative Prerequisites: A charge must be filed within 180 days of the alleged discrimination in the Illinois Department of Human Rights or within 300 days of the alleged discriminatory act in the EEOC.

Legal Action: The EEOC and the charging party have the right to bring a civil

action in federal district court where the EEOC has been unable to secure an acceptable conciliation agreement. Any such action must be filed with 90 days of receipt by the charging party of the Notice of Right to Sue from the EEOC.

Damages under the ADEA: Remedies under the ADEA include back pay, reinstatement/front pay, and liquidated damages if the jury finds that the defendant's conduct was "willful." A violation is willful if the employer either knew or showed reckless disregard for the matter of whether the conduct was prohibited under the ADEA. If the conduct is deemed to be willful, then the plaintiff is entitled to liquidated damages or "double damages" in an amount equal to the plaintiff's actual damages. Once the plaintiff demonstrates a willful violation, the plaintiff does not need additional proof of outrageousness; direct evidence of the employer's motivation; or prove that age was the predominant, rather than a determinative, factor in the employment decision.

Defenses: A "good faith" defense exits for the defendant if the employer can show that it acted in good faith, albeit incorrectly, on a belief that the statute permits a particular age-based decision, then a finding of willful misconduct is not proper and no liquidated damages should be awarded. The ADEA does not allow for the award of punitive or compensatory damages. The plaintiff has a duty to mitigate his damages by exercising reasonable diligence to seek other employment. The failure to do so will reduce the plaintiff's damages bu the amount that reasonably could have been avoided had the plaintiff sought out or taken advantage of such an opportunity.

The Americans With Disabilities Act (ADA)

Title I of the ADA, which originally took effect on July 26, 1992, and covered employers with 25 or more employees. On July 26, 1994, the threshold dropped to include employers with 15 or more employees. The ADA, prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions and privileges of employment. An individual with a disability is a person who: (1) Has a physical or mental impairment that substantially limits one or more major life activities; (2) Has a record of such an impairment; or (3) Is regarded as having such an impairment.

A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. Reasonable accommodation may include, but is not limited to: (1) Making existing facilities used by employees readily accessible to and usable by persons with disabilities. (2) Job restructuring, modifying work schedules, reassignment to a vacant position; or (3) Acquiring or modifying equipment or devices, adjusting modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

An employer is required to make an accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business. Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources and the nature and structure of its operation. An employer is not required to lower quality or production standards to make an accommodation, nor is an

employer obligated to provide personal use items such as glasses or hearing aids.

Administrative Prerequisites: A charge must be filed within 180 days of the alleged discrimination in the Illinois Department of Human Rights or within 300 days of the alleged discriminatory act in the EEOC.

Legal Action: The EEOC and the charging party have the right to bring a civil action in federal district court where the EEOC has been unable to secure an acceptable conciliation agreement. Any such action must be filed with 90 days of receipt by the charging party of the Notice of Right to Sue from the EEOC.

Damages under the ADA: Remedies under the ADA include back pay, reinstatement/front pay, compensatory damages and punitive damages. Under the Civil Rights Act of 1991(1991 CRA), compensatory damages include "future pecuniary losses, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses." The 1991 CRA allows for the recovery of punitive damages where the plaintiff shows that the Defendant engaged in discrimination "with malice or reckless indifference to the rights of the plaintiff rights to be free from discrimination." The 1991 CRA places caps on the amount of such damages based on the size of the employer. The caps are combined for compensatory and punitive damages: (1) $50,000 for employers with 15-100 employees; (2) $100,000 for employers with 101-200 employees; (3) $200,000 for employers with 201-500 employees and (4) $300,000 for employers with over 500 employees.

Defenses: Defenses include failure to mitigate damages, the "same decision" defense where if the plaintiff prevails on the issue of liability by showing that

discrimination was a motivating factor in the employment decision, the defendant may avoid an award of damages or reinstatement by showing that it would have taken the same action in the absence of the impermissible factor. Additionally, the defendant can avoid the award of compensatory and punitive damages if it can show that a good faith effort was made to reasonably accommodate the plaintiff without undue hardship.

Equal Pay Act

The EPA prohibits discrimination on the basis of sex in the payment of wages or benefits, where men and women perform work of similar skill, effort, and responsibility for the same employer under similar working conditions. Employers may not reduce wages of either sex to equalize pay between men and women. A violation of the EPA may occur where a different wage was/is paid to a person who worked in the same job before or after an employee of the opposite sex. A violation may also occur where a labor union causes the employer to violate the law.

Administrative Prerequisites: Individuals are not required to file an EPA charge with EEOC before filing a private lawsuit. However, charges may be filed with EEOC and some cases of wage discrimination also may be violations of Title VII. If an EPA charge is filed with EEOC, the procedure for filing is the same as for charges brought under Title VII.

Legal Action: Complaints must be filed within 2 years (or 3 years in the case of willful violations) of the alleged sex-based underpayment.

Damages under the EPA: Remedies for violations of the EPA include back pay in the amount of the total lost earnings in terms of the earnings the plaintiff would

have received had the Act not been violated. Liquidated damages or "double damages" if the jury finds that the defendant willfully violated the Act. A violation is willful if the employer knowing or intentionally violated or disregard a known legal duty.

Defenses: The defendant will avoid the imposition of liquidated damages if it can show that it acted in good faith and had reasonable grounds for believing its act or omission was not a violation of the Act.

ENFORCEMENT AGENCIES

FEDERAL

U. S. Equal Employment Opportunity Commission

As a judicial prerequisite to proceeding to federal court, a charge of discrimination must be filed with a state or federal administrative agency. An employee may file a charge of discrimination with the EEOC against an employer with at least 15 employees for actions under Title VII and the ADA and 20 or more employees under the ADEA. The laws cover all private employers, state and local governments and educational institutions.

Once a charge is filed with the EEOC the Respondent is informed by mail within 10 days. In many states and localities which have anti-discrimination laws and agencies (Fair Employment Agencies (FEPAs) responsible for enforcing those laws, the EEOC has work sharing agreements. Though the work sharing agreements the EEOC and FEPAs avoid duplication of effort wile at the same time ensuring that a charging party's rights are protected under both federal and state law. If a charge is filed with a

FEPA and is also covered by federal law, the FEPA "dual files" the Charge with the EEOC to protect federal rights. The charge usually will be retained by the FEPA for handling. If the charge is filed with the EEOC and is also covered by state and local law, the EEOC "dual files" the charge with the state or local FEPA, but ordinarily retains the charge for handling.

After the charge is filed, if both parties agree, the charge may be submitted to mediation for possible resolution. Participation in mediation is voluntary and confidential. If the mediation is unsuccessful then the charge is investigated. Initially the employer is required to file a "position statement" setting for the legitimate non-discriminatory basis for the employment action. Additionally, in investigating a charge, the EEOC may make requests for information, interview people, review documents and, as needed, visit the facility where the alleged discrimination occurred. If the investigation results in a finding that a violation has occurred with regard to one or all the allegations, the employer and the charging party will be informed of the finding in a letter of determination that explains the finding. Thereafter, the EEOC will attempt to conciliation with the employer to develop a remedy for the discrimination. If the conciliation is unsuccessful, the EEOC will decide whether to file suit in federal court.

If the EEOC decides not to sue, or if no violation is found, the EEOC will issue a Notice of Right to Sue and the charging party will have 90 from receipt to file suit in federal court. If suit is not filed within 90 days, the claim will be barred. Additionally, even if the investigation is not complete a charging party with a claim under Title VII and the ADA, can request a notice of "right to sue" from the EEOC 180 days after the charge

was first filed and then may bring suit within 90 days after receipt. Under the Age Discrimination in Employment Act, a request for right to sue may be made within 60 of filing the charge.

In federal court, potential relief for violations may include, back pay, hiring, promotion, reinstatement, front pay, and other actions that make the charging party "whole." Remedies may also include the payment of compensatory and punitive damages if the employer acted with malice or reckless indifference to the rights of the plaintiff. If the plaintiff prevails, attorney's fees, expert witness fees and court costs may be awarded by the court.

ILLINOIS ADMINISTRATIVE AGENCIES

Illinois Department of Human Rights

The Department of Human Rights administers the Illinois Human Rights Act (775 ILCS 5/101 et seq.), which prohibits discrimination because of race, color, religion, sex, national origin, ancestry, citizenship status (with regard to employment), age 40 and over, marital status, physical or mental handicap, military service or unfavorable military discharge.

The Act prohibits discrimination in connection with employment opportunities, real estate transactions, access to financial credit, and the availability of public services and public accommodations. It also provides protection from sexual harassment in employment, sexual harassment of students in higher education, and retaliation for having filed a discrimination charge.

The law applies to Illinois employers with 15 or more employees, labor organizations, and public and private employment agencies. Employers of one or more

persons, if a charge alleges discrimination on the basis of physical, mental or perceived handicap, or sexual harassment. A discrimination charge can be initiated by calling, writing or appearing in person at the Department's Chicago or Springfield office within 180 days of the date the alleged discrimination took place in all cases except housing discrimination (one year filing deadline).

Charge Processing Division

The Charge Processing Division receives and investigates charges of discrimination in connection with employment opportunities, housing and real estate transactions, access to financial credit, or the availability of public services and public accommodations, sexual harassment in employment, sexual harassment of students in higher education, and retaliation for having opposed discrimination. The Charge Processing Division receives about 30,000 inquiries and processes an average of 4,000 charges a year. The Charge Processing is the largest division in the Department, consisted of the Intake unit, Investigation groups and Quality Control unit.

Legal Division

Staff attorneys review all investigation reports that recommend a finding of Substantial Evidence and must approve the findings before they become final and the parties are notified. Attorneys also attempt to conciliate these cases and complete the case by drafting settlement papers. If the investigator recommends a finding of Lack of Substantial Evidence, the complainant may file a Request for Review with the Chief Legal Counsel. Then, an attorney reviews the file and documentation submitted by both sides and responds to the Request for Review by drafting a response and order which are filed with the Chief Legal Counsel.

If the investigator makes a find of substantial evidence then conciliation is attempted. In the event that conciliation efforts fail, then a Complaint is filed with the

Human Rights Commission and the matter is heard by a Administrative Law Judge. If a finding is made in favor of the Complainant then a remedy is ordered. The Respondent may appeal to the State of Illinois Appellate Court. If no violation is found, the complaint is dismissed and the Complainant may appeal to the State of Illinois Appellate Court.

Cook County Commission on Human Rights

The Cook County Commission on Human Rights enforces violations of the Cook County Human Rights Ordinance which occur in Cook County for discrimination because of race, color, religion, sex (including sexual harassment) , national origin, ancestry, citizenship status (with regard to employment), age 40 and over, marital status, physical or mental handicap, military service, unfavorable military discharge, parental status, sexual orientation, source of income, housing status, retaliation, aiding and abetting and willful interference.

A complaint with the Cook County Commission must be filed within 180 days of the alleged violation. No minimum number of employees is required and private employers, labor organizations, employment agencies and individuals may be sued. Damages available include make whole damages such as back pay, lost benefits and emotional distress, punitive damages, injunctive relief.

Chicago Commission on Human Rights

Enforces violations of the Chicago Human Rights Ordinance which occur in Chicago for discrimination because of race, color, religion, sex (including sexual harassment) , national origin, ancestry, citizenship status (with regard to employment), age, marital status, physical or mental handicap, unfavorable military discharge, parental status, sexual orientation, source of income, and retaliation.

A complaint must be filed within 180 days of the alleged violation. No minimum number of employees is required and private employers, labor organizations, employment agencies and individuals may be sued. Damages available include make whole damages such as back pay, lost benefits and emotional distress, punitive damages and injunctive relief (such as reinstatement).