

1 AN ACT in relation to human rights.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Human Rights Act is amended by
5 changing Sections 8A-102 and 8B-102 as follows:

6 (775 ILCS 5/8A-102) (from Ch. 68, par. 8A-102)

7 Sec. 8A-102. Hearing on Complaint.

8 (A) Services. Within five days after a complaint is
9 filed by the Department, or the aggrieved party, as the case
10 may be, the Commission shall cause it to be served on the
11 respondent together with a notice of hearing before a hearing
12 officer of the Commission at a place therein fixed.

13 (B) Time and Location of Hearing. An initial hearing
14 date shall be scheduled for not less than thirty nor more
15 than ninety days after service of the complaint at a place
16 that is within one hundred miles of the place at which the
17 civil rights violation is alleged to have occurred. The
18 hearing officer may, for good cause shown, extend the date of
19 the hearing.

20 (C) Amendment.

21 (1) A complaint may be amended under oath by leave
22 of the presiding hearing officer, for good cause shown,
23 upon timely written motion and reasonable notice to all
24 interested parties at any time prior to the issuance of a
25 recommended order pursuant to Section 8A-102(I) or
26 8B-102(J). The amended complaint shall be served upon
27 all parties of record and the Department of Human Rights
28 by the complainant, or by the Department if it prepared
29 and filed the amended complaint, within 7 days of the
30 date of the order permitting its filing or such
31 additional time as the hearing officer may order.

1 Amendments to the complaint may encompass any unlawful
2 discrimination which is like or reasonably related to the
3 charge and growing out of the allegations in such charge,
4 including, but not limited to, allegations of
5 retaliation.

6 (2) A motion that the complaint be amended to
7 conform to the evidence, made prior to the close of the
8 public hearing, may be addressed orally on the record to
9 the hearing officer, and shall be granted for good and
10 sufficient cause.

11 (D) Answer.

12 (1) The respondent shall file an answer under oath
13 or affirmation to the original or amended complaint
14 within 30 days of the date of service thereof, but the
15 hearing officer may, for good cause shown, grant further
16 time for the filing of an answer.

17 (2) When the respondent files a motion to dismiss
18 the complaint within 30 days and the motion is denied by
19 the hearing officer, the time for filing the answer shall
20 be within 15 days of the date of denial of the motion.

21 (3) Any allegation in the complaint which is not
22 denied or admitted in the answer is deemed admitted
23 unless the respondent states in the answer that he is
24 without sufficient knowledge or information to form a
25 belief with respect to such allegation.

26 (4) The failure to file an answer is deemed to
27 constitute an admission of the allegations contained in
28 the complaint.

29 (5) The respondent has the right to amend his
30 answer, upon leave of the hearing officer, for good cause
31 shown.

32 (E) Proceedings In Forma Pauperis.

33 (1) If the hearing officer is satisfied that the
34 complainant or respondent is a poor person, and unable to

1 prosecute or defend the complaint and pay the costs and
2 expenses thereof, the hearing officer may permit the
3 party to commence and prosecute or defend the action as a
4 poor person. Such party shall have all the necessary
5 subpoenas, appearances, and proceedings without
6 prepayment of witness fees or charges. Witnesses shall
7 attend as in other cases under this Act and the same
8 remedies shall be available for failure or refusal to
9 obey the subpoena as are provided for in Section 8-104 of
10 this Act.

11 (2) A person desiring to proceed without payment of
12 fees or charges shall file with the hearing officer an
13 affidavit stating that he is a poor person and unable to
14 pay costs, and that the action is meritorious.

15 (F) Discovery. The procedure for obtaining discovery of
16 information from parties and witnesses shall be specified by
17 the Commission in rules. If no rule has been promulgated by
18 the Commission on a particular type of discovery, the Code of
19 Civil Procedure may be considered persuasive authority. The
20 types of discovery shall be the same as in civil cases in the
21 circuit courts of this State, provided, however, that a party
22 may take discovery depositions only upon leave of the hearing
23 officer and for good cause shown.

24 (G) Hearing.

25 (1) Both the complainant and the respondent may
26 appear at the hearing and examine and cross-examine
27 witnesses.

28 (2) The testimony taken at the hearing shall be
29 under oath or affirmation and a transcript shall be made
30 and filed in the office of the Commission.

31 (3) The testimony taken at the hearing is subject
32 to the same rules of evidence that apply in courts of
33 this State in civil cases.

34 (H) Compelling Appearance of Parties at Hearing. The

1 appearance at the hearing of a party or a person who at the
2 time of the hearing is an officer, director, or employee of a
3 party may be required by serving the party with a notice
4 designating the person who is required to appear. The notice
5 also may require the production at the hearing of documents
6 or tangible things. If the party or person is a nonresident
7 of the county, the hearing officer may order any terms and
8 conditions in connection with his appearance at the hearing
9 that are just, including payment of his reasonable expenses.
10 Upon a failure to comply with the notice, the hearing officer
11 may enter any order that is just.

12 (I) Decision.

13 (1) When all the testimony has been taken, the
14 hearing officer shall determine whether the respondent
15 has engaged in or is engaging in the civil rights
16 violation with respect to the person aggrieved as charged
17 in the complaint. A determination sustaining a complaint
18 shall be based upon a preponderance of the evidence.

19 (2) The hearing officer shall make findings of fact
20 in writing and, if the finding is against the respondent,
21 shall issue and cause to be served on the parties and the
22 Department a recommended order for appropriate relief as
23 provided by this Act.

24 (3) If, upon all the evidence, the hearing officer
25 finds that a respondent has not engaged in the
26 discriminatory practice charged in the complaint or that
27 a preponderance of the evidence does not sustain the
28 complaint, he shall state his findings of fact and shall
29 issue and cause to be served on the parties and the
30 Department a recommended order dismissing the complaint.

31 (4) The findings and recommended order of the
32 hearing officer shall be filed with the Commission. The
33 findings and recommended order need not be authored by
34 the hearing officer who presides at the public hearing

1 if:

2 (a) all parties to a complaint agree to have
3 the decision written by a hearing officer who did
4 not preside at the public hearing; or

5 (b) the presiding hearing officer transmits
6 his or her impression of witness credibility to the
7 hearing officer who authors the findings and
8 recommended order; or and

9 (c) there are no questions of witness
10 credibility presented by the record as found by the
11 presiding hearing officer.

12 (5) A recommended order dismissing a complaint may
13 include an award of reasonable attorneys fees in favor of
14 the respondent against the complainant or the
15 complainant's attorney, or both, if the hearing officer
16 concludes that the complaint was frivolous, unreasonable
17 or groundless or that the complainant continued to
18 litigate after it became clearly so.

19 (6) The hearing officer may issue a recommended
20 order of dismissal with prejudice or a recommended order
21 of default as a sanction for the failure of a party to
22 prosecute his or her case, file a required pleading,
23 appear at a hearing, or otherwise comply with this Act,
24 the rules of the Commission, or a previous order of the
25 hearing officer.

26 (Source: P.A. 89-370, eff. 8-18-95.)

27 (775 ILCS 5/8B-102) (from Ch. 68, par. 8B-102)

28 Sec. 8B-102. Hearing on complaint.

29 (A) Election of Judicial Determination. When a
30 complaint is filed under Section 7B-102(F) a complainant, a
31 respondent, or an aggrieved party on whose behalf the
32 complaint was filed, may elect to have the claims asserted in
33 that complaint decided in a civil action in a circuit court

1 of Illinois, in which case the Illinois Code of Civil
2 Procedure shall apply. The election must be made not later
3 than 20 days after the receipt by the electing person of
4 service of the complaint by the Commission. The person
5 making such election shall file it with the Commission and
6 shall give notice of doing so to the Department and to all
7 other complainants and respondents to whom the charge
8 relates. If an election is made, the Commission shall act no
9 further on the complaint and shall administratively close the
10 file on the complaint. If an election is not made, the
11 Commission shall continue proceedings on the complaint in
12 accordance with this Act and the hearing shall be before a
13 hearing officer.

14 (B) Services. Within 5 days after a complaint is filed
15 by the Department, the Commission shall cause it to be served
16 on the respondent and complainant together with a notice of
17 hearing before a hearing officer of the Commission at a place
18 therein fixed and with information as to how to make an
19 election under subsection (A) and the effect of such an
20 election.

21 (C) Time and Location of Hearing. An initial hearing
22 date shall be scheduled for not less than 30 nor more than 90
23 days after service of the complaint at a place that is within
24 100 miles of the place at which the civil rights violation is
25 alleged to have occurred. The hearing officer may, for good
26 cause shown, extend the date of the hearing.

27 (D) Amendment.

28 (1) A complaint may be amended under oath by leave
29 of the presiding hearing officer, for good cause shown,
30 upon timely written motion and reasonable notice to all
31 interested parties at any time prior to the issuance of a
32 recommended order pursuant to Section 8A-102(I) or
33 8B-102(J). The amended complaint shall be served upon
34 all parties of record by the Department within 7 days of

1 the date of the order permitting its filing or such
2 additional time as the hearing officer may order.
3 Amendments to the complaint may encompass any unlawful
4 discrimination which is like or reasonably related to the
5 charge and growing out of the allegations in such charge,
6 including, but not limited to, allegations of
7 retaliation.

8 (2) A motion that the complaint be amended to
9 conform to the evidence, made prior to the close of the
10 public hearing, may be addressed orally on the record to
11 the hearing officer, and shall be granted for good and
12 sufficient cause.

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8 prepayment of witness fees or charges. Witnesses shall
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10 remedies shall be available for failure or refusal to
11 obey the subpoena as are provided for in Section 8-104 of
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18 of information from parties and witnesses shall be specified
19 by the Commission in rules. If no rule has been promulgated
20 by the Commission on a particular type of discovery, the Code
21 of Civil Procedure may be considered persuasive authority.
22 The types of discovery shall be the same as in civil cases in
23 the circuit courts of this State, provided, however, that a
24 party may take discovery depositions only upon leave of the
25 hearing officer and for good cause shown.

26 (H) Hearing.

27 (1) The Department and the respondent shall be
28 parties in hearings under this Article. The Department
29 shall seek appropriate relief for the complainant and
30 vindication of the public interest. Any complainant may
31 intervene as a party. All parties have the right to
32 examine and cross examine witnesses.

33 (2) The testimony taken at the hearing shall be
34 under oath or affirmation and a transcript shall be made

1 and filed in the office of the Commission.

2 (3) The testimony taken at the hearing is subject
3 to the same rules of evidence that apply in courts of
4 this State in civil cases.

5 (I) Compelling Appearance of Parties at Hearing. The
6 appearance at the hearing of a party or a person who at the
7 time of the hearing is an officer, director, or employee of a
8 party may be required by serving the party with a notice
9 designating the person who is required to appear. The notice
10 also may require the production at the hearing of documents
11 or tangible things. If the party or person is a nonresident
12 of the county, the hearing officer may order any terms and
13 conditions in connection with his appearance at the hearing
14 that are just, including payment of his reasonable expenses.
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16 may enter any order that is just.

17 (J) Decision.

18 (1) When all the testimony has been taken, the
19 hearing officer shall determine whether the respondent
20 has engaged in or is engaging in the civil rights
21 violation with respect to the aggrieved party as charged
22 in the complaint. A determination sustaining a complaint
23 shall be based upon a preponderance of the evidence.

24 (2) The hearing officer shall make findings of fact
25 in writing and, if the finding is against the respondent,
26 shall issue and cause to be served on the parties and the
27 Department a recommended order for appropriate relief as
28 provided by this Act.

29 (3) If, upon all the evidence, the hearing officer
30 finds that a respondent has not engaged in the civil
31 rights violation charged in the complaint or that a
32 preponderance of the evidence does not sustain the
33 complaint, he shall state his findings of fact and shall
34 issue and cause to be served on the parties and the

1 Department a recommended order dismissing the complaint.

2 (4) The findings and recommended order of the
3 hearing officer shall be filed with the Commission. The
4 findings and recommended order need not be authored by
5 the hearing officer who presides at the public hearing
6 if:

7 (a) all parties to a complaint agree to have
8 the decision written by a hearing officer who did
9 not preside at the public hearing; or

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11 his or her impression of witness credibility to the
12 hearing officer who authors the findings and
13 recommended order; or and

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15 credibility presented by the record as found by the
16 presiding officer.

17 (5) The hearing officer may issue a recommended
18 order of dismissal with prejudice or a recommended order
19 of default as a sanction for the failure of a party to
20 prosecute his or her case, file a required pleading,
21 appear at a hearing, or otherwise comply with this Act,
22 the rules of the Commission, or a previous order of the
23 hearing officer.

24 (K) Effect of Trial of Civil Action on Administrative
25 Proceedings. A hearing officer shall not proceed with any
26 administrative proceedings under this Section after the
27 filing of a civil action by or on behalf of the aggrieved
28 party under federal or State law seeking relief with respect
29 to the alleged civil rights violation.

30 (Source: P.A. 89-370, eff. 8-18-95.)