

1 **CHAPTER 819. TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION**

2  
3 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**  
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**  
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**  
6

7 The Texas Workforce Commission (Commission) proposes the following new section to Chapter  
8 819, relating to the Texas Workforce Commission Civil Rights Division:

9  
10 Subchapter E. Equal Employment Opportunity Deferrals, §819.75

11  
12 The Commission proposes amendments to the following sections of Chapter 819, relating to the  
13 Texas Workforce Commission Civil Rights Division:

14  
15 Subchapter A. General Provisions, §819.2 and §819.3

16 Subchapter B. Equal Employment Opportunity Provisions, §819.11

17 Subchapter C. Equal Employment Opportunity Reports, Training, and Reviews, §§819.22 -  
18 819.24

19 Subchapter D. Equal Employment Opportunity Complaints and Appeals Process, §§819.41,  
20 819.43, and 819.45 - 819.50

21 Subchapter E. Equal Employment Opportunity Deferrals, §819.73

22 Subchapter F. Equal Employment Opportunity Records and Recordkeeping, §819.93

23 Subchapter G. Texas Fair Housing Act Provisions, §819.111 and §819.112

24 Subchapter H. Discriminatory Housing Practices, §§819.122, 819.130, and 819.132

25 Subchapter I. Texas Fair Housing Act Complaints and Appeals Process, §§819.151, 819.153,  
26 and 819.156

27 Subchapter K. Fair Housing Administrative Hearings and Judicial Review, §819.199

28  
29 The Commission proposes the following repeal to Chapter 819, relating to the Texas Workforce  
30 Commission Civil Rights Division:

31  
32 Subchapter E. Equal Employment Opportunity Deferrals, §819.75

- 33  
34 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**  
35 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**  
36 **PART III. IMPACT STATEMENTS**  
37 **PART IV. COORDINATION ACTIVITIES**

38  
39 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

40 Texas Government Code §2001.039 requires that every four years each state agency review and  
41 consider for readoption, revision, or repeal each rule adopted by that agency. The Commission  
42 has conducted a rule review of Chapter 819, Texas Workforce Commission Civil Rights  
43 Division, and proposes amendments to the following:

- 44 -- Definition of "disability";  
45 --Methods of communication; and  
46 --Investigation of a complaint.

1  
2 The Commission also proposes to make necessary technical changes throughout the chapter.  
3

## 4 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

5 (Note: Minor editorial changes are made that do not change the meaning of the rules and,  
6 therefore, are not discussed in the Explanation of Individual Provisions.)  
7

### 8 **SUBCHAPTER A. GENERAL PROVISIONS**

9 **The Commission proposes the following amendments to Subchapter A:**

#### 10 **§819.2. Definitions**

11 Section 819.2(4), the definition of "CRD director," clarifies that the authorized designee refers to  
12 "the director's" authorized designee.  
13  
14

#### 15 **§819.3. Roles and Responsibilities of Commission on Human Rights, CRD, and CRD**

##### 16 **Director**

17 Section 819.3(a)(4)(C) and (5)(C), regarding the responsibilities of the Commission on Human  
18 Rights, specifies that CRD, as the state Fair Employment Practices agency and state Fair  
19 Housing Assistance Program agency, is authorized to institute "civil" proceedings, not criminal  
20 proceedings.  
21

22 Section 819.3(b)(1), regarding the responsibilities of CRD, adds a reference to Texas  
23 Government Code, Chapter 437, which CRD is responsible for administering.  
24

### 25 **SUBCHAPTER B. EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS**

26 **The Commission proposes the following amendments to Subchapter B:**

#### 27 **§819.11. Definitions**

28 Section 819.11(2), the definition of "Civil Rights Act," adds a reference to Texas Labor Code,  
29 Chapter 21, regarding Employment Discrimination, which CRD is charged with enforcing.  
30  
31

32 Section 819.11(7), the definition of "local commission," updates the citation from U.S. Civil  
33 Rights Act, Title VII, §717(c) to §706.  
34

### 35 **SUBCHAPTER C. EQUAL EMPLOYMENT OPPORTUNITY REPORTS, TRAINING, 36 AND REVIEWS**

37 **The Commission proposes the following amendments to Subchapter C:**

#### 38 **§819.22. Review of Firefighter Tests**

39 Texas Government Code §419.102(b) requires CRD to establish in rule an objective system to  
40 determine when and how to select fire departments for review.  
41  
42

43 New §819.22(a) specifies that CRD will:

44 (1) consult resources of the Texas Commission on Fire Protection and other appropriate entities  
45 to determine the departments to be reviewed; and

1 (2) notify each fire department of its review at the beginning of the fiscal year in which CRD  
2 conducts the review.

3  
4 New §819.22(b) specifies that CRD must review firefighter tests of each fire department, as  
5 defined in Texas Government Code, Chapter 419, Subchapter F, at least once every six years.

6  
7 New §819.22(g) adds that CRD can notify fire departments of their selection for a desk audit by  
8 electronic communication upon agreement of the department.

9  
10 Section 819.22(h) adds that CRD can notify a fire department selected for expanded review by  
11 electronic communication upon agreement of the department.

12  
13 Certain subsections have been relettered to reflect additions.

14  
15 **§819.23. Review of State Agency Policies and Procedures**

16 Section 819.23(b) adds that CRD can notify a state agency of its review of the agency's  
17 personnel policies and procedures by electronic communication upon agreement of the agency.

18  
19 **§819.24. Standard Employment Discrimination Training**

20 Section 819.24(b)(1) clarifies that in employment discrimination training, participants must  
21 "identify" an unlawful employment practice according to the Civil Rights Act.

22  
23 **SUBCHAPTER D. EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS AND**  
24 **APPEALS PROCESS**

25 **The Commission proposes the following amendments to Subchapter D:**

26  
27 **§819.41. Filing a Complaint**

28 Section 819.41(b)(1) clarifies that CRD must "confer" with the complainant about the facts and  
29 circumstances that "may" constitute the alleged unlawful employment practice.

30  
31 Section 819.41(c) adds that a written complaint must be either signed under oath or subscribed  
32 by the person making the declaration as true under penalty of perjury and in substantially the  
33 form prescribed by Texas Civil Practice and Remedies Code, Chapter 132, or its successor  
34 statute. It also adds electronic communication as a method by which a complaint may be filed  
35 with CRD.

36  
37 Section 819.41(i) clarifies that complainants and respondents must be "advised upon request" of  
38 the status of their perfected complaint, unless "doing so" would jeopardize an undercover  
39 investigation by another state, federal, or local government.

40  
41 **§819.43. Investigation of a Perfected Complaint**

42 New §819.43(d)(7) adds that as part of the perfected complaint investigation, CRD may request a  
43 written statement of position or information provided by the complainant or the respondent that  
44 is either under oath or subscribed in conformity with this section regarding the allegations in the  
45 complaint.

1  
2 Section 819.43(f), which states that as part of the complaint investigation, CRD may accept a  
3 statement of position or information from the complainant or respondent, is removed. The  
4 contents of this subsection are now contained in subsection (d)(7) of this section.

5  
6 Certain paragraphs have been renumbered to reflect additions.

7  
8 **§819.45. Subpoena**

9 Section 819.45(b) adds that CRD can provide a petitioner with the final determination on the  
10 petition by electronic communication upon agreement of the petitioner.

11  
12 **§819.46. Dismissal of Complaint**

13 Section 819.46(b) adds certified mail as the method by which CRD must provide notification of  
14 its dismissal of a complaint to the complainant as required by the Texas Labor Code.

15  
16 **§819.47. Cause Determination**

17 Section 819.47(b) adds that CRD can send the cause determination letter by electronic  
18 communication upon agreement of the person or entity.

19  
20 **§819.48. Conciliation**

21 Section 819.48(c) is rewritten for better clarity and adds that CRD must provide notification of  
22 an unsuccessful conciliation agreement to the complainant by "certified" mail.

23  
24 Section 819.48(c) removes the statement that "CRD shall then inform the complainant by mail of  
25 the complainant's right to file a civil action against the respondent named in the perfected  
26 complaint, pursuant to Texas Labor Code §§21.208 - 21.252" because it duplicates information  
27 located in §819.50 of this subchapter.

28  
29 **§819.49. No Cause Determination**

30 Section 819.49 adds that the CRD director can send the no cause determination letter by  
31 electronic communication upon agreement of the person or entity.

32  
33 **§819.50. Right to File a Civil Action**

34 Section 819.50(a) adds certified mail as the method by which CRD must inform the complainant  
35 of:

- 36 (1) the dismissal of the complaint; or  
37 (2) the failure to resolve a complaint in writing that was filed with CRD 180 days previously.  
38 CRD must inform the complainant of the complainant's right to request from CRD a notice of  
39 right to file a civil action against the respondent.

40  
41 Section 819.50(c) adds certified mail sent no later than the fifth business day after receipt of the  
42 complainant's request as the method by which CRD must send an expedited notice of right to file  
43 a civil action.

44  
45 Section 819.50(c) adds that CRD must issue notice under subsection (b) of this section by  
46 certified mail.

1  
2 New §819.50(d) adds that the complainant's written request must include the respondent's name,  
3 CRD complaint number, and EEOC complaint number if the complaint has been deferred by  
4 EEOC. This information was formerly located in §819.50(c).

5  
6 **SUBCHAPTER E. EQUAL EMPLOYMENT OPPORTUNITY DEFERRALS**

7 **The Commission proposes the following amendments to Subchapter E:**

8  
9 **§819.75. Final Determination of a Local Commission**

10 Section 819.75 is repealed because there is no direct statutory requirement to make local  
11 commissions take the actions stated in subsections (a) or (b), and it is inefficient to require them  
12 to do so.

13  
14 New §819.75 requires that if a local commission does not intend to act on a complaint deferred  
15 by CRD, the local commission shall notify CRD by mail or electronic communication within 60  
16 working days.

17  
18 **SUBCHAPTER F. EQUAL EMPLOYMENT OPPORTUNITY RECORDS AND**  
19 **RECORDKEEPING**

20 **The Commission proposes the following amendments to Subchapter F:**

21  
22 **§819.93. Disposal of Files and Related Documents**

23 Section 819.93 updates the retention period for case files and related documents from two years  
24 to seven years in accordance with TWC's record retention schedule for investigations and  
25 reports.

26  
27 **SUBCHAPTER G. TEXAS FAIR HOUSING ACT PROVISIONS**

28 **The Commission proposes the following amendments to Subchapter G:**

29  
30 **§819.112. Definitions**

31 Section 819.112(1), the definition of "accessible or readily accessible to and usable by," replaces  
32 the reference to Texas Property Code §301.025(c) with Texas Property Code §301.025(c)(3) to  
33 accurately reflect the requirements of the statute.

34  
35 Section 819.112(7), the definition of "controlled substance," replaces the reference to Controlled  
36 Substances Act §102 with Controlled Substances Act, 21 U.S.C. §802 to accurately reflect the  
37 requirements of the statute.

38  
39 Section 819.112(8) defines "disability." With only minor variations in structure and formatting,  
40 the Agency's current definition aligns with the content of the US Department of Housing and  
41 Urban Development's (HUD) definition of "handicap" at 24 Code of Federal Regulations (CFR)  
42 §100.201. Although the term handicap is no longer used, the definition of disability should align  
43 directly with the definition used by HUD. Additionally, both the Agency and HUD use the term  
44 "mentally retarded" in their respective definitions. That term, as well, is no longer used.

45  
46 Section 819.112(8):

1 --reformats and restructures the definition of disability to align with the format and structure of  
2 HUD's definition of handicap, thus providing better clarity; and  
3 --replaces the term mental retardation with the more precise term intellectual disability.

4  
5 Certain subparagraphs in this section have been relettered to reflect reformatting.

## 6 7 **SUBCHAPTER H. DISCRIMINATORY HOUSING PRACTICES**

8 **The Commission proposes the following amendments to Subchapter H:**

### 9 10 **§819.122. Exemptions Based on Familial Status**

11 Section 819.122(a) is amended to make nonsubstantive editorial changes to improve clarity.

### 12 13 **§819.132. Discrimination Based on Disability**

14 Section 819.132(a) is amended to make nonsubstantive editorial changes to improve clarity.

## 15 16 **SUBCHAPTER I. TEXAS FAIR HOUSING ACT COMPLAINTS AND APPEALS** 17 **PROCESS**

18 **The Commission proposes the following amendments to Subchapter I:**

### 19 20 **§819.151. Filing a Complaint**

21 Section 819.151(b)(1) clarifies that CRD must "confer" with the complainant about the facts and  
22 circumstances that "may" constitute the alleged unlawful employment practice.

23  
24 Section 819.151(c) adds electronic communication as a method by which a complaint can be  
25 filed with CRD.

26  
27 Section 819.151(j) adds that the CRD director can notify each complainant on whose behalf the  
28 complaint was filed by electronic communication upon agreement of the complainant.

### 29 30 **§819.153. Investigation of a Complaint**

31 Section 819.153(d) adds that the CRD director can serve a notice on each respondent by  
32 electronic communication upon agreement of the respondent.

33  
34 Section 819.153(f) requires an answer to be signed and affirmed by the respondent, and specifies  
35 the content of the affirmation. However, Texas Civil Practice and Remedies Code, Chapter 132,  
36 sets forth new requirements for an unsworn declaration under penalty of perjury.

37  
38 Section 819.153(f):

39 --specifies that the answer must be written;

40 --removes the requirement that the answer must be signed and affirmed by the respondent; and

41 --adds, as required by Chapter 132, that the answer must be signed under oath or subscribed by  
42 the person making the declaration as true under penalty of perjury and in substantially the form  
43 set forth in Chapter 132.

1 Section 819.153(g) removes the requirement for the CRD director's consent to amend an answer.  
2 Texas Property Code §301.082(c) states that an "answer may be amended at any time" and does  
3 not require the approval of the CRD director.

4  
5 New §819.153(i)(7) adds that, as part of the complaint investigation, CRD may accept a written  
6 statement of position or information provided by the complainant or the respondent that is either  
7 under oath or subscribed in conformity with this section regarding the allegations in the  
8 complaint.

9  
10 Section 819.153(k), which states that as part of the complaint investigation, CRD may accept a  
11 statement of position or information from the complainant or respondent, is removed. The  
12 contents of this subsection are now contained in subsection (i)(7) of this section.

13  
14 Certain subsections and paragraphs in this section have been relettered and renumbered to reflect  
15 additions and deletions.

16  
17 **§819.156. Reasonable Cause Determination and Issuance of a Charge**

18 Section 819.156(e) clarifies that:

- 19 -- the CRD director "shall not" issue a charge; and  
20 -- if a charge "is not issued," the CRD director must notify the complainant and respondent.

21  
22 Section 819.156(h) replaces the citation to Texas Property Code §301.131(b) with Texas  
23 Property Code §301.131 to accurately reflect the requirements of statute.

24  
25 **PART III. IMPACT STATEMENTS**

26 Randy Townsend, Chief Financial Officer, has determined that for each year of the first five  
27 years the rules will be in effect, the following statements will apply:

28  
29 There are no additional estimated costs to the state and local governments expected as a result of  
30 enforcing or administering the rules.

31  
32 There are no estimated cost reductions to the state and to local governments as a result of  
33 enforcing or administering the rules.

34  
35 There are no estimated losses or increases in revenue to the state or to local governments as a  
36 result of enforcing or administering the rules.

37  
38 There are no foreseeable implications relating to costs or revenue of the state or local  
39 governments as a result of enforcing or administering the rules.

40  
41 There are no anticipated economic costs to persons required to comply with the rules.

42  
43 There is no anticipated adverse economic impact on small or microbusinesses as a result of  
44 enforcing or administering the rules.

45  
46 **Economic Impact Statement and Regulatory Flexibility Analysis**

1 The Agency has determined that the proposed rules will not have an adverse economic impact on  
2 small businesses as these proposed rules place no requirements on small businesses.

3  
4 Richard C. Froeschle, Director of Labor Market and Career Information, has determined that  
5 there is no significant negative impact upon employment conditions in the state as a result of the  
6 rules.

7  
8 Lowell Keig, Director, Civil Rights Division, has determined that for each year of the first five  
9 years the rules are in effect, the proposed rules will not have an adverse fiscal impact on the  
10 division. There may be an insignificant public benefit realized in cost savings for postage if  
11 parties opt to allow the division to send electronic communications when not inconsistent with a  
12 statutory requirement.

13  
14 The Agency hereby certifies that the proposal has been reviewed by legal counsel and found to  
15 be within the Agency's legal authority to adopt.

16  
17 **PART IV. COORDINATION ACTIVITIES**

18 In the development of these rules for publication and public comment, the Commission sought  
19 the involvement of Texas' 28 Boards. The Commission provided the concept paper regarding  
20 these rule amendments to the Boards for consideration and review on January 21, 2014. The  
21 Commission also conducted a conference call with Board executive directors and Board staff on  
22 January 31, 2014, to discuss the concept paper. During the rulemaking process, the Commission  
23 considered all information gathered in order to develop rules that provide clear and concise  
24 direction to all parties involved.

25  
26 Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce  
27 Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin,  
28 Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us.  
29 The Commission must receive comments postmarked no later than 30 days from the date this  
30 proposal is published in the *Texas Register*.

31  
32 The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide the  
33 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it  
34 deems necessary for the effective administration of Agency services and activities.

35  
36 The proposed rules affect Texas Government Code, Chapter 552.  
37  
38  
39



1  
2 **CHAPTER 819. TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION**

3  
4 **SUBCHAPTER A. GENERAL PROVISIONS**

5  
6 **§819.2. Definitions.**

7  
8 In addition to the definitions contained in §800.2 of this title, the following words and  
9 terms, when used in this chapter, shall have the following meanings, unless the context  
10 clearly indicates otherwise.

- 11
- 12 (1) Commission on Human Rights--The body of governance of the Texas  
13 Workforce Commission Civil Rights Division composed of seven members  
14 appointed by the Governor, as established under Texas Labor Code §301.153.  
15
- 16 (2) Complainant--A person claiming to be aggrieved by a violation of Texas Labor  
17 Code, Chapter 21, or Texas Property Code, Chapter 301, and who files a  
18 complaint under one of these chapters.  
19
- 20 (3) CRD--Texas Workforce Commission Civil Rights Division  
21
- 22 (4) CRD director--The director, or [the director's](#) authorized designee, of the Texas  
23 Workforce Commission Civil Rights Division, as established under Texas  
24 Labor Code §301.154.  
25
- 26 (5) Fair Employment Practices Agency--A state or local government agency  
27 designated by the U.S. Equal Employment Opportunity Commission (EEOC)  
28 to investigate perfected employment discrimination complaints in the state or  
29 local government agency's jurisdiction.  
30
- 31 (6) Fair Housing Assistance Program Agency--A state or local government agency  
32 designated by the U.S. Department of Housing and Urban Development  
33 (HUD) to investigate Fair Housing Act complaints in the state or local  
34 government agency's jurisdiction.  
35
- 36 (7) Party--A person who, having a justiciable interest in a matter before CRD, is  
37 admitted to full participation in a proceeding concerning that matter.  
38
- 39 (8) Person--One or more individuals or an association, corporation, joint stock  
40 company, labor organization, legal representative, mutual company,  
41 partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated  
42 organization, the state, or a political subdivision or agency of the state.

- 1  
2 (9) Respondent--A person against whom a complaint has been filed in accordance  
3 with Texas Labor Code, Chapter 21, or Texas Property Code, Chapter 301.  
4

5 **§819.3. Roles and Responsibilities of Commission on Human Rights, CRD, and CRD**  
6 **Director.**  
7

8 (a) Responsibilities of Commission on Human Rights:  
9

- 10 (1) Establish policies for CRD;  
11  
12 (2) Appoint CRD director;  
13  
14 (3) Supervise CRD director in administering the activities of CRD;  
15  
16 (4) Serve as the state Fair Employment Practices Agency that is authorized, with  
17 respect to unlawful employment practices, to:  
18  
19 (A) seek relief;  
20  
21 (B) grant relief; and  
22  
23 (C) institute ~~civil~~~~criminal~~ proceedings; and  
24  
25 (5) Serve as the state Fair Housing Assistance Program Agency, with respect to  
26 unlawful housing practices, to:  
27  
28 (A) seek relief;  
29  
30 (B) grant relief; and  
31  
32 (C) institute ~~civil~~~~criminal~~ proceedings.  
33

34 (b) Responsibilities of CRD:  
35

- 36 (1) Administer Texas Labor Code, Chapter 21; Texas Property Code, Chapter 301;  
37 and Texas Government Code, Chapter 419, Subchapter F, and Chapter 437;  
38 and  
39  
40 (2) Collect, analyze, and report statewide information regarding employment and  
41 housing discrimination complaints filed with CRD, EEOC, HUD, local  
42 commissions, and municipalities in Texas to be included in CRD's annual  
43 report to the Governor and the Texas Legislature.  
44

45 (c) Agency Personnel Policies Applicable to CRD Director:  
46

- 1 (1) The CRD director is an appointee of the Commission on Human Rights and an  
2 employee of the Agency, and therefore accountable to both.  
3
- 4 (2) The Agency executive director and the chair of the Commission on Human  
5 Rights shall consult on all personnel matters impacting the employment status  
6 of the CRD director.  
7
- 8 (3) The Commission on Human Rights has the authority to appoint, supervise, and  
9 terminate the CRD director.  
10
- 11 (4) The Agency executive director, in consultation with the chair of the  
12 Commission on Human Rights, has the authority to take any personnel action  
13 pursuant to Agency personnel policy, excluding termination.  
14

## 15 **SUBCHAPTER B. EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS**

### 16 **§819.11. Definitions.**

17  
18 The following words and terms, when used in Subchapter B, Equal Employment  
19 Opportunity Provisions; Subchapter C, Equal Employment Opportunity Reports,  
20 Training, and Reviews; Subchapter D, Equal Employment Opportunity Complaints and  
21 Appeals Process; Subchapter E, Equal Employment Opportunity Deferrals; and  
22 Subchapter F, Equal Employment Opportunity Records and Recordkeeping shall have the  
23 following meanings, unless the context clearly indicates otherwise.  
24

- 25
- 26 (1) Bona fide occupational qualification--A qualification:  
27
- 28 (A) that is reasonably related to the satisfactory performance of the duties of  
29 a job; and  
30
- 31 (B) for which there is a factual basis for believing that no members of the  
32 excluded group would be able to satisfactorily perform the duties of the  
33 job with safety and efficiency.  
34
- 35 (2) Civil Rights Act--The Civil Rights Act of 1964, as amended by the Equal  
36 Employment Opportunity Act of 1972 and the Civil Rights Act of 1991; the  
37 Age Discrimination in Employment Act of 1976, as amended; the  
38 Rehabilitation Act of 1973, as amended; ~~and~~ the Americans with Disabilities  
39 Act of 1990, as amended; and Texas Labor Code, Chapter 21, regarding  
40 Employment Discrimination.  
41
- 42 (3) Complaint--A written statement made under oath stating that an unlawful  
43 employment practice has been committed, setting forth the facts on which the  
44 complaint is based, and received within 180 days of the alleged unlawful  
45 employment practice.  
46

- 1 (4) Conciliation--The settlement of a dispute by mutual written agreement in order  
2 to avoid litigation where a determination has been made that there is  
3 reasonable cause to believe an unlawful employment practice has occurred.  
4  
5 (5) Disability--A mental or physical impairment that substantially limits at least  
6 one major life activity of an individual, a record of such mental or physical  
7 impairment, or being regarded as having such an impairment as set forth in  
8 §3(2) of the Americans with Disabilities Act of 1990, as amended, and Texas  
9 Labor Code §21.002(6).  
10  
11 (6) Employer--A person who is engaged in an industry affecting commerce and  
12 who has 15 or more employees for each working day in each of 20 or more  
13 calendar weeks in the current or preceding calendar year and any agent of that  
14 person. The term includes an individual elected to public office in Texas or a  
15 political subdivision of Texas, or a political subdivision and any state agency  
16 or instrumentality, including public institutions of higher education, regardless  
17 of the number of individuals employed.  
18  
19 (7) Local commission--Created by one or more political subdivisions acting  
20 jointly, pursuant to Texas Labor Code §21.152, and recognized as a Fair  
21 Employment Practices Agency by EEOC pursuant to ~~Title VII of the~~ U.S.  
22 Civil Rights Act, Title VII, ~~§706~~~~§717(e)~~, as amended by the Equal  
23 Employment Opportunity Act of 1972, the Civil Rights Act of 1991, and the  
24 Americans With Disabilities Act of 1990, as amended.  
25  
26 (8) Mediation--A process to settle a dispute by mutual written agreement among  
27 the complainant, respondent, and CRD prior to reasonable cause determination  
28 or dismissal of a perfected complaint.  
29  
30 (9) Perfected complaint--An employment discrimination complaint that CRD has  
31 determined meets all of the requirements of Texas Labor Code, Chapter 21,  
32 and for which CRD will initiate an investigation.  
33

34 **SUBCHAPTER C. EQUAL EMPLOYMENT OPPORTUNITY REPORTS, TRAINING,**  
35 **AND REVIEWS**

36  
37 **§819.22. Review of Firefighter Tests.**

38  
39 (a) CRD shall:

- 40  
41 (1) consult resources of the Texas Commission on Fire Protection and other  
42 appropriate entities to determine the departments to be reviewed; and  
43  
44 (2) notify each fire department of its review at the beginning of the fiscal year in  
45 which CRD conducts the review.  
46

1 (b) ~~(a)~~ CRD shall review the initial tests administered by a fire department, as  
2 provided in Texas Government Code, Chapter 419, Subchapter F, at least every six  
3 years. The initial tests, defined as written tests, physical tests, and assessment  
4 center tests for firefighter positions, are used to measure the ability of a person to  
5 perform the essential functions of the position.  
6

7 (c) ~~(b)~~ CRD shall use the Uniform Guidelines on Employee Selection Procedures, 29  
8 C.F.R. 1607, to conduct the review of the administration of initial tests by fire  
9 departments.  
10

11 (d) ~~(c)~~ CRD shall develop a list of recommended tests for firefighter positions that are  
12 nationally recognized tests by independent authorities. The tests will be available on  
13 the Agency's Web site.  
14

15 (e) ~~(d)~~ Fire departments that use tests from CRD's list of recommended tests are  
16 presumed to be in compliance with the law. However, if CRD perceives the need to  
17 review a fire department that is using such recommended tests, nothing shall prevent  
18 such review.  
19

20 (f) ~~(e)~~ Fire departments that use a test not included on the recommended list shall submit,  
21 upon request by CRD, documentation regarding the reliability and validity of the  
22 chosen test.  
23

24 (g) ~~(f)~~ Each fire department shall submit documentation concerning the administration of  
25 its initial tests, as required in this section. CRD shall perform a desk audit by  
26 reviewing these documents using risk-assessment criteria. Fire departments selected  
27 for a desk audit shall receive notice by mail, or electronic communication upon  
28 agreement of the department. Documents to be submitted for a desk audit include,  
29 but are not limited to:

- 31 (1) a copy of the initial test used. If it is not from CRD's recommended list of tests,  
32 then documentation regarding the reliability and validity of the test used;  
33
- 34 (2) a description of how such test is administered and a copy of applicable policies  
35 and procedures governing the administration of such test; and  
36
- 37 (3) information and documentation of prior complaints lodged against the fire  
38 department concerning discrimination in selection of personnel for a firefighter  
39 position.

1  
2 ~~(h)~~(g) CRD shall evaluate the requested information set forth in subsection ~~(g)~~(f) of this  
3 section as part of its risk-assessment analysis. Based on the analysis, fire departments  
4 may be selected for expanded review, including on-site investigation. CRD shall  
5 notify a fire department selected for expanded review by mail, or electronic  
6 communication upon agreement of the department.  
7

8 **§819.23. Review of State Agency Policies and Procedures.**  
9

- 10 (a) CRD shall review the personnel policies and procedures of each state agency once  
11 every six years on a staggered schedule to determine compliance with Texas Labor  
12 Code, Chapter 21.  
13  
14 (b) CRD shall notify a state agency of its review of the agency's personnel policies and  
15 procedures by mail, or electronic communication upon agreement of the agency, at  
16 the beginning of the fiscal year in which CRD is to conduct the review. The review  
17 of each state agency shall be completed and recommendations issued on or before  
18 the one-year anniversary date on which CRD issued its notification letter to the  
19 agency head.  
20

21 **§819.24. Standard Employment Discrimination Training.**  
22

- 23 (a) Each state agency shall provide its employees with standard employment  
24 discrimination training no later than the 30th day after the date the employee is hired  
25 by the agency, with supplemental training every two years thereafter. Each state  
26 agency shall provide the standard training using a training program from CRD's  
27 preapproved list of training programs that have been reviewed and certified by CRD  
28 as compliant with its training standards, including the standards set forth in this  
29 subchapter.  
30  
31 (b) The minimum standards for the content of standard employment discrimination  
32 training shall include, but not be limited to, requiring participants to:  
33  
34 (1) ~~identify~~define an unlawful employment practice according to the Civil Rights  
35 Act;  
36  
37 (2) apply knowledge of the applicable laws by correctly identifying whether  
38 individual case studies would be considered violations;  
39  
40 (3) identify the protected classes under federal and state law;  
41  
42 (4) list a complainant's rights and remedies;  
43  
44 (5) identify the agency personnel to whom a complaint shall be addressed; and

1  
2 (6) describe the general stages involved in processing a complaint.  
3

4 **SUBCHAPTER D. EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS AND**  
5 **APPEALS PROCESS**  
6

7 **§819.41. Filing a Complaint.**  
8

9 (a) A person may telephone, write, visit, e-mail, fax, or otherwise contact CRD or a  
10 local commission office recognized by EEOC as a Fair Employment Practices  
11 Agency to obtain information on filing a complaint with CRD.  
12

13 (b) At the complainant's request, CRD:  
14

15 (1) shall ~~confer~~~~counsel~~ with the complainant about the facts and circumstances  
16 that may constitute the alleged unlawful employment practice;  
17

18 (2) shall assist the complainant in perfecting the complaint if the facts and  
19 circumstances appear to constitute an alleged unlawful employment practice;  
20 or  
21

22 (3) may advise the complainant if the facts and circumstances presented to CRD  
23 do not appear to constitute an unlawful employment practice.  
24

25 (c) The complaint shall be filed in writing and either signed under oath or subscribed by  
26 the person making the declaration as true under penalty of perjury and in  
27 substantially the form prescribed by Texas Civil Practice and Remedies Code,  
28 Chapter 132, or its successor statute. ~~and~~ It may be filed with CRD by mail,  
29 electronic communication, fax, or in person with:  
30

31 (1) the CRD office on a CRD-provided form;  
32

33 (2) an EEOC office; or  
34

35 (3) a local commission office recognized by EEOC as a Fair Employment  
36 Practices Agency.  
37

38 (d) The complaint shall set forth the following information:  
39

40 (1) Harm experienced by the complainant as a result of the alleged unlawful  
41 employment practice;  
42

43 (2) Explanation, if any, given by the employer to the complainant for the alleged  
44 unlawful employment practice;  
45

46 (3) A declaration of unlawful discrimination under federal or state law;

- 1  
2 (4) Facts upon which the complaint is based, including the date, place, and  
3 circumstances of the alleged unlawful employment practice; and  
4  
5 (5) Sufficient information to enable CRD to identify the employer, e.g., employer  
6 ID, business address, and business phone.  
7  
8 (e) A complaint shall be filed within 180 days after the date on which the alleged  
9 unlawful employment practice occurred.  
10  
11 (f) A complaint may be withdrawn by a complainant only with the consent of the CRD  
12 director.  
13  
14 (g) A perfected complaint may be amended by the complainant to cure technical defects  
15 or omissions, or to clarify and amplify allegations made therein. Such amendment or  
16 amendments alleging additional acts that constitute unlawful employment practices  
17 related to or growing out of the subject matter of the original complaint shall relate  
18 back to the date the complaint was first filed. CRD shall provide a copy of the  
19 perfected complaint to the respondent. An amended perfected complaint shall be  
20 subject to the procedures set forth in applicable law.  
21  
22 (h) A respondent shall be mailed a copy of the perfected complaint within 10 days after  
23 CRD receives the perfected complaint. If CRD receives a complaint that is not  
24 perfected within 180 days of the alleged unlawful employment practice, CRD shall  
25 notify the respondent that a complaint has been filed and the process of perfecting  
26 the complaint is in progress.  
27  
28 (i) The complainant and respondent shall be advised upon request ~~notified periodically~~  
29 by CRD of the status of their perfected complaint, unless doing so ~~the notice~~ would  
30 jeopardize an undercover investigation by another state, federal, or local government.  
31

32 **§819.43. Investigation of a Perfected Complaint.**

- 33 (a) The CRD director shall determine the nature and scope of the investigation within  
34 the context of the allegations set forth in the perfected complaint.  
35  
36 (b) CRD may, as part of a perfected complaint investigation, require a fact-finding  
37 conference with the complainant and the respondent prior to a determination on a  
38 perfected complaint. A fact-finding conference primarily is an investigative forum  
39 intended to define the issues, determine which elements are undisputed, and solicit  
40 information regarding the allegations.  
41  
42 (c) At all reasonable times in the perfected complaint investigation, the CRD director  
43 shall have access to:  
44  
45 (1) necessary witnesses for examination under oath or affirmation; and  
46



1 (2) records, documents, and other information relevant to the investigation of  
2 alleged violations of Texas Labor Code, Chapter 21, for inspection and  
3 copying.  
4

5 (d) As part of the perfected complaint investigation, CRD may request information  
6 relevant to the alleged violations of Texas Labor Code, Chapter 21. In obtaining this  
7 information, CRD may use, but is not limited to using, any of the following:  
8

9 (1) Oral and video interviews and depositions;

10 (2) Written interrogatories;

11 (3) Production of documents and records;

12 (4) Requests for admissions;

13 (5) On-site inspection of respondent's facilities;

14 (6) Written statements or affidavits; ~~or~~

15 (7) A written statement of position or information provided by the complainant or  
16 the respondent that is either under oath or subscribed in conformity with this  
17 section regarding the allegations in the complaint; or  
18

19 ~~(8)(7)~~ Other forms of discovery authorized by the Administrative Procedure Act,  
20 Texas Government Code §§2001.081 - 2001.103, or the Texas Rules of Civil  
21 Procedure.  
22

23 (e) CRD may establish time requirements regarding responses to requests for  
24 information relevant to an investigation of alleged violations of Texas Labor Code,  
25 Chapter 21. The CRD director may extend such time requirements for good cause  
26 shown.  
27

28 ~~(f) As part of a perfected complaint investigation, CRD may accept from the~~  
29 ~~complainant or respondent a statement of position or information regarding the~~  
30 ~~allegations in the perfected complaint. CRD shall accept only a sworn or affirmed~~  
31 ~~written statement of position submitted by the respondent setting forth the facts and~~  
32 ~~circumstances relevant to an investigation of alleged violations of Texas Labor Code,~~  
33 ~~Chapter 21.~~  
34

#### 35 **§819.45. Subpoena.**

36 (a) The CRD director shall have the authority to sign and issue a subpoena to compel the  
37 attendance of necessary witnesses for examination or testimony under oath or  
38 affirmation, and to compel the production of records, documents, and other evidence  
39 relevant to the investigation of alleged violations of Texas Labor Code, Chapter 21,  
40  
41  
42  
43  
44  
45  
46

1 for inspection and copying. Neither the complainant nor the respondent shall have  
2 the right to demand that a subpoena be issued.  
3

- 4 (b) A person served with a subpoena issued by the CRD director who does not intend to  
5 comply may petition CRD in writing to revoke or modify the subpoena within five  
6 working days after receipt of the subpoena. Such petition shall identify separately  
7 each portion of the subpoena with which the petitioner does not intend to comply,  
8 and for each portion shall state the grounds upon which the petitioner relies. A copy  
9 of the subpoena shall be attached to the petition. The CRD director shall review the  
10 petition and make a final determination on revoking or modifying the subpoena.  
11 CRD shall provide ~~mail~~ a copy of the final determination on the petition to the  
12 petitioner by mail, or electronic communication upon agreement of the petitioner.  
13
- 14 (c) If a person fails to comply with a subpoena, CRD may apply to the district court of  
15 the county in which the person is found, resides, or transacts business for an order  
16 directing compliance pursuant to Texas Labor Code §21.306(b).  
17

18 **§819.46. Dismissal of Complaint.**  
19

- 20 (a) The CRD director may dismiss a complaint if:  
21  
22 (1) it is not filed timely;  
23  
24 (2) it fails to state a claim under Texas Labor Code, Chapter 21;  
25  
26 (3) a complainant fails to perfect a complaint within 10 days of the receipt of the  
27 complaint; or  
28  
29 (4) a complainant fails to cooperate, fails or refuses to appear or to be available for  
30 interviews or conferences, or fails or refuses to provide requested information.  
31 Prior to dismissing the complaint, the complainant shall be notified and given a  
32 reasonable time to respond.  
33
- 34 (b) CRD shall notify the complainant and the respondent, and any agencies, as required  
35 by law, by certified mail of its dismissal of a complaint.  
36
- 37 (c) CRD shall notify the complainant, by mail, of the complainant's right to file a civil  
38 action against the respondent named in the perfected complaint pursuant to Texas  
39 Labor Code §21.208 and §21.252, and §819.50 of this subchapter.  
40

41 **§819.47. Cause Determination.**  
42

- 43 (a) The CRD director shall review the investigation report and record of evidence to  
44 determine if there is reasonable cause to believe the respondent has engaged in an  
45 unlawful employment practice.  
46

1 (b) If after the review, the CRD director determines that reasonable cause exists, the  
2 CRD director shall confer with a panel of three commissioners of the Commission on  
3 Human Rights, as identified by the chair of the Commission on Human Rights. If at  
4 least two of the three commissioners concur with the CRD director's determination  
5 that the respondent has engaged in an unlawful employment practice, the CRD  
6 director shall issue a letter of cause determination. The cause determination letter  
7 shall be provided by mail~~mailed~~, or electronic communication upon agreement of the  
8 person or entity, to the complainant, respondent, and any agency as required by law  
9 and shall contain the CRD director's finding that the evidence supports the perfected  
10 complaint and include an invitation to participate in conciliation.

11  
12 **§819.48. Conciliation.**

13  
14 (a) When a letter of cause determination has been issued, CRD shall attempt to  
15 eliminate such unlawful employment practice by conciliation, and to secure a just  
16 resolution through a conciliation agreement signed by the complainant, respondent,  
17 and the CRD director.

18  
19 (b) CRD shall obtain proof of the respondent's compliance with a conciliation  
20 agreement before the case is closed.

21  
22 (c) CRD shall provide notification of an unsuccessful conciliation agreement to:~~notify~~

23  
24 (1) the complainant by certified mail; and

25  
26 (2) ~~the~~ -respondent by mail ~~of an unsuccessful conciliation agreement. CRD shall~~  
27 ~~then inform the complainant by mail of the complainant's right to file a civil~~  
28 ~~action against the respondent named in the perfected complaint, pursuant to Texas~~  
29 ~~Labor Code §§21.208—21.252.~~

30  
31 **§819.49. No Cause Determination.**

32  
33 A completed investigation may result in a determination that there is no reasonable cause  
34 to believe that the respondent has engaged in an unlawful employment practice as alleged  
35 in the perfected complaint. If after the review, the CRD director determines that no  
36 reasonable cause exists, the CRD director shall issue a letter of no cause determination.  
37 The no cause determination letter shall be sent by mail~~mailed~~, or electronic  
38 communication upon agreement of the person or entity, to the complainant, respondent,  
39 and any agency as required by law and shall contain the CRD director's finding that the  
40 evidence does not support the perfected complaint.

41  
42 **§819.50. Right to File a Civil Action.**

43  
44 (a) CRD shall inform the complainant by certified mail of:

45  
46 (1) the dismissal of a complaint filed with CRD; or

1  
2 (2) the failure to resolve a complaint in writing that was filed with CRD expiration  
3 ~~of 180 days previously. CRD shall inform the complainant of after the date of~~  
4 ~~filing of an unresolved complaint and~~ the complainant's right to request from  
5 CRD a notice of right to file a civil action against the respondent. Upon receipt  
6 of a written request, CRD shall issue a notice of right to file a civil action.  
7

8 (b) Before the expiration of 180 days after filing the complaint and upon a written  
9 request from a complainant, CRD shall issue a notice of right to file a civil action if:

10  
11 (1) written confirmation by a physician licensed to practice medicine in Texas  
12 states that the complainant has a life threatening illness; or

13  
14 (2) certification by the CRD director states that the administrative processing of  
15 the perfected complaint cannot be completed before the expiration of the 180th  
16 day after the complaint was filed. The certification shall take into account the  
17 exigent circumstances of the complainant.  
18

19 (c) ~~The complainant's written request shall include the respondent's name, CRD~~  
20 ~~complaint number, and EEOC complaint number if the complaint has been deferred~~  
21 ~~by EEOC.~~ CRD shall issue notice under subsection (b) of this section by certified  
22 mail no later than the fifth business day after receipt of the complainant's request.  
23

24 (d) The complainant's written request shall include the respondent's name, CRD  
25 complaint number, and EEOC complaint number if the complaint has been deferred  
26 by EEOC.  
27

## 28 **SUBCHAPTER E. EQUAL EMPLOYMENT OPPORTUNITY DEFERRALS**

### 29 **§819.73. Deferral to Local Commission.**

30  
31  
32  
33 (a) Texas Labor Code §21.155, grants to a local commission the exclusive right to take  
34 appropriate action within the scope of its power and jurisdiction to process a  
35 complaint deferred by CRD pursuant to the requirements of Texas Labor Code  
36 §21.155, and this chapter.  
37

38 (b) CRD shall not assume jurisdiction over a complaint deferred to a local commission,  
39 pursuant to Texas Labor Code §21.155, except:

40  
41 (1) where the local commission defers a complaint under its jurisdiction to CRD;

42  
43 (2) where the complaint is received by CRD within 180 days of the alleged  
44 violation but beyond the period of limitation of the appropriate local  
45 commission; and

- 1  
2 (3) where the local commission has not acted on the complaint pursuant to the  
3 requirements of Texas Labor Code §21.155(c), and this chapter.  
4

5 ~~§819.75. Final Determination of a Local Commission.~~  
6

7 ~~(a) A local commission shall submit to CRD by mail, a copy of the document from the~~  
8 ~~local commission stating the final determination as to the merits of a deferred~~  
9 ~~complaint, or a copy of the document stating the appropriate action taken by the local~~  
10 ~~commission to resolve the practice alleged as discriminatory in a deferred complaint.~~  
11

12 ~~(b) For purposes of satisfying Texas Labor Code §21.208 and §§21.251—21.256, a local~~  
13 ~~commission shall submit to CRD by mail notification of the dismissal of a deferred~~  
14 ~~complaint, or shall submit, within 120 days of the date the complaint is deferred by~~  
15 ~~CRD, written notification if the local commission has not filed a civil action or has~~  
16 ~~not successfully negotiated a conciliation agreement between the complainant and~~  
17 ~~respondent. A local commission shall notify CRD within five working days if the~~  
18 ~~local commission does not intend to act on a complaint deferred by CRD.~~  
19

20 §819.75. Final Determination of a Local Commission.  
21

22 If a local commission does not intend to act on a complaint deferred by CRD, the local  
23 commission shall notify CRD by mail or electronic communication within 60 working  
24 days.  
25

26  
27 **SUBCHAPTER F. EQUAL EMPLOYMENT OPPORTUNITY RECORDS AND**  
28 **RECORDKEEPING**  
29

30 **§819.93. Disposal of Files and Related Documents.**  
31

32 Pursuant to a certified records retention schedule, CRD shall retain case files and related  
33 documents that have not been forwarded to EEOC for ~~seven~~<sup>two</sup> years after the  
34 administrative review procedures have been completed, except when a civil action has  
35 been filed in state court under Texas Labor Code, Chapter 21. When a civil action has  
36 been filed in state court, case files and related documents shall be retained until the final  
37 disposition of the lawsuit. At the end of the ~~two-year~~<sup>retention</sup> period, CRD may dispose  
38 of the case files and related documents.  
39

40 **SUBCHAPTER G. TEXAS FAIR HOUSING ACT PROVISIONS**  
41

42 **§819.111. Purpose.**  
43

44 The purpose of Subchapters G - L of this chapter is to establish procedures for CRD to  
45 execute its responsibilities in the administration and enforcement of the Texas Fair  
46 Housing Act. Texas provides, within constitutional limitations, for fair housing

1 throughout the state and provides rights and remedies substantially equivalent to those  
2 granted under federal law. No person shall be subject to discriminatory housing practices  
3 based on race, color, disability, religion, sex, national origin, or familial status in the sale,  
4 rental, advertising of dwellings, inspection of dwellings, entry into a neighborhood, ~~or~~ in  
5 the provision of brokerage services, or in the availability of residential real estate-related  
6 transactions.  
7

8 **§819.112. Definitions.**  
9

10 The following words and terms, when used in Subchapter G, Texas Fair Housing Act  
11 Provisions; Subchapter H, Discriminatory Housing Practices; Subchapter I, Texas Fair  
12 Housing Act Complaints and Appeals Process; Subchapter J, Fair Housing Deferral to  
13 Municipalities; Subchapter K, Fair Housing Administrative Hearings and Judicial  
14 Review; and Subchapter L, Fair Housing Fund, shall have the following meanings, unless  
15 the context clearly indicates otherwise.  
16

- 17 (1) Accessible or readily accessible to and usable by--A public or common use  
18 area that is accessible by individuals with disabilities, as set forth in Texas  
19 Property Code [§301.025\(c\)\(3\)](#) ~~§301.025(e)~~. Compliance with the appropriate  
20 requirements of the American National Standards Institute (ANSI) for  
21 buildings and facilities providing accessibility and usability for persons having  
22 physical disabilities, commonly cited as ANSI A117.1, satisfies this  
23 requirement.  
24
- 25 (2) Accessible building entrance--A building entrance that is accessible by  
26 individuals with disabilities, as set forth in Texas Property Code §301.025(c).  
27 Compliance with the appropriate requirements of ANSI for buildings and  
28 facilities providing accessibility and usability for persons having physical  
29 disabilities, commonly cited as ANSI A117.1, satisfies this requirement.  
30
- 31 (3) Accessible route--A route that is accessible by individuals with disabilities, as  
32 set forth in Texas Property Code §301.025(c). Compliance with the  
33 appropriate requirements of ANSI for buildings and facilities providing  
34 accessibility and usability for persons having physical disabilities, commonly  
35 cited as ANSI A117.1, satisfies this requirement.  
36
- 37 (4) Building--A structure, facility, or the portion thereof that contains or serves  
38 one or more dwelling units.  
39
- 40 (5) Common use areas--Rooms, spaces, or elements inside or outside of a building  
41 that are made available for the use of residents or the guests of a building.  
42 These areas include, but are not limited to, hallways, lounges, lobbies, laundry  
43 rooms, refuse rooms, mailrooms, recreational areas, and passageways among  
44 and between buildings.  
45

- 1 (6) Complaint--A written statement made under oath stating that an unlawful  
2 housing practice has been committed, setting forth the facts on which the  
3 complaint is based, and received within one year of the date the alleged  
4 unlawful housing practice occurred or terminated, whichever is later, and for  
5 which CRD shall initiate an investigation.  
6
- 7 (7) Controlled substance--Any drug or other substance or immediate precursor as  
8 defined in the Controlled Substances Act ~~§102~~, 21 U.S.C. §802.  
9
- 10 (8) Disability--A mental or physical impairment that substantially limits at least  
11 one major life activity, a record of such an impairment, or being regarded as  
12 having such an impairment. The term does not include current illegal use of or  
13 addiction to any drug or illegal or federally controlled substance; and reference  
14 to "an individual with a disability" or perceived as "disabled" does not apply to  
15 an individual based on that individual's sexual orientation or because that  
16 individual is a transvestite. ~~As used in this definition, physical or mental~~  
17 ~~impairment includes:~~  
18
- 19 (A) Mental or physical impairment includes:  
20
- 21 (i) any physiological disorder or condition, cosmetic disfigurement, or  
22 anatomical loss affecting one or more of the following body  
23 systems: neurological, musculoskeletal, special sense organs,  
24 respiratory, including speech organs, cardiovascular, reproductive,  
25 digestive, genitourinary, hemic and lymphatic, skin, and endocrine;  
26 or  
27
- 28 (ii) ~~(B)~~ any mental or psychological disorder, such as mental retardation,  
29 organic brain syndrome, emotional or mental illness, and specific  
30 learning disabilities. The term "physical or mental impairment"  
31 includes, but is not limited to, such diseases and conditions as  
32 orthopedic, visual, speech and hearing impairments, cerebral palsy,  
33 autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer,  
34 heart disease, diabetes, human immunodeficiency virus infection,  
35 intellectual disability ~~mental retardation~~, emotional illness, drug  
36 addiction (other than addiction caused by current, illegal use of a  
37 controlled substance) and alcoholism.‡  
38
- 39 ~~(B)(C)~~ Major ~~any major~~ life activity means a function ~~activities~~ such as  
40 caring for one's self, performing manual tasks, walking, seeing, hearing,  
41 speaking, breathing, learning, and working.‡  
42
- 43 ~~(C)(D)~~ A ~~having a~~ record of having such an impairment means ~~such as~~ a  
44 history of, or misclassification as having, a mental or physical impairment  
45 that substantially limits one or more major life activity.‡ ~~and~~  
46



1  
2 ~~(D)(E)~~ Being ~~being~~ regarded as having an impairment means having:  
3

4 (i) a physical or mental impairment that does not substantially limit one  
5 or more major life activity but that is treated by another person as  
6 constituting such a limitation;  
7

8 (ii) ~~having~~ a physical or mental impairment that substantially limits one  
9 or more major life activity only as a result of the attitudes of others  
10 toward such impairment; or  
11

12 (iii) ~~having no physical or mental~~ none of the impairments in  
13 subparagraph (A) of this paragraph ~~impairment~~ but is treated by  
14 another person as having such an impairment.  
15

16 (9) Discriminatory housing practice--An action prohibited by Texas Fair Housing  
17 Act, Subchapter B, or conduct that is an offense under Texas Fair Housing Act,  
18 Subchapter I.  
19

20 (10) Entrance--Any access point to a building or portion of a building used by  
21 residents for the purpose of entering the building.  
22

23 (11) Exterior--All areas of the premises outside of an individual dwelling unit.  
24

25 (12) Ground floor--Within a building, any floor with an entrance on an accessible  
26 route. A building may have more than one ground floor.  
27

28 (13) Interior--The spaces, parts, components, or elements of an individual dwelling  
29 unit.  
30

31 (14) Modification--Any change to the public or common use areas of a building or  
32 any change to a dwelling unit.  
33

34 (15) Premises--The interior or exterior spaces, parts, components, or elements of a  
35 building, including individual dwelling units and the public and common use  
36 areas of a building.  
37

38 (16) Public use areas--Interior or exterior rooms or spaces of a building that are  
39 made available to the general public. Public use may be provided at a building  
40 that is privately or publicly owned.  
41

42 (17) Site--A parcel of land bounded by a property line or a designated portion of a  
43 public right of way.  
44

45 (18) Texas Fair Housing Act--Texas Property Code, Chapter 301.  
46



1 (19) United States Fair Housing Act--Title VIII of the Civil Rights Act of 1968, as  
2 amended by the Fair Housing Amendments Act of 1988.

3  
4 **SUBCHAPTER H. DISCRIMINATORY HOUSING PRACTICES**

5  
6 **§819.122. Exemptions Based on Familial Status.**

- 7
- 8 (a) Discrimination prohibitions under the Texas Fair Housing Act ~~The Texas Fair~~  
9 ~~Housing Act regarding discrimination~~ based on familial status do ~~does~~ not apply to  
10 housing designed and operated specifically to assist elderly individuals.  
11
- 12 (b) The Texas Fair Housing Act does not apply to housing intended for and solely  
13 occupied by individuals 62 years of age or older. This exemption shall apply  
14 regardless of the fact that:
- 15
- 16 (1) there were individuals residing in such housing on September 13, 1988, who  
17 were under 62 years of age, provided that all new occupants are 62 years of  
18 age or older;
- 19
- 20 (2) there are unoccupied units, provided that such units are reserved for occupancy  
21 for individuals 62 years of age or older; or
- 22
- 23 (3) there are units occupied by employees of the housing (and family members  
24 residing in the same unit) who are under 62 years of age provided they perform  
25 substantial duties directly related to the management or maintenance of the  
26 housing.
- 27
- 28 (c) The Texas Fair Housing Act does not apply to housing intended and operated for  
29 occupancy by individuals 55 years of age or older if:
- 30
- 31 (1) at least 80% of the units in the housing facility are occupied by at least one  
32 person 55 years of age or older. However:
- 33
- 34 (A) a newly constructed housing facility for first occupancy after March 12,  
35 1989, need not comply with this 80% occupancy requirement until 25%  
36 of the units in the facility are occupied; and
- 37
- 38 (B) a housing facility or community may not evict, refuse to renew leases, or  
39 otherwise penalize families with children in order to achieve occupancy  
40 of at least 80% of the occupied units by at least one person 55 years of  
41 age or older;
- 42
- 43 (2) the owner or manager of a housing facility publishes and adheres to policies  
44 and procedures that demonstrate an intent by the owner or manager to provide  
45 housing for individuals 55 years of age or older. The following factors, among

1 others, are relevant in determining whether the owner or manager of a housing  
2 facility has complied with the requirements of this paragraph:

- 3
- 4 (A) The manner in which the housing facility is described to prospective  
5 residents;
  - 6
  - 7 (B) The nature of any advertising designed to attract prospective residents;
  - 8
  - 9 (C) Age verification procedures;
  - 10
  - 11 (D) Lease provisions;
  - 12
  - 13 (E) Written rules and regulations;
  - 14
  - 15 (F) Actual practices of the housing facility or community; and
  - 16
  - 17 (G) Public posting in common areas of statements describing the facility or  
18 community as housing for individuals 55 years of age or older; and
  - 19

20 (3) the housing facility satisfies the requirements of this section regardless of the  
21 fact that:

- 22
- 23 (A) as of September 13, 1988, under 80% of the occupied units in the  
24 housing facility were occupied by at least one person 55 years of age or  
25 older, provided that at least 80% of the units that were occupied by new  
26 occupants after September 13, 1988, were occupied by at least one  
27 person 55 years of age or older;
  - 28
  - 29 (B) there are unoccupied units, provided that at least 80% of such units are  
30 reserved for occupancy by at least one person 55 years of age or older;  
31 and
  - 32
  - 33 (C) there are units occupied by employees of the housing facility (and family  
34 members residing in the same unit) who are under 55 years of age  
35 provided they perform substantial duties directly related to the  
36 management or maintenance of the housing.
  - 37

38 **§819.130. Discrimination in Making Loans and in the Provision of Other Financial**  
39 **Assistance.**

- 40
- 41 (a) It is unlawful for a person whose business includes engaging in residential real  
42 estate-related transactions to discriminate based on race, color, disability, religion,  
43 sex, national origin, or familial status in making loans or other financial assistance  
44 available for a dwelling, or which is or is to be secured by a dwelling.
  - 45

1 (b) It is unlawful for a person engaged in making loans or in the provision of other  
2 financial assistance relating to the purchase, construction, improvement, repair, or  
3 maintenance of dwellings ~~or~~ that are secured by residential real estate to impose  
4 different terms or conditions for the availability of such loans or other financial  
5 assistance based on race, color, disability, religion, sex, national origin, or familial  
6 status.

7  
8 (c) Prohibited practices under this section include, but are not limited to:

- 9  
10 (1) failing or refusing to provide to a person, in connection with a residential real  
11 estate-related transaction, information regarding the availability of loans or  
12 other financial assistance, application requirements, procedures, or standards  
13 for the review and approval of loans or financial assistance, or providing  
14 information that is inaccurate or different from that provided to others based on  
15 race, color, disability, religion, sex, national origin, or familial status;  
16  
17 (2) using different policies, practices, or procedures in evaluating or determining  
18 creditworthiness of any person in connection with the provision of a loan or  
19 other financial assistance for a dwelling or for a loan or other financial  
20 assistance that is secured by residential real estate based on race, color,  
21 disability, religion, sex, national origin, or familial status; and  
22  
23 (3) determining the type of loan or other financial assistance to be provided with  
24 respect to a dwelling, or fixing the amount, interest rate, duration, or other  
25 terms of a loan or other financial assistance for a dwelling or for a loan or other  
26 financial assistance that is secured by residential real estate based on race,  
27 color, disability, religion, sex, national origin, or familial status.  
28

29 **§819.132. Discrimination Based on Disability.**

30  
31 (a) It is unlawful to discriminate by refusing to sell or rent, or otherwise make  
32 unavailable, or deny ~~in the sale, rental, terms, conditions, or privileges of the sale or~~  
33 ~~rental, or to otherwise make unavailable or deny,~~ a dwelling to a potential buyer or  
34 renter based on a disability of:

- 35  
36 (1) the potential buyer or renter;  
37  
38 (2) a person residing in or intending to reside in that dwelling after it is so sold,  
39 rented, or made available; or  
40  
41 (3) any person associated with that person.  
42

43 (b) It is unlawful to discriminate against any person in the terms, conditions, or  
44 privileges of the sale or rental of a dwelling, or in the provision of services or  
45 facilities in connection with such dwelling, because of a disability of:  
46

- 1 (1) that buyer or renter;
- 2
- 3 (2) a person residing in or intending to reside in that dwelling after it is so sold,
- 4 rented, or made available; or
- 5
- 6 (3) any person associated with that person.
- 7
- 8 (c) It is unlawful to make an inquiry to determine whether a potential buyer or renter of
- 9 a dwelling, a person intending to reside in that dwelling after it is sold, rented, or
- 10 made available, or any person associated with that potential buyer or renter has a
- 11 disability. However, this section does not prohibit the following inquiries, provided
- 12 they are made of each potential buyer or renter, whether or not the person has a
- 13 disability:
- 14
- 15 (1) Whether the potential buyer or renter is able to meet the requirements of
- 16 ownership or tenancy;
- 17
- 18 (2) Whether the potential buyer or renter qualifies for a dwelling available only to
- 19 individuals with disabilities or to people with a particular type of disability;
- 20
- 21 (3) Whether the potential buyer or renter qualifies for a priority available to
- 22 individuals with disabilities or to people with a particular type of disability;
- 23
- 24 (4) Whether the potential buyer or renter is a current illegal abuser or addict of a
- 25 controlled substance; or
- 26
- 27 (5) Whether the potential buyer or renter has been convicted of the illegal
- 28 manufacture or distribution of a controlled substance.
- 29

30 **SUBCHAPTER I. TEXAS FAIR HOUSING ACT COMPLAINTS AND APPEALS PROCESS**

31

32 **§819.151. Filing a Complaint.**

33

- 34 (a) A person may telephone, write, visit, e-mail, fax, or otherwise contact CRD to obtain
- 35 information on filing a complaint with CRD.
- 36
- 37 (b) At the complainant's request, CRD:
- 38
- 39 (1) shall ~~confer~~counsel with the complainant about the facts and circumstances
- 40 that may constitute the alleged unlawful housing practice; and
- 41
- 42 (2) shall assist the complainant with preparation of the complaint if the facts and
- 43 circumstances constitute an alleged unlawful housing practice; or
- 44
- 45 (3) may advise the complainant if the facts and circumstances presented to CRD
- 46 do not appear to constitute an unlawful housing practice.

- 1  
2 (c) The complaint shall be filed in writing and under oath with CRD by electronic  
3 communication, mail, fax, or in person with:  
4  
5 (1) the CRD office on a CRD-provided form;  
6  
7 (2) a HUD office; or  
8  
9 (3) a local municipality certified by HUD.  
10  
11 (d) The CRD director may require complaints to be made in writing, under oath, on a  
12 prescribed form. The complaint shall include the following information:  
13  
14 (1) The name and address of the complainant;  
15  
16 (2) The name and address of the respondent;  
17  
18 (3) A description and address of the dwelling that is involved, if appropriate;  
19  
20 (4) The basis for the alleged discriminatory housing practices, which may include  
21 any of the following: race, color, disability, religion, sex, national origin, or  
22 familial status;  
23  
24 (5) A concise statement of the facts and circumstances that constitute alleged  
25 discriminatory housing practices under the Texas Fair Housing Act, including  
26 identification of personal harm, reason given to complainant by respondent for  
27 the action taken; and  
28  
29 (6) A declaration of unlawful discrimination under federal or state law.  
30  
31 (e) A complaint shall be filed on or before the first anniversary of the date the alleged  
32 discriminatory housing practice occurs or terminates, whichever is later.  
33  
34 (f) The date of the filing of the complaint is the date when it is received by CRD or  
35 dual-filed with HUD, except when the CRD director determines that a complaint is  
36 timely filed for the purposes of the one-year period for filing of complaints upon  
37 submission of written information (including information provided by telephone by  
38 the complainant and documented by CRD) that is substantially equivalent to the  
39 information identified in subsection (d) of this section. When a complaint alleges  
40 discriminatory housing practices that are continuing, as manifested in a number of  
41 incidents of such conduct, the complaint shall be timely when filed within one year  
42 of the last alleged occurrence.  
43  
44 (g) A complaint may be amended to cure technical defects or omissions, or to clarify  
45 and amplify allegations made therein. Such amendment or amendments alleging  
46 additional acts that constitute unlawful housing practices related to or growing out of

1 the subject matter of the original complaint shall relate back to the date the complaint  
2 was first filed. CRD shall provide a copy of the complaint to the respondent. An  
3 amended complaint shall be subject to the procedures set forth in applicable law.  
4

5 (h) The CRD director may file a complaint when the CRD director receives information  
6 from a credible source that one or more individuals may have violated the rights of  
7 one or more individuals protected by the Texas Fair Housing Act. A complaint filed  
8 by the CRD director shall be considered for approval by the Commission on Human  
9 Rights at its first regularly scheduled meeting following the filing of the complaint.  
10 Upon a majority vote of the Commission on Human Rights, the complaint is  
11 approved and any investigation of the complaint shall continue. If the Commission  
12 on Human Rights does not approve the complaint, such complaint shall be  
13 withdrawn by CRD.  
14

15 (i) The complainant and respondent shall be notified periodically by CRD of the status  
16 of their complaint, unless the notice would jeopardize an undercover investigation by  
17 another state, federal, or local government.  
18

19 (j) Upon the acceptance of a complaint, the CRD director shall notify by mail, or  
20 electronic communication upon agreement of the complainant, each complainant on  
21 whose behalf the complaint was filed. The notice shall:  
22

23 (1) acknowledge the filing of the complaint and state the date that the complaint  
24 was accepted for filing;

25 (2) include a copy of the complaint;

26 (3) advise the complainant of the time limits applicable to complaint processing  
27 and of the procedural rights and obligations of the complainant under the  
28 Texas Fair Housing Act and this chapter;

29 (4) advise the complainant of his or her right to commence a civil action under the  
30 Texas Fair Housing Act, Subchapter H, and federal law, not later than two  
31 years after the occurrence or termination of the alleged discriminatory housing  
32 practice. The notice shall state that the computation of this two-year period  
33 excludes any time during which an administrative hearing is pending under this  
34 chapter and Texas Fair Housing Act, Subchapter E, with respect to a complaint  
35 or charge based on the alleged discriminatory housing practice; and  
36  
37  
38

- 1  
2 (5) advise the complainant that retaliation against any person because he or she  
3 made a complaint or testified, assisted, or participated in an investigation,  
4 conciliation, or an administrative proceeding under this chapter is a  
5 discriminatory housing practice that is prohibited under the Texas Fair  
6 Housing Act and this chapter.  
7

8 **§819.153. Investigation of a Complaint.**  
9

- 10 (a) Upon the acceptance of a complaint under this chapter, CRD shall initiate an  
11 investigation. The CRD director may initiate an investigation to determine whether a  
12 complaint should be filed under this chapter and the Texas Fair Housing Act,  
13 Subchapter E. Such investigations shall be conducted in accordance with the  
14 procedures set forth in this chapter.  
15
- 16 (b) The CRD director shall determine the scope and nature of the investigation within the  
17 context of the allegations set forth in the complaint.  
18
- 19 (c) At all reasonable times in the complaint investigation, the CRD director shall have  
20 access to:  
21
- 22 (1) necessary witnesses for examination under oath or affirmation; and  
23
- 24 (2) records, documents, and other information relevant to the investigation of  
25 alleged violations of the Texas Fair Housing Act, for inspection and copying.  
26
- 27 (d) Within 20 days of the acceptance of a complaint or amended complaint under this  
28 chapter, the CRD director shall serve a notice on each respondent by regular mail, or  
29 electronic communication upon agreement of the respondent. A person who is not  
30 named as a respondent in a complaint, but who is identified in the course of the  
31 investigation under the Texas Fair Housing Act, Subchapter E, and this chapter, as a  
32 person who is alleged to be engaged or to have engaged in the discriminatory  
33 housing practice upon which the complaint is based, may be joined as an additional  
34 or substitute respondent by service of a notice on the person under this section within  
35 10 days of identification.  
36
- 37 (e) The notice to a respondent shall include, but not be limited to, the following:  
38
- 39 (1) Identification of the alleged discriminatory housing practice upon which the  
40 complaint is based, and a copy of the complaint;  
41
- 42 (2) Date that the complaint was accepted for filing;  
43
- 44 (3) Time limits applicable to complaint processing under this chapter and the  
45 procedural rights and obligations of the respondent under the Texas Fair

1 Housing Act, and this chapter, including the opportunity to submit an answer  
2 to the complaint within 10 days of the receipt of the notice;

3  
4 (4) Complainant's right to commence a civil action under the Texas Fair Housing  
5 Act, Subchapter H, and federal law, not later than two years after the  
6 occurrence or termination of the alleged discriminatory housing practice; an  
7 explanation that the computation of the two-year period excludes any time  
8 during which an administrative hearing is pending under this chapter or the  
9 Texas Fair Housing Act, Subchapter E, with respect to a complaint or charge  
10 based on the alleged discriminatory housing practice;

11  
12 (5) If the person is not named in the complaint, but is being joined as an additional  
13 or substitute respondent, an explanation of the basis for the CRD director's  
14 belief that the joined person is properly joined as a respondent;

15  
16 (6) Instruction that retaliation against any person because he or she made a  
17 complaint or testified, assisted, or participated in an investigation, conciliation,  
18 or an administrative proceeding under this chapter is a discriminatory housing  
19 practice that is prohibited under the Texas Fair Housing Act;

20  
21 (7) Invitation to enter into a conciliation agreement for the purpose of resolving  
22 the complaint; and

23  
24 (8) Initial request for information and documentation concerning the facts and  
25 circumstances surrounding the alleged discriminatory housing practice set  
26 forth in the complaint.

27  
28 (f) The respondent may file an answer not later than 10 days after receipt of the notice  
29 described in this section. The respondent may assert any defense that might be  
30 available to a defendant in a court of law. The written answer shall either be signed  
31 under oath or subscribed by the person making the declaration as true under penalty  
32 of perjury and in substantially the form prescribed by Texas Civil Practice and  
33 Remedies Code, Chapter 132, or its successor statute. and affirmed by the  
34 ~~respondent. The affirmation shall state: "I declare under penalty of perjury that the~~  
35 ~~foregoing is true and correct to the best of my knowledge."~~

36  
37 (g) An answer may be reasonably and fairly amended at any time ~~with the consent of the~~  
38 ~~CRD director.~~

39  
40 (h) CRD may conduct discovery in aid of the investigation by the same methods and to  
41 the same extent that parties may conduct discovery in an administrative proceeding  
42 under the Texas Fair Housing Act, Subchapter E. The CRD director shall have the  
43 power to issue subpoenas described under the Texas Fair Housing Act, Subchapter  
44 D, in support of the investigation.



1 (i) As part of the complaint investigation, CRD may request information relevant to the  
2 alleged violations of the Texas Fair Housing Act. In obtaining this information,  
3 CRD may use, but is not limited to using, any of the following:

4  
5 (1) Oral and video interviews and depositions;

6  
7 (2) Written interrogatories;

8  
9 (3) Production of documents and records;

10  
11 (4) Requests for admissions;

12  
13 (5) On-site inspection of respondent's facilities;

14  
15 (6) Written statements or affidavits;~~or~~

16  
17 (7) A written statement of position or information provided by the complainant or  
18 the respondent that is either under oath or subscribed in conformity with this  
19 section regarding the allegations in the complaint; or

20  
21 ~~(8)(7)~~ Other forms of discovery authorized by the Administrative Procedure Act,  
22 Texas Government Code §§2001.081 - 2001.103, or the Texas Rules of Civil  
23 Procedure.

24  
25 (j) CRD may establish time requirements regarding responses to requests for  
26 information relevant to an investigation of alleged violations of the Texas Fair  
27 Housing Act. The CRD director may extend such time requirements for good cause  
28 shown.

29  
30 ~~(k) As part of a complaint investigation, CRD may accept from the complainant or~~  
31 ~~respondent a statement of position or information regarding the allegations in the~~  
32 ~~complaint. CRD shall accept only a sworn or affirmed written statement of position~~  
33 ~~submitted by the respondent setting forth the facts and circumstances relevant to an~~  
34 ~~investigation of alleged violations of the Texas Fair Housing Act.~~

35  
36 ~~(k)(4)~~ CRD shall complete the initial investigation of the alleged discriminatory housing  
37 practice within 100 days of the filing of the complaint.

38  
39 ~~(l)(m)~~ The complaint shall remain open until a no reasonable cause determination is  
40 made, a charge is made, or a conciliation agreement is executed and approved under  
41 this chapter and the Texas Fair Housing Act, Subchapter E.

42  
43 ~~(m)(n)~~ At the end of each investigation under this chapter, CRD shall prepare a final  
44 investigative report. The investigative report shall contain:

- 1 (1) the names and dates of contacts with witnesses. The report shall not disclose  
2 the names of witnesses that request anonymity; however, the names of such  
3 witnesses may be required to be disclosed in the course of an administrative  
4 hearing or a civil action;  
5  
6 (2) a summary and the dates of correspondence and other contacts with the  
7 complainant and the respondent;  
8  
9 (3) a summary description of other pertinent records;  
10  
11 (4) a summary of witness statements; and  
12  
13 (5) answers to interrogatories.  
14

15 ~~(n)~~ A final investigative report may be amended if additional evidence is discovered.

16  
17 ~~(o)~~ CRD shall provide a summary of the final determination and shall make available  
18 the full investigative report to the complainant and the respondent.  
19

20 **§819.156. Reasonable Cause Determination and Issuance of a Charge.**  
21

- 22 (a) If a conciliation agreement under this chapter and the Texas Fair Housing Act,  
23 Subchapter E, has not been executed by the complainant and the respondent, and  
24 approved by the CRD director, the CRD director on behalf of the Commission on  
25 Human Rights, within the time limits set forth in subsection (f) of this section, shall  
26 determine whether, based on the totality of the factual circumstances known at the  
27 time of the decision, reasonable cause exists to believe that a discriminatory housing  
28 practice has occurred. The reasonable cause determination shall be based solely on  
29 the facts concerning the alleged discriminatory housing practice, provided by  
30 complainant and respondent and otherwise disclosed during the investigation. In  
31 making the reasonable cause determination, the CRD director shall consider whether  
32 the facts concerning the alleged discriminatory housing practice are sufficient to  
33 warrant the initiation of a civil action in state district court.  
34  
35 (b) If the CRD director determines that reasonable cause exists, the CRD director shall  
36 immediately issue a charge under the Texas Fair Housing Act, Subchapter E, and this  
37 chapter on behalf of the complainant, and shall notify the complainant and the  
38 respondent of this determination by certified mail or personal service.  
39  
40 (c) If the CRD director determines that no reasonable cause exists, the CRD director  
41 shall issue a short written statement of the facts upon which the CRD director has  
42 based the no reasonable cause determination; dismiss the complaint; notify the  
43 complainant and the respondent of the dismissal (including the written statement of  
44 facts) by certified mail or personal service; and make public disclosure of the  
45 dismissal.  
46

- 1 (d) If the CRD director determines that the matter involves the legality of local zoning  
2 or land use laws or ordinances, the CRD director, in lieu of making a determination  
3 regarding reasonable cause, shall refer the investigative materials to the Office of the  
4 Attorney General for appropriate action under the Texas Fair Housing Act,  
5 Subchapter G, and shall notify the complainant and the respondent of this action by  
6 certified mail or personal service.  
7
- 8 (e) The CRD director ~~shall~~~~may~~ not issue a charge under this chapter and the Texas Fair  
9 Housing Act, Subchapter E, regarding an alleged discriminatory housing practice, if  
10 a complainant has commenced a civil action under federal or state law seeking relief  
11 with respect to the alleged discriminatory housing practice. If a charge ~~is~~ ~~may~~ not ~~be~~  
12 issued because of the commencement of a civil action, the CRD director shall notify  
13 the complainant and the respondent by certified mail or personal service.  
14
- 15 (f) The CRD director shall make a reasonable cause determination within 100 days after  
16 filing of the complaint.  
17
- 18 (g) If the CRD director is unable to make the determination within the 100-day period,  
19 the CRD director shall notify the complainant and the respondent, by certified mail  
20 or personal service, of the reasons for the delay.  
21
- 22 (h) The CRD director shall notify the complainant and respondent, and any aggrieved  
23 person on whose behalf a complaint has been filed, that they may elect to have the  
24 claims asserted in the charge decided in a civil action, as provided in Texas Property  
25 Code [§301.131](#) ~~§301.131(b)~~, or an administrative hearing pursuant to §819.191 of  
26 this chapter.  
27

## 28 SUBCHAPTER K. FAIR HOUSING ADMINISTRATIVE HEARINGS AND JUDICIAL 29 REVIEW

### 30 §819.199. Rehearing.

- 31
- 32
- 33 (a) A motion for rehearing is not required to exhaust all administrative remedies. A  
34 motion for rehearing shall be made before the expiration of 21 calendar days after  
35 the date of the Commission on Human Rights' final order, as set forth in §819.198 of  
36 this subchapter. Any reply to a motion for rehearing shall be filed with the  
37 Commission on Human Rights before the expiration of 30 calendar days after the  
38 date of the Commission on Human Rights' final order, as set forth in §819.198 of this  
39 subchapter. A party filing a motion for rehearing or a reply to a motion for rehearing  
40 shall serve a copy on each party within the filing deadline.  
41
- 42 (b) The Commission on Human Rights may, by written order, extend the time for filing  
43 motions and replies and for taking Commission on Human Rights action. No  
44 extension may extend the period for Commission on Human Rights action beyond 90  
45 days after the date of the final order, as set forth in §819.198 of this subchapter. In  
46 the event of an extension, a motion for rehearing is denied on the date fixed by the

1 written order or, in the absence of a fixed date, 90 days from the date of the final  
2 order, as set forth in §819.198 of this subchapter.  
3

4 (c) If a party files a motion for rehearing, the Commission on Human Rights~~Rights'~~  
5 may:

6  
7 (1) grant such motion and remand for rehearing;

8  
9 (2) deny such motion as set forth in §819.198 of this subchapter, either expressly  
10 or by operation of law; or

11  
12 (3) render a decision and issue an order that no rehearing shall be necessary  
13 because imminent peril to the public health, safety, or welfare requires  
14 immediate effect be given to the final order.  
15

16 (d) If the Commission on Human Rights does not act on the motion for rehearing within  
17 45 calendar days, the motion is denied by operation of law and the order is final.  
18