

CHAPTER 819. TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION

ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.

ON SEPTEMBER 6, 2005, THE TEXAS WORKFORCE COMMISSION ADOPTED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated publication date of the adopted rules in the *Texas Register*: **September 23, 2005**
The rules will take effect: **September 27, 2005**

The Texas Workforce Commission (Commission) adopts the repeal of Chapter 819 relating to the Texas Workforce Commission Civil Rights Division in its entirety, without changes to the proposed text as published in the July 1, 2005, issue of the *Texas Register* (30 TexReg 3825).

The Commission adopts new Chapter 819, relating to the Texas Workforce Commission Civil Rights Division, with changes to the proposed text as published in the July 1, 2005, issue of the *Texas Register* (30 TexReg 3825). The text will not be republished.

- Subchapter B Equal Employment Opportunity Provisions, §819.11 and §819.12
- Subchapter C Equal Employment Opportunity Reports, Training, and Reviews, §819.22 and §819.23
- Subchapter D Equal Employment Opportunity Complaints and Appeals Process, §819.43, §819.46, §819.48
- Subchapter E Equal Employment Opportunity Deferrals, §§819.71
- Subchapter F Equal Employment Opportunity Records and Recordkeeping, §819.92
- Subchapter G Texas Fair Housing Act Provisions, §819.112
- Subchapter I Texas Fair Housing Act Complaints and Appeals Process, §819.151, §819.153, §819.156
- Subchapter K Fair Housing Administrative Hearings and Judicial Review, §819.199 and §819.200

The Texas Workforce Commission (Commission) adopts new Chapter 819, relating to the Texas Workforce Commission Civil Rights Division, without changes to the proposed text as published in the July 1, 2005, issue of the *Texas Register* (30 TexReg 3825), as follows:

- Subchapter A General Provisions, §819.1–819.3
- Subchapter B Equal Employment Opportunity Provisions, §819.10
- Subchapter C Equal Employment Opportunity Reports, Training, and Reviews, §819.21, and §§819.24–819.26
- Subchapter D Equal Employment Opportunity Complaints and Appeals Process, §819.41, §819.42, §819.44, §819.45, §819.47, §§819.49–819.52
- Subchapter E Equal Employment Opportunity Deferrals, §§819.72–819.76

- Subchapter F Equal Employment Opportunity Records and Recordkeeping, §819.91 and §819.93
- Subchapter G Texas Fair Housing Act Provisions, §819.111
- Subchapter H Discriminatory Housing Practices, §819.121–819.135
- Subchapter I Texas Fair Housing Act Complaints and Appeals Process, §819.152, §819.154, §819.155
- Subchapter J Fair Housing Deferral to Municipalities, §819.171–819.172
- Subchapter K Fair Housing Administrative Hearings and Judicial Review, §§819.191–819.198, and §819.201
- Subchapter L Fair Housing Fund, §819.221

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND RESPONSES

PART III. COORDINATION ACTIVITIES

PART IV. RULE REPEAL

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

Purpose

The Commission adopts the repeal of Chapter 819 and adopts new Chapter 819, in part, to:

- (1) align the rules with House Bill (HB) 2933, enacted by the 78th Texas Legislature, Regular Session, effective March 1, 2004, which directed the abolition of the Texas Commission on Human Rights, the creation of the Texas Workforce Commission Civil Rights Division (CRD), and the reinstatement of the Commission on Human Rights with authority different from that of the abolished Texas Commission on Human Rights; and
- (2) remove duplicative and obsolete administrative processes, procedures, references, and terminology.

Other issues addressed through this adopted repeal and adopted new rules include:

- (1) clarifying the procedures for processing employment and housing discrimination complaints;
- (2) improving the procedures for review of state agency personnel policies and firefighter tests;
- (3) distinguishing between the nature and content of standard and compliance employment discrimination training for state agency employees;
- (4) defining the term "complaint with merit" for purposes of compliance employment discrimination training;
- (5) providing standards for evaluating employment discrimination training programs for state agency employees, as required by statute; and
- (6) clarifying Agency personnel policy as it applies to the CRD director.

The Commission adopts new Chapter 819 to retain only the provisions required by Texas Labor Code, Chapter 21, concerning employment discrimination; Texas Labor Code, Chapter 301, Subchapter I, concerning the Civil Rights Division; Texas Property Code, Chapter 301, concerning housing discrimination; and Texas Government Code, Chapter 419, §§419.102–419.105, concerning firefighter test review.

Background and Authority

In 2003, the 78th Texas Legislature passed HB 2933, which abolished the Texas Commission on Human Rights, transferred the powers and duties of the abolished Texas Commission on Human Rights to the newly created CRD, and reinstated a Commission on Human Rights with authority different from that of the abolished Texas Commission on Human Rights. Thus, following the passage of HB 2933, the Chapter 819 rules, which set forth procedures and policies of the now-abolished Texas Commission on Human Rights did not accurately reflect changes made by HB 2933. The Commission now adopts new Chapter 819 rules to incorporate the legislative direction of HB 2933, exercising the authority granted under HB 2933 §5(3) that states, “A rule, form, order, or procedure adopted by the Commission on Human Rights is a rule, form, order, or procedure of the Texas Workforce Commission civil rights division and remains in effect until changed by Texas Workforce Commission.”

The Commission reviewed Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972; Civil Rights Act of 1991; Americans with Disabilities Act of 1990, as amended; and 29 U.S.C. Chapter 14, regarding Age Discrimination in Employment, to effectuate the changes directed in HB 2933. Additionally, the Commission reviewed Texas Labor Code, Chapters 21 and 301; Texas Property Code, Chapter 301; and Texas Government Code, Chapter 419. Language that is not necessary to the understanding of the rule or duplicates language found in statute or other rules is eliminated. Therefore, the following topics are not included in the new rules:

Employment General Construction

Employment Authority

Employment Severability

Employment Availability

General Description

Term of Office

Meetings

Reimbursements

General Powers

Employee Training and Education

Historically Underutilized Business Program

Confidentiality

Temporary Injunctive Relief

Policy

Office of Alternative Dispute Resolution

Referral of Pending Complaints for Alternative Dispute Resolution

Notification and Objection

Appointment of Mediators

Standards and Duties of Mediators

Compensation of Mediators

Conduct and Decorum

Confidentiality of Communications during Alternative Dispute Resolution Procedures

Conformity

Housing General Construction

Housing Authority
Housing Severability
Housing Availability
Powers of Commission
Referral Authority
Sale or Rental of a Single Family House by an Owner
Sale, Rental or Occupancy of Dwellings by a Religious Organization, Association, or Society, or
a Not-for-Profit Institute
Housing Owned or Operated by a Private Club
Local or State Restrictions on Maximum Number of Occupants of a Dwelling
Appraisals of Real Property
Illegal Manufacture or Distribution of a Controlled Substance
Health or Safety of Individuals or Damage to Property
Real Estate Practices Prohibited
Unlawful Refusal to Sell or Rent or to Negotiate for the Sale or Rental
Prohibited Interference, Coercion, Intimidation, or Retaliation
Persons against Whom Complaints May Be Filed
Cooperation with Federal Agencies
Relief Sought for Aggrieved Persons during Conciliation
Conciliation Provisions Relating to Public Interest
Prohibitions and Requirements for Disclosure of Information Obtained during Conciliation
Issuance of Charge
Election of Civil Action or Provision of Administrative Hearing Procedure
Administrative Penalties
Effect of Commission Order
Filings of Exceptions and Replies
Form of Exceptions and Replies
Emergency Orders
Show Cause Orders and Complaints
Temporary and Preliminary Relief
Enforcement by Attorney General
Subpoena Enforcement Power
Civil Action
Court Appointed Attorney
Relief Granted
Effect of Relief Granted
Intervention by Attorney General
Licensed or Regulated Businesses
Order in Preceding Five Years
Prevailing Party
Statutory Authority
Effective Date

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND RESPONSES

(Note: Minor nonsubstantive editorial changes are made throughout Chapter 819 that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions with Comments and Responses.)

General Comments on Chapter 819

Comment: One commenter stated that the repeal of Chapter 819 will facilitate the activities and responsibilities of the Commission on Human Rights and CRD.

Response: The Commission appreciates the commenter's support for the new rules and notes that the repeal and revision of these rules is necessitated by the passage of HB 2933.

Comment: One commenter expressed concern that many individuals are not familiar with the state's procedures for filing discrimination complaints and they should be provided with a telephone number or Internet site offering simple instructions.

Response: In an effort to improve public access to information regarding employment and housing discrimination, CRD operates a toll-free phone line. Furthermore, CRD distributes outreach materials, including pamphlets and videos, that describe discriminatory practices prohibited by law. CRD also posts instructions for filing a complaint in English and Spanish on its Web site. The Commission believes that any additional proposals for enhancing public awareness in this area should be implemented as a policy of the Commission on Human Rights and not in rule.

Comment: One commenter noted that the clarifications regarding the types of employment and housing discrimination practices, as well as procedures to review firefighter tests, are appropriate and appear to cover all possible scenarios.

Response: The Commission agrees with the commenter's assessment, particularly because increased clarity is one of the guiding objectives of new Chapter 819.

Specific Comments Regarding Individual Sections of Chapter 819

SUBCHAPTER A. GENERAL PROVISIONS

§819.1. Purpose

The Commission adopts new §819.1 to implement the following statutory provisions: Texas Labor Code, Chapter 21 (relating to Employment Discrimination) and Chapter 301, Subchapter I (relating to Civil Rights Division); Texas Property Code, Chapter 301, (relating to Texas Fair Housing Act); and Texas Government Code, Chapter 419, Subchapter F (relating to Review of Fire Department Tests).

§819.2. Definitions

The Commission adopts new §819.2 to clarify terminology used in both the employment and housing portions of the rules. The changes better align with the terminology and direction of HB 2933. The rules also include definitions that are applicable only to employment discrimination in §819.11 and to housing discrimination in §819.112. Furthermore, the following definitions found in current rule are not included in the new Chapter 819 because they are defined in the Texas Labor Code: act, age, alternative dispute resolution, chairman, commission, commissioner, court, deferral or referral, demonstrates, designee, employee, employment agency, executive director, federal government, Government Code, labor organization, local ordinance, national origin, political subdivision, religion, and sex.

Comment: One commenter recommended that the term Agency be defined.

Response: As noted in this section, the terms defined in §819.2 are "in addition to the definitions contained in §800.2 of this title" (Title 40, Part 20 of the Texas Administrative Code), which includes Chapter 819. Section 800.2 states that words and terms relating to the Texas Workforce Commission, when used in Part 20, will have certain meanings, unless the context clearly indicates otherwise. The term Agency is defined in §800.2 as the Texas Workforce Commission; therefore, the Commission believes that it is unnecessary to redefine it in this chapter.

§819.3. Roles and Responsibilities of Commission on Human Rights, CRD, and CRD Director

The Commission adopts new §819.3 to delineate the responsibilities of the new Commission on Human Rights and the newly created CRD, and to clarify the relationship between the CRD director, the Commission on Human Rights, and the Agency.

Comment: One commenter questioned the extent of the Texas Workforce Commission's supervision of the activities of the Commission on Human Rights and CRD, and in particular, whether the Commission on Human Rights must seek approval of its decisions from the Texas Workforce Commission.

Response: The Commission clarifies the statutory division of responsibility among those entities involved with the rule as follows:

—The Commission is responsible for rulemaking regarding CRD. The Commission's authority does not include approval of decisions issued by the Commission on Human Rights.

—The Commission on Human Rights determines policy for CRD operations.

—The CRD director implements the policy set by the Commission on Human Rights.

Regarding authority over the CRD director, the Commission further clarifies that the CRD director is both an appointee of the Commission on Human Rights, as well as an employee of the Agency. Consequently, the Commission on Human Rights has the authority to hire, supervise and fire the director, while the Agency executive director has the authority to take all personnel action pursuant to the Agency's personnel policy, excluding termination, after consultation with the chair of the Commission on Human Rights.

The Commission adopts §819.24 to set forth the requirements for standard employment discrimination training for all state employees, including minimum standards for the content of such training.

§819.25. Compliance Employment Discrimination Training

The Commission adopts new §819.25, as directed by Texas Labor Code §21.556, to specify the conditions that trigger compliance training. The new rule defines the term complaint with merit as a complaint that is resolved by either a cause finding or a withdrawal of the complaint with a remedy favorable to the complainant. This definition is consistent with terminology used by the U.S. Equal Employment Opportunity Commission and avoids both the issue of cost inefficiency and prejudice. According to statute, a state agency that receives three or more "complaints of employment discrimination in a fiscal year, other than complaints determined to be without merit" shall provide comprehensive equal employment opportunity training, referred to as compliance training. In the absence of a statutory definition of complaint without merit, the current rule established an administrative processing test that determines merit based on meeting the initial burden of a prima facie case such that the complaint appears to be a potential case worthy of further investigation. This definition has presented several difficulties. First, it is not cost-efficient, necessitating that CRD use additional time and staff to perform the analysis required in the rule in order to ascertain if it is a complaint with merit. Second, employers argue that labeling a complaint with merit before the investigation is complete and a cause decision rendered is prejudicial to the outcome of the cause determination.

§819.26. Standard and Compliance Employment Discrimination Training Delivery

The Commission adopts new §819.26 to set forth the minimum standards for delivering standard and compliance employment discrimination training.

SUBCHAPTER D. EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS AND APPEALS PROCESS

§819.41. Filing a Complaint

The Commission adopts new §819.41 to specify the steps to be taken and the requirements to be met to file an employment discrimination complaint.

Comment: One commenter recommended that the calculation for the 180-day period during which a complaint may be filed should be computed not only from the date the alleged unlawful employment practice occurred, but also from the date the complainant knew or should have known about the practice.

Response: Section 819.41 is based upon the statutory requirements for filing a complaint found in Texas Labor Code §21.201 and the applicable statute of limitations found in §21.202. Allowing a complaint to be filed from the date an employee "knew or should have known" of the alleged unlawful employment practice would be contrary to the statute as written by the legislature.

Comment: One commenter recommended that a bilingual "step by step" notice explaining how to file a complaint be posted in business establishments.

Response: The Commission believes that nothing in this chapter prohibits the Commission on Human Rights from encouraging businesses to take such action. In response to this comment, CRD may wish to expand its existing means of publicizing the procedures for filing complaints.

Comment: One commenter was concerned about the current method of referring an individual who calls CRD to initiate or seek advice on submitting a claim and recommended that a more-established process be developed. The commenter suggested providing potential complainants with a bilingual complaint form and simplified directions for filing a complaint.

Response: The Commission believes the commenter's concerns involve CRD's internal administrative procedures, which are outside of the authority of the rules as set forth in Texas Labor Code, Chapter 21. However, the Commission directs the commenter to the Agency's Web site, which provides, in both English and Spanish, an intake questionnaire and simple instructions for filing a complaint.

§819.42. Legal Representation

The Commission adopts new §819.42 to notify complainants and respondents of their right to be represented by an attorney or designated agent during the course of a complaint process.

§819.43. Investigation of a Perfected Complaint

The Commission adopts new §819.43 to set forth the procedures to be followed by the complainant, respondent, and CRD in the investigation of a perfected complaint.

§819.44. Mediation

The Commission adopts new §819.44 to set forth the procedures involved in voluntary mediation, an option available to complainants and respondents who prefer to resolve the perfected complaint jointly prior to CRD completing the investigation and rendering a decision.

§819.45. Subpoena

The Commission adopts new §819.45 to establish CRD's authority to issue a subpoena to compel attendance or secure evidence relevant to the investigation of a perfected complaint and the rights and responsibilities of all parties involved in such an action.

§819.46. Dismissal of Complaint

The Commission adopts new §819.46 to set forth the conditions under which CRD may dismiss a complaint and CRD's responsibilities should such action be taken.

§819.47. Cause Determination

The Commission adopts new §819.47 to set forth the conditions under which CRD determines if there is reasonable cause to believe that the respondent has engaged in an unlawful employment practice and CRD's responsibilities should such action be taken.

§819.48. No Cause Determination

The Commission adopts new §819.48 to set forth the conditions under which CRD determines if there is no reasonable cause to believe that the respondent has engaged in an unlawful employment practice and CRD's responsibilities should such action be taken.

§819.49. Conciliation

The Commission adopts new §819.49 to set forth CRD's intent to achieve a just resolution once a reasonable cause determination is made. Alternative courses of action are presented depending on whether CRD is successful in securing an agreement between the complainant and respondent to eliminate the unlawful practices and provide appropriate relief for the complainant.

§819.50. Right to File a Civil Action

The Commission adopts new §819.50 to specify the conditions under which CRD shall issue a notice of right to file a civil action permitting the complainant to sue in court.

§819.51. Failure to Issue Notice of Right to File a Civil Action

The Commission adopts new §819.51 to cite that CRD's failure to issue a notice of right to file a civil action within the specified time limit does not affect the complainant's right to file a civil action under Texas Labor Code, Chapter 21.

§819.52. Judicial Enforcement

The Commission adopts new §819.52 to establish CRD's authority to file a civil action against a respondent or intervene in a civil action.

SUBCHAPTER E. EQUAL EMPLOYMENT OPPORTUNITY DEFERRALS

§819.71. Equal Employment Opportunity Deferrals among Federal, State, and Local Agencies

The Commission adopts new §819.71 to set forth the ways in which complaints may be deferred from one level of government to another and to establish at what point the measure for timeliness is triggered.

§819.72. Requirements for a Local Commission

The Commission adopts new §819.72 to identify the procedures to be followed and the conditions to be met for a local commission, recognized by EEOC as a Fair Employment Practices Agency, to be eligible to receive and process complaints.

§819.73. Deferral to Local Commission

The Commission adopts new §819.73 to identify the authority under which a local commission exercises the exclusive right to act upon an employment discrimination complaint and the conditions under which CRD may assume jurisdiction over a complaint deferred to a local commission.

§819.74. Deferral Procedures

The Commission adopts new §819.74 to set forth the responsibilities of the local commission as well as CRD and the procedures involved in deferring an employment discrimination complaint to a local commission.

§819.75. Final Determination of a Local Commission

The Commission adopts new §819.75 to set forth the actions to be taken by a local commission based on the type of decision made regarding an employment discrimination complaint under its jurisdiction.

§819.76. Workshare Agreements

The Commission adopts new §819.76 to specify the means by which the Agency and a local commission shall officially coordinate efforts to process employment discrimination complaints.

SUBCHAPTER F. EQUAL EMPLOYMENT OPPORTUNITY RECORDS AND RECORDKEEPING

§819.91. Preservation and Use

The Commission adopts new §819.91 to establish the requirement that any person under investigation shall retain records pursuant to Texas Labor Code, Chapter 21.

The Commission adopts new §819.125 to explain that print materials and statements may be considered discriminatory if used to express a preference for or limitation on a potential buyer or renter.

§819.126. Discriminatory Representations on the Availability of Dwellings

The Commission adopts new §819.126 to identify the types of prohibited discriminatory actions that provide inaccurate or untrue information about the availability of dwellings.

§819.127. Discriminatory Practices Regarding Entry into a Neighborhood

The Commission adopts new §819.127 to define as unlawful the practice, motivated by profit, of inducing or attempting to induce, or persuading individuals to sell or rent their dwelling by representing that people of a certain race, color, disability, religion, sex, national origin, or familial status are entering the neighborhood.

§819.128. Discrimination in the Selling, Brokering, or Appraising of Residential Real Property

The Commission adopts new §819.128 to define as unlawful any attempt to deny access to or membership in any organization or service related to the selling or renting of dwellings based on race, color, disability, religion, sex, national origin, or familial status.

§819.129. Discrimination in Residential Real Estate Transactions

The Commission adopts new §819.129 to define as unlawful any effort to base the availability, terms, or conditions of a residential real estate transaction on race, color, disability, religion, sex, national origin, or familial status.

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

The Commission adopts new §819.130 to define as unlawful any failure or refusal to make loans, provide financial assistance, or make information available regarding such assistance based on race, color, disability, religion, sex, national origin, or familial status.

Comment: One commenter advocated that a description of unlawful housing practices be given to individuals applying for financial assistance.

Response: The Commission believes that nothing in this chapter prohibits the Commission on Human Rights from encouraging financial institutions to take such action. In response to this comment, CRD may wish to explore this and other ways to make such information available to applicants for financial assistance for housing.

§819.131. Discrimination in Purchasing Loans

The Commission adopts new §819.131 to define as unlawful the refusal to purchase or the imposition of different terms on the purchase of loans, debts, or securities related to residential real estate dealings based on race, color, disability, religion, sex, national origin, or familial status.

§819.132. Discrimination Based on Disability

The Commission adopts new §819.132 to define as unlawful any attempt to deny or make unavailable the rental or sale of a dwelling based on the disability of the potential buyer or renter or someone associated with either. The rule further prohibits an inquiry as to the nature or severity of a disability excepted under certain stated conditions.

§819.133. Discrimination in Refusing Reasonable Modifications of Existing Premises

The Commission adopts new §819.133 to define as unlawful the denial of permission for an individual with a disability to make reasonable modifications to a dwelling and the rights and obligations of both parties in undertaking modifications.

§819.134. Discrimination in Refusing Reasonable Accommodations

The Commission adopts new §819.134 to define as unlawful the refusal to make reasonable accommodations in rules, policies, practices, or services for individuals with disabilities.

§819.135. Discrimination in Design and Construction Requirements

The Commission adopts new §819.135 to set forth the type of physical accommodations for individuals with disabilities that shall be made to a multifamily dwelling after a certain date.

SUBCHAPTER I. TEXAS FAIR HOUSING ACT COMPLAINTS AND APPEALS PROCESS

§819.151. Filing a Complaint

The Commission adopts new §819.151 to specify that a person or the CRD director may file a complaint within a year from the occurrence or termination of an alleged unlawful housing discrimination practice, whichever is later. The new rule also identifies both the steps to be taken and the requirements to be met to file a housing discrimination complaint.

§819.152. Legal Representation

The Commission adopts new §819.152 to notify respondents and complainants of their right to be represented by an attorney or a designated agent during the course of processing a complaint.

§819.153. Investigation of a Complaint

The Commission adopts new §819.153 to set forth the procedures to be followed by the complainant, respondent, and CRD in the investigation of a complaint.

Comment: One commenter asked why a complaint would be filed under two separate statutes.

Response: The reference to “this chapter” is to the Chapter 819 rules, which are designed to implement the Texas Fair Housing Act. Therefore, the Commission clarifies that a complaint is filed only pursuant to statute under the Texas Fair Housing Act.

§819.154. Pattern and Practice Complaints

The Commission adopts new §819.154 to identify the conditions under which a complaint shall be designated as a "patterns and practices complaint," signifying the presence of pervasive or institutional discriminatory practices or complex issues or the involvement of a large number of people.

§819.155. Conciliation

The Commission adopts new §819.155 to explain the role and purpose of conciliation in the housing complaint process. The conciliation process for housing complaints differs from that for employment complaints in the timing of the conciliation. As a term used in processing a housing complaint, conciliation refers to settlement of a dispute by mutual agreement occurring any time beginning with the filing of a complaint and ending with the filing of a charge or the dismissal of the complaint. In an employment complaint, however, the term conciliation refers to such efforts occurring after a determination of cause has been made.

§819.156. Reasonable Cause Determination and Issuance of a Charge

The Commission adopts new §819.156 to specify the actions to be taken by the CRD director, assuming a conciliation agreement has not been reached, in determining whether or not reasonable cause exists to believe that a discriminatory housing practice has occurred. The new rule sets forth actions to be taken based on whether the determination made is a cause or no cause decision or whether the complaint involves the legality of local zoning or land use ordinances.

SUBCHAPTER J. FAIR HOUSING DEFERRAL TO MUNICIPALITIES

§819.171. Deferral

The Commission adopts new §819.171 to set forth the requirements that a HUD-certified municipality must meet in order to receive and process complaints referred by CRD.

§819.172. Memoranda of Understanding

The Commission adopts new §819.172 to specify the means by which the Agency and a municipality officially arrange to coordinate efforts to process housing discrimination complaints.

SUBCHAPTER K. FAIR HOUSING ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW

§819.191. Administrative Hearings

The Commission adopts new §819.191 to provide that administrative hearings shall be conducted by the Agency's Special Hearings Department.

Comment: One commenter asked which agency is referenced in this section.

Response: The Commission clarifies that Chapter 819 references the definitions contained in §800.2, which sets forth definitions for all chapters in Title 40, Part 20 of the Texas Administrative Code relating to the Texas Workforce Commission. As defined therein, the term Agency, whenever mentioned in any chapter of Title 40, Part 20, refers to the Texas Workforce Commission.

§819.192. Ex Parte Communications

The Commission adopts new §819.192 to set forth the conditions under which a commissioner for the Commission on Human Rights or CRD employee may communicate information involving any issue of fact or law in a case covered by this subchapter.

§819.193. Proposal for Decision and Hearing Officer's Report

The Commission adopts new §819.193 to set forth the different requirements for a proposal for decision to the Commission on Human Rights depending on whether the proposal for decision is adverse to any party or not. The new rule also specifies the content for the hearing officer's report.

§819.194. Countersignature by the CRD Director

The Commission adopts new §819.194 to require the CRD director to countersign every hearing officer's report and proposal for decision.

§819.195. Oral Argument before the Commission on Human Rights

The Commission adopts new §819.195 to authorize any party to a complaint to present an oral argument to the Commission on Human Rights before final determination.

§819.196. Pleading Before Order

The Commission adopts new §819.196 to authorize the CRD director to permit or request parties to submit briefs and proposed findings of fact after the hearing and before the final decision by the Commission on Human Rights.

§819.197. Form and Content of the Order

The Commission adopts new §819.197 to authorize the Commission on Human Rights to adopt, amend, or reject the hearing officer's proposal for decision and to set forth the conditions under which the Commission on Human Rights may vacate, modify, or change a finding of a proposed order.

§819.198. Final Order

The Commission adopts new §819.198 to specify the form that a final order shall take if it is adverse to any party, and the requirements for including findings of fact and conclusions of law.

§819.199. Rehearing

The Commission adopts new §819.199 to specify the procedures and timeliness for requesting a rehearing, after a final order is issued. In subsection (c), the Commission clarifies, without altering the process or substance of the rule, by identifying the three possible dispositions for a motion for rehearing. The new rule details the deadlines to be met by all parties involved.

§819.200. Judicial Review

The Commission adopts new §819.200 to allow a party involved in a complaint to file a petition for judicial review under the substantial evidence rule.

§819.201. Prohibited Interference, Coercion, Intimidation, or Retaliation

The Commission adopts new §819.201 to define what actions constitute unlawful conduct with regard to interfering with, coercing, intimidating, or retaliating against individuals involved with a housing discrimination issue.

SUBCHAPTER L. FAIR HOUSING FUND

§819.221. Fair Housing Fund

The Commission adopts new §819.221 to provide for the creation of a fund to receive gifts, grants, and assessments of financial penalties that may be used for the administration of the Texas Fair Housing Act.

PART III. COORDINATION ACTIVITIES

In the development of these rules for publication and public comment, the Commission sought the involvement of the chair of the Commission on Human Rights and the CRD director. During the public comment period, the Commission and the CRD director presented and explained the proposed rules to the Commission on Human Rights.

The Commission received public comments from:

Patricia Asip, member of the Texas Commission on Human Rights
Shara Michalka, member of the Texas Commission on Human Rights
Vanessa Gonzalez, Allison, Bass and Associates, L.L.P.

PART IV. RULE REPEAL

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

The repeal affects Title 4, Texas Labor Code, and Texas Labor Code, Chapter 21, relating to employment discrimination; Texas Property Code, Chapter 301, relating to housing discrimination; and Texas Government Code, Chapter 419, relating to firefighter test review.

SUBCHAPTER A. GENERAL PROVISIONS

§819.1. Definitions

§819.2. Purpose

§819.3. General Construction

§819.4. Authority

§819.5. Severability

§819.6. Availability

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SUBCHAPTER B. COMMISSION

§819.11. General Description

§819.12. Term of Office

§819.13. Meetings

§819.14. Reimbursements

§819.15. General Powers

§819.16. Civilian Workforce Composition

- §819.17. Review
 - §819.18. Merit Assessment
 - §819.19. Compliance Training for State Agencies
 - §819.20. Employee Training and Education
 - §819.21. Historically Underutilized Business Program
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SUBCHAPTER C. LOCAL COMMISSIONS

- §819.51. Deferral Authority
 - §819.52. Deferral Procedures
 - §819.53. Final Determination of a Local Commission
 - §819.54. Cooperative Agreements
 - §819.55. Eligibility
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SUBCHAPTER D. ADMINISTRATIVE REVIEW

- §819.71. Filing a Complaint
 - §819.72. Investigation of a Complaint
 - §819.73. Subpoena
 - §819.74. Dismissal of Complaint
 - §819.75. Reasonable Cause Determination
 - §819.76. Conciliation
 - §819.77. Notice to Complainant
 - §819.78. Failure to Issue Notice
 - §819.79. Access to Commission Records
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The new rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The new rules affect Title 4, Texas Labor Code, and Texas Labor Code, Chapter 21, concerning employment discrimination; Texas Property Code, Chapter 301, concerning housing discrimination; and the portions of Texas Government Code, Chapter 419, concerning firefighter test review.

CHAPTER 819. TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION

SUBCHAPTER A. GENERAL PROVISIONS

§819.1. Purpose

The purpose of this chapter is to implement the following statutory provisions: Texas Labor Code, Chapter 21 (relating to Employment Discrimination) and Chapter 301, Subchapter I (relating to Civil Rights Division); Texas Property Code, Chapter 301, (relating to Texas Fair Housing Act); and Texas Government Code, Chapter 419, Subchapter F (relating to Review of Fire Department Tests).

§819.2. Definitions

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

- (1) Commission on Human Rights -- The body of governance of the Texas Workforce Commission Civil Rights Division composed of seven members appointed by the Governor, as established under Texas Labor Code §301.153.
- (2) Complainant -- A person claiming to be aggrieved by a violation of Texas Labor Code, Chapter 21, or Texas Property Code, Chapter 301, and who files a complaint under one of these chapters.
- (3) CRD -- Texas Workforce Commission Civil Rights Division
- (4) CRD director -- The director, or authorized designee, of the Texas Workforce Commission Civil Rights Division, as established under Texas Labor Code §301.154.
- (5) Fair Employment Practices Agency -- A state or local government agency designated by the U.S. Equal Employment Opportunity Commission (EEOC) to investigate perfected employment discrimination complaints in the state or local government agency's jurisdiction.
- (6) Fair Housing Assistance Program Agency -- A state or local government agency designated by the U.S. Department of Housing and Urban Development (HUD) to investigate Fair Housing Act complaints in the state or local government agency's jurisdiction.
- (7) Party -- A person who, having a justiciable interest in a matter before CRD, is admitted to full participation in a proceeding concerning that matter.
- (8) Person -- One or more individuals or an association, corporation, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, the state, or a political subdivision or agency of the state.
- (9) Respondent -- A person against whom a complaint has been filed in accordance with Texas Labor Code, Chapter 21, or Texas Property Code, Chapter 301.

§819.3. Roles and Responsibilities of Commission on Human Rights, CRD, and CRD Director

- (a) Responsibilities of Commission on Human Rights:
 - (1) Establish policies for CRD;
 - (2) Appoint CRD director;
 - (3) Supervise CRD director in administering the activities of CRD;

- (4) Serve as the state Fair Employment Practices Agency that is authorized, with respect to unlawful employment practices, to:
 - (A) seek relief;
 - (B) grant relief; and
 - (C) institute criminal proceedings; and
- (5) Serve as the state Fair Housing Assistance Program Agency, with respect to unlawful housing practices, to:
 - (A) seek relief;
 - (B) grant relief; and
 - (C) institute criminal proceedings.

(b) Responsibilities of CRD:

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

(c) Agency Personnel Policies Applicable to CRD Director:

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

- (1) fails or refuses to refer for employment or discriminates in any other manner against an individual; or
 - (2) classifies or refers an individual for employment on that basis.
- (c) Discrimination by Labor Organization. A labor organization commits an unlawful employment practice if based on race, color, disability, religion, sex, national origin, or age, it:
- (1) excludes or expels from membership or discriminates in any other manner against an individual; or
 - (2) limits, segregates, or classifies a member or an applicant for membership, or classifies or fails or refuses to refer for employment an individual in a manner that:
 - (A) deprives or tends to deprive an individual of any employment opportunity;
 - (B) limits an employment opportunity or adversely affects in any other manner the status of an employee or of an applicant for employment; or
 - (C) causes or attempts to cause an employer to violate this subchapter.
- (d) Admission or Participation in Training Program. An employer, labor organization, or joint labor management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if based on race, color, disability, religion, sex, national origin, or age, it discriminates against an individual in admission to or participation in the program, unless a training or retraining opportunity or program is provided under an affirmative action plan approved by federal or state law, rule, or court order. The prohibition against discrimination based on age applies only to individuals who are at least 40 years of age but younger than 56 years of age.
- (e) Retaliation. An employer, employment agency, or labor organization, commits an unlawful employment practice based on race, color, disability, religion, sex, national origin, or age if the employer, employment agency, or labor organization, ~~or~~ retaliates or discriminates against a person who:
- (1) opposes a discriminatory practice;
 - (2) makes or files a charge;
 - (3) files a complaint; or

- (4) testifies, assists, or participates in any manner in an investigation, proceeding, or hearing.
- (f) Aiding or Abetting Discrimination. An employer, employment agency, or labor organization commits an unlawful employment practice if it aids, abets, incites, or coerces a person to engage in an unlawful discriminatory practice based on race, color, disability, religion, sex, national origin, or age.
- (g) Interference with the Commission on Human Rights and CRD. An employer, employment agency, or labor organization commits an unlawful employment practice if it willfully interferes with the performance of a duty or the exercise of a power by the Commission on Human Rights or CRD.
- (h) Prevention of Compliance. An employer, employment agency, or labor organization, commits an unlawful employment practice if it willfully obstructs or prevents a person from complying with Texas Labor Code, Chapter 21, or a rule adopted or order issued under Texas Labor Code, Chapter 21.
- (i) Discriminatory Notice or Advertisement
 - (1) An employer, employment agency, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if it prints or publishes or causes to be printed or published a notice or advertisement relating to employment that:
 - (A) indicates a preference, limitation, specification, or discrimination based on race, color, disability, religion, sex, national origin, or age; and
 - (B) concerns an employee's status, employment, or admission to or membership or participation in a labor organization or training or retraining program.
 - (2) A bona fide occupational qualification is an affirmative defense to discrimination.

SUBCHAPTER C. EQUAL EMPLOYMENT OPPORTUNITY REPORTS, TRAINING, AND REVIEWS

§819.21. Civilian Workforce Composition Report

CRD shall prepare a civilian workforce composition report pursuant to Texas Labor Code §21.0035 using the best available data from all appropriate sources.

§819.22. Review of Firefighter Tests

- (a) CRD shall review the initial tests administered by a fire department, as provided in Texas Government Code, Chapter 419. The initial tests defined as written tests, physical tests, and assessment center tests for firefighter positions, are used to measure the ability of a person to perform the essential functions of the position.
- (b) CRD shall use the Uniform Guidelines on Employee Selection Procedures, 29 C.F.R. 1607, to conduct the review of the administration of initial tests by fire departments.
- (c) CRD shall develop a list of recommended~~preapproved~~ tests for firefighter positions that are nationally recognized tests by independent authorities, that it has reviewed, certified, and deemed to be nondiscriminatory. The tests will be available on the Agency's Web site.
- (d) Fire departments that use tests from CRD's list of recommended~~preapproved~~ tests are presumed to be in compliance with the law against unlawful discrimination. However, if CRD perceives the need to review a fire department that is using such recommended~~preapproved~~ tests, nothing shall prevent such review.
- (e) Fire departments that use a test not included on the recommended~~preapproved~~ list shall submit, upon request by CRD, documentation regarding the reliability and validity of the chosen test.
- (f) Each fire department shall submit documentation concerning the administration of its initial tests, as required in this section. CRD shall perform a desk audit by reviewing these documents using risk-assessment criteria. Fire departments selected for a desk audit shall receive notice by mail. Documents to be submitted for a desk audit include, but are not limited to:
 - (1) a copy of the initial test used. If it is not from CRD's recommended~~preapproved~~ list of tests, then documentation regarding the reliability and validity of the test used;
 - (2) a description of how such test is administered and a copy of applicable policies and procedures governing the administration of such test; and
 - (3) information and documentation of prior complaints lodged against the fire department concerning discrimination in selection of personnel for a firefighter position.
- (g) CRD shall evaluate the requested information set forth in subsection (f) of this section as part of its risk-assessment analysis. Based on the analysis, fire departments may be selected for expanded review, including on-site investigation. CRD shall notify a fire department selected for expanded review by mail.

§819.23. Review of State Agency Policies and Procedures

- (a) CRD shall review the personnel policies and procedures of each state agency once every six years on a staggered schedule to determine compliance with ~~the~~ Texas Labor Code, Chapter 21.
- (b) CRD shall notify a state agency of its review of the agency's personnel policies and procedures by mail at the beginning of the fiscal year in which CRD is to conduct the review. The review of each state agency shall be completed and recommendations issued on or before the one-year anniversary date on which CRD issued its notification letter to the agency head.

§819.24. Standard Employment Discrimination Training

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

§819.25. Compliance Employment Discrimination Training

- (a) For purposes of this section, the term "complaint with merit" shall mean a complaint that is resolved, either by a cause finding or through withdrawal of the complaint with a remedy favorable to the complainant, such as a negotiated settlement, withdrawal with benefits, or conciliation.

- (b) State agencies receiving three or more complaints with merit within a fiscal year shall provide compliance employment discrimination training. The compliance training may be provided using a training program from CRD's preapproved list of training programs. If a state agency chooses to provide compliance training using a person or state agency not included on CRD's list of preapproved training programs, the training provider and the training program to be used by the person or state agency shall be reviewed and approved for compliance with CRD standards.
- (c) CRD's minimum standards for the content of compliance employment discrimination training shall include, but not be limited to, requiring participants to:
 - (1) distinguish between disparate treatment and disparate impact;
 - (2) identify the elements of a complaint involving disparate treatment and disparate impact;
 - (3) explain the defenses available to an employer resulting from both statute and case law involving disparate treatment and disparate impact;
 - (4) explain the burden of proof requirements for disparate treatment and disparate impact;
 - (5) identify criteria for accurately measuring compliance with applicable laws;
 - (6) define the different types of employment discrimination;
 - (7) identify the appropriate action to be taken in a situation involving a potential case of employment discrimination; and
 - (8) describe strategies for prevention of employment discrimination.

§819.26. Standard and Compliance Employment Discrimination Training Delivery

- (a) The minimum standards for the delivery of standard and compliance employment discrimination training shall include, but not be limited to:
 - (1) a determination of the effectiveness of the training;
 - (2) the use of training that takes advantage of technological advances, such as videos, CDs, and Web-based delivery systems; and
 - (3) the documentation of training that shall be provided to CRD, including the date the training was provided, description of the training program used, names of participants, and the agency contact person. Web-based training records may be retained electronically.

- (b) In addition to the minimum standards set forth in subsection (a) of this section, the delivery of compliance employment discrimination training shall be highly interactive to ensure the engagement of the trainee.

SUBCHAPTER D. EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS AND APPEALS PROCESS

§819.41. Filing a Complaint

- (a) A person may telephone, write, visit, e-mail, fax, or otherwise contact CRD or a local commission office recognized by EEOC as a Fair Employment Practices Agency to obtain information on filing a complaint with CRD.
- (b) At the complainant's request, CRD:
 - (1) shall counsel with the complainant about the facts and circumstances that constitute the alleged unlawful employment practice;
 - (2) shall assist the complainant in perfecting the complaint if the facts and circumstances appear to constitute an alleged unlawful employment practice; or
 - (3) may advise the complainant if the facts and circumstances presented to CRD do not appear to constitute an unlawful employment practice.
- (c) The complaint shall be filed in writing and under oath, and may be filed with CRD by mail, fax, or in person with:
 - (1) the CRD office on a CRD-provided form;
 - (2) an EEOC office; or
 - (3) a local commission office recognized by EEOC as a Fair Employment Practices Agency.
- (d) The complaint shall set forth the following information:
 - (1) Harm experienced by the complainant as a result of the alleged unlawful employment practice;
 - (2) Explanation, if any, given by the employer to the complainant for the alleged unlawful employment practice;
 - (3) A declaration of unlawful discrimination under federal or state law;

- (4) Facts upon which the complaint is based, including the date, place, and circumstances of the alleged unlawful employment practice; and
 - (5) Sufficient information to enable CRD to identify the employer, e.g., employer ID, business address, and business phone.
- (e) A complaint shall be filed within 180 days after the date on which the alleged unlawful employment practice occurred.
 - (f) A complaint may be withdrawn by a complainant only with the consent of the CRD director.
 - (g) A perfected complaint may be amended by the complainant to cure technical defects or omissions, or to clarify and amplify allegations made therein. Such amendment or amendments alleging additional acts that constitute unlawful employment practices related to or growing out of the subject matter of the original complaint shall relate back to the date the complaint was first filed. CRD shall provide a copy of the perfected complaint to the respondent. An amended perfected complaint shall be subject to the procedures set forth in applicable law.
 - (h) A respondent shall be mailed a copy of the perfected complaint within 10 days after CRD receives the perfected complaint. If CRD receives a complaint that is not perfected within 180 days of the alleged unlawful employment practice, CRD shall notify the respondent that a complaint has been filed and the process of perfecting the complaint is in progress.
 - (i) The complainant and respondent shall be notified periodically by CRD of the status of their perfected complaint, unless the notice would jeopardize an undercover investigation by another state, federal, or local government.

§819.42. Legal Representation

The complainant and respondent may be represented by an attorney or designated agent.

§819.43. Investigation of a Perfected Complaint

- (a) The CRD director shall determine the nature and scope of the investigation within the context of the allegations set forth in the perfected complaint.
- (b) CRD may, as part of a perfected complaint investigation, require a fact-finding conference with the complainant and the respondent prior to a determination on a perfected complaint. A fact-finding conference primarily is an investigative forum intended to define the issues, determine which elements are undisputed, and solicit information regarding the allegations.

- (4) a complainant fails to cooperate, fails or refuses to appear or to be available for interviews or conferences, or fails or refuses to provide requested information. Prior to dismissing the complaint, the complainant shall be notified and given a reasonable time to respond.
- (b) CRD shall notify the complainant and the respondent, and any agencies, as required by law, by mail of its dismissal of a complaint.
- (c) CRD shall notify the complainant, by mail, of the complainant's right to file a civil action against the respondent named in the perfected complaint pursuant to ~~the~~ Texas Labor Code §21.208 and §21.252, and §819.50 of this subchapter.

§819.47. Cause Determination

- (a) The CRD director shall review the investigation report and record of evidence to determine if there is reasonable cause to believe the respondent has engaged in an unlawful employment practice.
- (b) If after the review, the CRD director determines that reasonable cause exists, the CRD director shall confer with a panel of three commissioners of the Commission on Human Rights, as identified by the chair of the Commission on Human Rights. If at least two of the three commissioners concur with the CRD director's determination that the respondent has engaged in an unlawful employment practice, the CRD director shall issue a letter of cause determination. The cause determination letter shall be mailed to the complainant, respondent, and any agency as required by law and shall contain the CRD director's finding that the evidence supports the perfected complaint and include an invitation to participate in conciliation.

§819.48. Conciliation

- (a) When a letter of cause determination has been issued, CRD shall attempt to eliminate such unlawful employment practice by conciliation, and to secure a just resolution through a conciliation agreement signed by the complainant, respondent, and the CRD director.
- (b) CRD shall obtain proof of the respondent's compliance with a conciliation agreement before the case is closed.
- (c) CRD shall notify the complainant and respondent by mail of an unsuccessful conciliation agreement. CRD shall then inform the complainant by mail of the complainant's right to file a civil action against the respondent named in the perfected complaint, pursuant to Texas Labor Code §§21.208–21.252.

§819.49. No Cause Determination

A completed investigation may result in a determination that there is no reasonable cause to believe that the respondent has engaged in an unlawful employment practice as alleged in the perfected complaint. If after the review, the CRD director determines that no reasonable cause exists, the CRD director shall issue a letter of no cause determination. The no cause determination letter shall be mailed to the complainant, respondent, and any agency as required by law and shall contain the CRD director's finding that the evidence does not support the perfected complaint.

§819.50. Right to File a Civil Action

- (a) CRD shall inform the complainant by mail of:
 - (1) the dismissal of a complaint filed with CRD; or
 - (2) the expiration of 180 days after the date of filing of an unresolved complaint and the complainant's right to request from CRD a notice of right to file a civil action. Upon receipt of a written request, CRD shall issue a notice of right to file a civil action.
- (b) Before the expiration of 180 days after filing the complaint and upon a written request from a complainant, CRD shall issue a notice of right to file a civil action if:
 - (1) written confirmation by a physician licensed to practice medicine in Texas states that the complainant has a life threatening illness; or
 - (2) certification by the CRD director states that the administrative processing of the perfected complaint cannot be completed before the expiration of the 180th day after the complaint was filed. The certification shall take into account the exigent circumstances of the complainant.
- (c) The complainant's written request shall include the respondent's name, CRD complaint number, and EEOC complaint number if the complaint has been deferred by EEOC. CRD shall issue notice by mail no later than the fifth business day after receipt of the complainant's request.

§819.51. Failure to Issue Notice of Right to File a Civil Action

CRD's failure to issue a notice of right to file a civil action after 180 days from the date the complaint is received by CRD does not affect the complainant's right to bring a civil action against the respondent under Texas Labor Code §21.252(d).

§819.52. Judicial Enforcement

- (a) CRD may bring a civil action against a respondent named in a perfected complaint pursuant to the requirements of Texas Labor Code §21.251.

- (b) Upon a determination by CRD to bring a civil action, it shall notify the complainant by certified mail.
- (c) On a majority vote of the Commission on Human Rights, CRD may pursue intervention in a civil action pursuant to the requirements of Texas Labor Code §21.255.

SUBCHAPTER E. EQUAL EMPLOYMENT OPPORTUNITY DEFERRALS

§819.71. Equal Employment Opportunity Deferrals among Federal, State, and Local Agencies

For the purpose of satisfying the filing requirements of ~~the~~ Texas Labor Code §21.201, the following shall apply:

- (1) For a complaint filed with CRD over which EEOC has deferred jurisdiction, timeliness of the complaint shall be determined by the date the complaint is received by CRD.
- (2) For a complaint filed with EEOC and deferred to CRD, timeliness of the complaint shall be determined by the date on which the complaint is received by EEOC.
- (3) For a complaint filed with a local commission and deferred to CRD, timeliness of the complaint shall be determined by the date on which the complaint is received by the local commission.

§819.72. Requirements for a Local Commission

- (a) To be a local commission eligible to receive deferrals from CRD, pursuant to Texas Labor Code §§21.151–21.156, and this chapter, the following materials and information shall be submitted to CRD:
 - (1) A letter from EEOC verifying the local commission's designation as a Fair Employment Practices Agency;
 - (2) A copy of the local ordinance that prohibits practices designated as unlawful under Texas Labor Code, Chapter 21;
 - (3) A copy of rules, policies, and procedures governing the operations of the local commission;

- (4) A copy of an organizational chart of the internal structure of the local commission and its relationship to the governing authorities of the political subdivision or subdivisions of which it is a part; and
 - (5) A copy of the local commission's budget and resources.
- (b) Upon examination of the materials and information provided by a local commission, the CRD director shall provide written notification to the local commission of its eligibility to receive deferrals.
 - (c) If CRD determines that the local commission is not eligible to receive deferrals, it shall identify in writing the reasons and provide the local commission the necessary assistance to comply with the requirements established by Texas Labor Code §§21.151–21.156, and this chapter.

§819.73. Deferral to Local Commission

- (a) Texas Labor Code §21.155, grants to a local commission the exclusive right to take appropriate action within the scope of its power and jurisdiction to process a complaint deferred by CRD pursuant to the requirements of Texas Labor Code §21.155, and this chapter.
- (b) CRD shall not assume jurisdiction over a complaint deferred to a local commission, pursuant to Texas Labor Code §21.155, except:
 - (1) where the local commission defers a complaint under its jurisdiction to CRD;
 - (2) where the complaint is received by CRD within 180 days of the alleged violation but beyond the period of limitation of the appropriate local commission; and
 - (3) where the local commission has not acted on the complaint pursuant to the requirements of Texas Labor Code §21.155(c), and this chapter.

§819.74. Deferral Procedures

- (a) CRD shall defer a complaint subject to Texas Labor Code §21.155(a) to a local commission within five working days of the date the complaint is received.
- (b) A local commission may waive its right to the period of exclusive processing of a complaint with respect to any complaint or category of complaint by deferring a matter under its jurisdiction to CRD, pursuant to Texas Labor Code §21.156.
- (c) All complaints received by CRD subject to deferral to a local commission shall be dated and time stamped upon receipt.

- (d) CRD shall transmit a copy of a complaint it receives that is subject to deferral to a local commission by certified mail to the appropriate local commission. Proceedings by the local commission are deemed to have commenced on the date such complaint is mailed.
- (e) A local commission shall transmit to CRD by certified mail, a copy of a complaint deferred to it by EEOC and over which CRD has deferral jurisdiction.
- (f) CRD shall notify the complainant and respondent in writing that it has forwarded the complaint to the local commission.

§819.75. Final Determination of a Local Commission

- (a) A local commission shall submit to CRD by mail, a copy of the document from the local commission stating the final determination as to the merits of a deferred complaint, or a copy of the document stating the appropriate action taken by the local commission to resolve the practice alleged as discriminatory in a deferred complaint.
- (b) For purposes of satisfying Texas Labor Code §21.208 and §§21.251–21.256, a local commission shall submit to CRD by mail notification of the dismissal of a deferred complaint, or shall submit, within 120 days of the date the complaint is deferred by CRD, written notification if the local commission has not filed a civil action or has not successfully negotiated a conciliation agreement between the complainant and respondent. A local commission shall notify CRD within five working days if the local commission does not intend to act on a complaint deferred by CRD.

§819.76. Workshare Agreements

The Agency shall enter into workshare agreements with EEOC and local commissions to ensure an effective and integrated administrative review procedure, share information, and provide technical assistance and training.

SUBCHAPTER F. EQUAL EMPLOYMENT OPPORTUNITY RECORDS AND RECORDKEEPING

§819.91. Preservation and Use

CRD shall require a person under investigation to make and keep records pursuant to the requirements of Texas Labor Code §§21.301–21.303.

§819.92. Access to CRD Records

- (13) Interior -- The spaces, parts, components, or elements of an individual dwelling unit.
- (14) Modification -- Any change to the public or common use areas of a building or any change to a dwelling unit.
- (15) Premises -- The interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building.
- (16) Public use areas -- Interior or exterior rooms or spaces of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.
- (17) Site -- A parcel of land bounded by a property line or a designated portion of a public right of way.
- (18) Texas Fair Housing Act -- Texas Property Code, Chapter 301.
- (19) United States Fair Housing Act -- Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

SUBCHAPTER H. DISCRIMINATORY HOUSING PRACTICES

§819.121. Discrimination Based on Familial Status

It is an unlawful housing practice to discriminate based on familial status. Familial status includes:

- (1) pregnancy;
- (2) being domiciled with an individual younger than 18 years of age in regard to whom the person is the parent or legal custodian or has the written permission of the parent or legal custodian for domicile with that person; or
- (3) being in the process of obtaining legal custody of an individual younger than 18 years of age.

§819.122. Exemptions Based on Familial Status

- (a) The Texas Fair Housing Act regarding discrimination based on familial status does not apply to housing designed and operated specifically to assist elderly individuals.

- (b) The Texas Fair Housing Act does not apply to housing intended for and solely occupied by individuals 62 years of age or older. This exemption shall apply regardless of the fact that:
- (1) there were individuals residing in such housing on September 13, 1988, who were under 62 years of age, provided that all new occupants are 62 years of age or older;
 - (2) there are unoccupied units, provided that such units are reserved for occupancy for individuals 62 years of age or older; or
 - (3) there are units occupied by employees of the housing (and family members residing in the same unit) who are under 62 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.
- (c) The Texas Fair Housing Act does not apply to housing intended and operated for occupancy by individuals 55 years of age or older if:
- (1) at least 80% of the units in the housing facility are occupied by at least one person 55 years of age or older. However:
 - (A) a newly constructed housing facility for first occupancy after March 12, 1989, need not comply with this 80% occupancy requirement until 25% of the units in the facility are occupied; and
 - (B) a housing facility or community may not evict, refuse to renew leases, or otherwise penalize families with children in order to achieve occupancy of at least 80% of the occupied units by at least one person 55 years of age or older;
 - (2) the owner or manager of a housing facility publishes and adheres to policies and procedures that demonstrate an intent by the owner or manager to provide housing for individuals 55 years of age or older. The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of this paragraph:
 - (A) The manner in which the housing facility is described to prospective residents;
 - (B) The nature of any advertising designed to attract prospective residents;
 - (C) Age verification procedures;
 - (D) Lease provisions;
 - (E) Written rules and regulations;

- (F) Actual practices of the housing facility or community; and
 - (G) Public posting in common areas of statements describing the facility or community as housing for individuals 55 years of age or older; and
- (3) the housing facility satisfies the requirements of this section regardless of the fact that:
- (A) as of September 13, 1988, under 80% of the occupied units in the housing facility were occupied by at least one person 55 years of age or older, provided that at least 80% of the units that were occupied by new occupants after September 13, 1988, were occupied by at least one person 55 years of age or older;
 - (B) there are unoccupied units, provided that at least 80% of such units are reserved for occupancy by at least one person 55 years of age or older; and
 - (C) there are units occupied by employees of the housing facility (and family members residing in the same unit) who are under 55 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

§819.123. Discrimination in Sale, Rental, Terms, Conditions, Privileges, Services, and Facilities

- (a) It is unlawful to discriminate based on race, color, disability, religion, sex, national origin, or familial status by imposing different terms, conditions, or privileges relating to the sale or rental of a dwelling or to deny or limit services or facilities in connection with the sale or rental of a dwelling.
- (b) Prohibited actions under this section include, but are not limited to:
 - (1) using different provisions in leases or contracts of sale, such as those relating to rental charges, security deposits, and the terms of a lease and those relating to down payment and closing requirements based on race, color, disability, religion, sex, national origin, or familial status;
 - (2) failing to maintain or repair or delaying maintenance or repairs of sale or rental dwellings based on race, color, disability, religion, sex, national origin, or familial status;
 - (3) failing to process an offer for the sale or rental of a dwelling or to communicate an offer accurately based on race, color, disability, religion, sex, national origin, or familial status;

- (4) limiting the use of privileges, services, or facilities associated with a dwelling based on race, color, disability, religion, sex, national origin, or familial status; and
- (5) denying or limiting services or facilities in connection with the sale or rental of a dwelling because a person failed or refused to provide sexual favors.

§819.124. Other Prohibited Sale and Rental Conduct

- (a) It is unlawful to discriminate based on race, color, disability, religion, sex, national origin, or familial status by restricting or attempting to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying, or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood, or development. Prohibited practices under this section generally refer to unlawful steering practices that include, but are not limited to, discrimination by:
 - (1) discouraging any person from inspecting, purchasing, or renting a dwelling based on race, color, disability, religion, sex, national origin, or familial status in a community, neighborhood, or development;
 - (2) discouraging the purchase or rental of a dwelling based on race, color, disability, religion, sex, national origin, or familial status by exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or of a community, neighborhood, or development;
 - (3) communicating to a potential buyer or renter that he or she would not be comfortable or compatible with existing residents of a community, neighborhood, or development based on race, color, disability, religion, sex, national origin, or familial status; and
 - (4) assigning any person to a particular section of a community, neighborhood, or development or to a particular floor of a building based on race, color, disability, religion, sex, national origin, or familial status.
- (b) It is unlawful to discriminate based on race, color, disability, religion, sex, national origin, or familial status by engaging in any conduct relating to the provision of housing or of services and facilities in connection therewith that otherwise makes unavailable or denies dwellings to individuals. Prohibited sales and rental practices under this section include, but are not limited to, discrimination by:
 - (1) discharging or taking other adverse action against an employee, broker, or agent because he or she refused to participate in a discriminatory housing practice;

- (2) employing codes or other devices to segregate or reject potential buyers or renters; refusing to take or to show listings of dwellings in certain areas based on race, color, disability, religion, sex, national origin, or familial status; or refusing to deal with certain brokers or agents because they or one or more of their clients are of a particular race, color, disability, religion, sex, national origin, or familial status;
- (3) denying or delaying the processing of an application made by a potential buyer or renter or refusing to approve such a person for occupancy in a cooperative or condominium dwelling based on race, color, disability, religion, sex, national origin, or familial status; and
- (4) refusing to provide municipal services or property or hazard insurance for dwellings or providing such services or insurance differently based on race, color, disability, religion, sex, national origin, or familial status.

§819.125. Discriminatory Advertisements, Statements, and Notices

- (a) It is unlawful to discriminate based on race, color, disability, religion, sex, national origin, or familial status by making, printing, or publishing, or causing to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination, or an intention to make any such preference, limitation, or discrimination.
- (b) The prohibitions in this section shall apply to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Written notices and statements include any applications, flyers, brochures, deeds, signs, banners, posters, billboards, electronic communications, or any documents used with respect to the sale or rental of a dwelling.
- (c) Discriminatory notices, statements, and advertisements include, but are not limited to:
 - (1) using words, phrases, photographs, illustrations, symbols, or forms that convey that dwellings are available or not available to a particular group of individuals based on race, color, disability, religion, sex, national origin, or familial status;
 - (2) expressing to agents, brokers, employees, prospective sellers or renters, or any other individuals a preference for or limitation on any potential buyer or renter based on race, color, disability, religion, sex, national origin, or familial status;
 - (3) selecting media or locations for advertising the sale or rental of dwellings that deny particular segments of the housing market information about housing opportunities based on race, color, disability, religion, sex, national origin, or familial status; and

- (h) The CRD director may file a complaint when the CRD director receives information from a credible source that one or more individuals may have violated the rights of one or more individuals protected by the Texas Fair Housing Act. A complaint filed by the CRD director shall be considered for approval by the Commission on Human Rights at its first regularly scheduled meeting following the filing of the complaint. Upon a majority vote of the Commission on Human Rights, the complaint is approved and any investigation of the complaint shall continue. If the Commission on Human Rights does not approve the complaint, such complaint shall be withdrawn by CRD.
- (i) The complainant and respondent shall be notified periodically by CRD of the status of their complaint, unless the notice would jeopardize an undercover investigation by another state, federal, or local government.
- (j) Upon the acceptance of a complaint, the CRD director shall notify, by mail, each complainant on whose behalf the complaint was filed. The notice shall:
 - (1) acknowledge the filing of the complaint and state the date that the complaint was accepted for filing;
 - (2) include a copy of the complaint;
 - (3) advise the complainant of the time limits applicable to complaint processing and of the procedural rights and obligations of the complainant under the Texas Fair Housing Act and this chapter;
 - (4) advise the complainant of his or her right to commence a civil action under the Texas Fair Housing Act, Subchapter H, and federal law, not later than two years after the occurrence or termination of the alleged discriminatory housing practice. The notice shall state that the computation of this two-year period excludes any time during which an administrative hearing is pending under this chapter and Texas Fair Housing Act, Subchapter E, with respect to a complaint or charge based on the alleged discriminatory housing practice; and
 - (5) advise the complainant that retaliation against any person because he or she made a complaint or testified, assisted, or participated in an investigation, conciliation, or an administrative proceeding under this chapter is a discriminatory housing practice that is prohibited under the Texas Fair Housing Act and this chapter.

§819.152. Legal Representation

The complainant and respondent may be represented by an attorney or designated agent.

§819.153. Investigation of a Complaint

- (a) Upon the acceptance of a complaint under this chapter, CRD shall initiate an investigation. The CRD director may initiate an investigation to determine whether a complaint should be filed under this chapter and the Texas Fair Housing Act, Subchapter E. Such investigations shall be conducted in accordance with the procedures set forth in this chapter.
- (b) The CRD director shall determine the scope and nature of the investigation within the context of the allegations set forth in the complaint.
- (c) At all reasonable times in the complaint investigation, the CRD director shall have access to:
 - (1) necessary witnesses for examination under oath or affirmation; and
 - (2) records, documents, and other information relevant to the investigation of alleged violations of the Texas Fair Housing Act, for inspection and copying.
- (d) Within 20 days of the acceptance of a complaint or amended complaint under this chapter, the CRD director shall serve a notice on each respondent by regular mail. A person who is not named as a respondent in a complaint, but who is identified in the course of the investigation under the Texas Fair Housing Act, Subchapter E, and this chapter, as a person who is alleged to be engaged or to have engaged in the discriminatory housing practice upon which the complaint is based, may be joined as an additional or substitute respondent by service of a notice on the person under this section within 10 days of identification.
- (e) The notice to a respondent shall include, but not be limited to, the following:
 - (1) Identification of the alleged discriminatory housing practice upon which the complaint is based, and a copy of the complaint;
 - (2) Date that the complaint was accepted for filing;
 - (3) Time limits applicable to complaint processing under this chapter and the procedural rights and obligations of the respondent under the Texas Fair Housing Act, and this chapter, including the opportunity to submit an answer to the complaint within 10 days of the receipt of the notice;
 - (4) Complainant's right to commence a civil action under the Texas Fair Housing Act, Subchapter H, and federal law, not later than two years after the occurrence or termination of the alleged discriminatory housing practice; an explanation that the computation of the two-year period excludes any time during which an administrative hearing is pending under this chapter or the Texas Fair Housing Act, Subchapter E, with respect to a complaint or charge based on the alleged discriminatory housing practice;

- (5) If the person is not named in the complaint, but is being joined as an additional or substitute respondent, an explanation of the basis for the CRD director's belief that the joined person is properly joined as a respondent;
 - (6) Instruction that retaliation against any person because he or she made a complaint or testified, assisted, or participated in an investigation, conciliation, or an administrative proceeding under this chapter is a discriminatory housing practice that is prohibited under the Texas Fair Housing Act;
 - (7) Invitation to enter into a conciliation agreement for the purpose of resolving the complaint; and
 - (8) Initial request for information and documentation concerning the facts and circumstances surrounding the alleged discriminatory housing practice set forth in the complaint.
- (f) The respondent may file an answer not later than 10 days after receipt of the notice described in this section. The respondent may assert any defense that might be available to a defendant in a court of law. The answer shall be signed and affirmed by the respondent. The affirmation shall state: "I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge."
- (g) An answer may be reasonably and fairly amended at any time with the consent of the CRD director.
- (h) CRD may conduct discovery in aid of the investigation by the same methods and to the same extent that parties may conduct discovery in an administrative proceeding under the Texas Fair Housing Act, Subchapter E. The CRD director shall have the power to issue subpoenas described under the Texas Fair Housing Act, Subchapter D, in support of the investigation.
- (i) As part of the complaint investigation, CRD may request information relevant to the alleged violations of the Texas Fair Housing Act. In obtaining this information, CRD may use, but is not limited to using, any of the following:
- (1) Oral ~~oral~~ and video interviews and depositions;
 - (2) Written ~~written~~ interrogatories;
 - (3) Production ~~production~~ of documents and records;
 - (4) Requests ~~requests~~ for admissions;
 - (5) On-site ~~on-site~~ inspection of respondent's facilities;
 - (6) Written ~~written~~ statements or affidavits; or

- (7) ~~Other~~ Other forms of discovery authorized by the Administrative Procedure Act, Texas Government Code §§2001.081–2001.103, or the Texas Rules of Civil Procedure.
- (j) CRD may establish time requirements regarding responses to requests for information relevant to an investigation of alleged violations of the Texas Fair Housing Act. The CRD director may extend such time requirements for good cause shown.
- (k) As part of a complaint investigation, CRD may accept from the complainant or respondent a statement of position or information regarding the allegations in the complaint. CRD shall accept only a sworn or affirmed written statement of position submitted by the respondent setting forth the facts and circumstances relevant to an investigation of alleged violations of the Texas Fair Housing Act.
- (l) CRD shall complete the initial investigation of the alleged discriminatory housing practice within 100 days of the filing of the complaint.
- (m) The complaint shall remain open until a no reasonable cause determination is made, a charge is made, or a conciliation agreement is executed and approved under this chapter and the Texas Fair Housing Act, Subchapter E.
- (n) At the end of each investigation under this chapter, CRD shall prepare a final investigative report. The investigative report shall contain:
- (1) the names and dates of contacts with witnesses. The report shall not disclose the names of witnesses that request anonymity; however, the names of such witnesses may be required to be disclosed in the course of an administrative hearing or a civil action;
 - (2) a summary and the dates of correspondence and other contacts with the complainant and the respondent;
 - (3) a summary description of other pertinent records;
 - (4) a summary of witness statements; and
 - (5) answers to interrogatories.
- (o) A final investigative report may be amended if additional evidence is discovered.
- (p) CRD shall provide a summary of the final determination and shall make available the full investigative report to the complainant and the respondent.

§819.154. Pattern and Practice Complaints

When the CRD director determines that the alleged discriminatory practices contained in a complaint are pervasive or institutional in nature, or that the processing of the complaint may involve complex issues, questions of first impression, or may affect a large number of people, the CRD director may identify it as a pattern and practice complaint. This determination can be based on the face of the complaint or on information gathered in connection with an investigation. Pattern and practice investigations may focus not only on documenting facts involved in the complaint but also on review of other policies and procedures to ensure compliance with the nondiscrimination requirements of the Texas Fair Housing Act.

§819.155. Conciliation

- (a) During the period beginning with the filing of the complaint and ending with the filing of a charge or the dismissal of the complaint by the CRD director, CRD shall attempt to conciliate the complaint.
- (b) In conciliating a complaint, CRD shall attempt to achieve a just resolution of the complaint and to obtain assurances that the respondent will satisfactorily remedy any violations of the rights of the complainant, and take such action that will assure the elimination of discriminatory housing practices, or the prevention of their occurrence, in the future.
- (c) The terms of a settlement of a complaint shall be reduced to a written conciliation agreement. The conciliation agreement shall protect the interests of the complainant, other people similarly situated, and the public interest.
- (d) The agreement is subject to the approval of the CRD director, who shall indicate approval by signing the agreement. The CRD director shall approve an agreement and execute the agreement, only if:
 - (1) the complainant and the respondent agree to the relief; and
 - (2) the provisions of the agreement shall adequately protect the public interest.
- (e) CRD may issue a charge under the Texas Fair Housing Act and this chapter if the complainant and the respondent have executed an agreement that has not been approved by the CRD director.
- (f) CRD may terminate its efforts to conciliate the complaint if:
 - (1) the complainant or the respondent fails or refuses to confer with CRD;
 - (2) the complainant or the respondent fails to make a good faith effort to resolve any dispute; or

- (c) Upon examination of the materials and information provided by the municipality, the CRD director shall notify the municipality in writing as to the determination of its eligibility.

§819.172. Memoranda of Understanding

The Agency shall enter into memoranda of understanding with local municipalities qualified under §819.171 of this subchapter to ensure effective and integrated administrative review procedures, share information, and provide technical assistance and training.

SUBCHAPTER K. FAIR HOUSING ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW

§819.191. Administrative Hearings

Administrative hearings shall be conducted by the Agency's Special Hearings Department pursuant to the procedures set forth in Texas Government Code, Chapter 2001, Subchapters C–D, F–H, and Z.

§819.192. Ex Parte Communications

Except as provided in this chapter, and unless required for the disposition of ex parte matters authorized by law, no member of the Commission on Human Rights and no employee of the Agency assigned to propose a decision or assigned to propose or make findings of fact or conclusions of law in a case covered by this subchapter may communicate, directly or indirectly, in connection with any issue of fact or law with any person or party or any representative of either, except on notice and opportunity for all parties to participate.

§819.193. Proposal for Decision and Hearing Officer's Report

- (a) If the proposed decision is not adverse to any party to the hearing proceeding, the hearing officer may propose to the Commission on Human Rights a decision that need not contain findings of fact or conclusions of law.
- (b) The Commission on Human Rights shall not make a decision adverse to a party until a proposal for decision has been served on the parties, and an opportunity has been afforded each party adversely affected to file exceptions and present briefs to the Commission on Human Rights.
- (c) The proposal for decision shall be accompanied by a hearing officer's report. This report shall contain a statement of the nature of the case and a discussion of the issues, evidence, and applicable law.

- (d) Any penalty assessed by the hearing officer for an administrative violation shall be in accordance with Texas Fair Housing Act §301.112.

§819.194. Countersignature by the CRD Director

The CRD director shall countersign each hearing officer's report and proposal for decision.

§819.195. Oral Argument before the Commission on Human Rights

A party may request oral argument before the Commission on Human Rights before final determination. A request for oral argument may be incorporated in the exceptions, in a reply to the exceptions, or in a separate pleading.

§819.196. Pleading Before Order

The CRD director may permit or request parties to file briefs and proposed findings of fact at any time after the hearing and before final decision by the Commission on Human Rights. A party doing so shall file an original and 10 copies with the CRD director, certifying to the CRD director that each party has been served with a copy.

§819.197. Form and Content of the Order

- (a) After the time for filing exceptions and replies to exceptions has expired, the Commission on Human Rights shall consider the hearing officer's report and the proposal for decision. The Commission on Human Rights may adopt the proposal for decision; modify and adopt it; reject it and issue a Commission on Human Rights decision; or remand the matter to the hearing officer. The Commission on Human Rights shall render its decision or issue its final order within 60 days after the hearing closes. The hearing officer shall prepare the final order for the Commission on Human Rights.
- (b) It is the policy of the Commission on Human Rights to change a finding of fact or conclusion of law or to vacate or modify any proposed order from the hearing officer when the proposed order is:
 - (1) erroneous;
 - (2) against the weight of the evidence;
 - (3) based on insufficient review of the evidence;
 - (4) not sufficient to protect the public interest;

- (2) threatening, intimidating, or interfering with individuals in their enjoyment of a dwelling based on race, color, disability, religion, sex, national origin, or familial status of such individuals, or of visitors or associates of such individuals;
- (3) threatening an employee or agent with dismissal or an adverse employment action, or taking such adverse employment action, for any effort to assist a person seeking access to the sale or rental of a dwelling or seeking access to any residential real estate-related transaction, based on the race, color, disability, religion, sex, national origin, or familial status of that person or of any person associated with that individual;
- (4) intimidating or threatening any person because that person is engaging in activities designed to make other individuals aware of, or encouraging such other individuals to exercise rights granted or protected by this chapter; and
- (5) retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the Texas Fair Housing Act.

SUBCHAPTER L. FAIR HOUSING FUND

§819.221. Fair Housing Fund

- (a) A fair housing fund is a fund in the state treasury in the custody of the Texas Comptroller of Public Accounts.
- (b) Civil penalties assessed against a respondent under the Texas Fair Housing Act, Subchapters E and G, shall be deposited to the credit of the fair housing fund.
- (c) The Commission on Human Rights may use monies deposited to the credit of the fair housing fund for the administration of the Texas Fair Housing Act.
- (d) Gifts and grants received as authorized by the Texas Fair Housing Act, Subchapter D, shall be deposited to the credit of the fair housing fund.

~~Chapter 819. TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION~~

~~SUBCHAPTER A. GENERAL PROVISIONS~~

~~§819.1. Definitions~~

~~The following words and terms, when used in these chapters, shall have the following meanings, unless the context clearly indicates otherwise.~~

- ~~(1) Act—The Texas Commission on Human Rights Act, Texas Labor Code, §21.001 et seq., formerly Texas Revised Civil Statutes, Article 5221k, as amended by House Bill 860, Acts 1993, 73rd Legislature, Chapter 276 effective September 1, 1993. The 1995 codification of the Act in the Texas Government and Labor Codes now incorporates the 1993 legislative amendments to Article 5221k. Therefore, these rules refer to provisions of the amended Code.~~
- ~~(2) Age—"Because of" or "on the basis of age" refers only to discrimination because of age or on the basis of age against an individual 40 years of age or older. Nothing in the Texas Labor Code prohibits the compulsory retirement of any employee who has attained 65 years of age, and who, for the two year period immediately before retirement, is employed in a bona fide executive or high policy making position, if the employee is entitled to an immediate, nonforfeitable annual retirement benefit from a pension, profit sharing, savings, or deferred compensation plan, or any combination of plans, of the employer of the employee, that equals, in the aggregate, at least \$ 27,000. For purposes of the Texas Labor Code, §21.054(b), "because of age" refers only to discrimination because of age against an individual who is at least 40 years of age but younger than 56 years of age.~~
- ~~(3) Alternative dispute resolution—Mediation in which an impartial person facilitates communications between parties to promote voluntary settlement of the dispute.~~
- ~~(4) Bona fide occupational qualification—A qualification:
 - ~~(A) that is reasonably related to the satisfactory performance of the duties of a job; and~~
 - ~~(B) for which there is a factual basis for believing that no persons of the excluded group would be able to perform satisfactorily the duties of the job with safety and efficiency.~~~~
- ~~(5) Chairman—That member of the commission designated by the governor, pursuant to the Texas Government Code, §461.056.~~
- ~~(6) Commission—The Texas Commission on Human Rights.~~
- ~~(7) Commissioner—Any one of the duly appointed members of the commission, including the chairman, pursuant to the Texas Government Code, §461.051.~~
- ~~(8) Complainant—A person claiming to be aggrieved by an unlawful employment practice, or that person's agent who brings an action or proceeding under the Texas Labor Code.~~

- ~~(9) Complaint—A written statement made under oath or affirmation stating that an unlawful employment practice has been committed, setting forth the facts on which the complaint is based, including the dates, places, and circumstances of the alleged unlawful employment practice, and setting forth facts sufficient to enable the commission to identify the person charged.~~
- ~~(10) Court—The district court in a county in which the alleged unlawful employment practice that is subject of the complaint occurred or in a county in which the respondent resides.~~
- ~~(11) Deferral or referral—The same meaning pursuant to the Texas Labor Code, §21.155.~~
- ~~(12) Demonstrates—To meet the burdens of production and persuasion.~~
- ~~(13) Designee—An employee of the commission authorized to execute such duties, powers, and authority as may be conferred by the executive director subject to the provisions of the Texas Labor Code, the Texas Government Code, or these sections.~~
- ~~(14) Disability—With respect to an individual, a mental or physical impairment that substantially limits at least one major life activity of that individual, a record of such a mental or physical impairment, or being regarded as having such an impairment.~~
- ~~(A) The term does not include a person with a current condition of addiction to the use of alcohol or any drug or illegal or federally controlled substance.~~
- ~~(B) The term does not include a person with a currently communicable disease or infection, including, but not limited to, acquired immune deficiency syndrome or infection with the human immunodeficiency virus, that constitutes a direct threat to the health or safety of other persons or that makes the affected person unable to perform the duties of the person's employment.~~
- ~~(C) "Because of disability" or "on the basis of disability" refers to discrimination because of or on the basis of a physical or mental condition that does not impair an individual's ability to reasonably perform a job.~~
- ~~(D) Disabled is a person having a disability.~~
- ~~(15) Employee—An individual employed by an employer, including an individual subject to the civil service laws of the state or a political subdivision of the state; except that the term employee does not include an individual elected to public office in the state or a political subdivision of the state.~~
- ~~(16) Employer—A person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year and any agent of that person. The term includes an individual elected to public office in this state or a political subdivision of this state, or a political subdivision and any state agency or instrumentality, including public institutions of higher education, regardless of the number of individuals employed.~~

- ~~(17) — Employment agency — A person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer, including an agent of that person.~~
- ~~(18) — Executive director — The chief executive officer employed by the commission to execute such duties, powers, and authority as may be conferred by the commission subject to the provisions of the Act or these rules.~~
- ~~(19) — Federal government — The United States Equal Employment Opportunity Commission or any agency of the federal government enforcing the Rehabilitation Act of 1973.~~
- ~~(20) — Federal law — The Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972 and the Civil Rights Act of 1991, the Age Discrimination in Employment Act, as amended, the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act.~~
- ~~(21) — Government Code — The Texas Government Code, Title 4, Subtitle E, Chapter 461, §§461.001 — 461.101, as enacted by House Bill 752, Acts 1993, 73rd Legislature, Chapter 269, effective September 1, 1993, relating to the partial codification and adoption of nonsubstantive revisions of the Texas Commission on Human Rights Act.~~
- ~~(22) — Labor Code — The Texas Labor Code, Title 2, Subtitle A, Chapter 21, §§21.001–21.306, as enacted by House Bill 752, Acts 1993, 73rd Legislature, Chapter 269, effective September 1, 1993, relating to the partial codification and adoption of nonsubstantive revisions of the Texas Commission on Human Rights Act and as substantively amended by Senate Bill 959, Acts 1995, 74th Legislature, Chapter 76, effective September 1, 1995.~~
- ~~(23) — Labor organization — A labor organization engaged in an industry affecting commerce and includes:~~
- ~~(A) any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment;~~
 - ~~(B) any conference, general committee, joint or system board, or joint council so engaged that is subordinate to a national or international labor organization; and~~
 - ~~(C) an agent of a labor organization.~~
- ~~(24) — Local commission — Created by a political subdivision or two or more political subdivisions acting jointly pursuant to the Texas Labor Code, §21.152, and recognized as a deferral agency by the United States Equal Employment Opportunity Commission pursuant to the United States Civil Rights Act, Title VII, §706(e), as amended by the Equal Employment Opportunity Act of 1972, the Civil Rights Act of 1991, and the Americans With Disabilities Act.~~

- ~~(25) Local ordinance—An ordinance adopted and enforced by a local political subdivision that prohibits practices designated as unlawful under the Act or otherwise declared unlawful under federal or state law.~~
- ~~(26) National origin—The national origin of an ancestor.~~
- ~~(27) Person—One or more individuals or an association, corporation, joint stock company, labor union, legal representative, mutual company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, the state, or a political subdivision or agency of the state.~~
- ~~(28) Political subdivision—A county or municipality.~~
- ~~(29) Religion—All aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable reasonably to accommodate the religious observance or practice of an employee or applicant without undue hardship on the conduct of the employer's business.~~
- ~~(30) Respondent—An employer, employment agency, labor organization, or joint labor-management committee that controls an apprenticeship or other training or retraining program, including on-the-job training programs, or other person who is alleged to have committed an unlawful employment practice in a complaint filed with the commission or deferred by the federal government or the federal government has deferral jurisdiction over the subject matter of the complaint.~~
- ~~(31) Sex—"Because of" or "on the basis of sex" includes, but is not limited to, discrimination because of or on the basis of pregnancy, childbirth, or related medical conditions. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other individuals not so affected but similar in their ability or inability to work. An employer is not required by this Act to pay for health insurance benefits for abortion, except if the life of the mother would be endangered were the fetus carried to term. The Act does not preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.~~

~~*The provisions of this §819.1 adopted to be effective February 10, 1984, 9 TexReg 491; amended to be effective March 30, 1990, 15 TexReg 1516; amended to be effective July 5, 1994, 19 TexReg 4816; amended to be effective February 14, 1997, 22 TexReg 1330; amended to be effective June 28, 2001, 26 TexReg 4735; transferred effective March 1, 2004, as published in the Texas Register April 9, 2004, 29 TexReg 3653.*~~

~~§819.2. Purpose~~

~~These sections set forth the procedures established by the commission for executing its responsibilities in the administration and enforcement of the Act. Based on its experience in the administration of the Act and upon its evaluation of suggestions for amendments submitted by interested persons, the commission may from time to time amend and rescind these rules in accordance with the Administrative Procedure Act, Texas Government Code, Chapter 2001, Subchapter B, §§2001.021-038.~~

- ~~(7) Sexual Harassment: Sexual harassment should be defined in accordance with EEOC guidelines and court decisions. This discussion should identify that illegal discrimination based on sex occurs when submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual or when unwelcome sexual conduct unreasonably interferes with an individual's job performance or creates an intimidating, hostile, or offensive working environment. An exercise shall be included that gives examples of sexual harassment and explains sexual harassment in the context of EEO law. The Trainer should lead an interactive discussion of this exercise using actual case examples including court cases. The Trainer should have a thorough knowledge of sexual harassment covered under EEO law.~~
- ~~(b) The minimum standards for delivery of the equal employment opportunity compliance training program for supervisors and managers shall include, but not be limited to, the following requirements:~~
- ~~(1) This training program in its entirety should require approximately eight hours by a qualified Trainer who has a thorough knowledge of EEO law. The Trainer should have demonstrated competency in conducting face-to-face interactive training programs. Training program materials must at least include Trainee's Workbook and an Instructor's Manual.~~
 - ~~(2) The training material must accurately cover all applicable Federal and State EEO laws and include relevant examples including, but not limited to, actual cases and court decisions. The State agency or entity must ensure materials are updated as new laws and court decisions occur.~~
 - ~~(3) The training program must be developed so that it ensures that the delivery of the material is interactive with the maximum dialogue and discussion between Trainer and participants. Trainers shall have sufficient knowledge of EEO laws in order to provide participants with correct answers, responses, and explanations of all aspects of the training program including exercises. The training program must be developed in a manner that the material presented is user friendly and in plain language but appropriate for managerial and supervisory personnel at all levels.~~
 - ~~(4) The number of participants in a training session should not exceed forty (40) managers and supervisors in order to maximize interactive discussion and dialogue. Managers and supervisors include any personnel that have responsibilities or authority for making personnel decisions that can affect the employment opportunities of subordinates employees.~~
 - ~~(5) The State agency or entity must define methodology and responsibilities for:
 - ~~(A) Trainee's evaluation of the effectiveness of the program;~~
 - ~~(B) Contact person who can answer follow up technical assistance questions;~~
 - ~~(C) Schedule of training sessions and verification of participants; and~~
 - ~~(D) Documentation of the dates the training was provided, names of the persons attending training, agenda for the training program, and name of entity or person providing training.~~~~

- (6) ~~The training program must be approved by the Texas Commission on Human Rights.~~
- (7) ~~The trainer providing the training program must be certified by the Texas Commission on Human Rights through the Texas Commission on Human Rights' Training Academy.~~

The provisions of this §819.19 adopted to be effective December 5, 2000, 25 TexReg 11964; transferred effective March 1, 2004, as published in the Texas Register April 9, 2004, 29 TexReg 3653.

~~§819.20. Employee Training and Education~~

- (a) ~~The Commission may use state funds to provide training and education for its employees in accordance with the State Employees Training Act (Texas Government Code, §§656.044-656.049).~~
- (b) ~~The training or education shall be related to the duties or prospective duties of the employee.~~
- (c) ~~The Commission's training and education program will be designed to benefit both the Commission and the employees participating by:
 - (1) ~~preparing for technological and legal developments;~~
 - (2) ~~increasing work capabilities; and~~
 - (3) ~~increasing the competence of Commission employees.~~~~
- (d) ~~A Commission employee may be required to attend, as part of the employee's duties, a training or education program related to the employee's duties or prospective duties.~~
- (e) ~~Approval to participate in a training or education program is not automatic and is subject to the availability of funds within the Commission's budget.~~
- (f) ~~The employee training and education program for the Commission shall include:
 - (1) ~~agency sponsored training provided in-house or by contract;~~
 - (2) ~~seminars and conferences;~~
 - (3) ~~technical or professional certifications and licenses; and~~~~
- (g) ~~The executive director shall develop policies for administering each of the components of the employee training and education program. These policies shall include:
 - (1) ~~eligibility requirements for participation;~~
 - (2) ~~designation of appropriate level of approval for participation; and~~
 - (3) ~~obligations of program participants.~~~~
- (h) ~~The commission may pay for the salary, tuition, registration, and other fees, travel expenses, expense of training materials, and other expenses of an instructor, student, or other participant in a training or education program.~~

The provisions of this §819.20 adopted to be effective January 8, 2004, 29 TexReg 225; transferred effective March 1, 2004, as published in the Texas Register April 9, 2004, 29 TexReg 3653.

§819.21. Historically Underutilized Business Program

- (a) ~~The commission adopts by reference the rules of the Texas Building and Procurement Commission in 1 Texas Administrative Code, Part 5, Chapter 111, Subchapter B (relating to Historically Underutilized Business Program). Certification of a business as a historically underutilized business remains the responsibility of the Texas Building and Procurement Commission.~~
- (b) ~~The adoption of this rule is required by Texas Government Code, §2161.003 (as added by the 76th Legislature, effective September 1, 1999).~~

The provisions of this §819.21 adopted to be effective January 8, 2004, 29 TexReg 225; transferred effective March 1, 2004, as published in the Texas Register April 9, 2004, 29 TexReg 3653.

Subchapter C. Local Commissions

§819.51. Deferral Authority

~~The commission shall defer a complaint filed with it to a local commission within five working days pursuant to the Texas Labor Code, §21.155(a).~~

The provisions of this §819.51 adopted to be effective February 10, 1984, 9 TexReg 491; amended to be effective February 14, 1997, 22 TexReg 1331; amended to be effective June 27, 2001, 26 TexReg 4736; transferred effective March 1, 2004, as published in the Texas Register April 9, 2004, 29 TexReg 3653.

§819.52. Deferral Procedures

- (a) ~~For a complaint filed with the commission over which the federal government has deferred jurisdiction, timeliness of the complaint shall be measured by the date on which the complaint is received by the commission for the purpose of satisfying the filing requirements of the Texas Labor Code, §21.201.~~
- (b) ~~For a complaint deferred to the commission by the federal government, timeliness of the complaint shall be measured by the date on which the complaint is received by the federal government for the purpose of satisfying the filing requirements of the Texas Labor Code, §21.201.~~
- (c) ~~For a complaint deferred to the commission by a local commission, timeliness of the complaint shall be measured by the date on which the complaint is received by the local commission for the purpose of satisfying the filing requirements of the Texas Labor Code, §21.201.~~
- (d) ~~To encourage the maximum degree of effectiveness by local commissions, the commission shall endeavor to maintain close communication with respect to all matters forwarded to them and shall provide such assistance to local commissions as permitted by law and as is practicable.~~

- ~~(e) The Act grants a local commission the exclusive right to take appropriate action within the scope of its powers and jurisdiction to process a complaint deferred by the commission pursuant to the requirements of the Texas Labor Code, §21.155, and this chapter.~~
- ~~(f) A local commission may waive its right to the period of exclusive processing of a complaint provided by the Act with respect to any complaint or category of complaints by deferring a matter under its jurisdiction to the commission pursuant to the Texas Labor Code, §21.156.~~
- ~~(g) All complaints received by the commission subject to deferral to a local commission shall be dated and time stamped upon receipt.~~
- ~~(h) The original complaint shall be retained in a suspense file by the commission until the local commission has submitted a copy of its final determination to the commission; the commission has reassumed responsibility for the complaint after affording the local commission a reasonable time, but not less than 60 days, to remedy the practice alleged to be discriminatory in the deferred complaint; or the local commission has deferred the matter under its jurisdiction to the commission.~~
- ~~(i) A copy of a complaint received by the commission subject to deferral to a local commission shall be transmitted by registered or certified mail, return receipt requested, to the appropriate local commission. Proceedings by the local commission are deemed to have commenced on the date such complaint is mailed.~~
- ~~(j) A copy of a complaint deferred to a local commission by the federal government over which the commission has deferral jurisdiction shall be transmitted by registered or certified mail, return receipt requested, to the commission by the local commission.~~
- ~~(k) The complainant and respondent shall be notified in writing that the complaint received by the commission has been forwarded to the local commission.~~
- ~~(l) For purposes of satisfying the requirements of the Texas Labor Code, §21.155, the commission shall not assume jurisdiction over a complaint deferred to a local commission, except as follows:
 - ~~(1) where the local commission may defer a complaint under its jurisdiction to the commission;~~
 - ~~(2) where the complaint is received by the commission within 180 days of the alleged violation but beyond the period of limitation of the appropriate local commission;~~
 - ~~(3) where the local commission has not acted on the complaint pursuant to the requirements of the Texas Labor Code, §21.155(e), and this chapter.~~~~

The provisions of this §819.52 adopted to be effective February 10, 1984, 9 TexReg 491; amended to be effective July 5, 1994, 19 TexReg 4817; amended to be effective February 14, 1997, 22 TexReg 1331; amended to be effective June 27, 2001, 26 TexReg 4736; transferred effective March 1, 2004, as published in the Texas Register April 9, 2004, 29 TexReg 3653.

- (b) On receipt of a written request by a complainant, the commission shall issue within five business days the notice of right to file a civil action before the expiration of the 180th day after the date the complaint was filed under the following conditions:
- (1) the complainant has a life-threatening illness, as confirmed in writing by a physician licensed to practice medicine in this state; or
 - (2) The executive director certifies that the administrative processing of the complaint cannot be completed before the expiration of the 180th day after the complaint was filed. The executive director's certification shall take into account the exigent circumstances of the complainant. The complainant's written request shall include the name of the respondent, the commission's complaint number, and the United States Equal Employment Opportunity Commission's complaint number, if the complaint has been deferred by the federal government. The commission shall issue an expedited notice by registered or certified mail not less than the fifth business day after receipt of the complainant's request.
- (c) The commission shall delegate authority to issue notices of right to file civil actions to the executive director or his or her designee.

The provisions of this §819.77 adopted to be effective July 5, 1994, 19 TexReg 4819; amended to be effective February 14, 1997, 22 TexReg 1333; amended to be effective June 25, 2001, 26 TexReg 4736; transferred effective March 1, 2004, as published in the Texas Register April 9, 2004, 29 TexReg 3653.

§819.78. Failure to Issue Notice

The commission's failure to issue a notice of right to file civil action after 180 days from the date the complaint is received by the commission does not affect the complainant's right under the Texas Labor Code, §21.252(d), to bring a civil action against the respondent.

The provisions of this §819.78 adopted to be effective July 5, 1994, 19 TexReg 4819; amended to be effective February 14, 1997, 22 TexReg 1333; amended to be effective June 25, 2001, 26 TexReg 4736; transferred effective March 1, 2004, as published in the Texas Register April 9, 2004, 29 TexReg 3653.

§819.79. Access to Commission Records

Pursuant to the limitations established by the Texas Labor Code, §§21.304 — 21.305, the executive director shall, on written request of a party to a complaint filed under the Texas Labor Code, §21.201, allow the party access to the commission's records, unless the complaint has been resolved through a voluntary settlement or conciliation agreement, if:

- (1) following the final action of the commission a party to the complaint or the party's attorney certifies in writing that a civil action is to be filed under the Act within 60 days from the date of receipt of the commission's notice of right to file a civil action or a civil action under the Act is pending in state court; or
- (2) a party to the complaint or the party's attorney certifies in writing that a civil action relating to the complaint is pending in federal court alleging a violation of federal law.

The provisions of this §819.79 adopted to be effective July 5, 1994, 19 TexReg 4819; amended to be effective February 14, 1997, 22 TexReg 1333; amended to be effective June 25, 2001, 26 TexReg 4736; transferred effective March 1, 2004, as published in the Texas Register April 9, 2004, 29 TexReg 3653.

§819.80. Confidentiality

- (a) ~~No officer or employee of the commission may make public any information obtained by the commission under its authority under the Texas Labor Code, §§21.201—21.207, except as necessary to the conduct of a proceeding under this Act.~~
- (b) ~~No commissioner or employee of the commission may make public, without the written consent of the complainant and respondent, information about the efforts in a particular case to resolve an alleged discriminatory practice by conference, alternative dispute resolution, conciliation, or persuasion, whether or not there is a determination of reasonable cause.~~

The provisions of this §819.80 adopted to be effective July 5, 1994, 19 TexReg 4819; amended to be effective February 14, 1997, 22 TexReg 1333; amended to be effective June 25, 2001, 26 TexReg 4736; transferred effective March 1, 2004, as published in the Texas Register April 9, 2004, 29 TexReg 3653.

§819.81. Disposal of Files and Related Documents

~~The commission shall retain case files and related documents which have not been forwarded to EEOC for a period of two years after the administrative review procedures have been completed, except when a civil action has been filed in state court under the Texas Commission on Human Rights Act. At the conclusion of the two years, the case file and related documents shall be disposed of by the commission. When a civil action has been filed in state court, case files and related documents shall be retained until the final disposition of the lawsuit. Prior to disposing of case files and related documents, authorization shall be obtained from the state auditor's office and the state librarian. In a private cause of action under the Texas Commission on Human Rights Act, the commission shall be held harmless for disposing of case files and related documents when the parties to the lawsuit or their attorneys of record fail to notify the commission by certified letter that a lawsuit has been filed in state court.~~

The provisions of this §819.81 adopted to be effective July 5, 1994, 19 TexReg 4819; amended to be effective February 22, 1995, 20 TexReg 963; transferred effective March 1, 2004, as published in the Texas Register April 9, 2004, 29 TexReg 3653.

§819.82. Temporary Injunctive Relief

~~Based on a preliminary investigation of a complaint, the commission may seek temporary injunctive relief pursuant to the Texas Labor Code, §21.210.~~

The provisions of this §819.82 adopted to be effective July 5, 1994, 19 TexReg 4819; amended to be effective February 14, 1997, 22 TexReg 1333; amended to be effective June 25, 2001, 26 TexReg 4736; transferred effective March 1, 2004, as published in the Texas Register April 9, 2004, 29 TexReg 3653.

