

Rules of Department of Labor and Industrial Relations

Division 60—Missouri Commission on Human Rights Chapter 2—Procedural Regulations

Title	Page
8 CSR 60-2.010 Complaint Investigative and Conciliatory Process (Rescinded July 11, 1986).....	3
8 CSR 60-2.015 Definitions	3
8 CSR 60-2.020 Discovery of Evidence (Rescinded July 11, 1988).....	3
8 CSR 60-2.025 Complaint, Investigation and Conciliation Processes.....	4
8 CSR 60-2.030 Public Hearings (Rescinded July 11, 1988).....	6
8 CSR 60-2.035 Notice of Hearing	6
8 CSR 60-2.040 Orders (Rescinded July 11, 1988)	6
8 CSR 60-2.045 Parties at Hearing.....	6
8 CSR 60-2.050 Judicial Review (Rescinded July 11, 1988)	6
8 CSR 60-2.055 Practice by Attorneys	6
8 CSR 60-2.060 Practice Before the Commission and Certification (Rescinded July 11, 1988)	7
8 CSR 60-2.065 Pleadings	7
8 CSR 60-2.070 Amendments and Availability of Rules (Rescinded July 11, 1988)	7
8 CSR 60-2.075 <i>Ex Parte</i> Communications	7
8 CSR 60-2.080 Construction of Rules and Pleadings (Rescinded July 11, 1988).....	7
8 CSR 60-2.085 Disclosure of Information in Case Files at Hearing Stage.....	7
8 CSR 60-2.090 Prehearing Conferences	8
8 CSR 60-2.100 Prehearing Discovery	8



8 CSR 60-2.110	Subpoenas and Subpoenas <i>Duces Tecum</i>	9
8 CSR 60-2.120	Corresponding Petition in Federal Court	9
8 CSR 60-2.130	Continuances	9
8 CSR 60-2.140	Conduct of the Hearing.....	9
8 CSR 60-2.150	Evidence	10
8 CSR 60-2.160	The Record at Hearing	10
8 CSR 60-2.170	Settlement Negotiations	11
8 CSR 60-2.180	Stipulation	11
8 CSR 60-2.190	Default	11
8 CSR 60-2.200	Post-Hearing Procedure	11
8 CSR 60-2.210	Orders	12
8 CSR 60-2.220	Judicial Review	12
8 CSR 60-2.230	Certification of Record.....	12
8 CSR 60-2.240	Separability, Amendments and Availability of Rules	13
8 CSR 60-2.250	Construction of Rules and Pleadings.....	13
8 CSR 60-2.260	Election of Civil Action.....	13
8 CSR 60-2.265	Local Commissions	13

**Title 8—DEPARTMENT OF
LABOR AND
INDUSTRIAL RELATIONS
Division 60—Missouri Commission
on Human Rights
Chapter 2—Procedural Regulations**

**8 CSR 60-2.010 Complaint Investigative
and Conciliatory Process**
(Rescinded July 11, 1988)

8 CSR 60-2.015 Definitions

PURPOSE: This rule defines terms used in these rules.

(1) Where used in these rules, unless the context otherwise clearly requires—

(A) Commission, discrimination, unlawful discriminatory practice, dwelling, employer, employment agency, family, handicap, labor organizations, person, places of public accommodation, rent and age shall mean the same as those terms are used in the Act;

(B) The phrase a violation of sections 213.040, 213.045, 213.050 or 213.070, RSMo, to the extent that the alleged violation of 213.070, RSMo relates to or involves a violation of one (1) or more of such other sections or relates to or involves the encouraging, aiding or abetting of a violation of such other sections means an alleged violation of the section listing unlawful housing practices, the section prohibiting discrimination in commercial real estate loans, the section prohibiting discrimination in selling or renting by real estate agencies or the section listing additional unlawful discriminatory practices. However, for an alleged violation of the latter section to be applicable in this context, the alleged violation must relate to, involve or grow out of alleged unlawful housing practices, discrimination in commercial real estate loans or discrimination in selling or renting by real estate agencies. That is, an alleged violation of section 213.070, RSMo applies here when it is housing-related. The following examples illustrate this definition:

1. Example: A complaint is filed under section 213.070(2), RSMo alleging retaliation for filing a prior complaint. To be within the meaning of the phrase defined at subsection (1)(A), the prior complaint must have alleged an unlawful housing practice, discrimination in commercial real estate loans or discrimination in selling or renting by real estate agencies;

2. Example: A complaint is filed under section 213.070(1), RSMo alleging that a person attempted to aid, abet, incite, compel

and coerce the commission of acts prohibited by sections 213.040, 213.045 or 213.050, RSMo. This complaint would be within the meaning of the phrase defined in the subsection; and

3. Example: A real estate broker is told by his/her supervisor not to show a particular house to blacks. S/he refuses because it is unlawful discrimination. The broker is fired and files a complaint under section 213.070, RSMo. As this is housing-related, the broker would have the right of election of forums after his/her case is set for hearing;

(C) The term Act shall mean the Missouri Human Rights Act (Chapter 213, RSMo);

(D) The term aggrieved shall mean injured or having suffered loss, denial or disparate treatment;

(E) The term any person claiming to be aggrieved by an unlawful discriminatory practice shall include any person who:

1. Claims to have been injured or to have suffered loss, denial or disparate treatment from a discriminatory practice; or

2. Believes that s/he will be injured or will suffer loss, denial or disparate treatment from a discriminatory practice that is about to occur;

(F) The term chairperson shall mean the chairperson of the Missouri Commission on Human Rights and the term commissioner shall mean any member, including the chairperson of the Missouri Commission on Human Rights;

(G) The term complainant shall mean a person who files a complaint with the commission, including the attorney general in the case of a complaint initiated by the attorney general or the complainant's agent;

(H) The term complaint shall mean an allegation of a violation of the Act filed with the commission in accordance with the provisions of the Act and these rules;

(I) The term executive director shall mean an employee of the commission, selected by, and serving at the will of the commission as executive director, who shall have duties, powers and authority as may be conferred upon him/her by the commission, subject to the provisions of the Act;

(J) The term housing for older persons means housing—

1. Provided under any state or federal program that the commission determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program. This definition is deemed to be met if the Department of Housing and Urban Development determines the program in question is specifically designed and operated to assist elderly persons;

2. Intended for, and solely occupied by, persons sixty-two (62) years of age or older;

3. Intended and operated for occupancy by at least one (1) person fifty-five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the following factors are required:

A. The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of these facilities and services is not practicable, that this housing is necessary to provide important housing opportunities for older persons; and

B. That at least eighty percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and

C. The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older; or

4. Meeting the following requirements:

A. Persons residing in this housing as of September 13, 1988 who do not meet the age requirements of (1)(J)2. and 3. shall not disqualify this as housing for older persons; provided, that new occupants of this housing meet the age requirement of (1)(J)2. and 3.

B. Unoccupied units shall not disqualify this as housing for older persons; provided, that these units are reserved for occupancy by persons who meet the age requirements of (1)(J)2. and 3.

(K) The term presiding officer shall mean either the presiding commissioner of the hearing panel or a hearing examiner appointed pursuant to section 213.075.5, RSMo; and

(L) The term respondent shall mean a person against whom a complaint has been filed in accordance with the Act and these rules.

*AUTHORITY: sections 213.030 and 213.040, RSMo (Cum. Supp. 1992). *Original rule filed April 15, 1988, effective July 11, 1988. Amended: Filed Dec. 2, 1992, effective June 7, 1993.*

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.040, RSMo (1986), amended 1992.*

8 CSR 60-2.020 Discovery of Evidence
(Rescinded July 11, 1988)

**8 CSR 60-2.025 Complaint, Investigation and Conciliation Processes**

PURPOSE: This rule sets forth the procedures encompassing filing, investigating and conciliating a complaint. This rule should be read in conjunction with Chapters 213 and 536, RSMo.

- (1) **Who May File.** Any person claiming to be aggrieved by an unlawful discriminatory practice may personally or by agent file with the commission a written and verified complaint of the practice. A person filing a complaint as the agent of a person claiming to be aggrieved, must file with the complaint a statement signed by the person claiming to be aggrieved authorizing the agent to file the complaint. Assistance in preparing and filing complaints shall be available to any complainant at any office of the commission. The attorney general also may file a complaint.
- (2) **Complaint Form.** Every complaint shall be in writing, signed and verified by being sworn to before a notary public, or other person duly authorized by law to administer oaths and take acknowledgements, or by being supported by an affirmation or declaration in writing under penalty of perjury. The complaint shall state facts supporting the allegations of unlawful discriminatory practice and the person against whom the complaint is filed. The complaint shall be upon forms furnished by the commission or Equal Employment Opportunity Commission (EEOC) or other federal agencies which have work-sharing or deferral agreements with the commission, or a local commission which has been certified as substantially equivalent by the commission.
- (3) **Time of Filing.** Any complaint filed under Chapter 213, RSMo shall be filed within one hundred eighty (180) days of the alleged unlawful discriminatory practice or its reasonable discovery.
- (4) **Place and Manner of Filing.** A complaint shall be deemed filed on the date actually received by the commission, a commissioner or a member of the commission's staff when filed in person and on the date postmarked when filed by mail, or in the case of a complaint originally filed with the United States EEOC or other federal agencies, which have worksharing or deferral agreements with the commission or a local commission which has been certified as substantially equivalent by the commission upon the date it is actually received by that commission. If the alleged unlawful practice is of a continuing nature, the last date of this practice shall be deemed to be the last date on which the practice continued, or the date of the filing of the complaint, whichever is earlier. Copies of all complaints filed with a local commission which has been certified as substantially equivalent by the commission are to be forwarded to the commission within seven (7) days of the filing of the complaint with the local commission. If a local commission has jurisdiction to hear a complaint filed with the commission, a complaint shall be deemed to have been filed with the local commission on the date on which the complaint was filed with the commission. Within seven (7) days of the receipt of a complaint which a local commission has jurisdiction to hear, the commission shall forward a copy of the complaint to the local commission.
- (5) **Amendment of the Complaint During Investigation.** The executive director, his/her designee or the complainant shall have the power, reasonably and fairly to amend the complaint. The original complaint and all amendments shall be treated together as a single complaint. A complaint may be amended in any way provided the amended complaint is filed within the time permitted under 8 CSR 60-2.025(3) for the filing of an original complaint. After expiration of the time for filing an original complaint, amendment of a complaint shall also be permitted to cure technical defects or omissions and to clarify and amplify allegations made in the complaint. Amendments alleging additional acts which constitute unlawful discriminatory practices related to or growing out of the subject matter of the original complaint shall relate back to the date the complaint was first received. These amendments may join a person who was not named as a respondent in the original complaint as an additional or substitute respondent. Notice of this joinder shall be served upon the additional or substitute respondent within thirty (30) days after the commission's receipt of a complaint amended in this manner. The commission's notice also shall state the reason the person has been joined as a party.
- (6) Any time prior to issuance of a notice of public hearing, a complaint may be withdrawn upon written request and with the written consent of the executive director.
- (7) **Dismissal of Complaint.**
(A) If the executive director or his/her designee shall determine, either upon the face of the complaint or after investigation, that the complaint shall be dismissed due to lack of probable cause the same shall be dismissed.
(B) A complaint may be administratively closed by the executive director or his/her designee at any stage prior to setting the case for public hearing—
 1. For failure of the complainant to cooperate with the commission;
 2. Upon the commission's inability to locate the complainant;
 3. For lack of jurisdiction;
 4. In the absence of any remedy available to the complainant;
 5. When the complainant files a suit in federal court on the same issues against the respondent named in the commission complaint;
 6. When the commission has not completed its administrative processing within one hundred eighty (180) days from the filing of the complaint and the person aggrieved requests in writing a notice of the right to bring a civil action in state court, the executive director or his/her designee will administratively close the complaint and issue the notice; or
 7. In any other circumstance where the executive director deems administrative closure to be appropriate.

(C) The parties shall be notified by mail of the commission's dismissal or administrative closure and of complainant's right of appeal.

(D) The executive director or his/her designee may vacate a dismissal or administrative closure of a complaint within one hundred eighty (180) days of the date of the original letter of notification when the dismissal or administrative closure was inappropriate due to an administrative error.

(E) Any person aggrieved by dismissal of a complaint may obtain judicial review by filing a petition in the circuit court of the county of proper venue within thirty (30) days after the mailing or delivery of the notice of dismissal. Judicial review shall be in the manner provided by Chapter 536, RSMo for noncontested cases.

(8) **Service of Complaint upon Respondent.** A copy of the complaint shall be served by the commission upon the respondent by mail or personal service, not more than thirty (30) calendar days after a verified complaint has been received by the commission. This requirement shall apply only to those complaints received after the effective date of these rules (July 11, 1988). This requirement shall not apply to any complaint which shall have been dismissed prior to the time the service is required. This requirement shall not apply to any complaint filed originally with the EEOC or other federal agencies which have worksharing or deferral agreements with the commission or a local commission which

has been certified as substantially equivalent by the commission which shall be deemed properly served if service is effected according to the requirements of the agency with which the complaint is originally filed. This requirement shall not apply to any complaint which is under jurisdictional determination prior to docketing or in which a housing or public accommodations test is being conducted; however, the complaint shall be served within thirty (30) days of the conclusion of the jurisdictional determination or of the test. In complaints alleging a violation of sections 213.040, 213.045, 213.050 or 213.070, RSMo to the extent that the alleged violation of 213.070, RSMo relates to or involves a violation of one (1) or more of such other sections or relates to or involves the encouraging, aiding or abetting of a violation of such other sections, when the complainant and respondent are served copies of the complaint, the complainant shall be advised of the time limits and choice of forums provided under the law and respondent shall be notified of his/her procedural rights and obligations under the law.

(9) Investigation. As part of the investigation of any complaint not dismissed prior to service of the complaint upon the respondent, the respondent shall be given an opportunity to present an oral or written statement of its position. Investigations shall be accomplished by methods including, but not limited to, fact-finding conferences, personal interviews, written interrogatories, tests, requests for production of documents, books or papers, or other materials and reviews of investigations of other civil rights agencies. If a respondent refuses to cooperate with the investigation, information needed may be subpoenaed. The secretary to the commission shall issue subpoenas. Subpoenas shall be processed in accordance with the provisions of Chapter 536, RSMo. For complaints alleging violation of section 213.070, RSMo, as it relates to or involves alleged violations of section 213.040, 213.045 or 213.050, RSMo, or as it relates to or involves the alleged encouraging, aiding or abetting the violation of these sections and for complaints alleging violations of sections 213.040, 213.045 or 213.050, RSMo, the following shall apply:

(A) The commission shall commence proceedings with respect to the complaint before the end of the thirtieth day after receipt of the complaint;

(B) The commission shall investigate the allegations of the complaint and, unless it is impracticable, complete the investigation in no more than one hundred (100) days after

receipt of the complaint. If the commission is unable to complete the investigation within one hundred (100) days, it shall notify the complainant and respondent in writing of the reasons for not doing so; and

(C) Unless it is impracticable to do so, the commission shall make final administrative disposition of a complaint within one (1) year of the date of receipt of a complaint. If the agency is unable to do so, it shall notify the complainant and respondent in writing of the reasons for not doing so.

(10) Service of the Finding of Probable Cause. If, after investigation, the executive director shall find probable cause to credit the allegations of the complaint, that finding of probable cause shall be filed with the secretary to the commission. Not more than fifteen (15) calendar days after the filing, the commission shall serve, by certified mail or personal service upon the complainant and the respondent, a copy of the complaint and all amendments to the complaint, a copy of the finding of probable cause, a copy of the commission's procedural regulations and notice that conciliation shall be attempted.

(11) Conciliation Attempts. Where the executive director or his/her designee determines that there is probable cause to credit the allegations of the complaint that an unlawful discriminatory practice has occurred or is occurring, the executive director or his/her designee shall endeavor to eliminate that practice by informal methods of conference, conciliation and persuasion. In conciliating a case, the executive director or his/her designee shall attempt to achieve a resolution agreeable to the parties of all violations found and to obtain an agreement that the respondent will eliminate the unlawful discriminatory practice and provide appropriate relief.

(12) Conciliation Agreement. If, after a finding of probable cause, and as a result of conference, conciliation and persuasion, the executive director or his/her designee shall determine that the alleged unlawful discriminatory practice of which complaint is made will be remedied and eliminated by appropriate remedial action to which the parties agree, the terms of the remedial action shall be reduced to a written agreement and shall be signed by the respondent and the complainant and by the executive director or his/her designee on behalf of the commission. The written agreement shall constitute a final and enforceable order of the commission.

(13) Compliance Reports. The commission may require any party to submit to the com-

mission those compliance reports as it deems necessary to show the manner of compliance with the terms of any conciliation agreement or settlement agreement to which the parties and the commission may have agreed. The commission may require the posting of fair employment, fair housing or fair public accommodations posters at the respondent's establishment.

(14) Failure of Conciliation.

(A) If the respondent does not respond within fifteen (15) calendar days after the receipt of the proposed conciliation remedy, the executive director or his/her designee may determine that conciliation has failed as a result of inactivity on the part of the respondent.

(B) If the executive director is unable to eliminate the alleged unlawful discriminatory practice by conference, conciliation and persuasion, the executive director or his/her designee shall make a determination that conciliation has failed. Conciliation fails when either the respondent, the executive director or his/her designee, or the complainant refuses to sign a conciliation agreement, or the respondent or complainant otherwise indicates unwillingness to conciliate.

(15) Disclosure of Information in the Case Files.

(A) Nothing said or done in the course of settlement or conciliation negotiations of employment or public accommodations complaints shall be made public or used in evidence in any subsequent proceeding under Chapter 213, RSMo without the written consent of the complainant and respondent. Any settlement or conciliation agreement of a complaint alleging violation of section 213.070, RSMo, as it relates to or involves alleged violations of section 213.040, 213.045 or 213.050, RSMo, or as it relates to or involves the alleged encouraging, aiding or abetting the violation of these sections or for a complaint alleging violation of section 213.040, 213.045 or 213.050, RSMo shall be made public unless the parties otherwise agree and the executive director determines that disclosure is not required to further the purpose of Chapter 213, RSMo.

(B) If a complaint has been filed pursuant to Chapter 213, RSMo alleging commission of an unlawful discriminatory practice—

1. During investigation, the public shall not have access to records relating to the complaint, nor shall any information relating to the complaint be released to the public;

2. During investigation, the complainant and respondent only shall have access to records they provided until the point at which

disclosure is allowed at hearing, or if a request for civil action is made under section 213.111, RSMo for a right to sue or other legal proceedings pursuant to federal, state or local discrimination laws that require disclosure;

3. After closure of a complaint after investigation or prior to notice of hearing, the public may only have access to the complaint and closure documents or information contained in them, by agreement of the complainant and respondent;

4. Excluding a finding of probable cause, after an investigation closure, the complainant and respondent may have access to the investigative file except for sensitive or confidential records and records relating to witnesses who have been granted anonymity. With respect to records that the commission has obtained from other government agencies, the commission will observe any statutory confidentiality provisions imposed on the originating agency. Sensitive or confidential records include medical or personnel records of persons not party to the complaint;

5. After failure of conciliation attempts, the complainant and respondent may have access to copies of the investigative file, except for sensitive or confidential records or records relating to witnesses who have requested anonymity;

6. After a notice of hearing has been issued, the official records of the hearing shall be open; and

7. To achieve the purposes of Chapter 213, RSMo, this rule shall not apply to disclosure of information to representatives of interested federal, state or local civil or human rights agencies.

(C) No information concerning intragovernmental advisory or deliberative functions shall be disclosed.

*AUTHORITY: sections 213.030, RSMo (Supp. 1995) and 213.075, 213.077, 213.085 and 213.111, RSMo (1994).** Original rule filed April 15, 1988, effective July 11, 1988. Amended: Filed Dec. 2, 1992, effective June 7, 1993. Amended: Filed July 1, 1996, effective Dec. 30, 1996.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992, 1993, 1995; 213.075 and 213.085, RSMo (1986), amended 1992; 213.077, RSMo (1992); and 213.111, RSMo (1986), amended 1992.*

8 CSR 60-2.030 Public Hearings
(Rescinded July 11, 1988)

8 CSR 60-2.035 Notice of Hearing

PURPOSE: This rule indicates the requirements of the notice to the parties of a public hearing.

(1) Upon the failure of conciliation efforts, the chairperson, his/her designee or the person designated as acting chairperson, if in his/her judgement circumstances so warrant, may order the case set for public hearing before a panel of commissioners or before a hearing examiner. Notice of public hearing shall be served on all parties not less than thirty (30) days prior to the scheduled date of hearing except as otherwise provided in 8 CSR 60-2.130. The notice of public hearing shall be accompanied by a copy of the complaint, as it may have been amended. The notice of public hearing and accompanying documents shall be served by certified mail or by personal service.

(2) Proof of service shall consist of either the verified return of the individual who made service, which return shall set forth the manner of service. Proof of service by certified mail shall consist of the signed return receipt from the certified mail.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).** Original rule filed April 15, 1988, effective July 11, 1988.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.040 Orders
(Rescinded July 11, 1988)

8 CSR 60-2.045 Parties at Hearing

PURPOSE: This rule indicates the parties at a public hearing and their duties and responsibilities.

(1) The complaint shall be presented by an attorney of the staff of the attorney general before a commission panel or a hearing examiner.

(2) The commission shall be a party to the action.

(3) The complainant may be present at the hearing, with or without counsel. Within the limitations allowed by the presiding officer before the hearing date, the complainant may file motion to intervene in person or by coun-

sel. The motion to intervene shall be granted, and the complainant after this shall be designated as the complainant-intervenor and shall be a party to the action with the right to submit oral testimony and other evidence and examine and cross-examine witnesses. The complainant, whether intervening or not, shall be treated as a party for discovery purposes.

(4) The respondent shall be a party to the proceedings and may be present at the hearing, with or without counsel. The respondent shall be allowed in person or by counsel, to examine and cross-examine witnesses, and may submit oral testimony and other evidence. If the respondent is a corporation, it shall be represented by an attorney.

(5) At the discretion of the presiding officer, any person other than complainant may be allowed to intervene, in person or by counsel, for the purposes and to the extent as the presiding officer shall determine.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).** Original rule filed April 15, 1988, effective July 11, 1988. Amended: Filed Dec. 2, 1992, effective June 7, 1993.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.050 Judicial Review
(Rescinded July 11, 1988)

8 CSR 60-2.055 Practice by Attorneys

PURPOSE: This rule addresses who may practice before the commission and attorneys filing entries of appearance.

(1) Only persons who are licensed attorneys admitted to practice in this state or permitted to practice in Missouri by the Missouri Supreme Court rules will be permitted to practice before the commission. An individual who is a party may act as his/her own attorney. A corporation shall be represented by an attorney.

(2) The attorney representing any party in any proceedings under the Act shall file an entry of appearance with the presiding officer, and after that all notices, orders and other documents served by the commission shall be served upon the attorney instead of upon the party s/he represents, until the attorney or the

party notifies the presiding officer in writing that the attorney no longer represents or is authorized to represent the party.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).**
Original rule filed April 15, 1988, effective July 11, 1988.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.060 Practice Before the Commission and Certification (Rescinded July 11, 1988)

8 CSR 60-2.065 Pleadings

PURPOSE: This rule defines the form and procedures for the filing of pleadings during the public hearing process.

(1) After a contested case has been set for public hearing, the complaint may be amended by the commission or the complainant-intervenor within time limits set by the presiding officer, to cure technical defects or omissions, including to clarify and amplify allegations made in the complaint. Any amended complaint filed by the commission or the complainant-intervenor shall be served upon the parties by certified mail or by personal service. Proof of service, as described in 8 CSR 60-2.035(2) and amended complaints, shall be filed with the presiding officer. The original complaint and all amendments shall be treated together as a single complaint. An answer to a complaint or amended complaint shall not be required. If no answer is filed, the allegations in the complaint or amended complaint shall be deemed denied. However, if an answer is filed, any allegation in the complaint not answered shall be deemed admitted. Any affirmative allegation and any allegation of new matter contained in an answer shall be deemed denied without the necessity of a reply. Any answer filed must be within the time limits as may be established by the presiding officer.

(2) All papers and copies for filing and service shall be typewritten on good white paper eight and one-half by eleven inches (8 1/2 × 11") in approximate size. Copies may be reproduced by any printing or duplicating process providing a clear image.

(3) Each document shall bear on the first page the caption, descriptive title and number of the matter in which it is filed and shall

identify the party on whose behalf it is filed. Each document shall contain on the final page the name, address and telephone number and Missouri bar number of the attorney in active charge of the case, or name, address and telephone number of the party if appearing *pro se*.

(4) The original of all depositions shall be filed with the presiding officer. A copy of interrogatories, answers to interrogatories, objections to interrogatories, if any, and responses to these objections, requests to produce, objections to requests to produce, if any, and responses to these objections, shall be filed with the presiding officer, with a copy being served on each party. The original and three (3) copies of all other pleadings and documents shall be filed with the presiding officer, with a copy being served on each party. Copies of all written communications to the presiding officer shall be served on all other parties.

(5) When service of any notice, rule, order, pleading, motion or other paper is required, proof of service shall be filed with the presiding officer. Proof of service, except when otherwise noted, may be shown by acknowledgement or receipt or by affidavit or by written certificate of counsel making that service.

(6) Any document submitted by a party that is received by the presiding officer beyond the established number of days for submittal may be disregarded by the presiding officer.

(7) Where a party requires additional time to submit any document, a written request for the extension must be submitted to the presiding officer and shall include the positions of all parties to the request. The request shall be filed prior to the expiration of the time period for the document in question. The presiding officer may grant an extension of time only in situations where the need for more time is due to circumstances beyond the control of the party so requesting or where refusal to extend the time would create an undue hardship on the party so requesting. The presiding officer shall notify the party who requested the extension whether it will be allowed.

(8) Where an extension of time is allowed, the presiding officer shall advise the participant who did not file the request of the extension and the new due date and that the participant shall have the same extension of time.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).**
Original rule filed April 15, 1988,

effective July 11, 1988. Amended: Filed Dec. 2, 1992, effective June 7, 1993.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.070 Amendments and Availability of Rules (Rescinded July 11, 1988)

8 CSR 60-2.075 Ex Parte Communications

PURPOSE: This rule indicates inappropriate communications between the parties or their representatives, the presiding officer and commission members.

(1) A party or his/her representative shall not communicate, directly or indirectly, with a presiding officer or any member of the commission in connection with any issue of fact or in connection with any other substantive issue relating to a specific case except upon notice and opportunity for all parties to participate.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).**
Original rule filed April 15, 1988, effective July 11, 1988.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.080 Construction of Rules and Pleadings (Rescinded July 11, 1988)

8 CSR 60-2.085 Disclosure of Information in Case Files at Hearing Stage

PURPOSE: This rule identifies what information may be disclosed and what information shall not be disclosed.

(1) After failure of conciliation attempts, the complainant and respondent may have access to copies of the investigative file, except for sensitive or confidential records or records of witnesses who have been granted anonymity. Sensitive or confidential records include medical or personnel records of persons not party to the complaint.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).**
Original rule filed April 15, 1988,

effective July 11, 1988. Amended: Filed Dec. 2, 1992, effective June 7, 1993.

*Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.

8 CSR 60-2.090 Prehearing Conferences

PURPOSE: This rule describes the procedures and scope of prehearing conferences.

(1) The presiding officer may hold prehearing conferences for the purpose of facilitating the hearing process, ruling on motions and making other determinations as may be necessary for the efficient functioning of the hearing process.

(2) These prehearing conferences shall be held by telephone conference call unless the presiding officer shall decide an in-person conference is required.

(3) The purpose of the prehearing conference shall be to—

- (A) Determine the date, location and length of the hearing;
- (B) Simplify the issues;
- (C) Obtain admissions as to, or stipulations of, facts not remaining in dispute, or authenticate documents which might properly shorten the hearing;
- (D) Determine and discuss the status of discovery; and
- (E) Determine other matters as may properly be dealt with to aid in expediting the orderly conduct and disposition of the proceeding.

(4) All parties will be expected at the prehearing conference to be fully prepared for a useful discussion of all problems involved in the proceeding, both procedural and substantive and be fully authorized to make commitments with respect to all problems. This preparation should include, among other things, advance study of all relevant material and advance informal communication between the participants, including requests for additional data and information, to the extent it appears feasible and desirable. Failure of a party to participate in the prehearing conference, after being served with due notice of the time and place shall preclude the party from objecting to agreements reached, if any, and any order or ruling with respect to the agreements. Agreements, orders or rulings, for good cause shown, may be set aside at any time before the date of hearing of the case, upon terms as shall be just.

(5) The presiding officer at any conference may determine and rule upon any matters which s/he is authorized to rule upon during the course of the proceeding. In addition, where it appears that the proceeding would be substantially expedited by distribution of proposed exhibits reasonably in advance of the hearing, the presiding officer at his/her discretion and with due regard for the convenience and necessity of the parties, may direct advance distribution by a prescribed date. The rulings of the presiding officer made at any conference shall control the subsequent course of the hearing, unless modified for good cause shown.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).**
Original rule filed April 15, 1988, effective July 11, 1988.

*Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.

8 CSR 60-2.100 Prehearing Discovery

PURPOSE: This rule describes the procedures and scope of prehearing discovery.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) General Provisions Governing Discovery. The presiding officer shall follow the procedural rules as set out in these rules as well as the Missouri Rules of Civil Procedure and Chapters 213 and 536, RSMo. Any party may take and use written interrogatories, requests for production of documents and other materials, and requests for admissions and all other forms of discovery authorized by rules of civil procedure in civil actions in the circuit court.

(2) Depositions. Any party to a hearing may take and use depositions in the same manner, upon the same notice as is or may be hereafter provided in Chapter 536, RSMo and the Missouri Rules of Civil Procedure. No part of a deposition shall constitute a part of the record in a proceeding, unless received as evidence by the presiding officer. Objection may be made at the hearing in the proceeding

to receiving in evidence any deposition or part of the deposition for any reason which would require the exclusion of the evidence if the witnesses were then present and testifying.

(3) Use of Interrogatories.

(A) Interrogatories. Any party may serve upon any other party written interrogatories to be answered by the party or an agent of the party. The party serving the interrogatories also shall file copies of the interrogatories with the presiding officer. No party shall serve on any other party more than thirty-five (35) interrogatories in the aggregate (including subsections) without leave of the presiding officer or the consent of opposing counsel. Any party desiring to serve additional interrogatories shall file a written motion setting forth the proposed additional interrogatories and reasons establishing good cause for the additional interrogatories. Any number of additional interrogatories may be filed and served if the written consent of counsel for the party to which interrogatories are directed is attached to the interrogatories.

(B) Responses and Objections. Responses and objections to interrogatories shall be filed with the presiding officer according to the same provisions as stated in the Missouri Rules of Civil Procedure.

(4) Use of Admissions.

(A) Request for Admissions. After a case is set for hearing, a party may serve upon any other party a written request for the admission by the latter of the genuineness of any relevant documents described in and exhibited with the request or of the truth of any relevant and material matter of fact set forth in the request. Copies of the documents shall be served with the request unless copies have already been furnished. Each matter of which an admission is requested shall be separately set forth.

(B) Responses and Objections. The matter is admitted unless, within twenty (20) days after service of the request, or within a shorter or longer time as the presiding officer may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter.

(C) Effect of Admissions. Any matter admitted under this rule is conclusively established unless the presiding officer on motion permits withdrawal or amendment of the admission.

(5) Use of Requests to Produce.

(A) Requests to Produce. Any party may serve on any other party a request 1) to produce and

permit the party making the request to inspect and copy, any designated documents or to inspect and copy, test or sample any tangible things which constitute or contain matters within the scope of discovery and which are in the possession, custody or control of the party upon whom the request is served; or 2) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying and photographing, testing or sampling the property or any designated object or operation on the property within the scope of discovery. The request shall set forth the items to be inspected either by individual item or by category and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place and manner of making the inspection and performing the related acts.

(B) Response or Objection to Requests to Produce. The party upon whom the request is served shall serve a written response within twenty (20) days after the service of the request except as the presiding officer may allow. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified.

(6) Discovery subpoenas and subpoenas *duces tecum* shall be issued in the same manner and under the conditions as stated in 8 CSR 60-2.110.

(7) The panel or hearing examiner shall have the authority to impose sanctions in the same manner as set forth in the rules of civil procedure, except that they shall not have the authority to issue an order treating as a contempt of court the failure to obey.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).** Original rule filed April 15, 1988, effective July 11, 1988. Amended: Filed Dec. 2, 1992, effective June 7, 1993.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.110 Subpoenas and Subpoenas *Duces Tecum*

PURPOSE: This rule describes the procedure for the issuance of subpoenas and subpoenas duces tecum.

(1) The commission, through the secretary to the commission, shall issue subpoenas upon the request of any party. Subpoenas shall be processed in accordance with the provisions of Chapter 536, RSMo.

(2) The commission, in appropriate circumstances, shall issue subpoenas *duces tecum* upon the request of any party. Requests for issuance of a subpoena *duces tecum* shall be in writing and shall include the name of the person to be served; the date for his/her appearance; and a description of books, papers, records or documents sought to be subpoenaed.

(3) Requests for the issuance of subpoenas and subpoenas *duces tecum* shall be directed to the presiding officer appointed for the case.

(4) Fees. Where a subpoena or a subpoena *duces tecum* is requested and issued at the instance of any party to a hearing or other proceeding, the responsibility for service and the cost of the subpoena, witness and mileage fees shall be borne by the party at whose instance it has been requested and issued, unless otherwise ordered by the commission. Witness and mileage fees shall be paid in the same manner as paid in civil actions before the circuit courts.

(5) Failure to Obey a Subpoena. Subpoenas and subpoenas *duces tecum* shall be enforced as provided in Chapter 536, RSMo.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).** Original rule filed April 15, 1988, effective July 11, 1988.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.120 Corresponding Petition in Federal Court

PURPOSE: This rule indicates what may happen to a case before the commission where the complainant files corresponding petition in federal court.

(1) Where the complainant files a petition in federal or state court based on the same allegation, occurrence, incident and cause of action as is the basis for the complaint before the commission, the commission may dismiss or administratively close the complainant's complaint in the matter pending before the commission.

AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992). Original rule filed April 15, 1988, effective July 11, 1988.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.130 Continuances

PURPOSE: This rule describes the process of requesting continuances of public hearings.

(1) The presiding officer may continue a public hearing or prehearing conference upon a showing of good cause. Before a party requests a continuance, the requesting party shall contact the other parties to determine whether they object to the continuance and to determine mutually acceptable dates to which the hearing or conference may be rescheduled and the information shall be included in the party's motion for continuance. When a public hearing is continued, the parties shall be notified in writing of the new hearing date within a reasonable time in advance of the new hearing date. Any order granting a continuance shall be served on the parties by certified mail or personal service.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).** Original rule filed April 15, 1988, effective July 11, 1988.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.140 Conduct of the Hearing

PURPOSE: This rule describes the conduct of a public hearing.

(1) A hearing will be conducted by a commission panel or a hearing examiner pursuant to of section 213.075.3.

(2) After a case has been set for hearing, only the commission panel may make a final disposition of the case. The presiding officer shall have full power and authority to control the procedure of the hearing, to admit or exclude testimony or other evidence, to rule upon all motions or objections, to call and examine witnesses, to issue subpoenas and subpoenas *duces tecum* in accordance with 8 CSR 60-2.110, to direct the production of papers or other matters during the hearing and to take such other actions necessary and

proper in expediting the order conduct and disposition of the proceeding.

(3) Two (2) or more complaints may be consolidated for purposes of public hearings by the presiding officer.

(4) The presiding officer shall make full inquiry into all the facts and issues and shall obtain a full and complete record of all facts necessary for a fair determination of the issues.

(5) No cameras, lights or mechanical recording devices shall be operated in the hearing room while a hearing is in progress, other than by personnel of the commission or by a court reporter pursuant to 8 CSR 60-2.160(2) except as permitted by Missouri Supreme Court Rules of Civil Procedure.

(6) The presiding officer may exclude from the hearing room or otherwise prevent from further participation during a hearing, any person who engages in improper conduct during a hearing. Contempt before a presiding officer shall be had as provided in Chapter 536, RSMo.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992). * Original rule filed April 15, 1988, effective July 11, 1988. Amended: Filed Dec. 2, 1992, effective June 7, 1993.*

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.150 Evidence

PURPOSE: This rule describes the introduction of evidence at a public hearing.

(1) Rulings on evidence offered at public hearing shall be made in accordance with Chapter 536, RSMo and established rules of evidence. Objections or motions not ruled on at the hearing shall be considered with the record. Evidence concerning terms or offers of settlement made during endeavors to conciliate shall not be admitted into the record.

(2) When objections to the admission or exclusion of evidence before the presiding officer are made, the grounds relied upon shall be stated briefly.

(3) All testimony to be taken at the hearing, except matters officially noticed or entered by stipulation, shall be sworn or affirmed. This

may include testimony given on deposition or by affidavit.

(4) Expert Testimony.

(A) The presiding officer may require, at least ten (10) days prior to hearing, that the parties to the hearing—

1. Identify each person expected to be called as an expert witness at the hearing;

2. State the subject matter on which the expert is expected to testify; and

3. State the substance of the facts and opinions to which the expert is expected to testify.

(B) Where the presiding officer determines that a party failed to timely comply in providing the information required under section (4)(A) of this rule, the witnesses and any previously offered testimony by the witnesses may be excluded from the hearing.

(5) Interpreter.

(A) When a handicapped person, or person who cannot speak or understand the English language, is involved in a contested case hearing, the person is entitled to a qualified interpreter. In order to obtain the services of an interpreter, a party must notify the presiding officer ten (10) days prior to the date the interpreter will be needed.

(B) Upon receipt of the request, the presiding officer shall arrange for the services of an interpreter and shall notify the parties of the identity of the interpreter. The commission shall compensate the interpreter where necessary.

(C) Commission staff may serve as interpreter where the party(ies) consent and so state on the record.

(6) Exhibits shall be marked upon receipt by the presiding officer and the markings shall identify the party offering an exhibit. Admitted and excluded exhibits shall be preserved by the commission as part of the record of the proceedings. Excluded exhibits shall be retained by the presiding officer only if the party seeking to introduce a document as an offer of proof specifically requests the document to be placed in an excluded exhibit file.

(7) All paper exhibits shall be no larger than eight and one-half by eleven inches (8 1/2 × 11") in size and the party presenting an exhibit must submit to the presiding officer the exhibit and three (3) copies of the exhibit and shall provide one (1) copy to each of the other parties at the time the exhibit is marked.

(8) Larger exhibits are allowed; however, in order to be included in the record, the information contained in the exhibit must be

reduced to paper eight and one-half by eleven inches (8 1/2 × 11") in size by the party offering the exhibit.

(9) Variation from the requirements in sections (1)–(8) will be allowed only in cases where there is no reasonable alternative.

(10) The presiding officer may take notice of judicially recognizable facts and of general, technical or scientific facts. The parties shall be notified at any time during a proceeding of material officially noticed and they will be afforded the opportunity to contest the facts so noticed. The notice required by this section shall be given to the party prior to the issuance of decision and order in the matter.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992). * Original rule filed April 15, 1988, effective July 11, 1988.*

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.160 The Record at Hearing

PURPOSE: This rule defines what constitutes the record of the public hearing.

(1) The record of the hearing shall include the notice of hearing; the verified complaint and any amendments; the answer, if any, and any amendments; the finding of probable cause; the affidavit of failure of conciliation; the transcript of the testimony taken at the hearing; exhibits and depositions admitted into evidence; written applications, motions and stipulations; briefs submitted by the parties; orders entered by the presiding officer; suggested findings of fact, conclusions of law, decision and order submitted by the parties; the hearing examiner's findings of fact, conclusions of law and recommended decision and order; exceptions of the parties to the recommended decision; the final findings of fact, conclusions of law and decision and order of the commission; and all other pleadings. The record shall not include rejected exhibits. Prehearing discovery filed with the commission shall not be a part of the record unless specifically received into evidence at the hearing.

(2) A verbatim record of the proceedings shall be made and kept. The testimony may be recorded by a stenographer, by video-tape, by audio-tape or by any other means which will insure that a verbatim record of the proceedings is made. Any party may request that

the hearing be recorded by a court reporter. The party requesting the reporter shall bear the costs of the reporter's appearance and of the original transcript, which shall be submitted to the commission as the official transcript. If no reporter is requested, the commission shall suitably record and transcribe the proceedings.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).** Original rule filed April 15, 1988, effective July 11, 1988.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.170 Settlement Negotiations

PURPOSE: This rule describes the process of settlement negotiations and settlements at the hearing stage.

(1) Where a settlement of the case is reached by the parties prior to or after the public hearing, the parties shall sign the necessary documents and submit these documents to the presiding officer within the time ordered by the presiding officer.

(2) Where a case is settled by parties on the date of hearing, the terms of the settlement shall be placed on the record and the appropriate documentation submitted in writing after that to the presiding officer within the time ordered by the presiding officer.

(3) Where the parties fail to complete and submit a written, signed settlement, within the time ordered, the presiding officer may again schedule the case for hearing.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).** Original rule filed April 15, 1988, effective July 11, 1988.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.180 Stipulation

PURPOSE: This rule describes the scope of stipulations and possible waiver of a public hearing.

Upon written motion of the parties and with approval of the presiding officer, the parties, may stipulate to the facts and waive a public hearing. The hearing examiner shall then

issue recommended findings of fact, conclusions of law and a decision and order to the commission panel based upon the stipulation. Where a commission panel hears the case, it shall then issue findings of fact, conclusions of law, a decision and order.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).** Original rule filed April 15, 1988, effective July 11, 1988.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.190 Default

PURPOSE: This rule describes the procedures when a party fails to appear at a public hearing and for requesting relief from that default.

(1) Default may occur where a party has been served with Notice of Hearing and fails to appear at the scheduled hearing.

(2) Unless notified by the party, the presiding officer shall wait no longer than thirty (30) minutes from the time set for the hearing in the Notice of Hearing to commence the hearing.

(3) When the respondent fails to appear at the specified time and place for the hearing, the moving party shall proceed to present evidence in support of the complaint, which shall constitute the sole evidentiary basis for disposition and the respondent shall be deemed to have waived any evidentiary and other objections at the hearing.

(4) A final order supporting the complaint may be rendered only where the contested case record demonstrates a *prima facie* case supporting that document.

(5) The commission panel, in its discretion and upon those terms as may be just, at any time within thirty (30) days after the final decision and order has been issued, may relieve a party from such an order taken against that party where the party establishes that the default was the result of an excusable mistake or circumstances beyond the control of the party.

(6) The request for relief shall be in writing directed to the commission and shall be accompanied by—

(A) A written statement(s), together with documentation, setting forth the facts sup-

porting the alleged excusable mistake or the circumstances beyond the control of the party; and

(B) The opposing party shall have ten (10) days to reply to the request for relief.

*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992).** Original rule filed April 15, 1988, effective July 11, 1988.

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.200 Post-Hearing Procedure

PURPOSE: This rule describes the procedures to be followed after a public hearing has been held.

(1) The parties may file suggested findings of fact, conclusions of law and briefs within the time limits as the presiding officer may determine. When a hearing is conducted by a hearing examiner, the hearing examiner shall make findings of fact, conclusions of law and a recommended decision and order and send them to the parties who may file exceptions to those recommendations within time limits set by the hearing examiner. Any new facts presented or new issues raised in exceptions shall not be considered by the commission in preparation of the final decision and order. The same hearing examiner who presides at the evidentiary hearing of the case shall make the recommended decision and order except where that hearing examiner becomes unavailable to the commission.

(2) The commission panel shall review the record as set forth in 8 CSR 60-2.160(1) and either adopt or amend the hearing examiner's findings of fact and conclusions of law. The panel shall then issue its decision along with the findings of fact and conclusions of law to support its decision. A majority of the commission panel shall be sufficient to render a decision for the panel. However, each panel member shall sign the order indicating his/her concurrence or disagreement. A panel member disagreeing with the decision may file a dissenting opinion.

(3) The commissioners to serve on a commission panel as described in section (2) shall be selected by the chief hearing examiner. The chairperson or a designated commissioner shall make this selection in the absence of the chief hearing examiner.



*AUTHORITY: sections 213.030 and 213.075, RSMo (Cum. Supp. 1992). * Original rule filed April 15, 1988, effective July 11, 1988.*

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.075, RSMo (1986), amended 1992.*

8 CSR 60-2.210 Orders

PURPOSE: This rule establishes the content, issuance, service and filing of orders.

(1) An order of a hearing panel issued after hearing shall set forth the findings of fact, conclusions of law and final decision and order.

(2) If, upon all the evidence, the hearing panel shall find that a respondent has not engaged in any unlawful discriminatory practices, the hearing panel shall state its findings of fact and shall issue and cause to be served on the complainant and respondent an order dismissing the complaint as to the respondent.

(3) If, upon all the evidence of a complaint alleging a violation of section 213.070, RSMo as it relates to or involves alleged violations of section 213.040, 213.045 or 213.050, RSMo or as it relates to or involves the alleged encouraging, aiding or abetting the violations of these sections and for complaints alleging violations of section 213.040, 213.045 or 213.050, RSMo, the hearing panel finds that a respondent has engaged, or is about to engage in any unlawful discriminatory practices, the hearing panel shall state its findings of fact and conclusions of law and shall issue and cause to be served on the complainant and respondent an order for relief as may be appropriate. The relief may include, but is not limited to, the following:

(A) The hearing panel may order the respondent to pay damages to the aggrieved person (including damages caused by deprivation of civil rights, emotional distress and humiliation). No order shall affect any contract, sale, encumbrance or lease consummated before the issuance of the decision that involved a bona fide purchaser, encumbrancer or tenant without actual knowledge of the complaint issued under 8 CSR 60-2.025 and section 213.075, RSMo; and

(B) The hearing panel may assess a civil penalty against the respondent to vindicate the public interest.

1. The amount of the civil penalty may not exceed—

A. Two thousand dollars (\$2000), if the respondent has not been adjudged to have committed any prior discriminatory housing practice in any administrative hearing or civil action permitted under Chapter 213, RSMo or Title VIII of the Civil Rights Act of 1968;

B. Five thousand dollars (\$5000), if the respondent has been adjudged to have committed one (1) other discriminatory housing practice in any administrative hearing or civil action permitted under Chapter 213, RSMo or Title VIII of the Civil Rights Act of 1968 and the adjudication was made during the five (5)-year period preceding the date of filing of the complaint; or

C. Ten thousand dollars (\$10,000), if the respondent has been adjudged to have committed two (2) or more discriminatory housing practices in any administrative hearings or civil actions permitted under Chapter 213, RSMo and Title VIII of the Civil Rights Act of 1968 and the adjudications were made during the seven (7)-year period preceding the date of the filing of the complaint.

2. If the acts constituting the discriminatory housing practice that are the subject of the complaint were committed by the same natural person who has previously been adjudged in any administrative proceedings or civil action to have committed acts constituting a discriminatory housing practice, the time periods set forth in subparagraphs (4)(B)1.B. and C. do not apply.

3. In a proceeding involving two (2) or more respondents, the hearing panel may access a civil penalty as provided under subsection (3)(C) against each respondent that the hearing panel determines has been engaged or is about to engage in a discriminatory housing practice.

(4) If, upon all the evidence in a complaint alleging violations of section 213.070, RSMo as it relates to or involves alleged violations of section 213.040, 213.045 or 213.050, RSMo or as it relates to or involves the alleged encouraging, aiding or abetting the violation of these sections and for complaints alleging violation of section 213.040, 213.045 or 213.050, RSMo, the hearing panel finds that a respondent has not engaged, or is not about to engage, in any unlawful discriminatory practice, the hearing panel shall state its findings of fact and conclusions of law and shall issue and cause to be served on the complainant and respondent an order dismissing the complaint as to the respondent.

(5) Copies of orders shall be served by certified mail or by personal service, on the complainant, respondent and all intervenors or

their attorneys, accompanied by a notice of the statutory right of judicial review.

*AUTHORITY: sections 213.030, 213.075 and 213.085, RSMo (Cum. Supp. 1992). * Original rule filed April 15, 1988, effective July 11, 1988. Amended: Filed Dec. 2, 1992, effective June 7, 1993.*

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992; 213.075 and 213.085, RSMo (1986), amended 1992.*

8 CSR 60-2.220 Judicial Review

PURPOSE: This rule sets forth the manner in which judicial reviews are conducted.

(1) Judicial review shall be made in the manner provided by law.

(2) Within thirty (30) days after the filing of a Petition of Review, or within further time as the court may allow, the commission's record shall be filed in the reviewing court.

*AUTHORITY: sections 213.030, 213.075 and 213.085, RSMo (Cum. Supp. 1992). * Original rule filed April 15, 1988, effective July 11, 1988.*

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992; 213.075 and 213.085, RSMo (1986), amended 1992.*

8 CSR 60-2.230 Certification of Record

PURPOSE: This rule stipulates who is authorized to certify commission documents.

(1) The chairperson, the secretary to the commission or other person as may be designated by the commission is authorized and empowered to certify all documents or records which are a part of the files and records of the commission.

*AUTHORITY: sections 213.030, 213.075 and 213.085, RSMo (Cum. Supp. 1992). * Original rule filed April 15, 1988, effective July 11, 1988.*

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992; 213.075 and 213.085, RSMo (1986), amended 1992.*



8 CSR 60-2.240 Separability, Amendments and Availability of Rules

PURPOSE: This rule establishes the procedure by which amendments are made to the commission's rules, where to obtain copies of these rules and that, if any provision or term of these rules is held invalid, the remaining provisions remain valid.

(1) In the event any provision or term of these rules is determined by a court or other authority of competent jurisdiction to be invalid, the determination shall not effect the remaining provisions which shall remain in full force and effect.

(2) New rules may be adopted and any rule may be amended or rescinded by the commission at regular or special meetings provided that the amendment or rescission shall require the approval of the majority of the members present at the meeting where a quorum is present. Notice of the proposed adoption, amendment or rescission shall be given in writing to all members of the commission at least ten (10) days before the meeting at which action is to be taken; except that the ten (10) days' notice shall not be required when two-thirds (2/3) of the members of the commission shall approve in writing the adoption, amendment or rescission.

(3) The amendment of any existing rule or the adoption of any new rule shall be made in accordance with Chapter 536, RSMo.

(4) The rules of the commission and any amendments, additions, or modifications of the rules, shall be available to the public at the office of the commission in Jefferson City.

*AUTHORITY: section 213.030, RSMo (Cum. Supp. 1992). * Original rule filed April 15, 1988, effective July 11, 1988.*

**Original authority 1959, amended 1978, 1986, 1992.*

8 CSR 60-2.250 Construction of Rules and Pleadings

PURPOSE: This rule clarifies the commission's policy concerning the interpretations of its rules and of the pleadings before it.

(1) These rules shall be construed to accomplish the purposes of Chapter 213, RSMo

administered by the commission and the policies of the Missouri Commission on Human Rights and shall not be deemed or construed to limit the powers conferred upon the commission by Chapter 213, RSMo.

(2) All pleadings shall be construed with a view to effect justice between the parties and the presiding officer and the commission panel, in every stage of any proceeding, shall disregard errors or defects in the pleadings or proceedings which do not affect the substantial rights of the parties.

*AUTHORITY: sections 213.030 and 213.101, RSMo (Cum. Supp. 1992). * Original rule filed April 15, 1988, effective July 11, 1988.*

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992 and 213.101, RSMo (1986), amended 1992.*

8 CSR 60-2.260 Election of Civil Action

PURPOSE: This rule clarifies the procedures for a party to elect to have his/her claims decided in a civil action in court.

(1) If a written notice of hearing is issued alleging violation of section 213.070, RSMo as it relates to or involves alleged violations of section 213.040, 213.045 or 213.050, RSMo or as it relates to or involves the alleged encouraging, aiding or abetting the violation of these sections and for complaints alleging violation of section 213.040, 213.045 or 213.050, RSMo, a complainant or a respondent may elect, in lieu of an administrative hearing under section 213.075, RSMo, to have the claims asserted in the complaint decided in a civil action under section 213.076, RSMo.

(2) The election must be made no later than twenty (20) days from the date on which the written notice of hearing is mailed by the commission staff. The notice of the election must be filed with the presiding officer, the attorney general, the executive director, the complainant (if respondent is making the election) or the respondent (if the complainant is making the election) and any other parties. The notification will be filed and served in accordance with the procedures established under 8 CSR 60-2.035.

(3) If an election is not made under this rule, the presiding officer will conduct an administrative hearing based upon the complaint in

accordance with the procedures under 8 CSR 60-2.140 and section 213.075, RSMo.

(4) If an election is made under this rule, the chairperson shall immediately notify and authorize the staff attorney to commence and maintain a civil action in a court of competent jurisdiction seeking relief under sections 213.040, 213.045, 213.050, 213.070 and 213.076, RSMo on behalf of the aggrieved person. This notice and authorization shall include transmission of the file in the case, including a copy of the complaint, to the staff attorney.

(5) The attorney general shall be available for consultation concerning any legal issues raised.

*AUTHORITY: sections 213.030, 213.075 and 213.076, RSMo (Cum. Supp. 1992). * Original rule filed Dec. 2, 1992, effective June 7, 1993.*

**Original authority: 213.030, RSMo (1959), amended 1978, 1986, 1992; 213.075, RSMo (1986), amended 1992; and 213.076, RSMo (1992).*

8 CSR 60-2.265 Local Commissions

PURPOSE: This rule sets out the procedures and criteria for certification of local commissions by the Missouri Commission on Human Rights.

(1) Only those local commissions certified as substantially equivalent by the Missouri Commission on Human Rights shall have the power and authority to hear contested cases alleging violations of Chapter 213, RSMo which are alleged to have been committed within the city, town, village or county which created the local commission.

(A) A local commission shall be certified as substantially equivalent if the ordinance establishing the local commission provides similar protections of the procedural rights of parties appearing before the local commission as are provided by Chapter 213, RSMo and corresponding rules. Factors to be considered by the commission in determining substantial equivalence may include, but are not limited to, the following:

1. Contracting status with Equal Employment Opportunity Commission;
2. Contracting status with the federal Department of Housing and Urban Development;
3. Substantive rights;
4. Procedural rights; and
5. Powers and duties.



(B) Proceedings before the local commission shall be consistent with the requirements of section 213.075, RSMo. The order of a local commission in a contested case shall not be final for appeal purposes until it has been filed with and reviewed by a hearing examiner of the commission. Within ninety (90) days of receipt of the local commission's complete hearing record, the commission hearing examiner shall issue an opinion. For appeal purposes, the order of the local commission shall become final thirty (30) days from the date of issuance of the hearing examiner's opinion. If no opinion is issued by the hearing examiner within ninety (90) days, the local commission's decision shall be considered final for purposes of appeal.

*AUTHORITY: sections 213.020, 213.030, 213.075, 213.131 and 213.135, RSMo (Cum. Supp. 1992).**
Original rule filed Dec. 2, 1992, effective June 7, 1993.

**Original authority: 213.020, RSMo (1959), amended 1986, 1992; 213.030, RSMo (1959), amended 1978, 1986, 1992; 213.075, RSMo (1986), amended 1992; and 213.131 and 213.135, RSMo (1992).*