Brief Outline of the IOCR Complaint Process

JURISDICTIONAL REVIEW

After the Iowa Office of Civil Rights (IOCR) receives a signed complaint, it is reviewed to determine whether the IOCR has jurisdiction over the complaint and is timely filed (within 300 days).

INTAKE

If the complaint is timely and alleges acts covered by the Iowa Civil Rights Act (ICRA), a copy of the complaint is mailed to the Complainant and Respondent[s] (the person or organization named in the complaint). The complaint is also assigned a CP# and if applicable, an EEOC#. Information attached to the complaint will also be sent to the Respondent[s].

In addition to copies of the complaint, both Complainant and Respondent are sent questionnaires regarding the complaint and any relevant background information, usually within 10 days of the date the complaint is filed.

The questionnaires are tailored to the specific basis and type of discriminatory act alleged. Respondents may answer the questionnaire and/or submit a position statement. Both parties are encouraged to provide any and all relevant documents, video or audio recordings.

The parties are each given thirty (30) days to complete the questionnaire. Either party may request one (1) two week extension by **calling the IOCR at 1-800-457-4416, 515-281-4121, or by emailing icrc@iowa.gov**. Extensions beyond two weeks will not be granted absent exigent circumstances. If a party needs assistance completing the questionnaire or has questions regarding their response, they should contact the IOCR for assistance by contacting the agency.

TIER ONE INVESTIGATION

After the parties' responses are received or the 30 days has passed, the information is preliminarily reviewed by an IOCR investigator. The IOCR issues tier one determinations based on the information collected to date. During this stage, the IOCR draws all "rational, reasonable, and otherwise permissible" inferences in the Complainant's favor. The IOCR generally does not evaluate credibility at this stage and instead evaluates only whether the stated facts create a "reasonable possibility" for a probable cause finding.

If based on the tier one review it is determined further investigation is <u>not</u> warranted, the complaint is administratively closed. The complainant has a right to request reconsideration of the decision, which is explained in the closure letter.

The IOCR endeavors to complete its tier one determination within 120 days from the date the complaint is filed.

MEDIATION

If further investigation is warranted, the parties will be given an opportunity to participate in mediation. **Mediation is a voluntary, confidential process that is free of charge and allows the parties to resolve the complaint prior to investigation. The IOCR provides a trained mediator to assist the parties in resolving the issues.** Mediation typically takes 30 days to schedule and conduct.

If mediation is declined by either party or is unsuccessful, the complaint will proceed to investigation. Respondents will be sent an Initial Information Request (IIR), asking for more specific documents related to the issues identified in screening. Respondents will have 30 days to provide a response.

TIER TWO INVESTIGATION

An Investigator may interview parties and witnesses, as necessary, and collect additional records. The Investigator will analyze all of the collected information and recommend to an Administrative Law Judge (ALJ) whether

Probable Cause (PC) or No Probable Cause (NPC) exists to believe that discrimination occurred. The Investigator can also recommend Administrative Closure. If the Investigator recommends either a PC or a NPC finding in the case, it will be forwarded to an ALJ from the Department of Inspections, Appeals, and Licensing who will review the case and make the final determination. Probable cause exists if there are reasonable grounds for believing discrimination has occurred.

If the ALJ finds NPC, the complaint is closed and the Complainant loses his/her right to request a "right-to-sue" letter, which is discussed below. The Complainant can request reconsideration of the decision, which is explained in the closure letter. If the ALJ finds PC, the complaint will move to conciliation.

A number of factors determine how long the investigation will take including the complexity of the factual and legal issues presented in the complaint and the cooperation and availability of the parties and witnesses. The IOCR attempts to complete investigations within 60 days from the date assigned to the investigator. Delays can occur depending on availability and cooperation of parties, witnesses, and counsel.

From the time the IOCR receives the complaint to the time the investigation is completed and a finding by the ALJ has been made, the IOCR is a neutral fact-finder and represents neither party.

CONCILIATION

When a PC determination is made, a Conciliator is assigned to the case and assists the parties in trying to reach a settlement. At this point, the IOCR will advocate on behalf of the Complainant as well as seek remedies designed to address the discriminatory practice through conditions such as policy changes or training and education. The minimum amount of time required for conciliation is 30 days.

If conciliation fails, the complaint will be reviewed to determine whether it should proceed to public hearing.

PUBLIC HEARING

If the complaint is selected for public hearing, a hearing will be held in accordance with the "Iowa Administrative Procedure Act," and evidence will be presented from both parties to an ALJ from the Department of Inspection, Appeals, and Licensing. The standard of proof in an administrative hearing is a preponderance of the evidence, meaning more likely than not. If the complaint is not selected for public hearing, the complaint will be administratively closed and the Complainant may request a "right-to-sue" letter within two years of the administrative closure.

RIGHT-TO-SUE

Once the complaint has been on file for 60 days, the Complainant has the option of removing their complaint from the IOCR to commence a lawsuit in state district court. Before filing a lawsuit, the Complainant must request a right-to-sue letter from the IOCR. When the right-to-sue letter is issued, the IOCR administratively closes the complaint and will take no further action on the complaint. The ICRA states that a lawsuit must be filed within 90 days of the date the IOCR issues the right-to-sue letter, **so it is advisable to consult with an attorney before asking for a right-to-sue letter.**