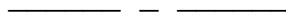


**THE HUMAN RIGHTS COMMISSION**  
**OF**  
**THE CITY OF MORGANTOWN**  
**WEST VIRGINIA**



Investigatory Process and Procedure

## **I. Introduction**

The Human Rights Commission of The City of Morgantown (the “Commission”) is the board of the City established to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination. By ordinance adopted October 17, 2017, the Commission was granted the power to investigate, reconcile, and/or adjudicate claims of discrimination based on gender identity, , sexual orientation or veteran status. The Commission continues to accept reports of other types of discrimination (e.g. race, age) and forward them to the West Virginia Human Rights Commission for resolution. This document – the Commission’s Investigatory Process and Procedure (also referred to as the Commission’s “Complaint Procedures”) – establishes rules for the Commission’s handling of complaints based on gender identity, sexual orientation or veteran status pursuant to City Code Article 153. The procedures implement the complaint investigation process described in City Code section 153.10.

## **II. Complaint Procedures**

### **A. Complaint**

1. A complaint is filed in writing by the complainant completing the Commission’s form and filing it with the Commission by mailing or personal delivery to the Office of the City Manager Attn: City of Morgantown Human Rights Commission, 389 Spruce St, Morgantown WV 26505 or by email to [hrc@morgantownwv.gov](mailto:hrc@morgantownwv.gov).
2. When the complaint is received, it is filed and the date of filing is recorded.
3. The Commission’s Chairperson, or an individual member designated by the Commission, reviews the Complaint to ensure (i) that it is signed by the complainant and includes a verification that the allegations are true; (ii) that it has been filed within 365 calendar days of the alleged incident of discrimination; (iii) that the required personal information has been completed; and (iv) whether the complaint alleges discrimination based on gender identity, sexual orientation, or veteran status. This review should be completed within fourteen (14) calendar days of filing.
4. If the complaint does not meet the criteria in Step 3, a letter is sent to the complainant within 20 calendar days of the filing date of the

complaint at the mailing or electronic mail address provided in the complaint stating the reason the complaint is insufficient. No further action is required of the Commission.

5. If the review in Step 3 indicates that discrimination is based on a factor other than gender identity, sexual orientation, or veteran status, the complaint is forwarded to the State Human Rights Commission for investigation. A letter is delivered to the complainant at the mailing or electronic mail address provided in the complaint stating that the complaint has been forwarded to the State Human Rights Commission and that the Morgantown Human Rights Commission does not investigate this type of complaint. No further action is required of the Commission.
6. If the review in Step 3 indicates that all required information is provided and discrimination based on gender identity, sexual orientation or veteran status is alleged, the Commission will retain the complaint and begin an investigation. A letter is delivered to the complainant at the mailing or electronic mail address provided in the complaint stating that the Commission has received the complaint and will begin an investigation.
7. The Commission may determine at any time to refer any complaint to the State Human Rights Commission, rather than to investigate the complaint or continue any proceedings on the complaint. In that event, the Commission will send a letter to the complainant at the mailing or electronic mailing address provided in the complaint stating that the Commission has elected to refer the matter to the State Human Rights Commission, and no further action will be taken by the Commission.

## **B. Investigation**

1. Any complaint moved to the Investigation stage will be presented at a meeting of the Commission. This meeting should be completed within thirty (30) calendar days of filing.

2. The Commission will determine whether (i) it will investigate the complaint as a body, (ii) whether it will appoint a special committee of Commission members to investigate the complaint, (iii) whether it will appoint an individual member of the Commission to investigate the complaint, or (iv) whether it will refer the complaint to the State Human Rights Commission.
3. The investigator selected in Step 2 will investigate the complaint to determine whether probable cause exists that the allegations in the complaint are true. The investigation may involve discussion of the claims – orally or in writing – with the complainant, the subject of the complaint, and any involved parties; and the investigation may rely on other resources determined appropriate by the investigator. This investigation should be completed within sixty (60) calendar days of filing.
4. If the investigator determines there is no probable cause that the allegations in the complaint are true and constitute discrimination, the investigator will (i) report the finding to the Commission (this report is not required if the whole Commission conducts the investigation) and (ii) within 10 calendar days of making the determination, send a letter to the complainant at the mailing or electronic mailing address provided in the complaint stating the following:
  - (a) that the Commission’s investigation has determined no probable cause exists to substantiate discrimination as alleged in the complaint, which may include the reason for such determination,
  - (b) that the complainant may file a written request for a meeting with the commission to show probably cause supporting the occurrence of discrimination, and
  - (c) that the written request must be filed within 10 calendar days of receipt of the letter.
5. If the complainant responds by filing a request for a meeting within 10 calendar days of the letter’s receipt, the Commission will determine whether to conduct the requested meeting. The Commission will inform the complainant of its determination whether to conduct the meeting by letter to the complainant at the

mailing or electronic mailing address provided in the complaint stating whether the meeting will be held, and, if so, at what time. It is anticipated the Commission will hear investigative reports in Executive Session.

6. If a meeting is conducted by the Commission, and the Commission determines that there is probable cause that the allegations in the complaint are true and constitute discrimination, the Commission will send a letter to the complainant at the mailing or electronic mailing address provided in the complaint informing the complainant of such determination and stating that the complaint will proceed to conciliation and/or adjudication.
7. If either (i) no request for a meeting is timely filed, (ii) no meeting is held, or (iii) the complainant does not appear for a scheduled meeting, no further action will be taken by the Commission.
8. If the investigator determines there is probable cause that the allegations in the complaint are true and constitute discrimination, the investigator will (i) report the finding to the Commission, (this report is not required if the whole Commission conducts the investigation), and (ii) send a letter to the complainant at the mailing or electronic mailing address provided in the complaint informing the complainant of such determination and stating that the complaint will proceed to conciliation and/or adjudication.
9. In any case where it is determined by the Commission that probable cause supporting the occurrence of discrimination exists, the complaint will proceed to the Conciliation and/or Adjudication provisions of these Complaint Procedures.

### **C. Conciliation**

1. If it is determined that probable cause supporting the occurrence of discrimination exists, the Commission will attempt to eliminate the discriminatory practice identified in the complaint in accordance with these Complaint Procedures.

2. The proceedings to conciliate the complaint under this Part C shall remain confidential unless the Commission elects to disclose the terms of a settlement as described in these Complaint Procedures.
3. The Commission may elect to proceed to the Hearing process without pursuing Conciliation. In the event of such determination, the Commission will follow the procedures provided in Part D. Hearings.
4. Conciliation may involve discussions and meetings with the complainant(s) and subject(s) of the complaint and/or their representatives, separately or jointly, as determined by the Commission. The conciliation process should be completed within ninety (90) calendar days of filing.
5. If Conciliation results in agreement or action to correct the discriminatory practices deemed satisfactory by the Commission, the Commission will send a letter to the complainant at the mailing or electronic mailing address provided in the complaint, with a copy to the person(s) subject of the complaint, stating that the matter has been resolved by conciliation and the Commission will take no further action. The Commission may publish or otherwise disclose the terms of such settlement, but it shall not be required to do so.
6. If Conciliation does not result in agreement or action to correct the discriminatory practices deemed satisfactory by the Commission, the Commission will send a letter to the complainant at the mailing or electronic mailing address provided in the complaint informing the Complainant that conciliation was unsuccessful and that the complaint will proceed to the Hearing process.

**D. Hearing**

1. The Hearing process will be initiated by the Commission serving a copy of the complaint upon the person(s) subject of the complaint (the "Respondent") along with a notice to answer the charges in the complaint at a hearing. Service shall be made in the manner required for service of civil actions pursuant to the West Virginia Rules of Civil Procedure.

2. The notice to the Respondent shall state the time and date of a hearing to be held before the Commission. The date will be at least thirty (30) calendar days after service of the notice on the Respondent.
3. The hearing will be conducted by a hearing examiner chosen by the Commission. The hearing examiner may be an individual member of the Commission, a panel of members of the Commission, or an attorney licensed in West Virginia.
4. The Respondent may file a written answer to the complaint at any time up to the date of the hearing. The Respondent may participate in the hearing and offer evidence and testimony, directly or by counsel.
5. The complainant may also participate in the hearing and offer evidence and testimony, directly or by counsel.
6. The hearing examiner may determine what types of testimony and evidence will be considered. The evidence may include the record of the investigation of the complaint.
7. The hearing will be recorded – either by video, audio, transcription, or contemporaneous notes – to allow preparation of a record sufficient to review the hearing procedures and decision.
8. The hearing examiner will prepare written findings and conclusions determining whether discrimination occurred as alleged in the complaint, and the examiner will ensure the record of the hearing is completed. This decision should be completed within one hundred twenty (120) calendar days of the filing.
9. The hearing examiner’s findings and conclusions, along with the record, will be submitted to the Commission for review.
10. If the Commission determines that discrimination has occurred or is occurring, it will serve on the Respondent an order to cease discrimination and correct the discriminatory practice(s). The order will (i) specify the measures required, and (ii) include findings of fact and conclusions of law with respect to the application of City Code Article 153 regarding the discrimination, which findings and conclusions would allow review by a court. The findings and conclusions may be the same as those of the hearing examiner. The

order will be served in the same manner as permitted for the service of the complaint on Respondent.

- 11.**The Commission will send a letter to the complainant enclosing a copy of the Order. The letter may indicate that the complainant is individually given the option to pursue private civil action to redress any issues not resolved by the Commission's order.

Adopted: July 19, 2018

The Human Rights Commission of  
The City of Morgantown, West Virginia

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By:

Its: