

From
THE COMMISSIONER OF EDUCATION
175 WEST STATE STREET
Trenton, New Jersey
(F.D. 18a-10M-11 - 16 - 51)

DIVISION AGAINST DISCRIMINATION

RULES OF PRACTICE
(Div. Against Discrimination)

State of New Jersey
Department of Education
Division Against Discrimination
1060 Broad Street
Newark

RULES OF PRACTICE

Established pursuant to Section 17,
Chapter 169, P. L. 1945
(as amended and supplemented),
effective as of April 4, 1951.

FREDERICK M. RAUBINGER,

COMMISSIONER

RULES OF PRACTICE

1. As used in these rules, unless a different meaning clearly appears from the context, "Commissioner" shall mean the Assistant Commissioner of Education assigned to the Division against Discrimination, since under section 8A of the statute (Chapter 169, P.L. 1945) such Assistant Commissioner shall act for the Commissioner, in his place and with his power.

2. Any complaint made pursuant to the statute shall be filed at the office of the Division against Discrimination, 1060 Broad Street, Newark, New Jersey. Two copies of the complaint shall accompany the original.

3. The complaint shall be typed, and shall be entitled according to the following specimen:

State of New Jersey
Department of Education
Division against Discrimination

John Doe,)	
)	
Complainant,)	
)	
vs.)	COMPLAINT
)	
Richard Roe,)	
)	
Respondent.)	

4. The complaint shall state the name and residence of the complainant and the name and address of the respondent (the person or organization alleged to have committed the unlawful practice complained of). It shall set forth the date, place and other particulars of the alleged act of discrimination, specifying the subsection of Section 12 of the "Law Against Discrimination" (Chapter 169, P.L. 1945, as amended) on which the complaint is based. It shall also contain a statement as to any action or proceeding instituted in any other form for the same unlawful practice, showing the disposition of such other action or proceeding.

5. The complaint, whether signed by the complainant or his attorney-at-law, shall be verified by the complainant. The verification shall be in the form of a short affidavit in which the complainant deposes that he has read or has had read to him, as the case may be, the complaint to which the affidavit is annexed, and that the statements therein made and the particulars therein set forth are true.

6. The facilities of the office of the Division shall be available, during office hours, to any person claiming to be aggrieved by an alleged unlawful practice, to the end that such person may be given advice and assistance relative to the filing of a complaint.

7. After the filing of the complaint, the Commissioner shall cause prompt investigation to be made in connection therewith. If, after such investigation, the Commissioner shall determine that probable cause does not exist for crediting the allegations of the complaint, he shall by letter notify the complainant or his attorney, as the case may be, to that effect. If, however, the Commissioner shall determine that probable cause exists for crediting the allegations of the complaint, he shall endeavor to eliminate the unlawful practice complained of by conference, conciliation and persuasion.

8. In case of failure to eliminate such unlawful practice, or in advance thereof if in his judgment circumstances so warrant, the Commissioner shall cause to be entered and served in the name of the Division a written notice of hearing, together with a copy of the complaint, requiring the respondent to answer the charges of the complaint at a hearing before the Commissioner to be held at a time and place specified in such notice. The notice shall be sent by mail to all parties at least twenty days before the date of such hearing.

9. If respondent elects to file a written verified answer, he must do so within ten days from the date of service of the notice of hearing, unless such time is extended by the Commissioner. Whether such answer is filed or not, the respondent may appear at the hearing in person or by representative, with or without counsel, and submit testimony. Any allegation in the complaint which is not denied or admitted in such an answer shall be deemed admitted, unless the respondent shall state in the answer that he is without knowledge or information sufficient to form a belief as to the allegation. The notice of hearing shall inform the respondent as to the matters set forth in this section.

10. The answer shall be typed, entitled in the cause, verified by the respondent, and filed at the office of the Division Against Discrimination, 1060 Broad Street, Newark, New Jersey. Two copies of the answer shall accompany the original. The answer shall contain a denial of each and every allegation of the complaint controverted by the respondent, or a denial of any knowledge or information thereof sufficient to form a belief as to such allegation, and a statement of any matter constituting a defense.

11. The Commissioner or the complainant may amend any complaint, and the respondent may amend his answer, at any time and in any manner which the Commissioner deems fair and reasonable.

12. In the discretion of the Commissioner, the complainant may be allowed to intervene and present testimony in person or by counsel. If the complainant is allowed to intervene, the Commissioner shall enter an order to that effect. The application to intervene shall be typed and shall state the reasons therefor and whether the complainant will appear in person or by counsel.

Such application shall be filed at the office of the Division against Discrimination at least five days before the day set for the hearing. Two copies of such application shall accompany the original.

13. Subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of books, records, documents and other papers at the hearing may be obtained by the parties upon request to the Commissioner.

14. Notices, subpoenas, orders and all other papers relating to any hearing, and all papers relating to any matter under investigation or inquiry, shall bear the name of the Commissioner and shall be countersigned by the Assistant Commissioner.

15. The case in support of the complaint shall be presented before the Commissioner by the attorney for the Division, and evidence concerning attempted conciliations shall not be received. The Commissioner shall not be bound by the fixed rules of evidence prevailing in the courts. The testimony taken at the hearing shall be under oath and be transcribed. Stipulations may be introduced in evidence, if signed by the person sought to be bound thereby or by his attorney.

16. The Commissioner may, upon his own motion, or upon motion made in behalf of the complainant or respondent, adjourn any hearing from time to time.

17. In the event of failure of the complainant to appear personally at the time and place designated for the hearing, or at the time and place to which the hearing may be adjourned, the Commissioner may, in his discretion, dismiss the complaint.

18. In the event of failure of the respondent to appear at the time and place designated for the hearing, or at the time and place to which the hearing may be adjourned, the Commissioner

may, in his discretion, permit the hearing to proceed ex parte, and he shall make his findings upon the evidence so presented.

19. An order of the Commissioner issued after hearing shall set forth the findings of fact of the Commissioner, his decision, and in his discretion, an opinion containing the reason or reasons for the decision.

20. The rules herein contained shall be considered as general rules of practice to govern, expedite and effectuate the procedure before, and the actions of, the Commissioner in connection with complaints filed pursuant to the statute; and, except as to such parts thereof as are statutory provisions, they may be relaxed or dispensed with by the Commissioner, in his discretion, in any case where a strict adherence thereto may result in injustice.

21. These rules, and any amendment, addition or modification thereof, shall be available to the public at all offices of the Division.