

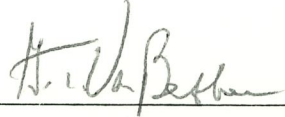
MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

Held in Room 510-S, at the Statehouse at 2:45 ~~am~~/p. m., on January 23, 19 75.

All members were present ~~except~~.

The next meeting of the Committee will be held at 2:45 ~~am~~/p. m., on January 27, 19 75.

These minutes of the meeting held ~~on~~ on January 22 and January 23, 19 75 were considered, corrected and approved.



*Chairman*

The conferees appearing before the Committee were:

Mr. Roger Lovitt, KCCR

The Chairman called the meeting to order and explained that since the last meeting when an explanation of the proposed regulations for KCCR was begun, he had visited with the Revisor of Statutes and members of his staff concerning the possibility of a condensation of these proposals. He stated that the staff felt a composite in written form could be developed and therefore save some time. He appointed Representatives Morris and Anderson as a sub-committee to work with the Revisor, and Mr Lovitt agreed to give his full cooperation in this endeavor.

Mr. Norman Furse of the Revisor's Office distributed a new, revised cover sheet for the proposed Regulations, explaining that an error had been discovered on the original.

Mr. Russ Mills of the Research Department was asked to discuss House Bills 2032, 2034 and 2036. Mr. Mills explained with regard to HB 2032, that a revised Legislative Article was approved at the last election in November, making statutory changes necessary; that this deals with the organization of the House and Senate, and allows compensation and expenses for the pre-organizational meeting for newly elected members.

It was moved by Mr. Ungerer and seconded by Mr. Anderson, that HB 2032 be recommended favorably. Motion carried without dissent.

Mr. Mills stated that HB 2034 proposes to repeal 46-101 through 7; that this is an 1861 statute pertaining to joint conventions of the legislature; that when enacted this was largely used for electing U. S. Senators, and is now considered to be obsolete. It was moved by Mr. Ward and seconded by Mr. Ungerer that HB 2034 be recommended for passage. Motion carried without dissent.

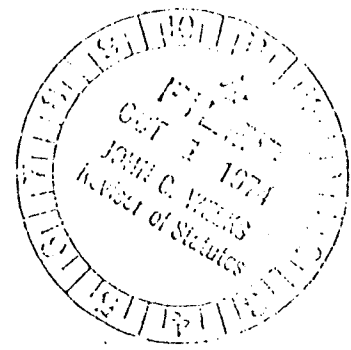
Mr. Mills explained that HB 2036 is also related to implementation of the revised Legislative Article. It deletes reference to joint resolutions, and also eliminates some language requiring specific procedures. It was moved by Mr. Cooper and seconded by Mr. Anderson that HB 2036 be recommended for passage. Motion carried without dissent.

Agendas for the following week were distributed and meeting adjourned.

75-5

KSA

STATE OF KANSAS  
 OFFICE OF  
 REVISOR OF STATUTES  
 STATE HOUSE, THIRD FLOOR  
 TOPEKA, KANSAS 66612  
 PHONE 296-2321



1-23-75

TO: Mr. Anthony D. Lopez  
 Executive Director  
 Kansas Commission on Civil Rights  
 Room 1155 W, State Office Building  
 Topeka, Kansas 66612

The following rules and regulations have been received and placed on file in this office.

JOHN C. WEEKS  
 REVISOR OF STATUTES

Date filed	Number	Subject matter
10-1-74	21-15-1 to 21-15-12 (revoked)	Article 15. Definitions
	21-16-1 to 21-16-10 (revoked)	Article 16. Complaints and Investigations
	21-17-1 to 21-17-5 (revoked)	Article 17. Investigations
	21-18-1 and 21-18-2 (revoked)	Article 18. Conciliation
	21-19-1 to 21-19-10 (revoked)	Article 19. Compliance
	21-20-1 (revoked)	Article 20. Notice of Hearing
	21-21-1 to 21-21-10 (revoked)	Article 21. Answer
	21-22-1 to 21-22-19 (revoked)	Article 22. Hearings and Rehearings
	21-23-1 (revoked)	Article 23. Transcript of Record
	21-24-1 (revoked)	Article 24. Depositions
	21-25-1 to 21-25-4 (revoked)	Article 25. Orders
	21-26-1 (revoked)	Article 26. Certification
	21-27-1 (revoked)	Article 27. Availability of Regulations
	21-28-1 (revoked)	Article 28. Construction

STATE OF KANSAS  
OFFICE OF  
REVISOR OF STATUTES  
STATE HOUSE, THIRD FLOOR  
TOPEKA, KANSAS 66612  
PHONE 296-2321

TO:

The following rules and regulations have been received and placed on file in this office.

JOHN C. WEEKS  
REVISOR OF STATUTES

Date filed	Number	Subject matter
COMMISSION ON CIVIL RIGHTS -- PAGE TWO		
	21-29-1 to 21-29-4 (revoked)	Article 29. General Provisions
	21-30-1 (revoked) 21-30-16 (amended) 21-30-18 thru 21-30-20 (new)	Article 30. Guidelines on Employee Selection Procedures and Recruitment
	21-33-1 (new)	Article 33. Guidelines on Discrimination Because of Religion
	21-40-1 thru 21-40-20 (new)	Article 40. General Provisions
	21-41-1 thru 21-41-11 (new)	Article 41. Complaints
	21-42-1 thru 21-42-7 (new)	Article 42. Investigations
	21-43-1 thru 21-43-6 (new)	Article 43. Conference and Conciliation
	21-44-1 thru 21-44-5 (new)	Article 44. Compliance
	21-45-1 thru 21-45-25 (new)	Article 45. Proceedings
	21-46-1 thru 21-46-3 (new)	Article 46. Miscellaneous Substantive Provisions



Article 21-30 Guidelines on Employee Selection Procedures and Recruitment

Article 21-30-1 Revoked. (Authorized by K.S.A. 1974 Supp. 44-1004(3); effective Jan. 1, 1972) Articles 21-30-2 to 21-30-15 are not reproduced here. Same as present. (revoked May 1, 1975.)

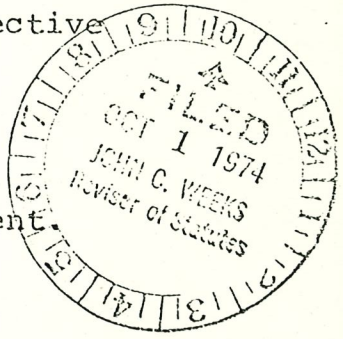
21-30-16. Amended as follows.

Preference to relatives, friends or neighbors of present employees or members. Employers and/or labor organizations whose workforces or memberships do not bear a reasonable relationship to the racial and/or ethnic pattern of the general population in their recruiting areas, may not give preference in hiring or in admission to membership to relatives, friends or neighbors of present employees or present members by reason of such relationships.

(Authorized by K.S.A. 1972<sup>2</sup> Supp. 44-1004 and 1005; effective May 1, 1975.)

1974

effective,  
E-74-14,  
Dec. 28, 1973;



Article 21-30-17 is not reproduced here. Same as present.

21-30-18. Affirmative action file.

(a) Affirmative action file, need and use. Where affirmative action to increase the opportunity of minority groups for employment appears necessary to eliminate the effects of past pattern or individual discriminatory practices on the part of certain respondents and to assure future compliance with the Kansas act against discrimination, the commission may require and order per K.A.R. 21-45-21 an employer to maintain and utilize the application of potentially

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Attorney General  
by \_\_\_\_\_, Ass't



qualified minority group members in an "Affirmative Action File" when the Commission has determined that such affirmative action is necessary to effectuate the purposes of the law. Before consulting other sources for applicants the commission may require that the respondent will give every consideration to the hiring of applicants from this file.

(b) Minority. "Minority" as used here means any person against whom an employer has been or is discriminating based upon race, color, religion, sex, national origin or ancestry.

(c) Provisions. The affirmative action file provision in any conciliation agreement or commission order may provide, but is not limited to, the following provision:

"Affirmative Action File:

"1. Applications of members of minority groups which are not accepted or rejected per subpart (c) (4) hereof, shall be placed in a file, to be known as an Affirmative Action File. This file shall consist of all minority group applicants who are qualified for any position with the respondent, and those applicants whose qualifications have not been established.

"2. As job vacancies occur, the respondent shall consult the Affirmative Action File to determine if qualified applicants are available from the minority group members listed therein.

"3. Before consulting other sources for applicants, the respondent will give every consideration to the hiring of applicants from this file.

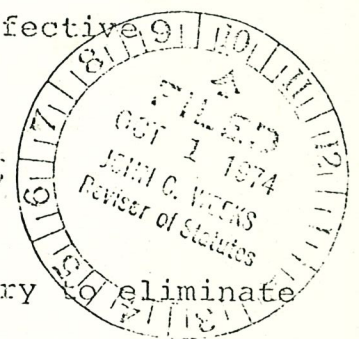
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form and legality.  
[Signature]  
Asst.

"4. If, after further review at the time a vacancy is available, the respondent concludes that the applicant is not qualified and cannot become qualified for any job within respondent's employ, he should remove his name from the file and notify him and the appropriate organization and agencies as identified in the commission order or conciliation agreement. If the applicant is still considered qualified, the respondent shall note on the file the date of each review and the reason for rejection. If the respondent is of the view that certain steps taken by the applicant could qualify him for employment, it shall so inform the applicant and the referring and sending institution, in writing, maintaining a copy in his file.

"5. The operation of the file shall be reported as provided by the commission."

(Authorized by K.S.A. 1972<sup>g</sup> Supp. 44-1003 and 1004; effective 1974  
 May 1, 1975.)

Effective  
 5-74-10,  
 Dec. 22, 1973



21-30-19. Recruitment and referral agencies.

(a) Public and private services. Where necessary to eliminate the continuing effects of prior discrimination, the commission may require employers "to establish continuing relationships with referral sources which may include, but is not limited to,

- (1) Public referral services and agencies; and
- (2) Private referral agencies and services, including those operated for profit."

(b) Recruitment. To the extent where necessary to eliminate the continuing effects or prior discrimination the commission may require employers to advertise vacancies and non-discriminatory hiring practices.

(Authorized by K.S.A. 1972<sup>g</sup> Supp. 44-1003 and 1004; effective 1974  
 May 1, 1975)

Effective  
 5-74-10,  
 Dec. 22, 1973

APPROVED as to form and locality  
 JOHN C. WICKS  
 Reviewer of Statutes

21-30-20. Temporary employment. Where necessary to eliminate the continuing effects of prior discrimination, the commission may require employers to hire its summer, seasonal or any other temporary employees on the same basis as permanent employees.

(Authorized by K.S.A 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
L 1974 effective, E-74-14, Dec. 28, 1973;

Article 21-31 Guidelines on Discrimination Because of National Origin or Ancestry

Article 21-31 is not reproduced here. Same as present.

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Attorney General  
by Alfred G. Ass't.



Article 21-32 Guidelines on Discrimination Because of Sex

21-32-1. Sex as a Bona Fide Occupational Qualification

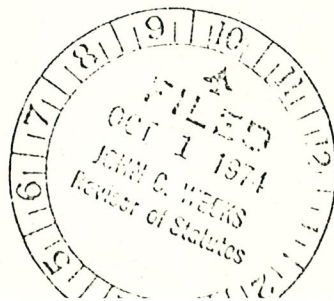
(a) The bona fide occupational qualification exceptions as to sex should be interpreted narrowly. Labels--"men's jobs" and "Women's jobs"---tend to deny employment opportunities unnecessarily to one sex or the other.

(1) The commission will find that the following situations do not warrant the application of the bona fide occupational qualification exceptions:

(a) The refusal to hire a woman because of her sex, based on assumptions of the comparative employment characteristics of women in general. For example, the assumption that the turnover rate among women is higher than among men.

(b) The refusal to hire an individual based on stereotyped characterizations of the sexes. Such stereotypes include, for example, that men are less capable of assembling intricate equipment; that women are less capable of aggressive salesmanship. The principle of non-discrimination requires that individuals be considered on the basis of individual capacities and not on the basis of any characteristics generally attributed to the group.

(c) The refusal to hire an individual because of the preference of co-workers, the employer, clients or customers.



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Attorney General  
by [Signature] Ass't.

(d) The fact that the employer may have to provide separate facilities for a person of the opposite sex will not justify discrimination under the bona fide occupational qualification unless the expense would be clearly unreasonable.

(2) State laws and regulations which prohibit or limit the employment of females, e.g., the employment of females in certain occupations, in jobs requiring the lifting or carrying of weights exceeding certain prescribed limits, during certain hours of the night, or for more than a specified number of hours per day or per week, although originally promulgated for the purpose of protecting females, have ceased to be relevant to our technology or to the expanding role of the female workers in our economy.

The commission will find that such laws and regulations do not take into account the capabilities, preferences and abilities of the individual female and tend to discriminate rather than protect. Accordingly, the commission has concluded that such laws and regulations conflict with the Kansas act against discrimination and will not be considered a defense to an otherwise established unlawful employment practice or as a basis for the application of the bona fide occupational qualification exception.

(b) The employer must not make any distinction based upon sex in employment opportunities, wages, hours, or other conditions of employment.

(Authorized by K.S.A. 44-1004 (3) and K.S.A. 1972 Supp. 44-1009; effective May 1, 1975)

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Attorney General  
by                      Ass't.

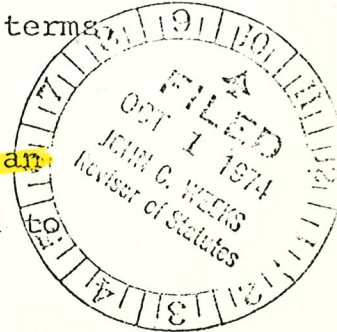


21-32-2. Fringe Benefits. "Fringe benefits", as used herein includes medical, hospital, accident, life insurance and retirement benefits; profit sharing and bonus plans; leave and other terms, conditions and privileges of employment.

(a) It shall be an unlawful employment practice for an employer to discriminate between men and women with regard to fringe benefits.

(b) Where an employer conditions benefits available to employees and their spouses and families on whether the employee is the "head of the household" or "principle wage earner" in the family unit, the benefits tend to be available only to male employees and their families. Due to the fact that such conditioning discriminatorily affects the rights of women employees, and that "head of the household" or "principle wage earner" status bears no relationship to job performance, benefits which are so conditioned will be found a prima facie violation of the prohibitions against sex discrimination contained in the act.

(c) It shall be an unlawful employment practice for an employer to make available benefits for the wives and families of male employees where the same benefits are not made available for the husbands and families of female employees; or to make available benefits for the wives of male employees which are not made available for female employees; or to make available benefits to the husbands of female employees which are not made available for male employees. An example of such an unlawful employment practice is the situation in which wives of male employees receive maternity benefits while female employees receive no such benefits.



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Attorney General  
by [Signature] Asst.



(d) It shall not be a defense to a charge of sex discrimination in benefits that the cost of such benefits is greater with respect to one sex than the other.

(e) It shall be an unlawful employment practice for an employer to have a pension or retirement plan which establishes different optional or compulsory retirement ages on the basis of sex, or which differentiates in benefits on the basis of sex.

(Authorized by K.S.A. 44-1004 (3) and K.S.A. 1972 Supp. 44-1009; effective May 1, 1975)

21-32-3. Separate lines of progression and seniority systems.

(a) It is an unlawful employment practice to classify a job as "male" or "female" or to maintain separate lines of progression or separate seniority lists based on sex where this would adversely affect any employee unless sex is a bona fide occupational qualification for that job. Accordingly, employment practices are unlawful which arbitrarily classify jobs so that:

(1) A female is prohibited from applying for a job labeled "male" or for a job in a "male" line of progression; and vice versa.

(2) A male scheduled for layoff is prohibited from displacing a less senior female on a "female" seniority list; and vice versa.

(b) A seniority system or line of progression which distinguishes between "light" and "heavy" jobs constitutes an unlawful employment practice if it operates as a disguised form of classification by sex, or creates unreasonable obstacles to the advancement by members of either sex into jobs which members of that sex could reasonably be expected to perform.

(Authorized by K.S.A. 44-1004 (3) and K.S.A. 1972 Supp. 44-1009; effective May 1, 1975)

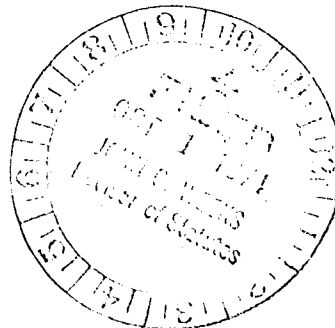
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K.S.A. 1972 Supp.

21-32-4. Discrimination against married women.

(a) The commission has determined that an employer's rule which forbids or restricts the employment of married women and which is not applicable to married men is a discrimination based on sex prohibited by the Kansas act against discrimination. It does not seem to us relevant that the rule is not directed against all females, but only against married females, for so long as sex is a factor in the application of the rule, such application involves a discrimination based on sex. This rule also applies to unmarried women who happen to be mothers for example; in many instances women who have small children in the home are denied employment. Such discrimination usually takes place at the initial employer's screening process through the asking of such questions as "How old are your children? How many children do you have? What are your plans for providing care for your children?"

(b) An employed woman should not have her employment terminated when she marries a man who works for the same business or institution by whom she is employed. At the same time, a woman should not be denied employment by an employer due to rules against nepotism if she is otherwise qualified to perform the required work.

(Authorized by K.S.A. 44-1004 (3) and K.S.A. 1972 Supp. 44-1009; effective May 1, 1975)



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form and legality.  
Attorney General  
by *[Signature]*, Asst.

21-32-5. Pre-employment inquiries as to sex. Pre-employment inquiry may ask "Male..., Female...;" provided that the inquiry is made in good faith for a non-discriminatory purpose. Any pre-employment inquiry in connection with prospective employment which expresses directly or indirectly any limitation, specification or discrimination as to sex shall be unlawful unless based upon a bona fide occupational qualification.

(Authorized by K.S.A. 44-1004 (3) and K.S.A. 1972 Supp. 44-1009 effective May 1, 1975)

21-32-6. Pregnancy and childbirth.

(a) A written or unwritten employment policy or practice which excludes from employment applicants or employees because of pregnancy is prima facie discrimination.

(b) Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth and recovery therefrom, are for all job related purposes, temporary disabilities and should be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.

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form and legality,  
Attorney General  
by *[Signature]* Ass't.



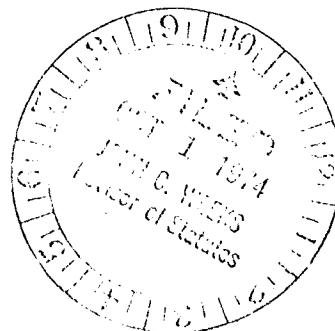
(c) Where the termination of an employee who is temporarily disabled is caused by an employment policy under which insufficient or no leave is available, such termination is discriminatory if it has a disparate impact on employees of one sex and is not justified by business necessity.

(d) Childbearing must be considered by the employer to be a justification for a leave of absence for female employees for a reasonable period of time. Following childbearing, and upon signifying her intent to return within a reasonable time, such female employee shall be reinstated to her original job or to a position of like status and pay without loss of service, credits, seniority or other benefits.

(Authorized by K.S.A. 44-1004 (3) and K.S.A. 1972 Supp. 44-1009; effective May 1, 1975)

21-32-7. Affirmative action. The employer shall take affirmative action to recruit women to apply for those jobs where they have been previously excluded. Such affirmative action may include but is not limited to notifying employment referral agencies that women are welcome to apply for all positions, recruiting at women's colleges and the use of advertising which is not classified by sex.

(Authorized by K.S.A. 44-1004 (3) and K.S.A. 1972 Supp. 44-1009; effective May 1, 1975)



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form and content.  
Attorney General  
by *[Signature]*, Ass't.

21-32-8. Job opportunities advertising. It is a violation of the Kansas act against discrimination for a help wanted advertisement to indicate a preference, limitation, specification or discrimination based on sex unless sex is a bona fide occupational qualification for the particular job involved. The placement of an advertisement in columns classified by publishers on the basis of sex, such columns headed "Male" or "Female", will be considered as an expression of preference, limitation, specification or discrimination based on sex.

(Authorized by K.S.A. 44-1004 (3) and K.S.A. 1972 Supp. 44-1009; effective May 1, 1975)

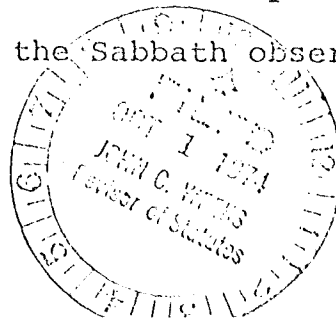
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form and legality.  
Attorney General  
by *[Signature]*, Ass't.

Article 21-33 Guidelines on Discrimination Because of Religion

21-33-1. (a) Statement of Purpose. The guidelines in this part have been adopted to contribute to the implementation of non-discriminatory personnel policies with respect to employee religious beliefs as required by the Kansas act against discrimination. The guidelines in this part are designed to serve as a workable set of standards for employers, unions and employment agencies in determining whether their policies concerning employee religious beliefs conform with the basic purposes of the elimination of discrimination in employment as defined by the act.

(b) Observance of Sabbath and Other Religious Holidays.

Regarding whether it is discrimination on account of religion to discharge or refuse to hire employees who regularly observe Friday evening and Saturday, or some other day of the week, as the Sabbath or who observe certain special religious holidays during the year and, as a consequence, do not work on such days, the commission finds that the duty not to discriminate on religious grounds, under the act, includes an obligation on the part of the employer to make reasonable accommodations to the religious needs of employees and prospective employees where such accommodations can be made without undue hardship on the conduct of the employer's business. Such undue hardship, for example, may exist where the employee's needed work cannot be performed by another employee of substantially similar qualifications during the period of absence of the Sabbath observer.



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Attorney General  
by *[Signature]* Ass't



Because of the particularly sensitive nature of discharging or refusing to hire an employee or applicant on account of his religious beliefs, the employer has the burden of proving that an undue hardship renders the required accommodations to the religious needs of the employee unreasonable. The commission will review each case in an effort to seek an equitable application of these guidelines to the variety of situations which arise due to the varied religious practices of the people of Kansas.

(Authorized by K.S.A. 1972<sup>g</sup> Supp. 44-1004 and 1005; effective  
May 1, 1975.)

1974

effective, E-74-14,  
Dec. 28, 1973;

APPROVED as to  
form and legality.  
Attorney General  
by [Signature], Asst.

Article 21-40 General Provisions

21-40-1. Definitions. Incorporated by reference are the definitions of K.S.A. 44-1002. In addition, the following words and terms shall have the following meaning:

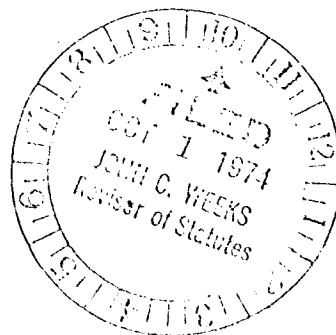
(a) "Acting executive director" means the person appointed by the commission to perform the functions, powers and duties of the executive director, or the person appointed to perform the functions, powers and duties of the executive director per rule K.A.R. 21-40-6.

(b) "Adjudication" means any order, decree, decision, determination or ruling affecting personal or property rights, privileges, immunities, duties, liabilities or obligations of any or all of the parties to the proceeding in which the adjudication is made.

(c) "Attorney" means any licensed attorney currently admitted to practice before the Supreme Court of the State of Kansas or any attorney at law authorized to enter his appearance per rule K.A.R. 21-40-13.

(d) "Chairman" shall mean the chairman of the commission on civil rights duly designated by the governor pursuant to K.S.A. 44-1003, or, in the event of his absence, the acting chairman designated by the remaining members of the commission.

(e) "Commission" means the commission on civil rights created and amended by the Kansas act against discrimination, or as the context indicates, any member thereof.



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form and legality.  
Attorney General  
by [Signature], Ass't.

(f) "Commissioner" shall mean one of the duly appointed members of the commission on civil rights.

(g) "Commission's attorney" shall mean an attorney designated to assist the commission to carry out the provisions of this act subject to approval by the attorney general.

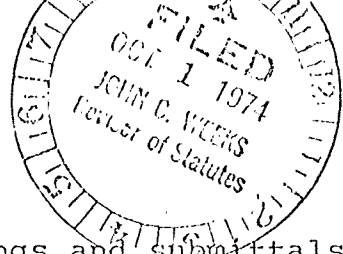
(h) "Complainant" shall mean any person filing a complaint with the commission.

(i) "Complaint" shall mean a written statement made under oath and filed with the commission alleging any violation of any statutory or other authority, orders, rules or regulations over which the commission may have jurisdiction or which the commission may enforce.

(j) "Discrimination" means any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial, or any other differentiation or preference in the treatment of a person or persons on account of race, religion, color, sex, physical handicap, national origin or ancestry, and/or any denial of any right, privilege, or immunity, secured or protected by the Constitution or laws of Kansas or the United States. Discrimination shall include but not be limited to any practice which produces a demonstrable racial or ethnic effect without a valid business motive.

(k) "Executive director" means the executive director employed by the commission.

APPROVED by the  
Board of Directors  
Attorney General  
by *[Signature]*, 1964.



(1) "Formal record" means all the filings and submittals in a matter or proceeding, any notice or agency order initiating the matter or proceeding, and if a hearing is held, the following: the designation of the presiding officer, transcript of hearing, all exhibits received in evidence, all exhibits offered but not received in evidence, offers of proof, motions, stipulations, subpoenas, proofs of service, references to the commission, and determinations made by the commission thereon, certifications to the commission, and anything else upon which action of the presiding officer or the agency head may be based; but not including any proposed testimony or exhibits not offered or received in evidence.

(m) "Hearing commissioners" shall mean the commissioners designated by the chairman to conduct a pre-hearing, hearing, rehearing, reopen a hearing, or to proceed with any matter before the commission.

(n) "Interveners" means persons intervening or petitioning to intervene when admitted as a participant to a proceeding. Admission as an intervener shall not be construed as recognition by the commission that such intervener has a direct interest in the proceeding or might be aggrieved by any order of the commission in such proceeding.

(o) "Investigating commissioner" shall mean the commissioner duly designated by the commission to make investigation of a verified complaint filed with this commission, or to conduct any investigation initiated by the commission without the filing of a verified complaint.

(p) "Issue" means to prescribe or promulgate.

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form and legality.  
Attorney General  
by [Signature] Ass't

(q) "Matter or proceeding" means the elucidation of the relevant facts and applicable law, consideration thereof, and action thereupon by the commission with respect to a particular subject by the commission, initiated by a filing or submittal or commission notice or order.

(r) "Party" means the complainant, the respondent, and any other person authorized by the commission to intervene in any proceeding.

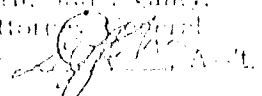
(s) "Petitioners" means persons seeking relief, not otherwise designated in this section.

(t) "Pleading" means any application, complaint, petition, answer, protest, reply or other similar document filed in an adjudicatory proceeding.

(u) "Presiding officer" means any member of the commission, or one or more hearing examiners appointed according to law and duly designated to preside at hearings or conferences, or other officers duly designated to conduct specified classes of proceedings.

(v) "Probable cause" means the presence of a reasonable ground for belief in the existence of the alleged facts of a violation of any statutory or other authority, orders, rules or regulations over which the commission may have jurisdiction or which the commission may enforce.

(w) "Proposed report" means the written statement of the issues, the facts, and the findings that a hearing examiner or other subordinate officer proposes the commission should make, with the reasons therefor, whether or not including a recommended order.

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form and legality.  
Attorney General  
by 



(x) "Respondent" shall mean any person against whom a complaint has been filed alleging an unlawful employment practice or unlawful discriminatory practice within the meaning of this act.

(y) "Segregation" shall include but not be limited to any practice which results in any discriminatory grouping.

(z) "Submittal" means any document filed in a nonadversary proceeding.

(Authorized by K.S.A. 1972<sup>o</sup> Supp. 44-1003 and 1004; effective May 1, 1975)

1974

Effective, E-74-14, Dec. 28, 1973;

21-40-2. Construction. These rules shall be liberally construed to accomplish the purposes of the act and the policies of the commission including the just, speedy, and inexpensive determination of the issues presented.

(Authorized by K.S.A. 1972<sup>o</sup> Supp. 44-1001; effective May 1, 1975)

1974

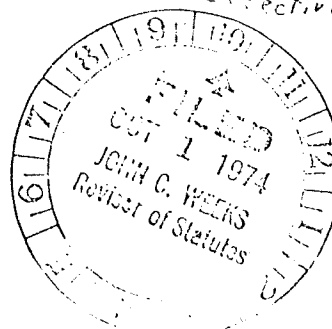
Effective, E-74-14, Dec. 28, 1973;

21-40-3. Rules of order. Meetings of the commission shall be governed by Roberts Rules of Order, with the exception that the chairman may make motions, second motions already made and vote upon any matters.

(Authorized by K.S.A. 1972<sup>o</sup> Supp. 44-1004; effective May 1, 1975)

1974

Effective, E-74-14, Dec. 28, 1973;



APPROVED as to form and legality. Attorney General by [Signature] Ass't.

21-40-4. Cooperation with local agencies. The commission may cooperate with and utilize the services of local human relations commissions in fulfilling its responsibilities under the Kansas act against discrimination. The commission may enter into written agreements with local human relations commissions for such purposes.

(Authorized by K.S.A. 1972<sup>g</sup> Supp. 44-1004; effective May 1, 1975.)  
1974 effective, E-74-14, Dec. 28, 1973;

21-40-5. Exercise of executive functions. The commission may use the executive director as its agent in exercising its executive functions, powers and duties. The commission shall annually compile a written evaluation of the executive director to be signed by the chairman or the designated acting chairman. The form used shall contain those items listed on Form DA-226-7 (Rev. 72) as authorized by the Department of administration of the state of Kansas.

(Authorized by K.S.A. 1972<sup>g</sup> Supp. 44-1004; effective May 1, 1975.)  
1974 effective, E-74-14, Dec. 28, 1973;

21-40-6. Death, disability or absence of executive director. Whenever, in the event of the death, disability or absence from the state of the executive director, it shall be necessary to appoint an acting executive director without delay, the chairman may make such appointment, subject to the ratification or rejection of the commission at the next meeting. Provided, however, that rejection of such appointment shall have no effect on any of the actions of the acting executive director in the interim. In the event of any temporary absence of the executive director, the assistant director

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is authorized to exercise the functions, powers and duties of the executive director until the executive director returns.

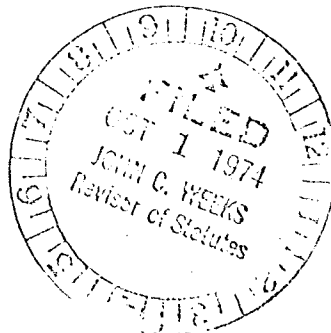
(Authorized by K.S.A. 1972<sup>2</sup> Supp. 44-1004; effective May 1, 1975.)  
1974  
Effective, E-74-14, Dec. 28, 1973

21-40-7. Communications and filings generally.

(a) All communications, submittals and pleadings should be addressed to the commission at the office of the commission unless otherwise specifically directed. All communication and filings should clearly designate the file number, docket number, or similar identifying symbols, if any, employed by the commission and should set forth a short title. The person communicating shall state his address, the party he represents, and how response should be sent to him if not by first class mail.

(b) In any proceeding when, upon inspection, the commission is of the opinion that a pleading or other matter tendered for filing does not comply with these rules or is otherwise insufficient, the commission may decline to accept the document for filing and may return it unfiled, or the commission may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(c) The commission may order any redundant, immaterial, impertinent, or scandalous matter stricken from any document filed with it.



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by *[Signature]* Asst.

(d) Except as may be otherwise ordered, the original copy of each pleading, submittal or other document shall be signed by the party in interest, or by his or its attorney, as required by subsection (e) of this section, and shall show the office and post office address of such party or attorney. All other copies filed shall be fully conformed thereto.

(e) Pleadings, submittals and other documents filed shall be subscribed:

(i) by the person filing such documents, and severally if there is more than one person so filing; or

(ii) by an officer thereof if it is a corporation, trust, association, or other organized group; or

(iii) by an officer or employee thereof if it is another public agency or a political subdivision; or

(iv) by an attorney having authority with respect thereto.

(f) Documents filed by any corporation, trust, association, or other organized group, may be required to be supplemented by appropriate evidence of the authority of the officer or attorney subscribing such documents.

(g) The signature of the person subscribing any document filed constitutes a certificate by such individual that he had read the document being subscribed and filed, and knows the contents thereof; that if executed in any representative capacity, the document has been subscribed and executed in the capacity specified upon the document with full power and authority so to do; that the contents are true as stated, except as to matters and things,

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by the Clerk of Court  
[Signature]



if any, stated on information and belief, and that as to those matters and things, he believes them to be true.

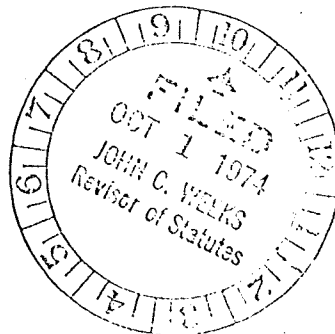
(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975) <sup>1974</sup> effective, E-74-14, Dec. 28, 1973;

21-40-8. Copies of pleadings. Upon filing any application, complaint, pleading, brief or other submittal, the party filing the same must file an original and nine copies thereof for the commission and furnish additional copies to the commission for each party who may be expected to participate in the proceeding. The commission may require the filing of such additional copies as it may need or desire.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975) <sup>1974</sup> effective, E-74-14, Dec. 28, 1973;

21-40-9. Commencement of a proceeding. A proceeding is commenced either by the filing of a complaint or other document or an order of the commission initiating an investigation or complaint on its own motion.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975) <sup>1974</sup> effective, E-74-14, Dec. 28, 1973;



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Attorney General  
by \_\_\_\_\_

21-40-10. Docket. The commission shall maintain a docket of all proceedings, and each proceeding as initiated shall be assigned an appropriate designation. The docket shall be available for inspection and copying by the public during the office hours of the agency insofar as consistent with the proper discharge of the duties of the commission.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975. <sup>1974</sup> effective, E-74-14, Dec. 28, 1973;

21-40-11. Service.

(a) Service by the commission. Orders, notices and other documents originating with the commission shall be served by the office of the commission by mail, except when service by another method shall be specifically designated by the commission, by mailing a copy thereof to the person to be served, addressed to the person or persons designated in the initial pleading or submittal at the person's principal office or place of business. When service is not accomplished by mail, it may be effected in person or as otherwise ordered by any one duly authorized by the commission.

(b) Service by a participant. All pleadings, submittals, briefs and other documents, filed in proceedings when filed or tendered to the commission for filing, shall be served upon all participants in the proceeding. Such service shall be made by delivering in person or by mailing, properly addressed with postage prepaid, the requisite number of copies to each participant.

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Attorney General  
by S. J. [Signature] Asst.

(c) Effect of service upon an attorney. When any participant has appeared by attorney, service upon such attorney shall be deemed service upon the participant and separate service on the party may be omitted.

(d) Date of service. The date of service shall be the day when the document served is deposited in the United States mail, or is delivered in person, as the case may be.

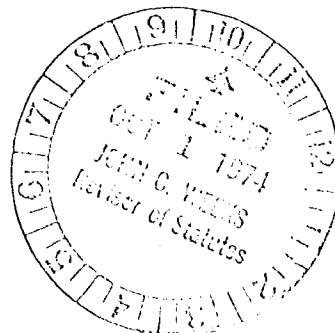
(e) Proof of service. There shall accompany and be attached to the original of each pleading, submittal or other document filed with an agency when service is required, to be made by the parties, a certificate of service.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975) effective, E-74-14, Dec. 28, 1973;

21-40-12. Time.

(a) Timely filing required. Pleadings, submittals or other documents required or permitted to be filed under these rules or any other provision of law must be received for filing at the commission's office within the time limits, if any, for such filing. The date of receipt at the office of the agency and not the date of deposit in the mails is determinative.

(b) Computation of time. Except as otherwise provided by law, in computing any period of time prescribed or allowed, the date of the act, event, or default from which the designated period of time



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begins to run shall not be included. The last day of the period so computed shall be included, unless it is Saturday, Sunday, or a "legal holiday" as defined in K.S.A. 60-206, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday. A part-day holiday shall be considered as other days and not as a holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation.

(c) Issuance of orders. In computing any period of time involving the date of the issuance of an order the day of issuance of an order shall be the day the commission mails or delivers copies of the order to the parties, or if such delivery is not otherwise required by law, the day the commission makes such copies public. Orders will not be made public prior to the mailing or delivery to the parties, except where, in the judgment of the commission, the public interest so requires. The day of issuance of an order may or may not be the day of its adoption by the commission. In any event, the office of the agency shall clearly indicate on each order the day of its issuance.

(d) Extensions of time.

(1) Except as otherwise provided by law, whenever an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may by the commission or the presiding officer, for good cause be extended upon motion made before expiration of the period originally prescribed or as

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by \_\_\_\_\_, Asst.

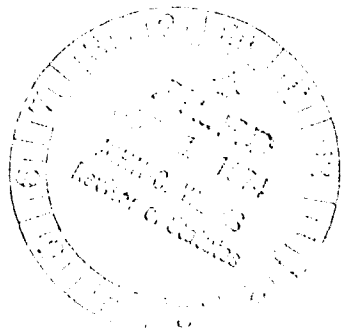
previously extended; and upon motion made after the expiration of the specified period, the act may be permitted to be done where reasonable grounds are shown for the failure to act. Requests for the extension of time in which to file briefs shall be filed at least five days before the time fixed for filing such briefs.

(2) Except as otherwise provided by law, requests for continuance of hearings or for extension of time in which to perform any act required or allowed to be done at or within a specified time by these rules or any order, shall be by motion in writing, timely filed with the agency, stating the facts on which the application rests, except that during the course of a hearing in a proceeding, such requests may be made by oral motion in the hearing before the commission or the presiding officer.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975) 1974 effective, E-74-14, Dec. 28, 1973;

21-40-13. Representation.

(a) Appearance in person. An individual may appear in his own behalf. A member of a partnership may represent the partnership, a bona fide officer of a corporation, trust or association may represent the corporation, trust or association, and an officer or employee of another public agency or of a political subdivision may represent the public agency or political subdivision in presenting any submittal to an agency subject to these rules.



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by [Signature], Asst'l



(b) Appearance by attorney. A person may be represented in any proceeding by an attorney at law who is a resident of Kansas and regularly admitted to practice before the supreme court of Kansas or; a person may appear and be represented by any regularly admitted practicing attorney in the courts of record of another state of the United States, who has filed a verified application to the effect that he has associated and personally appearing with him, in the proceeding before the commission, an attorney who is a resident of Kansas and duly qualified to practice law therein, as his local counsel. Said local counsel shall first enter his own appearance and then move for the admission of the non-resident attorney with whom he is associated.

(c) Other representation prohibited at hearings. A person shall not be represented at any hearing except:

(1) as stated in K.A.R. 21-40-13 (a) (relating to appearance in person) or K.A.R. 21-40-13 (b) (relating to appearance by attorney); or

(2) as otherwise permitted by the commission in a specific case.

(d) Notice of appearance.

(1) When an individual appears in his own behalf in a proceeding which involves a hearing or an opportunity for hearing, he shall file with the commission or otherwise state on the record an address at which any notice or other written communication required to be served upon the person or furnished to the person may be sent.

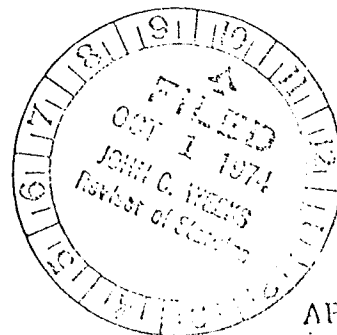
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form and legality.  
Attorney General  
by [Signature], Ass't.

(2) When an attorney appears before the commission in a representative capacity in a proceeding which involves a hearing or an opportunity for hearing, he shall file with the commission a written notice of such appearance, which shall state the attorney's name, address and telephone number and the name and address of the person or persons on whose behalf the attorney appears. Any additional notice or other written communication required to be served on or furnished to a person may be sent to the attorney of record for such person at the stated address of the attorney.

(3) Any person appearing or practicing before the commission in a representative capacity may be required to file a power of attorney with the agency showing his authority to act in such capacity.

(e) Suspension. The commission may deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person who is found to have engaged in unethical or improper conduct before the commission. Practicing before the commission shall include, but shall not be limited to:

- (1) Transacting any business with the agency.
- (2) The preparation of any statement, opinion or other paper by an attorney, accountant, or other expert, filed with the commission in any pleading, submittal or other document with the consent of such attorney, accountant or other expert.



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Attorney General  
by [Signature], Ass't.

(f) Contemptuous conduct. Contemptuous conduct at any hearing shall be ground for exclusion from such hearing and for summary suspension without a hearing for the duration of the hearing.

(Authorized by K.S.A. 1972<sup>o</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974 effective, E-74-14, Dec. 28, 1973;

21-40-14. Order Issuance. All orders issued by the commission shall be reviewed by the chairman and signed by him or as otherwise designated by the chairman.

(Authorized by K.S.A. 1972<sup>o</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974 effective, E-74-14, Dec. 28, 1973;

21-40-15. Effective date of orders. Commission orders shall become effective when all service provisions of these rules are effected, unless otherwise ordered by the commission.

(Authorized by K.S.A. 1972<sup>o</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974 effective, E-74-14, Dec. 28, 1973;

21-40-16. Commission decisions. The decisions of the commission or any panel of hearing commissioners shall be by majority vote.

(Authorized by K.S.A. 1972<sup>o</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974 effective, E-74-14, Dec. 28, 1973;

21-40-17. Intervention.

(a) Initiation of intervention. At the discretion of the commission or presiding officer any person may by petition be allowed to intervene in person or by counsel, for such purposes and to such

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Attorney General  
by [Signature], Ass't.

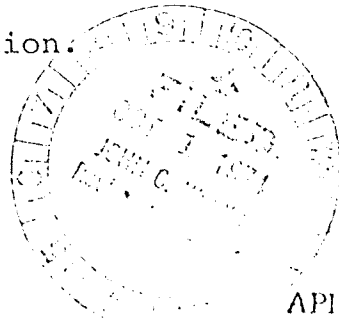
extent as the commission or presiding officer shall determine:  
Provided, Such person makes application to intervene at least ten  
(10) days before the hearing.

(b) Form and contents of petitions. Petitions to intervene shall set out clearly and concisely the facts from which the nature of the alleged right or interest of the petitioner can be determined, the grounds of the proposed intervention, and the position of the petitioner in the proceeding, so as fully and completely to advise the parties and the commission as to the specific issues of fact or law to be raised or controverted, by admitting, denying or otherwise answering, specifically and in detail, each material allegation of fact or law asserted in the proceeding, and citing by appropriate reference authority relied on.

(c) Notice and action on petitions.

(1) Notice and service. Petitions to intervene, when tendered for filing, shall show service thereof upon all participants to the proceeding in conformity with §21-40-11(b) of this Title (relating to service by a participant).

(2) Action on petitions. As soon as practicable after the expiration of the time for filing answers to such petitions or default thereof, the commission or presiding officer will grant or deny such petition in whole or in part or may, if found to be appropriate, authorize limited participation.



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Attorney General  
by *[Signature]* Asst.

(d) Limitation of participation in hearings. Where there are two or more interveners having substantially like interests and positions, the commission or presiding officer may, in order to expedite the hearing, arrange appropriate limitations on the number of attorneys who will be permitted to cross-examine and make and argue motions and objections on behalf of such interveners.

(Authorized by K.S.A. 1972<sup>8</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974. effective, E-74-14, Dec. 28, 1973;

21-40-18. Certification of documents and records. Certified copies.


Copies of and extracts from public records may be certified by the commission. The chairman or such other person as may be designated by the commission is authorized to certify all documents or records of the commission. Persons requesting the commission to prepare such copies should clearly state the material to be copied and whether it shall be certified. Charges may be imposed for certification and for the preparation of copies.

(Authorized by K.S.A. 1972<sup>8</sup> Supp. 44-1001; effective May 1, 1975.)  
1974. effective, E-74-14, Dec. 28, 1973;

21-40-19. Requests to inspect other records not considered public.

Request to inspect records other than those now deemed to be of a public nature shall be addressed to the commission.

(Authorized by K.S.A. 1972<sup>8</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974. effective, E-74-14, Dec. 28, 1973;

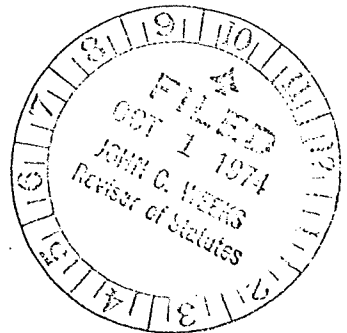
APPROVED as to form and legality.  
Attorney General  
by , Asst.

21-40-20. Availability of rules. The rules of the commission shall be available to the public at the office of the commission and upon request.

(Authorized by K.S.A. ~~1972~~ Supp. 44-1001; effective May 1, 1975)

1974

effective, E-74-14,  
Dec. 28, 1973;



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Attorney General  
by [Signature], Ass't.



Article 21-41. Complaints

21-41-1. Who may file.

(a) Filing and assistance. Any person claiming to be a complainant may sign and file with the commission a verified complaint in writing. Assistance in drafting and filing complaints shall be available to complainants at all commission offices or otherwise through the commission and its staff.

(b) On motion. The Attorney General, or the commission on its own motion may file a complaint alleging any violation of any statute, rules or orders or other authority administered by the commission.

(c) Employer. Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of the law, may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

(Authorized by K.S.A. 1972<sup>4</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974 effective, E-74-14, Dec 22, 1974

21-41-2. Forms. The complaint shall be in writing either on a form obtained at any of the offices of the commission or on any paper suitable for a complaint, the original being signed and verified before a notary public or other person duly authorized by law to take acknowledgements. Notarial service shall be furnished without charge by the commission. Every professional member of the commission's staff shall be a statewide notary public and as such may notarize any complaint.

(Authorized by K.S.A. 1972<sup>4</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
APPROVED as to form and legality  
Attorney General  
by \_\_\_\_\_  
Dec 28, 1973

21-41-3. Contents. A complaint shall contain the following:

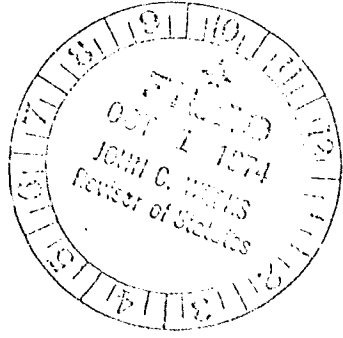
- (a) The full name and address of the complainant.
- (b) The full name and address of the respondent.
- (c) The alleged unlawful employment practice or unlawful discriminatory practice and a statement of the nature thereof.
- (d) The date or dates of the alleged unlawful employment practice or unlawful discriminatory practice, and if the alleged unlawful employment practice or unlawful discriminatory practice is of a continuing nature, the dates between which continuing acts of discrimination are alleged to have occurred.

(e) A statement as to any other action instituted in any other forum based on the same grievance as is alleged in the complaint, together with a statement as to the status or disposition of such other action.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974  
Effective, E-24-14,  
Dec. 28, 1973;

21-41-4. Time of filing. The complaint must be filed within six

(6) months after the date of the occurrence of the alleged unlawful employment practice or unlawful discriminatory practice. If the alleged unlawful employment practice or unlawful discriminatory practice is of a continuing nature, the date of the occurrence of said unlawful employment practice or unlawful discriminatory practice shall be deemed to be any date subsequent to the commencement of the



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Attorney General  
by [Signature] Asst.

unlawful employment practice or unlawful discriminatory practice up to and including the date upon which the unlawful employment practice or unlawful discriminatory practice shall have ceased.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
*1974* effective, E-74-14, Dec. 28, 1973;

21-41-5. Manner of filing. The complaint may be filed by personal delivery to any commission employee or by mail to the commission's office.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
*1974* effective, E-74-14, Dec. 28, 1973;

21-41-6. Amendment. The commission or the complainant shall have the power reasonably and fairly to amend the complaint as a matter of right at any time before hearing thereon, and thereafter at the discretion of the presiding officer. The respondent and the complainant shall be notified of any such amendment in writing by the commission.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
*1974* effective, E-74-14, Dec. 28, 1973;

21-41-7. Withdrawal. A complaint may be withdrawn by the complainant at any time before a finding has been made. After a finding has been made, the complainant may request and the commission shall decide whether or not a complaint may be withdrawn.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
*1974* effective, E-74-14, Dec. 28, 1973;

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Attorney General  
by *[Signature]* Asst.

21-41-8. Dismissal before hearing.

(a) Dismissal. If the commission finds either on the face of the complaint or after investigation, with respect to any respondent that it lacks jurisdiction or that probable cause does not exist, the complaint shall be dismissed as to such respondent.

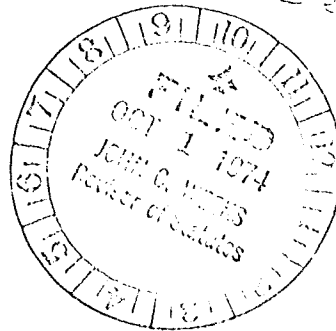
(b) Administrative convenience. If the commission finds that the complainant's objections to a proposed conciliation agreement are without substance or that noticing the complaint for hearing would be otherwise undesirable, the commission may, at any time prior to a hearing, dismiss the complaint on grounds of administrative convenience.

(c) Service. When a complaint is dismissed before hearing, the commission shall issue and cause to be served upon each party a copy of the order dismissing the complaint, and stating the grounds for such dismissal.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975)   
 1974 effective, E-74-14, Dec. 28, 1973

21-41-9. Discontinuance. After the service of a notice of hearing on a party, a proceeding may be discontinued by the complainant only with the consent of the commission.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1003; effective May 1, 1975)   
 1974 effective, E-74-14, Dec. 28, 1973



APPROVED as to form and legal effect by [Signature] Asst

21-41-10. Criminal and civil proceedings. When a complainant institutes either criminal or civil proceedings on a matter pending before the commission, the commission may, in its own discretion, suspend or dismiss action on a complaint based on the same matter.

(Authorized by K.S.A. 1972-Supp. 44-1003 and 1004; effective May 1, 1975.)  
*1974 Supp.* } effective, E-74-14, Dec. 28, 1973;

21-41-11. Service of complaint. A copy of the complaint and any amendments shall be promptly served by the commission on the respondent.

(Authorized by K.S.A. 1972-Supp. 44-1003 and 1004; effective May 1, 1975.)  
*1974 Supp.* } effective, E-74-14, Dec. 28, 1973;

APPROVED as to form and legality.  
Attorney General  
by *[Signature]* ASST.

Article 21-42 Investigation

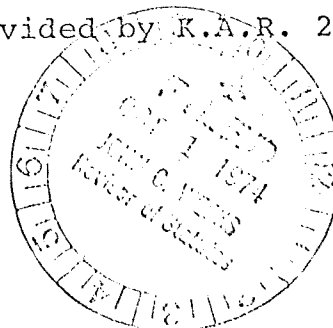
21-42-1. Investigation. Any commissioner or presiding officer may request the commission to initiate an investigation whenever any possible violation of any statute, rules, orders or other authority administered by the commission appears. Upon such requests the commission may initiate such investigation.

(Authorized by K.S.A. 1972-Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974  
effective, E-74-14, Dec. 28, 1973;

21-42-2. Subpoenas. Any commissioner or the executive director may sign and issue a subpoena in the name of the commission.

(Authorized by K.S.A. 1972-Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974  
effective, E-74-14, Dec. 28, 1973;

21-42-3. Investigating commissioner. Whenever an investigation of a complaint is initiated, an investigating commissioner shall be assigned the case. Whenever an investigation is initiated without the filing of a formal complaint, an investigating commissioner may be assigned to the case. The investigating commissioner so assigned shall have the same powers of discovery in the name of the commission as are provided in these rules for any commissioner or presiding officer relative to any hearing or other proceeding, including the power of subpoena per K.A.R. 21-42-2 and 21-45-9; and discovery depositions in the same nature as provided by K.A.R. 21-45-10.



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Attorney General  
by [Signature] Ass't.



If a formal complaint shall issue from the investigation, the same investigating commissioner shall be assigned to that complaint unless, in the judgment of the chairman, a new appointment should be made. The investigating commissioner may not participate in any subsequent proceedings which may eventually be held as a result of such investigation other than as a witness.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974 effective, 5-74-14, Dec. 28, 1973;

21-42-4. Notice of Investigation. Where an investigation is directed without the filing of a complaint, the commission will notify the person to be investigated of the nature and scope of such investigation.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974 effective, 5-74-14, Dec. 28, 1973;

21-42-5. Preservation of records.

(a) Employment records. When a complaint or notice of investigation has been served on an employer, labor organization or employment agency under the Kansas act against discrimination, the respondent shall preserve all personnel records relevant to the investigation until such complaint or investigation is finally adjudicated. The term "relevant to the investigation" shall include, but not be limited to, personnel, employment or membership records relating to the complainant and to all other employees, applicants or members holding or seeking positions similar to that held or sought

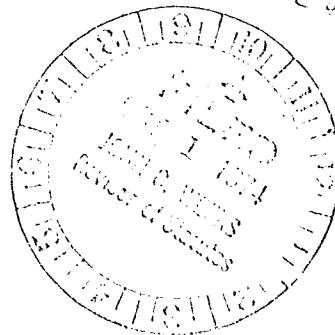
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by *[Signature]*, Asst.

by the complainant, and application forms or test papers completed by any unsuccessful applicant and by all other applicants or candidates for the same position or membership as that for which the complainant applied and was not accepted, and any records which are relevant to the scope of the investigation as defined in the notice or complaint.

(b) Membership club records. Where a complaint or notice of investigation has been served on a membership club under the Kansas act against discrimination, the respondent shall preserve all records relevant to the investigation until such complaint or investigation is finally adjudicated. The term "relevant to the investigation" shall include, but not be limited to, applications for membership on file at the time the complaint or notice or investigation is served and those received following service of the complaint or notice of investigation whether or not they have been accepted or rejected, membership lists, records of payment of initiation fees or regular dues, together with the minutes of meetings of the club conducted in conformity with the constitutions or by-laws adopted by the membership.

(c) Other records. Any other books, papers, documents, or records of any form which are relevant to the scope of any investigation as defined in the notice or complaint shall be preserved during the pendency of any proceedings by all parties to the proceedings unless the commission specifically orders otherwise.

(Authorized by K.S.A. -1972<sup>1</sup> Supp. 44-1003 and 1004; effective May 1, 1975)   
 1974



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21-42-6. Amendment. The commission in its discretion may amend the notice of investigation.

(Authorized by K.S.A. 1972<sup>6</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975) <sup>1974</sup> effective, E-74-14,  
Dec. 28, 1973;

21-42-7. Probable cause notice. The parties to the proceeding shall be notified by the commission of the investigating commissioner's final determination relative to probable cause.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975) <sup>1974</sup> effective, E-74-14,  
Dec. 28, 1973;

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by [Signature], Asst.

Article 21-43 Conference and Conciliation

21-43-1. Conference. If the investigating commissioner finds that probable cause exists for crediting the allegations of the complaint, the investigating commissioner or such other commissioner as the commission may designate, shall, assisted by the executive director and the commission's staff, immediately endeavor to eliminate any unlawful practice or other matter in the complaint by conference, conciliation and persuasion.

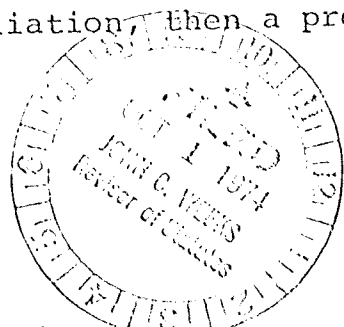
(Authorized by K.S.A. 1972<sup>0</sup> Supp. 44-1003 and 1004; effective May 1, 1975) 1974 effective, E-74-14, Dec. 28, 1973;

21-43-2. Time limitation for conciliations. Failure to arrive at a satisfactory adjustment within forty-five (45) days after respondent is notified in writing of a finding of probable cause may constitute sufficient reason for the commission to judge efforts at conference and conciliation to be a failure.

(Authorized by K.S.A. 1972<sup>0</sup> Supp. 44-1003 and 1004; effective May 1, 1975.) 1974 effective, E-74-14, Dec. 28, 1973;

21-43-3. Successful conciliation.

(a) Preparation. If the investigating commissioner, or such other commissioner as the commission may designate, assisted by the executive director and the commission's staff, shall succeed in endeavors under conference and conciliation, then a proposed conciliation agreement shall be prepared.



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by: [Signature], Asst.

(b) Agreement. The commission shall serve upon the complainant a copy of the proposed conciliation agreement. If the complainant agrees to the terms of the agreement or fails to object to such terms within five (5) days after its service upon him, the commission may formally enter into the proposed conciliation agreement by issuing an order embodying such conciliation agreement. The commission shall serve a copy of such order upon all parties to the proceeding.

(c) Terms. The terms of such conciliation agreement may include any provisions and remedies, for retroactive, present or future effect, including all remedies which may be ordered by the commission per K.A.R. 21-45-21, and including a provision for the entry in court of a consent decree embodying terms of the conciliation agreement. When the commission accepts a conciliation agreement containing a provision for the entry in court of a consent decree, the commission's attorney, on behalf of and in the name of the commission, may commence a proceeding in the court to obtain an order for its enforcement.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975.) 1974 effective, E-74-14,  
Dec. 28, 1973.)

21-43-4. Consideration of complainant's objections. If the complainant objects to the proposed conciliation agreement, complainant shall, within five (5) days of the agreement's service upon complainant, serve a specification of the objections upon the commission.

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by [Signature] Ass't.

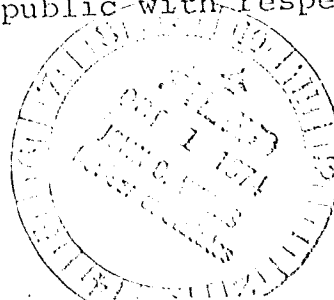
Unless such objections are met or withdrawn within five (5) days after service thereof, the commission shall thereafter notice the complaint for hearing, except in cases where the complaint may be dismissed on the grounds of administrative convenience. However, the commission, where it finds the terms of a conciliation agreement to be in the public interest, may execute such agreement if the respondent is still willing to execute it, and may limit the hearing to the objections of the complainant, unless the respondent demands a hearing on the merits of all of the charges by serving an answer including such a demand.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975)   
 1974 effective, E-74-14, Dec. 28, 1973;

21-43-5. Settlements. At the hearing, the commission's attorney, with the consent of the complainant, may stipulate with the respondent for settlement of the case and the commission may issue an order on such stipulation.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975)   
 1974 effective, E-74-14, Dec. 28, 1973;

21-43-6. Non-disclosure of facts. The commission shall not disclose what has transpired in the course of its endeavors at conciliation and persuasion, per K.S.A. 44-1005. However, when executed, the final terms of a conciliation agreement may be disclosed. No officer, agent or employee of the commission shall make public with respect to a



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particular person without his consent information from reports obtained by the commission except as necessary to the conduct of further commission proceedings.

(Authorized by K.S.A. 1972<sup>1</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975<sup>2</sup> 1974 effective, E-74-14,  
Dec. 28, 1973;

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Article 44 Compliance

21-44-1. Compliance review.

(a) Date. Not later than six (6) months from the date of a conciliation agreement or an order issued under Article 45 of these rules, or at any other time in its discretion, including contract compliance review per K.S.A. 44-1032, the commission shall investigate whether the respondent is complying with the terms of such agreement, contract or order.

(b) Non-compliance. Upon a finding of non-compliance, the commission shall take appropriate action to assure compliance.

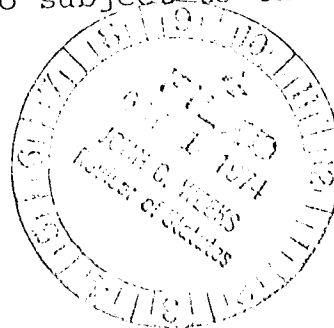
(Authorized by K.S.A. 1972 Supp. 44-1003 and 1004; effective May 1, 1975)

1974  
effective, E-74.14  
Dec. 28, 1973.

21-44-2. Reports.

(a) Filing. When any person subject to the jurisdiction of the commission is required to do or perform any act by the commission order, there shall be filed with the office of the commission within thirty (30) days following the date when such requirement became effective, a notice, stating that such requirement has been met or complied with, unless the commission directs otherwise.

(b) EEO forms. Every employer, labor organization and joint labor-management apprenticeship committee subject to the Kansas act against discrimination and also subject to the jurisdiction of



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the U.S. equal employment opportunity commission shall file with that agency the appropriate forms as required in accordance with that agency's instructions and regulations.

(Authorized by K.S.A. 1972<sup>g</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974  
effective, E-74-14  
Dec. 28, 1973;

21-44-3. Posting of law and information. "A conspicuous place or places" for the purposes of K.S.A. 44-1012 shall be any easily accessible and well lighted place or places where the notices may readily be seen regularly by employees, applicants for employment, members of labor organizations, applicants for membership in labor organizations, or persons using or attempting to use places of public accommodations or the services of an employment agency, or any institution, department or agency of the state of Kansas or any political subdivision or municipality thereof.

(Authorized by K.S.A. 1972<sup>g</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974  
effective, E-74-14  
Dec. 28, 1973;

21-44-4. Records. No notation identifying the race, religion, color, sex, physical handicap, national origin or ancestry of an individual shall be made or maintained on application forms or other records except as provided otherwise in these rules. Violations of this rule shall be deemed evidence of discrimination unless a person may show it is acting in conformity with an explicit mandate of a local, state or federal civil rights agency. The commission recommends the maintenance of a

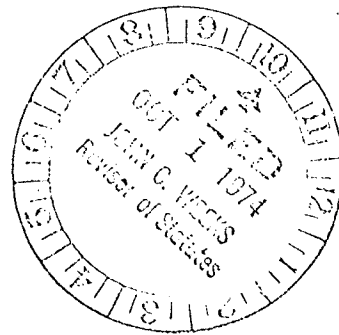
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by J. L. Aas'z

permanent record as to the racial, sexual, religious or ethnic identity of an individual for the purpose of complying with various reporting requirements only where the person maintains such records separately from the individual's basic personnel file or other similar records available to those responsible for decisions (e.g., as a part of an automatic data processing system in the payroll department).

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975)   
 1974   
 effective, E-74-14, Dec. 28, 1973;

21-44-5. Membership club references: Membership clubs which are covered by the Kansas act against discrimination may not require a recommendation by a present member or members as a prerequisite for admission to membership if the present membership does not bear a reasonable relationship to the ethnic and racial pattern of the general population of the area from which such clubs draw members; nor, in such circumstances, may they give preference to applicants recommended by present members by reason of such recommendation.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975)   
 1974   
 effective, E-74-14, Dec. 28, 1973;



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Article 45 Proceedings

21-45-1. Notice of hearing. The notice of hearing shall inform the respondent of the time and place of the hearing and that respondent may file written answer to the complaint. The notice of hearing and verified copy of the complaint, as the same may have been amended, shall be served by certified mail, return receipt requested, or by personal service on all parties.

(Authorized by K.S.A. 1972<sup>or</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975.) <sup>1974</sup> effective, E-74-14,  
Dec. 28, 1973;

21-45-2. Answer.

(a) Time of filing. The respondent against whom a verified complaint, as the same may have been amended, is filed and on whom a notice of hearing and a copy of such complaint have been served, may file a written verified answer in person or through an attorney-at-law within ten (10) days from the service of such complaint and notice of hearing.

(b) Form of answer. The answer shall contain a general or specific 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 and a statement of any matter constituting a defense. Any allegation in the complaint which is not denied or admitted in the answer, unless the respondent shall state in the answer that he is without knowledge or information sufficient to form a belief, shall be deemed admitted. The answer

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shall contain the post-office address of the respondent, and if he is represented by an attorney, the identification of said attorney as otherwise provided by the rules.

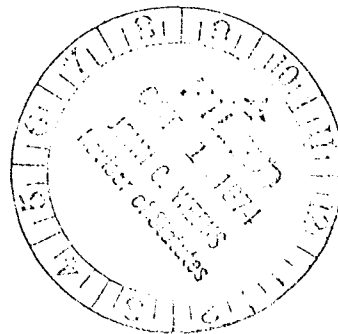
(c) Amendment of answer. The answer or any part thereof may be amended as a matter of right at any time before the first hearing and thereafter in the discretion of the presiding officer on application duly made therefore.


(d) Amendment of answer upon amendment of complaint. In any case where a complaint has been amended, the respondent shall have an opportunity to amend his answer within such period as may be fixed by the presiding officer, and the hearing shall be postponed to a date at least fifteen (15) days after the filing of such amended complaint.

(e) Failure to file answer. The presiding officer may proceed, notwithstanding any failure of the respondent to file an answer within the time provided herein, to hold a hearing at the time and place specified in the notice of hearing and may make its findings of fact and enter its order upon the testimony taken at the hearing.

(Authorized by K.S.A. 1972<sup>g</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975) <sup>1974</sup> effective, E-74-14,  
Dec. 28, 1973;

21-45-3. Consolidation. By order of the commission, proceedings involving common questions of law or fact may be joined for hearing



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of any or all matters in issue and such proceedings may be consolidated; and any commissioner or presiding officer may make such orders concerning the conduct of the proceedings as may avoid unnecessary costs or delay.

(Authorized by K.S.A. 1972<sup>0</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975.) <sub>1974</sub> effective, E-74-14,  
Dec. 28, 1973;

21-45-4. Waiver of hearing. In any proceeding if the participants waive hearing the commission may forthwith dispose of the matter upon the basis of the pleadings or submittals and the studies of the staff.

(Authorized by K.S.A. 1972<sup>0</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975.) <sub>1974</sub> effective, E-74-14,  
Dec. 28, 1973;

21-45-5. Hearing calendar. The commission will maintain a hearing calendar of all proceedings set for hearing.

(Authorized by K.S.A. 1972<sup>0</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975.) <sub>1974</sub> effective, E-74-14,  
Dec. 28, 1973;

21-45-6. Placement on calendar. In the absence of cause requiring otherwise, and as time, the nature of the proceedings, and the proper execution of the functions of the commission permit, matters required to be determined upon the record after hearing or opportunity for hearing will be placed upon the hearing calendar. Proceedings pending upon this calendar will be their order of assignment, so far as practicable, be heard at the times and places fixed by the commission or presiding officer, giving due regard to the convenience

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and necessity of the parties or their attorneys. The commission in its discretion with or without motion, for cause may at any time with due notice to the participants advance or postpone any proceeding on the hearing calendar.

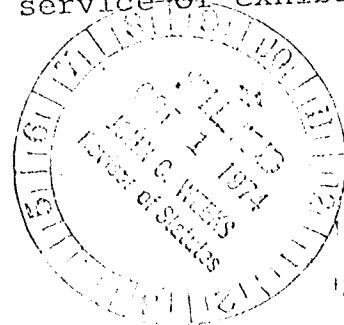
(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974  
Effective, E-74-14,  
Dec. 28, 1973;

21-45-7. Pre-hearing conferences.

(a) Generally. Conferences to adjust, settle or expedite proceedings. In order to provide opportunity for submission and consideration of facts, arguments, offers of settlement, or any of the issues therein, or consideration of means by which the conduct of the hearing may be facilitated and the disposition of the proceeding expedited, conferences between the participants for such purposes may be held at any time prior to or during hearings before the presiding officer as time, the nature of the proceeding, and the public interest may permit.

(b) Conferences to expedite hearing. At any pre-hearing or other conferences which may be held to expedite the orderly conduct and disposition of any hearing, there may be considered, in addition to any offers of settlement or proposals of adjustment, the possibility of the following:

- (1) The simplification of the issues.
- (2) The exchange and acceptance of service of exhibits proposed to be offered into evidence.



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(3) The obtaining of admission as to, or stipulations of, facts not remaining in dispute, or the authenticity of documents which might properly shorten the hearing.

(4) The limitation of the number of witnesses.

(5) The discovery or production of evidence.

(6) Such other matters as may properly be dealt with to aid in expediting the orderly conduct and disposition of the proceeding.

(c) Initiation of conferences.

(1) The commission or the presiding officer, with or without motion, and after consideration of the probability of beneficial results to be derived therefrom, may direct that a conference be held, and direct the parties to the proceeding, the staff of the commission and staff counsel to appear thereat to consider any or all of the matters enumerated in K.A.R. 21-45-7(b) (relating to conferences to expedite hearings). Due notice of the time and place of such conference shall be given to all parties to the proceeding, the staff of the commission and staff counsel.

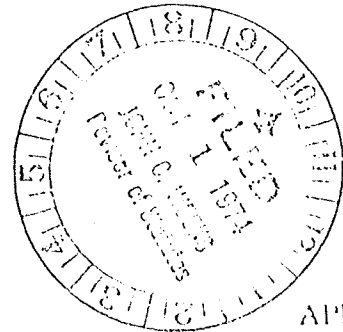
(2) All parties will be expected to come to the conference fully prepared for a useful discussion of all problems involved in the proceeding, both procedural and substantive and fully authorized to make commitments with respect thereto. Such preparation should include, among other things, advance study 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 participant to attend such conference, after being served with due notice of the time and place thereof, shall constitute a waiver of all objections

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to the agreements reached, if any, and any order or ruling with respect thereto.

(d) Authority of presiding officer at conference. The presiding officer at any conference may dispose of by ruling, irrespective of the consent of the participants, any procedural matters which he is authorized to rule upon during the course of the proceeding, and which it appears may appropriately and usefully be disposed of at that stage. In addition, where it appears that the proceeding would be substantially expedited by distribution of proposed exhibits and written prepared testimony reasonably in advance of the hearing session, the presiding officer at his discretion and with due regard for the convenience and necessity of the parties, the staff of the commission and staff counsel, may direct such advance distribution by a prescribed date. The rulings of the presiding officer made at such conference shall control the subsequent course of the hearing, unless modified for good cause shown.

(e) Offers of settlement. Nothing contained in these rules shall be construed as precluding any participant in a proceeding from submitting at any time offers of settlement or proposals of adjustment to all parties and to the commission (or to staff counsel for transmittal to the commission) or from requesting conferences for such purpose.



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by *[Signature]* Asst.

(f) Refusal to make admissions or stipulate. If a party attending a conference convened pursuant to these rules refused to admit or stipulate the genuineness of any documents or the truth of any matters of fact and if the participant requesting the admissions or stipulations thereafter proves the genuineness of any such document or the truth of any such matter of fact, he may apply to the commission or presiding officer for an order requiring the other party to pay him the reasonable expenses incurred in making such proof, including reasonable attorney's fees. Unless the commission or presiding officer finds that there were good reasons for the refusal to admit or stipulate or that the admissions or stipulations sought were of not substantial importance, the order shall be made. An appeal may be taken to the commission from any such order made by a presiding officer. If a party refuses to comply with such order after it becomes final, the commission or presiding officer may strike all or any part of such pleadings of such party or limit or deny further participation by such party.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975) <sup>1974</sup> effective, E-74-14,  
Dec. 28, 1973;

21-45-8. Hearings.

(a) Who shall conduct. Hearings and rehearings shall be conducted by the hearing commissioners designated by the chairman, one of whom shall be designated as presiding officer by the chairman; or,

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Attorney General  
by *[Signature]*

at the discretion of the commission, hearings and rehearings may be conducted by a hearing examiner appointed per K.A.R. 21-45-17 who shall be the presiding officer vested with all the powers and duties of a presiding officer according to these rules.

(b) Place. Hearings and rehearings shall be held in the county where respondent is doing business and where the acts complained of occurred at a place designated by the chairman of the commission.

(c) Appearances. The presiding officer before whom the hearing is held shall cause to be entered upon the record all appearances, with a notation in whose behalf each appearance is made.

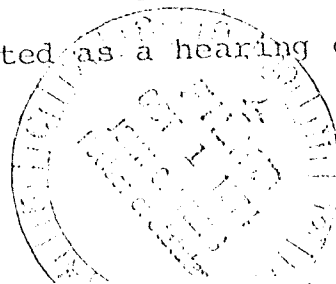
(d) Procedure before hearing commissioners.

(1) The hearing commissioner(s) shall have full authority to direct the control of the procedure of the hearings and rehearings, by the presiding officer, to admit or exclude testimony or other evidence, and to rule upon all motions and objections.

(2) All rulings and determinations of the hearing commissioner(s) shall be by majority rule.

(3) The hearing commissioners may call and examine witnesses, direct the production of papers or other documents and introduce documentary or other evidence.

(4) Whenever the hearing commissioner(s) cannot arrive at a majority decision for any reason, the chairman may appoint one or more new hearing commissioners who shall review the transcript of proceedings and participate in the proceedings with the same power and authority as if originally appointed as a hearing commissioner.



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(e) Order of procedure.

(1) In hearings, the complainant, or other party having the burden of proof, as the case may be, shall open and close, unless otherwise directed by the presiding officer. In proceedings which have been consolidated for hearing, the presiding officer may direct who shall open and close.

(2) Interveners shall follow the parties in whose behalf the intervention is made. Where the intervention is not in support of any original party, the presiding officer shall designate at what stage such intervener shall be heard.

(3) In proceedings where the evidence is peculiarly within the knowledge or control of another party or participant, the order of presentation set forth in subsections (1) and (2) of this section may be varied by the presiding officer.

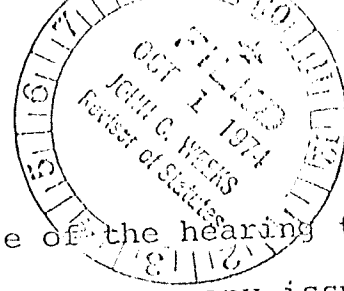
(f) Presentation by the parties.

(1) Parties and staff counsel shall have the right of presentation of evidence, cross-examination, objection and motion. The taking of evidence and subsequent proceedings shall proceed with all reasonable diligence and with the least practicable delay.

(2) When objections to the admission or exclusion of evidence before the presiding officer are made, the grounds relied upon shall be stated briefly. Formal exceptions are unnecessary and shall not be taken to rulings thereon.

(g) Limiting number of witnesses. The presiding officer may limit appropriately the number of witnesses who may be heard upon any issue.

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by [Signature], A.G.



(h) Additional evidence. At any stage of the hearing the presiding officer may call for further evidence upon any issue, and require such evidence to be presented by the party or parties concerned or by the staff counsel, either at that hearing or at the adjournments thereof. At the hearing, the presiding officer may, if deemed advisable, authorize any participant to file specific documentary evidence as a part of the record within a fixed time.

(i) Oral examination. Witnesses whose testimony is to be taken shall be sworn, or shall affirm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them.

(j) Fees of witnesses. Witnesses subpoenaed by the commission shall be paid the same fees and mileage as are paid for like services in the district court. Witnesses subpoenaed at the instance of participants shall be paid the same fees by the participant at whose instance the witnesses are subpoenaed; and the commission before issuing any subpoena as provided in § K.A.R. 21-45-9 (relating to subpoenas), may require a deposit of an amount adequate to cover the fees and mileage involved.

(k) Public hearings and rehearings. Hearings and rehearings shall be public.

(l) Rights of parties. All parties to a hearing or rehearing may call, examine and cross-examine witnesses and introduce papers, documents, or other evidence into the record of the proceedings, subject to the ruling of the presiding officer.

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by \_\_\_\_\_

(m) Duties of the hearing commissioners or presiding officer

include but are not limited to the following:

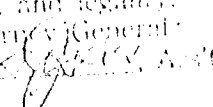
- (1) Administer the Oath.
- (2) Rule on proof.
- (3) Regulate the hearing.
- (4) Exclude people from the hearing.
- (5) Hold conferences for simplification of issues.
- (6) Dispose of procedural requests.
- (7) Authorize and set times for filing of briefs.
- (8) Grant continuances.

(9) Take any other action consistent with the purpose of the law administered by the commission and consistent with these rules.

(n) Stipulations. Written stipulations may be introduced in evidence, if signed by the persons sought to be bound thereby; or by their attorneys. Oral stipulations may be made on the record at open hearings or rehearings.

(o) Oral arguments and briefs. The presiding officer shall permit the parties to submit oral arguments before them and to file briefs within such time limits as the presiding officer may determine consistent with K.A.R. 21-45-15 regarding briefs.

(p) Waiver of objections. Any objection not duly urged before the presiding officer shall be deemed waived unless the failure or neglect to urge such objection shall be excused for cause by the presiding officer.

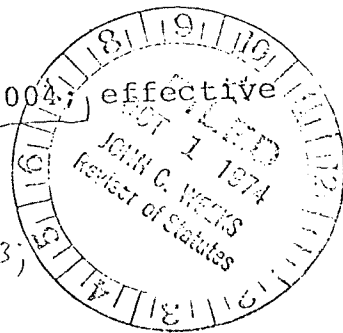
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(q) Continuations, adjournments and substitutions. The presiding officer may postpone, consistent with commission directives regarding the setting of the matter, a scheduled hearing or continue a hearing from day to day or adjourn it to a later day or to a different place by announcement thereof at the hearing or by appropriate notice to all parties. The commission may, at any time prior to the completion of a hearing, substitute one hearing commissioner or presiding officer for another.

(Authorized by K.S.A. 1972<sup>1974</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)

effective, E-74-14, Dec. 28, 1973;



21-45-9. Subpoenas.

(a) Issuance. Subpoenas for the attendance of witnesses or for the production of evidence, unless directed by the commission upon its own motion, will issue only upon application in writing to the commission or the presiding officer, except that during sessions of a hearing in a proceeding, such application may be made orally on the record before the presiding officer, who is hereby given authority to issue subpoenas. Such written applications shall specify as nearly as may be the general scope of the testimony or evidence sought, including as to evidence, specification as nearly as may be, of the documents desired. Any commissioner may issue subpoenas.

(b) Service and return. If service of subpoena is made by a sheriff or like officer or his deputy, such service shall be evidenced by his return thereof. If made by another person, such person

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shall make affidavit thereof, describing the manner in which service was made, and shall return such affidavit. In case of failure to make service, the reasons for the failure shall be stated on the original subpoena. In making service, a copy of the subpoena shall be exhibited to and left with the person to be served. The original subpoena, bearing or accompanied by the authorized return, affidavit or statement, shall be returned forthwith to the office of the commission or, if so directed on the subpoena, to the presiding officer before whom the person named in the subpoena is required to appear.

(c) Fees of witnesses. Witnesses who are subpoenaed may be paid fees as provided by K.A.R. 21-45-8(j) or as allowed by the State department of administration.

(Authorized by K.S.A. 1972<sup>0</sup> Supp. 44-1003 and 1004; effective May 1, 1975) 1974 effective, E-74-14, Dec. 28, 1973;

21-45-10. Depositions.

(a) Generally. The testimony of any witness may be taken by deposition, upon application by a participant in a proceeding pending before the commission any time before the hearing is closed, upon approval by the commission or the presiding officer.

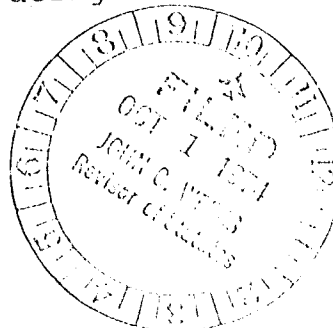
(b) Notice and application. Unless notice is waived, no deposition shall be taken except after at least ten (10) days' notice when a deposition is to be taken elsewhere. Such notice shall be given in writing by the participant proposing to take such deposition to the other participants and to the commission. In such

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notice and application to take evidence by deposition, the participant desiring to take the deposition shall state the name and post office address of the witness, the subject matter concerning which the witness is expected to testify, the time and place of taking the deposition, the name and post office address of the notarial officer before whom it is desired that the deposition be taken, and the reason why such deposition should be taken. The other participants may, within the time stated in this section, make any appropriate response to such notice and application.

(c) Authorization of taking deposition. If an application for the taking of a deposition so warrants, the commission or presiding officer will issue and serve, within a reasonable time in advance of the time fixed for taking testimony, upon the participants an authorization naming the witness whose deposition is to be taken, and the time, place and notarial officer before whom the witness is to testify, but such time, place and notarial officer so specified may or may not be the same as those named in the said notice and application.

(d) Officer before whom deposition is taken. Depositions may be taken before any commissioner, a presiding officer or other authorized representative of the commission, any notary public or any other person authorized to administer oaths not being counsel or attorney for any of the participants, or interested in the proceeding or investigation, according to such designation as may be made in the authorization.

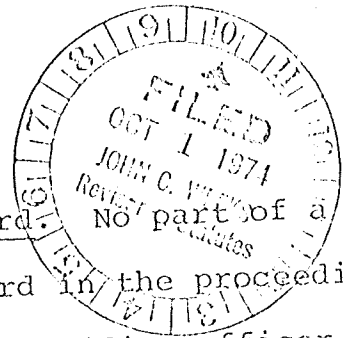


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(e) Oath and reduction to writing. Every person whose testimony is taken by deposition shall be sworn, or shall affirm concerning the matter about which he shall testify, before any questions are put or testimony given. The testimony shall be reduced to writing by the notarial officer, or under his direction, after which the deposition shall be subscribed by the witness, unless waived, and certified in the usual form by the notarial officer.

(f) Scope and conduct of examination. Unless otherwise directed in the authorization, the deponent may be examined regarding any matter which may be relevant to the issues involved in the pending proceeding, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things, and the identity and location of persons having knowledge of relevant facts. Participants shall have the right of cross-examination, objection and exception. In making objections to questions or evidence, the grounds relied upon shall be stated briefly, but no transcript filed by the notarial officer shall include argument or debate. Objections to questions or evidence shall be noted by the notarial officer upon the deposition, but he shall not have the power to decide on the competency, materiality or relevancy of evidence. Objections to questions or evidence not taken before the notarial officer shall be deemed waived.

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(g) Status of deposition as part of record.

deposition shall constitute a part of the record in the proceeding, unless received in evidence by the commission presiding officer. Objection may be made at the hearing in the proceeding to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witnesses were then present and testifying.

(h) Fees of officers and deponents.

Deponents whose depositions are taken and the notarial officers taking such depositions shall be entitled to the same fees as are paid for like services in the district courts, which fees shall be paid by the participant at whose instance the depositions are taken.

(i) Deposition upon written questions.

Upon written application requesting deposition by written questions, any commissioner or presiding officer may for good cause permit such a deposition according to such terms and scope as directed by said commissioner or presiding officer.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975) <sub>1974</sub> effective, E-74-14, Dec. 28, 1973;

21-45-11. Interrogatories.

Upon written application, any commissioner or presiding officer may, for good cause, permit interrogatories as generally identified in K.S.A. 60-233, but limited to the specific terms and scope as may be directed by said commissioner or presiding officer.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975) <sub>1974</sub> effective, E-74-14, Dec. 28, 1973; APPROVED as to form and legality, Attorney General by [Signature]

21-45-12. Motions.

(a) Scope and contents. After a hearing has commenced in a proceeding, a request may be made by motion for any procedural or interlocutory ruling or relief desired, except as may be otherwise expressly provided in these rules. Other motions may be made as provided for elsewhere in these rules. Motions shall set forth the ruling or relief sought, and state the grounds therefor and the authority relied upon.

(b) Presentation. Motions may be made in writing at any time and motions made during hearings may be stated orally upon the record, or the presiding officer may require that such oral motions be reduced to writing and filed separately. Oral motions shall be included in the transcript.

(c) Objections. Any participant shall have ten (10) days within which to answer or object to any motion unless the period of time is otherwise fixed by the commission or the presiding officer.

(d) Action on motions.

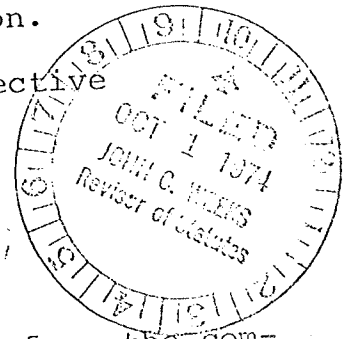
(1) The presiding officer is authorized to rule upon any motion not formally acted upon by the commissioners except that no motion made before or during a hearing, a ruling upon which would involve or constitute a final determination of the proceeding, shall be ruled upon by a presiding officer except as a part of his proposed report submitted after the conclusion of the hearing. A presiding officer may refer any motion to the hearing commissioner(s) or commission for ultimate determination. The hearing commissioner(s) or commission will rule upon all other motions and upon such motions as presiding officers may certify to the commission for disposition.

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(2) With respect to any motion filed with the commission after a hearing has commenced, or made to a presiding officer after a hearing has commenced and referred to the commission, unless the commission acts within thirty (30) days after such filing or referral, whichever is later, the motion shall be deemed to have been denied. The presiding officer, either by an announcement on the record where the hearing is in session or by written notice if the hearing is in recess, shall notify the parties to the proceeding of the date on which a motion is referred to the commission.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975) <sup>1974</sup>

effective,  
E-74-14,  
Dec. 28, 1973;



21-45-13. Evidence.

(a) Form and admissibility. In any proceeding before the commission or a presiding officer relevant and material evidence shall be admissible, but there shall be excluded such evidence as is unduly repetitious or cumulative, or such evidence as is not of any probative value.

(b) Reception and ruling. The presiding officer shall rule on the admissibility of all evidence, and shall otherwise control the reception of evidence so as to confine it to the issues in the proceeding. The production of further evidence upon any issue may be ordered.

(c) Documents on file with the commission. In case any matter contained in a report or other document on file with the agency is offered in evidence, such report or other document need not be produced or marked for identification, but may be offered in evidence

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by specifying the report, document, or other file containing the matter so offered.

(d) Public documents. Whenever there is offered in evidence (in whole or in part) a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees, or administrative agencies of the Federal Government (including Government-owned corporations) and such document (or part thereof) has been shown by the offerer to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered in evidence as a public document item by specifying the document or relevant part thereof without regard to the requirements of K.A.R. 21-45-13(g)

(e) Written testimony.

(1) Direct testimony of any witness may be offered as an exhibit, or as prepared written testimony to be copied into the transcript. Cross examination of the witness presenting such written testimony or exhibit shall proceed at the hearing at which such testimony or exhibit is authenticated if, not less than twenty (20) days prior to such hearing, service thereof is made upon each participant of record, unless the presiding officer for good cause shall otherwise direct.

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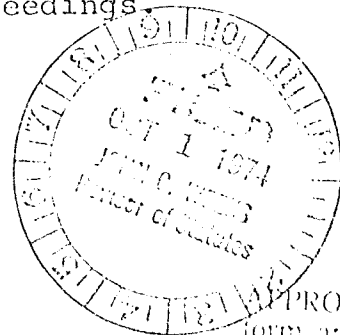
(2) Whenever in the circumstances of a particular case it is deemed necessary or desirable, the commission or the presiding officer may direct that testimony to be given upon direct examination shall be reduced to exhibit form or to the form of prepared written testimony and be served and offered in the manner provided in subsection (1) of this section. A reasonable period of time shall be allowed for the preparation of such written testimony.

(3) All participants offering prepared written testimony whether in the form of an exhibit, or to be copied into the transcript, shall insert line numbers on each page, in the left-hand margin, unless otherwise directed by the commission or the presiding officer.

(f) Records in other proceedings. When any portion of the record in any other proceeding before the commission is offered in evidence and shown to be relevant and material to the instant proceeding, a true copy of such record shall be presented in the form of an exhibit, together with additional copies as provided in K.A.R. 21-45-13(g) (relating to copies to parties and commission), unless:

(1) the participant offering such record agrees to supply, within a period of time specified by the commission or the presiding officer, such copies at his own expense, if and when so required; and

(2) the portion is specified with particularity in such manner as to be readily identified, and upon motion is admitted in evidence by reference to the records of the other proceedings.



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(g) Copies to parties and the commission. Except as otherwise provided in these rules, when exhibits of a documentary character are offered in evidence, unless otherwise directed by the commission or the presiding officer, copies shall be furnished to the presiding officer and to the participants present at the hearing.

(Authorized by K.S.A. ~~1972~~<sup>1974</sup> Supp. 44-1003 and 1004; effective May 1, 1975) effective, E-74-14, Dec. 28, 1973;

21-45-14. Official notice of facts. Official notice may be taken by the commission or the presiding officer of such matters as might be judicially noticed by the district courts, or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, so that the fact is not subject to reasonable dispute, or any matters as to which the commission by reason of its functions is an expert. Any participant shall, on timely request, be afforded an opportunity to show the contrary. Any participant requesting the taking of official notice after the conclusion of the hearing shall set forth the reasons claimed to justify failure to make the request prior to the close of the hearing.

(Authorized by K.S.A. ~~1972~~<sup>1974</sup> Supp. 44-1003 and 1004; effective May 1, 1975) effective, E-74-14, Dec. 28, 1973;

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21-45-15. Briefs.

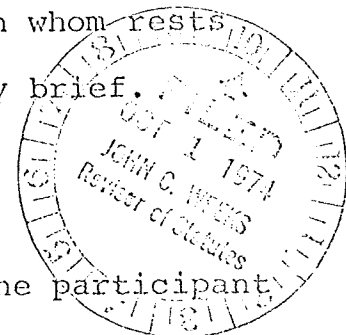
(a) Proceedings in which briefs are to be filed. At the close of the taking of testimony in each proceeding where briefs are allowed, the presiding officer shall fix the time for the filing and service of briefs, giving due regard to the nature of the proceeding, the magnitude of the record, and the complexity or importance of the issues involved; and he shall fix the order in which such briefs shall be filed. The first or initial brief shall be filed by the participant or participants upon whom rests the burden of proof, except that the presiding officer, when in his judgment the circumstances or exigencies require, may direct that briefs shall be filed simultaneously. In no proceeding, whether briefs are to be filed simultaneously or otherwise, shall any participant upon whom rests the burden of proof be denied the right to file a reply brief.

(b) Content. Briefs shall contain:

- (1) A concise statement of the case.
- (2) An abstract of the evidence relied upon by the participant filing, preferably assembled by subjects, with references to the pages of the record or exhibits where the evidence appears.

(3) Proposed findings and conclusions and, if desired, a proposed form of order or regulation, together with the reasons and authorities therefore, separately stated.

(c) Form. Exhibits should not be reproduced in the brief, but may, if desired, be reproduced in an appendix to the brief. Any analyses of exhibits relied on should be included in the part of the brief containing the abstract of evidence under the subjects



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to which they pertain. Every brief of more than ten (10) pages shall contain on its front leaves a subject index, with page references, and a list of all cases cited, alphabetically arranged, with references to the pages where the citations appear. All briefs shall be as concise as possible.

(d) Filing and service. Briefs not filed and served on or before the dates fixed therefor shall not be accepted for filing, except by special permission of the commission or the presiding officer. Except where filing of a different number is permitted or directed by the commission or presiding officer the same number of copies of each brief as is required for other pleadings shall be furnished for the use of the commission.

(Authorized by K.S.A. 1972<sup>✓</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975.)

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effective, E-74-11,  
Dec. 28, 1973;

21-45-16. Transcript.

(a) Recording of proceedings. Hearings shall be stenographically reported by the official reporter of the commission unless reporting is otherwise directed by the commission, and a transcript of such report shall be a part of the record and the sole official transcript of the proceeding. Such transcripts shall include a verbatim report of the hearings and nothing shall be omitted therefrom except as is directed on the record by the commission or the presiding officer.

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by [Signature] Ass't.

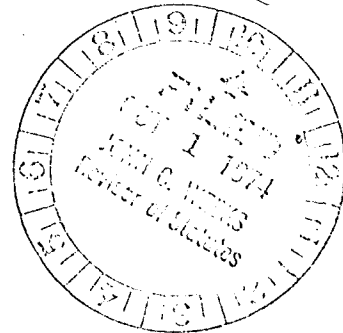
(b) Transcript corrections. Corrections in the official transcript may be made only to make it conform to the evidence presented at the hearing and to speak the truth. No corrections or physical changes shall be made in or upon the official transcript of the proceeding, except as provided in this section. Transcript corrections agreed to by opposing attorneys may be incorporated into the record, if and when approved by the commission or the presiding officer, at any time during the hearing or after the close of evidence, as may be permitted by the commission or the presiding officer before the filing of his proposed report, but not less than ten (10) days in advance of the time fixed for filing final briefs. The commission or the presiding officer may call for the submission of proposed corrections and may make disposition thereof at appropriate times during the course of a proceeding.

(c) Copies. The commission will cause to be made a stenographic record of all public hearings and such copies of the transcript thereof as it requires for its own purposes. Participants desiring copies may obtain them from the official reporter upon payment of the reporter's fees.

(Authorized by K.S.A. 1972<sup>e</sup> Supp. 44-1003 and 1004; effective  
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21-45-17. Presiding officers.

(a) Designation of presiding officers. Either the chairman or, when duly designated for that purpose, one of the hearing commissioners, or a hearing examiner, or other duly appointed representative may preside at a hearing or otherwise, as the presiding officer.

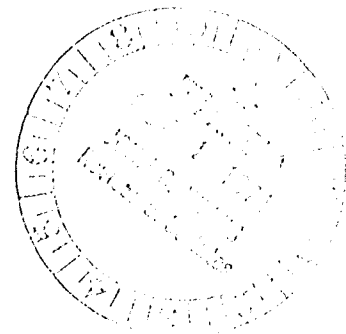
(b) Hearing examiner qualification. Qualifications for the hearing examiner shall be that the person is a qualified attorney to practice law in the state of Kansas, that the person has practiced law for a minimum of three (3) years and that the person be familiar with the rules of the commission.

(c) Presiding officer disqualification. A presiding officer may withdraw from a proceeding when the presiding officer deems it-self disqualified, or the presiding officer may be withdrawn by the chairman for good cause after timely affidavits alleging personal bias or other disqualification have been filed and the matter has been heard by the chairman or other hearing commissioner to whom the chairman has delegated the matter.

(d) Authority of presiding officers. Presiding officers duly designated by the commission to preside at hearings shall have the authority, within the powers and subject to the regulations of the commission, as follows:

(1) To regulate and control the course of hearings, subject to the approval of the commission, and the recessing, reconvening, and the adjournment thereof.

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- (2) To administer oaths and affirmations.
- (3) To issue subpoenas.
- (4) To rule upon offers of proof and receive evidence.
- (5) To take or cause depositions to be taken.
- (6) To allow interrogatories.
- (7) To hold appropriate conferences before or during hearings.
- (8) To dispose of procedural matters but not, before their proposed report, if any, to dispose of motions made during hearings to dismiss proceedings or other motions which involve final determination of proceedings.
- (9) Within their discretion, or upon direction of the commission, to certify any question to the commission for consideration and disposition.
- (10) To submit their proposed reports in accordance with K.A.R. 21-45-18 (relating to proceedings in which proposed reports are prepared).
- (11) Hold conferences for the settlement or simplification of the issues or for the obtaining of mutually satisfactory stipulations as to facts or proof, by consent of the parties, as authorized by established procedure.
- (12) Grant adjournments at the request of parties or representatives or on their own motion.
- (13) Interrogate witnesses and parties as the case requires.
- (14) Direct parties to appear at hearings.
- (15) Consider and evaluate the facts and evidence on the record, as well as arguments and contentions made.

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(16) Determine credibility and the weight of evidence in making findings of fact and conclusions of law or opinion and their reasons.

(17) Make a complete record of the proceeding and to include therein all relevant and material matters, including exhibits, necessary for a review on appeal.

(18) To take any other action necessary or appropriate to the discharge of the duties vested in them, consistent with the statutory or other authorities under which the agency functions and with the regulations and policies of the agency.

(e) Restrictions on duties and activities. Save to the extent required for the disposition of ex parte matters as authorized by law and by the regulations of the agency, no presiding officer shall, in any proceeding which the commission has directed be conducted pursuant to this subsection, consult any person or party on any fact in issue unless upon notice and opportunity for all participants to participate.

(f) Appeals to commission from rulings.

(1) During hearing or conference. Rulings of presiding officers may not be appealed from during the course of hearings or conferences except in extraordinary circumstances where prompt decision by the commission is necessary to prevent detriment to the public interest. In such instance the matter shall be referred forthwith by the presiding officer to the commission for determination.

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(2) Offers of proof. Any offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall constitute the offer of proof.

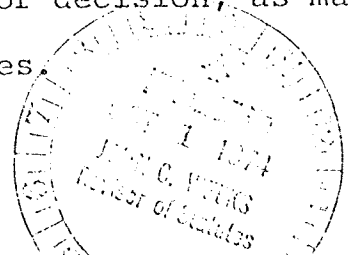
(Authorized by K.S.A. 1972<sup>1974</sup> Supp. 44-1003 and 1004; effective May 1, 1975) effective, E-74-14, Dec. 28, 1973;

21-45-18. Proposed Reports.

(a) Generally. At the close of the evidence, the presiding officer shall allow briefs and hold such oral argument as he deems necessary, review the record in light of the applicable law, and prepare, certify and file with the office of the agency:

- (1) A proposed report.
- (2) A copy of the record of the hearing.
- (3) The briefs, if any, filed in the proceeding.

(b) Unavailability of presiding officer. If a presiding officer becomes unavailable, the commission will either designate another presiding officer to prepare a proposed report or will cause the record to be certified to the commission for decision, as may be deemed appropriate, giving notice to the parties.



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(c) Proposals by the parties. There may be presented by the parties, as directed by the presiding officer, proposed findings and conclusions and, if desired, the reasons therefor, and such proposed forms of order or regulation as may be deemed requisite in view of the facts, the law and the public interest.

(d) Contents of proposed reports. All proposed reports by presiding officers shall include a statement of:

(1) findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented on the record, and

(2) the appropriate regulation, order, sanction, relief, or denial thereof.

(e) Proposed report a part of the record. All proposed reports shall become a part of the formal record.

(f) Service of proposed reports. All proposed reports shall be filed with the office of the commission, which shall serve copies thereof upon all parties and staff counsel of record.

(Authorized by K.S.A. 1972<sup>o</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)

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effective, E-74-14,  
Dec. 28, 1973;

21-45-19. Exceptions to proposed reports.

(a) Procedure to except to proposed report. Any participant desiring to appeal to the commission shall, within ten (10) days after the service of a copy of the proposed report or such other time

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as may be fixed by the commission file exceptions to the proposed report or part thereof in a brief (designated "brief on exceptions"). "Briefs opposing exceptions" may be filed in response to briefs on exceptions within ten (10) days after the time limited for the filing of briefs on exceptions or such other time as may be fixed by the commission. No further response will be entertained unless the commission, with or without motion, so orders.

(b) Briefs on exceptions.

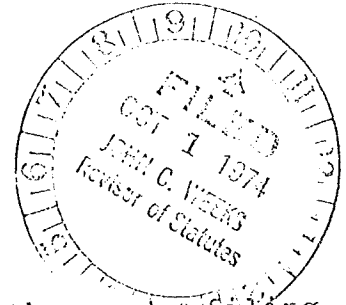
(1) Briefs on exceptions shall contain:

- (i) a short statement of the case,
- (ii) a summary of the basic position of the party filing,
- (iii) the grounds upon which the exceptions rest, and
- (iv) the argument in support with the appropriate references to the record and legal authorities.

(2) There may also be included specific findings and conclusions proposed in lieu of those to which exception is taken and any proposed additional findings and conclusions.

(3) Exceptions to the form of order or regulation shall specify the portions thereof to which exception is taken, and may set forth a form of order or regulation suggested in lieu of that served.

(c) Briefs opposing exceptions. Briefs opposing exceptions shall generally follow the same style prescribed for briefs on exceptions, but may omit a statement of the case if it was correctly stated in a brief on exception.



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(d) Length. Briefs on exceptions and briefs opposing exceptions shall be self contained and limited to thirty (30) pages in length, provided that for good cause the limitation on length may be altered or waived for either class of briefs upon application to and order of the commission at least five (5) days before the time fixed for filing of the respective briefs.

(e) Effect of failure to except. The commission may refuse to consider exceptions to a ruling admitting or excluding evidence unless there was an objection at the time the ruling was made or within any deferred time provided by the presiding officer.

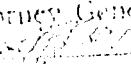
(f) Oral argument on exceptions. Any party or staff counsel filing a brief on exceptions or brief opposing exceptions may by motion request an opportunity to present oral argument to the commission on the proposed report. Such motion must be filed within the time limited for the filing of briefs opposing exceptions. If oral argument is ordered, it shall be limited, unless otherwise specified, to matters properly raised by the briefs.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975) <sup>1974</sup>

Effective, E-74-14,  
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21-45-20. Briefs and oral argument in absence of proposed report.

In proceedings in which the proposed report is not required, any participant filing a brief may by motion request an opportunity to present oral argument to the commission. Such motion shall be

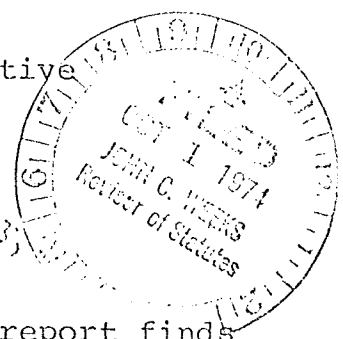
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filed within the time limited for the filing of reply briefs. If oral argument is ordered, it shall be limited, unless otherwise specified, to matters properly raised by the briefs.

(Authorized by K.S.A. 1972<sup>3</sup> Supp. 44-1003 and 1004; effective May 1, 1975)

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21-45-21. Content of orders.

(a) An unlawful practice. If a proposed or final report finds that a respondent has engaged in any unlawful practice, the proposed or final order based on such report may include, where appropriate, but is not limited to the following:

(1) Cease and desist: directing the respondent to cease and desist from such unlawful practice; and

(2) Affirmative action: requiring such respondent to take such affirmative action, including (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, maintenance and operation of an affirmative action file per K.A.R. 21-30-18, restoration to membership in any respondent labor organization, admission to or participation in a guidance program apprenticeship training program, on-the-job training program or other occupational training or retraining program, and the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, as will effectuate the purpose of the law; and

(3) Compensation damages: awarding of compensatory damages to the persons aggrieved by such practice, as will effectuate the purposes of the law; and

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(4) Punitive damages: awarding of punitive damages to the persons aggrieved by such practice, as will effectuate the purposes of the law; and

(5) Compliance report: including a requirement for report of the manner of compliance.

(b) No violation. If, a proposed or final report finds the respondent has not engaged in any unlawful practice, the report shall state the finding of the fact and shall issue an order based on such findings dismissing the complaint as to such respondent.

(Authorized by K.S.A. 1972<sup>c</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)

1974

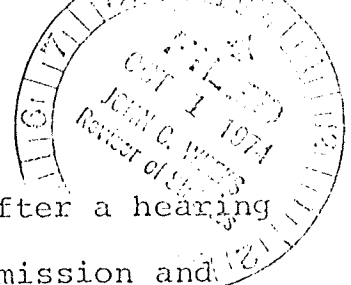
effective; E-74-14,  
Dec. 28, 1973;

21-45-22. Final report and order.

(a) Generally. All reports and orders of the commission shall be final orders (subject only to application for rehearing), except proposed regulations that may be issued in rulemaking. Final orders shall include determination by the commission upon appeal of proposed reports or upon review initiated by the commission within ten (10) days next following the expiration of the time for filing exceptions under such section, or such other time as the commission may fix in specific cases.

(b) No rehearing. No application for rehearing will be entertained by the commission until an adjudication is issued and becomes a final order under the provisions of this section.

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by [Signature] A. A. A.



(c) Content. An order of the commission issued after a hearing shall set forth the findings and conclusions of the commission and an opinion containing the reasons for said decision.

(d) Copies. Copies of orders shall be delivered in all cases by the commission in accordance with the provisions of K.S.A. 44-1005, and also to every other party as otherwise required by these rules.

(e) Notice. Copies of orders shall be accompanied by a notice of the statutory right to apply for a rehearing.

(f) Change. When the commission upholds, abrogates, changes, or modifies an original order after a rehearing, it shall so notify in writing the party making application for the rehearing and all other persons furnished with a copy of the original order in accordance with the provisions of subsection (d) of this rule, K.A.R. 21-45-22(d). Such notice shall be accompanied by a notice of the statutory right to judicial review.

(g) Filing. Filing of orders rendered after a hearing, as well as all abrogations, changes or modifications thereof as the result of a rehearing, shall be at the office of the commission and shall be open to public inspection during regular office hours of the commission.

(h) Final adjudication. A complaint shall be deemed finally adjudicated:

(1) When a respondent is notified in writing by the commission that it is closing a case for whatever reason; or

(2) When an order issued by the commission after a hearing or rehearing becomes final.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004, effective May 1, 1975.)

1974

APPROVED as to form and legality. Attorney General  
E. W. ...  
Dec 28, 1974 by ...

21-45-23. Record of the proceedings. The written record of the proceedings before the commission for appeal or other public purposes shall include the formal record.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975) <sup>1974</sup> effective, E-74-14, Dec. 28, 1973;

21-45-24. Rehearing.

(a) Form, filing and service. An application for rehearing shall be filed with the commission at its office in Topeka within ten (10) days after the issuance of any adjudication or other final order by the agency. Such application shall be made by petition, stating specifically the grounds relied on. A copy of such application shall be served on all the other persons receiving a copy of the original order in conformity with the service provisions of these rules, by the party making such application.

(b) Content of application for rehearing. Every application for rehearing shall contain, other than the information required by K.S.A. 44-1010, the following:

(1) The docket number of the case for which such application is being made.

(2) The name of the party making such application, together with such other identifying information as is otherwise required for any appearance or submittal by these rules.

(3) The name and address of each person served with a copy of such application in conformity with the service provisions of these rules.

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by *[Signature]* Asst.



(4) Such petitions shall state concisely and specifically alleged errors in the adjudication or other order of the commission. If an adjudication or other order of the agency is sought to be vacated, reversed, or modified by reason of matters that have arisen since the hearing and decision or order, or by reason of a consequence that would result from compliance therewith, the matters relied upon by the petitioner shall be set forth in the petition.

(c) Manner of filing and serving applications for rehearing. Applications for rehearing shall be filed and served by personal delivery or by certified mail, return receipt requested.

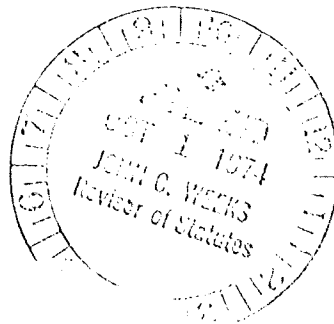
(d) Date of application for rehearing. The date an application for rehearing is filed shall be the date it is delivered to the commission's office in Topeka, whether by personal delivery or by mail.

(e) Granting an application for rehearing. When the commission grants an application for rehearing, it shall so notify the parties in writing.

(f) Date of granting of application for rehearing. The date an application for rehearing is granted shall be the date on which the commission makes such decision.

(g) Other procedural rules. The rehearing shall follow the same procedural rules as a hearing, except to the extent otherwise directed by the commission or a presiding officer.

(h) Effect of failure to allege specific error. Failure to request a rehearing on specific allegation of error and provide the



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reasons therefore shall constitute a waiver of all objection to any matters not specifically alleged as error.

(Authorized by K.S.A. 1972<sup>9</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)

1974  
Effective, E. 74-14,  
Dec. 28, 1973;

21-45-25. Reopening of the record.

(a) Petition to reopen. At any time after the conclusion of a hearing in a proceeding or adjournment thereof sine die, any participant with notice to all participants in the proceeding may file with the presiding officer, if before issuance by the presiding officer of a proposed report, otherwise with the commission a petition to reopen the proceeding for the purpose of taking additional evidence. Such petition shall set forth clearly the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing.

(b) Responses. Within ten (10) days following the service of such petition, any other participant may file with the presiding officer or the commission, the participant's answer thereto, and in default thereof shall be deemed to have waived any objection to the granting of such petition.

(c) Action on petition. As soon as practicable after the filing of responses to such petitions or default thereof, the presiding officer or commission will grant or deny such petition.

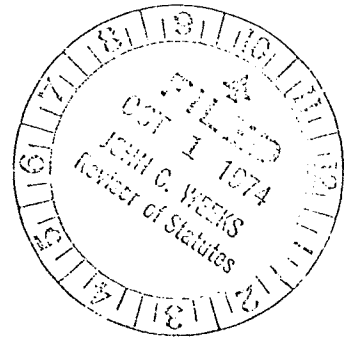
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Attorney General  
by *[Signature]*

(d) Reopening by presiding officer. At any time prior to the filing of the proposed report a presiding officer, after notice to the participants, may reopen the proceeding for the reception of further evidence on the presiding officer's own motion, if the presiding officer has reason to believe that conditions of fact or of law have so changed as to requires, or that the public interest requires, the reopening of such proceeding.

(e) Reopening by the commission. At any time the commission, after notice to the participants, may without motion reopen the proceeding for the reception of further evidence, if the commission has reason to believe that conditions of fact or law have so changed as to require, or that the public interest requires the reopening of such proceeding.

(Authorized by K.S.A. 1972<sup>c</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975) 1974

effective, E-74-14,  
Dec. 28, 1973



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Attorney General  
by [Signature] Ass't.

Article 21-46 Miscellaneous Substantive Provisions

21-46-1. Class B private clubs. All clubs holding licenses from the alcoholic beverage control commission as class B clubs are deemed places of public accommodations and subject to the provision of the Kansas act against discrimination. Nothing in the present paragraph shall be construed as grounds for an automatic exemption of any club holding a license from the alcoholic beverage control commission as a class A club from the provisions of the Kansas act against discrimination.

(Authorized by K.S.A. 1972<sup>0</sup> Supp. 44-1003 and 1004; effective  
May 1, 1975) <sub>1974</sub> effective, E-74-14,  
Dec. 28, 1973;

21-46-2. Nonprofit fraternal or social associations or corporations.

An association or corporation shall be deemed exempt from coverage by the Kansas act against discrimination as a nonprofit fraternal or social association or corporation only if it meets all the following requirements:

(a) Requirements.

- (1) It is organized in good faith for social or fraternal purposes;
- (2) Membership entails the payment of bona fide initiation fees or regular dues;
- (3) There exists a regularly established means of self-government by the members thereof clearly set forth in a constitution or by-laws adopted by the membership.

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by *[Signature]*, Asst

(4) There is a regularly established means of and criteria for admitting members and for expulsion of members by the existing membership or by their duly elected or appointed delegates.

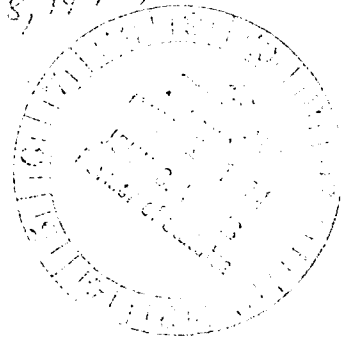
(5) It is not operated, directly or indirectly for purposes of profit for any individual or groups of individuals other than the membership as a whole.

(b) Investigations. The commission shall conduct an investigation of any proposed exemption from the act per K.A.R. 21-46-2(a).

(Authorized by K.S.A. 1972<sup>o</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974  
Effective, E-74-14,  
Dec. 28, 1973;

21-46-3. Student admissions to schools. Student admissions to schools are covered by the provisions of the Kansas act against discrimination.

(Authorized by K.S.A. 1972<sup>o</sup> Supp. 44-1003 and 1004; effective May 1, 1975.)  
1974  
Effective, E-74-14,  
Dec. 28, 1973;



APPROVED  
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by

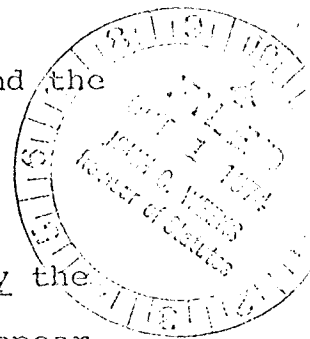
APPENDIX

SUGGESTED HEARING GUIDELINES FOR USE BY  
HEARING EXAMINERS AND PARTIES

- I. A pre-hearing conference, limited to counsel for complainant, counsel for respondent, counsel for the Commission and hearing examiner will be conducted prior to the public hearing in an effort to agree upon facts not in issue and to define the issues of the hearing. In the interest of substantial justice for all parties, evidence on issues arising during hearing but not delineated in the pre-hearing conference will be received and considered if in the judgment of the hearing examiner such issues are relevant to the case and the evidence offered is of probative value.
  
- II. The hearing shall be informal so as to provide the necessary flexibility to adjust to varied conditions and circumstances and to avoid unnecessary and time-consuming technicalities. Informality is not synonymous with chaos or free-for-all; all parties will conduct themselves with dignity and decorum.
  
- III. Each party is requested to prepare and present to the hearing examiner, prior to the opening of the hearing, a list of all witnesses he intends to call and all exhibits he intends to introduce. Should the hearing develop issues the resolution of which will require additional evidence, the hearing exam-

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iner will permit the calling of additional witnesses and the introduction of additional exhibits.



- IV. The hearing shall be recorded in its entirety, and only the hearing officer shall control the record. Should it appear expeditious to go "off the record," counsel may state his justification for seeking to go off the record and the hearing examiner will grant or deny the request. When returning to the record, the hearing examiner shall make a brief statement on the record as to why the hearing went off record and summarize what transpired while off record, to which summary counsel will be asked to agree for the record.
- V. In the interest of basing the hearing examiner's findings on all available evidence of reasonable probative value, evidence will be received in accordance with the rules of evidence prevailing in courts of law or equity, liberally construed.
- VI. The hearing examiner is in effect a board of inquiry, responsible for getting complete and accurate facts from every available source. It is within the discretion of the hearing examiner to call or recall, or to permit the call or recall, of a witness as the exigencies of a case require. A party is not required to rest his case at any time during the hearing, and the hearing shall not be concluded until all available evidence of a reasonable probative value has been introduced.

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by *[Signature]*

VII. Oral arguments on motions shall be heard at the time the motion is made. Unless justice demands otherwise, decisions on motions presented during hearing shall be withheld pending completion of the hearing.

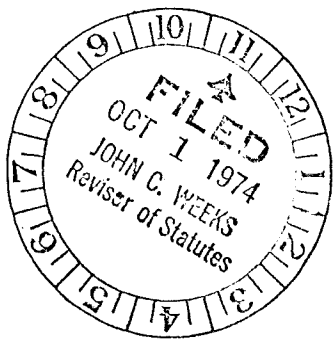
VIII. Parties may present oral summations and arguments at the conclusion of the presentation of all evidence, and they are encouraged to present written briefs together with suggested findings of fact and conclusions of law. However, neither a failure to orally sum up and argue nor a failure to submit written briefs and suggested findings of fact and conclusions of law shall operate to the detriment of any party in the final decision of the case.

IX. The decision of the hearing examiner will be based solely upon the evidence included in the hearing record, which record shall include all stipulations of parties, and unless otherwise raised, shall assume that there are no questions as to jurisdiction.

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form and legality,  
Attorney General  
by *[Signature]* Asst



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 TOPEKA, KANSAS 66612  
 PHONE 296-2321



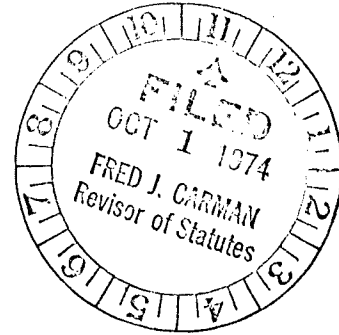
TO: Mr. Anthony D. Lopez  
 Executive Director  
 Kansas Commission on Civil Rights  
 Room 1155 W, State Office Building  
 Topeka, Kansas 66612

The following rules and regulations have been received and placed on file in this office.

JOHN C. WEEKS  
 REVISOR OF STATUTES

Date filed	Number	Subject matter
10-1-74	21-15-1 to 21-15-12 (revoked)	Article 15. Definitions
	21-16-1 to 21-16-10 (revoked)	Article 16. Complaints and Investigations
	21-17-1 to 21-17-5 (revoked)	Article 17. Investigations
	21-18-1 and 21-18-2 (revoked)	Article 18. Conciliation
	21-19-1 to 21-19-10 (revoked)	Article 19. Compliance
	21-20-1 (revoked)	Article 20. Notice of Hearing
	21-21-1 to 21-21-10 (revoked)	Article 21. Answer
	21-22-1 to 21-22-19 (revoked)	Article 22. Hearings and Rehearings
	21-23-1 (revoked)	Article 23. Transcript of Record
	21-24-1 (revoked)	Article 24. Depositions
	21-25-1 to 21-25-4 (revoked)	Article 25. Orders
	21-26-1 (revoked)	Article 26. Certification
	21-27-1 (revoked)	Article 27. Availability of Regulations
	21-28-1 (revoked)	Article 28. Construction

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REVISOR OF STATUTES  
STATE HOUSE, THIRD FLOOR  
TOPEKA, KANSAS 66612  
PHONE 296-2321



TO:

The following rules and regulations have been received and placed on file in this office.

JOHN C. WEEKS  
REVISOR OF STATUTES

Date filed	Number	Subject matter
COMMISSION ON CIVIL RIGHTS -- PAGE TWO		
	21-29-1 to 21-29-4 (revoked)	Article 29. General Provisions
	21-30-1 (revoked) 21-30-16 (amended) 21-30-18 thru 21-30-20 (new)	Article 30. Guidelines on Employee Selection Procedures and Recruitment
	21-32-1 thru 21-32-8 (new)	
	21-33-1 (new)	Article 33. Guidelines on Discrimination Because of Religion
	21-40-1 thru 21-40-20 (new)	Article 40. General Provisions
	21-41-1 thru 21-41-11 (new)	Article 41. Complaints
	21-42-1 thru 21-42-7 (new)	Article 42. Investigations
	21-43-1 thru 21-43-6 (new)	Article 43. Conference and Conciliation
	21-44-1 thru 21-44-5 (new)	Article 44. Compliance
	21-45-1 thru 21-45-25 (new)	Article 45. Proceedings
	21-46-1 thru 21-46-3 (new)	Article 46. Miscellaneous Substantive Provisions

Draft Rules (21-40. through 21-46.)

AGENCY 21

COMMISSION ON CIVIL RIGHTS

Articles

- ✓ 21-1. to 21-12. Revoked. (Same, current status.)
- ✓ 21-13. and 21-14. Reserved for future use. (Same.)
- ★ 21-15. to 21-29. Revoked. (Revoked this draft.)
- ★ 21-30-1. (Revoked this draft.)
- 21-30-2. to 21-30-15. (Same, current status.)
- ★ 21-30-16. (Amended, this draft.)
- 21-30-17. (Same, current status.)
- ★ 21-30-18. to 21-30-20. (New, this draft.)
- 21-31. Guidelines on Discrimination Because of National Origin or Ancestry.
- 21-31-1. to 21-31-4. (Same.)
- ★ 21-32. Guidelines on Discrimination Because of Sex. (Emergency adopted as permanent.)
- 21-32-1. to 21-32-8. (~~Same~~ <sup>New</sup>.)
- ★ 21-33-1. Guidelines on Discrimination Because of Religion. (New this draft.) - <sup>New</sup>
- 21-34-1. to 21-39. Reserved for future use. (Same.)
- 21-40. General Provisions.
- ★ 21-40-1. to 21-40-20. (New, this draft.)
- 21-41. Complaints:
- ★ 21-41-1. to 21-41-11. (New, this draft.)
- 21-42. Investigations.
- ★ 21-42-1 to 21-42-6. (New, this draft.) also 21-42-7

- 21-43. Conference and Conciliation.
- ★ 21-43-1. to 21-43-6. (New, this draft.)
- 21-44. Compliance.
- ★ 21-44-1. to 21-44-5. (New, this draft.)
- 21-45. Proceedings.
- ★ 21-45-1. to 21-45-25. (New, this draft.)
- 21-46. Miscellaneous Substantive Provisions.
- ★ 21-46-1. to 21-46-3. (Renumbered prior provisions, this draft.)

DETAILED CONTENTS OF NEW PROCEDURAL DRAFT RULES

with some substantive rule change:

(Identified in parenthesis as follows: N - new provision  
P - present provision renumbered  
A - present provision somewhat amended

Article 21-30. Guidelines on Employee Selection Procedure and Recruitment. . . . . 1

    21-30-16. Preference to relatives, friends or neighbors of present employees or members. (A) . . . . . 1

    21-30-18. Affirmative Action File. . . . . 1

        a. Affirmative action file, need and use. (N) . . . . . 1

        b. Minority. (N). . . . . 2

        c. Provisions. (N). . . . . 2

    21-30-19. Recruitment and referral agencies. . . . . 3

        a. Public and private services. (N) . . . . . 3

        b. Recruitment. (N) . . . . . 3

    21-30-20. Temporary employment. (N). . . . . 4