

What to Expect During The Investigation of this Complaint

Below is a brief description of what occurs during the investigation and litigation of a complaint of discrimination. After the complaint is filed, the complaining party (hereinafter the “Complainant”) and the party against whom the allegations are being made (hereinafter the “Respondent”) will receive a letter identifying the Enforcement Officer (hereinafter the “investigator”) assigned to the case. The investigator will be the point of contact with The Kentucky Commission on Human Rights (hereinafter “KCHR”) for both parties during the investigation of the complaint. During the entire investigative process, the investigator does not serve and should not be seen as an advocate for either party to this action, but is a neutral fact finder who will conduct a fair and impartial investigation. Both parties should keep the investigator apprised of any developments such as a change of address or telephone number. If contact with the Complainant is lost, the investigator will make every reasonable attempt to find him or her, but if this is not possible, it could result in the investigation being stopped and the complaint being dismissed.

- Once the Complainant returns the signed, notarized complaint to KCHR, it will be officially filed and a copy will be served on the Respondent.
- Once the Respondent has received his or her service letter of the complaint, state law (KRS 344.210) gives the Respondent twenty days to file an answer to the allegations in that complaint. The more details and supporting documentation the Respondent can provide on this matter in its initial response to the complaint and accompanying request for information, the less additional follow-up investigation the investigator will need to conduct. If the Respondent feels that it will have trouble meeting this deadline, the Respondent or its designated representative (who could be one in the same) should contact the investigator as soon as possible to discuss the Respondent’s options.
- The Complainant will also receive an official copy of the filed complaint to keep for his or her records. Along with this copy will be a blank affidavit form. The Complainant should fill out this form by stating in his or her own words what the basis of his or her complaint is, sign the form in the presence of a notary, and return it to KCHR.
- KRS 344.210(1) requires that this matter be set for a hearing within 60 days after the complaint was filed. Therefore, within the next 60 days, both parties will receive a Notice of Hearing by certified mail setting a date for a hearing. A hearing will only be held after the investigation is complete and a Probable Cause letter is issued. If the case is still under investigation when the scheduled hearing date draws near, KCHR staff will seek a postponement of this date until the investigation is complete and a determination is made.
- Upon receiving the Respondent’s initial response to the allegations set forward in the complaint, the investigator will then commence analyzing the information submitted and will contact the Complainant to review that information with him or her. *This is the Complainant’s opportunity to tell his or her side of the story. The Complainant should be prepared at this time to discuss with the investigator any evidence he or she has to support the allegations and to provide the names (as well as the telephone numbers and addresses if known) of any witnesses the Complainant feels have relevant information.*
- If necessary for the investigator to come to the Respondent’s place of business to observe the facility, interview employees, etc., the investigator will conduct what is called an “on-site” visit in a manner that will be least disruptive to the Respondent’s business.

- **The investigator will contact both parties periodically to gather additional information or to update them on the status of the investigation. The parties can contact the investigator any time they have questions or additional information, but they should be aware that due to the amount of time it takes to investigate a complain and the demands of the other cases in the investigator's caseload, periods of time may go by where there is no new information to discuss.**
- **At any time during the course of the investigation, the investigator may encourage both the Complainant and Respondent to entertain the notion of conciliating the case to the mutual satisfaction of both parties. A Conciliation is similar to a settlement out of court. A Conciliation may take the form of affirmative remedies, such as reinstating the Complainant in a job or housing, a change in the Respondent's policies and practices, etc. A Conciliation may also take a monetary form, based upon the actual losses the Complainant incurred due to the issues involved in the alleged illegal action, including compensation for any embarrassment or humiliation suffered. A conciliation is never forced but is an alternative method to resolving the issues at hand.**
- **If Conciliation is unsuccessful, the investigation will continue until sufficient factual information has been gathered for the investigator to make a recommendation to KCHR's Board of Commissioners.**
- **If, at the conclusion of the investigation, the investigator has found that sufficient evidence exists to believe illegal discrimination probably occurred, the investigator will make that recommendation to KCHR's Legal Unit. A KCHR Staff Attorney will conduct a legal analysis of the investigator's findings in light of the current law. If the Legal staff agrees with the investigator's recommendation and issues a Probable Cause letter, and the parties are not able to agree to a conciliation, the matter will go to an administrative hearing, which is similar to a civil trial. A KCHR Staff Attorney will represent the Complainant at that hearing.**
- **If, on the other hand, the investigator determines that there is insufficient evidence to support the Complainant's allegations, he or she will make a recommendation of No Probable Cause. The No Probable Cause recommendation will be presented at the monthly meeting of the Commission. The Board of Commissioners can either accept the No Probable Cause recommendation and dismiss the complaint or return the complaint to the Enforcement Staff for further investigation.**
- **If the Commission dismisses the complaint on a finding of No Probable Cause, dismissal orders will be mailed to all parties involved. The Complainant has the right under KRS 344.200(3) to request a one-time reconsideration of any Employment/Public Accommodation dismissal within ten days of receiving notice of the dismissal.**