

Title 139 - NEBRASKA EQUAL OPPORTUNITY COMMISSION  
EQUAL PAY ACT OF NEBRASKA  
NONDISCRIMINATION ON BASIS OF SEX

Chapter 2 - PROCEDURE

001 Filing, Amending and Withdrawal of Charge.

001.01 Any person who claims to have been injured by a discriminatory unequal pay practice may file a charge with the Commission. The charge shall be in writing and under oath of the complainant.

001.02 A charge shall be filed with the Commission. The charge shall be signed by the complainant under oath or affirmation before a notary public or other person duly authorized by law to administer oaths and affirmations. The charge may be filed on forms provided by the Commission, blank copies of which will be supplied by the Commission upon request and will be available at the offices of the Commission. Notarial service will be without charge by the Commission.

001.03 A charge shall contain the following:

001.03A The full name, address and telephone number, if any, of the person making the charge.

001.03B The full name, address and telephone number, if known, of the respondent.

001.03C A plain and concise statement of the facts alleged to constitute a discriminatory unequal pay practice or practices.

001.03D The date and place in the State of Nebraska where the alleged discriminatory unequal pay practice was committed.

001.03E A statement as to any other action instituted by or on behalf of the complainant in any other forum, based on the same facts as alleged in the charge, together with a statement as to the status or disposition of such other action.

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001.04 The charge may be filed by personal delivery, ordinary mail or registered or certified mail, addressed to the office of the Commission in Lincoln or any branch office of the Commission.

001.05 Notwithstanding the provisions of 2.001.03 of these Rules and Regulations, a charge may be amended as follows: to cure technical defects or omissions; to clarify and amplify allegations made therein; to allege additional acts which constitute discriminatory unequal pay practices which are related to or growing out of the subject matter of the original charge. All such amendments will relate back to the original filing date. Upon any amendment of a charge, a copy thereof shall promptly be served by the Commission on the respondent by certified or registered mail or through personal service.

001.06 The respondent may file an answer to the charge at any time prior to the expiration of twenty (20) days after she or he receives the charge. The answer shall be sworn to before a notary public. With leave of the Commission an answer may be amended at any time. The Commission will permit answers to be amended whenever it believes it would be reasonable and fair to do so.

001.07 A filed charge or any part thereof may be withdrawn, by request in writing by the complainant, and written notice of any such withdrawal shall be sent to the Commission, by registered or certified mail, to all parties who have been previously notified of charge.

002 Action Upon Charge.

002.01 Each charge shall be docketed and given a case number, and a copy of said charge shall promptly be served by the Commission on the respondent in person or by registered or certified mail.

002.02 The Commission shall institute an investigation by its employees to ascertain all of the facts relating to the alleged discriminatory unequal pay practice or practices set forth in the charge. The staff shall initially solicit information from all parties and utilize interrogatories, depositions, or subpoenas to facilitate a prompt investigation. Interrogatories shall be answered within fifteen (15) days of

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receipt and the person to whom the interrogatories are directed shall be so informed. The Commission's staff may enter the place of employment of any employer to inspect and copy payrolls and other employment records, to compare character of work and operations of employees and question such employees.

002.03 The Report of the investigation shall be presented to the Commission by the Executive Director. The Commission shall dismiss the charge (i) if it is determined that there is not sufficient evidence to sustain a finding of reasonable cause to believe that the discriminatory unequal pay practice was committed; or (ii) if the matter is adjusted and settled during the investigation; or (iii) if it is determined that the Commission does not have jurisdiction over the matter; or (iv) if the complainant fails to cooperate fully in the investigation of a charge.

No Commission employee during the investigation of a charge shall propose terms of settlement and adjustment to the respondent's attorney or to the respondent; but, at the request of the respondent's attorney or the respondent, may advise the respondent of possible terms of settlement and adjustment, and shall communicate to the complainant and to the Commission any terms of settlement and adjustment proposed by the respondent. Any terms of settlement arrived at during the investigation shall be submitted to the Commission and the charge shall be dismissed, and the case closed as having been adjusted and settled during the investigation.

The Commission shall notify all parties of any dismissal of a charge by registered or certified mail, which notification shall specify the reason or reasons for dismissal.

003 Reasonable Cause Findings.

003.01 If the Commission, based upon the report of its investigation by its employees, determines that there is reasonable cause to believe that the alleged discriminatory unequal pay practice has been committed, the

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Commission shall appoint a Commissioner, or an employee of the Commission to undertake a conciliation conference with the respondent and complainant in order to eliminate the effect of the discriminatory unequal pay practice and to prevent repetition thereof.

Both the complainant and the respondent shall be notified of the time and place of the conciliation conference by registered or certified mail at least ten (10) days prior to the date set for the conference, and the notice shall advise the parties of the conciliator who will participate in said conciliation conference. The respondent shall appear at the conciliation conference either in person or by attorney, or both. The place of the conference designated by the Commission shall be at a place reasonably convenient for the parties. In the event of failure or refusal of the respondent to appear or participate in the conciliation conference, the Commission may bring any legal action necessary on behalf of the complainant.

003.02 The members of the Commission and its staff shall not make public what has occurred in any conciliation conference without the written consent of both parties except evidence concerning endeavors at a conciliation conference may be made public if legal action is taken.

003.03 Settlement and Order.

003.03A If a settlement is effected in a conciliation conference, the terms of which are approved by the Commission, the Commission shall have the written terms of settlement and adjustment prepared and signed by the parties; and the Commission shall thereupon enter upon all parties an Order in accord with the executed written terms of settlement and adjustment. Any such Order shall specify the right of the Commission to investigate and determine, at reasonable times, whether the terms of settlement and adjustment and the Order entered pursuant thereto have been or are being complied with. If the Commission determines that the respondent has violated or is violating the terms of settlement and adjustment and the Order entered pursuant thereto, the Commission may take necessary legal action on behalf of the complainant.

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003.03B The Commission may, without the consent of the complainant, dismiss the charge if, in its opinion, matter brought forth in the conciliation conference establishes that the respondent has eliminated the effects of the alleged discriminatory unequal pay practice with respect to the complainant or if the respondent has offered in good faith to eliminate the effects of the alleged discriminatory unequal pay practice with respect to the complainant in such manner as to effectuate the purposes of the Act and complainant has refused to accept such offer.

003.03C If the terms of settlement and adjustment agreed to by the parties are not approved by the Commission, the Commission need not enter upon the parties any Order in accord with said terms of settlement and adjustment, and may close the case as having been settled on terms not approved by the Commission; and in such event, the Commission need not take legal action on behalf of the complainant in the event of an alleged violation of the terms of settlement and adjustment.

003.04 Except as provided in 2.003.03 of these Rules and Regulations, within ninety (90) days after a Commission ruling of reasonable cause on a charge that has been properly filed with the Commission, the Commission shall make a decision either to take legal action necessary on behalf of the complainant or to dismiss the charge. The ninety (90) day time limit may be waived if both parties agree to do so in writing; provided, that even when both parties agree in writing to a waiver of the ninety (90) day time limitation, the Commission may in its discretion anytime after ninety (90) days from its reasonable cause finding determine that conciliation efforts have failed and promptly take legal action necessary on behalf of the complainant by petitioning a court of competent jurisdiction to restrain violations of the Act.



WITHDRAWAL REQUEST FORM

Complainant \_\_\_\_\_

Case Number \_\_\_\_\_

v. \_\_\_\_\_

Respondent \_\_\_\_\_

I, (We) \_\_\_\_\_, The Charging Party (parties)  
in the above entitled case hereby request withdrawal of my (our) charge (s).

Neither the Respondent, or any other person has threatened, attacked, intimidated or inflicted bodily harm upon me, as a result of the filing of this charge. I am aware that the Nebraska State government protects my right to file a complaint.

I have been advised that it is unlawful for any person covered by the Nebraska State Protective Laws, i.e., (1) Fair Employment Practice Act of the State of Nebraska; (2) Nebraska Civil Rights Act of 1969; (3) Equal Pay Act of Nebraska; (4) Act Prohibiting Unjust Discrimination in Employment Because of Age (as applicable) to discriminate against me because I have filed a charge, acted as a witness, or assisted a Field Representative of the Nebraska Equal Opportunity Commission.

I have been advised that I have the right to file my charge also with the Equal Employment Opportunity Commission and my local municipality within the State of Nebraska and any other appropriate governmental unit.

I have fully discussed my reasons (below) for withdrawal with the assigned Nebraska Equal Opportunity Commission investigator and was to my satisfaction advised of my rights under the law.

The reason for my withdrawal is \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby certify that I have fully explained the law to above named person.

Signature \_\_\_\_\_

Date \_\_\_\_\_

Field Investigator \_\_\_\_\_

Date \_\_\_\_\_

NOTE: Attach as exhibit to Short Form F.I.R.  
LRM/sls

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7/15/74