

6 AAC 30.210 (a) is amended to read:

6 AAC 30.210. Complaints by persons [INDIVIDUALS] (a) **A person** [AN INDIVIDUAL] aggrieved by an alleged practice prohibited by AS 18.80 may file a written complaint with the commission. A complaint may be filed in person, [OR] by mail, **or in electronic form** at any commission office.

6 AAC 30.210 (c)(9) is repealed:

(c) A complaint must contain

• • •

(9) **repealed --/--/--** THE COMPLAINT MUST BE VERIFIED. IF A NOTARY OR POSTMASTER IS NOT AVAILABLE, THE COMPLAINANT SHALL STATE UNDER PENALTY OF PERJURY THAT THE STATEMENTS CONTAINED THEREIN ARE TRUE AND CORRECT TO THE BEST OF HIS OR HER KNOWLEDGE, AND THAT A NOTARY OR POSTMASTER IS NOT AVAILABLE.

Eff. 12/07/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 1/14/77, Register 61; am 5/2/79, Register 70; am 3/12/81, Register 77; am 8/9/84, Register 91; am __/__/__, Register __)

Authority: AS 18.80.050 AS 18.80.060 AS 18.80.100

6 AAC 30.220(a) is amended to read:

(a) The executive director may file a complaint on behalf of an individual or a class of persons when acts or practices allegedly contrary to AS 18.80.**220 – AS 18.80.260** come to his or her attention. A complaint made by the executive director must contain

(1) an identification of the class which is sufficiently specific to enable the commission's staff to determine the nature of the class through investigation;

(2) a statement of the alleged harm each individual or class has experienced or is experiencing;

(3) the date the alleged discriminatory practice occurred. If the practice is continuing, the complaint must state when the practice began, if known to the executive director. Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 1/14/77, Register 61; am 5/2/79, Register 70; am 3/12/81, Register 77; am 8/9/84, Register 91; __/__/__, Register __)

Authority: AS 18.80.050 AS 18.80.060 AS 18.80.100

6 AAC 30.230 (b) is amended to read:

(b) A complaint **by a person** alleging a discriminatory act or practice not of a continuing nature must be filed no later than [(1)] 300 days after the alleged discriminatory act or practice occurred[, IF THE ACT OR PRACTICE OCCURRED BEFORE 8/22/97; OR

(2) 180 DAYS AFTER THE ALLEGED DISCRIMINATORY ACT OR PRACTICE OCCURRED, IF THE ACT OR PRACTICE OCCURRED ON OR AFTER 8/22/97].

6 AAC 30.230(c) is amended to read:

(c) A complaint **by a person** alleging a discriminatory act or practice of a continuing nature must be filed no later than [(1)] 300 days after the alleged discriminatory act or

practice stopped,[DAYS AFTER THE ALLEGED ACT OR PRACTICE STOPPED],
FOR AN ALLEGED ACT OR PRACTICE THAT STOPPED BEFORE 8/22/97; OR

(2) 180 DAYS AFTER THE ALLEGED ACT OR PRACTICE STOPPED,
FOR AN ALLEGED ACT OR PRACTICE THAT STOPPED ON OR AFTER 8/22/97].

(Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 1/14/77,
Register 61; am 5/2/79, Register 70; am 3/12/81, Register 77; am 8/9/84, Register 91; am
8/22/97, Register 143; am __/__/18, Register ____)

Authority: AS 18.80.050

AS 18.80.100

AS 18.80.110

AS 18.80.060

6 AAC 30.320 is repealed and readopted to read:

6 AAC 30.320. Investigation methods by commission staff before conciliation.

(a) The commission's staff will determine the nature and scope of the investigation. The commission's staff will impartially obtain and analyze facts relevant to the complaint and determine if the allegations are supported by substantial evidence. During the investigation, the staff may also investigate matters that are like, related to, or growing out of the complaint. The commission's staff may obtain evidence by resolution conference, interview, inspection of documents and premises, or examination of written submissions of parties and witnesses. Any party or witness may offer a relevant statement or evidence for consideration by the commission's staff.

(b) The commission's staff will conduct interviews confidentially. Witnesses may not be accompanied during interviews unless

(1) by a representative of the respondent if the witness is a member of the respondent's control group;

(2) by an attorney who has entered an appearance before the commission on behalf of the witness;

(3) by a qualified, neutral language interpreter selected by the commission's staff if the commission's staff determines that the interpreter's presence will facilitate communication between the witness and the interviewer;

(4) by a parent of a witness who is a minor;

(5) by a guardian of the witness if the witness lacks capacity to testify independently; or

(6) by another person identified by the witness when such participation would constitute a reasonable accommodation for the witness's disability.

(c) To carry out its impartial investigation, the commission's staff may issue requests for production, interrogatories, subpoenas, and subpoenas duces tecum. A party must mail the answers to interrogatories and responses to requests for production within 30 days after service unless the commission's staff grants an extension or modification for good cause shown. The commission's staff may set reasonable times for appearances in response to subpoenas and subpoenas duces tecum. In addition, the following rules apply:

(1) the commission's staff shall notify the party to whom interrogatories, subpoenas duces tecum, or requests for production are directed that failure to answer, appear, or produce may result in an adverse determination by the staff on the merits of the

complaint and a loss of the right to offer evidence sought by the interrogatories, subpoenas duces tecum, or requests for production at a later hearing on the complaint;

(2) if a complainant fails to answer, appear, or produce information necessary to reach a determination on the merits of the complaint, the commission's staff shall close the case;

(3) if a respondent fails to answer, appear, or produce, the commission's staff shall analyze the available evidence and determine whether the complaint is supported by substantial evidence; the staff may seek enforcement of a subpoena or subpoena duces tecum in superior court or it may base a determination on inferences drawn from the failure to answer an interrogatory, appear, or produce documents, and proceed as follows:

(A) if the complaint is supported by substantial evidence, the commission's staff shall issue its determination in writing and try to conciliate the complaint; if conciliation fails and a hearing is convened, the hearing commissioners will not receive any evidence that should have been offered in response to the interrogatories, subpoenas duces tecum, or requests for production issued by the commission's staff;

(B) if the complaint is not supported by substantial evidence, the commission's staff may refer the refusal to comply with a subpoena, subpoena duces tecum, request for production, interrogatories, or other process to the Department of Law for appropriate enforcement action in superior court; if the state is a respondent, the commission may employ temporary legal counsel to enforce its investigation process.

(d) No party may serve interrogatories, requests for production, subpoenas, subpoenas duces tecum, and other process on another party, on the commission's staff, or

on any other person before certification of conciliation failure by the executive director. The commission's staff may issue process on any person at the request of a party if the staff determines that the process is reasonably necessary for an impartial investigation, determination, or conciliation of the case.

(e) The commission's staff may issue subpoenas and subpoenas duces tecum to take the deposition of any person as part of its impartial investigation. A deposition taken during an investigation may be offered in evidence at a hearing convened under 6 AAC 30.410 - 6 AAC 30.497 if the party taking the deposition informs the parties to the investigation and the person whose deposition is taken of its intended use. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 1/14/77, Register 61; am 8/16/78, Register 67; am 5/2/79, Register 70; am 3/12/81, Register 77; am 8/9/84, Register 91; am 3/31/90, Register 113; am 7/3/96, Register 138; am 12/14/2007, Register 184, am __/__/__, Register __)

Authority:	AS 18.80.050	AS 18.80.075	AS 18.80.120
	AS 18.80.060	AS 18.80.110	AS 18.80.130

6 AAC 30.330 is repealed and readopted to read:

6 AAC 30.330. Determinations. (a) If the commission's staff determines that a complaint is not supported by substantial evidence, it shall prepare written findings and a determination on each alleged violation of AS 18.80.

(b) If the commission's staff determines that an administrative closure of a case is necessary prior to a conciliation failure, it shall prepare a notice of dismissal with a written explanation of the reasons for dismissal.

(c) If the commission's staff determines that the complaint is supported by substantial evidence, it shall prepare written findings and a determination on each alleged violation of AS 18.80. If the commission's staff identifies during the investigation an issue of discrimination or a person not named in the complaint who has been similarly discriminated against, the commission's staff shall identify this issue or person in the determination either by name or with enough specificity that the respondent can identify the issue or the person.

(d) Written findings, determinations, and notices of dismissal shall be delivered to the parties in person, by certified mail, return receipt requested, or through secure electronic transmission. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 1/14/77, Register 61; am 5/2/79, Register 70; am 3/12/81, Register 77; am 8/9/84, Register 91; am 1/2/2004, Register 168).

Authority: AS 18.80.050 AS 18.80.100 AS 18.80.110
AS 18.80.060

6 AAC 30.340 is repealed and readopted to read:

6 AAC 30.340. Conciliation procedures. (a) The commission's staff will provide the parties with proposed terms of conciliation along with the determination that a complaint is supported by substantial evidence. The commission's staff will propose remedies for each issue and individual identified in the determination.

(b) If the commission's staff negotiates conciliation terms that provide a remedy for a person who is not named in the complaint but identified in the determination, the commission's staff will invite the person identified to accept or reject the remedy.

(c) The commission's staff or either party shall direct to the class identified in the findings the best notice practicable to those class members who can be identified through reasonable effort.

(d) Conciliation by the commission will not prevent an individual who has not filed a complaint from seeking relief outside of the conciliation agreement.

(e) If the complainant, executive director, and respondent agree to a remedy or remedies, the agreement must be signed by all parties in accordance with AS 18.80.110. If the complainant refuses to accept conciliation terms offered by the respondent that the executive director believes are reasonable, the executive director may seek to remedy the discriminatory practice or practices identified in the determination without the complainant's participation, and any agreement reached must be signed by the executive director and the respondent.

(f) Conciliation terms must be agreed to within 30 days after service of the conciliation agreement proposed by the commission's staff. The executive director may grant an extension of time to agree to the terms of conciliation [UP TO 30 DAYS] for good cause shown. The executive director will determine that conciliation efforts have failed if

(1) the respondent fails to discuss conciliation in a timely manner with the commission's staff;

(2) the commission's staff and the parties do not resolve the issues alleged in the complaint; or

(3) the respondent fails to fulfill its obligations under the conciliation agreement.

(g) If the executive director determines that conciliation efforts have failed, the executive director shall inform the commission's chairperson in writing and shall, within 45 days of the determination of the failure, refer the complaint to the commission for hearing or dismiss without prejudice the complaint in accordance with AS 18.80.112 (b); a referral must be accompanied by an accusation as provided in AS 18.80.120 and must be served on the parties in person or by certified mail, return receipt requested; if the executive director dismisses the complaint, the executive director must give notice to the commission and serve the parties in person or by regular mail.

(h) The commission's staff will attempt conciliation on behalf of a class of persons identified through investigation as described in 6 AAC 30.330(b) even if the individual complainant fails to participate in or cooperate with conciliation efforts. Complainant's refusal to cooperate will not prevent a settlement on behalf of the class members or result

in a determination that conciliation efforts on behalf of the class are unsuccessful. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 1/14/77, Register 61; am 5/2/79, Register 70; am 3/12/81, Register 77; am 3/31/90, Register 113; am 12/14/2007, Register 184)

Authority: AS 18.80.050 AS 18.80.100 AS 18.80.112
 AS 18.80.060 AS 18.80.110

6 AAC 30.375 is amended to read:

6 AAC 30.375. Reopening and review. [FINALITY OF STAFF DECISIONS.]

(a) **Within 30 days after the date of a determination or notice of dismissal issued pursuant to 6 AAC 30.330(a) or (b), the executive director, on her or his own motion or at the request of a party, may, in her or his discretion, reopen any case for reconsideration or to take any other appropriate action. If the case is not reopened during this period, a closing order shall be issued** by commission staff. **A closing order shall be** a final agency action for the purposes of judicial review. (Eff. 5/3/2007, Register 182; am __/__/__, Register __)

Authority: AS 18.80.050 AS 18.80.112

6 AAC 30.410 is repealed and readopted to read:

6 AAC 30.410. Commencement of hearing process. (a) If the executive director refers a complaint to the commission for hearing, the chairperson shall appoint at least

three commissioners to hear and decide the case. The chairperson may replace a hearing commissioner at any time before issuance of a final order.

(b) The hearing shall be held in Anchorage unless, within ten days after service of the referral, a party moves the commission to hold the hearing in another location, and, after opportunity for objection, the commission finds good cause to hold the hearing in another location.

(c) If no motion is timely made under subsection (b) of this section, or upon the commission's ruling on such a motion, the commission shall request that the office of administrative hearings appoint an administrative law judge to preside as the hearing examiner at the hearing.

(d) The administrative law judge or hearing examiner shall conduct a prehearing conference to establish a schedule for discovery, briefing, and exchange of witness lists, and to set the hearing date.

(e) The original pleadings, motions, stipulations, briefs, and other documents required to be filed before the hearing must be filed with the administrative law judge or hearing examiner, and served on the parties. Documents must be captioned in the same manner as the accusation and must include the commission's case number.

(f) The respondent shall file and serve an answer to the accusation within 20 days after service of notice of assignment of an administrative law judge or hearing examiner. The answer must fairly meet the substance of the accusation and must contain a general or specific admission or denial of the allegations in the accusation. If the respondent lacks knowledge or information, a statement of that lack has the effect of a denial. The answer

must state any matter that is a defense. Any allegation in the accusation that is not denied or admitted in the answer will be considered admitted.

(g) If an accusation is amended, the respondent shall file and serve an answer to the amended accusation within 20 days after service. If any part of an amended accusation is referred for conciliation under AS 18.80.120(c) and conciliation efforts are not successful, the respondent shall file an answer to the amended accusation within 10 days of the executive director's notice of the failure of the conciliation. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 12/17/76, Register 60; am 1/14/77, Register 70; am 3/12/81, Register 77; am 7/3/96, Register 138; am 1/2/2004, Register 168; am 12/14/2007, Register 184)

Authority: AS 18.80.050

AS 18.80.060

AS 18.80.120

6 AAC 30.905 is amended to read:

6 AAC 30.905. Access to investigative files. Records of investigation and information obtained during an investigation or inquiry are confidential and may not be disclosed except in accordance with AS 18.80.115. **Records of conciliation may not be disclosed in any event.** Records and information required to be kept confidential by law must be withheld from disclosure. (Eff. 5/22/81, Register 78; am 11/21/82, Register 84; am 12/14/2007, Register 184; am __. __/ __, Register __)

Authority: AS 18.80.050

AS 18.80.110

AS 18.80.115

6 AAC is amended by adding new sections to read:

6 AAC 30.915. Service Animals. (a) “Service animal” means (1) a dog or miniature horse that is trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability, or (2) any animal that alerts a person with a disability to the present impairment of a vital function which is a condition of the individual’s disability, and whose ability to alert is verified in writing by a licensed health care provider who has conducted a physical examination of the individual in person. The work done or tasks performed must be directly related to the individual's disability and may include, guiding an individual who is visually impaired or blind, alerting an individual who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting an individual who is having a seizure, retrieving objects, alerting an individual to the presence of allergens, providing physical support and assistance with balance and stability to an individual with a mobility disability, helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors, reminding an individual with mental illness to take prescribed medications, calming an individual with posttraumatic stress disorder during an anxiety attack, or doing other specific work or performing other special tasks.

(b) The crime-deterrent effect of an animal's presence or the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for purposes of this definition. Therefore, “emotional support animals,” “comfort animals,” and “therapy animals” are not service animals.

(c) A service animal must behave appropriately in public, must be under the control of its handler, and must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. If the devices interfere, then the handler must maintain control of the animal through voice, signal, or other effective means.

(d) A service animal handler shall not be required to obtain any certification or registration from any organization purporting to certify service animals, nor shall the animal be required to carry a tag, vest, or other documentation identifying the animal as a service animal. However, service animal handlers are not exempt from local animal control or public health requirements.

(e) A public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

(f) A public accommodation shall not ask about the nature or extent of a person's disability, but may ask, when it is not readily apparent that an animal is trained to do work or perform tasks for an individual with a disability, (1) if the animal is required because of a disability and (2) what work or task the animal performs.

(g) A person with a disability shall not be required to produce documentation that the animal has been certified, trained, or licensed as a service animal. However, a person with a disability accompanied by an animal that alerts the person to the present impairment of a vital function may be required to produce written verification by a licensed health care provider who has examined the individual in person.

(h) A service animal may be excluded or removed from the premises if the animal is out of control and the animal's handler does not take effective action to control it, if the animal is not housebroken, or if the animal's behavior poses a direct threat to the health or safety of others. "Direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services. Allergies and fear of animals are not valid reasons for denying access or refusing service to an individual with a service animal. A service animal may also be excluded if admitting the animal would fundamentally alter the nature of the goods, services, programs, or activities provided to the public. If a service animal is excluded or removed, the removing entity must provide the individual with a disability the opportunity to access goods, services, and accommodations without the service animal.

(i) An individual with a disability shall be permitted to be accompanied by his/her service animal in all areas of a place of public accommodation where members of the public, program participants, clients, customers, patrons, or invitees, as relevant, are allowed to go.

(j) A service animal is not a pet. A public accommodation shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If a public accommodation normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

(k) Requirements applicable to service animals in this regulation shall also be applicable to miniature horses. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a public accommodation shall consider:

(1) The type, size, and weight of the miniature horse and whether the facility can accommodate these features;

(2) Whether the handler has sufficient control of the miniature horse;

(3) Whether the miniature horse is housebroken; and

(4) Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

(l) An animal in training to work or perform tasks for an individual with a disability shall enjoy the same protections as a fully trained service animal when accompanied by either an individual with a disability or a trainer and is actively training. A service-animal-in-training shall comply with all requirements applicable to service animals under this provision and other federal or state laws.

(m) The requirements applicable to service animals in public accommodations found in this section shall also be applicable to the state and its political subdivisions, as well as the sale, lease, rental, or use of real property.

(n) A qualified employee with a disability may seek to use an animal to assist them to perform the essential functions of a job. Employers shall treat such a request as a request for a reasonable accommodation and engage in an interactive process to determine whether or not the accommodation is reasonable.

(o) This subsection does not limit the rights or remedies of a housing accommodation or an individual with a disability that are granted by federal fair housing laws. (Eff. __/__/__, Register __)

Authority: AS 18.80.050 AS 18.80.220 AS 18.80.230
 AS 18.80.240 AS 18.80.255

6 AAC 30.990 is repealed and readopted to read:

6 AAC 30.990. Definitions. (a) Unless the context indicates otherwise, in this chapter or in AS 18.80

(1) “place of public accommodation, resort or amusement” includes but is not limited to educational institutions and all places included in the meaning of that term as it appears in AS 18.80.300 (7);

(2) “commission” means the State Commission for Human Rights;

(3) “commissioner” means one of the members of the State Commission for Human Rights;

(4) “chairperson” means the duly elected chairman or chairwoman of the State Commission for Human Rights, or in the absence of the chairperson, the vice-chairperson or other commissioner designated by the remaining members of the commission;

(5) “hearing commissioners” means the commissioners designated by the chairperson to conduct a hearing;

(6) “party” or “parties” means the complainant, respondent or executive director;

(7) “discrimination because of marital status or changes in marital status” includes unjustified adverse action taken against a person because that person is single, married, widowed or divorced, or because of that person’s marriage or termination of marriage to another person;

(8) “executive director” includes the designee of the executive director who presents the case in support of the accusation;

(9) “investigative files” means all information acquired during the course of investigation of a complaint but does not include

(A) information whose release is prohibited by federal law or regulation, or state law;

(B) intra-agency memoranda or staff work product;

(C) attorney work product;

(10) “public” means persons other than the parties, but does not include those government agencies

(A) which are investigating or taking formal action under AS 18.80.200 - AS 18.80.295;

(B) whose stated policy and purpose is to eradicate discrimination in employment; credit and financing practices; places of accommodation; practices by the state or its political subdivisions; or the sale, lease, or rental of real property.

(11) “control group” means an employee who holds a position of sufficient authority or responsibility so that he or she may be considered to be speaking on behalf of the organization with respect to the matter at issue, and in so doing is able to legally bind the organization;

(12) “health care provider” shall be limited to a doctor of medicine (M.D.), doctor of osteopathic medicine (D.O.), nurse practitioner (N.P.), or physician assistant (P.A.);

(13) “vital function” means a function of the body on which life is directly dependent, such as respiration or circulation of blood.

(b) For purposes of AS 18.80.240 , the terms “lease” or “rental” of real property does not apply to the payment of rent for a room in a dwelling unit when the lessor and lessee will be sharing common living areas in the dwelling unit and the lessor actually occupies the dwelling unit as a resident. (Eff. 12/7/63, Register 13; am 11/2/74, Register 52; am 6/6/75, Register 54; am 3/12/81, Register 77; am 5/22/81, Register 78; am 5/19/82, Register 82; am 8/9/84, Register 91; am 4/9/94, Register 130; am 12/14/2007, Register 184; am __/__/__, Register __)

Authority:	AS 18.80.050	AS 18.80.210	AS 18.80.250
	AS 18.80.060	AS 18.80.220	AS 18.80.255
	AS 18.80.110	AS 18.80.230	AS 18.80.260
	AS 18.80.115	AS 18.80.240	AS 18.80.300
	AS 18.80.200		