

**RULES
OF
TENNESSEE HUMAN RIGHTS COMMISSION**

**CHAPTER 1500-01-01
GENERAL PROVISIONS**

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1500-01-01-.01 PURPOSE.

The purpose of the following rules is to establish a uniform system for the administration and handling of complaints of discrimination made to the Tennessee Human Rights Commission (THRC). The rules establish guidelines for the Commission, the Commission's staff, employers, housing providers, real estate brokers, salespersons or operators, financial institutions, persons owning or operating places of public accommodation, resort or amusement, and state departments and agencies subject to Title VI of the Civil Rights Act of 1964 (Title VI). These rules are subject to any superseding federal or state law and are not to be construed as limiting the rule of the Commission in other areas.

Authority: T.C.A. § 4-21-202 and 4-21-203. **Administrative History:** Original rule certified June 10, 1974. Amendment filed June 18, 2003; effective October 28, 2003. Repeal and new rule filed August 9, 2007; effective October 23, 2007. Stay of effective date filed by the Joint Government Operations Committee of the State of Tennessee General Assembly for forty-five days; new effective date is December 6, 2007. Repeal and new rule filed November 15, 2010; effective February 13, 2011.

1500-01-01-.02 FILING OF REPORTS AND PRESERVATION OF RECORDS.

- (1) Filing of Reports. The Commission may require employers, employment agencies, and labor organizations in the State of Tennessee subject to Tennessee Code Annotated (T.C.A.), Title 4, Chapter 21, Tennessee Code Annotated, Title 8, Chapter 50, Section 103 and/or subject to the Federal Civil Rights Act of 1964, 42 USC Section 2000e as amended, to file the appropriate standard employment information reports (i.e., Employer's Information Reports (EEO1)) to the offices designated by the Commission on an annual basis.
- (2) The Commission reserves the right to require reports about the employment practices of individual employers or groups of employers whenever such information has not been furnished to the U.S. Equal Employment Opportunity Commission or to the Tennessee Human Rights Commission as prescribed by the law and the rules and regulations of the two (2) Commissions. In connection with the investigation of a complaint, the Commission reserves the right to require an employer to provide such information that has not been received by the Commission whose information is more than six (6) months out-of-date. Where the appropriate Equal Employment Opportunity form job categories or the appropriate THRC form job categories do not provide a breakdown descriptive of the employer's actual job categories, the Commission may require a more descriptive work force breakdown.
- (3) The provisions respecting confidentiality of information contained in Section 709(e) of the U.S. Civil Rights Act of 1964, T.C.A. § 10-7-504, T.C.A. § 4-21-303(d), 29 CFR Parts 1601.22 and 1601.26 shall be observed by all Commissioners and Commission staff of the Tennessee Human Rights Commission.

(Rule 1500-01-01-.02, continued)

- (a) The Commission's complaint files, investigative files, and complaint record-keeping system shall be confidential, except that the Commission shall make the investigative file available to the complainant, the respondent, their attorneys, and any state or federal law enforcement agency seeking to enforce anti-discrimination statutes, upon written request and after legal review. The identity of individuals interviewed as witnesses shall remain confidential except when the disclosure of their identity becomes necessary at the time of public hearing. The Commission may charge a reasonable fee for any copies made pursuant to a file copy request.
 - (b) Review and removal of confidential material from investigative files provided to parties or their attorneys shall be conducted or supervised by a Commission staff attorney and shall be conducted in a manner to protect the privacy of all involved parties and non-parties. Material to be removed shall include, but shall not be limited to, confidential witness information; intra-Commission notes; memoranda or other items which would reveal recommendations, impressions, strategy, or deliberative process relating to the investigation, settlement or litigation; credit reports; arrest and/or conviction records; and all attorney work product. All sensitive medical information and sensitive personnel file information concerning the complainant or others, provided by persons other than the party requesting the file and which is not relevant to the issues raised in the charge, shall be removed. Where such information concerning persons other than the complainant is relevant to the issues raised in the charge, names and other identifying information shall be redacted before disclosure in order to protect the persons' privacy.
 - (c) The Executive Director, or Commission staff member designated by the Executive Director, is authorized and empowered to certify all documents or records which are a part of the files and records of the Commission.
- (4) Any personnel or employment record made or kept by an employer (including, but not limited to, application forms submitted by applicants; other records having to do with hiring, promotion, demotion, transfer, layoff or termination; rates of pay or other terms of compensation; and selection for training or apprenticeship) shall be preserved by the employer for a period of six (6) months from the date of the making of the record or termination of an employee. The personnel records of an individual terminated shall be kept for a period of six (6) months from the date of the making of the record or termination of an employee. Where a complaint of discrimination has been filed, the respondent employer shall preserve all personnel records relevant to the complainant until final disposition of the complaint. The term "personnel records relevant to the complaint," includes, but is not limited to, personnel or employment records relating to the complainant and to all other employees holding positions similar to that held or sought by the complainant, as well as application forms or test papers completed by an unsuccessful applicant or by all other candidates for the same position as that for which the complainant applied and was rejected. The date of "final disposition of the complaint" means the date of the statutory period within which the complainant, the intervenor, or the Commission may bring an action in chancery or circuit court, or the date on which such litigation is terminated, whichever is later.
 - (5) If a person fails to make, keep, or preserve records or make reports in accordance with these regulations, the Commission may seek an order requiring compliance from chancery or circuit court.
 - (6) The Commission may require all employers, labor unions, and employment agencies subject to the jurisdiction of the EEOC to file a duplicate of information furnished to EEOC with the Commission for whichever reporting interval required of them by EEOC.

(Rule 1500-01-01-.02, continued)

- (7) Any record made or kept by real estate brokers, salespersons, or operators, and financial institutions, (including, but not limited to, application forms submitted by applicants; leases; rental payment histories; loan agreements and terms thereto; credit reports; complaints and lease violations; and other records having to do with the provision of housing) shall be preserved by the real estate brokers, salespersons, or operators, and financial institutions for a period of six (6) months from the date of the making of the record or the termination of a lease or loan agreement. The records of an evicted individual or an individual denied a housing opportunity shall be kept for a period of six (6) months from the date of the making of the record or the denial of the opportunity. When a complaint of discrimination has been filed, the respondent real estate brokers, salespersons, or operators, and financial institutions shall preserve all housing records relevant to the complainant until final disposition of the complaint. The term "housing records relevant to the complaint," includes, but is not limited to, application or housing records relating to the complainant and to all other applicants or tenants holding or seeking opportunities similar to that held or sought by the complainant, as well as application forms or papers completed by an unsuccessful applicant or by all other applicants for the same opportunity as that for which the complainant applied and was rejected. The date of "final disposition of the complaint" means the date of the statutory period within which the complainant, the intervenor, or the Commission may bring an action in chancery or circuit court, or the date on which such litigation is terminated, whichever is later.

Authority: T.C.A. §§ 4-21-102, 4-21-202, 4-21-203, 4-21-302, 4-21-303, 4-21-208, 4-21-406, 4-21-602, 4-21-904, 4-21-905, 8-50-103, 10-7-504, and Public Chapter No. 706 of the Public Acts of 2008.

Administrative History: Original rule certified June 10, 1974. Amendment filed December 5, 1979; effective January 19, 1979. Amendment filed April 30, 1997; effective August 28, 1997. Amendment filed September 7, 2000; effective January 29, 2001. Amendment filed June 18, 2003; effective October 28, 2003. Notice of Withdrawal to paragraphs (4), (6), and (10) filed and effective September 24, 2003. Amendment filed November 19, 2003; effective March 29, 2004. Repeal and new rule filed August 9, 2007; effective October 23, 2007. Stay of effective date filed by the Joint Government Operations Committee of the State of Tennessee General Assembly for forty-five days; new effective date is December 6, 2007. Amendments filed December 17, 2008; effective April 30, 2009. Repeal and new rule filed November 15, 2010; effective February 13, 2011.

1500-01-01-.03 CONSTRUCTION AND AMENDMENT OF COMMISSION RULES.

- (1) Availability of rules. The rules and regulations of the Commission and any amendments, additions, or modifications thereof, shall be available to the public at any office of the Commission and at the office of the Tennessee Secretary of State.
- (2) Construction of rules and pleadings.
 - (a) These rules and regulations shall be liberally construed to effectuate the purposes and provisions of Tennessee Code Annotated, Title 4, Chapter 21, and the policies of the Tennessee Human Rights Commission.
 - (b) All pleadings shall be liberally construed with a view to effect justice between the parties.
- (3) Amendment of Rules. New rules may be adopted and any rule may be amended or rescinded by the Commission at a regular or special meeting, provided that notice of the proposed adoption, amendment, or rescission has been given in writing to all members of the Commission at least ten (10) days before the meeting at which action is to be taken. Such ten (10) days notice shall not be required when two-thirds of the membership of the Commission approves in writing any such adoption, amendment, or rescission. All such amendments and the process for amending Commission rules shall comply with Tennessee

(Rule 1500-01-01-.03, continued)

statutes governing the amendment of Tennessee Administrative Regulations, Tennessee Code Annotated, Title 4, Chapter 5.

Authority: T.C.A. §§ 4-21-202, 4-21-203, 4-21-303, 4-21-308, and 10-7-504. **Administrative History:** Original rule certified June 10, 1974. Amendment filed December 5, 1978; effective January 19, 1979. Amendment filed June 18, 2003; effective October 28, 2003. Repeal and new rule filed August 9, 2007; effective October 23, 2007. Stay of effective date filed by the Joint Government Operations Committee of the State of Tennessee General Assembly for forty-five days; new effective date is December 6, 2007. Repeal and new rule filed November 15, 2010; effective February 13, 2011.

1500-01-01-.04 INCORPORATION OF FEDERAL GUIDELINES.

- (1) The guidelines on religious discrimination promulgated by the United States Equal Employment Opportunity Commission, which appear in 29 Code of Federal Regulation Part 1605, are adopted, as hereinafter amended, and are incorporated by reference.
- (2) The guidelines on sex discrimination promulgated by the United States Equal Employment Opportunity Commission, which appear in 29 Code of Federal Regulations Part 1604, are adopted, as hereinafter amended, and are incorporated by reference.
- (3) The guidelines on employment testing issued by the United States Equal Employment Opportunity Commission, which appear in 29 Code of Federal Regulations Part 1607, are adopted, as hereinafter amended, and are incorporated by reference.
- (4) The regulations on discriminatory housing advertisements issued by the United States Department of Housing and Urban Development, which appear in 24 Code of Federal Regulations Part 100.75, are adopted, as hereinafter amended, and are incorporated by reference.
- (5) The regulations applicable to the Title VI Compliance Program, which appear in 28 Code of Federal Regulations Subpart C, are adopted, as hereinafter amended, and are incorporated by reference.
- (6) The guidelines on "Speak-English-only rules" promulgated by the United States Equal Employment Opportunity Commission, which appear in 29 Code of Federal Regulations Part 1606.7, are adopted, as hereinafter amended, and are incorporated by reference.
- (7) Any federal guideline or regulation adopted and incorporated under this part that is inconsistent with the Tennessee Human Rights Act, or any regulation promulgated thereunder, shall be superseded by the Tennessee Human Rights Act or the appropriate regulation promulgated thereunder.

Authority: T.C.A. §§ 4-21-202, 4-21-203, 4-21-303, 4-21-401, 4-21-601 and 4-21-602. **Administrative History:** Original rule certified June 10, 1974. Amendment filed December 5, 1978; effective January 19, 1979. Amendment filed April 30, 1997; effective August 28, 1997. Amendment filed September 7, 2000; effective January 29, 2001. Amendment filed June 18, 2003; effective October 28, 2003. Repeal and new rule filed August 9, 2007; effective October 23, 2007. Stay of effective date filed by the Joint Government Operations Committee of the State of Tennessee General Assembly for forty-five days; new effective date is December 6, 2007. Repeal and new rule filed November 15, 2010; effective February 13, 2011. Amendment filed March 23, 2012; effective June 21, 2012.

1500-01-01-.05 REPEALED.

Authority: T.C.A. §§ 4-5-101 et seq., 4-21-304, 4-21-309, and 4-21-312. **Administrative History:** Original rule filed December 5, 1978; effective January 19, 1979. Amendment filed April 30, 1997; effective August 28, 1997. Amendment filed September 7, 2000; effective January 29, 2001. Amendment

(Rule 1500-01-01-.05, continued)

filed June 18, 2003; effective October 28, 2003. Repeal and new rule filed August 9, 2007; effective October 23, 2007. Stay of effective date filed by the Joint Government Operations Committee of the State of Tennessee General Assembly for forty-five days; new effective date is December 6, 2007. Repeal filed November 15, 2010; effective February 13, 2011.

1500-01-01-.06 REPEALED.

Authority: T.C.A. §§ 4-21-202, 4-21-305, and 4-21-307. **Administrative History:** Original rule filed December 5, 1978, effective January 19, 1979. Amendment filed June 18, 2003; effective October 28, 2003. Repeal and new rule filed August 9, 2007; effective October 23, 2007. Stay of effective date filed by the Joint Government Operations Committee of the State of Tennessee General Assembly for forty-five days; new effective date is December 6, 2007. Repeal filed November 15, 2010; effective February 13, 2011.

1500-01-01-.07 REPEALED.

Authority: T.C.A. § 4-21-202. **Administrative History:** Original rule filed December 5, 1978; effective January 19, 1979. Amendment filed June 18, 2003; effective October 28, 2003. Repeal and new rule filed August 9, 2007; effective October 23, 2007. Stay of effective date filed by the Joint Government Operations Committee of the State of Tennessee General Assembly for forty-five days; new effective date is December 6, 2007. Repeal filed November 15, 2010; effective February 13, 2011.

1500-01-01-.08 REPEALED.

Authority: T.C.A. § 4-21-202. **Administrative History:** Original rule filed December 5, 1978; effective January 19, 1979. Amendment filed June 18, 2003; effective October 28, 2003. Repeal and new rule filed August 9, 2007; effective October 23, 2007. Stay of effective date filed by the Joint Government Operations Committee of the State of Tennessee General Assembly for forty-five days; new effective date is December 6, 2007. Repeal filed November 15, 2010; effective February 13, 2011.

1500-01-01-.09 REPEALED.

Authority: T.C.A. § 4-21-202. **Administrative History:** Original rule filed December 5, 1978; effective January 19, 1979. Amendment filed June 18, 2003; effective October 28, 2003. Repeal and new rule filed August 9, 2007; effective October 23, 2007. Stay of effective date filed by the Joint Government Operations Committee of the State of Tennessee General Assembly for forty-five days; new effective date is December 6, 2007. Repeal filed November 15, 2010; effective February 13, 2011.

1500-01-01-.10 REPEALED

Authority: T.C.A. § 4-21-202. **Administrative History:** Original rule filed December 5, 1978; effective January 19, 1979. Amendment filed June 18, 2003; effective October 28, 2003. Repeal and new rule filed August 9, 2007; effective October 23, 2007. Stay of effective date filed by the Joint Government Operations Committee of the State of Tennessee General Assembly for forty-five days; new effective date is December 6, 2007. Repeal filed November 15, 2010; effective February 13, 2011.

1500-01-01-.11 REPEALED

Authority: T.C.A. § 4-21-202. **Administrative History:** Original rule filed December 5, 1978; effective January 19, 1979. Amendment filed June 18, 2003; effective October 28, 2003. Repeal and new rule filed August 9, 2007; effective October 23, 2007. Stay of effective date filed by the Joint Government Operations Committee of the State of Tennessee General Assembly for forty-five days; new effective date is December 6, 2007. Repeal filed November 15, 2010; effective February 13, 2011.