



LA Civil Rights

Buchalter

present

# AAPI HERITAGE MONTH

## HAPPY HOUR +

# LA CIVIL RIGHTS CLE

## May 24, 2023

## 6pm-8pm at Buchalter

THANKS TO OUR COSPONSORS:



A presentation in recognition of Asian American Pacific Islander Heritage Month discussing the LA Civil and Human Rights Law and the LA Civil Rights Department's ability to address potential violations of the ordinance, with a special introduction by the AAPI Equity Alliance to discuss the current status of AAPI hate incidents and hate crimes.

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This event is certified for 1.0 hour of elimination  
of bias MCLE credit.

APABA is a California State Bar approved MCLE.

## SPEAKER BIOS



### **ABIGAIL TAPANG ZELENSKI**

**Principal, Zelenski Law, PC**

**Vice Chair, Los Angeles Commission on Civil Rights**

Abigail Tapang Zelenski is the Principal of Zelenski Law, PC. For two decades, she has focused on labor and employment matters. She provides employment-law advice and counsel to businesses of all sizes, and has successfully represented clients in matters involving wage-and-hour matters, harassment, discrimination, and wrongful termination. Throughout her career, Abigail has been appointed as class counsel in over forty class actions, recovering amounts for employees in the motion-picture, security, healthcare, food, retail, and banking industries, as well as on behalf of the California Labor and Workforce Development Agency.

In 2019, Abigail was appointed by Mayor Eric Garcetti, and confirmed by Los Angeles City Council, to serve as a Commissioner on the inaugural Civil and Human Rights Commission. In 2023, she was elected to serve as the Vice Chair, and was recently reappointed by Mayor Karen Bass to serve another term on the Commission. During her service on the Commission, Abigail has worked closely with the Director of Enforcement on major tasks leading up to the launch of the Discrimination Enforcement Division, including providing input on the Civil Rights Commission Bylaws, the Administrative Rules and Procedure, and the online complaint platform. Currently, Abigail serves on an Ad Hoc Committee to create training resources for the Commission and the Department. In response to the unfortunate rise of anti-Asian hate, she has worked with LA Civil Rights and the Philippine American Bar Association on their Know Your Rights Trainings and Community Forums to educate the public on combatting discrimination and harassment.

Abigail currently serves as the Vice President on the Board of the non-profit organization Search to Involve Pilipino Americans, which produces programs for youth and families, including case management and counseling, senior programs, small-business development, cultural enrichment, and affordable housing. She also serves on the Board of Governors of the Philippine American Bar Association—the largest local association of Filipino American attorneys in the United States—and has held several roles on its Executive Board, including President in 2021 and Chair in 2022. Previously, Abigail served on the Governing Board of the Silver Lake Neighborhood Council. She also served as Vice President and a Board Member of the Filipino American Library and Filipino American Heritage Institute.

Abigail earned her J.D. from the UCLA School of Law, and graduated Phi Beta Kappa from the University of Southern California, magna cum laude, with a B.A. in Political Science.

### **CANDICE CHO**

**Managing Director of Policy and Counsel**

**AAPI Equity Alliance**

Candice Cho is the Managing Director of Policy and Counsel at AAPI Equity Alliance, where she leads the development of people-centered, data-based policy



## SPEAKER BIOS

for the national coalition Stop AAPI Hate. AAPI Equity is a Los Angeles-based coalition of over 40 community-based organizations serving Asian Americans and Pacific Islanders and one of the co-founding partners of Stop AAPI Hate.

Candice brings over a dozen years of experience leading policy efforts at the federal, state, and local levels. As Deputy Chief of Staff of the New York City Law Department, she was the city's chief legal advisor on immigration, drafting sanctuary city laws and advising on impact litigation against the federal government to protect immigrant New Yorkers during the Trump Administration. She was also Chief of Staff to a NYC commission updating the city's constitution whose proposals to increase democratic participation in local government were approved by the voters. She began her career as a legislative staffer for U.S. Senator Richard J. Durbin, the second highest ranking Democrat in the Senate.

Candice was appointed by the Mayor of Los Angeles to serve on the city's Human Relations Commission. She regularly speaks on local government, immigration, and anti-racism before corporate, government, academic, and media audiences. Her work has been featured in USA Today, the Harvard Asian American Policy Review, and other publications.

Candice is the first in her family to graduate from college and the first lawyer, and has degrees from Harvard College, Georgetown University's McCourt School of Public Policy, and Columbia Law School. She is admitted to practice law in New York and California.

### **KIM KASRELIOVICH**

**Assistant General Manager**

**LA Civil + Human Rights and Equity Department**

Kim Kasreliovich is the Assistant General Manager of the Discrimination Enforcement arm of the Los Angeles Civil + Human Rights and Equity Department (LA Civil Rights). The LA Civil Rights Department was started in 2019 and is the first dedicated civil rights department established by the city of Los Angeles. As the Assistant General Manager, Kim is responsible for overseeing the investigation and prosecution of violations of the Los Angeles Civil and Human Rights Law which prohibits discrimination in certain private-sector activities within the city.



Prior to joining LA Civil Rights, Kim spent the last 15 years as a public sector attorney representing everyone from parolees to California's public agencies. Most recently, Kim served as a Supervising Deputy Attorney General at the California Attorney General's Office. In this role, Kim led an accomplished team in representing various Boards, Bureaus, and Commissions of the state in administrative hearings, superior court proceedings, and the court of appeals.

In addition, Kim spent many years as a prosecutor for the State Bar of California, working to uphold ethics standards for attorneys. Kim prosecuted cases at every level, from failures to communicate with clients to fraud, elder abuse, misappropriation, and the involuntary assumption of an attorney's practice. Prior to receiving her law degree, Kim worked as an Americorps member helping the City of Seattle implement an anti-racist framework in their housing and homelessness department.

## SPEAKER BIOS

Kim earned her bachelor's degree from the University of Washington and her J.D. from Thomas Jefferson School of Law. Kim is admitted to practice in both California and Washington state.



### **CAPRI MADDUX**

#### **Executive Director of the Civil + Human Rights and Equity (LA Civil Rights) Department**

Capri Maddox is the Executive Director of the LA Civil Rights Department, which enforces civil rights law in private sector commerce, education, employment, and housing and works to address hate, inequity, and structural racism through community partnerships and its five advisory bodies. Capri was appointed as the department's founding Executive Director in 2020 by former Mayor Eric Garcetti and currently serves Mayor Karen Bass in this role. As Executive Director, Capri led the department's early achievements, including the award-winning LA For All Campaign, an anti-hate PSA campaign featured in 18 languages and on over 5,000 ad spaces, the Office of Racial Equity, which implements \$10 million in community-driven programming, and equity reports on issues such as Violence Against Black and Latina Women and the city's budget.

Prior to leading the LA Civil Rights Department, Capri was appointed as Senior Advisor to City Attorney Michael N. Feuer, where she established the Foster Care Diversion Program. Capri was also appointed to serve as Executive Director of Partnerships at LAUSD by former Superintendent Austin Beutner, and as President of the Los Angeles Board of Public Works by former Mayor Antonio Villaraigosa. Capri has worked for the city of Los Angeles for over 30 years in various roles, from neighborhood prosecutor to complex litigation and general counsel, and is a proud double-graduate of Cal State LA with a juris doctorate from Pepperdine Caruso School of Law. She also serves on the President's Council at Cal State LA, the Board of Trustees at Southern California Public Radio (LAist 89.3 FM), and is a proud member of First AME Church. She resides in Los Angeles County with her husband, Kerman, and sixteen-year-old son.

# RIGHTING WRONGS

## How Civil Rights Can Protect Asian Americans & Pacific Islanders Against Racism

MAY 2023

### EXECUTIVE SUMMARY

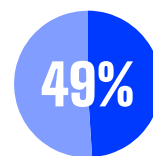
More than 11,000 acts of hate against Asian Americans and Pacific Islanders have been reported to the national coalition Stop AAPI Hate since March 2020 and the start of the COVID-19 pandemic. This includes thousands of parents, siblings, friends, and neighbors who are simply going about their everyday lives — commuting to work on public transit, taking their kids to school, shopping for groceries or running errands — only to suddenly face discrimination, bullying, harassment, shunning, or assault. Some of these acts of discrimination may be violations of civil rights laws.

To better understand these troubling, and at times illegal, experiences with hate, Stop AAPI Hate commissioned the nonpartisan and independent research organization NORC at the University of Chicago to conduct a nationally representative survey of Asian Americans and Pacific Islanders. This landmark survey adds to community-generated data at Stop AAPI Hate and existing research to provide a more complete picture of the discrimination that impacts Asian Americans and Pacific Islanders and the changes needed to uphold the civil rights that protect us all.

### Key Findings

#### 1. Nearly half (49%) of Asian Americans and Pacific Islanders nationwide have experienced discrimination or unfair treatment that may be illegal.

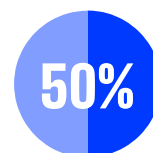
- This discrimination, which is usually based on race or ethnicity, happens when they dine at restaurants, shop for groceries, and ride public transit, as students at school and employees at work, when renting and buying homes, when voting, and when interacting with government employees, including members of law enforcement or staff at the Department of Motor Vehicles.



of Asian Americans and Pacific Islanders nationwide have experienced discrimination or unfair treatment that may be illegal

#### 2. Discrimination negatively affects the mental health and well-being of Asian Americans and Pacific Islanders.

- Half (50%) of Asian Americans and Pacific Islanders experiencing discrimination report feeling sad, stressed, anxious, or depressed as a result.
- 45% say it negatively changed their sense of belonging to their school, workplace, or other community, and nearly a third (31%) say it negatively changed their behavior, such as switching schools, jobs, or where they shop.



of Asian Americans and Pacific Islanders experiencing discrimination report feeling sad, stressed, anxious, or depressed as a result



**3. Asian Americans and Pacific Islanders know they have rights and want accountability for unlawful discrimination, yet few who experienced what they believed to be a civil rights violation report it.**

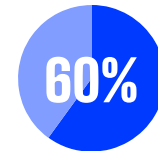
- Only one in five (21%) Asian Americans and Pacific Islanders who experienced discrimination said they reported it.
- A majority (60%) of those who experienced discrimination and reported it say the reporting process was difficult.
- Half (52%) of those who experienced discrimination but did not report it thought reporting would not make a difference.



Asian Americans and Pacific Islanders who experienced discrimination reported it

**4. Asian Americans and Pacific Islanders want a better understanding of how to enforce their rights and want new laws to protect their civil rights.**

- A majority (60%) of Asian Americans and Pacific Islanders want to learn more about their rights and how to enforce them.
- Asian Americans and Pacific Islanders trust community, advocacy, and civil rights organizations serving their respective communities (57%) and government agencies responsible for enforcing civil rights (54%) to learn more about their rights.
- A majority (67%) believe new civil rights laws are needed.



of Asian Americans and Pacific Islanders want to learn more about their rights and how to enforce them

**Recommendations**

Stop AAPI Hate joins the ranks of Asian Americans and Pacific Islanders nationwide who believe that new and more comprehensive civil rights laws are needed to address the ongoing, pervasive, and unchecked discrimination against our communities. This report offers policy recommendations for federal and state governments to address the discrimination that plagues all communities of color and other historically marginalized groups, as well as reflections and recommendations for researchers looking to study our diverse communities.

More information is available at [https://stopaapihate.org/civil\\_rights\\_report](https://stopaapihate.org/civil_rights_report).

# ABOUT STOP AAPI HATE

Stop AAPI Hate is a coalition co-founded by AAPI Equity Alliance, Chinese for Affirmative Action, and the San Francisco State University Asian American Studies Department. Created amid the rise of COVID-19-related anti-Asian racism, our coalition has since joined a nationwide movement for a safer, more equitable future for Asian Americans, Pacific Islanders, and other communities grappling with systemic racism, injustice, and harm.

**STOPAAPIHATE.ORG**



# Civil + Human Rights and Equity Department

## Discrimination Enforcement

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Abigail Zelenski | Commissioner, Commission on Civil Rights

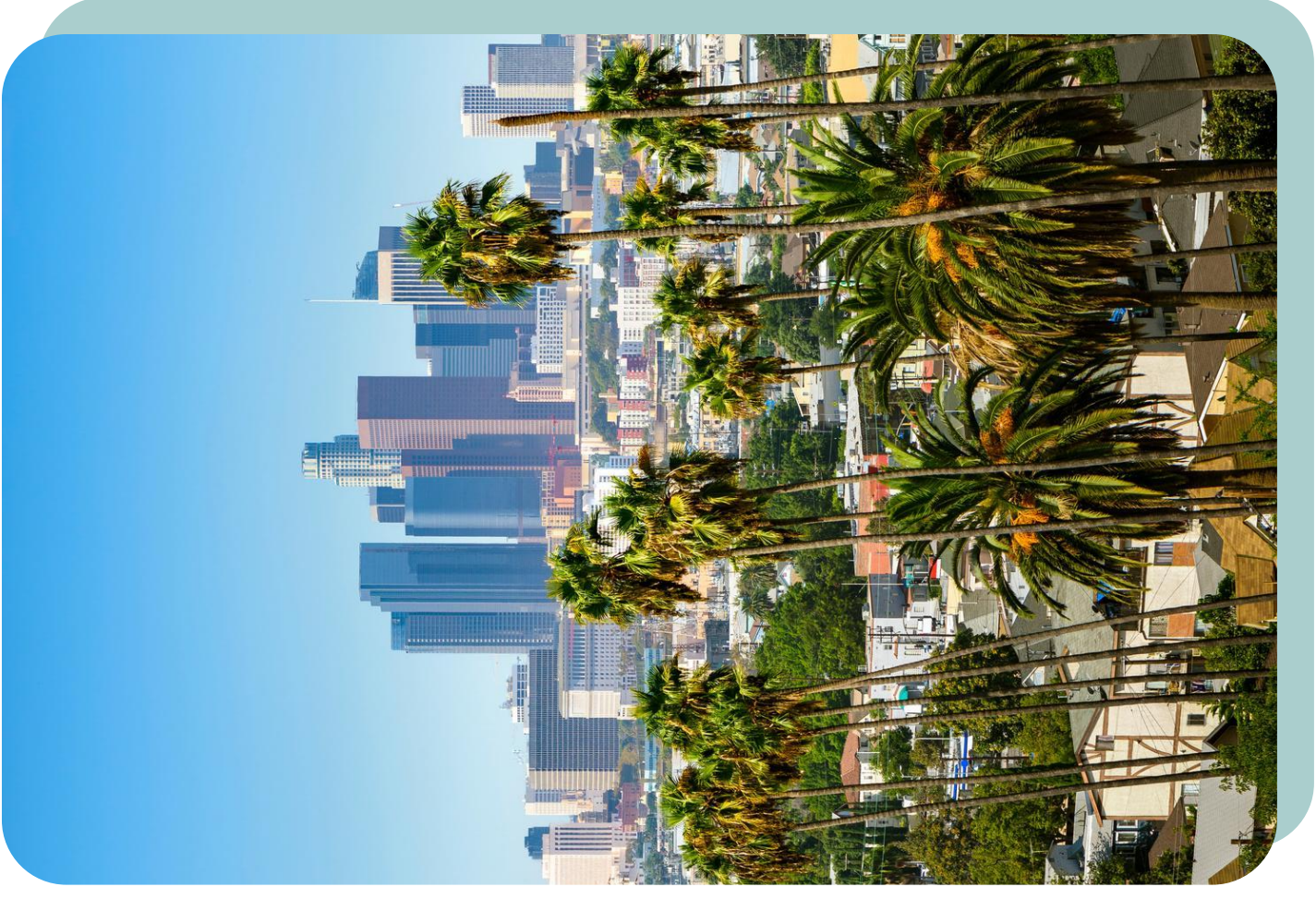
Kim Kasreliovich | Asst. General Manager, LA Civil Rights Dept.



# The Civil + Human Rights and Equity Department

(LA Civil Rights)

- LA Civil Rights was established in 2020 to maintain and strengthen the City's diversity, equity, and accountability.
- We are focused on reducing bias and injustices through community engagement, equity initiatives, and discrimination enforcement.



# LA Civil Rights Pillars

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We strive to proactively prevent discrimination through education, partnerships, community engagement and discrimination enforcement.

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**Commission  
Support**

**Outreach and  
Community  
Engagement**

**Equity and  
Empowerment**

**Discrimination  
Enforcement**

# Civil and Human Rights Ordinance



- **LA Municipal Code**

## **Chapter IV, Article 16, Sec. 51.03**

No person shall discriminate against another person in private employment, housing, education or commerce on the basis of actual or perceived protected class.

- **Our Authority**

Investigate discrimination complaints and enforce the LA Civil and Human Rights Law through subpoenas, fines, and corrective action.

# Protected Classes

## Commerce

- Race
- Color
- Ethnicity
- Creed
- Age
- National Origin
- Religion
- Citizen Status
- Gender
- Gender Identity
- Gender Expression
- Sexual Orientation
- Disability
- Medical Condition
- Genetic Information
- Marital Status
- Partnership Status
- Employment Status
- Source of Income
- Military Status
- Veteran Status
- Primary Language

## Education

## Housing\*

- Citizenship Status
- Employment Status
- Primary Language

## Employment\*

- Source of Income
- Employment Status
- Primary Language

\*State law controls the enforcement of housing and employment violations for certain protected classes. For housing and employment violations involving these protected classes, LA Civil Rights will refer violations to the appropriate agency, including the City Attorney, District Attorney, State of California Civil Rights Department, Attorney General, or a legal aid group.



# Supporting the Community

Guide and assist individuals who experience discrimination and harassment to pursue remedies through the LA Civil Rights Discrimination Enforcement Services.



## Check the Criteria

Within the City of Los Angeles

3 Years

Private sector

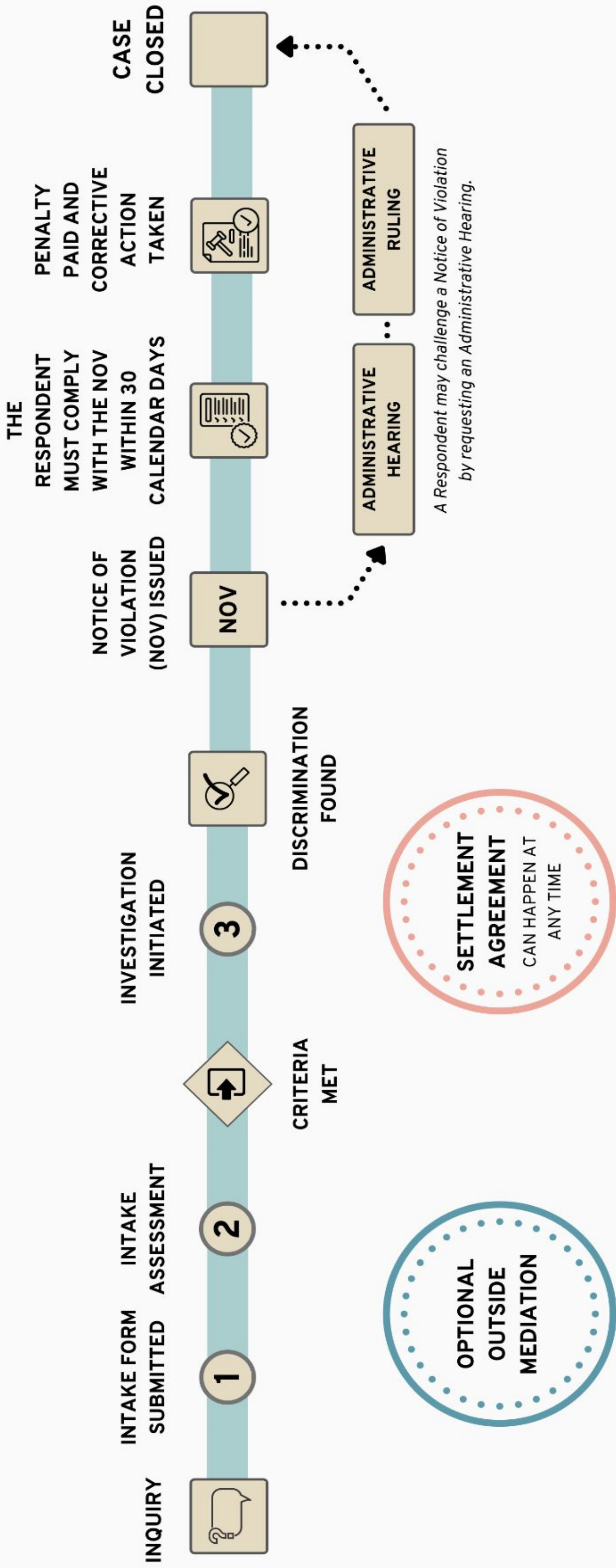
Commerce

Education

Employment

Housing

# Complaint Process





# Confidentiality

Confidentiality shall be kept to the extent permitted by law by keeping the name and other identifying information private.

- The name and identifying information of the complainant & respondent may become public if or when a Notice of Violation is issued.

# Retaliation

No person shall discriminate in any manner or retaliate against any person for exercising rights protected under this article.

- Adverse actions taken against a person within 90 days of exercising these rights shall raise a presumption of retaliation.

# Penalties & Corrective Actions

Administrative penalties *shall* be imposed.  
Compensatory penalties and corrective actions *may* be imposed.

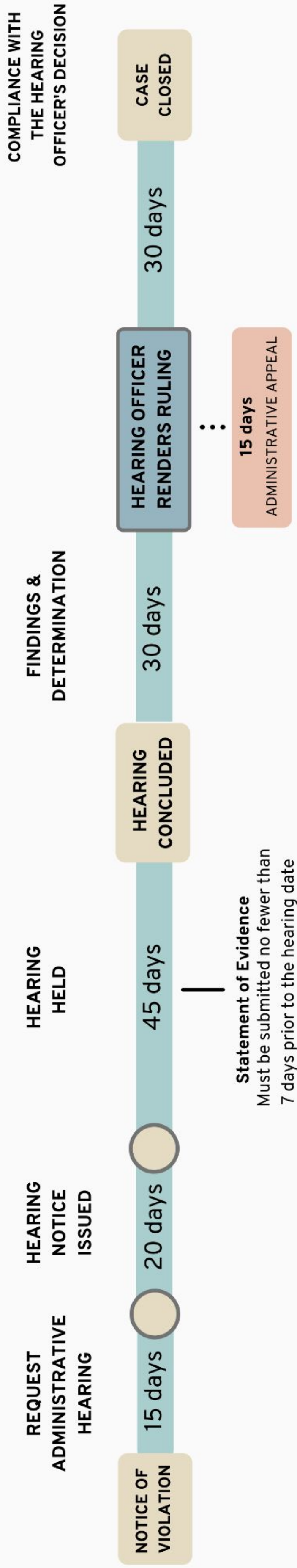
Cumulative penalties  
imposed may not exceed  
\$125,000.

If harassment or violence are  
found, the cumulative amount of  
penalties may not exceed  
\$250,000.

The Notice of Violation shall be a public document and shall describe  
the violation.

# Administrative Hearings

The Administrative Hearing is conducted by a Hearing Officer who will take evidence and issue a decision.

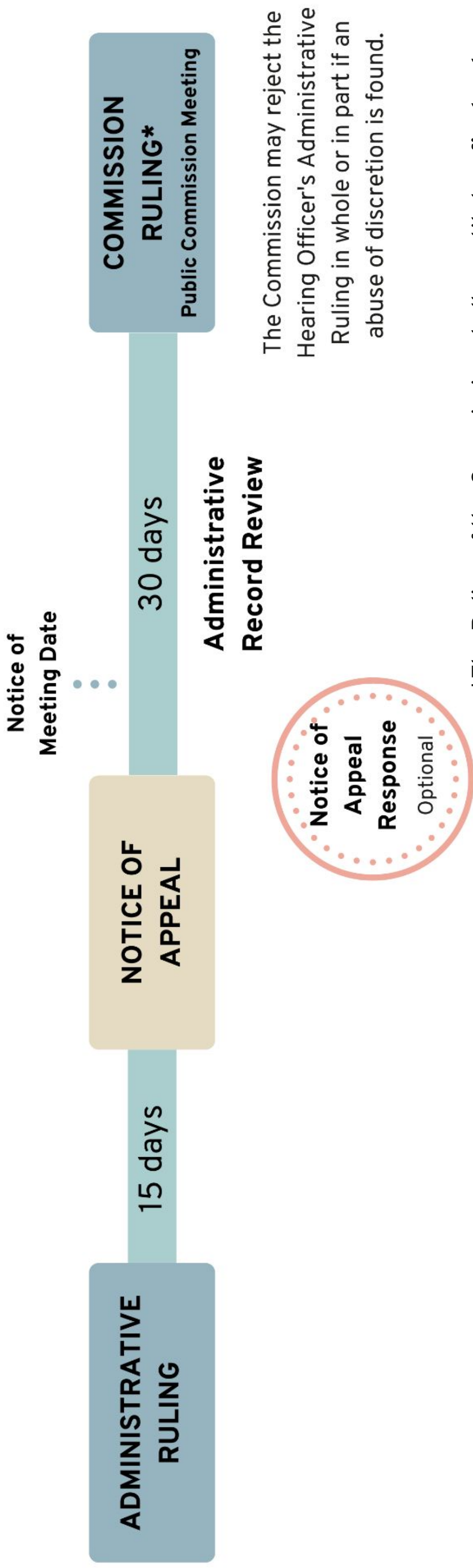


NOTE: **Calendar days** and not business days

# Administrative Appeals

An Administrative Appeal process is initiated when a Notice of Appeal is filed with the Commission on Civil Rights to contest the ruling rendered by the Hearing Officer.

The Commission shall review the Hearing Officer's ruling under an abuse of discretion standard.



\*The Ruling of the Commission shall constitute a **final order**.

# Recap – What We Do:

- ✓ Investigate alleged discriminatory practices when they meet our criteria.
- ✓ Issue subpoenas, notice of violation, and enforce penalties and corrective actions.
- ✓ Connect individuals to additional services, resources, including outside mediation.
- ✓ Connect individuals to local, state, federal, or other resources related to discrimination enforcement.



# Initiating the LA Civil Rights Process

**Online**

**Mail**

**Email**

**Phone**

**Walk-in**

Complaint Form\*

\*Available in 81 languages.

201 N. Los Angeles Street, Suite 6

Los Angeles, CA

90012

civilandhumanrights

@lacity.org

(213) 978-1845

Los Angeles Mall

Filing a discrimination complaint intake form **does not** mean a discrimination case will move forward.





Civil + Human Rights  
and Equity Department

# Questions?

# Thank you!

[LaisforEveryone.com](https://LaisforEveryone.com)

# ARTICLE 16

## CIVIL AND HUMAN RIGHTS LAW

(Added by Ord. No. 186,084, Eff. 6/9/19, Oper. 1/1/20.)

### Section

- 51.00 Title and Purpose.
- 51.01 Authority.
- 51.02 Definitions.
- 51.03 Discrimination Prohibited.
- 51.04 Retaliation Prohibited.
- 51.05 Enforcement.
- 51.06 Individual Remedies for Violations.
- 51.07 Penalties and Corrective Actions for Violations.
- 51.08 Administrative Hearing.
- 51.09 Administrative Appeal.
- 51.10 Other Remedies Not Affected.
- 51.11 Administrative Procedures.
- 51.12 Reports.
- 51.13 Private Purpose.
- 51.14 No Conflict with State Law.
- 51.15 No Conflict with Federal Law.
- 51.16 Operative Date.

### SEC. 51.00. TITLE AND PURPOSE.

This article shall be known as the "Los Angeles Civil and Human Rights Ordinance." The City of Los Angeles has benefited, and will continue to benefit, from the economic, cultural and educational contributions of a wide range of groups and communities who are all too often targets of abuse and discrimination.

The City of Los Angeles has a duty to protect and promote public welfare within its boundaries and to protect residents and visitors against discrimination, threats and retaliation based on a real or perceived status. Such discriminatory and prejudicial practices pose a substantial threat to the health, safety and welfare of our community. This ordinance tasks the Commission on Civil Rights and the Civil, Human Rights and Equity Department to investigate complaints of discrimination and enforce against violators. By holding businesses and individuals accountable for discriminatory behavior, the City will make clear that discrimination will not be tolerated. **(Amended by Ord. No. 187,032, Eff. 6/14/21.)**

The importance of discouraging discrimination that denies equal treatment to any individual in private employment, housing, education or commerce is one of the highest mandates for the welfare of those living in, working in and visiting the City.

### SEC. 51.01. AUTHORITY.

This article is adopted pursuant to the powers vested in the City of Los Angeles under the laws and Constitution of the State of California and the City Charter, including, but not limited to, the police powers vested in the City pursuant to Article XI, Section 7 of the California Constitution.

### SEC. 51.02. DEFINITIONS.

**(Amended by Ord. No. 187,032, Eff. 6/14/21.)**

As used in this article, the following terms shall have the following meanings:

"**Appellant**" means a person who files an administrative appeal under this article.

"**Appellee**" means a person against whom an administrative appeal is filed under this article.

"**City**" means the City of Los Angeles.

"**Commission**" means the Commission on Civil Rights.

"**Compensatory Penalty**" means a monetary penalty imposed as penalty for discrimination in violation of this article resulting in injury to the Complainant. The term injury shall be liberally construed in favor of a Complainant.

**"Complainant"** means a person who files a complaint with the General Manager alleging that his, her, or their right, granted or protected by this article has been violated by another person.

**"General Manager"** means the General Manager of the Civil, Human Rights, and Equity Department.

**"Hearing Officer"** means an independent decision-maker designated by the Commission, including, but not limited to, pro tem judges provided by the Los Angeles Superior Court, administrative law judges from the State of California's Office of Administrative Hearings, and individuals trained in dispute resolution with a minimum of 25 hours of classroom and practical training and experience performing duties related to mediation and conflict resolution in accordance with the requirements of the California Dispute Resolution Programs Act of 1986 (16 CCR § 1622), who shall be subject to disqualification for bias, prejudice, conflict, or any other reason for which a judicial hearing officer may be disqualified.

**"Respondent"** means a person against whom a complaint is filed under this article.

### **SEC. 51.03. DISCRIMINATION PROHIBITED.**

A. No person shall discriminate against another person in private employment, housing, education or commerce, because of that person's actual or perceived race, color, ethnicity, creed, age, national origin, religion, citizenship status, gender, gender identity or expression, sexual orientation, disability, medical condition, genetic information, marital status, partnership status, employment status, source of income, military status, veteran status, or primary language. **(Amended by Ord. No. 187,032, Eff. 6/14/21.)**

B. For purposes of this section, a violation by an agent or employee is imputed to that person's principal or employer when the agent or employee acts within the scope of the agency or employment relationship.

#### **C. Exceptions.**

a. Nothing in this section shall be construed to require anyone to refer for employment, hire or continue to employ an individual when such action would be in violation of federal law.

b. Nothing in this section shall be construed to prohibit any person from complying with any legal obligation under federal or state law, including, but not limited to, any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant.

c. Nothing in this section shall be construed to prohibit a person from:

- i. Prohibiting the illegal use of drugs or the use of alcohol at the workplace;
- ii. Prohibiting on duty impairment from the use of drugs or the use of alcohol; or
- iii. Conducting employee drug testing, when such testing is otherwise lawful.

d. Nothing in this section shall be construed to prohibit an employer, employment agency, or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from considering any substantial job-related qualifications, including but not limited to: 1) a current and valid professional or occupational license; 2) a certificate, registration, permit, or other credential; 3) a minimum level of education or training; or 4) a minimum level of professional, occupational, or field experience.

#### **D. Defenses.**

a. It shall be an affirmative defense that the Complainant could not, with reasonable accommodation, satisfy the essential requisites of the job or enjoy the right or rights in question.

### **SEC. 51.04. RETALIATION PROHIBITED.**

No person shall discriminate in any manner or retaliate against any person for exercising rights protected under this article. Rights protected under this article include, but are not limited to: 1) the right to inform any person of his, her, or their potential rights under this article and to assist him, her, or them in asserting such rights; and 2) the right to file a complaint or inform any person about any other person's alleged noncompliance with this article. This section shall apply to retaliation against any Complainant who mistakenly, but in good faith, alleges a violation by a Respondent. Taking adverse action against a person within 90 calendar days of that person's exercise of rights protected under this article shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

### **SEC. 51.05. ENFORCEMENT.**

**(Amended by Ord. No. 187,032, Eff. 6/14/21.)**

A. **Reporting Violations.** Any person whose rights, granted or protected by this article, have been violated, even if that person's only injury is the deprivation of that right granted or protected without physical or monetary damages, may report a complaint to the General Manager. The General Manager shall encourage reporting pursuant to this article by keeping confidential, to the extent permitted by law, the name and other identifying information of the Complainant. With the authorization of the Complainant, the General Manager may disclose the Complainant's name and identifying information as necessary to conduct investigations under this article or for other appropriate purposes. The General Manager shall disclose the name and identifying information of the Complainant at the time the General Manager issues a notice of violation to the Respondent.

B. **Investigation.** The General Manager shall be responsible for investigating violations of this article. A Respondent shall cooperate fully in any investigation by the General Manager. The General Manager shall have access to the Respondent's business sites, housing locations, and places of labor subject to this ordinance during business hours to inspect books and records, and to interview any relevant witnesses. Respondents shall provide the General Manager with their legal name, address, and telephone number in writing. The General Manager may request the Commission to subpoena witnesses, compel their attendance and testimony, and require by subpoena the production of any books, papers, records or other items relevant to inquiries, investigations, and enforcement actions under this article.

C. **Settlement.** The General Manager shall have the authority, at any time, to enter into a settlement agreement with a Respondent. The General Manager shall present any settlement agreement to the Commission for approval, which shall have the authority only to approve or disapprove the agreement. A settlement disapproved by the Commission shall be remanded to the General Manager, who shall resume enforcement authority over the matter, including the authority to present a new settlement to the Commission.

D. **Determination.** Whenever the General Manager finds that a violation of Section 51.03 or Section 51.04 has occurred, the General Manager shall publicly issue a notice of violation, which shall, in addition to describing the violation, impose administrative penalties, Compensatory Penalties, if any, and corrective actions, if any, consistent with Section 51.07. The General Manager shall serve the notice of violation, by First Class mail, on the respective Complainant and Respondent. The date of service shall be the date of the postmark on the mailing.

#### **SEC. 51.06. INDIVIDUAL REMEDIES FOR VIOLATIONS.**

A. **Civil Enforcement.** A Complainant may bring a civil action in a court of competent jurisdiction against any person violating this article and shall be entitled to such legal or equitable relief as may be appropriate, including, without limitation, damages, restitution, injunctive relief, and reasonable attorneys' fees and costs. Nothing in this section shall preclude, or otherwise limit a civil action by the City, or a separate or criminal prosecution under the Municipal Code or state law. Jeopardy shall not attach as a result of any administrative or civil enforcement action taken pursuant to this article. The right of a Complainant to bring a civil action under this section shall not be waived by private agreement.

#### **SEC. 51.07. PENALTIES AND CORRECTIVE ACTIONS FOR VIOLATIONS.**

(Amended by Ord. No. 187,032, Eff. 6/14/21.)

A. **Administrative Penalties, Compensatory Penalties, and Corrective Actions.** In addition to any of the remedies and penalties set forth in this article or any other law, where the General Manager determines that a Respondent has violated Section 51.03 or Section 51.04, the General Manager shall impose an administrative penalty. The General Manager also may impose Compensatory Penalties unless the Complainant has been previously awarded punitive damages in a civil case arising out of the same act or transaction. The cumulative amount of the penalties imposed shall not exceed \$125,000, except upon a finding by the General Manager that a violation was the result of a Respondent's harassing or violent act, in which case the cumulative amount of the penalties shall not exceed \$250,000. The General Manager may also order a Respondent to undertake corrective actions to remedy the violation or prevent future violations. Such administrative penalties, Compensatory Penalties, and corrective actions shall be set forth in the notice of violation.

B. **Criminal Penalties.** Any person who willfully resists, obstructs or interferes with the Commission, the General Manager, or the Hearing Officer in the performance of any duty under this article shall be guilty of a misdemeanor and be punishable by a fine of not more than \$1,000 and by imprisonment in the County Jail for a period of not more than six months.

C. **Payments to City, Due Date, Late Payment Penalty.** Administrative penalties and Compensatory Penalties shall be due and payable to the City within 30 calendar days from the date of the General Manager's notice of violation. Failure to timely pay a penalty will result in the assessment of a late fee, assessed daily at a rate of 7 percent per annum of the outstanding amount of the penalty and late fees, if any. The City may collect any unpaid penalty, including the late fee, by means of a civil action, injunctive relief, specific performance and the recordation of a lien against real property in accordance with applicable law. Any administrative penalties recovered pursuant to this section shall be paid to the City. Any Compensatory Penalties recovered pursuant to this section shall be paid to the Complainant.

D. **Severity of Penalties.** The General Manager shall impose penalties for violations of this article only after considering factors, including, but not limited to: 1) the extent of harm caused by the violation; 2) the nature and persistence of the violation; 3) the length of time over which the violation occurs; 4) past violations; 5) any action taken to mitigate the violation; and 6) the financial burden to the Respondent.

## **SEC. 51.08. ADMINISTRATIVE HEARING.**

**(Amended by Ord. No. 187,032, Eff. 6/14/21.)**

A. **Request for Hearing.** A Respondent may file with the Commission a request for hearing within 15 calendar days from the date the notice of violation is served upon the Respondent. In order to be considered timely, the request for hearing must be postmarked or received by the Commission within the 15 calendar days. The request for hearing must: 1) be in writing; 2) specify in detail the objections to the notice of violation; and 3) indicate the Respondent's preferred return mailing address.

B. **Hearing Date.** As soon as practicable after receiving the request for a hearing, the Commission or its designee shall select a Hearing Officer to hear and rule on the notice of violation. The Hearing Officer shall fix a date, time, and place for the hearing. Written notice of the time and place for the hearing shall be served, by First Class mail, on the General Manager and on the Respondent at the return address indicated on the request for a hearing. Service of the notice of hearing must be made at least 20 calendar days prior to the date of the hearing. The hearing shall be held no later than 45 calendar days after service of the notice of hearing, unless that time is extended by mutual agreement.

C. **Notice of Hearing.** Except as otherwise provided by law, the failure of the Respondent to receive a properly addressed and mailed notice of the hearing shall not affect the validity of any proceedings under this article. Service by First Class mail, postage prepaid, shall be effective on the date of mailing.

D. **Stay of Enforcement.** The accrual of penalties shall be stayed until the final determination of the hearing.

E. **Failure to Request Hearing.** Upon the failure of a Respondent to file a request for hearing in accordance with the provisions of this section or to appear at the hearing, the General Manager's notice of violation shall immediately become final and enforceable.

F. **Submittals for the Hearing.** No fewer than seven calendar days prior to the hearing, the General Manager and the Respondent shall submit to the Hearing Officer, with simultaneous service by First Class mail to one another, the statement of issues to be determined by the Hearing Officer, a statement of the evidence to be offered and the witnesses to be presented at the hearing, and any other relevant evidence.

G. **Conduct of Hearing.** The Hearing Officer shall conduct all hearings under this section and may accept evidence on which persons would commonly rely in the conduct of their business affairs, including, but not limited to, the following:

1. A notice of the General Manager, which shall be considered to be prima facie evidence of the violation(s) specified therein; and
2. Oral and written testimony under penalty of perjury relating to the violation(s) and the appropriate means of correcting the violation(s).

The hearing shall be open to the public and shall be audio recorded. Any party to the hearing may, at their own expense, cause the hearing to be video recorded or transcribed by a certified court reporter. The General Manager shall have the burden of proof by a preponderance of the evidence in each hearing. The Hearing Officer may continue the hearing and order the production of additional information from the General Manager or Respondent prior to issuing a written decision. The Commission may adopt written procedures for the conduct of hearings pursuant to this article, including, but not limited to, the use of witnesses and evidence.

H. **Hearing Officer's Findings and Determinations.** Within 30 calendar days after the conclusion of the hearing, the Hearing Officer shall make findings in the form of an administrative ruling based on the record of the hearing and may uphold or reject the violation(s) referenced in the General Manager's notice of violation in whole or in part. The Hearing Officer also may uphold the notice of violation and increase, reduce, waive or conditionally increase, reduce or waive the administrative penalties, Compensatory Penalties, or both, based on specific findings of aggravating or mitigating circumstances drawn from the evidence presented at the hearing. The Hearing Officer may impose, reduce, waive or conditionally reduce or waive conditions imposed by the General Manager including the modification of deadlines for the correction of violations or the payment of outstanding penalties. The Hearing Officer shall serve the administrative ruling, by First Class mail, on the General Manager and Respondent. The date of service shall be the date of the postmark on the mailing.

I. **Payment of Penalties.** Penalties imposed by the Hearing Officer pursuant to this article shall be due and payable in accordance with Section 51.07.

## **SEC. 51.09. ADMINISTRATIVE APPEAL.**

A. **Notice of Appeal.** The General Manager or Respondent may file a notice of appeal with the Commission within 15 calendar days of the date of service of the administrative ruling. In order to be considered timely, the notice of appeal must be postmarked or received by the Commission within the 15 calendar days. The notice of appeal must: 1) be in writing; 2) specify in detail the basis for the appeal; and 3) indicate the Appellant's preferred return mailing address. **(Amended by Ord. No. 187,032, Eff. 6/14/21.)**

B. **Appeal Process.** As soon as practicable after receiving the written notice of appeal, the Commission shall determine whether to issue a final ruling based upon the administrative record or to set a hearing to decide on the administrative appeal.

1. If the Commission elects to issue a final ruling based upon the administrative record, the Commission shall issue such ruling within 30 calendar days of receipt of the notice of appeal.

2. If the Commission elects to conduct a hearing on the administrative appeal, the hearing shall be noticed, scheduled and conducted in accordance with Section 51.08, except that the Commission shall act in place of the Hearing Officer. Within 30 calendar days after the conclusion of the hearing, the Commission shall rule on the appeal.

C. **Standard of Review.** The Commission shall review the Hearing Officer's ruling under an abuse of discretion standard.

D. **Failure to Appeal.** Failure of the Appellant to file a notice of appeal in accordance with the provisions of this section or to appear at the Commission appeal hearing shall constitute a failure to exhaust administrative remedies. In such instance, the Hearing Officer's ruling shall become final and enforceable.

E. **Submittals for the Hearing.** No fewer than seven calendar days prior to the appeal, the Appellant and Appellee shall submit to the Commission, with simultaneous service by First Class mail to one another, the statement of issues to be determined by the Commission, a statement of the evidence to be offered and the witnesses to be presented at the hearing, and any other relevant evidence.

F. **Commission Ruling.** If the Commission finds that the Hearing Officer's ruling is based upon an abuse of discretion, the Commission may reject the ruling of the Hearing Officer in whole or in part. In so doing, the Commission may: 1) reinstate, reduce, waive or conditionally reduce or waive the administrative penalties; 2) reinstate, reduce, waive or conditionally reduce or waive the Compensatory Penalties; 3) impose, reduce, waive or conditionally reduce or waive conditions imposed in the ruling; and 4) alter deadlines for the correction of violations or the payment of the outstanding penalties.

G. **Final Order.** The ruling of the Commission pursuant to this section shall constitute a final order, which shall be served on the General Manager and the Respondent by Certified mail. The Commission's final order is subject to judicial review, pursuant to California Code of Civil Procedure Section 1094.5. **(Amended by Ord. No. 187,032, Eff. 6/14/21.)**

#### **SEC. 51.10. OTHER REMEDIES NOT AFFECTED.**

The administrative enforcement procedures established in this article shall be in addition to any other criminal, civil or other remedy established by law to address violations of this article. A ruling by the Hearing Officer or the Commission issued pursuant to this article shall not prejudice or adversely affect any other action, civil or criminal, that may be brought to prosecute or abate a violation or to seek compensation for damages suffered.

#### **SEC. 51.11. ADMINISTRATIVE PROCEDURES.**

Pursuant to Sec. 22.1210 of the Los Angeles Administrative Code, the Commission shall promulgate and enforce rules and administrative procedures, including, but not limited to, evidentiary rules created for the fair and efficient conduct of hearings and appeals in order to better carry out the purposes of this article.

#### **SEC. 51.12. REPORTS.**

**(Amended by Ord. No. 187,032, Eff. 6/14/21.)**

The General Manager shall provide annual reports to the City Council on the implementation of this ordinance.

#### **SEC. 51.13. PRIVATE PURPOSE.**

**(Amended by Ord. No. 187,032, Eff. 6/14/21.)**

The City Council finds that this ordinance is intended to promote the investigation of and enforcement against discrimination between and against private parties. Nothing in this article is intended to create a private right of action against, or authorize the Commission or the General Manager to investigate allegations of discrimination by public officials, employees or agencies in federal, state or local government.

#### **SEC. 51.14. NO CONFLICT WITH STATE LAW.**

This article is not intended to conflict with state law. This article shall be interpreted to be compatible with state enactments and in furtherance of the public purposes that those enactments encompass. To the extent that the Fair Employment and Housing Act (FEHA), Cal. Gov. Code § 12900, et seq., has occupied the field of enforcement of discrimination in employment and housing encompassed by the provisions of that act, this article shall provide no separate remedy. Notwithstanding the foregoing, this article is intended to remedy those discriminatory actions in housing and employment and provide remedies to those protected classes that are not encompassed by the provisions of FEHA.



**SEC. 51.15. NO CONFLICT WITH FEDERAL LAW.**

This article is not intended to conflict with federal law or stand as an obstacle or conflict with any efforts by the federal government to enforce Federal laws.

**SEC. 51.16. OPERATIVE DATE.**

The provisions of this article shall become operative on January 1, 2020.

## **Administrative Rules and Procedures**

### **Introduction, Purpose & Authority**

The Los Angeles Civil and Human Rights Law, established under Article 16, Chapter IV of the Los Angeles Municipal Code (LAMC) (“Ordinance”) prohibits discrimination under [Section 51.03](#) as follows: “*No person shall discriminate against another person in private employment, housing, education or commerce, because of that person’s actual or perceived*” protected status. All defined terms referenced in the Ordinance shall have the same meanings in these Administrative Rules.

Under LAMC Section 51.00, the City tasks the Commission on Civil Rights (“Commission”) and the Civil, Human Rights, and Equity Department (“Department”) to investigate complaints of discrimination, based on real or perceived protected status occurring within the boundaries of the City, and to enforce against violators. The enforcement process, penalties, and other remedies as detailed in the LAMC Sections 51.05, 51.06, and 51.07 provide guidance as to the implementation of the discrimination enforcement operations. The rules for the fair and efficient conduct of administrative hearings, under Section 51.08, and administrative appeals, Section 51.09, are hereby promulgated in this document.

The Commission “*shall promulgate and enforce rules and administrative procedures, including, but not limited to, evidentiary rules created for the fair and efficient conduct of hearings and appeals in order to better carry out the purposes of this article,*” as set forth in LAMC Sec. 51.11.

In order to implement the administrative hearing and appeal provisions of the Ordinance, and to establish time limits, the following outline details the implementation of these provisions by the Commission and the Department as its designee.

### **I. Time Limits**

In an effort for the Department to effectively carry out its duties, ensure successful investigations, maximize limited resources, and to focus on prioritizing more recent incidents for which evidence may be more likely available, the Department will be limited to considering discrimination complaints regarding alleged incidents which occurred no earlier than three (3) years prior to the filing of the complaint with the Department. If the alleged incident includes more than one (1) date, then the most recent date of the alleged incident will be used to determine this time limitation.

## II. Data & Information Related to Protected Communities

In accordance with Mayoral Executive [Directive No.20](#) issued on March 21, 2017, the Department shall adhere to the following:

*“No City employee shall collect information from individuals that is not necessary to perform the employee’s duties. In particular, no City employee shall collect information regarding a person’s citizenship or immigration status unless legally required to do so or mandated by policy to protect victims and witnesses of crimes.”*

## III. Administrative Hearing Process

Upon a written determination issued by the Department pursuant to LAMC Section 51.05 (“Notice of Violation”), the person against whom a complaint is filed (“Respondent”) may challenge the Notice of Violation by requesting an Administrative Hearing (“Administrative Hearing”). The Administrative Hearing refers to the process in which an independent decision maker (“Hearing Officer”) accepts evidence including testimony from witnesses and supporting documents throughout an official proceeding (“Hearing”). Following the Hearing, the Hearing Officer makes findings in the form of an administrative ruling to uphold or reject the Notice of Violation in part or in whole. The General Manager of the Department (“General Manager”) and the Respondent are parties to the Hearing and must abide by the Administrative Hearing process as outlined below:

**A. Hearing Requests:** A Respondent may request a Hearing to challenge the Notice of Violation. Both the Respondent and General Manager, or representative from the Department designated by the General Manager, must appear before the Hearing Officer and present evidence to support their positions. The General Manager has the burden of proof.

1. **Request Time Frame:** A Respondent may challenge the Notice of Violation by filing a request for Hearing within fifteen (15) calendar days from the date the Notice of Violation is served upon the Respondent. The date of service of the Notice of Violation shall be the date of the postmark on the First Class mailing. In order to be considered timely, the request for Hearing must be postmarked or received by the Department within fifteen (15) calendar days of the date of service of the Notice of Violation. The request for Hearing must: 1) be in writing, which may be via electronic mail; 2) specify in detail the objection(s) to the Notice of Violation; and 3) indicate the Respondent’s preferred return mailing address.
2. **Failure to Request a Hearing:** If the Respondent fails to file a Hearing request in accordance with the provisions of the Ordinance, and as detailed above, the

Notice of Violation shall immediately become final and enforceable.

3. Notice of Hearing: The Department is responsible for coordinating the parties' availability with the Hearing Officer and mailing a written notice of Hearing ("Notice of Hearing"). The written Notice of Hearing must include the name of the Hearing Officer, as well as the time and place of the Hearing. The Notice of Hearing must be served on the General Manager and on the Respondent, at the address indicated on the request for a Hearing, by First-Class Mail, postage prepaid, and shall be effective on the date of mailing, as evidenced by a proof of service. The Department may also send the Notice of Hearing via other means including, but not limited to, electronic mail, with a pdf (or similar) attachment of the formal Notice of Hearing letter. Service of the Notice of Hearing must be made at least twenty (20) calendar days prior to the date of the Hearing. The Hearing shall be held no later than forty-five (45) calendar days after service of the Notice of Hearing, unless that time is extended by mutual agreement. Once a hearing date is set, all requests for a continuance shall, whenever possible, also be by mutual agreement of the parties and must be coordinated with the Hearing Officer's availability. In the event that no mutual agreement is reached, the Hearing Officer will have the discretion to determine whether a continuance is warranted. Any new hearing date shall be confirmed in writing in accordance with the Notice of Hearing requirements set forth above. Hearings shall be held at an accessible location within the City of Los Angeles.
4. Failure to Appear: If the Respondent fails to appear at the Administrative Hearing, the Notice of Violation shall immediately become final and enforceable.
5. Submittals for the Hearing: No fewer than seven (7) calendar days prior to the hearing, the General Manager and the Respondent shall submit to the Hearing Officer, with simultaneous service by First-Class Mail as well as electronic mail and/or certified mail, to one another, a statement of issues to be determined by the Hearing Officer, the evidence to be offered, the witnesses to be presented at the Hearing, and any other relevant evidence.
6. Ex Parte Communications: The Hearing Officer shall not communicate with the General Manager or Department staff (excluding the Commission's designee for the limited purpose of scheduling and other logistical matters) or the Respondent regarding a pending Hearing outside of the Hearing. If a Hearing Officer receives an ex parte communication, they shall immediately notify the designated staff and any legal counsel for the Hearing Officer.

- B. Selection of Hearing Officer:** The Hearing Officer must be an independent decision maker and can include, but not be limited to, pro tem judges provided by the Los Angeles Superior Court, administrative law judges from the State of California's Office of Administrative Hearings, and individuals trained in dispute resolution in accordance with the requirements of the California Dispute Resolution Programs Act of 1986.

As soon as practicable after receiving the request for a Hearing, a Hearing Officer shall be assigned to hear and rule on the Notice of Violation.

A roster of Hearing Officers shall be compiled and maintained by the Department. The Hearing Officers must be assigned on a rotating basis such that if a Hearing Officer has heard an appeal, that person shall not hear another appeal until all other Hearing Officers on the roster have been assigned to hear one (1) appeal. If a Hearing Officer is unavailable or unable to conduct a scheduled Hearing, the next Hearing Officer in the rotation shall be assigned.

- C. Disqualification of Hearing Officer:** A Hearing Officer shall be subject to disqualification for bias, prejudice, conflict, or any other reason provided by law. The Hearing Officer shall disclose any potential conflict of interest, including any financial or relationship-based conflicts, as soon as practicable after they are selected and prior to the Hearing date.

If a Respondent or the General Manager believes the Hearing Officer should be disqualified, the Respondent or the General Manager shall submit in writing a detailed explanation of the grounds for disqualification and provide all supporting evidence. The Los Angeles City Attorney's Office shall review the submission and determine whether grounds for disqualification exist.

In the event a Hearing Officer is disqualified, a new Hearing Officer will be selected in accordance with the established selection process as detailed above. The Hearing may be continued as mutually agreed by both parties as well as the newly assigned Hearing Officer.

- D. Conduct of Hearing:** The Hearing Officer shall conduct hearings and may accept evidence on which a reasonable person would commonly rely. The Hearing Officer will have the authority to determine which evidence is relevant and admissible, including, but not limited to, the following:

- A Notice of Violation issued by the General Manager, which shall be considered to be prima facie evidence of the violation(s) specified therein;

- Oral and written testimony under penalty of perjury relating to the violation(s) and the appropriate means of correcting the violation(s).

The General Manager shall have the burden of proof by a preponderance of the evidence. Below is an outline of the process:

1. Each party at the Hearing may choose its Hearing representatives and call witnesses in support of its case. The Hearing Officer may exclude a witness from the Hearing until it is time for them to testify.
2. The Hearing shall be open to the public and shall be audio-recorded. Any party to the Hearing may, at their own expense, cause the Hearing to be video-recorded or transcribed by a certified court reporter. There shall be no other recording other than as authorized by LAMC Section 51.08 G.
3. After the audio-recording system is turned on, the Hearing Officer shall read the date, title of the matter, and ask for appearances from all parties. The Hearing Officer will inquire if all parties are ready to proceed, then explain the Hearing process, and confirm that all parties understand the process.
4. The Hearing Officer shall first identify and admit the following evidence into the record:
  - Notice of Violation decision being challenged
  - The written request for a Hearing filed by the Respondent
  - The Notice of Hearing
  - The General Manager's and Respondent's pre-Hearing submittals
  - Any other evidence the Hearing Officer deems appropriate
5. The Hearing Officer shall allow the parties to present evidence, subject to the following rules:
  - Since the General Manager has the burden of proof by a preponderance of the evidence, the General Manager shall have the first opportunity to present argument and evidence concerning the case. The Respondent shall then have an opportunity to present argument and evidence concerning the case.
  - Each party may present its case in the manner of its choosing, including, but not limited to, argument from a representative, witness



testimony, or submission of documentary evidence.

- Parties may also make objections to witness testimony or documentary evidence, which shall be ruled upon by the Hearing Officer. Generally, any evidence that the Hearing Officer determines to be relevant shall be admitted if it is the sort of evidence a reasonable person would commonly rely on in this context. If the evidence meets this standard, the Hearing Officer may not exclude it solely because it was introduced in a manner that would not meet the evidentiary standards in a formal judicial proceeding; notwithstanding, the Hearing Officer is free to exclude evidence that is irrelevant, duplicative, consumes undue time, lacks sufficient credibility or authenticity, or is outside the scope of the Hearing.
- A party who seeks to prevent the disclosure at a Hearing of information they believe is confidential may do the following:
  - Redact sensitive personally identifiable information from their own documentary evidence prior to presenting it at the Hearing. Examples of information which may be protected in this manner include, but are not limited to, social security numbers, home addresses, personal phone numbers, and bank account numbers.
  - After conferring with the other party, enter into an agreement, which may be in the form of an evidentiary stipulation, to protect privileged or otherwise confidential information from disclosure, consistent with the requirements that the Hearing be open to the public and audio recorded. Any such agreement shall be stated on the record with sufficient specificity to identify the nature of the information to be protected, without revealing its substance, and shall be subject to the Hearing Officer's authority to clarify and rule on evidentiary matters.
  - If an agreement cannot be reached between the parties, the party who seeks non-disclosure may move for or otherwise request a ruling to protect the confidentiality of the information at issue, which the Hearing Officer shall issue on the record after allowing argument from both sides.

6. The Hearing Officer shall administer the following oath to all witnesses who testify, prior to testifying:

*“You do solemnly state, under penalty of perjury under the laws of the State of California, that the testimony you may give in the cause now pending in this hearing shall be the truth, the whole truth, and nothing but the truth.”*

7. Each party shall be allowed a reasonable opportunity to conduct a direct examination of each witness they call. Direct examination is then followed by an opportunity for the other party to cross-examine that witness. The Hearing Officer, at their discretion, may permit a redirect (or re-cross) examination of each witness.
8. The Hearing Officer may ask questions of either party or a witness, as necessary, to clarify testimony and evidence.
9. Each party is entitled to a fair and reasonable amount of time to present their case, taking into account the quantity and complexity of the claims at issue and the nature of the evidence the parties intend to present. Each party shall have a reasonable opportunity to present rebuttal evidence.
10. The Hearing Officer shall confirm, on the record, when each party has no further evidence to present, after which each party shall be allowed a reasonable opportunity to summarize its position through a closing argument or statement. The Hearing Officer may ask questions of either party, as necessary, to clarify their arguments.
11. Unless the Hearing is continued to permit the parties to submit additional information requested by the Hearing Officer, the Hearing Officer will close the Hearing. If there is no such continuance, then, prior to turning off the audio recording system, the Hearing Officer should clearly state that the Hearing has been completed and the record has been closed.
12. The Hearing Officer may issue evidentiary and procedural decisions during the course of the Hearing as necessary to maintain an efficient process and ensure the Hearing is conducted in adherence to the City’s laws and the requirements of due process.

- E. **Hearing Officer’s Findings and Determination:** Within thirty (30) calendar days after the conclusion of the Hearing, the Hearing Officer shall make findings in the form of a written administrative ruling based on the record of the hearing and may uphold or reject

the violation(s) referenced in the General Manager's Notice of Violation in whole or in part. The Hearing Officer also may uphold the Notice of Violation and increase, reduce, waive, or conditionally increase, reduce, or waive the penalties, or both, based on specific findings of aggravating or mitigating circumstances drawn from the evidence presented at the Hearing. The Hearing Officer may impose, reduce, waive, or conditionally reduce or waive conditions imposed by the General Manager, including the modification of deadlines for the correction of violations or the payment of outstanding penalties.

The Hearing Officer shall serve the administrative ruling, by First-Class Mail, as well as electronic mail, on the General Manager and Respondent. The date of service shall be the date of the postmark on the mailing.

#### **IV. Administrative Appeal (LAMC Sec. 51.09)**

An Administrative Appeal process is initiated when a Notice of Appeal ("Notice of Appeal") is filed by the General Manager or Respondent with the Commission to contest the administrative ruling issued by a Hearing Officer. The Commission shall review the Hearing Officer's ruling under an abuse of discretion standard. The Commission shall conduct an administrative record review, as its primary appeal process and as promulgated in this Administrative Rules document.

- A. **Notice of Appeal:** The General Manager or Respondent may file a Notice of Appeal with the Commission within fifteen (15) calendar days of the date of service of the administrative ruling rendered by the Hearing Officer.

In order to be considered timely, the Notice of Appeal must be postmarked or received by the Commission within the fifteen (15) calendar days. The Notice of Appeal must: 1) be in writing; 2) specify in detail the basis for the appeal; and 3) indicate the Appellant's preferred return mailing address.

- B. **Failure to File:** The failure to file a Notice of Appeal in accordance with the provisions of this section, pursuant to LAMC Section 51.09, or to appear at the Commission appeal hearing shall constitute a failure to exhaust administrative remedies. In such instances, the Hearing Officer's ruling shall become final and enforceable.

- C. **Commission Review & Consideration:** In order to ensure timely consideration of the appeal, the Notice of Appeal shall be considered at a publicly held Commission meeting as soon as practicable after receiving the written Notice of Appeal.

- a. Setting the Commission Meeting Date: The Department must work with the Commissioners to ensure a timely Commission meeting date for the purpose of review and consideration of the Administrative Appeal. A "special" meeting must

be set if the regularly scheduled Commission meeting will not occur within thirty (30) calendar days of receipt of the Notice of Appeal.

- b. Notice of Commission Meeting Date: The General Manager and the Respondent shall be notified of the date, time, and location of the Commission meeting at which the Notice of Appeal will be considered.
  - c. Notice of Appeal Response: The non-appealing party has the option to file a written response to the Notice of Appeal. The response, if any, must be submitted no later than seven (7) calendar days prior to the Commission meeting date. The written response must be sent via electronic mail to the Commission with a copy provided to the party that filed the appeal.
- D. **Administrative Record Review:** The Commission shall conduct an Administrative Record Review and issue its ruling within thirty (30) calendar days of receipt of the Notice of Appeal. The Department must prepare a record, (the “Administrative Record”) to include Hearing transcripts and copies of all written exhibits that were submitted during the Hearing. No new evidence will be introduced or allowed for inclusion in the Administrative Record.

The Administrative Record must be provided to each of the Commissioners, as soon practicable, but no later than seven (7) calendar days prior to the set Commission meeting. Commissioners must individually review all records ahead of the formally scheduled meeting in order to be prepared for discussion and deliberation during the public meeting. The Commission’s ruling must be rendered before the conclusion of the public meeting, at which time the Respondent and General Manager have the opportunity to address the Commission.

The Commission may elect to hold a hearing in place of the Administrative Record Review set forth in these Administrative Rules. If the hearing process is chosen by the Commission in place of the Administrative Record Review, the notice, scheduling, and other applicable requirements set forth in LAMC Sections 51.08 and 51.09 must be followed.

- E. **Commission Ruling:** The Commission may reject the ruling of the Hearing Officer in whole or in part if an abuse of discretion is found. In doing so, the Commission may:
- a. Reinstate, reduce, waive, or conditionally reduce or waive the Administrative Penalties;

- b. Reinstate, reduce, waive, or conditionally reduce or waive the Compensatory Penalties;
- c. Impose, reduce, waive, or conditionally reduce or waive conditions imposed in the ruling;
- d. Alter deadlines for the correction of violations or the payment of the outstanding penalties.

If the Commission finds no abuse of discretion, the Hearing Officer's ruling shall stand and is enforceable.

F. **Final Order:** The ruling of the Commission pursuant to this section shall constitute a final order, which shall be served on the General Manager and the Respondent by certified mail. The Commission's final order is subject to judicial review, pursuant to California Code of Civil Procedure Section 1094.5.

G. **Enforcement of the Administrative Rules:** The Commission's approval of these Administrative Rules, as set forth in this document, shall be deemed officially promulgated.

## V. Date of Service and Methods of Communication

Unless otherwise provided, the date of service for required communications shall be the date of mailing, as evidenced by a proof of service. Whenever First Class mail is required by any rule, the parties must abide by such rule. Notwithstanding, the Department shall include additional communication methods, including but not limited to, certified mail, electronic mail, and/or personal delivery as deemed necessary by the Department.

## VI. Amendments

Any future amendments to this document must be considered by the Commission for approval during a regularly scheduled meeting.