

Subpoena and File Review Procedures

Pursuant to the Nebraska Fair Employment Practice Act, file reviews and subpoenas will only be granted on cases officially closed by the Nebraska Equal Opportunity Commission (NEOC), with the exception of housing cases, which are governed by the Nebraska Fair Housing Act, Section 20-330.

Closed case files are kept in the Lincoln NEOC office for a period of nine (9) months from the date of the *final determination. After nine months, any tapes or recordings related to the file are erased and the files are sent to an off-site storage facility until the case has been closed for five (5) years. After five (5) years, the file is destroyed.

A case file may be sent to the U.S. Equal Employment Opportunity Commission (EEOC) following the final determination per our work-share agreement and will not be available for review until it is returned to the NEOC. If you request a review of your file and it is not available, you will be notified.

File Review

If a case has not been filed in court you may review the file in one of the NEOC's three offices. In order to conduct a file review, a written request must be made to the Executive Director in the Lincoln office a minimum of ten (10) working days in advance of the requested review date. The request must reflect the appropriate NEB case number and the case name. You will be notified in writing when the file is available, and you must contact the

NEOC within seven (7) days to arrange a time for the file review. If you do not contact the NEOC, the file will be returned to storage.

Documents may not be copied in the course of a file review; however, recordings may be listened to and documents may be examined. Sufficient time should be allowed for reviewing the file in its entirety.

Subpoenas

Subpoenas will only be honored on cases that have been officially closed by the NEOC. Case files are not public records; therefore, the Freedom of Information Act does not apply. Case files will not be released to an individual who is not a party to the case. For attorneys, your name and the name of the party you represent should be indicated on the subpoena.

The properly completed subpoena must reflect the appropriate NEB case number, the name of the Complainant and the Respondent, and the court docket number. The subpoena must be sent to the attention of the Executive Director at the Lincoln office either by fax or mail at least ten working days prior to the date the file is to be retrieved. A letter confirming the availability of

the file will be sent. The party submitting the subpoena will pick up the file at one of the Commission's three offices within seven (7) working days unless other arrangements have been made. The counsel, or the law firm's runner, will be required to sign for the file. Counsel does not have the authority to make the case file available to another party while it is in their possession. If counsel is not located within the State of Nebraska, local counsel must be obtained or the Respondent may pick up the file. The NEOC does not ship case files outside the state.

The subpoena will be treated as a friendly subpoena so a witness fee is not required. While the file is in your possession, you may make copies of anything in the file; however, the file must be returned to any NEOC office within ten (10) working days. Files must be returned in the same condition they were in when picked up. Files that are not returned in person must be sent using a method that allows for tracking. Failure to return the file within ten (10) working days may result in a motion to compel and a request for sanctions.

Public Hearing

If a case has been ordered to public hearing, you will be allowed to check the file out without a subpoena. A written request for the file must be made to the Executive Director in the Lincoln office.

The request must contain the appropriate NEB case number and case name. It must be made at least ten (10) working days prior to the date the file is to be retrieved.

While the file is in your possession, you may make copies of anything in the file; however, the file must be returned to any NEOC office within ten (10) working days. Files must be returned in the same condition they were in when picked up. Files that are not returned in person must be sent using a method that allows for tracking. Failure to return the file within ten (10) working days may result in a motion to compel and a request for sanctions.

Copy of Recordings

If a recording is requested after a case is closed, the request must be made in writing to the Executive Director. Parties are entitled to copies of recordings in which they (or their client) participated in the interview.

The quality of recordings is not guaranteed.

You will have the option to have the digital recording e-mailed to you or placed on a compact disc. Currently there is no cost for this service.

Interviews prior to July 2006 were recorded on cassette tape; therefore, digital recordings will not be available.

*A Final Determination is the determination that closes the case. If you are referring to a reasonable cause determination, the case is not closed; it is in conciliation and is not available for review. If conciliation fails, the case may go to Public Hearing. The case is still not officially closed at this stage; however, it is available as indicated in the Public Hearing section.