

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

DEPARTMENT OF REGULATORY AGENCIES

Civil Rights Commission

STATE OF COLORADO CIVIL RIGHTS COMMISSION RULES AND REGULATIONS

3 CCR 708-1

Rule 10.4 – Charges.

(E) Filing, Review and Notice.

- (1) Charges shall be in writing and shall be signed and verified by the Charging Party or their attorney. Charges shall be filed with the Division at any of its official offices or at other offices designated by the Division to accept written charges of discrimination. Charges shall be filed by personal delivery, mail, or through the electronic case filing system, Case Connect.
- (2) Staff shall be available ~~at the Division's offices~~ to assist in the ~~drafting and~~ filing of charges and to review ~~and approve~~ charges submitted for appropriate form and content prior to filing.
- (3) Upon filing of the charge, the Division shall serve a copy of the charge and a notice by mail to the last known addresses of the parties. The notice shall acknowledge the filing of the charge and advise the parties of the time limits applicable to charge processing and of the procedural rights and obligations of parties required by the Law and these Rules.

Rule 10.5 – Mediation, Investigation, Dismissal and Conciliation.

(C) Determinations of Probable Cause and Dismissal.

(1) No Probable Cause Determinations.

If it is determined, based upon the information gathered during the investigation, that probable cause for crediting the allegations of a charge does not exist, the Director shall dismiss the charge and notify the parties of such determination in writing by mail. The notice shall advise the Charging Party of the right to appeal the no probable cause determination to the Commission and that if the Charging Party wishes to file a suit in district court, such lawsuit must be filed within ninety (90) days of the date of mailing of the determination.

a. Probable Cause Determinations.

If it is determined based upon the information gathered during the investigation that probable cause for crediting the allegations of a charge exists, the Director shall notify the parties of such determination in writing by mail and order the parties to attempt to resolve the charge through conciliation (compulsory mediation).

b. No Probable Cause Dismissal for Other Reasons.

The Director may, without deciding on the merits of the alleged acts of discrimination, dismiss a charge for the following reasons: lack of jurisdiction; voluntary withdrawal of the charge; settlement of the charge; receipt of a request for issuance of a right to sue notice; referral of the charge to the Equal Employment Opportunity Commission (EEOC), U.S. Department of Housing and Urban Development (HUD), or the Colorado State Personnel Board; failure or refusal by the Charging Party/Complainant to cooperate in the investigation; and inability of the Division to locate the Charging Party; and for any other reasonable grounds documented by the Division during the investigation that, in the discretion of the Director, warrant administrative closure of the case.

Statements of basis, specific statutory authority, and purpose, incorporated on the date of adoption

Adopted December 17, 2021; effective January 30, 2022

Statutory Authority

The amendments to these parts are adopted by the Colorado Civil Rights Commission (the "Commission") pursuant to its authority at section 24-34-305(1)(a), C.R.S., to adopt rules for the implementation of parts 3 through 7 of article 34 of title 24.

Purpose

The purpose of these revisions is to accommodate for Division staff who are available to assist with the filing of charges but who may be doing so remotely, and thus not at the Division's offices, and to remove provisions that are inaccurate in the context of the Division's application of Colorado's anti-discrimination act.

Factual and Policy Issues

As a result of the pandemic, staff of the Division began working remotely and thus offering their assistive services also remotely. The Division anticipates that some staff will continue to work in remote or hybrid-remote environments. The Commission, therefore, amends 10.4(E)(2) to accommodate that not all assistance must be provided at the Division's offices.

Additionally, in reviewing these rules, the Commission identified language that is not consistent with the Division's or Commission's application of these rules and enforcement of Colorado's anti-discrimination act.

Specifically, Division staff neither draft nor approve complaints of discrimination at the time of filing. Division staff assist complainants who seek assistance and confirm that the materials to be submitted are complete. As such, the Commission amends Rule 10.4(E)(2) to remove language that is contrary to the Division's staff's practices and authority.

Further, the Director does not dismiss any charges for any grounds not otherwise specified by Colorado's anti-discrimination act. The Commission, therefore, amends Rule 10.5(C)(1)(b) to remove language that is contrary to the Director's grounds for dismissal.