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1 **CHAPTER 819. CIVIL RIGHTS DIVISION**

2
3 **SUBCHAPTER A. GENERAL PROVISIONS**

4
5 **§819.1. Purpose.**

6
7 The purpose of this chapter is to implement the following statutory provisions: Texas
8 Labor Code, Chapter 21 (relating to employment discrimination) and Chapter 301,
9 Subchapter I (relating to the Civil Rights Division); Texas Property Code, Chapter 301,
10 (relating to the Texas Fair Housing Act); and Texas Government Code, Chapter 437,
11 §437.204 and Subchapter I (relating to unlawful termination of state military members
12 ordered to training or duty).

13
14 *The provisions of this §819.1 adopted to be effective September 27, 2005, 30 TexReg 6065;*
15 *amended to be effective August 1, 2016, 41 TexReg 5559*

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18
19 **§819.2. Definitions.**

20
21 In addition to the definitions contained in §800.2 of this title, the following words and
22 terms, when used in this chapter, shall have the following meanings, unless the context
23 clearly indicates otherwise.

- 24
25 (1) Agency--The unit of state government established under Texas Labor Code,
26 Chapter 301, that is presided over by the Commission.
27
28 (2) Commission--The body of governance established under Texas Labor Code,
29 Chapter 301.
30
31 (3) Complainant--A person claiming to be aggrieved by a violation of Texas Labor
32 Code, Chapter 21, or Texas Property Code, Chapter 301, and who files a
33 complaint under one of these chapters.
34
35 (4) CRD--Texas Workforce Commission Civil Rights Division.
36
37 (5) CRD director--The director, or the director's authorized designee, of the Texas
38 Workforce Commission Civil Rights Division, as established under Texas
39 Labor Code §301.009(a). The CRD director is the authorized designee of the
40 Agency's executive director for purposes of enforcing the statutes referenced in
41 §819.1 of this subchapter.
42
43 (6) Fair Employment Practices Agency--A state or local government agency
44 designated by the U.S. Equal Employment Opportunity Commission (EEOC)
45 to investigate perfected employment discrimination complaints in the state or
46 local government agency's jurisdiction.

- 1
2 (7) Fair Housing Assistance Program Agency--A state or local government agency
3 designated by the U.S. Department of Housing and Urban Development
4 (HUD) to investigate Fair Housing Act complaints in the state or local
5 government agency's jurisdiction.
6
7 (8) Party--A person who, having a justiciable interest in a matter before CRD, is
8 admitted to full participation in a proceeding concerning that matter.
9
10 (9) Person--One or more individuals or an association, corporation, joint stock
11 company, labor organization, legal representative, mutual company,
12 partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated
13 organization, the state, or a political subdivision or agency of the state.
14
15 (10) Respondent--A person against whom a complaint has been filed in accordance
16 with Texas Labor Code, Chapter 21, or Texas Property Code, Chapter 301.
17

18 *The provisions of this §819.2 adopted to be effective September 27, 2005, 30 TexReg 6065;*
19 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*
20 *2016, 41 TexReg 5559*
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23

24 **§819.3. Roles and Responsibilities of the Texas Workforce Commission and CRD.**

- 25
26 (a) Responsibilities of the Agency:
27
28 (1) Establish policies for CRD;
29
30 (2) Appoint CRD director by and through the Agency's executive director;
31
32 (3) Supervise CRD director by and through the Agency's executive director in
33 administering the activities of CRD;
34
35 (4) Serve as the state Fair Employment Practices Agency (FEPA), which is
36 authorized, with respect to unlawful employment practices, to:
37
38 (A) seek relief;
39
40 (B) grant relief; and
41
42 (C) institute civil proceedings; and
43
44 (5) Serve as the state Fair Housing Assistance Program (FHAP), which is
45 authorized, with respect to unlawful housing practices, to:
46

- 1 (A) seek relief;
2
3 (B) grant relief; and
4
5 (C) institute civil proceedings.
6

7 (b) Responsibilities of CRD:
8

- 9 (1) Administer Texas Labor Code, Chapter 21; Texas Property Code, Chapter 301;
10 and Texas Government Code §437.204 and Subchapter I; and
11
12 (2) Collect, analyze, and report statewide information regarding employment and
13 housing discrimination complaints filed with CRD, EEOC, HUD, local
14 commissions, and municipalities in Texas to be included in CRD's annual
15 report to the Governor and the Texas legislature.
16

17 *The provisions of this §819.3 adopted to be effective September 27, 2005, 30 TexReg 6065;*
18 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*
19 *2016, 41 TexReg 5559*
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23 **SUBCHAPTER B. EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS**
24

25 **§819.10. Purpose.**
26

27 The purpose of Subchapters B - F of this chapter is to set forth the procedures for CRD to
28 execute its responsibilities in the administration and enforcement of Texas Labor Code,
29 Chapter 21. Texas provides, within constitutional limits, equal employment opportunities
30 and provides rights and remedies substantially equivalent to those granted under federal
31 law. No person shall be subject to discriminatory employment practices based on race,
32 color, disability, religion, sex, national origin, or age.
33

34 *The provisions of this §819.10 adopted to be effective September 27, 2005, 30 TexReg 6065*
35

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38 **§819.11. Definitions.**
39

40 The following words and terms, when used in Subchapter B, Equal Employment
41 Opportunity Provisions; Subchapter C, Equal Employment Opportunity Reports,
42 Training, and Reviews; Subchapter D, Equal Employment Opportunity Complaints and
43 Appeals Process; Subchapter E, Equal Employment Opportunity Deferrals; and
44 Subchapter F, Equal Employment Opportunity Records and Recordkeeping shall have the
45 following meanings, unless the context clearly indicates otherwise.
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- (1) Bona fide occupational qualification--A qualification:
- (A) that is reasonably related to the satisfactory performance of the duties of a job; and
- (B) for which there is a factual basis for believing that no members of the excluded group would be able to satisfactorily perform the duties of the job with safety and efficiency.
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- (2) Civil Rights Act--The Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 and the Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1976, as amended; the Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act of 1990, as amended; and Texas Labor Code, Chapter 21, regarding Employment Discrimination.
- 17
18
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- (3) Complaint--A written statement made under oath stating that an unlawful employment practice has been committed, setting forth the facts on which the complaint is based, and received within 180 days or, for a complaint alleging sexual harassment, within 300 days of the alleged unlawful employment practice.
- 23
24
25
26
- (4) Conciliation--The settlement of a dispute by mutual written agreement in order to avoid litigation where a determination has been made that there is reasonable cause to believe an unlawful employment practice has occurred.
- 27
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- (5) Disability--A mental or physical impairment that substantially limits at least one major life activity of an individual, a record of such mental or physical impairment, or being regarded as having such an impairment as set forth in §3(2) of the Americans with Disabilities Act of 1990, as amended, and Texas Labor Code, §21.002(6).
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- (6) Employer--A person who is engaged in an industry affecting commerce and who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year and any agent of that person. The term includes an individual elected to public office in Texas or a political subdivision of Texas, or a political subdivision and any state agency or instrumentality, including public institutions of higher education, regardless of the number of individuals employed. The term excludes a franchisor from being considered an employer of a franchisee or a franchisee's employees. The term also exempts the Texas Military Forces from being an employer, as claims of discrimination against the Texas Military Forces by service members on state active duty shall be processed in accordance with military regulations and procedures as authorized by Texas Government Code, §437.212. Exclusively regarding allegations of sexual harassment, the term "Employer"

1 includes a person who employs one or more employees or acts directly in the
2 interests of an employer in relation to an employee.

- 3
- 4 (7) Local commission--Created by one or more political subdivisions acting
5 jointly, pursuant to Texas Labor Code, §21.152, and recognized as a Fair
6 Employment Practices Agency by EEOC pursuant to Title VII of the Civil
7 Rights Act of 1964, §706, as amended by the Equal Employment Opportunity
8 Act of 1972, the Civil Rights Act of 1991, and the Americans With Disabilities
9 Act of 1990, as amended.
- 10
- 11 (8) Mediation--An alternative dispute resolution process to resolve a dispute by
12 mutual written agreement among the complainant, respondent, and CRD.
- 13
- 14 (9) Perfected complaint--An employment discrimination complaint that CRD has
15 determined meets all of the requirements of Texas Labor Code, Chapter 21,
16 and for which CRD will initiate an investigation.
- 17
- 18 (10) Sexual Harassment--An unwelcome sexual advance, a request for a sexual
19 favor, or any other verbal or physical conduct of a sexual nature if:
- 20
- 21 (A) submission to the advance, request, or conduct is made a term or
22 condition of an individual's employment either explicitly or implicitly;
- 23
- 24 (B) submission to or rejection of the advance, request, or conduct by an
25 individual is used as the basis for a decision affecting the individual's
26 employment;
- 27
- 28 (C) the advance, request, or conduct has the purpose or effect of
29 unreasonably interfering with an individual's work performance; or
- 30
- 31 (D) the advance, request, or conduct has the purpose or effect of creating an
32 intimidating, hostile, or offensive working environment.
- 33

34 *The provisions of this §819.11 adopted to be effective September 27, 2005, 30 TexReg 6065;*
35 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*
36 *2016, 41 TexReg 5559; amended to be effective December 5, 2022, 47 TexReg 8051*

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39
40 **§819.12. Unlawful Employment Practices.**

- 41
- 42 (a) Discrimination by Employer. An employer commits an unlawful employment
43 practice if based on race, color, disability, religion, sex, national origin, or age, the
44 employer:
- 45

- 1 (1) fails or refuses to hire an individual, discharges an individual, or discriminates
2 in any other manner against an individual in connection with compensation or
3 the terms, conditions, or privileges of employment; or
4
5 (2) limits, segregates, or classifies an employee or applicant for employment in a
6 manner that deprives or tends to deprive an individual of an employment
7 opportunity or adversely affects in any other manner the status of an employee.
8
9 (b) Discrimination by Employment Agency. An employment agency commits an
10 unlawful employment practice if based on race, color, disability, religion, sex,
11 national origin, or age, it:
12
13 (1) fails or refuses to refer for employment or discriminates in any other manner
14 against an individual; or
15
16 (2) classifies or refers an individual for employment on that basis.
17
18 (c) Discrimination by Labor Organization. A labor organization commits an unlawful
19 employment practice if based on race, color, disability, religion, sex, national origin,
20 or age, it:
21
22 (1) excludes or expels from membership or discriminates in any other manner
23 against an individual; or
24
25 (2) limits, segregates, or classifies a member or an applicant for membership, or
26 classifies or fails or refuses to refer for employment an individual in a manner
27 that:
28
29 (A) deprives or tends to deprive an individual of any employment
30 opportunity;
31
32 (B) limits an employment opportunity or adversely affects in any other
33 manner the status of an employee or of an applicant for employment; or
34
35 (C) causes or attempts to cause an employer to violate this subchapter.
36
37 (d) Admission or Participation in Training Program. An employer, labor organization, or
38 joint labor-management committee controlling an apprenticeship, on-the-job
39 training, or other training or retraining program commits an unlawful employment
40 practice if based on race, color, disability, religion, sex, national origin, or age, it
41 discriminates against an individual in admission to or participation in the program,
42 unless a training or retraining opportunity or program is provided under an
43 affirmative action plan approved by federal or state law, rule, or court order. The
44 prohibition against discrimination based on age applies only to individuals who are
45 at least 40 years of age.
46

- 1 (e) Retaliation. An employer, employment agency, or labor organization commits an
2 unlawful employment practice based on race, color, disability, religion, sex, national
3 origin, or age if the employer, employment agency, or labor organization retaliates or
4 discriminates against an individual who:
5
6 (1) opposes a discriminatory practice;
7
8 (2) makes or files a charge;
9
10 (3) files a complaint; or
11
12 (4) testifies, assists, or participates in any manner in an investigation, proceeding,
13 or hearing.
14
15 (f) Aiding or Abetting Discrimination. An employer, employment agency, or labor
16 organization commits an unlawful employment practice if it aids, abets, incites, or
17 coerces an individual to engage in an unlawful discriminatory practice based on race,
18 color, disability, religion, sex, national origin, or age.
19
20 (g) Interference with the Agency or CRD. An employer, employment agency, or labor
21 organization commits an unlawful employment practice if it willfully interferes with
22 the performance of a duty or the exercise of a power by CRD or by the Agency in
23 relation to CRD.
24
25 (h) Prevention of Compliance. An employer, employment agency, or labor organization
26 commits an unlawful employment practice if it willfully obstructs or prevents an
27 individual from complying with Texas Labor Code, Chapter 21, or a rule adopted or
28 order issued under Texas Labor Code, Chapter 21.
29
30 (i) Discriminatory Notice or Advertisement. An employer, employment agency, labor
31 organization, or joint labor-management committee controlling an apprenticeship,
32 on-the-job training, or other training or retraining program commits an unlawful
33 employment practice if it prints or publishes or causes to be printed or published a
34 notice or advertisement relating to employment that:
35
36 (1) indicates a preference, limitation, specification, or discrimination based on
37 race, color, disability, religion, sex, national origin, or age; and
38
39 (2) concerns an employee's status, employment, or admission to or membership or
40 participation in a labor organization or training or retraining program.
41
42 (j) Bona Fide Occupational Qualification. A bona fide occupational qualification is an
43 affirmative defense to discrimination.
44

1 (k) Sexual Harassment. An employer commits an unlawful employment practice if
2 sexual harassment of an employee occurs and the employer or the employer's agents
3 or supervisors:

4
5 (1) knows or should have known that the conduct constituting sexual harassment
6 was occurring; and
7

8 (2) fails to take immediate and appropriate corrective action.
9

10 *The provisions of this §819.12 adopted to be effective September 27, 2005, 30 TexReg 6065;*
11 *amended to be effective August 1, 2016, 41 TexReg 5559; amended to be effective July 6,*
12 *2020, 45 TexReg 4530; amended to be effective December 5, 2022, 47 TexReg 8051*
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15
16 **SUBCHAPTER C. EQUAL EMPLOYMENT OPPORTUNITY REPORTS, TRAINING,**
17 **AND REVIEWS**

18
19 **§819.21. Civilian Workforce Composition Report.**

20
21 CRD shall prepare a civilian workforce composition report pursuant to Texas Labor Code
22 §21.0035 using the best available data from all appropriate sources.
23

24 *The provisions of this §819.21 adopted to be effective September 27, 2005, 30 TexReg 6065*
25

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27
28 **§819.23. Review of State Agency Policies and Procedures.**

29
30 (a) Except as provided by subsection (b) of this section, CRD shall review the
31 personnel policies and procedures system (PPPS) of each state agency once every six
32 years on a staggered schedule to determine compliance with Texas Labor Code,
33 Chapter 21.
34

35 (b) CRD may conduct a review of the PPPS of a state agency more frequently than
36 required by subsection (a) when such review is indicated by a risk assessment based
37 on the following criteria:
38

39 (1) Data on complaints against a state agency;

40 (2) Previous review findings;

41 (3) Changes in leadership of a state agency;

42 (4) The date of the last on-site review;
43
44
45
46

1 (5) Compliance by the state agency with submission of a self-assessment to CRD;
2 and

3
4 (6) Any other related information collected and maintained by the Agency.
5

6 (c) CRD shall notify a state agency of its review of the agency's personnel policies and
7 procedures by mail, or electronic communication upon agreement of the agency, at
8 the beginning of the fiscal year in which CRD is to conduct the review. The review
9 of each state agency shall be completed and recommendations issued on or before
10 the one-year anniversary date on which CRD issued its notification letter to the
11 agency head.
12

13 *The provisions of this §819.23 adopted to be effective September 27, 2005, 30 TexReg 6065;*
14 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*
15 *2016, 41 TexReg 5559*
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18

19 **§819.24. Standard Employment Discrimination Training.**
20

21 (a) Each state agency shall provide its employees with standard employment
22 discrimination training no later than the 30th day after the date the employee is hired
23 by the agency, with supplemental training every two years thereafter. The Agency
24 shall develop or approve the materials for use by state agencies in providing standard
25 employment discrimination training.
26

27 (b) The minimum standards for the content of standard employment discrimination
28 training shall include, but not be limited to, requiring participants to:
29

30 (1) identify an unlawful employment practice according to the Civil Rights Act;
31

32 (2) apply knowledge of the applicable laws by correctly identifying whether
33 individual case studies would be considered violations;
34

35 (3) identify the protected classes under federal and state law;
36

37 (4) list a complainant's rights and remedies;
38

39 (5) identify the agency personnel to whom a complaint shall be addressed; and
40

41 (6) describe the general stages involved in processing a complaint.
42

43 *The provisions of this §819.24 adopted to be effective September 27, 2005, 30 TexReg 6065;*
44 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*
45 *2016, 41 TexReg 5559*
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2
3 **§819.25. Compliance Employment Discrimination Training.**

- 4
5 (a) For purposes of this section, the term "complaint with merit" shall mean a complaint
6 that is resolved, either by a cause finding or through withdrawal of the complaint
7 with a remedy favorable to the complainant, such as a negotiated settlement,
8 withdrawal with benefits, or conciliation.
9
10 (b) State agencies receiving three or more complaints with merit within a fiscal year
11 shall provide compliance employment discrimination training. The training may be
12 provided by the Agency or by another entity or person approved by the Agency.
13
14 (c) CRD's minimum standards for the content of compliance employment discrimination
15 training shall include, but not be limited to, requiring participants to:
16
17 (1) distinguish between disparate treatment and disparate impact;
18
19 (2) identify the elements of a complaint involving disparate treatment and
20 disparate impact;
21
22 (3) explain the defenses available to an employer resulting from both statute and
23 case law involving disparate treatment and disparate impact;
24
25 (4) explain the burden of proof requirements for disparate treatment and disparate
26 impact;
27
28 (5) identify criteria for accurately measuring compliance with applicable laws;
29
30 (6) define the different types of employment discrimination;
31
32 (7) identify the appropriate action to be taken in a situation involving a potential
33 case of employment discrimination; and
34
35 (8) describe strategies for prevention of employment discrimination.
36

37 *The provisions of this §819.25 adopted to be effective September 27, 2005, 30 TexReg 6065;*
38 *amended to be effective August 1, 2016, 41 TexReg 5559*

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41
42 **§819.26. Standard and Compliance Employment Discrimination Training Delivery.**

- 43
44 (a) The minimum standards for the delivery of standard and compliance employment
45 discrimination training shall include, but not be limited to:
46

- 1 (1) a determination of the effectiveness of the training;
- 2
- 3 (2) the use of training that takes advantage of technological advances, such as
- 4 videos, CDs, and Web-based delivery systems; and
- 5
- 6 (3) the documentation of training that shall be provided to CRD, including the date
- 7 the training was provided, description of the training program used, names of
- 8 participants, and the agency contact person. Web-based training records may
- 9 be retained electronically.
- 10
- 11 (b) In addition to the minimum standards set forth in subsection (a) of this section, the
- 12 delivery of compliance employment discrimination training shall be highly
- 13 interactive to ensure the engagement of the trainee.
- 14

15 *The provisions of this §819.26 adopted to be effective September 27, 2005, 30 TexReg 6065*

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18
19 **SUBCHAPTER D. EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS AND**
20 **APPEALS PROCESS**

21
22 **§819.41. Filing a Complaint.**

- 23
- 24 (a) A person may telephone, write, visit, e-mail, fax, or otherwise contact CRD or a
- 25 local commission office recognized by EEOC as a Fair Employment Practices
- 26 Agency to obtain information on filing a complaint with CRD.
- 27
- 28 (b) At the complainant's request, CRD:
- 29
- 30 (1) shall confer with the complainant about the facts and circumstances that may
- 31 constitute the alleged unlawful employment practice;
- 32
- 33 (2) shall assist the complainant in perfecting the complaint if the facts and
- 34 circumstances appear to constitute an alleged unlawful employment practice;
- 35 or
- 36
- 37 (3) may advise the complainant if the facts and circumstances presented to CRD
- 38 do not appear to constitute an unlawful employment practice.
- 39
- 40 (c) The complaint shall be filed in writing and either signed under oath or subscribed by
- 41 the person making the declaration as true under penalty of perjury and in
- 42 substantially the form prescribed by Texas Civil Practice and Remedies Code,
- 43 Chapter 132, or its successor statute. It may be filed with CRD by mail, electronic
- 44 communication, fax, or in person with:
- 45
- 46 (1) the CRD office on a CRD-provided form;

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44

- (2) an EEOC office; or
 - (3) a local commission office recognized by EEOC as a Fair Employment Practices Agency.
- (d) The complaint shall set forth the following information:
- (1) Harm experienced by the complainant as a result of the alleged unlawful employment practice;
 - (2) Explanation, if any, given by the employer to the complainant for the alleged unlawful employment practice;
 - (3) A declaration of unlawful discrimination under federal or state law;
 - (4) Facts upon which the complaint is based, including the date, place, and circumstances of the alleged unlawful employment practice; and
 - (5) Sufficient information to enable CRD to identify the employer, e.g., employer ID, business address, and business phone.
- (e) A complaint shall be filed within 180 days or, for a complaint alleging sexual harassment, within 300 days, after the date on which the alleged unlawful employment practice occurred.
- (f) A complaint may be withdrawn by a complainant only with the consent of the CRD director.
- (g) A perfected complaint may be amended by the complainant to cure technical defects or omissions, or to clarify and amplify allegations made therein. Such amendment or amendments alleging additional acts that constitute unlawful employment practices related to or growing out of the subject matter of the original complaint shall relate back to the date the complaint was first filed. CRD shall provide a copy of the perfected complaint to the respondent. An amended perfected complaint shall be subject to the procedures set forth in applicable law.
- (h) A respondent shall be mailed a copy of the perfected complaint within 10 days after CRD receives the perfected complaint. If CRD receives a complaint that is not perfected within 180 days or, for a complaint alleging sexual harassment, within 300 days, of the alleged unlawful employment practice, CRD shall notify the respondent that a complaint has been filed and the process of perfecting the complaint is in progress.

- 1 (i) The complainant and respondent shall be advised upon request by CRD of the status
2 of their perfected complaint, unless doing so would jeopardize an undercover
3 investigation by another state, federal, or local government.
4

5 *The provisions of this §819.41 adopted to be effective September 27, 2005, 30 TexReg 6065;*
6 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective December*
7 *5, 2022, 47 TexReg 8051*

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10
11 **§819.42. Legal Representation.**

12
13 The complainant and respondent may be represented by an attorney or designated agent.

14
15 *The provisions of this §819.42 adopted to be effective September 27, 2005, 30 TexReg 6065*

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18
19 **§819.43. Investigation of a Perfected Complaint.**

- 20
21 (a) The CRD director shall determine the nature and scope of the investigation within the
22 context of the allegations set forth in the perfected complaint.
23

- 24 (b) CRD may, as part of a perfected complaint investigation, require a fact-finding
25 conference with the complainant and the respondent prior to a determination on a
26 perfected complaint. A fact-finding conference primarily is an investigative forum
27 intended to define the issues, determine which elements are undisputed, and solicit
28 information regarding the allegations.
29

- 30 (c) At all reasonable times in the perfected complaint investigation, the CRD director
31 shall have access to:

- 32
33 (1) necessary witnesses for examination under oath or affirmation; and
34
35 (2) records, documents, and other information relevant to the investigation of
36 alleged violations of Texas Labor Code, Chapter 21, for inspection and
37 copying.
38

- 39 (d) As part of the perfected complaint investigation, CRD may request information
40 relevant to the alleged violations of Texas Labor Code, Chapter 21. In obtaining this
41 information, CRD may use, but is not limited to using, any of the following:

- 42
43 (1) Oral and video interviews and depositions;
44
45 (2) Written interrogatories;
46

- 1 (3) Production of documents and records;
2
3 (4) Requests for admissions;
4
5 (5) On-site inspection of respondent's facilities;
6
7 (6) Written statements or affidavits;
8
9 (7) A written statement of position or information provided by the complainant or
10 the respondent that is either under oath or subscribed in conformity with this
11 section regarding the allegations in the complaint; or
12
13 (8) Other forms of discovery authorized by the Administrative Procedure Act,
14 Texas Government Code §§2001.081 - 2001.103, or the Texas Rules of Civil
15 Procedure.
16
17 (e) CRD may establish time requirements regarding responses to requests for
18 information relevant to an investigation of alleged violations of Texas Labor Code,
19 Chapter 21. The CRD director may extend such time requirements for good cause
20 shown.
21

22 *The provisions of this §819.43 adopted to be effective September 27, 2005, 30 TexReg 6065;*
23 *amended to be effective June 16, 2014, 39 TexReg 4659*
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26

27 **§819.44. Mediation.**
28

- 29 (a) Between filing of a complaint and prior to the cause determination, CRD may invite
30 both the complainant and the respondent to attempt to resolve their dispute through
31 mediation. Either party to the perfected complaint may also request mediation to
32 resolve the complaint during this period.
33
34 (b) For mediation to occur, both the complainant and the respondent shall agree to the
35 mediation. If there is no agreement, CRD shall continue with the investigation of the
36 perfected complaint.
37
38 (c) If the complainant and respondent reach a settlement and execute a written
39 agreement disposing of the perfected complaint, the agreement is binding and
40 enforceable in the same manner as any other written contract.
41
42 (d) If mediation between the complainant and the respondent does not result in an
43 agreement, CRD shall continue to investigate the perfected complaint.
44

45 *The provisions of this §819.44 adopted to be effective September 27, 2005, 30 TexReg 6065*
46

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2
3 **§819.45. Subpoena.**

- 4
- 5 (a) The CRD director shall have the authority to sign and issue a subpoena to compel the
6 attendance of necessary witnesses for examination or testimony under oath or
7 affirmation, and to compel the production of records, documents, and other evidence
8 relevant to the investigation of alleged violations of Texas Labor Code, Chapter 21,
9 for inspection and copying. Neither the complainant nor the respondent shall have
10 the right to demand that a subpoena be issued.
- 11
- 12 (b) A person served with a subpoena issued by the CRD director who does not intend to
13 comply may petition CRD in writing to revoke or modify the subpoena within five
14 working days after receipt of the subpoena. Such petition shall identify separately
15 each portion of the subpoena with which the petitioner does not intend to comply,
16 and for each portion shall state the grounds upon which the petitioner relies. A copy
17 of the subpoena shall be attached to the petition. The CRD director shall review the
18 petition and make a final determination on revoking or modifying the subpoena.
19 CRD shall provide a copy of the final determination on the petition to the petitioner
20 by mail, or electronic communication upon agreement of the petitioner.
- 21
- 22 (c) If a person fails to comply with a subpoena, CRD may apply to the district court of
23 the county in which the person is found, resides, or transacts business for an order
24 directing compliance pursuant to Texas Labor Code §21.306(b).

25
26 *The provisions of this §819.45 adopted to be effective September 27, 2005, 30 TexReg 6065;*
27 *amended to be effective June 16, 2014, 39 TexReg 4659*

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30
31 **§819.46. Dismissal of Complaint.**

- 32
- 33 (a) The CRD director may dismiss a complaint if:
- 34
- 35 (1) it is not filed timely;
- 36
- 37 (2) it fails to state a claim under Texas Labor Code, Chapter 21;
- 38
- 39 (3) a complainant fails to perfect a complaint within 10 days of the receipt of the
40 complaint; or
- 41
- 42 (4) a complainant fails to cooperate, fails or refuses to appear or to be available for
43 interviews or conferences, or fails or refuses to provide requested information.
44 Prior to dismissing the complaint, the complainant shall be notified and given a
45 reasonable time to respond.
- 46

- 1 (b) CRD shall notify the complainant as required by law, by certified mail of its
2 dismissal of a complaint. The respondent and any federal enforcement agency shall
3 be notified of the dismissal of a complaint.
4
- 5 (c) CRD shall notify the complainant, by mail, of the complainant's right to file a civil
6 action against the respondent named in the perfected complaint pursuant to Texas
7 Labor Code §21.208 and §21.252, and §819.50 of this subchapter.
8

9 *The provisions of this §819.46 adopted to be effective September 27, 2005, 30 TexReg 6065;*
10 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*
11 *2016, 41 TexReg 5559*
12

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14

15 **§819.47. Cause Determination.**
16

- 17 (a) The CRD director shall review the investigation report and record of evidence to
18 determine if there is reasonable cause to believe the respondent has engaged in an
19 unlawful employment practice.
20
- 21 (b) If after the review, the CRD director determines that reasonable cause exists, the
22 CRD director shall confer with the Commission members. If at least two of the three
23 Commission members concur with the CRD director's determination that the
24 respondent has engaged in an unlawful employment practice, the CRD director shall
25 issue a letter of cause determination. The cause determination letter shall be provided
26 by mail, or electronic communication upon agreement of the person or entity, to the
27 complainant, respondent, and any agency as required by law and shall contain the
28 CRD director's finding that the evidence supports the perfected complaint and
29 include an invitation to participate in conciliation.
30

31 *The provisions of this §819.47 adopted to be effective September 27, 2005, 30 TexReg 6065;*
32 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*
33 *2016, 41 TexReg 5559*
34

35 [Return to Table of Contents](#)
36

37 **§819.48. Conciliation.**
38

- 39 (a) When a letter of cause determination has been issued, CRD shall attempt to
40 eliminate such unlawful employment practice by conciliation, and to secure a just
41 resolution through a conciliation agreement signed by the complainant, respondent,
42 and the CRD director.
43
- 44 (b) CRD shall obtain proof of the respondent's compliance with a conciliation
45 agreement before the case is closed.
46

1 (c) CRD shall provide notification of an unsuccessful conciliation agreement to:

2
3 (1) the complainant by certified mail; and

4
5 (2) the respondent by mail.
6

7 *The provisions of this §819.48 adopted to be effective September 27, 2005, 30 TexReg 6065;*
8 *amended to be effective June 16, 2014, 39 TexReg 4659*

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11
12 **§819.49. No Cause Determination.**

13
14 A completed investigation may result in a determination that there is no reasonable cause
15 to believe that the respondent has engaged in an unlawful employment practice as alleged
16 in the perfected complaint. If after the review, the CRD director determines that no
17 reasonable cause exists, the CRD director shall issue a letter of no cause determination.
18 The no cause determination letter shall be sent by mail, or electronic communication
19 upon agreement of the person or entity, to the complainant, respondent, and any agency
20 as required by law and shall contain the CRD director's finding that the evidence does not
21 support the perfected complaint.
22

23 *The provisions of this §819.49 adopted to be effective September 27, 2005, 30 TexReg 6065;*
24 *amended to be effective June 16, 2014, 39 TexReg 4659*

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27
28 **§819.50. Right to File a Civil Action.**

29
30 (a) CRD shall inform the complainant by certified mail of:

31
32 (1) the dismissal of a complaint filed with CRD; or

33
34 (2) the failure to resolve a complaint in writing that was filed with CRD 180 days
35 previously. CRD shall inform the complainant of the complainant's right to
36 request from CRD a notice of right to file a civil action against the respondent.
37 Upon receipt of a written request, CRD may issue a notice of right to file a
38 civil action.
39

40 (b) Before the expiration of 180 days after filing the complaint and upon a written
41 request from a complainant, CRD shall issue a notice of right to file a civil action if:

42
43 (1) written confirmation by a physician licensed to practice medicine in Texas
44 states that the complainant has a life threatening illness; or
45

1 (2) certification by the CRD director states that the administrative processing of
2 the perfected complaint cannot be completed before the expiration of the 180th
3 day after the complaint was filed. The certification shall take into account the
4 exigent circumstances of the complainant.
5

6 (c) CRD shall issue notice under subsection (b) of this section by certified mail no later
7 than the fifth business day after receipt of the complainant's request.
8

9 (d) The complainant's written request shall include the respondent's name, CRD
10 complaint number, and EEOC complaint number if the complaint has been deferred
11 by EEOC.
12

13 *The provisions of this §819.50 adopted to be effective September 27, 2005, 30 TexReg 6065;*
14 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*
15 *2016, 41 TexReg 5559*
16

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18

19 **§819.51. Failure to Issue Notice of Right to File a Civil Action.**
20

21 CRD's failure to issue a notice of right to file a civil action after 180 days from the date
22 the complaint is received by CRD does not affect the complainant's right to bring a civil
23 action against the respondent under Texas Labor Code §21.252(d).
24

25 *The provisions of this §819.51 adopted to be effective September 27, 2005, 30 TexReg 6065*
26

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28

29 **§819.52. Judicial Enforcement.**
30

31 (a) On a majority vote of the Commission, CRD may bring a civil action against a
32 respondent named in a perfected complaint pursuant to the requirements of Texas
33 Labor Code §21.251.
34

35 (b) Upon a determination by the Commission to bring a civil action, CRD shall notify
36 the complainant by certified mail.
37

38 (c) On a majority vote of the Commission, CRD may pursue intervention in a civil
39 action pursuant to the requirements of Texas Labor Code §21.255.
40

41 *The provisions of this §819.52 adopted to be effective September 27, 2005, 30 TexReg 6065;*
42 *amended to be effective August 1, 2016, 41 TexReg 5559*
43

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1
2 **SUBCHAPTER E. EQUAL EMPLOYMENT OPPORTUNITY DEFERRALS**
3

4 **§819.71. Equal Employment Opportunity Deferrals among Federal, State, and Local**
5 **Agencies.**
6

7 For the purpose of satisfying the filing requirements of Texas Labor Code §21.201, the
8 following shall apply:
9

- 10 (1) For a complaint filed with CRD over which EEOC has deferred jurisdiction,
11 timeliness of the complaint shall be determined by the date the complaint is
12 received by CRD.
13
14 (2) For a complaint filed with EEOC and deferred to CRD, timeliness of the
15 complaint shall be determined by the date on which the complaint is received
16 by EEOC.
17
18 (3) For a complaint filed with a local commission and deferred to CRD, timeliness
19 of the complaint shall be determined by the date on which the complaint is
20 received by the local commission.
21

22 *The provisions of this §819.71 adopted to be effective September 27, 2005, 30 TexReg 6065*
23

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25

26 **§819.72. Requirements for a Local Commission.**
27

28 To be a local commission eligible to receive deferrals from CRD, pursuant to Texas
29 Labor Code §§21.151 - 21.156, and this chapter, the local commission must be currently
30 certified by the EEOC as a Fair Employment Practices Agency (FEPA).
31

32 *The provisions of this §819.72 adopted to be effective September 27, 2005, 30 TexReg 6065;*
33 *amended to be effective August 1, 2016, 41 TexReg 5559*
34

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36

37 **§819.73. Deferral to Local Commission.**
38

- 39 (a) Texas Labor Code, §21.155 grants to a local commission the exclusive right to take
40 appropriate action within the scope of its power and jurisdiction to process a
41 complaint deferred by CRD pursuant to the requirements of Texas Labor Code,
42 §21.155, and this chapter.
43
44 (b) CRD shall not assume jurisdiction over a complaint deferred to a local commission,
45 pursuant to Texas Labor Code, §21.155, except:
46

- 1 (1) where the local commission defers a complaint under its jurisdiction to CRD;
2
3 (2) where the complaint is received by CRD within 180 days of the alleged
4 violation or, for a complaint alleging sexual harassment, within 300 days of the
5 alleged unlawful employment practice, but beyond the period of limitation of
6 the appropriate local commission; and
7
8 (3) where the local commission has not acted on the complaint pursuant to the
9 requirements of Texas Labor Code, §21.155(c), and this chapter.

10
11 *The provisions of this §819.73 adopted to be effective September 27, 2005, 30 TexReg 6065;*
12 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective December*
13 *5, 2022, 47 TexReg 8051*

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16
17 **§819.74. Deferral Procedures.**

- 18
19 (a) CRD shall defer a complaint subject to Texas Labor Code §21.155(a) to a local
20 commission within five working days of the date the complaint is received.
21
22 (b) A local commission may waive its right to the period of exclusive processing of a
23 complaint with respect to any complaint or category of complaint by deferring a
24 matter under its jurisdiction to CRD, pursuant to Texas Labor Code §21.156.
25
26 (c) All complaints received by CRD subject to deferral to a local commission shall be
27 dated and time stamped upon receipt.
28
29 (d) CRD shall transmit a copy of a complaint it receives that is subject to deferral to a
30 local commission by certified mail to the appropriate local commission. Proceedings
31 by the local commission are deemed to have commenced on the date such complaint
32 is mailed.
33
34 (e) A local commission shall transmit to CRD by certified mail, a copy of a complaint
35 deferred to it by EEOC and over which CRD has deferral jurisdiction.
36
37 (f) CRD shall notify the complainant and respondent in writing that it has forwarded the
38 complaint to the local commission.
39

40 *The provisions of this §819.74 adopted to be effective September 27, 2005, 30 TexReg 6065*

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1
2 **§819.75. Final Determination of a Local Commission.**
3

4 If a local commission does not intend to act on a complaint deferred by CRD, the local
5 commission shall notify CRD by mail or electronic communication within 60 working
6 days.
7

8 *The provisions of this §819.75 adopted to be effective June 16, 2014, 39 TexReg 4659*
9

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11

12 **§819.76. Workshare Agreements.**
13

14 The Agency shall enter into workshare agreements with EEOC and local commissions to
15 ensure an effective and integrated administrative review procedure, share information,
16 and provide technical assistance and training.
17

18 *The provisions of this §819.76 adopted to be effective September 27, 2005, 30 TexReg 6065*
19

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21

22 **SUBCHAPTER F. EQUAL EMPLOYMENT OPPORTUNITY RECORDS AND**
23 **RECORDKEEPING**
24

25 **§819.91. Preservation and Use.**
26

27 CRD shall require a person under investigation to make and keep records pursuant to the
28 requirements of Texas Labor Code §§21.301 - 21.303.
29

30 *The provisions of this §819.91 adopted to be effective September 27, 2005, 30 TexReg 6065*
31

32 [Return to Table of Contents](#)
33

34 **§819.92. Access to CRD Records.**
35

36 (a) Pursuant to Texas Labor Code §21.304 and §21.305, CRD shall, on written request of
37 a party to a perfected complaint filed under Texas Labor Code §21.201, allow the
38 party access to CRD's records, unless the perfected complaint has been resolved
39 through a voluntary settlement or conciliation agreement:
40

- 41 (1) following the final action of CRD; or
42
43 (2) if a party to the perfected complaint or the party's attorney certifies in writing
44 that a civil action relating to the perfected complaint is pending in federal court
45 alleging a violation of federal law.

1
2 (b) The information described in Texas Labor Code §21.305(c) is not public information
3 and shall not be disclosed to a party to a complaint filed under Texas Labor Code
4 §21.201.
5

6 *The provisions of this §819.92 adopted to be effective September 27, 2005, 30 TexReg 6065;*
7 *amended to be effective February 12, 2007, 32 TexReg 553; amended to be effective*
8 *December 10, 2012, 37 TexReg 9656*

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11

12 **§819.93. Disposal of Files and Related Documents.**

13
14 Pursuant to a certified records retention schedule, CRD shall retain case files and related
15 documents that have not been forwarded to EEOC for seven years after the administrative
16 review procedures have been completed, except when a civil action has been filed in state
17 court under Texas Labor Code, Chapter 21. When a civil action has been filed in state
18 court, case files and related documents shall be retained until the final disposition of the
19 lawsuit. At the end of the retention period, CRD may dispose of the case files and related
20 documents.
21

22 *The provisions of this §819.93 adopted to be effective September 27, 2005, 30 TexReg 6065;*
23 *amended to be effective June 16, 2014, 39 TexReg 4659*

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26

27 **SUBCHAPTER G. TEXAS FAIR HOUSING ACT PROVISIONS**

28 29 **§819.111. Purpose.**

30
31 The purpose of Subchapters G - L of this chapter is to establish procedures for CRD to
32 execute its responsibilities in the administration and enforcement of the Texas Fair
33 Housing Act. Texas provides, within constitutional limitations, for fair housing
34 throughout the state and provides rights and remedies substantially equivalent to those
35 granted under federal law. No person shall be subject to discriminatory housing practices
36 based on race, color, disability, religion, sex, national origin, or familial status in the sale,
37 rental, advertising of dwellings, inspection of dwellings, entry into a neighborhood, in the
38 provision of brokerage services, or in the availability of residential real estate-related
39 transactions.
40

41 *The provisions of this §819.111 adopted to be effective September 27, 2005, 30 TexReg 6065;*
42 *amended to be effective June 16, 2014, 39 TexReg 4659*

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1
2 **§819.112. Definitions.**
3

4 The following words and terms, when used in Subchapter G, Texas Fair Housing Act
5 Provisions; Subchapter H, Discriminatory Housing Practices; Subchapter I, Texas Fair
6 Housing Act Complaints and Appeals Process; Subchapter J, Fair Housing Deferral to
7 Municipalities; Subchapter K, Fair Housing Administrative Hearings and Judicial
8 Review; and Subchapter L, Fair Housing Fund, shall have the following meanings, unless
9 the context clearly indicates otherwise.

- 10
11 (1) Accessible or readily accessible to and usable by--Means a public or common
12 use area can be approached, entered, and used by individuals with disabilities,
13 as set forth in Texas Property Code §301.025(c)(3). Compliance with the
14 appropriate requirements of the American National Standards Institute (ANSI)
15 for buildings and facilities providing accessibility and usability for persons
16 having physical disabilities, commonly cited as ANSI A117.1, satisfies this
17 requirement.
18
- 19 (2) Accessible building entrance--A building entrance that is accessible by
20 individuals with disabilities, as set forth in Texas Property Code §301.025(c).
21 Compliance with the appropriate requirements of ANSI for buildings and
22 facilities providing accessibility and usability for persons having physical
23 disabilities, commonly cited as ANSI A117.1, satisfies this requirement.
24
- 25 (3) Accessible route--A route that is accessible by individuals with disabilities, as
26 set forth in Texas Property Code §301.025(c). Compliance with the appropriate
27 requirements of ANSI for buildings and facilities providing accessibility and
28 usability for persons having physical disabilities, commonly cited as ANSI
29 A117.1, satisfies this requirement.
30
- 31 (4) Building--A structure, facility, or the portion thereof that contains or serves one
32 or more dwelling units.
33
- 34 (5) Common use areas--Rooms, spaces, or elements inside or outside of a building
35 that are made available for the use of residents or the guests of a building.
36 These areas include, but are not limited to, hallways, lounges, lobbies, laundry
37 rooms, refuse rooms, mailrooms, recreational areas, and passageways among
38 and between buildings.
39
- 40 (6) Complaint--A written statement made under oath stating that an unlawful
41 housing practice has been committed, setting forth the facts on which the
42 complaint is based, and received within one year of the date the alleged
43 unlawful housing practice occurred or terminated, whichever is later, and for
44 which CRD shall initiate an investigation.
45

- 1 (7) Controlled substance--Any drug or other substance or immediate precursor as
2 defined in the Controlled Substances Act, 21 U.S.C. §802 or the Texas
3 Controlled Substances Act, Texas Health and Safety Code Chapter 481.
4
- 5 (8) Disability--A mental or physical impairment that substantially limits at least
6 one major life activity, a record of such an impairment, or being regarded as
7 having such an impairment. The term does not include current illegal use of or
8 addiction to any drug or illegal or controlled substance; and reference to "an
9 individual with a disability" or perceived as "disabled" does not apply to an
10 individual based on that individual's sexual orientation or because that
11 individual is a transvestite.
12
- 13 (A) Physical or mental impairment includes:
14
- 15 (i) any physiological disorder or condition, cosmetic disfigurement, or
16 anatomical loss affecting one or more of the following body
17 systems: neurological, musculoskeletal, special sense organs,
18 respiratory, including speech organs, cardiovascular, reproductive,
19 digestive, genitourinary, hemic and lymphatic, skin, and endocrine;
20 or
21
- 22 (ii) any mental or psychological disorder, such as intellectual disability,
23 organic brain syndrome, emotional or mental illness, and specific
24 learning disabilities. The term "physical or mental impairment"
25 includes, but is not limited to, such diseases and conditions as
26 orthopedic, visual, speech and hearing impairments, cerebral palsy,
27 autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer,
28 heart disease, diabetes, human immunodeficiency virus infection,
29 intellectual disability, emotional illness, drug addiction (other than
30 addiction caused by current, illegal use of a controlled substance)
31 and alcoholism.
32
- 33 (B) Major life activity means a function such as caring for one's self,
34 performing manual tasks, walking, seeing, hearing, speaking, breathing,
35 learning, and working.
36
- 37 (C) A record of having such an impairment means a history of, or
38 misclassification as having, a mental or physical impairment that
39 substantially limits one or more major life activity.
40
- 41 (D) Being regarded as having an impairment means having:
42
- 43 (i) a physical or mental impairment that does not substantially limit one
44 or more major life activity but that is treated by another person as
45 constituting such a limitation;
46

- 1 (ii) a physical or mental impairment that substantially limits one or more
2 major life activity only as a result of the attitudes of others toward
3 such impairment; or
4
5 (iii) none of the impairments in subparagraph (A) of this paragraph but is
6 treated by another person as having such an impairment.
7
8 (9) Discriminatory housing practice--An action prohibited by Texas Fair Housing
9 Act, Subchapter B, or conduct that is an offense under Texas Fair Housing Act,
10 Subchapter I.
11
12 (10) Entrance--Any access point to a building or portion of a building used by
13 residents for the purpose of entering the building.
14
15 (11) Exterior--All areas of the premises outside of an individual dwelling unit.
16
17 (12) Ground floor--Within a building, any floor with an entrance on an accessible
18 route. A building may have more than one ground floor.
19
20 (13) Interior--The spaces, parts, components, or elements of an individual dwelling
21 unit.
22
23 (14) Modification--Any change to the public or common use areas of a building or
24 any change to a dwelling unit.
25
26 (15) Premises--The interior or exterior spaces, parts, components, or elements of a
27 building, including individual dwelling units and the public and common use
28 areas of a building.
29
30 (16) Public use areas--Interior or exterior rooms or spaces of a building that are
31 made available to the general public. Public use may be provided at a building
32 that is privately or publicly owned.
33
34 (17) Site--A parcel of land bounded by a property line or a designated portion of a
35 public right of way.
36
37 (18) Texas Fair Housing Act--Texas Property Code, Chapter 301.
38
39 (19) United States Fair Housing Act--Title VIII of the Civil Rights Act of 1968, as
40 amended by the Fair Housing Amendments Act of 1988.

41
42 *The provisions of this §819.112 adopted to be effective September 27, 2005, 30 TexReg 6065;*
43 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*
44 *2016, 41 TexReg 5559*

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1
2 **SUBCHAPTER H. DISCRIMINATORY HOUSING PRACTICES**
3

4 **§819.121. Discrimination Based on Familial Status.**
5

6 It is an unlawful housing practice to discriminate based on familial status. Familial status
7 includes:

- 8
9 (1) pregnancy;
10
11 (2) being domiciled with an individual younger than 18 years of age in regard to
12 whom the person is the parent or legal custodian or has the written permission
13 of the parent or legal custodian for domicile with that person; or
14
15 (3) being in the process of obtaining legal custody of an individual younger than
16 18 years of age.
17

18 *The provisions of this §819.121 adopted to be effective September 27, 2005, 30 TexReg 6065*
19

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21

22 **§819.122. Exemptions Based on Familial Status.**
23

- 24 (a) Discrimination prohibitions under the Texas Fair Housing Act based on familial
25 status do not apply to housing provided under any federal or state program that the
26 US Department of Housing and Urban Development (HUD) Secretary has
27 determined is designed and operated specifically to assist elderly persons, as defined
28 in the federal or state program.
29
30 (b) Discrimination prohibitions under the Texas Fair Housing Act based on familial
31 status do not apply to housing intended for and solely occupied by individuals 62
32 years of age or older. This exemption shall apply regardless of the fact that:
33
34 (1) there were individuals residing in such housing on September 13, 1988, who
35 were under 62 years of age, provided that all new occupants are 62 years of
36 age or older;
37
38 (2) there are unoccupied units, provided that such units are reserved for occupancy
39 for individuals 62 years of age or older; or
40
41 (3) there are units occupied by employees of the housing (and family members
42 residing in the same unit) who are under 62 years of age provided they perform
43 substantial duties directly related to the management or maintenance of the
44 housing.
45

- 1 (c) Discrimination prohibitions under the Texas Fair Housing Act based on familial
2 status do not apply to housing intended and operated for occupancy by individuals 55
3 years of age or older if:
4
- 5 (1) at least 80 percent of the units in the housing facility are occupied by at least
6 one person 55 years of age or older. However:
7
- 8 (A) a newly constructed housing facility for first occupancy after March 12,
9 1989, need not comply with this 80 percent occupancy requirement until
10 25 percent of the units in the facility are occupied; and
11
- 12 (B) a housing facility or community may not evict, refuse to renew leases, or
13 otherwise penalize families with children in order to achieve occupancy
14 of at least 80 percent of the occupied units by at least one person 55
15 years of age or older;
16
- 17 (2) the owner or manager of a housing facility publishes and adheres to policies
18 and procedures that demonstrate an intent by the owner or manager to provide
19 housing for individuals 55 years of age or older. The following factors, among
20 others, are relevant in determining whether the owner or manager of a housing
21 facility has complied with the requirements of this paragraph:
22
- 23 (A) The manner in which the housing facility is described to prospective
24 residents;
25
- 26 (B) The nature of any advertising designed to attract prospective residents;
27
- 28 (C) Age verification procedures;
29
- 30 (D) Lease provisions;
31
- 32 (E) Written rules and regulations;
33
- 34 (F) Actual practices of the housing facility or community; and
35
- 36 (G) Public posting in common areas of statements describing the facility or
37 community as housing for individuals 55 years of age or older; and
38
- 39 (3) the housing facility satisfies the requirements of this section regardless of the
40 fact that:
41
- 42 (A) as of September 13, 1988, under 80 percent of the occupied units in the
43 housing facility were occupied by at least one person 55 years of age or
44 older, provided that at least 80 percent of the units that were occupied by
45 new occupants after September 13, 1988, were occupied by at least one
46 person 55 years of age or older;

- 1
2 (B) there are unoccupied units, provided that at least 80 percent of such units
3 are reserved for occupancy by at least one person 55 years of age or
4 older; and
5
6 (C) there are units occupied by employees of the housing facility (and family
7 members residing in the same unit) who are under 55 years of age
8 provided they perform substantial duties directly related to the
9 management or maintenance of the housing.

10
11 *The provisions of this §819.122 adopted to be effective September 27, 2005, 30 TexReg 6065;*
12 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*
13 *2016, 41 TexReg 5559; amended to be effective May 14, 2018, 43 TexReg 3119*

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16
17 **§819.123. Discrimination in Sale, Rental, Terms, Conditions, Privileges, Services, and**
18 **Facilities.**

- 19
20 (a) It is unlawful to discriminate based on race, color, disability, religion, sex, national
21 origin, or familial status by imposing different terms, conditions, or privileges
22 relating to the sale or rental of a dwelling or to deny or limit services or facilities in
23 connection with the sale or rental of a dwelling.
24
25 (b) Prohibited actions under this section include, but are not limited to:
26
27 (1) using different provisions in leases or contracts of sale, such as those relating
28 to rental charges, security deposits, and the terms of a lease and those relating
29 to down payment and closing requirements based on race, color, disability,
30 religion, sex, national origin, or familial status;
31
32 (2) failing to maintain or repair or delaying maintenance or repairs of sale or rental
33 dwellings based on race, color, disability, religion, sex, national origin, or
34 familial status;
35
36 (3) failing to process an offer for the sale or rental of a dwelling or to
37 communicate an offer accurately based on race, color, disability, religion, sex,
38 national origin, or familial status;
39
40 (4) limiting the use of privileges, services, or facilities associated with a dwelling
41 based on race, color, disability, religion, sex, national origin, or familial status;
42 and
43
44 (5) denying or limiting services or facilities in connection with the sale or rental of
45 a dwelling because a person failed or refused to provide sexual favors.
46

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4
5 **§819.124. Other Prohibited Sale and Rental Conduct.**

6
7 (a) It is unlawful to discriminate based on race, color, disability, religion, sex, national
8 origin, or familial status by restricting or attempting to restrict the choices of a
9 person by word or conduct in connection with seeking, negotiating for, buying, or
10 renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing
11 patterns, or to discourage or obstruct choices in a community, neighborhood, or
12 development. Prohibited practices under this section generally refer to unlawful
13 steering practices that include, but are not limited to, discrimination by:

14
15 (1) discouraging any person from inspecting, purchasing, or renting a dwelling
16 based on race, color, disability, religion, sex, national origin, or familial status
17 in a community, neighborhood, or development;

18
19 (2) discouraging the purchase or rental of a dwelling based on race, color,
20 disability, religion, sex, national origin, or familial status by exaggerating
21 drawbacks or failing to inform any person of desirable features of a dwelling or
22 of a community, neighborhood, or development;

23
24 (3) communicating to a potential buyer or renter that he or she would not be
25 comfortable or compatible with existing residents of a community,
26 neighborhood, or development based on race, color, disability, religion, sex,
27 national origin, or familial status; and

28
29 (4) assigning any person to a particular section of a community, neighborhood, or
30 development or to a particular floor of a building based on race, color,
31 disability, religion, sex, national origin, or familial status.

32
33 (b) It is unlawful to discriminate based on race, color, disability, religion, sex, national
34 origin, or familial status by engaging in any conduct relating to the provision of
35 housing or of services and facilities in connection therewith that otherwise makes
36 unavailable or denies dwellings to individuals. Prohibited sales and rental practices
37 under this section include, but are not limited to, discrimination by:

38
39 (1) discharging or taking other adverse action against an employee, broker, or
40 agent because he or she refused to participate in a discriminatory housing
41 practice;

42
43 (2) employing codes or other devices to segregate or reject potential buyers or
44 renters; refusing to take or to show listings of dwellings in certain areas based
45 on race, color, disability, religion, sex, national origin, or familial status; or
46 refusing to deal with certain brokers or agents because they or one or more of

1 their clients are of a particular race, color, disability, religion, sex, national
2 origin, or familial status;

- 3
- 4 (3) denying or delaying the processing of an application made by a potential buyer
5 or renter or refusing to approve such a person for occupancy in a cooperative
6 or condominium dwelling based on race, color, disability, religion, sex,
7 national origin, or familial status; and
- 8
- 9 (4) refusing to provide municipal services or property or hazard insurance for
10 dwellings or providing such services or insurance differently based on race,
11 color, disability, religion, sex, national origin, or familial status.
- 12

13 *The provisions of this §819.124 adopted to be effective September 27, 2005, 30 TexReg 6065*

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15

16

17 **§819.125. Discriminatory Advertisements, Statements, and Notices.**

18

- 19 (a) It is unlawful to discriminate based on race, color, disability, religion, sex, national
20 origin, or familial status by making, printing, or publishing, or causing to be made,
21 printed, or published, any notice, statement, or advertisement with respect to the sale
22 or rental of a dwelling that indicates any preference, limitation, or discrimination, or
23 an intention to make any such preference, limitation, or discrimination.
- 24
- 25 (b) The prohibitions in this section shall apply to all written or oral notices or statements
26 by a person engaged in the sale or rental of a dwelling. Written notices and
27 statements include any applications, flyers, brochures, deeds, signs, banners, posters,
28 billboards, electronic communications, or any documents used with respect to the
29 sale or rental of a dwelling.
- 30
- 31 (c) Discriminatory notices, statements, and advertisements include, but are not limited
32 to:
- 33
- 34 (1) using words, phrases, photographs, illustrations, symbols, or forms that convey
35 that dwellings are available or not available to a particular group of individuals
36 based on race, color, disability, religion, sex, national origin, or familial status;
- 37
- 38 (2) expressing to agents, brokers, employees, prospective sellers or renters, or any
39 other individuals a preference for or limitation on any potential buyer or renter
40 based on race, color, disability, religion, sex, national origin, or familial status;
- 41
- 42 (3) selecting media or locations for advertising the sale or rental of dwellings that
43 deny particular segments of the housing market information about housing
44 opportunities based on race, color, disability, religion, sex, national origin, or
45 familial status; and
- 46

- 1 (4) refusing to publish advertising for the sale or rental of dwellings or requiring
2 different charges or terms for such advertising based on race, color, disability,
3 religion, sex, national origin, or familial status.
4

5 *The provisions of this §819.125 adopted to be effective September 27, 2005, 30 TexReg 6065*
6

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9 **§819.126. Discriminatory Representations on the Availability of Dwellings.**
10

- 11 (a) It is unlawful to discriminate, based on race, color, disability, religion, sex, national
12 origin, or familial status, by providing inaccurate or untrue information about the
13 availability of dwellings for sale or rent.
14
- 15 (b) Prohibited actions under this section include, but are not limited to:
16
- 17 (1) indicating through words or conduct that a dwelling that is available for
18 inspection, sale, or rent has been sold or rented based on race, color, disability,
19 religion, sex, national origin, or familial status;
20
- 21 (2) representing that covenants or other deed, trust, or lease provisions that purport
22 to restrict the sale or rental of dwellings based on race, color, disability,
23 religion, sex, national origin, or familial status preclude the sale or rental of a
24 dwelling to a person;
25
- 26 (3) enforcing covenants or other deed, trust, or lease provisions that preclude the
27 sale or rental of a dwelling to any person based on race, color, disability,
28 religion, sex, national origin, or familial status;
29
- 30 (4) limiting information, through words or conduct, regarding suitably priced
31 dwellings available for inspection, sale, or rent based on race, color, disability,
32 religion, sex, national origin, or familial status; and
33
- 34 (5) providing false or inaccurate information regarding the availability of a
35 dwelling for sale or rent to any person, including testers, regardless of whether
36 such person is actually seeking housing based on race, color, disability,
37 religion, sex, national origin, or familial status.
38

39 *The provisions of this §819.126 adopted to be effective September 27, 2005, 30 TexReg 6065*
40

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43 **§819.127. Discriminatory Practices Regarding Entry into a Neighborhood.**
44

- 45 (a) It is unlawful to discriminate based on race, color, disability, religion, sex, national
46 origin, or familial status by inducing or attempting to induce for profit a person to

1 sell or rent a dwelling by representations regarding the entry or prospective entry into
2 the neighborhood of an individual or group of individuals.

3
4 (b) Prohibited actions under this section include, but are not limited to:

5
6 (1) engaging in conduct (including uninvited solicitations for listings) that conveys
7 to a person that a neighborhood is undergoing or is about to undergo a change
8 in the race, color, disability, religion, sex, national origin, or familial status of
9 individuals residing in it or in order to encourage the person to offer a dwelling
10 for sale or rent; and

11
12 (2) encouraging a person to sell or rent a dwelling through assertions that the entry
13 or prospective entry of individuals of a particular race, color, disability,
14 religion, sex, national origin, or familial status can or will result in undesirable
15 consequences for the project, neighborhood, or community, such as a lowering
16 of property values, an increase in criminal or antisocial behavior, or a decline
17 in the quality of schools or other services or facilities.

18
19 *The provisions of this §819.127 adopted to be effective September 27, 2005, 30 TexReg 6065*

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22
23 **§819.128. Discrimination in the Selling, Brokering, or Appraising of Residential Real**
24 **Property.**

25
26 (a) It is unlawful for a person whose business includes engaging in selling, brokering, or
27 appraising of residential real property to discriminate based on race, color, disability,
28 religion, sex, national origin, or familial status.

29
30 (b) It is unlawful to discriminate based on race, color, disability, religion, sex, national
31 origin, or familial status by denying any person access to or membership or
32 participation in any multiple listing service, real estate brokers' organization, or other
33 service, organization, or facility relating to the business of selling or renting
34 dwellings, or to discriminate against any person in the terms or conditions of such
35 access, membership, or participation.

36
37 (c) Prohibited actions under this section include, but are not limited to:

38
39 (1) setting different fees for access to or membership in a multiple listing service;

40
41 (2) denying or limiting benefits accruing to members in a real estate brokers'
42 organization;

43
44 (3) imposing different standards or criteria for membership in a real estate sales or
45 rental organization; and
46

1 (4) establishing geographic boundaries or office location or residence
2 requirements for access to, or membership or participation in, any multiple
3 listing service, real estate brokers' organization, or other service, organization,
4 or facility relating to the business of selling or renting dwellings.
5

6 (d) For the purposes of this section, the term "appraisal" shall mean an estimate or
7 opinion of the value of a residential real property made in a business context in
8 connection with the sale, rental, financing, or refinancing of a dwelling or in
9 connection with any activity that otherwise affects the availability of a residential
10 real estate-related transaction, whether the appraisal is oral or written, or transmitted
11 formally or informally. The appraisal includes all written comments and other
12 documents submitted as support for the estimate or opinion of value.
13

14 (e) Practices that are unlawful under this section include, but are not limited to, using an
15 appraisal of residential real property in connection with the sale, rental, or financing
16 of any dwelling where the person knows or reasonably should know that the
17 appraisal improperly takes into consideration race, color, disability, religion, sex,
18 national origin, or familial status.
19

20 *The provisions of this §819.128 adopted to be effective September 27, 2005, 30 TexReg 6065*
21

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24 **§819.129. Discrimination in Residential Real Estate Transactions.** 25

26 It is unlawful for a person whose business includes engaging in residential real estate-
27 related transactions to discriminate based on race, color, disability, religion, sex, national
28 origin, or familial status in making such a transaction available or in the terms or
29 conditions of such a transaction.
30

31 *The provisions of this §819.129 adopted to be effective September 27, 2005, 30 TexReg 6065*
32

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34

35 **§819.130. Discrimination in Making Loans and in the Provision of Other Financial** 36 **Assistance.** 37

38 (a) It is unlawful for a person whose business includes engaging in residential real
39 estate-related transactions to discriminate based on race, color, disability, religion,
40 sex, national origin, or familial status in making loans or other financial assistance
41 available for a dwelling, or which is or is to be secured by a dwelling.
42

43 (b) It is unlawful for a person engaged in making loans or in the provision of other
44 financial assistance relating to the purchase, construction, improvement, repair, or
45 maintenance of dwellings that are secured by residential real estate to impose
46 different terms or conditions for the availability of such loans or other financial

1 assistance based on race, color, disability, religion, sex, national origin, or familial
2 status.

3
4 (c) Prohibited practices under this section include, but are not limited to:

- 5
6 (1) failing or refusing to provide to a person, in connection with a residential real
7 estate-related transaction, information regarding the availability of loans or
8 other financial assistance, application requirements, procedures, or standards
9 for the review and approval of loans or financial assistance, or providing
10 information that is inaccurate or different from that provided to others based on
11 race, color, disability, religion, sex, national origin, or familial status;
12
13 (2) using different policies, practices, or procedures in evaluating or determining
14 creditworthiness of any person in connection with the provision of a loan or
15 other financial assistance for a dwelling or for a loan or other financial
16 assistance that is secured by residential real estate based on race, color,
17 disability, religion, sex, national origin, or familial status; and
18
19 (3) determining the type of loan or other financial assistance to be provided with
20 respect to a dwelling, or fixing the amount, interest rate, duration, or other
21 terms of a loan or other financial assistance for a dwelling or for a loan or other
22 financial assistance that is secured by residential real estate based on race,
23 color, disability, religion, sex, national origin, or familial status.
24

25 *The provisions of this §819.130 adopted to be effective September 27, 2005, 30 TexReg 6065;*
26 *amended to be effective June 16, 2014, 39 TexReg 4659*
27

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29

30 **§819.131. Discrimination in Purchasing Loans.**
31

- 32 (a) It is unlawful for a person engaged in the purchasing of loans or other debts or
33 securities that support the purchase, construction, improvement, repair, or
34 maintenance of a dwelling, or that are secured by residential real estate, to
35 discriminate based on race, color, disability, religion, sex, national origin, or familial
36 status by refusing to purchase such loans, debts, or securities, or by imposing
37 different terms or conditions for such purchases.
38
39 (b) Unlawful conduct under this section includes, but is not limited to:
40
41 (1) purchasing loans or other debts or securities that relate to or are secured by
42 dwellings in certain communities or neighborhoods but not in others based on
43 race, color, disability, religion, sex, national origin, or familial status;
44

- (2) pooling or packaging loans or other debts or securities differently that relate to or are secured by dwellings based on race, color, disability, religion, sex, national origin, or familial status; and
- (3) imposing or using different terms or conditions on the marketing or sale of securities issued on the basis of loans or other debts or securities that relate to or are secured by dwellings based on race, color, disability, religion, sex, national origin, or familial status.

(c) This section does not prevent consideration of factors justified by business necessity in the purchasing of loans, including requirements of state or federal law relating to a transaction's financial security or to protection against default or reduction of the value of the security. Thus, this provision does not preclude considerations employed in normal and prudent transactions provided that no such factor may in any way relate to race, color, disability, religion, sex, national origin, or familial status.

The provisions of this §819.131 adopted to be effective September 27, 2005, 30 TexReg 6065

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§819.132. Discrimination Based on Disability.

- (a) It is unlawful to discriminate by refusing to sell or rent, or otherwise make unavailable, or deny a dwelling to a potential buyer or renter based on a disability of:
 - (1) the potential buyer or renter;
 - (2) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - (3) any person associated with that person.
- (b) It is unlawful to discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:
 - (1) that buyer or renter;
 - (2) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - (3) any person associated with that person.
- (c) It is unlawful to make an inquiry to determine whether a potential buyer or renter of a dwelling, a person intending to reside in that dwelling after it is sold, rented, or made available, or any person associated with that potential buyer or renter has a

1 disability. However, this section does not prohibit the following inquiries, provided
2 they are made of each potential buyer or renter, whether or not the person has a
3 disability:

- 4
- 5 (1) Whether the potential buyer or renter is able to meet the requirements of
6 ownership or tenancy;
- 7
- 8 (2) Whether the potential buyer or renter qualifies for a dwelling available only to
9 individuals with disabilities or to people with a particular type of disability;
- 10
- 11 (3) Whether the potential buyer or renter qualifies for a priority available to
12 individuals with disabilities or to people with a particular type of disability;
- 13
- 14 (4) Whether the potential buyer or renter is a current illegal abuser or addict of a
15 controlled substance; or
- 16
- 17 (5) Whether the potential buyer or renter has been convicted of the illegal
18 manufacture or distribution of a controlled substance.
- 19

20 *The provisions of this §819.132 adopted to be effective September 27, 2005, 30 TexReg 6065;*
21 *amended to be effective June 16, 2014, 39 TexReg 4659*

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24

25 **§819.133. Discrimination in Refusing Reasonable Modifications of Existing Premises.**

26

- 27 (a) It is unlawful for a person to refuse to allow, at the expense of an individual with a
28 disability, reasonable modifications of existing premises, occupied or to be occupied
29 by an individual with a disability, if the proposed modifications may be necessary to
30 afford the individual with a disability full enjoyment of the premises of a dwelling.
31 In the case of a rental, the landlord may, where it is reasonable to do so, condition
32 permission for a modification on the renter agreeing to restore the interior of the
33 premises to the condition that existed before the modification, reasonable wear and
34 tear excepted. The landlord may not increase a customarily required security deposit
35 for individuals with disabilities. However, where it is necessary to ensure with
36 reasonable certainty that funds are available to pay for the restorations at the end of
37 the tenancy, the landlord may negotiate as part of such a restoration agreement a
38 provision requiring that the tenant pay into an interest-bearing escrow account, over
39 a reasonable period, a reasonable amount of money not to exceed the cost of the
40 restorations. The interest in any such account shall accrue to the benefit of the tenant.
- 41
- 42 (b) As a condition for granting a renter permission for a modification, a landlord may
43 require a reasonable description of the proposed modifications, reasonable

1 assurances that the work will be done in a workmanlike manner, and assurances that
2 required building permits will be obtained.
3

4 *The provisions of this §819.133 adopted to be effective September 27, 2005, 30 TexReg 6065*
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8 **§819.134. Discrimination in Refusing Reasonable Accommodations.**
9

10 It is unlawful for a person to refuse to make reasonable accommodations in rules,
11 policies, practices, or services, when such accommodations may be necessary to afford an
12 individual with a disability equal opportunity to use and enjoy a dwelling unit, including
13 public and common use areas.
14

15 *The provisions of this §819.134 adopted to be effective September 27, 2005, 30 TexReg 6065*
16

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19 **§819.135. Discrimination in Design and Construction Requirements.**
20

- 21 (a) It is unlawful to design and construct covered multifamily dwellings for first
22 occupancy after March 13, 1991, that do not have at least one building entrance on
23 an accessible route, unless it is impractical to do so because of the terrain or unusual
24 characteristics of the site. For purposes of this section, covered multifamily
25 dwellings shall be deemed to be designed and constructed for first occupancy on or
26 before March 13, 1991, if they are occupied by that date or if the last building permit
27 or renewal for the covered multifamily dwellings is issued by a state, county, or local
28 government on or before January 13, 1990. The burden of establishing impracticality
29 because of terrain or unusual site characteristics is on the person who designed or
30 constructed the housing facility.
31
- 32 (b) It is unlawful to design and construct covered multifamily dwellings for first
33 occupancy after March 13, 1991, with a building entrance on an accessible route that
34 do not provide:
35
- 36 (1) public and common use areas readily accessible to and usable by individuals
37 with disabilities;
 - 38 (2) doors that are sufficiently wide to allow passage into and within the entire
39 premises by individuals in wheelchairs; or
 - 40 (3) interior premises with the following features of adaptable design:
41 (A) accessible routes into and through the covered dwelling unit;
 - 42 (B) accessible routes into and through the covered dwelling unit;
 - 43 (C) accessible routes into and through the covered dwelling unit;
 - 44 (D) accessible routes into and through the covered dwelling unit;
 - 45 (E) accessible routes into and through the covered dwelling unit;

- (B) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
- (C) reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower, stall, and shower seat, where such facilities are provided; and
- (D) usable kitchens and bathrooms to allow an individual in a wheelchair to maneuver.

- (c) Compliance with the appropriate requirements of ANSI A117.1 suffices to satisfy the requirements of subsection (b)(3) of this section.
- (d) Compliance with a duly enacted law of a state or unit of general local government that includes the requirements of subsections (a) and (b) of this section satisfies the requirements of subsections (a) and (b) of this section.
- (e) This section does not invalidate or limit the laws of a state or political subdivision of a state that require dwellings to be designed and constructed in a manner that affords individuals with disabilities greater access than is required by this section.

The provisions of this §819.135 adopted to be effective September 27, 2005, 30 TexReg 6065

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§819.136. Prohibited Interference, Coercion, Intimidation, Retaliation, or Harassment.

- (a) It is unlawful to interfere, coerce, intimidate, retaliate against, or harass any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Texas Fair Housing Act.
- (b) Prohibited conduct made unlawful under this section includes, but is not limited to:
 - (1) coercing a person, either orally, in writing, or by other means, to deny or limit the benefits provided that person in connection with the sale or rental of a dwelling or in connection with a residential real estate-related transaction based on race, color, disability, religion, sex, national origin, or familial status;
 - (2) threatening, intimidating, or interfering with individuals in their enjoyment of a dwelling based on race, color, disability, religion, sex, national origin, or familial status of such individuals, or of visitors or associates of such individuals;

- 1 (3) threatening an employee or agent with dismissal or an adverse employment
2 action, or taking such adverse employment action, for any effort to assist a
3 person seeking access to the sale or rental of a dwelling or seeking access to
4 any residential real estate-related transaction, based on the race, color,
5 disability, religion, sex, national origin, or familial status of that person or of
6 any person associated with that individual;
7
- 8 (4) intimidating or threatening any person because that person is engaging in
9 activities designed to make other individuals aware of, or encouraging such
10 other individuals to exercise rights granted or protected by this chapter;
11
- 12 (5) retaliating against any person because that person has made a complaint,
13 testified, assisted, or participated in any manner in a proceeding under the
14 Texas Fair Housing Act;
15
- 16 (6) retaliating against any person because that person reported a discriminatory
17 housing practice to a housing provider or other authority; and
18
- 19 (7) harassing any person because of race, color, religion, sex, familial status,
20 national origin, or disability:
21
- 22 (A) Quid pro quo harassment. Quid pro quo harassment refers to an
23 unwelcome request or demand to engage in conduct where submission to
24 the request or demand, either explicitly or implicitly, is made a condition
25 related to the sale, rental, or availability of a dwelling; the terms,
26 conditions, or privileges of the sale or rental, or the provision of services
27 or facilities in connection therewith; or the availability, terms, or
28 conditions of a residential real estate-related transaction. An unwelcome
29 request or demand may constitute quid pro quo harassment even if a
30 person acquiesces in the unwelcome request or demand.
31
- 32 (B) Hostile environment harassment. Hostile environment harassment refers
33 to unwelcome conduct that is sufficiently severe or pervasive as to
34 interfere with the availability, sale, rental, or use or enjoyment of a
35 dwelling; the terms, conditions, or privileges of the sale or rental, or the
36 provision or enjoyment of services or facilities in connection therewith;
37 or the availability, terms, or conditions of a residential real estate-related
38 transaction. Hostile environment harassment does not require a change in
39 the economic benefits, terms, or conditions of the dwelling or housing-
40 related services or facilities, or of the residential real-estate transaction.
41

42 *The provisions of this §819.136 adopted to be effective August 1, 2016, 41 TexReg 5559;*
43 *amended to be effective May 14, 2018, 43 TexReg 3119*
44

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1
2 **SUBCHAPTER I. TEXAS FAIR HOUSING ACT COMPLAINTS AND INVESTIGATIONS**
3 **PROCESS**

4
5 **§819.151. Filing a Complaint.**
6

- 7 (a) A person may telephone, write, visit, e-mail, fax, or otherwise contact CRD to obtain
8 information on filing a complaint with CRD.
9
- 10 (b) At the complainant's request, CRD:
11
- 12 (1) shall confer with the complainant about the facts and circumstances that may
13 constitute the alleged unlawful housing practice; and
14
 - 15 (2) shall assist the complainant with preparation of the complaint if the facts and
16 circumstances constitute an alleged unlawful housing practice; or
17
 - 18 (3) may advise the complainant if the facts and circumstances presented to CRD
19 do not appear to constitute an unlawful housing practice.
20
- 21 (c) The complaint shall be filed in writing and under oath with CRD by electronic
22 communication, mail, fax, or in person with:
23
- 24 (1) the CRD office on a CRD-provided form;
25
 - 26 (2) a HUD office; or
27
 - 28 (3) a local municipality certified by HUD.
29
- 30 (d) The CRD director may require complaints to be made in writing, under oath, on a
31 prescribed form. The complaint shall include the following information:
32
- 33 (1) The name and address of the complainant;
34
 - 35 (2) The name and address of the respondent;
36
 - 37 (3) A description and address of the dwelling that is involved, if appropriate;
38
 - 39 (4) The basis for the alleged discriminatory housing practices, which may include
40 any of the following: race, color, disability, religion, sex, national origin, or
41 familial status;
42
 - 43 (5) A concise statement of the facts and circumstances that constitute alleged
44 discriminatory housing practices under the Texas Fair Housing Act, including
45 identification of personal harm, reason given to complainant by respondent for
46 the action taken; and

1
2 (6) A declaration of unlawful discrimination under federal or state law.
3

4 (e) A complaint shall be filed on or before the first anniversary of the date the alleged
5 discriminatory housing practice occurs or terminates, whichever is later.
6

7 (f) The date of the filing of the complaint is the date when it is received by CRD or
8 dual-filed with HUD, except when the CRD director determines that a complaint is
9 timely filed for the purposes of the one-year period for filing of complaints upon
10 submission of written information (including information provided by telephone by
11 the complainant and documented by CRD) that is substantially equivalent to the
12 information identified in subsection (d) of this section. When a complaint alleges
13 discriminatory housing practices that are continuing, as manifested in a number of
14 incidents of such conduct, the complaint shall be timely when filed within one year
15 of the last alleged occurrence.
16

17 (g) A complaint may be amended to cure technical defects or omissions, or to clarify
18 and amplify allegations made therein. Such amendment or amendments alleging
19 additional acts that constitute unlawful housing practices related to or growing out of
20 the subject matter of the original complaint shall relate back to the date the complaint
21 was first filed. CRD shall provide a copy of the complaint to the respondent. An
22 amended complaint shall be subject to the procedures set forth in applicable law.
23

24 (h) The CRD director may file a complaint when the CRD director receives information
25 from a credible source that one or more individuals may have violated the rights of
26 one or more individuals protected by the Texas Fair Housing Act. A complaint filed
27 by the CRD director shall be considered for approval by the Commission at a
28 meeting following the filing of the complaint. Upon a majority vote of the
29 Commission, the complaint is approved and any investigation of the complaint shall
30 continue. If a majority of the Commission does not approve the complaint, such
31 complaint shall be withdrawn by CRD.
32

33 (i) The complainant and respondent shall be notified periodically by CRD of the status
34 of their complaint, unless the notice would jeopardize an undercover investigation by
35 another state, federal, or local government.
36

37 (j) Upon the acceptance of a complaint, the CRD director shall notify by mail, or
38 electronic communication upon agreement of the complainant, each complainant on
39 whose behalf the complaint was filed. The notice shall:
40

41 (1) acknowledge the filing of the complaint and state the date that the complaint
42 was accepted for filing;
43

44 (2) include a copy of the complaint;
45

- 1 (3) advise the complainant of the time limits applicable to complaint processing
2 and of the procedural rights and obligations of the complainant under the
3 Texas Fair Housing Act and this chapter;
4
- 5 (4) advise the complainant of his or her right to commence a civil action under the
6 Texas Fair Housing Act, Subchapter H, and federal law, not later than two
7 years after the occurrence or termination of the alleged discriminatory housing
8 practice. The notice shall state that the computation of this two-year period
9 excludes any time during which an administrative hearing is pending under this
10 chapter and Texas Fair Housing Act, Subchapter E, with respect to a complaint
11 or charge based on the alleged discriminatory housing practice; and
12
- 13 (5) advise the complainant that retaliation against any person because he or she
14 made a complaint or testified, assisted, or participated in an investigation,
15 conciliation, or an administrative proceeding under this chapter is a
16 discriminatory housing practice that is prohibited under the Texas Fair
17 Housing Act and this chapter.
18

19 *The provisions of this §819.151 adopted to be effective September 27, 2005, 30 TexReg 6065;*
20 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*
21 *2016, 41 TexReg 5559*
22

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25 **§819.152. Legal Representation.**
26

27 The complainant and respondent may be represented by an attorney or designated agent.
28

29 *The provisions of this §819.152 adopted to be effective September 27, 2005, 30 TexReg 6065*
30

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32

33 **§819.153. Investigation of a Complaint.**
34

- 35 (a) Upon the acceptance of a complaint under this chapter, CRD shall initiate an
36 investigation. The CRD director may initiate an investigation to determine whether a
37 complaint should be filed under this chapter and the Texas Fair Housing Act,
38 Subchapter E. Such investigations shall be conducted in accordance with the
39 procedures set forth in this chapter. CRD also may invite the parties to participate in
40 a voluntary mediation program in an effort to conciliate the dispute.
41
- 42 (b) The CRD director shall determine the scope and nature of the investigation within
43 the context of the allegations set forth in the complaint.
44
- 45 (c) At all reasonable times in the complaint investigation, the CRD director shall have
46 access to:

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- (1) necessary witnesses for examination under oath or affirmation; and
 - (2) records, documents, and other information relevant to the investigation of alleged violations of the Texas Fair Housing Act, for inspection and copying.
- (d) Within 20 days of the acceptance of a complaint or amended complaint under this chapter, the CRD director shall serve a notice on each respondent by regular mail, or electronic communication upon agreement of the respondent. A person who is not named as a respondent in a complaint, but who is identified in the course of the investigation under the Texas Fair Housing Act, Subchapter E, and this chapter, as a person who is alleged to be engaged or to have engaged in the discriminatory housing practice upon which the complaint is based, may be joined as an additional or substitute respondent by service of a notice on the person under this section.
- (e) The notice to a respondent shall include, but not be limited to, the following:
- (1) Identification of the alleged discriminatory housing practice upon which the complaint is based, and a copy of the complaint;
 - (2) Date that the complaint was accepted for filing;
 - (3) Time limits applicable to complaint processing under this chapter and the procedural rights and obligations of the respondent under the Texas Fair Housing Act, and this chapter, including the opportunity to submit an answer to the complaint within 10 days of the receipt of the notice;
 - (4) Complainant's right to commence a civil action under the Texas Fair Housing Act, Subchapter H, and federal law, not later than two years after the occurrence or termination of the alleged discriminatory housing practice; an explanation that the computation of the two-year period excludes any time during which an administrative hearing is pending under this chapter or the Texas Fair Housing Act, Subchapter E, with respect to a complaint or charge based on the alleged discriminatory housing practice;
 - (5) If the person is not named in the complaint, but is being joined as an additional or substitute respondent, an explanation of the basis for the CRD director's belief that the joined person is properly joined as a respondent;
 - (6) Instruction that retaliation against any person because he or she made a complaint or testified, assisted, or participated in an investigation, conciliation, or an administrative proceeding under this chapter is a discriminatory housing practice that is prohibited under the Texas Fair Housing Act;
 - (7) Invitation to enter into a conciliation agreement for the purpose of resolving the complaint; and

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- (8) Initial request for information and documentation concerning the facts and circumstances surrounding the alleged discriminatory housing practice set forth in the complaint.
- (f) The respondent may file an answer not later than 10 days after receipt of the notice described in this section. The respondent may assert any defense that might be available to a defendant in a court of law. The written answer shall either be signed under oath or subscribed by the person making the declaration as true under penalty of perjury and in substantially the form prescribed by Texas Civil Practice and Remedies Code, Chapter 132, or its successor statute.
- (g) An answer may be reasonably and fairly amended at any time.
- (h) CRD may conduct discovery in aid of the investigation by the same methods and to the same extent that parties may conduct discovery in an administrative proceeding under the Texas Fair Housing Act, Subchapter E. The CRD director shall have the power to issue subpoenas described under the Texas Fair Housing Act, Subchapter D, in support of the investigation.
- (i) As part of the complaint investigation, CRD may request information relevant to the alleged violations of the Texas Fair Housing Act. In obtaining this information, CRD may use, but is not limited to using, any of the following:
 - (1) Oral and video interviews and depositions;
 - (2) Written interrogatories;
 - (3) Production of documents and records;
 - (4) Requests for admissions;
 - (5) On-site inspection of respondent's facilities;
 - (6) Written statements or affidavits;
 - (7) A written statement of position or information provided by the complainant or the respondent that is either under oath or subscribed in conformity with this section regarding the allegations in the complaint; or
 - (8) Other forms of discovery authorized by the Administrative Procedure Act, Texas Government Code §§2001.081 - 2001.103, or the Texas Rules of Civil Procedure.
- (j) CRD may establish time requirements regarding responses to requests for information relevant to an investigation of alleged violations of the Texas Fair

1 Housing Act. The CRD director may extend such time requirements for good cause
2 shown.

- 3
- 4 (k) CRD shall complete the initial investigation of the alleged discriminatory housing
5 practice within 100 days of the filing of the complaint, unless it is impracticable to
6 do so.
- 7
- 8 (l) The complaint shall remain open until a no reasonable cause determination is made, a
9 charge is made, or a conciliation agreement is executed and approved under this
10 chapter and the Texas Fair Housing Act, Subchapter E.
- 11
- 12 (m) At the end of each investigation under this chapter, CRD shall prepare a final
13 investigative report. The investigative report shall contain:
- 14
- 15 (1) the names and dates of contacts with witnesses. The report shall not disclose
16 the names of witnesses that request anonymity; however, the names of such
17 witnesses may be required to be disclosed in the course of an administrative
18 hearing or a civil action;
- 19
- 20 (2) a summary and the dates of correspondence and other contacts with the
21 complainant and the respondent;
- 22
- 23 (3) a summary description of other pertinent records;
- 24
- 25 (4) a summary of witness statements; and
- 26
- 27 (5) answers to interrogatories.
- 28
- 29 (n) A final investigative report may be amended if additional evidence is discovered.
- 30
- 31 (o) CRD shall provide a summary of the final determination and shall make available
32 the full investigative report to the complainant and the respondent.
- 33

34 *The provisions of this §819.153 adopted to be effective September 27, 2005, 30 TexReg 6065;*
35 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*
36 *2016, 41 TexReg 5559*

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39
40 **§819.154. Pattern and Practice Complaints.**

41
42 When the CRD director determines that the alleged discriminatory practices contained in
43 a complaint are pervasive or institutional in nature, or that the processing of the
44 complaint may involve complex issues, questions of first impression, or may affect a
45 large number of people, the CRD director may identify it as a pattern and practice
46 complaint. This determination can be based on the face of the complaint or on

1 information gathered in connection with an investigation. Pattern and practice
2 investigations may focus not only on documenting facts involved in the complaint but
3 also on review of other policies and procedures to ensure compliance with the
4 nondiscrimination requirements of the Texas Fair Housing Act.
5

6 *The provisions of this §819.154 adopted to be effective September 27, 2005, 30 TexReg 6065*
7

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9

10 **§819.155. Conciliation.**
11

- 12 (a) During the period beginning with the filing of the complaint and ending with the
13 filing of a charge or the dismissal of the complaint by the CRD director, CRD shall
14 attempt to conciliate the complaint.
15
- 16 (b) In conciliating a complaint, CRD shall attempt to achieve a just resolution of the
17 complaint and to obtain assurances that the respondent will satisfactorily remedy any
18 violations of the rights of the complainant, and take such action that will assure the
19 elimination of discriminatory housing practices, or the prevention of their
20 occurrence, in the future.
21
- 22 (c) The terms of a settlement of a complaint shall be reduced to a written conciliation
23 agreement. The conciliation agreement shall protect the interests of the complainant,
24 other people similarly situated, and the public interest.
25
- 26 (d) The agreement is subject to the approval of the CRD director, who shall indicate
27 approval by signing the agreement. The CRD director shall approve an agreement
28 and execute the agreement, only if:
29
- 30 (1) the complainant and the respondent agree to the relief; and
31
- 32 (2) the provisions of the agreement shall adequately protect the public interest.
33
- 34 (e) CRD may issue a charge under the Texas Fair Housing Act and this chapter if the
35 complainant and the respondent have executed an agreement that has not been
36 approved by the CRD director.
37
- 38 (f) CRD may terminate its efforts to conciliate the complaint if:
39
- 40 (1) the complainant or the respondent fails or refuses to confer with CRD;
41
- 42 (2) the complainant or the respondent fails to make a good faith effort to resolve
43 any dispute; or
44
- 45 (3) the CRD director finds, for any reason, that voluntary agreement is not likely
46 to result.

- 1
2 (g) When the complainant has commenced a civil action under federal or state law
3 seeking relief for the alleged discriminatory housing practice, the CRD director shall
4 terminate conciliation.
5
6 (h) The CRD director may review compliance with the terms of any conciliation
7 agreement. If the CRD director has reasonable cause to believe that a complainant or
8 a respondent has breached a conciliation agreement, the CRD director may refer the
9 matter to the Office of the Attorney General with a recommendation for the filing of
10 a civil action under the Texas Fair Housing Act, Subchapter G, for the enforcement
11 of the terms of the conciliation agreement.
12

13 *The provisions of this §819.155 adopted to be effective September 27, 2005, 30 TexReg 6065*

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16
17 **§819.156. Reasonable Cause Determination and Issuance of a Charge.**

- 18
19 (a) If a conciliation agreement under this chapter and the Texas Fair Housing Act,
20 Subchapter E, has not been executed by the complainant and the respondent, and
21 approved by the CRD director, the CRD director on behalf of the Agency, within the
22 time limits set forth in subsection (f) of this section, shall determine whether, based
23 on the totality of the factual circumstances known at the time of the decision,
24 reasonable cause exists to believe that a discriminatory housing practice has
25 occurred. The reasonable cause determination shall be based solely on the facts
26 concerning the alleged discriminatory housing practice, provided by complainant and
27 respondent or otherwise disclosed during the investigation. In making the reasonable
28 cause determination, the CRD director shall consider whether the facts concerning
29 the alleged discriminatory housing practice are sufficient to warrant the initiation of
30 a civil action in state district court.
31
32 (b) If the CRD director determines that reasonable cause exists, the CRD director shall
33 immediately issue a charge under the Texas Fair Housing Act, Subchapter E, and this
34 chapter on behalf of the complainant, and shall notify the complainant and the
35 respondent of this determination by certified mail or personal service.
36
37 (c) If the CRD director determines that no reasonable cause exists, the CRD director
38 shall issue a short written statement of the facts upon which the CRD director has
39 based the no reasonable cause determination; dismiss the complaint; notify the
40 complainant and the respondent of the dismissal (including the written statement of
41 facts) by certified mail or personal service; and make public disclosure of the
42 dismissal.
43
44 (d) If the CRD director determines that the matter involves the legality of local zoning
45 or land use laws or ordinances, the CRD director, in lieu of making a determination
46 regarding reasonable cause, shall refer the investigative materials to the Office of the

1 Attorney General for appropriate action under the Texas Fair Housing Act,
2 Subchapter G, and shall notify the complainant and the respondent of this action by
3 certified mail or personal service.
4

- 5 (e) The CRD director shall not issue a charge under this chapter and the Texas Fair
6 Housing Act, Subchapter E, regarding an alleged discriminatory housing practice, if
7 a complainant has commenced the trial of a civil action under federal or state law
8 seeking relief with respect to the alleged discriminatory housing practice. If a charge
9 is not issued because of the commencement of a trial of a civil action, the CRD
10 director shall notify the complainant and the respondent by certified mail or personal
11 service.
12
- 13 (f) The CRD director shall make a reasonable cause determination within 100 days after
14 filing of the complaint.
15
- 16 (g) If the CRD director is unable to make the determination within the 100-day period,
17 the CRD director shall notify the complainant and the respondent, by certified mail
18 or personal service, of the reasons for the delay.
19
- 20 (h) The CRD director shall notify the complainant and respondent, and any aggrieved
21 person on whose behalf a complaint has been filed, that they may elect to have the
22 claims asserted in the charge decided in a civil action, as provided in Texas Property
23 Code §301.131, or an administrative hearing pursuant to §819.191 of this chapter.
24

25 *The provisions of this §819.156 adopted to be effective September 27, 2005, 30 TexReg 6065;*
26 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*
27 *2016, 41 TexReg 5559*
28

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30

31 **SUBCHAPTER J. FAIR HOUSING DEFERRAL TO MUNICIPALITIES**

32 **§819.171. Deferral.**

33 Pursuant to Texas Fair Housing Act §301.068, CRD may defer proceedings and refer
34 complaints to a municipality that is currently certified by HUD as a Fair Housing
35 Assistance Program (FHAP) to investigate fair housing complaints and enforce
36 violations.
37
38
39

40 *The provisions of this §819.171 adopted to be effective September 27, 2005, 30 TexReg 6065;*
41 *amended to be effective August 1, 2016, 41 TexReg 5559*
42

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1
2 **SUBCHAPTER K. FAIR HOUSING ADMINISTRATIVE HEARINGS AND JUDICIAL**
3 **REVIEW**

4
5 **§819.191. Administrative Hearings.**
6

- 7 (a) Administrative hearings shall be conducted by the Agency's Special Hearings
8 Department pursuant to the procedures set forth in this Subchapter K, which
9 incorporates the procedures set forth in Texas Government Code, Chapter 2001,
10 Subchapters C - D, F - H, and Z, and adapts such procedures specifically for fair
11 housing administrative hearings. If any procedures under this Subchapter K are in
12 conflict with Texas Government Code, Chapter 2001, Subchapters C - D, F - H, or Z,
13 such subchapters under Chapter 2001 shall control.
14
- 15 (b) Hearings may be conducted by electronic means, including but not limited to
16 telephonic hearings, unless the hearing officer determines that an in-person hearing
17 is necessary.
18
- 19 (c) Parties needing special accommodations, including the need for a bilingual or sign
20 language interpreter, shall make this request before the hearing is set, if possible, or
21 as soon as practical.
22

23 *The provisions of this §819.191 adopted to be effective August 1, 2016, 41 TexReg 5559*
24

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27 **§819.192. Parties.**
28

- 29 (a) Parties to proceedings under this section are the Agency, respondent(s) and any
30 intervenors. Respondents include persons named as such in a charge issued under
31 §819.156.
32
- 33 (b) An aggrieved person as defined under Texas Property Code §301.003(1) is not a
34 party but may file a motion to intervene. Requests for intervention shall be filed
35 within 50 days after the issuance of the charge; however, the hearing officer may
36 allow intervention beyond that time. An intervenor's right to participate as a party
37 may be restricted by order of the hearing officer.
38
- 39 (c) Intervention shall be permitted if the person requesting intervention is:
40
- 41 (1) The aggrieved person on whose behalf the charge is issued; or
42
- 43 (2) An aggrieved person who claims an interest in the property or transaction that
44 is the subject of the charge and the disposition of the charge may, as a practical
45 matter, impair or impede this person's ability to protect that interest, unless the
46 aggrieved person is adequately represented by the existing parties.

- 1
2 (d) If an aggrieved person does not intervene within 50 days after issuance of the
3 charge, and the parties have reached a settlement, the hearing officer shall dismiss
4 the case.
5

6 *The provisions of this §819.192 adopted to be effective August 1, 2016, 41 TexReg 5559*
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10 **§819.193. Evidence and Pre-hearing Conference.**
11

- 12 (a) Evidence Generally. Evidence, including hearsay evidence, shall be admitted if it is
13 relevant and if in the judgment of the hearing officer it is the kind of evidence on
14 which reasonably prudent persons are accustomed to rely in conducting their affairs.
15 However, the hearing officer may exclude evidence if its probative value is
16 outweighed by the danger of unfair prejudice, by confusion of the issues, or by
17 reasonable concern for undue delay, waste of time, or needless presentation of
18 cumulative evidence.
19
- 20 (b) Exchange of Exhibits. To be considered as evidence in a decision, any document or
21 physical evidence must be entered as an exhibit at the hearing. Any documentary
22 evidence to be presented during a telephonic hearing shall be exchanged with all
23 parties in advance of the hearing and a copy shall be provided to the hearing officer
24 in advance of the hearing. Upon consideration of a party's proffered reason for
25 failure to exchange documentary evidence in advance of the hearing, the hearing
26 officer may admit or exclude same, or grant a postponement of the hearing, in the
27 discretion of the hearing officer.
28
- 29 (c) Stipulations. The parties, with the consent of the hearing officer, may agree in
30 writing to facts that are not in controversy. The hearing officer may decide the appeal
31 on the basis of such stipulations or, at the hearing officer's discretion, may set the
32 appeal for hearing and take such further evidence as the hearing officer deems
33 necessary.
34
- 35 (d) The hearing officer may, on the hearing officer's own motion or at the request of any
36 party, set an informal prehearing conference and require that all parties attend.
37 Notice of the conference shall be in writing to each party. The conference will be
38 held in accordance with §819.191 of these Rules, and will be an official part of the
39 hearing record. Pursuant to the conference, the hearing officer may consider:
40
- 41 (1) establishing the identities of parties and witnesses;
 - 42
 - 43 (2) the agreement of the parties on facts that are not in controversy;
 - 44
 - 45 (3) conciliation of the dispute;
 - 46

- 1 (4) clarification of the issues;
2
3 (5) procedures for scheduling and conduct of the hearing;
4
5 (6) exchange of documents; and
6
7 (7) any other matter that promotes the orderly and prompt conduct of the hearing.
8

9 *The provisions of this §819.193 adopted to be effective August 1, 2016, 41 TexReg 5559*

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12

13 **§819.194. Notice of Hearing.**
14

- 15 (a) The Agency shall assign a hearing officer and mail a notice of hearing to the parties
16 and/or their designated representatives. The notice of hearing shall be in writing and
17 include:
18
19 (1) a statement of the date, time, place, and nature of the hearing;
20
21 (2) a statement of the legal authority and jurisdiction under which the hearing is to
22 be held;
23
24 (3) a reference to the sections of the statutes and rules involved; and
25
26 (4) either:
27
28 (A) a short, plain statement of the factual matters asserted; or
29
30 (B) an attachment that incorporates by reference the factual matters asserted
31 in the complaint.
32
33 (b) The notice of hearing shall be issued at least 10 calendar days before the date of the
34 hearing by sending it to each party's last known address, as shown by Agency
35 records, by first-class mail.
36

37 *The provisions of this §819.194 adopted to be effective August 1, 2016, 41 TexReg 5559;*
38 *amended to be effective May 14, 2018, 43 TexReg 3119*
39

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42 **§819.195. Postponement and Continuance.**
43

44 On the hearing officer's own motion, or for good cause, at a party's request, the hearing
45 officer may postpone or continue a hearing.
46

1 *The provisions of this §819.195 adopted to be effective August 1, 2016, 41 TexReg 5559*

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4
5 **§819.196. Default.**

6
7 If a party to whom a notice of hearing is served or provided under this section fails to
8 appear for hearing, the hearing officer may proceed in that party's absence on a default
9 basis. If a proposal for decision or final decision is issued, the factual allegations listed in
10 the notice of hearing may be deemed admitted. If a party fails to appear at a hearing, the
11 hearing officer will issue a notice of default to that party. A party may file a motion no
12 later than 15 calendar days after the notice of default is mailed to set aside a default
13 announced at the hearing and to reopen the record. If a timely motion to set aside a
14 default is filed, the hearing officer may grant the motion, set aside the default, and reopen
15 the hearing for good cause shown, or in the interests of justice.

16
17 *The provisions of this §819.196 adopted to be effective August 1, 2016, 41 TexReg 5559*

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20
21 **§819.197. Ex Parte Communications.**

- 22
23 (a) Except as provided in this chapter, and unless required for the disposition of ex parte
24 matters authorized by law, neither the hearing officer nor a Commission member
25 may communicate, directly or indirectly, in connection with any issue of fact or law
26 with a party or representative of a party, except on notice and opportunity for all
27 parties to participate.
28
29 (b) The hearing officer or a Commission member may communicate concerning the case
30 with an Agency employee who has not participated in the hearing, but may do so
31 only for the purpose of using the special skills or knowledge of the Agency and its
32 staff in evaluating the evidence.
33
34 (c) For purposes of this section, the Agency is considered to be a party to the case.

35
36 *The provisions of this §819.197 adopted to be effective August 1, 2016, 41 TexReg 5559*

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39
40 **§819.198. Proposal for Decision.**

- 41
42 (a) The hearing officer shall prepare a proposal for decision containing a statement of
43 the reasons for the proposed decision and of each finding of fact and conclusion of
44 law.
45

- 1 (b) The hearing officer shall submit a copy of the proposal for decision to each party by
2 first-class mail. The parties may submit to the hearing officer exceptions to the
3 proposal for decision and replies to exceptions to the proposal for decision.
4
- 5 (c) Exceptions shall be filed within 15 calendar days after the date of service of the
6 proposal for decision. A reply to the exceptions shall be filed within 15 calendar days
7 of the filing of the exceptions. The date of service shall be presumed to be on the
8 third day after the date on which the proposal for decision is mailed. The hearing
9 officer may extend or shorten the time to file exceptions or replies.
10
- 11 (d) The hearing officer shall review all exceptions and replies and notify the parties as to
12 whether the hearing officer recommends any changes to the proposal for decision.
13
- 14 (e) The hearing officer will not issue a proposal for decision during the 15-day period
15 referenced in §819.196 within which a defaulting party may file a motion to set aside
16 a default and to reopen the record.
17

18 *The provisions of this §819.198 adopted to be effective August 1, 2016, 41 TexReg 5559*
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21

22 **§819.199. Commission Decision.**
23

- 24 (a) After the time for filing exceptions and replies to exceptions has expired, the
25 Commission shall consider the hearing officer's report and the proposal for decision.
26 The Commission may adopt the proposal for decision, modify and adopt it, reject it
27 and issue a Commission decision, or remand the matter to the hearing officer. The
28 Commission shall issue its decision within 60 calendar days of the end of the
29 exceptions period. The hearing officer may extend the period in which the decision
30 may be signed and prepare the decision for the Commission.
31
- 32 (b) A Commission decision that is adverse to one or more parties shall be in writing and
33 signed after a majority vote of the Commission. Such a decision shall include
34 findings of fact and conclusions of law separately stated. Findings of fact, if set forth
35 in statutory language, shall be accompanied by a concise and explicit statement of
36 the underlying facts supporting the findings. Findings of fact shall be based
37 exclusively on the evidence and on matters officially noticed.
38
- 39 (c) The Agency shall notify each party to a contested case of any decision or order of
40 the Commission by using at least one of the following methods of service:
41
- 42 (1) personal service;
 - 43
 - 44 (2) if agreed to by the party to be notified, service by electronic means sent to the
45 current email address or facsimile number of the party's attorney of record or
46 of the party if the party is not represented by counsel; or

1
2 (3) first-class, certified, or registered mail sent to the last known address of the
3 party's attorney of record or of the party if the party is not represented by
4 counsel.

5
6 (d) A Commission decision becomes final:

7
8 (1) if a motion for rehearing is not filed on time, on the expiration of the period for
9 filing a motion for rehearing;

10
11 (2) if a motion for rehearing is filed on time, on the date:

12
13 (A) the order overruling the latest filed motion for rehearing is signed; or

14
15 (B) the latest filed motion for rehearing is overruled by operation of law;

16
17 (3) if the Commission finds that an imminent peril to the public health, safety, or
18 welfare requires immediate effect of a decision on the date the decision is
19 signed, provided that the Commission incorporates in the decision a factual
20 and legal basis establishing such imminent peril; or

21
22 (4) on the date specified in the decision for a case in which all parties agree to the
23 specified date in writing or on the record, if the specified date is not before the
24 date the decision is signed or later than the 20th day after the date the decision
25 was issued.

26
27 *The provisions of this §819.199 adopted to be effective August 1, 2016, 41 TexReg 5559;*
28 *amended to be effective May 14, 2018, 43 TexReg 3119*

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31
32 **§819.200. Motion for Rehearing.**

33
34 (a) A motion for rehearing is required to exhaust all administrative remedies. A motion
35 for rehearing must be filed not later than the 25th calendar day after the date the
36 Commission decision is signed, unless the time for filing the motion has been
37 modified by agreement between the parties and approved by the Commission. Any
38 reply to a motion for rehearing shall be filed with the Commission not later than the
39 40th calendar day after the date the Commission decision is signed. A party filing a
40 motion for rehearing or a reply to a motion for rehearing shall serve a copy on each
41 party within the filing deadline using the notification methods set forth in
42 §819.199(c).

43
44 (b) The Commission may, by written order, extend the time for filing motions and
45 replies and for taking Commission action. No extension may extend the period for
46 Commission action beyond 100 days after the date the decision is signed. In the

1 event of an extension, a motion for rehearing is denied on the date fixed by the
2 written order or, in the absence of a fixed date, 100 days from the date the decision is
3 signed.

4
5 (c) If a party files a motion for rehearing, the Commission may:

6
7 (1) grant such motion and remand for rehearing;

8
9 (2) deny such motion, either expressly or by operation of law; or

10
11 (3) render a decision and issue an order that no rehearing shall be necessary
12 because imminent peril to the public health, safety, or welfare requires
13 immediate effect be given to the final order.

14
15 (d) If the Commission does not act on the motion for rehearing within 55 calendar days
16 after the date the decision was signed, the motion is denied by operation of law and
17 the decision is final.

18
19 (e) A motion for rehearing must identify with particularity findings of fact or
20 conclusions of law that are the subject of the complaint and any evidentiary or legal
21 ruling claimed to be erroneous. The motion must also state the legal and factual basis
22 for the claimed error.

23
24 *The provisions of this §819.200 adopted to be effective August 1, 2016, 41 TexReg 5559;*
25 *amended to be effective May 14, 2018, 43 TexReg 3119*

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28
29 **§819.201. Judicial Review.**

30
31 (a) A person who has exhausted all administrative remedies available under the Texas
32 Fair Housing Act and who is aggrieved by a final decision of the Commission is
33 entitled to judicial review under the substantial evidence rule as set forth in
34 Administrative Procedure Act §2001.001, et seq.

35
36 (b) Proceedings for judicial review are instituted by filing a petition in a Travis County
37 district court within 30 calendar days after the final decision is mailed.

38
39 *The provisions of this §819.201 adopted to be effective August 1, 2016, 41 TexReg 5559*

40
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42
43 **SUBCHAPTER L. FAIR HOUSING FUND**

44
45 **§819.221. Fair Housing Fund.**

- 1 (a) A fair housing fund is a fund in the state treasury in the custody of the Texas
2 Comptroller of Public Accounts.
3
4 (b) Civil penalties assessed against a respondent under the Texas Fair Housing Act,
5 Subchapters E and G, shall be deposited to the credit of the fair housing fund.
6
7 (c) The Agency may use monies deposited to the credit of the fair housing fund for the
8 administration of the Texas Fair Housing Act.
9
10 (d) Gifts and grants received as authorized by the Texas Fair Housing Act, Subchapter D,
11 shall be deposited to the credit of the fair housing fund.
12

13 *The provisions of this §819.221 adopted to be effective September 27, 2005, 30 TexReg 6065;*
14 *amended to be effective August 1, 2016, 41 TexReg 5559*

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