

ACTION: FINAL  
FILED

DATE: 10/07/2002  
08:50 AM

4112-3-05

**Complaint and notice of hearing.**

- (A) Issuance of complaint. If the commission determines that it is probable that any unlawful discriminatory practices have been or are being engaged in against the complainant or others ~~and after the commission fails to effect the elimination of such unlawful discriminatory practices by conciliation~~, the commission shall ~~issue and cause to be served~~ serve upon all parties or their attorneys of record, if any, a complaint containing a notice of hearing. The commission may delegate authority to the director or the director's designee to issue ~~a~~ complaints on behalf of the commission.
- ~~(B) Issuance of complaint in advance. The commission may issue a complaint in any case involving a violation of Chapter 4112. of the Revised Code in advance of any preliminary investigation or conciliation endeavors. When a complaint is so issued, the public hearing shall be held in abeyance pending conciliation.~~
- ~~(C)~~(B) Contents of complaint. In any complaint which it may issue, the commission shall state the alleged unlawful discriminatory practices ~~allegedly engaged in and the dates of their occurrence~~ in a manner sufficient to comply with rule 8(A)(1) of the "Ohio Rules of Civil Procedure." ~~The complaint shall be in writing and signed by at least three commissioners.~~
- ~~(D)~~(C) Contents of notice of hearing. The notice of hearing shall state the date, time and place of hearing, ~~which place shall be within the county where the unlawful discriminatory practice is alleged to have occurred, or in the county where the respondent resides or transacts business.~~ The notice shall inform the respondent that he shall file a written answer to the complaint within twenty-eight days after service of such notice, ~~and shall state the name, address and telephone number of the commission attorney.~~ Upon failure to file an answer, the respondent shall be deemed in default under paragraph (G) of rule 4112-3-06 of the Administrative Code.
- ~~(E) Time of issuance. No complaint shall be valid unless issued within one year after the complainant files the charge of discrimination which results in the issuance of the complaint. In cases of recurring or continuing violations, the statutory one year period begins to run anew with each new discriminatory act or with each new day of continuing violation, as the case may be.~~
- ~~(F)~~(D) Amendment of complaint. Any complaint may be amended ~~by the commission or any hearing examiner~~ at any time prior to issuance of a final order on such complaint, ~~; provided, however, that no order of the commission shall be issued~~

~~unless the respondent has had an opportunity for a hearing on the complaint or amendment thereto on which the order is based.~~ Rule 15(C) of the "Ohio Rules of Civil Procedure" shall govern whether an amendment relates back to the date of the filing of the earlier complaint. Such amended complaint shall be served on all original parties and new parties added or substituted through the amended complaint.

~~(G)~~(E) Joinder of parties. Any person ~~who is an indispensable party to a proceeding before the commission shall~~ maybe joined as a party to a proceeding before the commission in accordance with . ~~The hearing examiner shall determine whether a person is an indispensable party by applying the standards set forth in rules 19 through 21 of the "Ohio Rules of Civil Procedure." Any person charged with unlawful discriminatory practices arising out of the same transaction, occurrence or succession or series of transactions or occurrences may be joined as respondents in the same proceeding before the commission.~~

~~(H)~~(F) Consolidation of complaints. The commission or ~~hearing examiner~~ administrative law judge may, ~~within~~ in their discretion, ~~join one~~ consolidate two or more complaints into a single proceeding at any time prior to public hearing.

Replaces: 4112-3-05

Effective: 10/17/2002

R.C. 119.032 review dates: 8/1/2002 and 08/01/2007

CERTIFIED ELECTRONICALLY

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Certification

10/07/2002 08:50 AM

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Date

Promulgated Under: 119.03  
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Rule Amplifies: 4112.04, 4112.05  
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12/23/1979, 7/12/1989