Illinois Human Rights Commission

Fiscal Year
1994

Annual Report

STATE OF ILLINOIS

Human Rights Commission

James R. Thompson Center
100 W. Randolph Street, Suite 5-100
Chicago, Illinois 60601

Manuel Barbosa
Chairperson
Elgin

Commissioners

Dolly Hallstrom
Evanston

Wallace L. Heil
Taylorville

Sakhawat Hussain, M.D.
Frankfort

Mathilda A. Jakubowski
Downers Grove

Rose Jennings
Chicago

Grace Kaminkowitz
Chicago

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Glencoe

Jane Hayes Rader
Cobden

Randall Raynolds
Springfield

Rev. Rudolph S. Shoultz
Springfield

Isiah Thomas
Calumet City

Vivian D. Stewart Tyler
Chicago

Gail M. Bradshaw
Executive Director

June 13, 1995

Jim Edgar
Governor

To The Honorable Jim Edgar
Governor of the State of Illinois
and the Honorable Members of
The General Assembly

I hereby transmit to you a report of the activities of the Illinois Human Rights Commission for Fiscal Year 1994.

Respectfully submitted,

Manuel Barbosa
Chairperson

Chicago 312-814-6269 • TDD 312-814-4760 • FAX 312-814-6517
Room 404, William G. Stratton Office Building, Springfield, Illinois 62706 • 217-785-4350 • FAX 217-524-4877

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TABLE OF CONTENTS

Commemoration v

Commissioners and Commission Responsibilities 1

Report of the Administrative Law Section 3

Orders and Decisions 8

Report of Significant Decisions of the Commission 11

Report of the Employment Education Project 16

Expenditures 32
- General Revenue Fund
- SLIAG Fund

Organizational Chart for FY94 33

List of Commissioners 34

Schedule of Commission Meetings 35

HRC Procedures and Processes (Flow Charts) 37

Definitions of Terms Commonly Used in HRA Proceedings 41

Tribute to Commissioner Bashir Malik

Commissioner Bashir Malik died suddenly on February 5, 1994. Commissioner Malik was appointed to the Commission on May 1, 1993. During his short tenure with the Commission, it was apparent to all who encountered him that he considered the mission of the Commission to be an important one. He believed that it was an honor to be selected to serve the people of the State of Illinois and was determined to do so to the best of his ability.

What stands out in the minds of all the Commissioners and staff was his genuine concern for not only the Commission and its work, but his concern for the people who sought the assistance of the Commission in resolving their disputes. He always wanted to be sure that the decisions of the Commission were fair to all those involved in each case. Commissioner Malik truly understood what it meant to be a public servant.

We at the Commission knew him only a short time but in that time he demonstrated to us that public service was indeed a high calling. We will truly miss him.

COMMISSIONERS AND COMMISSION RESPONSIBILITIES

Overview—

On December 6, 1979, the then Governor James R. Thompson signed into law the Illinois Human Rights Act, which created the broadest and deepest civil rights coverage for the people of Illinois in the history of the state. The Act created a bifurcated enforcement apparatus: a Department to investigate charges and a Commission to adjudicate complaints of civil rights violation in housing, employment, public accommodations and financial credit. Such charges may be brought to the Department by individuals, groups and/or in certain circumstances, the Director of the Department of Human Rights. Complaints can come to the attention of the Commission via the Department, or the complainant within a prescribed time frame.

The Commission consists of thirteen Commissioners and a staff of nineteen including an Executive Director, a General Counsel, a Chief Administrative Law Judge, Hearings and Motion Judges and support staff. As of July 1, 1993, twelve of the thirteen Commission seats were filled. The Commissioners were:

Manuel Barbosa, Chairperson	-	Elgin
G.A. Finch	-	Chicago
Dolly Hallstrom	-	Evanston
Wallace Heil	-	Taylorville
Mathilda Jakubowski	-	Downers Grove
Grace Kaminkowitz	-	Chicago
Bashir Malik	-	Aurora
Stephen Morrill	-	Chicago
Sylvia Neil	-	Glencoe
Jane Hayes Rader	-	Cobden
Randall Raynolds	-	Springfield
Rev. Rudolph Shoultz	-	Springfield

On September 17, 1993, Vivian Stewart Tyler was appointed to the Commission replacing the late Commissioner Nancy B. Jefferson. Commissioner Bashir Malik died suddenly in February, 1994. Dr. Sakhawat Hussain was appointed on April 17, 1994 to replace Commissioner Malik. Commissioner G.A. Finch resigned from the Commission effective April 30, 1994 and was replaced by Isiah Thomas on June 17, 1994.

There are basically two types of Commission meetings: the Panel Meetings wherein three Commissioners review and rule on Recommended Orders and Decisions, Terms of Settlement and Requests for Review as well as miscellaneous motions from parties whose cases are pending before the Commission; and Full Commission Meetings wherein all the Commissioners consider and rule on requests of review of panel decisions. The Full Commission will only review a panel decision if the case presents a unique issue of law or if two Commission panels have issued conflicting rulings on the same question of law.

In FY94, the General Assembly passed a maintenance appropriation for the Commission. However, an Assistant General Counsel position which had been eliminated during the FY93 layoff due to a reduction in funds, was reinstated due to funding support provided through the Equal Employment Opportunity Commission Special Project Fund which is administered by the Department of Human Rights. Thirty-five percent fewer complaints were filed with the Commission in FY94. However 41% more Commission Orders and Decisions were served on parties and the Commission Administrative Law Judges almost doubled their output of Recommended Orders and Decisions. Despite the above statistics, the waiting period between the parties the time parties are ready for hearing and the actual date of the earliest available hearing date continues to increase. At the end of FY94, the average wait was over eighteen months. This is the result of the increased caseload from previous fiscal years and the one-third reduction in staff in FY93.

REPORT OF THE ADMINISTRATIVE LAW SECTION

The Administrative Law Section of the Illinois Human Rights Commission is charged under Section 8-106 of the Illinois Human Rights Act with the responsibility of conducting public hearings on complaints of discrimination filed by the Department of Human Rights or by individual complainants. The professional staff of 7.6 administrative law judges, all of whom are licensed attorneys, consists of a chief judge, a Chicago motions judge, three Chicago hearings judges, one part-time Chicago judge assisting with motions and two Springfield judges who handle motions and conduct hearings. In accordance with Section 8-106 of the Act, the public hearings are held at a location that is within 100 miles of the place at which the civil rights violation is alleged to have occurred. As a consequence, the administrative law judges traveled in the course of FY'93 to numerous sites throughout the state ranging from Rockford to Carbondale and from Jacksonville to Champaign. Approximately half of those hearings were heard by administrative law judges based in the Commission's Chicago office with most of them conducted in Chicago and the remainder in north central and northwestern Illinois. The balance of the hearings were heard by the administrative law judges based in Springfield with about two-thirds of them convened in Springfield and the others at sites distributed throughout central and southern Illinois.

Because of the complex nature of the relevant law, substantial preparation by the parties, including discovery proceedings and motion practice, is generally necessary. As a consequence, all parties are encouraged to obtain legal representation, and at public hearings both parties are generally represented by legal counsel. Public hearings, which are formal and conducted in accordance with the rules of evidence used in the courts of Illinois, typically last two days. They may, however, take less than half a day at one extreme or several weeks at the other.

After the transcripts of the hearing and the post-hearing briefs have been completed, the administrative law judge prepares a recommended decision, which includes findings of fact, conclusions of law, a proposed disposition, and a discussion of the applicable statutory provisions, court and Commission decisions, and other relevant authority. These recommended decisions then go to the Commission for review; the parties have the opportunity to file written exceptions and to present oral arguments for and against them. The reviewing panel of three Commissioners has the options of adopting reversing, remanding for further hearing or modifying the recommended decision. A party dissatisfied with a panel's decision has the right to seek rehearing before the full Commission.

In addition to holding hearings on complaints, the administrative law judges may be called upon to hold evidentiary hearings and make factual findings to assist the Commissioners in deciding requests for review of the Department of Human Rights' dismissals of charges for lack of substantial evidence or for lack of jurisdiction or for refusal to accept a full-relief settlement. The administrative law judges may also hear disputes regarding the alleged failure to comply with the terms of settlements.

The production of the Administrative Law Section increased in FY'94 although the number of administrative law judges remained the same as the prior year due to continuing budget restrictions. The Administrative Law Section output for FY '94 was about 18% greater than it had been in the previous fiscal year. Moreover, the carryover caseload of the Administrative Law Section was reduced in the course of FY'94. Although the carryover reduction from 2486 to 2408 charges is not a high percentage,

it is the first reduction in the Administrative Law Section caseload since FY '86 when the total caseload went from 461 to 405 and there were 8 administrative law judges who had a total of output of 375. In FY '94 the 7.6 administrative law judges had a total output of 795, which is more than any year in the history of the Commission to date. The next highest output year had been the 707 dispositions in FY'91 when there were 14 administrative law judges.

The intake of new complaints was considerably lower in FY '94 than in the prior year: a drop from 1100 charges to 717 charges. This is a reflection of the drastic reduction in the number of complaints filed by the Department of Human Rights; the intake of charges in Department filed complaints dropped from 788 in FY '93 to 379 in FY '94. The number of complainant-filed complaints, however, that is complaints filed under the provisions of Section 7A-102(G)(2) of the Act, increased. This statutory section applies to all charges filed after September 16, 1985 and permits an aggrieved party to file a complaint with the Commission between the 301st and 330th days inclusive after the filing of a verified charge if the Department has not sooner filed a complaint or ordered that no complaint be issued. During FY '87, the first fiscal year in which such "300 day complaints" were authorized, 97 complaints containing 107 underlying charges were filed with the Commission. In FY '93, the intake of such were 281, making up approximately one-fourth of the total 1100 intake. In FY '94, the intake of such were 319. This meant complainant-filed complaints comprised about 46% of the total number of incoming charges for the Administrative Law Section.

Although there was a slight decrease in the Administrative Law Section's caseload in FY '94, there had been a steady rise in influx of cases throughout the 1980's which became steeper in the early 1990's. During the first year of its existence as part of the Human Rights Commission, for example, the Administrative Law Section received 190 incoming charges, less than one-third of the 608 incoming charges of FY '88 and less than one-fifth of the total of FY '93. In response to the tremendous growth in caseload, the Commission has over the years made significant administrative changes designed to streamline procedures in the Administrative Law Section. In November of 1984, the Commission opened an office in Springfield in order to increase access of downstate parties to the Commission and to provide a base of operation in central Illinois. The number of administrative law judges assigned to this office grew from one in 1984 to two in 1985 to three in 1990 to four in 1991. Unfortunately, due to our reduced budget, the number of Springfield office judges had to be cut back to two in FY '93 and remain at that for FY '94. The administrative law judges assigned to the Springfield office are responsible for public hearings in which the alleged discrimination originated from Peoria southward.

The Commission has also modified its procedures regarding handling motions to accommodate the Administrative Law Section's increased caseload. At the end of FY'85 the Commission's rules and regulations were amended to provide for an oral motion practice for cases in which the site of the alleged discrimination is located in Cook County. An oral motion call greatly expedites the prehearing phase of litigation before the Commission because it often produces immediate responses from the opponent of the motion as well as prompt rulings from the administrative law judge hearing the motion call. The importance and efficiency of the motion call has grown in the course of FY '94 to handle the recently filed cases, all of which are initially assigned to the call. In response to the great number of prehearing cases, the hours of motion call which were expanded in FY '93 remained so in order that more motions may be presented each week.

The following data represents a breakdown of the disposition of cases within the Administrative Law Section during the last several years of its operation under the Human Rights Act. The statistics in Table I and Table II are measured in charges rather than complaints. A charge is the working document filed by the complaining party with the Department. A complaint is a formal pleading, incorporating pending charge claims, filed with the Commission by the Department or directly by the aggrieved party if the Department failed to act on his/her charge within 300 days of the date of the charge's filing. The vast majority of the complaints heard in the Administrative Law Section are based upon a single charge; it is not unusual, however, for a complaint to consolidate more than one charge. This may occur when a single complainant has filed more than one charge or because similar charges filed by several different complainants against the same respondent have been merged into a single complaint.

TABLE I — Overview

	FY'94	**FY'93**	**FY'92**	**FY'91**	**FY'90**
Charges from DHR	379	788	855	536	676
Comp.filed Charges	319	278	345	249	225
Charged remanded by HRC	19	34	12	9	94
Total entering ALS	**717**	**1,100**	**1,212**	**796**	**995**
Carryover from prior FY	2486	2,061	1,514	1,425	922
Total charges	**3203**	**3,161**	**2,726**	**2,221**	**1,917**
Total dispositions	**795**	**675**	**665**	**707**	**492**
Carryover for next FY	2408	2,486	2,061	1,514	1,425

Disposition of charges or output for the Administrative Law Section is done in the forms of i) Final Orders And Decisions (FODs) which are orders dismissing a matter with prejudice based on the complainant's voluntary motion to dismiss; ii) Proposed Settlements which are settlement agreements of the parties sent on to a Commission panel for approval; and iii) Recommended Orders And Decisions (RODs) which are recommended decisions based on substantive motions or after hearings. A ROD may be for the complainant "on the merits", for the respondent "on the merits", for the complainant "not on

the merits", for the respondent "not on the merits", or a split decision partially for the complainant and partially for the respondent. Those dispositions designated split decisions consist of complaints in which neither party prevailed on all aspects of the complaint. In some instances, for example, a complainant may have proven that she was denied a promotion because of her sex, yet failed to prove her claim that her discharge violated the Act. Another example of a mixed decision is a case in which race discrimination and retaliation were charged in the same complaint, and the complainant prevailed as to one claim but not the other. In some instances more than one issue could be resolved for the same party in a single complaint based on a single charge, e.g., one complaint based on one underlying charge alleging both race discrimination and retaliation.

Decisions "not on the merits" are those that were rendered without a hearing on the facts underlying the claim of discrimination. These decisions arise in a variety of situations. A frequent cause is the failure by a party to proceed either to prosecute or to defend. A second frequent cause is the Commission's lack of jurisdiction over the complaint. Such lack of jurisdiction may be found, for example, where a complainant does not fall within a group protected by the Act or where he/she has failed to file a charge within the time limit provided by the statute or where he/she has filed a complainant outside the statutory "30 day window" period. In the last example, the complaint is dismissed without prejudice and the underlying charge remanded to the Department for continued proceedings.

An administrative law judge may close a case by means of a Final Order And Decision (FOD) where charges are withdrawn by the complainant because he/she decided not to pursue his/her claim before the Commission. Such withdrawals may occur for a variety of reasons. The most frequent cause is a decision by the parties to settle without presenting the settlement to the Commission for approval and without making the terms of settlement public. In some instances, the complainant has elected to proceed in federal court rather than to seek a remedy under the Act.

The Administrative Law Section is an effective vehicle for settlement, as well as for resolution by means of hearing. Prehearing conferences have been used extensively at various stages in the processing of complaints. As a consequence, settlements have been reached after the filing of the respondent's answer, after rulings by the administrative law judge on crucial motions, after the completion of discovery, and even during or after preparation of the joint prehearing memorandum. It has also become the practice, whenever a second administrative law judge is available, to have an administrative law judge who will not be hearing the case conduct a voluntary settlement conference with the parties and their attorneys immediately prior to public hearing. These result in settlements just prior to hearing more than one-fourth of the time. In some cases, the parties have settled after the public hearing has begun or even after the hearing judge has issued a Recommended Liability Decision (RLD; formerly called an Interim Recommended Order And Decision).

Sections 8A-104(G) and 8B-104(D) of the Act provide the administrative law judge may recommend an award of reasonable attorneys fees and costs for prevailing complainants. The determination of the amount of these fees and costs generally require the participation of the administrative law judge who heard the case. In order to expedite this process, the Commission rules provide for an interim Recommended Liability Decision to be issued in cases where it is recommended that the complainant prevails. Upon issuance of the RLD, the prevailing complainant is granted time to file a petition for fees and costs and the respondent is granted time to file an opposition to the petition. Then the fees and costs

are determined by the administrative law judge who issues a Recommended Order And Decision, which incorporates by reference the Recommended Liability Decision; this ROD is transmitted from the Administrative Law Section to a Commission panel for review. As a result of this procedure, the Commission can review the merits of a matter and the recommended fees award at the same time and thus adjudicate the case more expeditiously.

The number of charges entering the Administrative Law Section doubled from 606 in FY '88 to 1212 in FY'92. To cope with this, the number of administrative law judges at the Commission also increased. Recently, however, the number of judges has been cut back although the caseload of the Administrative Law Section has continued to grow dramatically. The vast increase in intake in FY'92 and FY'93 over prior years combined with the drastic reduction in administrative law judges, from a high of 15 during part of FY'91 down to 7.6 in FY'93 and FY '94, has resulted in a dramatic increase in the "judge to caseload" ratio.

TABLE II — BREAKDOWN OF ALS CASELOAD BY ALJ COUNT

END OF FY	ALS CASELOAD	# OF ALJS	ALJ/CASES RATIO
'88	689	7	98
'89	922	7	132
'90	1425	10	143
'91	1514	14	108
'92	2061	12	172
'93	2486	7.6	327
'94	2408	7.6	317

It is important to note that the ALS's caseload at the end of FY' 94 was more than triple the caseload at the end of FY'88 while the number of administrative law judges in FY'94 was practically back to the FY'88 level. The vastly increased caseload has necessarily affected the speed at which cases can proceed in the Administrative Law Section. As time passes, the number of cases affected by lack of staff will continue to grow substantially. Despite the continued reduction in staff as well as reduced resources, the productivity of the Administrative Law Section still increased in FY'94; nonetheless, the Administrative Law Section cannot and cannot be expected to make any significant reduction in its large caseload without adding new staff. Despite great efforts, the Administrative Law Section cannot improve upon its amazingly high rate of production without new resources to keep pace with the increased demand for its services. Failure to restore needed Administrative Law Section staff can and will result in and perpetuate a substantial delay in hearing cases and rendering recommended decisions on the merits.

ORDERS AND DECISIONS

Charges which come before the Commission through the Administrative Law Section are disposed of through the issuance of Orders and Decisions. In order to provide a consistent standard of measure, the statistics which follow are based on the number of charges disposed of, even though one complaint may contain several charges. By using charges as the standard of measure, it is possible to make valid comparisons between intake and disposition.

The term "disposition" means that after the issuance of the Order and Decision, the case is no longer pending review by the Commission. Charges which were remanded to the Administrative Law Section are counted as "disposed of" in this report. The reason for this is that the Administrative Law Section statistics show charges remanded by the Commissioners as "new" charges entering the Administrative Law Section. In order to give an accurate picture of the disposition of these "new" charges, it is necessary to count remands as "disposition." Otherwise, a number of charges entering the Administrative Law Section would simply "disappear" without being accounted for in this report. Although this method of reporting gives a reliable picture of the workload of the Commission, it can cause confusion unless one understands that one charge filed at the Department of Human Rights may result in two or more dispositions at the Commission level. The total number of charges pending in front of the Commission comes from three sources: Department of Human Rights complaints, complainant-filed complaints, and charges remanded from the Commission. The statistics which follow show the disposition of all three sources of charges at the Commission level.

The total number of charges disposed of by way of Order and Decision in FY'94 was 329. In addition, 3 complainants asked for dismissal of their complaints after the issuance of the Recommended Order and Decisions in their cases. Thus, a total of 332 charges were disposed of during the fiscal year by the Commissioners. This constitutes a 47% increase over the number of charges disposed of in the previous fiscal year.

Of the 332 charges disposed of, 57 were on the merits. The term "on the merits" means that after consideration of the evidence, a finding was made that there either was or was not discrimination. The 57 charges include cases which were disposed of by summary decision and directed findings after the complainant's case in chief. The figure does not include situations in which a motion for summary decision was granted because there was no response filed. Further, this report does not count Orders and Decisions in favor of the complainant based on the default of the respondent as decisions on the merits. There were 30 charges which were disposed of in favor of the complainant based on the default of the respondent. Thus, there were 87 charges disposed of during the fiscal year in which there was either a finding of no discrimination or a finding in favor of the complainant. This figure is included here because in annual reports prior to FY'93, at least some defaults were considered decisions on the merits.

The 57 charges decided on the merits are analyzed below. Because the "merit" cases lend themselves to such analysis, it might appear that the 275 other decisions are less important. This is not true. A decision based on the 180-day filing period may be longer, more complex, and may affect more people than a decision finding discrimination in a particular case. Although some default cases are easy, other raise complicated questions involving service of the charge and successorship liability. Further, as can be

seen elsewhere in this report, a great deal of the work of the Commission involves cases which reach the Commissioners through requests for review. At the end of this section is a narrative summary of some of the more significant opinions issued by the Commission during the year.

The charts below group the 57 charges decided on the merits in three ways: first, by whether the decision favored the complainant, respondent or both; second, by the source of discrimination; and finally, by whether the Commission affirmed or reversed the Administrative Law Judge's recommended Order.

ORDERS AND DECISIONS

For Complainant	For Respondent	For Both
11	46	0

ORDERS AND DECISIONS BY SOURCE OF DISCRIMINATION

	Number		Percentage %	
	FY'94	FY'93	FY'94	FY'93
Race	25	19	33.8	27.1
Color	0	0	0.0	0.0
Religion	1	0	1.3	0.0
Sex	10	12	13.5	17.1
Sexual Harassment	0	2	0.0	2.9
National Origin	4	3	5.4	4.3
Ancestry	0	2	0.0	2.9
Age	13	10	17.6	14.3
Marital Status	2	2	2.7	2.9
Physical/Mental Handicap	11	14	14.9	20.0
Unfavorable Discharge	0	0	0.0	0.0
Retaliation*	8	6	10.8	8.6
Familial Status	0	0	0.0	0.0
Arrest Record	0	0	0.0	0.0
Citizenship Status	0	0	0.0	0.0
TOTALS	**74Å****	**70Å****	**100.0**	**100.0**

*Although Sexual Harassment and Retaliation are separate violations of the Human Rights Act rather than particular types of "unlawful discrimination," they are listed here because they function much like tradition "bases" such as race or sex.

**The total is greater than the total number of charges on the merits because some charges alleged discrimination on more than one basis.

ORDERS AND DECISIONS

As Related to Recommended Orders and Decisions (RODs)

RODs Affirmed	53
RODs Reversed	3
Affirmed in Part and Reversed in Part	1
TOTAL	**57**

The chart below breaks down the 272 charges disposed of on a basis other than the merits by the subject covered in the Order and Decision. The percentage of cases involving 30-day window problems has dropped almost in half from last year. The percentage of cases dealing with defaults has doubled. The percentage of cases involving the failure of the complainant to prosecute his or her case has remained almost exactly the same. The specific breakdown is as follows:

Non-Merit Order and Decisions by Subject of ROD

Subject of ROD	Number		Percentage %	
	FY'94	FY'93	FY'94	FY'93
Failure to Proceed	150	92	55.2	55.1
30-Day Window Problems	26	30	9.6	18.0
Technical Problems with Complainant Filed Complaints	2	11	0.7	6.6
Defaults	30	9	11.0	5.4
Exempt Respondent or Similar Claims	0	8	0.0	4.8
180-Day Deadline Problems	5	6	1.8	3.6
Release or Other Bars to Prosecution	3	5	1.1	3.0
Failure to Respond to Respondent's Motion	28	0*	10.3	0.0*
Other	28	6	10.3	3.6
TOTALS	**272**	**167**	**100.0**	**100.0**

***In FY'93 this type of Recommended Order and Decision was counted under the subject of the respondent's motion.**

REPORT OF SIGNIFICANT DECISIONS OF THE COMMISSION

What follows is a summary of a number of important cases decided by the Commission during fiscal year '94. In *Zerwekh and Village of Elmhurst*, Charge No. 1993CA1829 (August 13, 1993), a Commission panel was asked to define what constitutes a "municipality" under the Illinois Municipal Code. A provision in that Act mandated that police and fire departments not hire applicants who were 35 years of age or older. 65 ILCS 5/10-2.1-6. The Illinois Human Rights Act allows discrimination on the basis of age with respect to the appointment of fire fighters and police officers if the discrimination is mandated by an applicable state law.[1] 775 ILCS 5/2-104(A)(8). There was, however, an exception in the Municipal Code which allowed someone to be hired as a police officer if that individual had been previously employed as a law enforcement official in a regularly constituted police department of a "municipality." The complainant, Mr. Zerwekh, had worked as a police officer for the Chicago Housing Authority. He argued that because the Chicago Housing Authority is a "municipal corporation," service on its police force put the complainant within the ambit of the exception to the law which prohibited police departments from hiring those who were 35 years old or older. In other words, as a "veteran" police officer, he could be hired despite the fact that he was over the age limit. Because Mr. Zerwekh was over 40, if the municipal code did not require the Respondent Village of Elmhurst to reject his application on the basis of his age, the denial of Zerwekh's application for employment because he was too old would constitute "age" discrimination under the Illinois Human Rights Act.

The panel found that Zerwekh's argument was without merit. The term "municipality" was defined in the Municipal Code. It included things such as a city, a village, or an incorporated town in the state of Illinois. It did not include many forms of municipal corporations such as townships, counties, school districts, etc. 65 ILCS 5/1-1-2. Under these circumstances, the panel found that the Chicago Housing Authority was not a "municipality" within the meaning of the Municipal Code. It followed from that finding that the Village of Elmhurst was required to reject Zerwekh's application by state law. Therefore, despite the fact that Zerwekh had previously been a police officer for the Chicago Housing Authority and despite the fact that Zerwekh's application was rejected because of Zerwekh's age, there was no violation of the Human Rights Act because state law required the age discrimination and the Human Rights Act specifically stated that when an application to be a law enforcement officer is rejected on this basis, there is no violation.

The Commission clarified the procedure for considering full relief settlement offers in *Maddox and St. Paul Federal Bank for Savings*, Charge No. 1985CF2644 (August 20, 1993). The respondent had moved to dismiss because it had offered the complainant $5,000 to settle the case. It was clear that this sum more than covered the monetary damages accrued up to the date of the offer. The Commission panel said, however, that the offer had to include both monetary damages and all attorney fees accrued up to that date in order to constitute "full relief." It was the finding of the panel that a complainant does not have to accept a settlement offer unless it is clear that the offer does constitute full relief. If there is at least a genuine issue of fact on the question of the adequacy of the offer, a motion to dismiss by the respondent based upon the complainant's failure to accept the tendered offer is properly denied. Therefore, a full relief offer must include enough money to compensate the complainant for all attorney

[1]The special authorization for discrimination on the basis of age expired on December 31, 1993.

fees which could possibly be ruled valid if the complainant were to proceed to hearing and to prevail.

The proper standard for evaluating whether a complainant had established a *prima facie* case of age discrimination was explored in *Bain, et al. and Southern Illinois Clinic, Limited*, Charge No. 1988SF0464, et seq. (September 27, 1993). The respondent clinic argued that in a layoff situation one element of a *prima facie* case is to prove that others, not in the same protected category as the complainant, were treated more favorably. The complainants in the case argued that they had proven a *prima facie* case because younger individuals had been retained while they had been laid off. The respondent clinic argued that there could be no age discrimination *prima facie* case because two similarly situated employees who were "in the protected age group" were not dismissed.

The Commission panel noted that under Section 1-103(A) of the Human Rights Act, the term "age" does not include individuals who have not yet reached their 40th birthday. In other words, a person must be at least 40 years old in order to be considered "protected." The panel went on to say, however, that this did not mean that it is proper to prefer someone who is 40 years old over someone who is 60 years old. The two complainants were the oldest employees at the respondent working in the job category in question. Therefore, the fact that the younger individuals who were retained were over the age of 40 would not defeat a *prima facie* case of age discrimination.

A recurring question with significant implications was taken up by the full Commission on rehearing in the case of *Rivera and Group W Cable, Inc.*, Charge No. 1985CF1866 (October 25, 1993). The person who made the decision to fire the complainant in that case had no discriminatory motive for having done so. It appeared clear from the record that he was basing his decision on reports of poor work performance by supervisory personnel. The Administrative Law Judge had also found, however, that the complainant had been subjected to special scrutiny because of her national origin. Thus, the complainant had been written up for things which many, if not all, of the respondent's employees were suspected of doing. Consequently, despite the good faith of the decision-maker, it was clear that the complainant would not have been fired but for her national origin. Under these circumstances, the full Commission found that illegal bias had tainted the reports to the decision-maker, and therefore the decision-maker's ultimate determination to fire the complainant was the result of illegal bias.

In the case of *Fitzpatrick and Caterpillar, Inc.*, Charge No. 1988SF5880 (November 8, 1993), the Commission considered the impact of a collective bargaining agreement on an employer's duty to accommodate a handicap. The complainant had stipulated that the terms of the collective bargaining agreement would have to be violated in order for the respondent to provide her with the requested accommodation, which was a transfer from the third to the first shift. Among other things, the panel held that with respect to an employer such as Caterpillar, the duty to accommodate does not mean that the handicapped individual would be entitled to a shift preference which she would not normally have been given because of her relatively short seniority. Under the circumstances of the case before it, the panel held that the disruption caused to the basic working of the employer's relationship with its union would be "unduly disruptive." Therefore, allowing the complainant a special preference out of the order of seniority was not considered a reasonable accommodation within the meaning of the Commission's rules on handicap discrimination in employment.

In *Stancil and Moo & Oink, Inc.*, Charge No. 1985CF1534, et seq. (November 22, 1993), a Commission panel pointed out that there is a distinction between employer behavior which might appear unusual on the surface and behavior which may be considered a pretext for unlawful discrimination. The complainant in the case had injured his ankle. His doctor allowed him to return to work, but only if he took frequent breaks. The supervisor scheduled the complainant for one ten-minute break each hour. The problem was that the complainant did not want to take the scheduled breaks when his ankle felt better because the break area was so far from his work station that the walk hurt more than standing at his work station and continuing his work. The Administrative Law Judge found that the articulated reason for disciplining the complainant, which was his insistence on working through his break, was "inherently unreasonable." Based on this she found that the articulated reason was merely a pretext for unlawful discrimination.

The Commission panel reversed. It pointed out that the terms of the complainant's release by his doctor included a substantial number of breaks. Further, there was no evidence in the record that anyone at the respondent knew that walking to the break area caused the complainant pain. Finally, the panel pointed out that the failure to follow the doctor's orders could result in substantial liability for the respondent. The panel concluded that although the Administrative Law Judge might have found that disciplining the complainant for continuing to work was "inherently unreasonable," this was not sufficient to find that the articulated reason for the decision was "unworthy of belief" and therefore not the true reason for the discipline.

An unusual discovery question was the subject matter of a Commission Order in *In the matter of: Subpoena No. 2927*, Charge No. 1993SF0008 (December 14, 1993). In that case a department of the State of Illinois had conducted an internal investigation into an allegation of sexual harassment allegedly perpetrated by an employee of another state department. The complainant in the case had served a subpoena on the investigating department in an effort to secure a copy of the report. A motion to quash was filed on the ground that witnesses had been promised anonymity in return for their frank discussions of the allegations of sexual harassment. These statements were allegedly contained within the internal report. The Commission panel pointed out, however, that it was up to the General Assembly to create evidentiary privileges. The panel went on to say that a department of state government could not create the evidentiary privilege by promising anonymity. Accordingly, the motion to quash was denied.

In *Diffay and Ameritech Corp., et al.*, Charge No. 1987CF0131 (February 4, 1994), an individual was denied continuous service credit by the respondent employer because he was performing government service in lieu of combat duty during the Viet Nam war. The reason why he was not assigned to combat was because of his religious opposition to war. It was undisputed that had the individual been a veteran, he would have been credited with service by the employer for the time he spent in the military. When the individual died, his spouse, the complainant, attempted to obtain a surviving spouse annuity. Her application was denied because the individual had not accumulated the requisite number of years of employment with the employer. The complainant alleged that this was religious discrimination.

A Commission panel considering the matter found that the charge had been filed too late. The panel said that the spouse knew that her husband had not accumulated the required number of years of service some 413 days before the date that she filed her charge of discrimination. Accordingly, the Commission found that the charge in question had not been timely filed within the 180-day limit provid-

ed for under the Illinois Human Rights Act.

The effect of the inter-relationship between sister subsidiaries of a parent corporation was explored by the Commission in *Zappala and Hartmarx Specialty Stores, Inc.*, Charge No. 1989CA1110 (February 28, 1994). It was uncontested that on the same day that the complainant was laid off from his position as a buyer, a much younger individual in substantially the same job was also laid off. It was the respondent's contention that this prevented the complainant from establishing a *prima facie* case of age discrimination. The problem was that the younger individual was immediately hired by a sister subsidiary of the respondent corporation. The Commission panel found that although there was not sufficient evidence to treat all of the various corporations owned by the parent as a single enterprise, it was clear that officials of the respondent had influence over the decisions of officials at the sister subsidiaries. In fact, the chief executive officer of the respondent was, at the same time, the chief executive officer of the parent corporation. The panel concluded that there was sufficient evidence in the record to justify a finding that the respondent corporation had used its influence to retain the younger individual somewhere in the subsidiary corporate structure. It further found that the reason why the younger individual was retained was his age.

In the case of *Wong and Kraft, Inc.*, Charge No. 1987CF0180 (April 29, 1994), the question of dismissal for failure to accept full relief offers was raised again. This time the Commission had to consider the impact of an allegation of emotional distress damages. Early on in the case, there had been a ruling that the complainant could not proceed on a theory that he had been constructively discharged by the respondent. The only viable cause of action the complainant had was his allegation that he had been demoted on the basis of unlawful discrimination. The problem was that after the alleged demotion the complainant received the same amount of wages. In other words, the complainant suffered no out-of-pocket loss by reason of the only viable allegation of discrimination left in his complaint.

The respondent offered the complainant $5,000 to settle the case. As stated above, the Commission had said in *Maddox and St. Paul Federal Bank for Savings* that if there is a genuine issue of fact as to the adequacy of the offer, the Administrative Law Judge should not dismiss the case. The complainant appeared to argue that his allegation that he had suffered emotional distress damages should, therefore, defeat the motion to dismiss on the basis that a full relief settlement had been offered and refused. Although it was clear that the $5,000 covered out-of-pocket damages, his emotional distress damages could have been larger. The Commission panel found that emotional distress damages are not treated in the same way as out-of-pocket damages. According to various precedents, the Commission said that it would be presumed that the recovery of all pecuniary losses such as backpay would fully compensate an aggrieved party for his or her losses. It went on to say that non-pecuniary losses would be compensated only if the complainant had made it "absolutely clear" that the reimbursement for out-of-pocket losses was not adequate.

It was the ruling of the Commission panel that Mr. Wong had not even begun to meet that burden. Given that the complainant had suffered no out-of-pocket losses, it was the finding of the Commission panel that the failure of Mr. Wong to accept the $5,000 settlement was a failure to accept a "full relief" offer. The Commission gave Mr. Wong one final chance to accept the offer before his complaint would be dismissed.

The interaction between health department rules and the Human Rights Act was touched on in the case of *Davis and Raintree Healthcare Center, Inc.*, Charge No. 1988CN2190 (April 15, 1994). The complainant had worked as a cook for a nursing home. The Commission found that the complainant had been constructively discharged by the respondent because of his HIV positive status. One of the defenses raised by the respondent was rules regarding communicable diseases promulgated by the Illinois Department of Public Health. The Commission panel said that the question whether the rules actually prohibited the respondent nursing home from employing the complainant as a cook was a question of law which must be resolved by the Commission. It was the ultimate finding of the Commission that the rules in question did not prohibit the respondent from employing the complainant. In light of that finding, and in light of the full medical release given by the complainant to the respondent, the Commission found that the respondent was guilty of handicap discrimination.

ILLINOIS HUMAN RIGHTS COMMISSION
EMPLOYMENT EDUCATION PROJECT
END OF PROJECT REPORT
State Fiscal Year 1994

In FFY 1990 the amendment to the State of Illinois application to the Department of Health and Human Services (DHHS) for State Legalization Impact Assistance Grant funds (SLIAG) designated the Illinois Human Rights Commission (IHRC) as the administering agency for the anti-discrimination education and outreach project. The IHRC subsequently entered into an interagency contract with the Illinois Department of Public Aid (IDPA) which is the designated Single Point of Contact (SPOC) for all State of Illinois SLIAG funded programs. Upon final approval of the Illinois General Assembly in July of 1991, IHRC initiated the Employment Education Project (EEP).

The IHRC hired the Project Coordinator on September 16, 1991 who initiated the implementation of the EEP. Two Employer Education Specialists and were hired in December of 1991 and the Office Associate was hired in June of 1992. EEP staff were under the direct supervision of the IHRC Executive Director, and a panel of 5 Commissioners.

The EEP was designed as a dual education program. Under the work plan 40% of appropriated funds were designated for community education and outreach, while the remaining 60% was designated for the education of employers in the State of Illinois which would be conducted by EEP staff.

The process of reviewing proposals for community based subcontractors began in October of 1991 and was finalized with the signing of contracts between the IHRC and 9 statewide subcontractors. The contracts were signed for a six month period from January 1, 1992 to June 30, 1992. The EEP budget for SFY 1992 totalled $325,800.00 of which $120,000 was appropriated for subcontractors.

Upon conclusion of the EEP in SFY 1992, IHRC entered into negotiations with IDPA to continue EEP activities in SFY 1993. In August of 1992 an interagency contract was entered into between IDPA and IHRC. At that time the EEP formally initiated the process of reviewing proposals for community based subcontractors. The review process was finalized with the signing of contracts between IHRC and 12 statewide subcontractors in September of 1992. The EEP budget for SFY 1993 totalled $424,400 of which $195,100 was appropriated for subcontractors.

The subcontractor portion of the EEP was phased out between July 1, 1993 and September 30, 1994.

I. SUBCONTRACTORS AND LIMITED CONTRACTOR ACTIVITIES

In SFY 1992 the Illinois Human Rights Commission (IHRC) contracted with 9 subcontractors and 2 limited contractors to provide education and outreach to immigrants, refugees and asylees within the State of Illinois. $120,000 was awarded to subcontractors and $6,000 was set aside

from the Employment Education Project (EEP) contractual services line item for limited contracts. Because of the delayed start-up of the Employment Education Project, subcontracts were awarded for a six month period from January 1, 1992 to June 30, 1992.

Subcontractors

WORLD RELIEF	$13,000
ILLINOIS CONFERENCE OF CHURCHES	$13,000
SER JOBS FOR PROGRESS	$14,000
*EL CENTRO PAN AMERICANO	$33,000
*(LA VOZ LATINA)	
*(EL CENTRO DE INFORMACION Y PROGRESO)	
CASA AZTLAN	$13,180
POLISH INSTITUTE OF SCIENCE AND CULTURE (P.U.N.O.)	$17,000
CHICAGO COMMONS	$ 1,880
CENTRO ROMERO	$ 2,940
AMERICAN REFUGEE COMMITTEE	$12,000

* Three agencies submitted a joint proposal for $33,000 with El Centro Pan Americano as the lead agency.

Limited Contractors

SPANISH CENTER	$3,000
SERVICIOS ESTUDIANTILES PROFESIONALES PARA ADULTOS (S.E.P.P.A.)	$3,000

Financial

Budgetary monitoring of subcontractors was implemented through the review of monthly expenditure reports and cash summaries . All expenses were compared to the monthly activity reports in order to verify reasonable expenditures.

Program Implementation

Subcontractors were invited to a meeting with the IHRC on January 10, 1992 where administrative and reporting guidelines were presented.

Subcontractors received a 2 day training on the anti-discrimination provisions of the Immigration Reform and Control Act of 1986 (IRCA), as well as, courses of redress available to victims of discrimination on January 27 & 28, 1992. The training was organized by the IHRC

EEP and was co-sponsored by the Chicago Coalition on Refugee and Immigrant Protection (CCIRP) the Office of Special Counsel (OSC) grantee in the State of Illinois.

During the remainder of the project subcontractors met with IHRC staff on a monthly basis to discuss progress, problems and systemic implementation of the statewide project. The dates of the subcontractor meetings were:

January 10, 1992
February 5, 1992
March 11, 1992
April 16, 1992
May 20, 1992

Monitoring of subcontractors by IHRC staff was on-going through direct telephone contact as well as through formal on-site monitoring visits. The dates of subcontractor monitoring visits were:

May 22, 1992	El Centro Pan Americano
June 2, 1992	Illinois Conference of Churches
June 3, 1992	La Voz Latina
June 4, 1992	SER Jobs For Progress
June 5, 1992	Spanish Center
June 8, 1992	American Refugee Committee
June 9, 1992	Casa Aztlan
June 10, 1992	World Relief
June 10, 1992	Polish Institute of Science & Culture (PUNO)
June 11, 1992	Centro Romero
June 11, 1992	Chicago Commons
June 12, 1992	S.E.P.P.A.
June 16, 1992	El Centro de Informacion y Progreso

Subcontractor activities were also monitored through activity reports which were submitted on a monthly basis.

In SFY 1993 the IHRC contracted with 12 subcontractors to provide education and outreach to immigrants, refugees and asylees within the State of Illinois. A total of $194,000 was awarded to community based subcontractors.

Subcontractors

American Refugee Committee	$19,000
Casa Aztlan	$14,000
Centro de Informacion y Progreso	$11,000

El Centro Pan Americano	$13,000
Centro Romero	$14,000
Interchurch Refugee and Immigration Ministries	$27,000
La Voz Latina	$16,000
Polish American Congress/Polish American Foundation	$13,000
Servicios Estudiantiles Profesionales Para Adultos	$12,000
SER Jobs for Progress	$22,000
The Spanish Center	$15,000
World Relief	$18,000

Financial

Budgetary monitoring of subcontractors was implemented through the review of monthly expenditure reports and cash summaries. All expenses were compared to the monthly activity reports in order to verify reasonable expenditures. IHRC also performed on-site monitoring of all subcontractors in January of 1993 and in June and July of 1993.

Program Implementation

Subcontractors received a one day training on the anti-discrimination provisions of the Immigration Reform and Control Act of 1986 (IRCA), as well as, courses of redress available to victims of discrimination on November 12, 1992. New subcontractors and new staff of SFY 1992 subcontractors received individual training prior to the general training in November. The EEP also organized a financial training for subcontractors in January of 1992. Financial staff who could not attend the general training were invited to schedule individual meetings to receive technical assistance. On May 20 of 1993 the IHRC acted as co-sponsor along with CCIRP of a midwest regional training conducted by the National Immigration Law Center.

Monitoring of subcontractors by IHRC staff was on-going through direct telephone contact as well as through formal on-site monitoring visits. The dates of subcontractor monitoring visits were:

1/8/93	World Relief
1/8/93	Centro Romero
1/11/93	Casa Aztlan
1/12/93	Interchurch Refugee and Immigration Ministries
1/14/93	Ser Jobs for Progress
1/20/93	S.E.P.P.A.
1/20/93	Polish American Congress/PAF
1/21/93	El Centro Pan American
1/21/93	Spanish Center
1/22/93	American Refugee Committee
1/26/93	Centro de Informacion y Progreso
1/29/93	La Voz Latina

6/22/93	Polish American Congress/PAF
6/28/93	S.E.P.P.A.
7/2/93	Centro Romero
7/6/93	Ser Jobs for Progress
7/7/93	Public Health and Education Association-Midwest (formerly ARC)
7/8/93	La Voz Latina
7/13/93	Interchurch Refugee and Immigration Ministries
7/14/93	Casa Aztlan
7/15/93	World Relief
7/19/93	Spanish Center
7/22/93	Centro de Informacion y Progreso
7/28/93	El Centro Pan Americano

II. EMPLOYER EDUCATION PROJECT ACTIVITIES

The second portion of the project consisted of outreach to and education of Illinois employers on the correct procedures for completion of the federal I-9 form and the anti-discrimination provisions of the Immigration Reform and Control Act of 1986. The initial amendment to the Illinois application for SLIAG funds contained a workplan which was the basis for employer activities.

During SFY 1992, the project concentrated on staff training, subcontractor training and implementation of outreach strategies.

Staff Training

Employment Education Project staff consisted of:

Project Coordinator - Therese Samulski-Korzeniowski
Employer Education Specialist - Ceilmar Stahr Diaz
Employer Education Specialist - Christine Eddy
Office Associate - Elizabeth Rios
During the course of the project there were two staff changes:

Employer Education Specialist - Eva Betka
Employer Education Specialist - Andjelko Galic

Staff were trained in the anti-discrimination procedures of IRCA covering citizenship status and national origin. This included intensive training on the Immigration Reform and Control Act of 1986, Title VII of the Civil Rights Act and the Illinois Human Rights Act, as well as, familiarization with federal and state regulations such as SLIAG and the Illinois Purchasing Act. Training was also provided to familiarize staff with federal, state and local agencies that have investigatory jurisdiction over infractions of these laws. These include the Office of the Special

Counsel (OSC), Immigration and Naturalization Service (INS), Department of Labor (DOL), Equal Employment Opportunity Commission (EEOC), Department of Human Rights IDHR) and the Chicago Commission on Human Relations (CCHR).

Following in-house training, staff attended formal training sponsored by the Office of the Special Counsel and the National Immigration Law Center (NILC).

The Employer Education Specialists who were hired in December, 1992 received in-house training on sub-contracts and sub-contractual reporting, as well as subcontractual monitoring procedures.

Employer Education Specialists were also trained in designing employer presentations, as well as, public speaking. Staff initially audited the Project Coordinator's presentations, after which each staff member was assigned individual presentations that were supervised by the coordinator:

Presentation training and progress monitoring was on-going throughout the Project. The Project Coordinator systematically observed presentations and employer visits.

Implementation of Workplan

During SFY 1992 staff concentrated on outreach to state agencies, professional associations, media and individual employers. Unfortunately, the project initially met with resistance from the established employer network, which felt that the new IRCA employer sanctions and anti-discrimination provisions were an additional and unwanted burden on employers. Many employers and associations were under the mistaken impression that the law only applied to businesses that traditionally employed immigrants and that it did not pertain to government agencies and companies whose workforce consisted mainly of U.S. citizens. This misunderstanding of the law persisted through the entire project. Because of the temporary nature of the EEP it was decided that it would be best to concentrate on educating individual employers.

Workplan

1) The Commission will conduct seminars throughout the state with small businesses.

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS (DCCA)

The EEP attempted to organize seminars in conjunction with the Small Business Development Association of the Illinois Department of Commerce and Community Affairs (DCCA). DCCA funds 52 small business development centers in Illinois.

In SFY'92 and SFY'93, DCCA was unresponsive to the EEP. In SFY'94 EEP staff continued its attempts to draft the cooperation of the DCCA Small Business Development Association.

The EEP sent correspondence to the Director of DCCA regarding the EEP.

The EEP placed follow-up phone calls to DCCA.

During the fourth quarter of SFY 1993, the EEP was successful in establishing contact with DCCA and the SBDA.

Contact was established through a personal meeting with DCCA Director Jan Grayson and Terry Gaffiga of DCCA Business Development Information Systems Office Manager. DCCA invited the EEP to participate in two conferences as exhibitors: 5/17-19, DCCA\NASA Conference in Rockford and 6/23-24 DCCA/SBDA Conference in Springfield, IL.

Each small business development center also received an information packet from the EEP. Additionally DCCA posted information about the EEP on the DCCA/SBDC electronic bulletin board which reaches the Illinois Small Business Development Centers; Corridors of Opportunity Offices; and Regional Assistance Management Offices.

Although the EEP was minimally successful, DCCA never fully cooperated with EEP and never carried through on plans to schedule EEP staff as speakers at each of the 52 Small Business Development Centers.

EMPLOYER ASSOCIATIONS

The EEP in all its outreach efforts which included phone calls, visits, presentations and distribution of printed materials always offered itself as a resource to all employer associations as well as professional associations. Staff emphasized their role as gratis speakers and their ability to act as a confidential resource for answers from INS and OSC. One of the most successful strategies in reaching out to employer associations was EEP participation as exhibitors at professional conferences. Staff kept abreast of conference schedules through various means, from perusing business publications and mainstream media to word of mouth from personal contacts.

The EEP was successful in soliciting the interest of several employer associations. These associations continued to cooperate with the EEP inviting staff to speak at meetings, calling the hotline with inquiries and directing members to the EEP.

These included:

- Kane County Bar Association
- Hotel/Motel Association
- Hotel/Restaurant Association
- National Association of Temporary Services
- Chicago Society

- Illinois Women in Government
- Illinois Chamber of Commerce
- Illinois Quad City Chamber of Commerce
- Illinois Federation of Business and Professional Women
- Quad City League of Native Americans
- Illinois Chapter of International Association of Personnel in Employment Security
- Job Employment Service Committee

The EEP also sent correspondence and press packets to 11 ethnic Chicago Chambers of Commerce:

- U.S. Poland Chamber of Commerce
- Chinese American Service League
- Cuban American Chamber of Commerce
- Italian American Chamber of Commerce
- Japanese Chamber of Commerce
- Latin American Chamber of Commerce
- Little Village Chamber of Commerce
- Philippine Chamber of Commerce
- Puerto Rican Employer/Employee Services
- South Chicago Chamber of Commerce
- Devon North Town Business & Professional Association

The only response that the EEP had from the ethnic chambers of commerce was an article published by the Philippine Chamber of Commerce in 1993 and a presentation conducted at the Puerto Rican Employer/Employee Association during 1993.

2) **The Commission will offer a statewide telephone information service via an 800 number. This will be available to all employers during working hours and will be operated by project staff.**

The statewide hotline number 1-800-382-4845 was instituted in SFY 1992. EEP schedules were coordinated so that at least one of the EEP specialists was available to answer inquiries during regular office hours. Employers were also able to leave a message on the hotline answering machine after hours. Phone calls were returned the next day. The EEP had multi-lingual capabilities and over the life of the project assisted callers in Spanish, Polish, Croatian and English.

The EEP received a variety of phone inquiries over the hotline. These included employer and employee inquiries. Employer inquiries were most often project specific, however some questions needed to be referred to other agencies such as IDES and IDOL. Employee inquiries were most often related to discrimination, but again many of the callers were referred to other agencies such as IDES for matters of unemployment compensation, DOL for matters relating to minimum wage, benefits and overtime, INS for matters relating to application for permanent residency status and IDHR for matters relating to discrimination other than citizenship status which

was referred to OSC.

The Illinois hotline, as well as, the OSC hotline numbers were printed on stickers that were attached to all literature. The two hotline numbers were also been printed on rolodex cards, magnets and fliers which were routinely distributed to individual employers and participants at seminars and conferences.

Approximately 800 calls were received on the hotline that specifically pertained to the project (non-related calls were not counted).

3) **Project staff will provide direct consultations for employers who respond to various outreach efforts or who contact the agency via our 800 number. Such consultations can be on-site at the employer's business, in a "neutral" setting, or at the Commission's offices.**

Individual employer visits constituted the largest portion of the Employment Education Project. Throughout the project EEP staff used several strategies to schedule employer consultations which proved successful. These included referrals from sub-contractors, referrals from CCIRP, referrals from OSC, cold calls, follow-up phone calls and correspondence to employer hotline inquiries, cold-calls and walk-ins.

Employers who called the hotline received immediate answers to their questions. Staff also informed them of the availability of gratis on-site consultations to further explain the I-9 verification process. An attempt was always made during the phone call to schedule a consultation . Employers were often apprehensive and did not wish to give their name or phone number. Because of the confidential nature of the hotline, employers were not required to give any information about themselves.

In SFY '93, the EEP experienced an increase in calls received on the hotline. Many employers used this service for follow-up questions after a consultation. Large employers distributed the hotline number to their branches and affiliates and sometimes to fellow employers.

EEP staff also used the Illinois Business Directories as a resource to conduct cold-calls to employers in Illinois. On the average staff made 100-200 cold-calls per month to solicit interest in individual consultations. Cold-calls were targeted to industries that were traditional sources of immigrant employment. These included, but were not limited to, restaurants, hospitals, nursing homes, landscaping and maintenance companies. Because the project covered the entire State of Illinois, staff targeted metropolitan areas throughout Illinois. Not all cold-calls resulted in employer consultations.

Because the project did not have enforcement authority, employers were not mandated to take advantage of EEP services. The exception to this rule were referrals from the Office of Special Counsel. OSC contacted IHRC to request cooperation in discrimination cases from Illinois. As

part of the settlement process with employers who had been investigated and found to engage in discriminatory practices, OSC, at its discretion, could mandate that an employer receive training from the Employer Education Project of the Illinois Human Rights Commission. There was one such presentation conducted by the EEP during the life of the project.

Walk-ins were also a strategy employed by the EEP. This strategy was used when staff had not received a favorable response to cold calling in a specific area. After scheduled employer visits, staff would visit other businesses and distribute literature and attempt to schedule future visits.

Employer consultations/visits were divided into 2 categories:

1. Group presentations which consisted of visits to an employer where 5 or more human resources staff were present, or a presentation to a professional organization.

2. Employer consultations/visits which consisted of a presentation to an employer with 1-4 people present.

TOTAL number of group presentations: 110

TOTAL number of employer visits/consultations: 500

In SFY '93, the EEP initiated a new strategy to provide education outreach to employers through in-house seminars for employers. Seminars were conducted at the State of Illinois Center. Personalized invitations were mailed to targeted employers within the downtown area. Employers were given a choice between an afternoon seminar and a morning seminar. The time and cost efficiency of this strategy was reviewed and it was decided that this strategy would not be continued during the rest of the project.

In SFY '93 the EEP initiated the strategy of contacting regional offices of companies to receive corporate support in scheduling employer visits. The EEP was successful in developing cooperative relationships with employers and associations which directed their branches and affiliates to the project, such as:

- Kane County Bar Association
- Marriott Hotels
- Ruby Tuesday Restaurants
- McDonald's Restaurants
- Jewel Food Stores
- Tribune Properties
- Jumer Hotels
- National Assn. of Temporary Services
- Southern Illinois University
- Northern Illinois University

- IDES/JSEC
- Hyatt Hotels
- Management Association of Illinois
- Wessels and Pautsch Law Firm
- Chicago Society
- United Airlines
- Kelley Temporary Services
- Illinois Business and Professional Women
- U.S. Small Business Administration
- Tribune Companies
- Chicago Bulls
- U.S. Department of Health and Human Services (Chicago Office)
- Rotary Club of Waukegan
- Wickes Furniture
- Illinois Masonic Hospital
- Whitehall Nursing Homes
- Lettuce Entertain You restaurants

4) **Staff will be a resource for major employer associations which regularly conduct employment seminars. Such seminars often reach medium-sized and large employers.**

After the initial implementation of the project when staff contended with resistance from many of the established employer association, the project was successful in creating its own network of responsive organizations and larger companies. This was possible thanks to the positive response from individual employers who were requested to support the efforts of the project within associations that they were affiliated with.

During the second half of SFY 1993 and SFY 1994, project staff received an increasing number of phone inquiries from employers who were referred by other employers or by their respective professional associations. Staff also established a cooperative relationship with several associations who invited project speakers to in-house seminars and workshops.

5) **Staff will conduct a public information campaign throughout the two year program aimed at reducing confusion-based discrimination. The project will make extensive use of statewide newsletters such as those produced by the Illinois Department of Employment Security and DCCA. They will also provide articles for newsletters published by trade associations in targeted industries such as food service, hospitals, hotel/motel, etc. This campaign will involve adapting and using public service announcements and videotapes produced by OSC and other state SLIAG anti-discrimination programs. Free media events, such as talk shows, question and answer call-in shows, and other programs will be used. In the Chicago area, meetings will be held with editorial boards of major newspapers, and articles will be offered to weekly and specialty publications. Press releases will be issued whenever seminars are scheduled.**

The EEP media outreach activities met with resistance throughout the life of the project from the mainstream media. Unfortunately, the message of the project "comply with the law and don't discriminate" was not an attention grabbing message. There was one period over the life of the project when the Project Coordinator was successful in having a letter to the editor printed in the Chicago Tribune. That was during the "Zoe Baird" controversy, better known as "Nannygate."

Staff was more successful with the ethnic media, which routinely invited speakers for call in radio talk shows.

There were several strategies which the project attempted to get media coverage:

a) The EEP sent press packets to governmental and trade newsletters:

- Illinois Chamber of Commerce
- DCCA
- The Chronicle
- Restaurant Industry News
- Chicago Enterprise
- LULAC News
- IWIG newsletter
- IFBPW News
- IDES newsletter

b) Press packets were mailed to:
- The Chronicle
- LULAC News
- IWIG newsletter
- IFBPW Illinois Bulletin
- Minority Entrepreneur
- The Lincoln Courier
- Time-Out
- Chicago Reporter
- Illinois Times
- IDES newsletter
- Chicago Enterprise Quarterly Issue
- Crystal Lake BPW Newsletter
- Northwest Herald
- Chicago Tribune (letter to the editor)
- Press release via Illinois State wide wire fax (re: "Nannygate")
- 65 Asian print and broadcast media outlets. Packets were forwarded with cover letter from Christine Takada, Governor's Assistant for Asian Affairs
- National World Journal
- IL. State Chamber of Commerce Newsletter - Executive Report
- Illinois Human Rights Commission "Docket"

c) The EEP negotiated with electronic media to air PSA's, both in Spanish and English.

- Channel 44
- Channel 26
- WGN Television

The EEP was able to solicit the cooperation of one of the network television stations that copied the master PSA vhs tapes gratis. The new Chicago based cable news network was contacted during the second quarter of SFY'93 and had given initial approval, but final approval was not forthcoming. The new ethnic Channel 23 had also been contacted, but had not responded. Because of the questionable circumstances surrounding the Channel 44 FCC license, EEP suspended contact.

The EEP distributed PSA's to the following stations:

- Channel 26 (Spanish)
- Channel 9 - nationwide cable outlet (English)
- Channel 5 - (English)
- Channel 26 aired some PSA.

d) The EEP continued to make staff available for print and electronic media interviews.

During the Zoe Baird "Nannygate" controversy the EEP made telephone contact and distributed materials to the major local and network news programs, CBS, NBC, ABC. The programs did not respond to EEP information.

e) The EEP continued to act as a resource for sub-contractors who schedule radio interviews in English, Spanish or Polish.

f) The EEP sent press packets to editorial boards of major Chicago area newspapers:

- Chicago Sun-Times
- Chicago Tribune
- Southtown Economist
- Chicago Defender
- La Raza

h) The EEP issued press releases through the City News Bureau wire which had approximately 75 print and electronic media subscribers statewide.

i) The EEP also utilized a promotional trial of America On-Line (electronic bulletin board). Through this service project information was forwarded to:

- Chicago Tribune Small Business Information Network
- Chicagoland Business Announcement Bulletin Board

h) The EEP distributed literature and made presentations at 30 conferences, which included:

- State and Local Coalition on Immigration Policy
- IL. State Fair in Springfield
- IL. State Fair in DuQuoin
- CCIRP Annual Conference
- VIVA Chicago
- IWIG Chicago
- Hispanic Alliance for Career Enrichment
- IL. Association of Hispanic State Employees
- IWIG Springfield
- IFBPW Springfield
- IL. Human Rights Conference
- League of United Latin American Citizens
- DCCA/NASA Rockford
- Humboldt Park Puerto Rican Festival
- DCCA/Small Business Development Assn. Springfield
- International Personnel Management Association
- Taste of Polonia
- National Institute for Employment Equity
- Illinois Management Association
- Illinois Affirmative Action Officers Association

6) **Staff will adapt OSC provided materials where possible and create new publications where necessary. All publications will contain the OSC's 800 number and address and will be sent to the OSC for approval prior to printing and distribution. In all media contacts the employer community will be urged to seek further information from the Commission's project staff and from the OSC in Washington.**

The EEP used approved printed materials produce by OSC, EEOC, INS and NILC, such as the OSC statement on citizenship discrimination, the EEOC on national origin discrimination, NILC brochures "Unmask Discrimination."

The EEP published an Illinois specific community brochure in English and Spanish.

The EEP developed and received approval from OSC for an employer flyer that was used for distribution at fairs and conferences.

The EEP produced and distributed rolodex cards and magnets which advertise the hotline num-

bers to the EEP and OSC.

7) **The project will also provide outreach and education to labor unions and units of state and local government. Governmental units constitute a major source of employment in Illinois and may suffer from some of the same confusion as private, small employers. Labor unions that have foreign-born constituencies often serve as consultants to their members on a variety of matters, including IRCA concerns. Through seminars done in conjunction with the state AFL-CIO, project staff should be able to help inform union leaders.**

The EEP also encountered opposition from state agencies and labor unions, however, a presentation was conducted for a class of union representatives sponsored by the Chicago Federation of Labor.

The Illinois AFL-CIO was contacted and initially agreed to send a mailing to its member unions throughout the state. Materials were provided to both the AFL-CIO and the Chicago Federation of Labor for distribution to membership. Press packets and follow-up correspondence were mailed to:

- AFSCME
- SEIU
- Teamsters
- ISEA
- ILGWA
- IFPE
- IBEW

Over the three year life of the Employer Education Project (EEP), the program slowly earned the trust and respect of the employer and ethnic communities in Illinois. Thanks to the professionalism of the staff, who worked as public relations/marketing specialists and consultants, there had been a marked increase in employer interest. Via the project hotline (1-800-382-4845) staff received an ever increasing number of invitations for confidential employer consultations as well as group presentations toward the end of the project. Satisfied employers sent thank you letters expressing appreciation for a free government service that provided information and education with hopes that further funding would allow the extension of this invaluable program.

Some of the most common problems that staff encountered in the business community were:

- No knowledge of I-9 regulations or anti-discrimination provisions.
- No knowledge of the revised I-9 (1991) or the new Employer Handbook.
- Completing I-9's only for immigrants and not for all new employees.
- Demanding immigration documents from foreign sounding or foreign looking employees.

- Completing I-9's only for immigrants and not for all new employees.
- Demanding immigration documents from foreign sounding or foreign looking employees.
- Using the I-9 as part of the application and interview process.
- Making photocopies of immigrant documents only.
- Thinking that I-9 regulations only apply to large companies and not small businesses.

Unfortunately, there are still a great many employers in Illinois who are not aware of federal Employment Eligibility Verification (I-9) compliance, or are in violation of both compliance and anti-discrimination regulations. As a result, these employers are unnecessarily opening themselves up to fines of up to $10,000 per violation.

At a time when it is vital to help and preserve businesses, especially small businesses - the Employer Education Project (EEP) did just that. The project provided a very needed service to small businesses that cannot afford in-house legal departments or extensive human resource departments, but must nonetheless comply with the law, as well as, large companies that often do not take the time to study the regulations properly. It was a public relations coup on the part of the project which had succeeded in giving state government a human face.

Although, the Employment Education Project was not able to reach every employer, it was successful in helping thousands of Illinois employers through all of its outreach efforts. The final activity of the project was a mass mailing to 2500 Illinois employers announcing the termination of the project and providing them with other resources for the future.

EXPENDITURES
GENERAL REVENUE FUND

STATE FISCAL YEAR – July 1 through June 30

Line Item	FY94	FY93	FY92	FY91
Personal Services	$613.5	$617.7	$ 840.7	$ 824.4
Pension Pick-Up	23.8	23.8	14.9	*
Retirement	24.6	24.6	34.7	37.5
Social Security	45.8	46.0	61.8	60.7
Contractual Services	36.6	36.7	56.5	63.7
Court Reporting	102.0	114.8	99.3	113.3
Travel	25.7	22.6	22.3	24.0
Commodities	11.8	5.8	11.9	15.9
Printing	2.2	0.3	1.3	2.9
Equipment	7.5	10.7	17.7	27.9
Telecom. Srvcs.	15.0	7.2	17.6	18.1
TOTALS	**$908.5**	**$910.2**	**$1,178.7**	**$1,188.4**

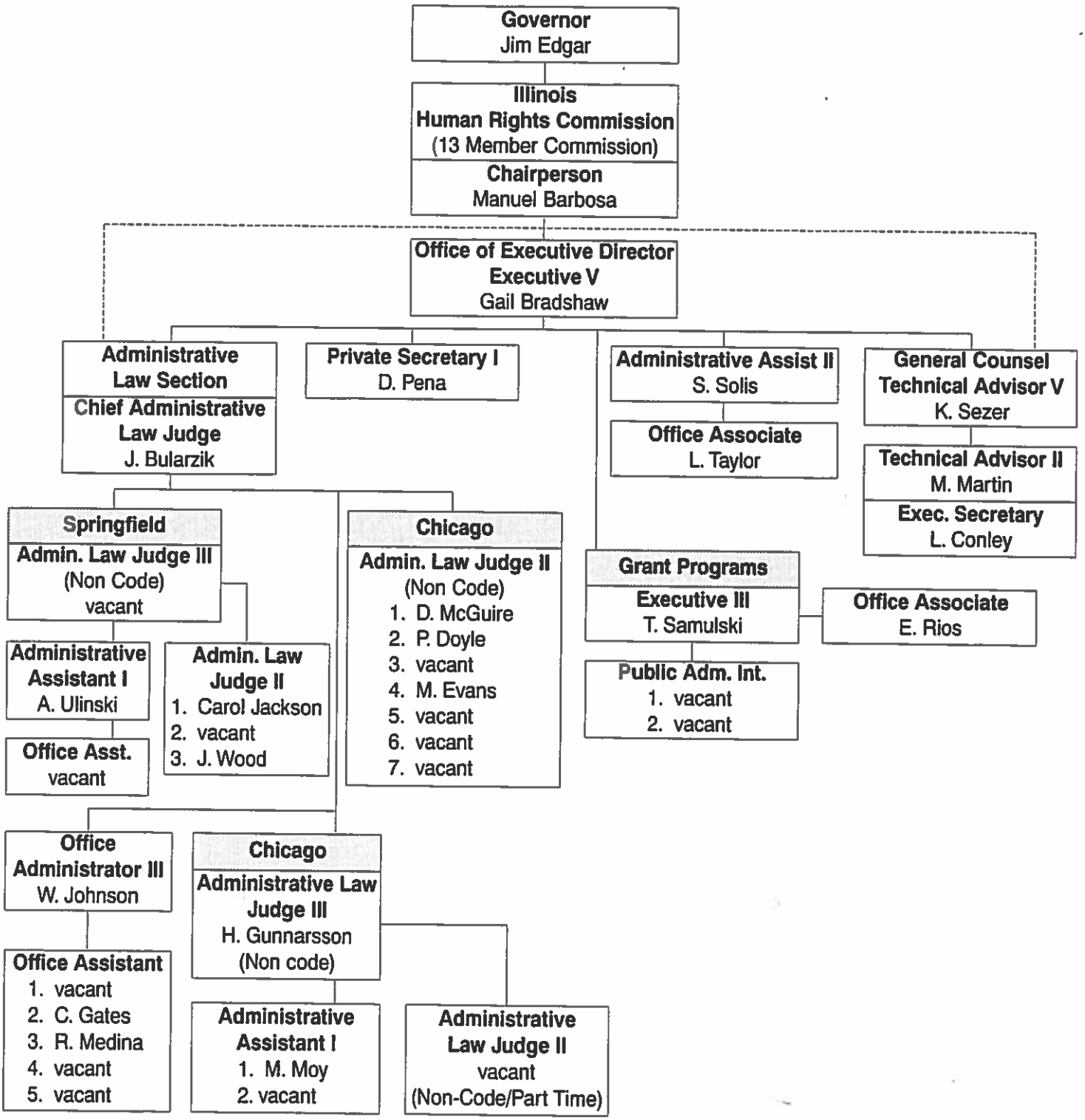
EXPENDITURES
SLIAG FUND

STATE FISCAL YEAR – July 1 through June 30

Line Item	FY94	FY93	FY92	FY91**
Personal Services	131.5	125.5	60.1	
Pension Pick-Up	4.0	4.7	1.4	
Retirement	5.4	5.2	2.8	
Social Security	9.9	9.6	5.4	
Group Insurance	17.3	16.0	5.5	
Contractual Services	9.2	19.7	24.9	
Travel	10.5	14.3	7.2	
Commodities	1.2	2.2	1.8	
Printing	.9	3.8	0	
Equipment	*	14.1	13.4	
Telecom. Srvcs.	3.3	3.3	4.8	
Subcontractors	13.0	184.8	99.7	
TOTALS	**206.2**	**403.2**	**227.0**	

*No expenditures in that line item.
**SLIAG Fund was not appropriated until June, 1991, therefore, no expenditures were made.

HRC ORGANIZATION



ILLINOIS HUMAN RIGHTS COMMISSION

LIST OF COMMISSIONERS

NAME & ADDRESS	EXPIRATION DATE OF TERM
Manuel Barbosa Elgin, IL	January, 1995
Dolly Hallstrom Evanston, IL	January, 1995
Wallace Heil Taylorville, IL	January, 1995
Dr. Sakhawat Hussain Frankfort, IL	January 1995
Mathilda Jakubowski Downers Grove, IL	January, 1997
Grace Kaminkowitz Chicago, IL	January, 1997
Stephen Morrill Chicago, IL	January, 1995
Sylvia Neil Glencoe, IL	January, 1997
Jane Hayes Rader Cobden, IL	January, 1995
Randall Raynolds Springfield, IL	January, 1997
Rev. Rudolph S. Shoultz Springfield, IL	January, 1997
Isiah Thomas Calumet City, IL	January, 1997
Vivian Stewart Tyler Chicago, IL	January, 1995

SCHEDULE FOR COMMISSION MEETINGS

For Fiscal Year 1994
July 1, 1993 - June 30, 1994

Date	Panel	Location
July 7, 1993 a.m.	Panel A	Springfield
July 7, 1993 p.m.	Panel B	Springfield
July 14, 1993	Panel C	Chicago
July 21, 1993	Panel D	Chicago
July 28, 1993	Full Commission	Elgin
August 25, 1993	Full Commission	Chicago
September 1, 1993 a.m.	Panel A	Springfield
September 1, 1993 p.m.	Panel B	Springfield
September 8, 1993	Panel C	Chicago
September 15, 1993	Panel D	Chicago
September 22, 1993	Full Commission	Springfield
October 6, 1993 a.m.	Panel A	Springfield
October 6, 1993 p.m.	Panel B	Springfield
October 13, 1993	Panel C	Chicago
October 20, 1993	Panel D	Chicago
October 27, 1993	Full Commission	Springfield
November 3, 1993 a.m.	Panel A	Springfield
November 3, 1993 p.m.	Panel B	Springfield
November 10, 1993	Panel C	Chicago
November 17, 1993	Panel D and Full Commission	Chicago
December 1, 1993 a.m.	Panel A	Springfield
December 1, 1993 p.m.	Panel B	Springfield
December 8, 1993	Panel C	Chicago
December 15, 1993	Panel D and Full Commission	Chicago

January 5 1994 a.m.	Panel A	Springfield
January 5, 1994 p.m.	Panel B	Springfield
January 12, 1994	Panel C	Chicago
January 19, 1994	Panel D	Chicago
January 26, 1994	Full Commission	Springfield
February 2, 1994 a.m.	Panel A	Springfield
February 2, 1994 p.m.	Panel B	Springfield
February 9. 1994	Panel C	Chicago
February 16, 1994	Panel D	Chicago
February 23, 1994	Full Commission	Chicago
March 2, 1994 a.m.	Panel A	Springfield
March 2, 1994 p.m.	Panel B	Springfield
March 9, 1994	Panel C	Chicago
March 16, 1994	Panel D	Chicago
March 23, 1994	Full Commission	Chicago
April 6, 1994 a.m.	Panel A	Springfield
April 6, 1994 p.m.	Panel B	Springfield
April 13, 1994	Panel C	Chicago
April 20, 1994	Panel D	Chicago
April 27, 1994	Full Commission	Springfield
May 4, 1994 a.m.	Panel A	Springfield
May 4, 1994 p.m.	Panel B	Springfield
May 11, 1994	Panel C	Chicago
May 18, 1994	Panel D	Chicago
May 25, 1994	Full Commission	Springfield
June 1, 1994 a.m.	Panel A	Springfield
June 1, 1994 p.m.	Panel B	Springfield
June 8, 1994	Panel C	Chicago
June 15, 1994	Panel D	Chicago
June 22, 1994	Full Commission	Chicago

Pursuant to Executive Order Number 5 (1979), all meetings of the Illinois Human Rights Commission were held in places that were accessible to people with disabilities. People with disabilities who required special services such as an interpreter for a hearing impaired individual, were instructed to contact the Executive Director of the Commission at least five working days prior to any meeting listed on this schedule.

CHART I - INVESTIGATION

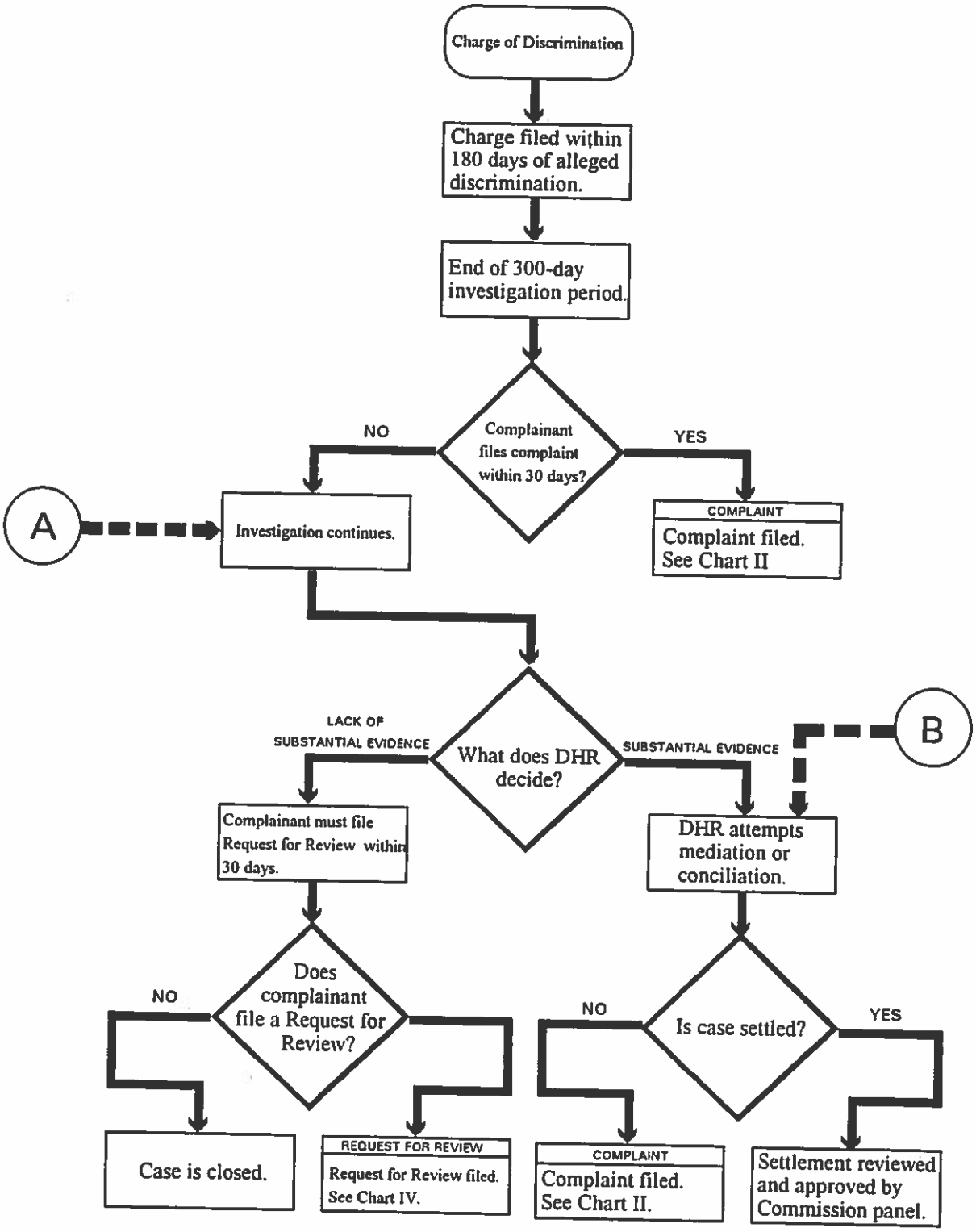


CHART II - COMPLAINTS

(Note: At anytime a complainant may file a voluntary *Motion to Dismiss*; this will be granted by an ALJ in a Final Order and Decision, which closes the case.)

*Appeal is possible only on Final Orders.

**This part of the chart assumes a "final" Order.

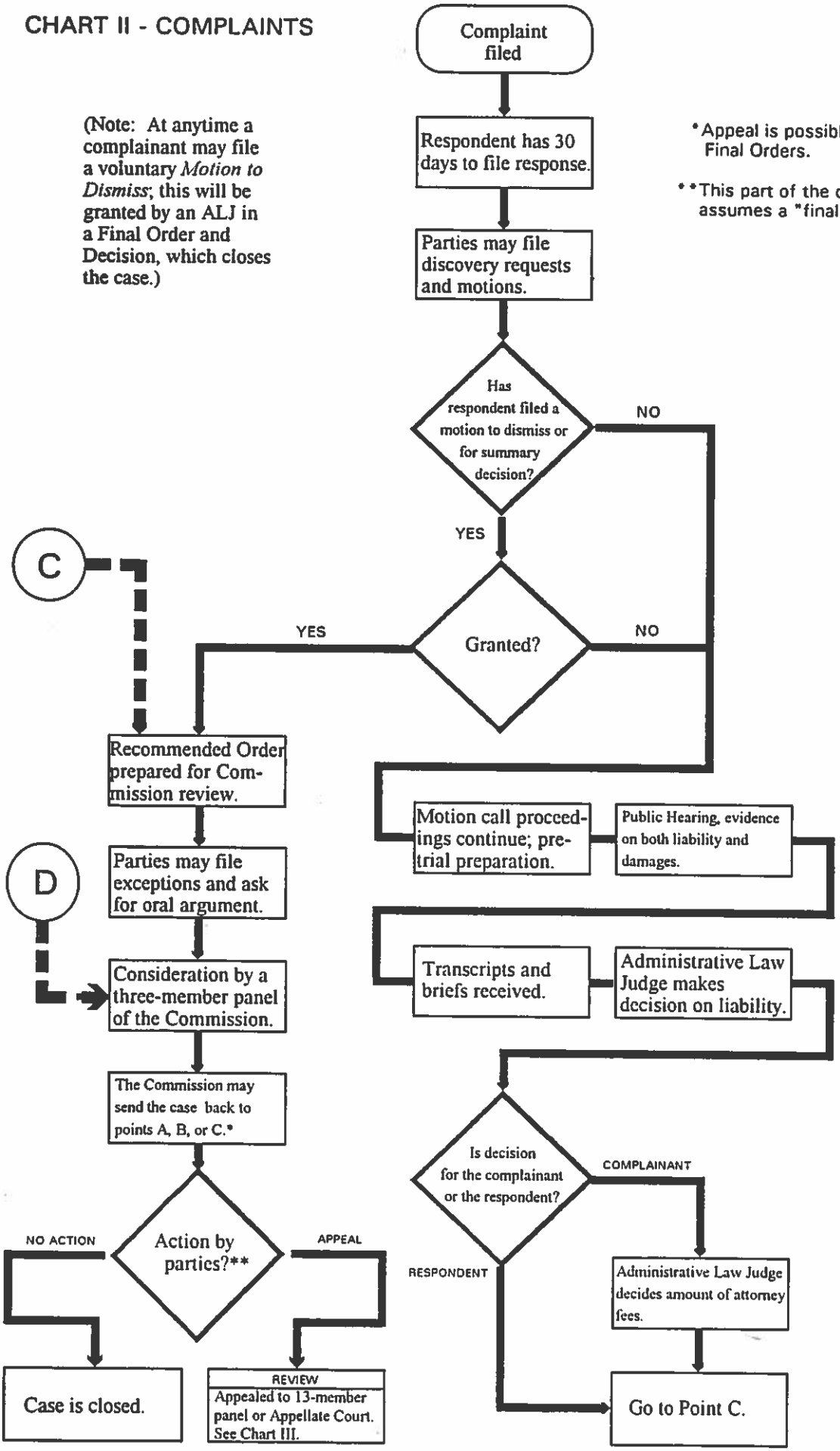


CHART III - REVIEW OF FINAL ORDERS OF THREE-MEMBER PANEL DECISIONS

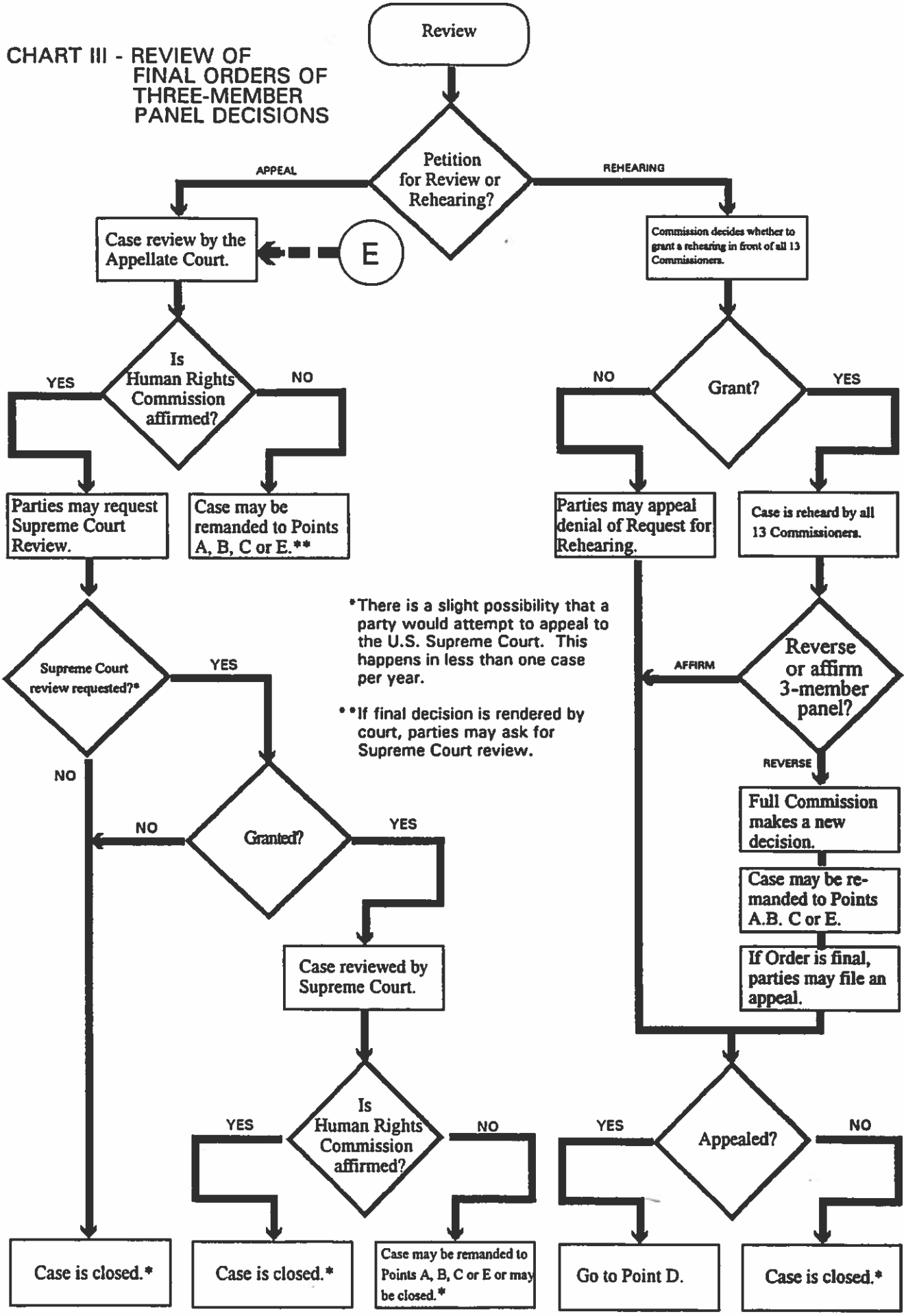
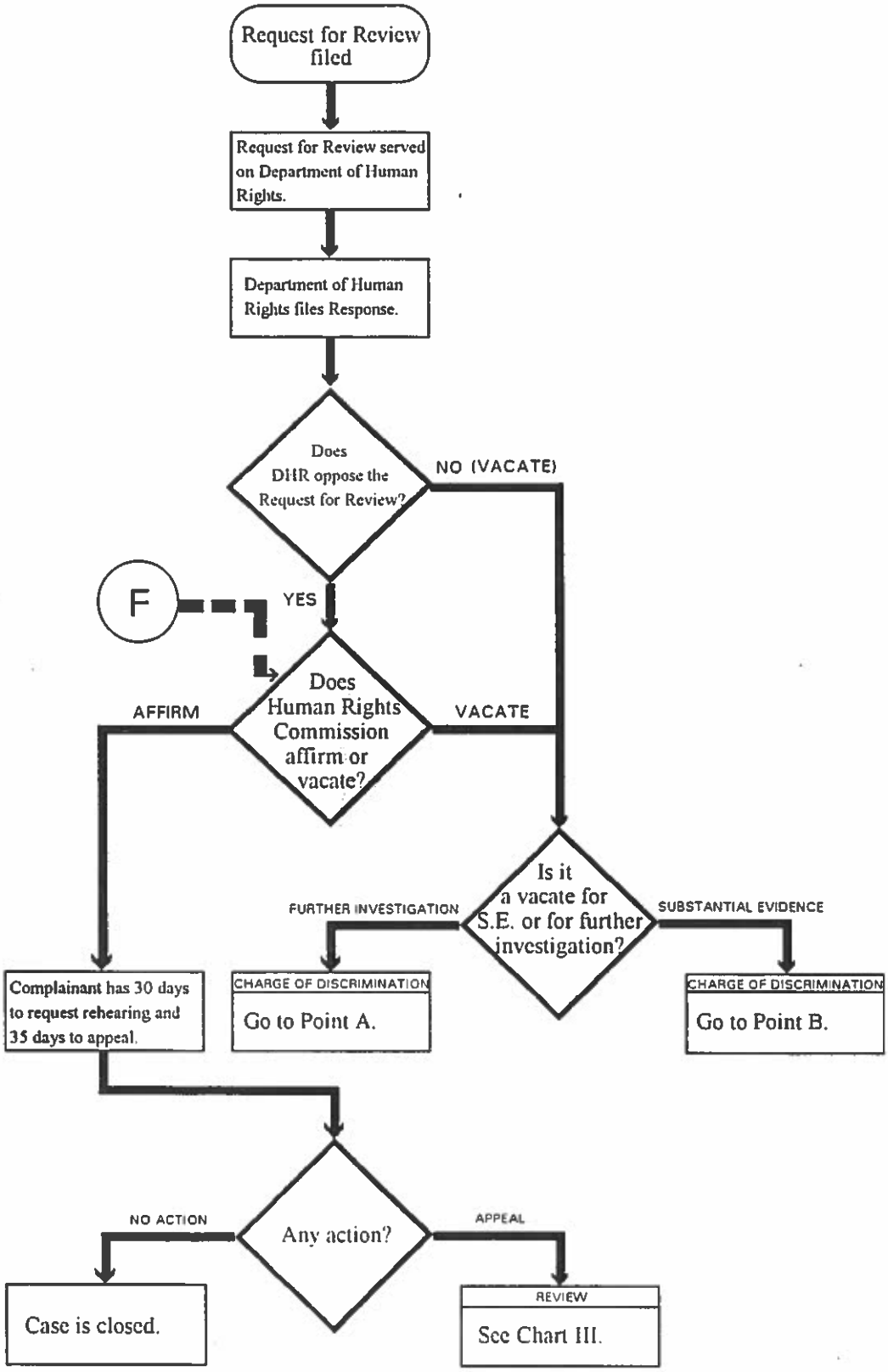


CHART IV - REQUEST FOR REVIEW



DEFINITIONS OF TERMS COMMONLY USED IN HRA PROCEEDINGS

ALJ: Administrative Law Judge

Charge: This is the initial allegation of discrimination. It must be filed within 180 days of the date of the discrimination. It is often confused with a "complaint", which is the document which starts proceedings at the Commission level.

Complainant-Filed Complaint: This is the same as a 300-day complaint.

Complaint: This is the initial pleading at the Commission level. This is the allegation of discrimination after it has gone through the DHR process. It should not be confused with the "charge", which is the initial allegation of discrimination brought to the DHR.

DHR: The Department of Human Rights.

EEOC: The Federal Equal Employment Opportunity Commission. This is the agency which enforces Title VII and other federal anti-discrimination laws.

Final Order and Decision: This is a decision by an ALJ dismissing a case based on the request of the complainant. In most instances the ALJ cannot issue a final decision. The usual role of the ALJ is to make a recommendation to the Commission. Where, however, the complainant asks that his or her case be dismissed, the ALJ has the power to dismiss the case by way of FOD.

FOD: Final Order and Decision.

HRA: The Human Rights Act.

HRC: The Human Rights Commission.

Lack of Substantial Evidence: (*See 'Substantial Evidence'*) If the Department finds after an investigation that the substantial evidence standard has not been met, it will dismiss out the charge without a hearing based on a "lack of substantial evidence".

LSE: *See 'Lack of Substantial Evidence'*

Motion Call: When a complaint is first filed with the HRC, it is not assigned to a hearing judge. Instead, all of the cases that are not ready for hearing are assigned to the motions judge. If a party has a motion, he or she sets it up on a schedule. On the designated day, all of the parties who have motions, argue their motions orally to the motions judge. This is known as the motion call or "the call". Currently, there is about a two-month wait to get a motion heard on the motion call.

O&D: Order and Decision.

Order and Decision: This is the final decision of a three-member panel of the Commission on the merits of a case. In most instances, the O&D is the first enforceable order issued under the HRA.

Petition for Rehearing: Most of the work of the Commission is done by 3-member panels. Final orders of the Commission can be reheard by all 13 Commissioners. The losing party files a "petition for rehearing". There is no right to a rehearing. It is rarely granted. When there is a rehearing, the Commissioners listen to arguments on legal issues. They do not retry the case.

Petition for Review: This is a document which starts an appeal to the Appellate Court. It should be distinguished from a "Request for Review", and a "Petition for Rehearing".

Recommended Order and Decision: This is the title of the recommendation of the ALJ to the Commission as to how the case should be decided. The findings of fact of the ALJ must be given substantial deference, but the legal conclusions are merely advisory.

Request for Review: After the Department has dismissed out a case for lack of substantial evidence, the complainant has 30 days to request a review of the decision. The request for review is directed to the Human Rights Commission. The HRC looks at the request for review, the investigation reports, and the DHR response to the request for review. The decision of the Commission is based on the paper presented. There is no "retrial" of the case. The Commission then decides whether there is substantial evidence. If the DHR issues a notice of default, the respondent has a right to file a request for review of that decision.

ROD: *See 'Recommended Order and Decision'*

SE: *See 'Substantial Evidence'*

Substantial Evidence: Enough evidence of discrimination so that a reasonable person might infer a discriminatory motive. This is the standard used by the Department to decide if a case should be dismissed without a hearing at the Human Rights Commission.

Three-Hundred Day Complaint: This is a complaint filed by a complainant after the DHR has failed to act within 300 days after the filing of the charge. The complainant has 30 days to file his or her own complaint (*See 'Window'*). If the complainant files a proper 300-day complaint, the DHR stops investigating the charge. The HRC treats such complaints in the same way as complaints filed by the DHR.

Title VII: Refers to Title VII of the Federal Civil Rights Act of 1964. This is the main federal law which outlaws discrimination in employment.

Window Complaint: This is the same as a 300-day complaint.

Window: This is the term used to designate the thirty-day period provided for 300-day complaints.