

Chapter Ind 88

EQUAL OPPORTUNITIES

Fair Employment

Ind 88.01	Definitions	Ind 88.075	Transcripts
Ind 88.02	Complaint	Ind 88.08	Hearings
Ind 88.03	Investigations	Ind 88.085	Findings and order
Ind 88.035	Dismissal of complaint	Ind 88.09	Subpoenas and motions
Ind 88.04	Conference, conciliation and persuasion	Ind 88.10	Judicial review
Ind 88.06	Notice of hearing	Ind 88.13	Posting provision of act
Ind 88.07	Answer	Ind 88.50	Pre-employment inquiries and employment records

History: Chapter Ind 88 as it was in effect on September 30, 1972 was repealed and a new chapter Ind 88 was created, Register, September, 1972, No. 201, effective October 1, 1972.

Ind 88.01 Definitions. (1) The term "act" as used herein shall mean the Wisconsin Fair Employment Practices Act, sections 111.31-111.37, Wis. Stats.

(2) The terms employe, employer, department, labor organization, discrimination, discriminatory practice, serve, service findings, recommendations, probable cause, unlawful and order, as used herein shall have the same meaning as set forth in the act.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Ind 88.02 Complaint. (1) **CONTENT.** A complaint shall be in writing and shall be signed and verified. It shall fully identify each complainant and respondent, and shall state clearly and concisely the facts constituting the alleged unlawful discriminatory practice or act committed by each named respondent. Appropriate assistance in preparing complaints will be made available by the department.

(2) **FILING.** Complaints may be filed with any office of the department.

(3) **AMENDMENT AND WITHDRAWAL.** Subject to the approval of the department, a complaint may be amended or withdrawn.

(4) **NOTICE TO RESPONDENT.** Upon the filing of a complaint, the department shall serve a copy thereof upon the respondent.

(5) **SUPPLEMENTAL COMPLAINT.** Upon request the department may permit the complainant to file a supplemental complaint setting forth transactions, occurrences or events which allegedly have occurred after the filing of the original or amended complaint. The department shall serve a copy thereof upon the respondent.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Ind 88.03 Investigations. (1) **INITIAL DETERMINATION.** The department shall promptly investigate all duly filed complaints and shall issue an initial determination in writing setting forth the basis thereof as to whether there is probable cause to believe that discrimination has been or is being committed.

(2) **PROBABLE CAUSE DEFINED.** Probable cause exists when there is reasonable ground for belief supported by facts and circumstances strong enough in themselves to warrant a prudent person in the belief that discrimination probably has been or is being committed.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Ind 88.035 Dismissal of complaint. (1) **RIGHT TO HEARING.** When there is an initial determination of no probable cause to believe that discrimination has been or is being committed, the complainant may file with the department, within 30 days from the date of such initial determination, a request for hearing. The request shall be in writing and shall state specifically the grounds upon which it is based. If no request is filed within 30 days, the complainant shall be deemed to have waived the right to hearing, and the initial determination shall be deemed the decision of the department.

(2) **HEARING.** If timely request is made for hearing, it shall be conducted pursuant to section Ind 88.08, and the hearing examiner shall upon the evidence make either a finding of probable cause or of no probable cause. If no probable cause is found, the complainant may petition for a review of the hearing examiner's finding pursuant to section Ind 88.085. If probable cause is found, the case shall be referred for conference, conciliation and persuasion, *provided* that to attempted conciliation and written notice of hearing, and to permit the hearing examiner to receive evidence of whether the respondent has engaged in unlawful discrimination.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; reprinted to correct printing error, Register, March, 1977, No. 255.

Ind 88.04 Conference, conciliation and persuasion. (1) **CONFERENCE, CONCILIATION AND PERSUASION.** If upon investigation the department determines that there is probable cause to believe that discrimination has been or is being committed, it shall immediately endeavor to eliminate the practice by conference, conciliation or persuasion.

(2) **CONCILIATION AGREEMENT.** If as a result of said conference, conciliation and persuasion, the department is able to effect the elimination of any unlawful practice or act, a written conciliation agreement shall be prepared and shall set forth all measures to be taken by any party, as in the judgment of the department will effectuate the purposes of the act.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Ind 88.06 Notice of hearing. If the department is unable to eliminate the alleged discriminatory practice or act through conference, conciliation or persuasion, it shall promptly issue and serve a written notice of hearing and complaint specifying the nature of the discrimination which appears to have been committed and requiring the respondent to answer the complaint at a hearing before the department. The notice shall specify a time of hearing not less than 10 days after service of the notice of hearing and complaint, and a place of hearing within either the county of the respondent's residence or the county in which the alleged discrimination appears to have occurred. Service of the notice of hearing and complaint may be made upon the parties therein named by delivering to and leaving with each copies thereof, or by mailing copies on the date of issuance to the last