

State of Minnesota  
Department of Human Rights  
January 25, 1989

**Proposed Rule Changes for Case Processing**

In the matter of the Proposed Adoption of Rules of the State Department of Human Rights Governing the Processing of Discrimination Charges:

**STATEMENT OF NEED AND REASONABLENESS**

Minnesota Statutes, section 363.05, subdivision 1, paragraph (7), requires the commissioner to adopt rules to effectuate the purposes of chapter 363, the Human Rights Act. Under this authority the commissioner is proposing amendments to the rules related to the filing, processing and disposition of charges including Minnesota Rules, parts 5000.0050 to 5000.2400.

In drafting these amendments the department has considered their potential impact on small businesses. In two of the three proposed amendments the rule is being changed to correctly reflect statutory amendments passed by the state legislature in 1987 and 1988. The legislature provided no opportunity for the department to have less stringent requirements for small business. However, the rule changes will have no adverse impact on the operations of small businesses in the state. The proposed change in part 5000.0400 was, in part, intended to assist employers in developing relevant and timely responses to charges of discrimination.

Amendments to parts 5000.0400, 5000.0500, and 5000.0900 are necessary in order to make the department's procedures consistent with statutory amendments passed in the 1987 and 1988 legislative sessions. The creation of part 5000.2250, subpart 4, was necessary to resolve an inconsistency between requirements related to record keeping at educational institutions proscribed by Minnesota Statutes, section 363.03, subdivision 5(3), and the requirements of other statutes and governmental regulations related to affirmative action plans which require these institutions to gather and maintain such information.

**Part 5000.0400 CHARGES**

Subp. 1b. **Time for filing.** This rule has been amended to conform to the 1988 amendments to Minnesota Statutes, section 363.06, subdivision 3. The statute now stipulates that a charge can be filed within one full year of the occurrence of an alleged discriminatory act instead of the previous limitation to

300 days. The present rule permits charges to be filed within a period of only 300 days after the alleged discriminatory act took place whereas the proposed rule acknowledges the current statutory limitation of one year.

Subp. 3. **Service.** This subpart has been amended to conform to the requirements in the 1987 amendments to Minnesota Statutes, section 363.06, subdivision 1. The statute requires the commissioner to serve a copy of the charge in person or by mail within ten days of its filing along with a form for use in responding to the charge. The rule is reasonable because it stays within the limits imposed by the statute and provides for a procedure whereby respondents are informed immediately about the relevant type of information the department will need in assessing the response to the charge. This procedure will assist both the department and the respondent in bringing cases to their conclusion as efficiently as possible.

#### **Part 5000.0500 INVESTIGATIONS**

Subpart 1. **Answer to charge.** This rule has been amended to conform to the requirements in the 1987 amendments to Minnesota Statutes, section 363.06, subdivision 1. The statute now requires that respondents file a written response to the charge within 20 days of receipt of the charge. The change in the rule is reasonable because it requires only what the statute itself now requires in this context. No other changes have been made to this rule beyond what the legislature has mandated.

#### **Part 5000.0570 REOPENING CERTAIN CASES**

Subpart 1. **Request.** This subpart has been changed to include part 5000.0550 among those types of terminations for which a case can be considered for reopening. Part 5000.0550 prescribes the suspension of processing a charge when a charging party has indicated an intent to bring a private civil action. This change is needed because the present rules do not provide for reopening of charges when the related civil action has been dismissed without prejudice. The addition is reasonable because, in general, the rules already provide for reopening cases that have been terminated; and, in particular, the reinstatement of a charge after a civil action is dismissed without prejudice is acknowledged in Minnesota Statutes, section 363.14, subdivision 1, paragraph (3), clause (c).

#### **Part 5000.0900 COMPLAINT**

Subp.3. **Service and filing.** This rule has been amended to accommodate the state legislature's 1988 amendments to Minnesota Statutes, section 363.14, subdivision 1, which grants the commissioner the option of filing a complaint directly in district court. The change is reasonable because it is restricted to the amendments to the statute and nothing has been changed with regard to how the respondent is notified.

**part 5000.2250 PRESERVATION OF RECORDS**

Subp. 4. **Records at educational institutions.** In Minnesota Statutes, section 363.03, subdivision 5(3), educational institutions are proscribed from eliciting or keeping information on "the race, color, creed, religion, national origin, sex, age, marital status or disability of a person seeking admission, except as permitted by the rules of the department."

This rule is needed to provide those exceptions so that educational institutions can collect and keep such records when required to do so by state or federal agencies, or in pursuit of the aims of their own affirmative action programs. This rule is reasonable because it recognizes the legitimate needs of educational institutions to create and maintain such records while at the same time ensuring that gathering such information will be otherwise consistent with the requirements and purposes of Minnesota Statutes, chapter 363.