

COMMISSION ON HUMAN RIGHTS
PROCEDURE FOR CONTESTED CASES

4 DCMR § 400 et seq. (1995)

400	Applicability
401	Certification of Complaint
402	Remand to the Office of a Certified Complaint
403	Consolidation of Complaints
404	Hearing Tribunal
405	Duties and Powers of Hearing Examiner
406	Disqualification of Hearing Examiners or Hearing Tribunal Members
407	Intervenors
408	Representation
409	Pleadings
410	Timeliness of Submissions
411	Service of Written Communications
412	Status Conference
413	Pre-Hearing Conference
414	Continuances
415	Conciliation
416	Withdrawal of Complaint
417	Discovery
418	Subpoenas
419	Hearing: General requirements
420	Rights of Parties at Hearing
421	Order of Procedure
422	Evidence
423	Witnesses
424	Alternate Forms of Testimony
425	Burden of Proof
426	Dismissal
427	Default
428	Official Record
429	Briefs
430	Decision and Order
431	Appeal from Commission Decision
432	Enforcement
433	Reopening of Previously Closed Proceeding
434	Sanctions
435	Severability of Provisions
499	Definitions

400 APPLICABILITY

400.1 This chapter shall be applied prospectively to all contested cases before the Commission on Human Rights, including those that are pending, but shall not invalidate any process previously effected.

AUTHORITY: Unless otherwise noted, the authority for this chapter is § 303 of the District of Columbia Human Rights Act of 1977, D.C. Law 2-38 (D.C. Code § 1-2543).

SOURCE: Final rulemaking published at 42 DCR 1429 (March 24, 1995).

401 CERTIFICATION OF COMPLAINT

- 401.1 Upon the Office's certification of a complaint for public hearing, the Chairperson shall cause written notice to be served on all parties that the Office has certified the matter to the Commission for that purpose. The notice shall inform the complainant that the complainant has the option to be represented by a private representative or a representative from the Office of Human Rights.
- 401.2 The Office's notice of certification to the Commission shall include or be accompanied by the following items:
- (a) The names of the parties;
 - (b) A copy of the complaint, as it may have been amended;
 - (c) A copy of the Office's letter of determination finding probable cause to credit the allegations of the complaint;
 - (d) A copy of the Office's memorandum certifying that efforts to resolve the complaint through conciliation have failed, and that the matter is ready for public hearing; and
 - (e) Certification that the documents listed in §§401.2(b) through (d) of this section have been sent to all parties and their representatives.
- 401.3 In the event that the documents set forth in §§ 401.2(b) through (d) have not been previously provided to the parties by the Office of human Rights, the documents shall accompany the Chairperson's notice.

source: Final rulemaking published at 42 DCR 1429 (March 24, 1995).

402 REMAND TO THE OFFICE OF A CERTIFIED COMPLAINT

- 402.1 If any of the following deficiencies appear on the face of a certified the letter of determination of probable cause issued by the Office a complaint, the Chairperson may remand the complaint to the office for further investigation or other appropriate action:
- (a) The jurisdiction of the Office and the Commission is in question;
 - (b) The letter of determination fails to address all of the issues raised in the complaint, as the same may have been amended; or

(c) The finding of probable cause is not supported by the factual representations contained in the letter of determination.

402.1 If the Office is unable to produce the investigative file upon the request of any party at any time following the certification of a complaint for public hearing, the Chairperson may remand the complaint to the Office for reinvestigation or other appropriate action.

402.2 The Chairperson may, in his or her discretion, assign a complaint to any commissioner or hearing examiner for review of the letter of determination and recommendation of action. Based upon the review and recommendation, the Commission may remand the complaint to the Office in the name of the Chairperson. The Commission shall serve written notice of the remand on all parties, specifying the basis for the remand, as well as the action recommended to the Office, if any.

source: Final Rulemaking published at 42 DCR 1429, 1430 (March 24, 1995).

403 CONSOLIDATION OF COMPLAINTS

403.1 The Chairperson may consolidate two (2) or more complaints that involve identical or similar issues and that are filed against the same respondent.

403.2 The Chairperson may consolidate two (2) or more complaints filed by one complainant against the same respondent.

403.3 The Chairperson may consolidate complaints on the motion of a party, or *sua sponte* if consolidation would expedite the processing of the complaints and would not adversely affect the interests of the parties.

source: Final Rulemaking published at 42 DCR 1429, 1431 (March 24, 1995).

404 HEARING TRIBUNAL

404.1 After a complaint has been certified to the Commission for public hearing, the Chairperson shall appoint a Hearing Tribunal consisting of three (3) members of the Commission, sitting as the Commission, to adjudicate the complaint.

- 404.2 The Chairperson may designate one or more hearing examiners to hear and report back to the Hearing Tribunal on any complaint before the Commission. The hearing examiner(s) may be appointed from a list of qualified examiners approved by the Commission or from among the Commissioners. A Hearing Tribunal may also function in the role of hearing examiner, and shall render a final decision and order in such role.
- 404.3 Any Commissioner or hearing examiner who has participated in the precertification processing of a complaint or has participated in any decision related to the merits may not sit as a member of the hearing Tribunal appointed to adjudicate the complaint or as a hearing examiner delegated to hearing the complaint.
- 404.4 Upon assignment of a complaint, the Hearing Tribunal and the hearing examiner, if one has been designated, shall receive the materials listed in § 401.2, together with any available information as to the addresses and telephone numbers of the parties and their representatives. At no time prior to the commencement of the hearing shall the Hearing Tribunal or the hearing examiner receive any information regarding the merits of the complaint.
- 404.5 Upon assignment of the complaint, the Chairperson shall notify the parties of the name of the designated hearing examiner. In the absence of a designated hearing examiner, The Chairperson shall notify the parties of the names of the assigned Hearing Tribunal members.
- 404.6 The hearing examiner, whether selected from a list of qualified examiners, or from among the Commissioners, shall be entitled to an appropriate per diem allowance while conducting the hearing. Provided, that prior to the hearing, the Chairperson has certified that funds are available for such purpose.

source: Final Rulemaking published at 42 DCR 1429, 1431 (March 24, 1995).

405 DUTIES AND POWERS OF HEARING EXAMINER

- 405.1** The hearing examiner shall conduct a fair and impartial hearing, and shall take all necessary action to avoid undue delay in the disposition of a complaint before the Commission. The powers of the hearing examiner include, but not limited to the following:
- (a) Scheduling of status conferences, pre-hearing conference, and the hearing;
 - (b) Certifying the competency of non-attorney representatives pursuant to §408.1

- (c) Administering oaths or affirmations;
- (d) Controlling the admissions of evidence into the record;
- (e) Regulating the presentation of oral and written argument;
- (f) Ruling on procedural issues and motions that do not determine the outcome of the hearing process;
- (g) Recommending rulings to the Hearing Tribunal on substantive issues and motions that determine the outcome of the hearing process; and
- (h) Regulating the conduct of the hearing process, maintaining decorum, and imposing or recommending sanctions in accordance with §434.

source: Final Rulemaking published at 42 DCR 1429, 1432 (March 24, 1995).

406 DISQUALIFICATION OF HEARING EXAMINERS OR HEARING TRIBUNAL MEMBERS

- 406.1 If the hearing examiner or any member of a Hearing Tribunal considers himself or herself unqualified to hear or adjudicate a complaint, the hearing examiner shall recuse himself or herself, stating on the record the reasons for recusal, and shall immediately notify the Chairperson in writing.
- 406.2 Upon any party's filing in good faith a timely and sufficient affidavit of personal bias or other grounds for disqualification, the hearing examiner or member of The Hearing Tribunal may recuse himself or herself.
- 406.3 Any party may submit a motion to the Chairperson requesting the disqualification of the hearing examiner or any member of the Hearing Tribunal on the basis of personal bias or other grounds for disqualification, but only after the hearing examiner or member of the Hearing Tribunal has declined to recuse himself or herself pursuant to §406.2. The motion shall be in writing and shall state facts and reasons for the belief that grounds for disqualification may exist. A verified statement of good faith from the party's representative shall accompany the motion.
- 406.4 The Chairperson shall rule on the motion within fifteen (15) calendar days of receipt of the motion.
- 406.5 If a motion for disqualification is denied, the party requesting disqualification may appeal the decision by filing a written appeal with the Commission within

seven (7) calendar days or receipt of the ruling. The Commission shall rule on the written appeal within thirty (30) calendar days.

- 406.6 If a member of the Hearing Tribunal has recused himself or herself or is disqualified for any reason, the Chairperson shall cause the Hearing Tribunal member to be replaced or shall assign the complaint to a different Hearing Tribunal, and the hearing process shall resume from a point prior to the Tribunal member's participation in any decision affecting the disposition of the complaint.

source: Final Rulemaking published at 42 DCR 1429, 1432 (March 24, 1995).

407 INTERVENORS

- 407.1 There shall be no right to intervene in Commission proceedings, but the hearing examiner may permit intervenors to participate in a proceeding; Provided, that the intervention will not unduly delay or prejudice the rights of the parties.
- 407.2 Any prospective intervenor shall request permission from the hearing examiner to intervene. The request shall be in writing, stating with particularity the reasons for the belief that the prospective intervenor's claim or defense and the main action before the Commission have a question of law or fact in common.
- 407.3 Any prospective intervenor shall provide notice of the motion to intervene, with supporting documentation to the original parties to the complaint. The parties may respond in writing to the motion within the time set forth in §410 of this chapter.
- 407.4 Any party or prospective intervenor may appeal the hearing examiner's ruling on a motion to intervene by filing a written appeal with the Hearing Tribunal within seven (7) calendar days of receipt of the ruling. Any response to the appeal shall be filed within five (5) calendar days of receipt of the appeal notice. The Hearing Tribunal shall rule on the appeal within fifteen (15) calendar days of receipt of a timely response or within fifteen (15) calendar days of the last day a timely response could have been filed.
- 407.5 An intervenor shall be considered a party to the hearing process and shall be accorded the same rights as other parties, except that:
- (a) An intervenor shall not have an independent right to a hearing; and
 - (b) An intervenor shall participate only in connection with issues directly affecting him or her as determined by the hearing examiner.

source: Final Rulemaking published at 42 DCR 1429, 1433 (March 24, 1995).

408 REPRESENTATION

Any party may retain a representative of its own choosing, who may, but need not be, an attorney. All representatives shall meet the following requirements:

- (a) Working knowledge of the Act, the contested case provisions of the D.C. Administrative Procedure Act, and this chapter;
- (b) Familiarity with the facts, legal theories, and issues in question; and
- (c) In the case of a representative who is not an attorney, a certification issued by the hearing examiner assigned to the case that the individual has been considered qualified to appear before the Commission and satisfies the standards set forth in §§408.1 (a) and (b).

- 408.1 Any individual may represent himself or herself in proceedings before the Commission. A Partnership or incorporated entity shall appear through a duly qualified representative pursuant to §408.1, who may, but need not be, a principal or employee of the Partnership or incorporated entity.
- 408.2 At any point in the proceedings, the hearing examiner may delay or continue the proceedings until the hearing examiner is satisfied that all representatives meet the requirements of §408.1 of this chapter. The hearing examiner may disqualify any representatives who fails to meet the requirements of §408.1.
- 408.3 The case in support of the complaint shall be presented by one of the following:
 - (a) An agent or attorney of the Office of Human Rights, in which case the complainant shall designate the Office as complainant's representative and agent to represent his or her interests before the Commission; or
 - (b) A representative qualified under §408.1, retained by complainant at complainant's expense, subject to any award of applicable attorney fees.
- 408.4 In the event the complainant retains a private representative or attorney, the office may designate the representative or attorney to act as its agent or attorney in support of the complaint.
- 408.5 Each representative shall note his or her appearance to the Commission prior to participating in any proceeding. The notice of appearance shall be in writing and shall include the representative's address and telephone number.
- 408.6 Once a representative has entered his or her appearance in a case, that individual

may not withdraw from representation without leave of the hearing examiner. The leave may be granted or withheld in the discretion of the hearing examiner except that no leave shall be granted by the hearing examiner where the hearing has commenced, or within thirty (30) days prior to the scheduled commencement of the hearing, except for good cause shown.

source: Final Rulemaking published at 42 DCR 1429, 1434 (March 24, 1995).

409 PLEADINGS

- 409.1 Every written pleading shall be typewritten, signed by the party's representative of record and served on every other party; and shall contain a statement certifying that a copy was served on every other party.
- 409.2 Every written pleading, motion or other submission shall be filed with the Office of the Commission during its regular business hour on or before the date when the submission is due or permitted under this chapter or under the orders of the hearing examiner or Commission. An original and three (3) copies of each submission shall be filed with the Office of the Commission.
- 409.3 The signature of a party or a party's representative constitutes a certificate by that individual that, to the best of his or her knowledge, information, and belief, there is a good faith basis in law and fact for such submission, and that it is not interposed for delay or other improper purpose.
- 409.4 Upon a finding by the hearing examiner that any submission fails to comply with the provisions of §409.3, the hearing examiner may impose a remedy in the hearing examiner's discretion, including but not limited to, the following:
- (a) Striking the submission from the record;
 - (b) Awarding fees and costs to an opposing party; or
 - (c) Disqualifying a representative from further participation in the case.
- 409.5 All motions, except those made in open session during the course of the hearing, shall be made in writing, and shall contain a concise statement of points and authorities and a memorandum of fact and law in support of the motion.
- 409.6 The hearing examiner shall rule on each motion concerning issues that are committed to the hearing examiner's discretion. The hearing examiner may render a recommended ruling on any motion concerning issues that are committed to the Hearing Tribunal, pending conclusion of the hearing.

source: Final Rulemaking published at 42 DCR 1429, 1435 (March 24, 1995).

410 TIMELINESS OF SUBMISSIONS

- 410.1 At the commencement of each case, the hearing examiner shall establish a scheduling order for the proceeding, which may not be altered except upon motion and order from the hearing examiner. The scheduling order shall include, but not be limited to, such events as: deadline for discovery requests, deadline for discovery responses, deadline for dispositive motions, and preliminary hearing date.
- 410.2 Failure by any party to comply with the scheduling order may result in sanction by the hearing examiner, including but not limited to, the following:
- (a) Disqualification of a representative;
 - (b) Striking of any untimely filing; and
 - (c) Award of costs and attorneys fees to the opposing party.
- 410.3 Unless otherwise ordered by the hearing examiner, a party opposing any motion shall file and serve its opposition within fifteen (15) calendar days after service of the motion.
- 410.4 Unless otherwise ordered by the hearing examiner, a moving party may file a response to the opposition within ten (10) calendar days after service of the opposition.

source: Final Rulemaking published at 42 DCR 1429, 1436 (March 24, 1995).

411 SERVICE OF WRITTEN COMMUNICATIONS

- 411.1 Parties shall serve copies of any written communication to the Commission or to the hearing examiner on all other parties.
- 411.2 The Commission and the hearing examiner shall serve copies of all written communications to any party on all other parties.
- 411.3 Service on any representative whose appearance has been duly noted pursuant to §408.6 shall be considered to be service on the party represented by that representative.
- 411.4 Except as otherwise required by statute or this chapter, service shall be effected by first class mail, postage prepaid, or by personal delivery, to one of the following:

- (a) The addressee;
- (b) Any competent person who resides at the addressee's abode, if delivery is made at that abode;
- (c) Any partner, if the addressee is a partnership; or
- (d) Any officer or officer's secretary, if the addressee is a corporation.

411.5 Whenever a party has the right or duty to act or proceed within a prescribed period after the service of a notice or other paper upon the party and the paper or notice is served upon the party by mail, three (3) days shall be added to the prescribed period.

source: Final Rulemaking published at 42 DCR 1429, 1437 (March 24, 1995).

“ 412 STATUS CONFERENCE

412.1 Within fifteen (15) calendar days of the assignment of the case to a hearing Examiner, the hearing examiner shall schedule a status conference designed to accomplish the following objectives:

- (a) To determine who is representing the parties in the case;
- (b) To establish deadlines for conducting discovery in the case;
- (c) To schedule a pre-hearing conference and a hearing in the case; and
- (d) To schedule further status conferences as may be required.

412.2 The hearing examiner shall give the parties written notice of the status conference. The notice shall include the following:

- (a) Notice of the sanctions applicable in the event of a party's failure to appear or comply with the instructions of the notice; and
- (b) Instructions to the parties regarding the conditions and procedure for requesting continuances.

413 PRE-HEARING CONFERENCE

413.1 The hearing examiner shall hold a pre-hearing conference after completion of

discovery to accomplish the following objectives:

- (a) To effect the exchange between parties of information regarding their respective cases, including;
 - (1) Identities of prospective witnesses, and proffers of the relevance of their projected testimony; and
 - (2) Descriptions of prospective exhibits; and proffers of their relevance;
- (b) To elicit stipulations on all questions of fact or law where no real controversy exists;
- (c) To narrow the issues;
- (d) To effect the exchange of all information necessary for a meaningful discussion of the prospects of settlement; and
- (e) To discuss the possibility of settlement.

413.2 The hearing examiner shall give the parties written notice of the pre-hearing conference at least fifteen (15) calendar days prior to the date of the Conference. The notice shall include the following:

- (a) Date, time, and place of the conference;
- (b) Instructions to the parties to be prepared to exchange the materials necessary to accomplish the objectives of the conference;
- (c) Instructions to the parties regarding the conditions and procedure for requesting continuances; and
- (d) Notice of the sanctions applicable in the event of a party's failure to appear or comply with the instructions of the notice.

413.3 Each party shall file a pre-hearing statement containing the following:

- (a) A concise statement of the factual and legal issues before the Commission;
- (b) A list of all witnesses to be called, the approximate length of each witness' testimony, and proffers of its relevance to the issues before the Commission;
- (c) A list of all exhibits to be offered into evidence and proffers of the

Relevance of each exhibit to the issues before the Commission; and

(d) From the complainant, a detailed statement of the remedy sought.

413.4 The parties shall be prepared to fulfill the following requirements at the pre-hearing conference:

(a) To file the pre-hearing statement referred to in §413.3 of this chapter;

(b) To file a list of stipulations negotiated between the parties; and

(c) To file preliminary motions, if any, accompanied by memoranda of law with points and authorities.

413.5 If the necessity of a subpoena is known, any party may request the issuance at the pre-hearing conference in accordance with §§417 and 418 of this chapter. When witnesses are known to be outside the reach of the Commission's subpoena power, the hearing examiner may admit the substance of the testimony in an alternate form in accordance with §424.

414 CONTINUANCES

414.1 Any party may submit a motion for continuance to the hearing examiner, who shall grant it only for good cause shown.

414.2 The party seeking a continuance shall seek the agreement of all other parties as to an alternate date and time, prior to submission of the motion for continuance, and shall cite the agreement in the motion, or state with particularity the reasons why a continuance should be granted in the absence of the parties' agreement.

source: Final Rulemaking published at 42 DCR 1429, 1440 (March 24, 1995).

415 CONCILIATION

415.1 At any time prior to the Hearing Tribunal's rendering of a Final Decision and Order disposing of a complaint, the parties may engage in discussions of terms according to which the matter may be settled finally and to their mutual satisfaction.

415.2 If the original parties agree upon terms of settlement, they shall reduce the terms to writing in an instrument which they shall sign; and subject to the approval of the Chairperson, the matter shall be closed.

- 415.3 If the complainants privately retained representative has been duly designated as the agent or attorney of the office, that person's signature shall suffice to signify the Office's assent to that agreement.
- 415.4 The duly executed conciliation agreement shall be the final resolution of the matter before the Commission, whereby the complainant waives any further action, administrative or civil, in connection with the charges filed against the respondent. It shall be considered a Final Decision and Order of the Commission and shall be enforceable as such.
- 415.5 The Commission shall not make public any admissions or representations regarding the facts at issue made in connection with conciliation discussions without the parties' written consent. The admissions or representations shall not be admissible as evidence in any proceeding before the Commission.

source: Final Rulemaking published at 42 DCR 1429, 1440 (March 24, 1995).

416 WITHDRAWAL OF COMPLAINT

- 416.1 At any time prior to the Hearing Tribunal's rendering of the Final Decision and Order disposing of the complaint, the complainant may request permission to withdraw the complaint from the Commission's administrative process and may request that the Commission dismiss the matter.
- 416.2 The complainant shall notify the Commission in writing of his or her desire to withdraw the complaint and request dismissal, and shall state the reasons therefore with particularity. Prior to the dismissal of any complaint on the basis of the complainant's desire to withdraw it, the complainant shall furnish the Commission with evidence that the withdrawal is not motivated by coercion, misinformation, or bad faith.
- 416.3 If the complaint has been concurrently filed with the Equal Employment Opportunity Commission (EEOC), and withdrawal is sought in order to proceed in civil court, the complainant shall furnish the Commission with a copy of the "Notice of Right to Sue" issued by the EEOC.
- 416.4 Upon receipt of the documentation required by this section for request to withdraw a complaint, the Commission may dismiss the matter in accordance with §426.

source: Final Rulemaking published at 42 DCR 1429, 1441 (March 24, 1995).

417 DISCOVERY

- 417.1 Any party may obtain discovery from any other party who is subject to the jurisdiction of the Commission. Discovery may be obtained in regard to any matter not privileged, which is or may be reasonably calculated to lead to admissible evidence.
- 417.2 Except as otherwise ordered by the hearing examiner, a party shall, without awaiting any discovery request, provide to all parties the following information:
- (a) The name, and, if known, the address and telephone number of each individual believed to have discoverable information relevant to the facts alleged in the complaint; and
 - (b) A copy of, or a description by category any location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party that are relevant to the facts alleged in the complaint.
- 417.3 Unless otherwise stipulated or ordered by the hearing examiner, these disclosure shall be made at or within thirty (30) days following the status conference provided for in §412.1.
- 417.4 Consistent with the scheduling order of each case, parties may obtain discovery by one or more of the following methods:
- (a) Deposition upon oral examination or written questions;
 - (b) Written interrogatories, except that no party shall serve upon another party at one time or cumulatively more than forty (40) written interrogatories, including parts and subparts, unless otherwise ordered by the hearing examiner for good cause shown;
 - (c) Production of documents or things;
 - (d) Physical and mental examinations; and
 - (e) Requests for admission.
- 417.5 Unless otherwise specified by order of the hearing examiner, responses to any discovery request shall be made within thirty (30) days of the service of that request.
- 417.6 Upon failure of a party to comply with a discovery request, the requesting party may move for an order of the hearing examiner compelling discovery; provided, that the requesting party shows a substantial need for the requested

discovery in preparing its case and is unable to obtain substantially equivalent material by alternate means without undue hardship.

417.7 An evasive or incomplete answer to a request for discovery shall be considered a failure to comply. Upon such finding, the hearing examiner shall issue an order compelling production of the discovery requested. If the compelled party fails to comply with the order, the hearing examiner may order sanctions including, but not limited to, the following:

- (a) Award of costs and attorneys fees to the compelling party;
- (b) Limitation as to issues or to the admissibility of certain evidence at the hearing; and
- (c) Disqualification of the compelled party's representative.

417.8 Upon motion of a party from whom discovery is requested, the hearing Examiner may issue any order which justice requires to protect any party or person from unnecessary annoyance, embarrassment, oppression, or undue burden or expense, including but not limited to, the following:

- (a) Denial of the requested discovery;
- (b) Limitation of the requested discovery as to scope, time, method, or other terms and conditions;
- (c) Protective order of confidentiality as to all or part of the material or information requested; or
- (d) Requirement that the parties simultaneously file specified documents or information in sealed envelopes to be opened at the direction of the hearing examiner.

source: Final Rulemaking published at 42 DCR 1429, 1441 (March 24, 1995).

418 SUBPOENAS

418.1 Any party, or the hearing examiner, may apply to the Commission for the issuance of a subpoena in the name of the Chief Judge of the Superior Court of the District of Columbia, requiring the appearance and testimony of a witness, or the production of a document or other evidence. The application for a subpoena shall state with particularity the testimony or evidence being sought, and the time and place of appearance or production; and shall be made on a form obtainable from the Commission. The applicant need not show that the appearance or production of the witness or evidence in question will not be

made voluntarily.

- 418.2 The party seeking a subpoena shall direct the application for subpoena to the Chairperson through the hearing examiner. The hearing examiner shall obtain the signature of the Chairperson on the subpoena form.
- 418.3 Service shall be effected in accordance with §411. The party who sought the issuance of the subpoena shall be responsible for service of the subpoena, or may elect to have the subpoena served by the Commission by certified mail. If made by anyone other than the Commission, service shall be attested by the person making service, in an affidavit stating the date, time, place, and method of service.
- 418.4 Any witness subpoenaed to appear before a hearing examiner shall be entitled to the same fee paid in the same manner as are paid to witnesses appearing before the Superior Court of the District of Columbia in civil cases, except that the party on whose behalf the subpoena is issued need not tender the fees in advance of appearance and testimony of the witness or production of evidence pursuant to the subpoena. A witness who is employed by the District of Columbia shall not be entitled to the fees if that witness remains on active duty status while appearing before the hearing examiner.
- 418.5 Any person to whom a subpoena is directed may file with the Hearing Tribunal a motion to limit or quash the subpoena, stating the reasons that the subpoena should be limited or quashed. The motion shall be filed in writing on or before the date specified in the subpoena for compliance.
- 418.6 The Hearing Tribunal may, in its discretion, issue *sua sponte* an order limiting or quashing a subpoena.
- 418.7 Any duly subpoenaed person who refuses or neglects to obey a subpoena without filing a motion to limit or quash the subpoena, or after a motion to limit or quash the subpoena has been denied, may be subject to citation for contempt of the Commission or the Superior Court of the District of Columbia. The Chairperson shall report the failure to obey the subpoena to the Corporation Counsel for enforcement by Chief Judge of the Superior Court of the District of Columbia.

source: Final Rulemaking published at 42 DCR 1429, 1443 (March 24, 1995).