Rules and Regulations of the State of Georgia

Department 186 COMMISSION ON EQUAL OPPORTUNITY

Current through Rules and Regulations filed through October 27, 2026

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ADMINISTRATIVE HISTORY

The **Administrative History** following each Rule gives the date on which the Rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date. Principal abbreviations used in the Administrative History are as follows:

f. - filed

eff. - effective

R. - Rule (Abbreviated only at the beginning of the control number)

Ch. - Chapter (Abbreviated only at the beginning of the control number)

ER. - Emergency Rule

Rev. - Revised

The name of the agency known as the (192) Office of Fair Employment Practices has been changed to the (186) Commission on Equal Opportunity. This was done with the amendment of Article 2 of Chapter 19 of Title 45 effective April 16, 1992.

Chapter 186-1, entitled "Administration" containing Rules 186-1-.01 to 186-1-.10 has been adopted. Filed December 29, 1992; effective January 18, 1993.

Chapter 186-2, entitled "Georgia Fair Housing Law" containing Rules 186-2-.01 to 186-2-.08 has been adopted. Filed December 29, 1992; effective January 18, 1993.

Cite as Ga. Comp. R. & Regs. R. dept. 186, ADMINISTRATIVE HISTORY

Chapter 186-1. ADMINISTRATION.

Rule 186-1-.01. Organization.

(1) Administrator. The Administrator is appointed by the Governor and serves at his pleasure. The Administrator's duties, power and authority are those enumerated in the Fair Employment Practices Act of 1978 as amended, codified as O.C.G.A. Section 45-19-20, *et seq.*, and include rule making authority specified in O.C.G.A. Section 45-19-27(14). The Commission on Equal Opportunity is attached to the Office of the Governor for administrative purposes only.

(2) Board of Commissioners of the Commission on Equal Opportunity. The Board of Commissioners of the Commission on Equal Opportunity consists of nine (9) members appointed by the Governor, subject to confirmation by the Senate; the Board's duties, power and authority are those enumerated in the Fair Employment Practices Act, as amended, codified as O.C.G.A. Section 45-19-20, *et seq.*

(a) Of the Governor's initial appointments, three shall be for one-year terms, three shall be for two-year terms, and three shall be for three-year terms. In the event of a vacancy during the term of any member appointed by the Governor whether by reason of death, resignation, or otherwise, the appointment of the successor by the Governor shall be only for the remainder of the unexpired term.

(b) The Board shall be representative of a fair and reasonable cross section of the population of the state; one-third of the members shall have experience in labor or Title VII law enforcement, or other legal human rights experience; provided, however, that after July 1, 1993, at least three members of the board shall be representative of or have a background in realty, apartment management, or the building and contracting industry.

(c) The Chair and other Officers shall be elected as it is deemed appropriate by the Board.

(d) The board shall meet at least three times a year at the time and place specified in writing by the Administrator and may also meet from time to time upon its own motion, as deemed necessary by the majority of the members thereof, for the purposes of conducting routine or specific business.

(e) Each member of the Board shall serve without pay, but members who are not otherwise state officials or employees shall receive the same expense allowance and travel cost reimbursement which members of certain boards and commissions receive pursuant to Code Section 45-7-21.

Cite as Ga. Comp. R. & Regs. R. 186-1-.01
Authority: O.C.G.A. Sec. 45-19-23.
History. Original Rule entitled "Organization" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-1-.02. Definitions.

The following definitions shall apply generally to all Rules and Regulations of the Commission on Equal Opportunity:

(a) "Commission on Equal Opportunity" means the Commission on Equal Opportunity as created by O.C.G.A. Section 45-19-24.

(b) "Administrator" means the Administrator of the Commission on Equal Opportunity as provided for by O.C.G.A. Section 45-19-24.

(c) "Board" means the Board of Commissioners of the Commission on Equal Opportunity as created by O.C.G.A. Section 45-19-23.

(d) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, sex, handicap, or age, or aiding, abetting, inciting, coercing, or compelling of such an act or practice. This term shall not include any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of religion if an employer demonstrates that the employer is unable to accommodate reasonably an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's operation.

(e) "Handicap" means a physical or mental impairment which substantially limits one or more of a person's major life activities, unless an employer demonstrates that the employer is unable to accommodate reasonably to an employee's handicap without undue hardship on the conduct of the employer's operation.

(f) "Public Employer" or "Employer" means any department, board, bureau, commission, authority, or other agency of the state which employs 15 or more employees within the state for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. A person elected to public office in this state is a public employer with respect to persons holding positions or individuals applying for positions which are subject to the State Merit System of Personnel Administration or any personnel merit system of any agency or authority of this state. A person elected to public office in this state is not a public employer with respect to persons holding positions or individuals applying for positions on such officer's personal staff or on the policy-making level or as immediate advisors with respect to the exercise of the constitutional or legal powers of the office held by such officer. The term "Public Employer" shall include the State Merit System of Personnel Administration whether or not such agency is the immediate employer of the party or parties claiming to be aggrieved.

(g) "Public Employment" means employment by any department, board, bureau, commission, authority, or other agency of the State of Georgia.

(h) "Religion" means all aspects of religious observance and practice as well as belief.

Cite as Ga. Comp. R. & Regs. R. 186-1-.02
Authority: O.C.G.A. Sec. 45-19-22.
History. Original Rule entitled "Definitions" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-1-.03. Unlawful Practices.

(1) It shall be unlawful for an employer to:

(a) fail or refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to that individual's compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, national origin, sex, handicap, or age;

(b) limit, segregate, or classify their employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect an individual's status as an employee because of such individual's race, color, religion, national origin, sex, handicap, or age;

(c) hire, promote, advance, segregate, or affirmatively hire an individual solely because of race, color, religion, national origin, sex, handicap, or age, but this paragraph shall not prohibit an employer from voluntarily adopting and carrying out a plan to fill vacancies or hire new employees in a manner to eliminate or reduce imbalance in employment with respect to race, color, handicap, religion, sex, national origin, or age if the plan has first been filed with the Administrator for review and comment for a period not less than 30 days;

(d) apply different standards of compensation or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production, or to employees who work in different locations, if such differences are the result of an intention to discriminate because of race, color, religion, national origin, sex, handicap, or age;

(e) give and to act upon the results of any professionally developed ability test, if such test, its administration, or action upon the results thereof, is designed, intended, or used to discriminate because of race, color, religion, national origin, sex, handicap, or age;

(f) hire and employ employees or to select an individual in any training program on the basis of religion or national origin where religion or national origin is not a

bona fide occupational qualification reasonably necessary to the normal functions of that particular employee's responsibilities.

(2) It shall be unlawful for an employer controlling apprenticeship or other training or retraining including on-the-job training programs to discriminate against an individual because of such individual's race, color, religion, national origin, sex, handicap, or age in admission to or employment in any program established to provide apprenticeship or other training or to discriminate by allowing admission or promotion to an apprenticeship or training program solely because of race, color, religion, national origin, sex, handicap, or age.

(3) It shall be unlawful for a party to a conciliation agreement made pursuant to the Fair Employment Practices Act of 1978, as amended, to violate the terms of the agreement.

(4) It shall be an unlawful practice for a person willfully to:

(a) make public with respect to a particular employer or person without the employer's or person's consent information obtained by the Administrator or the Administrator's employees pursuant to its authority under the Fair Employment Practices Act of 1978, as amended, except as shall be reasonably necessary to carry out the provisions of said Act;

(b) retaliate or discriminate in any manner against a person because the person has opposed a practice declared unlawful by this article or because the person has made a charge, filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing concerning an unlawful practice;

(c) aid, abet, incite, compel, or coerce a person to engage in any of the acts or practices declared unlawful by the Fair Employment Practices Act of 1978, as amended;

(d) obstruct or prevent a person from complying with the Fair Employment Practices Act of 1978, as amended, or any orders issued under said Act;

(e) resist, prevent, impede, or interfere with the Administrator or any of its representatives, employees, or with the Special Master in the lawful performance of duty; provided, however, that it shall not be a violation for anyone to challenge or resist any action by the Administrator or any of its employees, or by a Special Master when there is a good faith belief that the Administrator is, or its employees are, or the Special Master is acting unlawfully or acting in excess of statutory authority;

(f) initiate frivolous and unwarranted charges of discrimination against a public employer.

(5) It shall be an unlawful practice for a person or for two or more persons to conspire:

(a) to retaliate or discriminate in any manner against a person because the person has opposed a practice declared unlawful by the Fair Employment Practices Act of 1978, as amended, or because the person has made a charge, filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing concerning an unlawful practice under said Act;

(b) to aid, abet, incite, compel, or coerce a person to engage in any of the acts or practices declared unlawful by the Fair Employment Practices Act of 1978, as amended, or to obstruct or prevent a person from complying with the Act or any orders issued thereunder;

(c) to resist, prevent, impede, or interfere with the Administrator or any of its employees, or a Special Master in the lawful performance of duty; provided, however, that it shall not be a violation for anyone to challenge or resist any action by the Administrator or any of its employees, or Special Master when there is good faith belief that the Administrator or its employees or Special Master is acting unlawfully or acting in excess of their statutory authority;

(d) to willfully initiate frivolous and unwarranted charges of discrimination against a public employer.

Cite as Ga. Comp. R. & Regs. R. 186-1-.03
Authority: O.C.G.A. Secs. 45-19-29, 45-19-31, 45-19-33, 45-19-44, 45-19-45.
History. Original Rule entitled "Unlawful Practices" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-1-.04. Complaints of Unlawful Discrimination.

(1) **Who May File:** Any individual claiming to be aggrieved by an unlawful practice or another person on behalf of an individual claiming to be aggrieved by an unlawful practice may file a complaint with the Administrator.

(2) **Time of Filing:** The Complaint shall be filed within one hundred and eighty days after the occurrence of the alleged unlawful practice.

(3) **Complaint Form:** An Official complaint shall be in writing and signed by the complainant or designee.

(4) **Contents of a Complaint:** A complaint shall be detailed to identify time, place and facts with respect to the alleged discriminatory practice or act. It should contain the following:

(a) the full name, address and telephone number of the charging party;

(b) the full name, address and telephone number of the Respondent;

(c) a statement of specific harm or injury that the charging party has suffered as a consequence of the alleged unlawful practice identified in the act;

(d) a statement of response from the Respondent;

(e) a statement indicating the basis or bases for which race, color, sex, religion, national origin, handicap, age or retaliation constitutes the unlawful practice;

(f) statements describing any other actions or practices supporting the charging party's allegation of unlawful discrimination.

Cite as Ga. Comp. R. & Regs. R. 186-1-.04
Authority: O.C.G.A. Sec. 45-19-36.
History. Original Rule entitled "Complaints of Unlawful Discrimination" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-1-.05. Complaint Processing.

(1) The Administrator's staff shall promptly investigate the allegations of unlawful practice set forth in the complaint, and within 15 days of filing, shall serve the Respondent with a copy of the complaint. The complaint shall be barred unless filed within 180 days after the alleged unlawful practice occurs.

(2) Within 90 days after the complaint has been filed, the Administrator shall determine whether there is reasonable cause to believe the Respondent has engaged in an unlawful practice. If it is determined that there is no reasonable cause to believe that the Respondent has engaged in an unlawful practice, the Administrator shall issue an order dismissing the complaint.

(3) Within ten days after receiving a copy of the order dismissing the complaint, the charging party may file with the Administrator an application for reconsideration of the order. Upon such application, the Administrator shall determine within 15 days whether there is reasonable cause to believe that the Respondent has engaged in an unlawful practice. If it is again determined that there is not reasonable cause to believe that the Respondent has engaged in an unlawful practice, the Administrator shall issue an order dismissing the complaint and notifying the Complainant that such Complainant has the right to request a right to sue letter from the appropriate federal agency or petition for review in the appropriate Superior Court as provided for in the Fair Employment Practices Act of 1978, as amended.

(4) After investigation or after review provided for in section (3), above, if the Administrator determines that there is reasonable cause to believe that the Respondent has engaged in an unlawful practice, then the Administrator's staff shall first endeavor to eliminate the unlawful practice by conference, conciliation, and persuasion. The terms of the

conciliation agreement reached with the Respondent may require the Respondent to refrain from the commission of unlawful discriminatory practices in the future and make such further provisions as may he agreed upon between the Administrator and Respondent. If a conciliation agreement is entered into, the Administrator shall issue and serve on the Complainant a final order stating the terms.

(5) In the event the Administrator determines that there is reasonable cause to believe an agency or authority has engaged in an unlawful practice as defined in the Fair Employment Practices Act of 1978, as amended, and the Administrator's staff is unable to eliminate the alleged unlawful practice by conference, conciliation, and persuasion, the Administrator shall refer the complaint to a Special Master.

Cite as Ga. Comp. R. & Regs. R. 186-1-.05
Authority: O.C.G.A. Sec. 45-19-36.
History. Original Rule entitled "Complaint Processing" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-1-.06. Special Master.

In addition to those powers and duties enumerated in the Fair Employment Practices Act, codified as O.C.G.A. Section 45-19-20, *et seq.*, the Special Master shall have all of the power and authority granted to agencies in conducting hearings and rendering final orders under Chapter 13 of Title 50, the 'Georgia Administrative Procedures Act'.

Cite as Ga. Comp. R. & Regs. R. 186-1-.06
Authority: O.C.G.A. Sec. 45-19-20.
History. Original Rule entitled "Special Master" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-1-.07. Appeals.

Any party to a hearing before a Special Master or a complainant whose complaint has been dismissed by the Administrator may appeal any adverse final order of a Special Master by filing a petition for review in the Superior Court in the county in which the alleged unlawful practice occurred or in the Superior Court of the residence of the Respondent within 30 days of the issuance of the final order. Neither the Administrator nor the Special Master shall be a named party; however, the Administrator must be served with a copy of the petition for review. Within 30 days after the petition is served on the Administrator, the Administrator shall forward to the court a certified copy of the record of the hearing before the Special Master, including the transcript of the hearing before the Special Master, and all evidence, administrative pleadings, and orders, or the entire record if no hearing has been held. For good cause shown, the court may require or permit subsequent corrections or additions to the record. All appeals for judicial review shall be in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; provided, however, that if any provisions of the Fair Employment Practices Act of 1978, as amended, that Act controls.

Cite as Ga. Comp. R. & Regs. R. 186-1-.07
Authority: O.C.G.A. Sec. 45-19-13.
History. Original Rule entitled "Appeals" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-1-.08. Relief from Application of an Order.

An employer or other person who believes that the application to them of an order issued under this article would result in undue hardship may apply to the Administrator for relief from the application of this order. If the Administrator finds that the application of the regulation or order to the employer or person in question would impose an undue hardship, the Administrator may grant appropriate relief.

Cite as Ga. Comp. R. & Regs. R. 186-1-.08
Authority: O.C.G.A. Sec. 45-19-43.
History. Original Rule entitled "Relief from Application of an Order" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-1-.09. Records, Reports.

(1) Each person subject to the Fair Employment Practices Act of 1978, as amended, who controls an apprenticeship or other training program shall keep all records reasonably necessary to carry out the purposes of said Act including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received. Such records shall be furnished to the Administrator upon the Administrator's request. The Administrator may also request and receive a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program.

(2) Any person subject to this article shall make and keep such records as may be reasonably necessary and relevant to the determination of whether an unlawful practice has been or is being committed, and shall make such reports therefrom as are reasonably necessary or appropriate for the enforcement of the Fair Employment Practices Act of 1978, as amended, or orders or regulations under that Act.

(3) Records and reports required by the Administrator shall conform as closely as practicable to similar records and reports required by federal law and to customary recordkeeping practices.

Cite as Ga. Comp. R. & Regs. R. 186-1-.09
Authority: O.C.G.A. Sec. 45-19-43.
History. Original Rule entitled "Records, Reports" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-1-.10. Posting of Notices.

Every public employer or other covered entity shall post and keep posted in conspicuous places upon its premises where notices to employees and applicants are customarily posted a notice to be prepared and distributed by the Commission on Equal Opportunity. This notice shall set forth excerpts of the Fair Employment Practices Act of 1978, as amended, and relevant information necessary to explain the Act. Notices shall conform as closely as practicable to similar notices required by federal law. Such notices may be obtained from the Commission on Equal Opportunity.

Cite as Ga. Comp. R. & Regs. R. 186-1-.10
Authority: O.C.G.A. Sec. 45-19-27.
History. Original Rule entitled "Posting of Notices" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Chapter 186-2. GEORGIA FAIR HOUSING LAW.

Rule 186-2-.01. Organization.

(1) Administrator. The Administrator is appointed by the Governor and serves at his pleasure. The Administrator's duties and power and authority are those enumerated in the Georgia Fair Housing Law of 1988, as amended, codified as O.C.G.A. Section 8-3-200, *et seq.*, including rule making authority specified in O.C.G.A. Section 8-3-206(d)(5). The Commission on Equal Opportunity is attached to the Office of the Governor for administrative purposes only.

(a) Anyone who feels he or she has been discriminated against should send a complaint to: The Commission on Equal Opportunity, 710 Cain Tower, Peachtree Center, 229 Peachtree Street, N.E., Atlanta, Georgia 30303-1605.

(2) Board of Commissioners of the Commission on Equal Opportunity. The Board of Commissioners on the Commission on Equal Opportunity consists of nine (9) members appointed by the Governor, subject to confirmation by the Senate; the Board's duties, power and authority are those enumerated in the Fair Employment Practices Act, as amended, codified as O.C.G.A. Section 45-19-20, *et seq.*

Cite as Ga. Comp. R. & Regs. R. 186-2-.01
Authority: O.C.G.A. Secs. 8-3-201, 45-19-23.
History. Original Rule entitled "Organization" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-2-.02. Discriminatory Conduct Under the Georgia Fair Housing Law, as Amended.

(1) GENERAL.

(a) Authority. This regulation is issued under the authority of the Administrator of the Commission on Equal Opportunity to administer and enforce the Georgia Fair Housing Law, as amended.

(b) Scope. It is the policy of the State of Georgia to provide, within constitutional limitations, for fair housing throughout the State. No person shall be subjected to discrimination because of race, color, religion, sex, handicap, familial status, or national origin in the sale, rental, or advertising of dwellings, in the provision of brokerage services, or in the availability of residential real estate-related transactions.

1. This part provides the Commission's interpretation of the coverage of the Georgia Fair Housing Law, as amended, regarding discrimination related to the sale or rental of dwellings, the provision of services in connection therewith, and the availability of residential real estate-related transactions.

(c) Exemptions these rules do not:

1. Prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings, which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted because of race, color, or national origin;

   (i) Prohibit a private club that is, or whose membership is, not in fact open to the public, which, incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members;

   (ii) Limit the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling; or

   (iii) Prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance, as defined in O.C.G.A. Section 16-13-21.

2. Nothing in this part regarding discrimination based on familial status applies with respect to housing for older persons, as defined in Rule 186-2-.02(5)*et seq*.

3. Nothing in this part, other than the prohibitions against discriminatory advertising applies to:

   (i) The sale or rental of any single family dwelling by an owner, provided the following conditions are met:

      (I) the owner does not own or have any interest in more than three single family dwellings at any one time.

      (II) the dwelling is sold or rented without the use of a real estate broker, agent, salesperson, or employee or the facilities of any person in the business of selling or renting dwellings. If the owner selling the dwelling does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this paragraph and in subsection (1) hereof applies only to one such sale in any 24-month period.

4. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

(d) Definitions.

1. The "Act" or the "Georgia Fair Housing Law" means Article 4 of Chapter 3 of Title 8, cited herein as O.C.G.A. Section 8-3-200*et seq.*

2. The "Administrator" means the Administrator of the Commission on Equal Opportunity.

3. The "Board" means the entire Board of Commissioners or a three-member panel designated from the Board of Commissioners. The Board has all the power and authority granted to agencies in conducting hearings and rendering final orders under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," including, but not limited to, subpoena power. If presiding as a three-member panel, the Board shall include at least one attorney who is licensed to practice law in the State of Georgia.

4. "Broker" or "agent" includes any person authorized to perform an act on behalf of another person regarding any matter related to providing access to any residential real estate-related transaction including offers, solicitations or contracts and the administration of matters pertaining to such offers, solicitations or contracts or any residential real estate-related transactions.

5. The "Commission" means the Commission on Equal Opportunity.

6. The "Complaint" is the document (and all subsequent amendments thereto) which contains a statement of the facts which form the basis for the Complainant's allegations that the Respondent(s) may have violated the Act. Each complaint must be in writing and must be signed and affirmed by the complainant or the aggrieved person filing the complaint or, if the complaint is filed by the Commission, by the Administrator.

7. "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with:

   (i) a parent or another person having legal custody of such individual or individuals; or

   (ii) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

   The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

8. "Family" includes a single individual.

9. "Hearing" means that part of the administrative proceeding that involves the submission of evidence before the Board of Commissioners, either by oral presentation or written submission, and includes the submission of briefs and oral arguments on the evidence and applicable law.

10. "Party" means a person or agency named or admitted as a party to a proceeding or who intervenes in the proceeding.

11. "Prohibited basis" means discrimination perpetrated against another because of his or her race, color, religion, sex, handicap or disability, familial status, or national origin.

12. "Residential real estate-related transaction" means:

   (i) the making or purchasing of loans or providing other financial assistance;

      (I) for purchasing, constructing, improving, repairing or maintaining a dwelling; or

(II) secured by residential real estate; or

(ii) the selling, brokering, or appraising of residential real property.

(2) DISCRIMINATORY HOUSING PRACTICES.

(a) Real Estate Practices Prohibited.

1. This rule provides the Administrator's interpretation of conduct that is unlawful housing discrimination under sections 8-3-202, 203, 204, and 222 of the Georgia Fair Housing Law, as amended. In general, the prohibited actions are set forth under sections of this subpart which are most applicable to the discriminatory conduct described. However, an action illustrated in one section can constitute a violation under sections in the subpart. For example, the conduct described in Rule 186-2-.02(b)2. (iii) would constitute a violation of Rule 186-2-.02(b)1. as well as Rule 186-2-.02(c)1.

2. It shall be unlawful for a person to:

(i) refuse to sell or rent a dwelling after a **bona fide** offer has been made, or to refuse to negotiate for the sale or rental of a dwelling because of race, color, religion, sex, familial status, or national origin, or to discriminate in the sale or rental of a dwelling because of handicap.

(ii) discriminate in the terms, conditions or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connections with sales or rentals, because of race, color, religion, sex, handicap, familial status, or national origin.

(iii) Engage in any conduct relating to the provision of housing which otherwise makes unavailable or denies dwellings to persons because of race, color, religion, sex, handicap, familial status, or national origin.

(iv) Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or any intention to make any such preference, limitation or discrimination.

(v) Represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that a dwelling is not available for sale or rental when such dwelling is in fact available.

(vi) Engage in blockbusting practices in connection with the sale or rental of dwellings because of race, color, religion, sex, handicap, familial status, or national origin.

(vii) Deny access to or membership or participation in, or to discriminate against any person in his or her access to or membership or participation in, any multiple-listing service, real estate brokers' association, or other service organization or facility relating to the business of selling or renting a dwelling or in the terms or conditions or membership or participation, because of race, color, religion, sex, handicap, familial status, or national origin.

3. The application of the Georgia Fair Housing Law with respect to persons with handicaps and disabilities is discussed in Rule 186-2-.02(4)*et seq*.

(b) Unlawful to sell or rent or to negotiate for the sale or rental.

1. It shall be unlawful for a person to refuse to sell or rent a dwelling to a person who has made a **bona fide** offer, because of race, color, religion, sex, familial status, or national origin or to refuse to negotiate with a person for the sale or rental of a dwelling because of race, color, religion, sex, familial status, or national origin, or to discriminate against any person in the sale or rental of a dwelling because of handicap.

2. Prohibited actions under this section include, but are not limited to:

(i) Failing to accept or consider a **bona fide** offer because of race, color, religion, sex, handicap, familial status, or national origin.

(ii) Refusing to sell or rent a dwelling to, or to negotiate for the sale or rental of a dwelling with any person because of race, color, religion, sex, handicap, familial status, or national origin.

(iii) Imposing different sales prices or rental charges for the sale or rental of a dwelling upon any person because of race, color, religion, sex, handicap, familial status, or national origin.

(iv) Using different qualification criteria or applications, or sale or rental standards or procedures, such as income standards, application requirements, application fees, credit analysis or sale or rental

approval procedures or other requirements, because of race, color, religion, sex, handicap, familial status, or national origin.

(v) Evicting tenants because of their race, color, religion, sex, handicap, familial status, or national origin or because of the race, color, religion, sex, handicap, familial status, or national origin of a tenant's guest.

(c) Discrimination in terms, conditions and privileges and in services and facilities.

1. It shall be unlawful, because of race, color, religion, sex, handicap, familial status, or national origin, to impose different terms, conditions or privileges relating to the sale or rental of a dwelling or to deny or limit services or facilities in connection with the sale or rental of a dwelling.

2. Prohibited actions under this section include, but are not limited to:

(i) Using different provisions in leases or contracts of sale, such as those relating to rental charges, security deposits and the terms of a lease and those relating to down payment and closing requirements, because of race, color, religion, sex, handicap, familial status, or national origin.

(ii) Failing or delaying maintenance or repairs of sale or rental dwellings because of race, color, religion, sex, handicap, familial status, or national origin.

(iii) Failing to process an offer for the sale or rental of a dwelling or to communicate an offer accurately because of race, color, religion, sex, handicap, familial status, or national origin.

(iv) Limiting the use of privileges, services or facilities associated with a dwelling because of race, color, religion, sex, handicap, familial status, or national origin of an owner, tenant or a person associated with him or her.

(v) Denying or limiting services or facilities in connection with the sale or rental of a dwelling, because a person failed or refused to provide sexual favors.

(d) Other prohibited sale and rental conduct.

1. It shall be unlawful, because of race, color, religion, sex, handicap, familial status, or national origin, to restrict or attempt to restrict the choices of a

person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing pattern, or to discourage or obstruct choices in a community, neighborhood or development.

2. It shall be unlawful because of race, color, religion, sex, handicap, familial status, or national origin, to engage in any conduct relating to the provision of housing or of services and facilities in connection therewith that otherwise makes unavailable or denies dwellings to persons.

3. Prohibited actions under paragraph 1. of this section, which are generally referred to as unlawful steering practices, include, but are not limited to:

   (i) Discouraging any person from inspecting, purchasing or renting a dwelling because of race, color, religion, sex, handicap, familial status, or national origin, or because of the race, color, religion, sex, handicap, familial status, or national origin of persons in a community, neighborhood or development.

   (ii) Discouraging the purchase or rental of a dwelling because of race, color, religion, sex, handicap, familial status, or national origin, by exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or of a community, neighborhood, or development.

   (iii) Communicating to any prospective purchaser that he or she would not be comfortable or compatible with existing residents of a community, neighborhood, or development because of race, color, religion, sex, handicap, familial status, or national origin.

   (iv) Assigning any person to a particular section of a community, neighborhood or development, or to a particular floor of a building, because of race, color, religion, sex, handicap, familial status, or national origin.

4. Prohibited activities relating to dwellings under paragraph 2. of this section include, but are not limited to:

   (i) Discharging or taking other adverse action against an employee, broker or agent because he or she refused to participate in a discriminatory housing practice.

   (ii) Employing codes or other devices to segregate or reject applicants, purchasers or renters, refusing to take or to show listings of dwellings in certain areas because of race, color, religion, sex,

handicap, familial status, or national origin, or refusing to deal with certain brokers or agents because they or one or more of their clients are of a particular race, color, religion, sex, handicap, familial status, or national origin.

(iii) Denying or delaying the processing of an application made by a purchaser or renter or refusing to approve such a person for occupancy in a cooperative or condominium dwelling because of race, color, religion, sex, handicap, familial status, or national origin.

(iv) Refusing to provide municipal services or property or hazard insurance for dwellings or providing such services or insurance differently because of race, color, religion, sex, handicap, familial status, or national origin.

(e) Discriminatory advertisements, statements and notices.

1. It shall be unlawful to make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling which indicates any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

2. The prohibitions in this section shall apply to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Written notices and statements include any applications, flyers, brochures, deeds, signs, banners, posters, billboards, or any documents used with respect to the sale or rental of a dwelling.

3. Discriminatory notices, statements and advertisements include, but are not limited to:

(i) Using words, phrases, photographs, illustrations, symbols or forms which convey that dwellings are available or not available to a particular group of persons because of race, color, religion, sex, handicap, familial status, or national origin.

(ii) Expressing to agents, brokers, employees, prospective sellers or renters or any other persons a preference for a limitation on any purchaser or renter because of race, color, religion, sex, handicap, familial status, or national origin of such persons.

(iii) Selecting media or locations for advertising the sale or rental of dwellings which deny particular segments of the housing marketing information about housing opportunities because of race, color, religion, sex, handicap, familial status, or national origin.

(iv) Refusing to publish advertising for the sale or rental of dwellings or requiring different charges or terms for such advertising because of race, color, religion, sex, handicap, familial status, or national origin.

4. Rule 186-2-.06*et seq.* provide information to assist persons to advertise dwellings in a nondiscriminatory manner and describes the matters the Commission will review in evaluating compliance with the Georgia Fair Housing Law, as amended, and in investigating complaints alleging discriminatory housing practices involving advertising.

(f) Discriminatory representations on the availability of dwellings.

1. It shall be unlawful, because of race, color, religion, sex, handicap, familial status, or national origin, to provide inaccurate or untrue information about the availability of dwellings for sale or rental.

2. Prohibited actions under this section include, but are not limited to:

(i) Indicating through words or conduct that a dwelling which is available for inspection, sale, or rental has been sold or rented, because of race, color, religion, sex, handicap, familial status, or national origin.

(ii) Representing that covenants or other deed, trust or lease provisions which purport to restrict the sale or rental of dwellings because of race, color, religion, sex, handicap, familial status, or national origin preclude the sale or rental of a dwelling to a person.

(iii) Enforcing covenants or other deed, trust, or lease provisions which preclude the sale or rental of a dwelling to any person because of race, color, religion, sex, handicap, familial status, or national origin.

(iv) Limiting information, by word or conduct, regarding suitably priced dwellings available for inspection, sale, or rental, because of race, color, religion, sex, handicap, familial status, or national origin.

(v) Providing false or inaccurate information regarding the availability of a dwelling for sale or rental to any person, including testers, regardless of whether such person is actually seeking housing, because of race, color, religion, sex, handicap, familial status, or national origin.

(g) Blockbusting.

1. It shall be unlawful, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, familial status, national origin, or with a handicap.

2. In establishing a discriminatory housing practice under this section it is not necessary that there was in fact profit as long as profit was a factor for engaging in the blockbusting activity.

3. Prohibited actions under this section include, but are not limited to:

(i) Engaging, for profit, in conduct (including uninvited solicitations for listings) which conveys to a person that a neighborhood is undergoing or is about to undergo a change in the race, color, religion, sex, handicap, familial status, or national origin of persons residing in it, in order to encourage the person to offer a dwelling for sale or rental.

(ii) Encouraging, for profit, any person to sell or rent a dwelling through assertions that the entry or prospective entry of persons of a particular race, color, religion, sex, familial status, or national origin, or with handicaps, can or will result in undesirable consequences for the project, neighborhood, or community, such as a lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities.

(h) Discrimination in the provision of brokerage services.

1. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms of conditions of such access, membership or participation, because of race, color, religion, sex, handicap, familial status, or national origin.

2. Prohibited actions under this section include, but are not limited to:

(i) Setting different fees for access to or membership in a multiple listing service because of race, color, religion, sex, handicap, familial status, or national origin.

(ii) Denying or limiting benefits accruing to members in a real estate brokers' organization because of race, color, religion, sex, handicap, familial status, or national origin.

(iii) Imposing different standards or criteria for membership in a real estate sales or rental organization because of race, color, religion, sex, handicap, familial status, or national origin.

(iv) Establishing geographic boundaries or office location or residence requirements for access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, because of race, color, religion, sex, handicap, familial status, or national origin.

(3) DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

(a) Discriminatory practices in residential real estate-related transactions.

1. This subpart provides the Commission's interpretation of the conduct that is unlawful housing discrimination under O.C.G.A. Section 8-3-204 of the Georgia Fair Housing Law.

2. It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) Residential real estate-related transactions.

1. The term residential "real estate-related transactions" means:

(i) The making or purchasing of loans or providing other financial assistance:

(I) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

(II) Secured by residential real estate; or

(ii) The selling, brokering or appraising of residential real property.

(c) Discrimination in the making of loans and in the provision of other financial assistance.

1. It shall be unlawful for any person or entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available loans or other financial assistance for a dwelling, or which is or is to be secured by a dwelling, because of race, color, religion, sex, handicap, familial status, or national origin.

2. Prohibited practices under this section include, but are not limited to, failing or refusing to provide to any person, in connection with a residential real estate-related transaction, information regarding the availability of loans or other financial assistance, application requirements, procedures or standards for the review and approval of loans or financial assistance, or providing information which is inaccurate or different from that provided others, because of race, color, religion, sex, handicap, familial status, or national origin.

(d) Discrimination in the purchasing of loans.

1. It shall be unlawful for any person or entity engaged in the purchasing of loans or other debts or securities which support the purchase, construction, improvement, repair or maintenance of a dwelling, or which are secured by residential real estate, to refuse to purchase such loans, debts, or securities, or to impose different terms or conditions for such purchases, because of race, color, religion, sex, handicap, familial status, or national origin.

2. Unlawful conduct under this section includes, but is not limited to:

(i) Purchasing loans or other debts or securities which relate to, or which are secured by dwellings in certain communities or neighborhoods but not in others because of the race, color, religion, sex, handicap, familial status, or national origin of persons in such neighborhoods or communities.

(ii) Pooling or packaging loans or other debts or securities which related to, or which are secured by, dwellings differently because of race, color, religion, sex, handicap, familial status, or national origin.

(iii) Imposing or using different terms or conditions on the marketing or sale of securities issued on the basis of loans or other debts or securities which relate to, or which are secured by, dwellings

because of race, color, religion, sex, handicap, familial status, or national origin.

3. This section does not prevent consideration, in the purchasing of loans, of factors justified by business necessity, including requirements of Federal law, relating to a transaction's financial security or to protection against default or reduction of the value of the security. Thus, this provision would not preclude considerations employed in normal and prudent transactions, provided that no such factor may in any way relate to race, color, religion, sex, handicap, familial status, or national origin.

(e) Discrimination in the terms and conditions for making available loans or other financial assistance.

1. It shall be unlawful for any person or entity engaged in the making of loans or the provision of other financial assistance relating to the purchase, construction, improvement, repair or maintenance of dwellings, or which are secured by residential real estate to impose different terms or conditions for the availability of such loans or other financial assistance because of race, color, religion, sex, handicap, familial status, or national origin.

2. Unlawful conduct under this section includes, but is not limited to:

(i) Using different policies, practices or procedures in evaluating or in determining credit worthiness of any person in connection with the provision of any loan or other financial assistance for a dwelling or for any loan or other financial assistance which is secured by residential real estate because of race, color, religion, sex, handicap, familial status, or national origin.

(ii) Determining the type of loan or other financial assistance to be provided with respect to a dwelling, or fixing the amount, interest rate, duration or other terms for a loan or other financial assistance for a dwelling or which is secured by residential real estate, because of race, color, religion, sex, handicap, familial status, or national origin.

(f) Unlawful practices in the selling, brokering, or appraising of residential real property.

1. It shall be unlawful for any person or other entity whose business includes engaging in the selling, brokering or appraising of residential real property to discriminate against any person in making available such services, or in

the performance of such services, because of race, color, religion, sex, handicap, familial status, or national origin.

2. For the purposes of this section, the term "appraisal" means an estimate or opinion of the value of a specified residential real property made in a business context in connection with the sale, rental, financing or refinancing of a dwelling or in connection with any activity that otherwise affects the availability of a residential real estate-related transaction, whether the appraisal is oral or written, or transmitted formally or informally. The appraisal includes all written comments and other documents submitted as support for the estimate or opinion of value.

3. Nothing in this section prohibits a person engaged in the business of making or furnishing appraisals of residential real property from taking into consideration factors other than race, color, religion, sex, handicap, familial status, or national origin.

4. Practices which are unlawful under this section include, but are not limited to, using an appraisal of residential real property in connection with the sale, rental, or financing of any dwelling where the person knows or reasonably should know that the appraisal improperly takes into consideration race, color, religion, sex, handicap, familial status, or national origin.

(4) PROHIBITION AGAINST DISCRIMINATION BECAUSE OF HANDICAP.

(a) **Purpose.** The purpose of this subpart is to effectuate O.C.G.A. Section 8-3-202 of the Georgia Fair Housing Law, as amended.

(b) **Definitions.** As used in this subpart:

1. "Accessible," when used with respect to the public and common use areas of a building containing covered multifamily dwellings, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical handicaps. The phrase "readily accessible to and usable by" is synonymous with accessible. As public or common use area that complies with the appropriate requirements of ANSI A117.1-1986 or a comparable standard is "accessible" within the meaning of this paragraph.

2. "Accessible route" means a continuous unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks,

ramps and lifts. A route that complies with the appropriate requirements of ANSI A117.1-1986 or a comparable standard is an "accessible route."

3. "ANSI A117.1-1986" means the 1986 edition of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people.

4. "Building" means a structure, facility or portion thereof that contains or serves one or more dwelling units.

5. "Building entrance on an accessible route" means an accessible entrance to a building that is connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, or to public streets or sidewalks, if available. A building entrance that complies with ANSI A117.1-1986 or a comparable standard complies with the requirements of this paragraph.

6. "Common use areas" means rooms, spaces or elements inside or outside of a building that are made available for the use of residents of a building or the guests thereof. These areas include hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas and passageways among and between buildings.

7. "Controlled substance" means any drug or other substance, or immediate precursor included in the definitions in O.C.G.A. Sections 16-13-21 and 16-13-110; and in section 102 of the Controlled Substances Act, 21 U.S.C. Section 802.

8. "Covered multifamily dwellings" means buildings consisting of four or more dwelling units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of four or more dwelling units.

9. "Dwelling unit" means a single unit of residence for a family or one or more persons. Examples of dwelling units include: a single family home; an apartment unit within an apartment building; and in other types of dwellings in which sleeping accommodations are provided but toileting or cooking facilities are shared by occupants of more than one room or portion of the dwelling, rooms in which people sleep. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.

10. "Entrance" means any access point to a building or portion of a building used by residents for the purpose of entering.

11. "Exterior" means all areas of the premises outside of an individual dwelling unit.

12. "First occupancy" means a building that has never before been used for any purpose.

13. "Ground floor" means a floor of a building with a building entrance on an accessible route. A building may have more than one ground floor.

14. "Handicap" or "disability," with respect to a person, means a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. These terms do not include current, illegal use of or addition to a controlled substance (as defined O.C.G.A. Sections 16-13-21 and 16-13-110; and in Section 102 of the Controlled Substances Act, 21 U.S.C. Section 802). As used in this definition:

    (i) "physical or mental impairment" includes, but is not limited to:

        (I) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine;

        (II) any mental psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; or

        (III) such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

    (ii) "major life activity" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

    (iii) "has a record of impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) "regard as having an impairment" means:

(I) has a physical or mental impairment that does not substantially limit one or more major life activities, but is treated by another person as constituting such a limitation;

(II) has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(III) has none of the impairments defined in paragraph 1. hereof, but is treated by another person as having such an impairment.

15. "Interior" means the spaces, parts, components or elements of an individual dwelling unit.

16. "Modification" means any change to the public or common use areas of a building or any change to a dwelling unit.

17. "Premises" means the interior or exterior spaces, parts, components or elements of a building, including individual dwelling units and the public and common use areas of a building.

18. "Public use areas" means the interior or exterior rooms or spaces of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.

19. "Site" means a parcel of land bounded by a property line or a designated portion of a public right of way.

(c) General prohibitions against discrimination because of handicap.

1. It shall be unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

(i) That buyer or renter;

(ii) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(iii) Any person associated with that person.

2. It shall be unlawful to discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:

   (i) That buyer or renter;

   (ii) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

   (iii) Any person associated with that person.

3. It shall be unlawful to make an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is so sold, rented or made available, or any person associated with that person, has a handicap or to make inquiry as to the nature or severity of a handicap of such a person. However, this paragraph does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they have handicaps:

   (i) Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;

   (ii) Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with handicaps or to persons with a particular type of handicap;

   (iii) Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with handicaps or to persons with a particular type of handicap;

   (iv) Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance;

   (v) Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

4. Nothing in this subpart requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(d) Reasonable modifications of existing premises.

1. It shall be unlawful for any person to refuse to permit, at the expense of a handicapped person, reasonable modifications of existing premises, occupied or to be occupied by a handicapped person, if the proposed modifications may be necessary to afford the handicapped person full enjoyment of the premises of a dwelling. In the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. The landlord may not increase for handicapped persons any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

2. A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.

3. For guidance on the application of paragraph 1. of this section, the Administrator shall refer to the examples set forth in 24 C.F.R. Part 100Se ction 100.203(c), on reasonable modifications of existing premises, and any other relevant sources.

(e) Reasonable accommodations.

1. It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

2. For guidance on the application of paragraph 1. of this section, the Administrator shall refer to the examples set forth in 24 C.F.R. Part 100Se ction 100.204(b), on reasonable accommodations, and any other relevant sources.

(f) Design and construction requirements.

1. Covered multifamily dwellings for first occupancy after March 13, 1991, shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or

unusual characteristics of the site. For purposes of this section, a covered multifamily dwelling shall be deemed to be designed and constructed for first occupancy on or before March 13, 1991, if they are occupied by that date or if the last building permit or renewal thereof for the covered multifamily dwellings is issued by the State, County or local government on or before January 13, 1990. The burden of establishing impracticality because of terrain or unusual site characteristics is on the person or persons who designed or constructed the housing facility.

2. For guidance on the application of paragraph 1. of this section, the Administrator shall refer to the examples set forth in 24 C.F.R. Part 100Se ction 100.205(b), on design and construction requirements, and any other relevant sources.

3. All covered multifamily dwellings for first occupancy after March 13, 1991, with a building entrance on an accessible route shall be designed and constructed in such a manner that:

   (i) The public and common use areas are readily accessible to and usable by handicapped persons;

   (ii) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

   (iii) All premises within covered multifamily dwelling units contain the following features of adaptable design:

      (I) An accessible route into and through the covered dwelling unit;

      (II) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

      (III) Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower, stall and shower seat, where such facilities are provided; and

      (IV) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

4. For guidance on the application of paragraph 3. of this section, the Administrator shall refer to the examples set forth in 24 C.F.R. Part 100Se ction 100.205(d), on design and construction requirements, and any other relevant sources.

5. Compliance with the appropriate requirements of ANSI A117.1-1986 suffices to satisfy the requirements of paragraph 3. (iii) of this section.

6. Compliance with a duly enacted law of the State or unit of general local government that includes the requirements of paragraphs 1. and 3. of this section satisfies the requirements of paragraphs 1. and 3. of this section.

(5) HOUSING FOR OLDER PERSONS.

(a) **Purpose.** The purpose of this subpart is to effectuate the exemption in the Georgia Fair Housing Law, as amended, that relates to housing for older persons.

(b) Exemption.

1. The provisions regarding familial status in this part do not apply to housing which satisfies the requirements of Rules 186-2-.02(5)(c), 186-2-.02(5)(d) or 186-2-.02(5)(e).

2. Nothing in this part limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(c) **State and federal elderly housing programs.** The provisions regarding familial status in this part shall not apply to housing provided under any Federal or State program that the Administrator determines is specifically designed and operated to assist elderly persons, as defined in the State or Federal program. In making such determination, the Administrator shall use as guidance applicable standards as determined by the Secretary of the U.S. Department of Housing and Urban Development.

(d) 62 or over housing.

1. The provisions regarding familial status in this part shall not apply to housing intended for, and solely occupied by, persons 62 years of age or older. Housing satisfies the requirements of this section even though:

(i) There are persons residing in such housing on September 13, 1988, who are under 62 years of age, provided that all new occupants are persons 62 years of age or older;

(ii) There are unoccupied units, provided that such units are reserved for occupancy by persons 62 years of age or over;

(iii) There are units occupied by employees of the housing (and family members residing in the same unit) who are under 62 years of age

provided they perform substantial duties directly related to the management or maintenance of the housing.

2. For guidance on the application of paragraph 1. of this section, the Administrator shall refer to examples set forth in 24 C.F.R. Part 100Se ction 100.303(b), on 62 or over housing, and any other relevant sources.

(e) 55 or over housing.

1. The provisions regarding familial status shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the housing satisfies the requirements in Rules 186-2-.02(5)(e)2. or 2. (i) and the requirements of Rule 186-2-.02(5)(e)3.

2. The housing facility has significant facilities and services specifically designed to meet the physical or social needs of older persons. "Significant facilities and services specifically designed to meet the physical or social needs of older persons" include, but are not limited to, social and recreational programs, continuing education, information and counseling, recreational, homemaker, outside maintenance and referral services, an accessible physical environment, emergency and preventive health care programs, congregate dining facilities, transportation to facilitate access to social services, and services designed to encourage and assist residents to use the services and facilities available to them (the housing facility need not have all of these features to qualify for the exemption under this subparagraph); or

   (i) It is not practicable to provide significant facilities and services designed to meet the physical or social needs of older persons and the housing facility is necessary to provide important housing opportunities for older persons. In order to satisfy this paragraph 2. (i) of this section, the owner or manager of the housing facility must demonstrate through credible and objective evidence that the provision of significant facilities and services designed to meet the physical or social needs of older persons would result in depriving older persons in the relevant geographic area of needed and desired housing. The following factors, among others, are relevant in meeting the requirements of this paragraph 2. (i) of this section:

      (I) Whether the owner or manager of the housing facility has endeavored to provide significant facilities and services designed to meet the physical or social needs of older persons either by the owner or by some other entity. Demonstrating that such services and facilities are expensive to provide is not

alone sufficient to demonstrate that the provision of such services is not practicable.

(II) The amount of rent charged, if the dwellings are rented, or the price of the dwellings, if they are offered for sale.

(III) The income range of the residents of the housing facility.

(IV) The demand for housing for older persons in the relevant geographic area.

(V) The range of housing choices for older persons within the relevant geographic area.

(VI) The availability of other similarly priced housing for older persons in the relevant geographic area. If similarly priced housing for older persons with significant facilities and services is reasonably available in the relevant geographic area, then the housing facility does not meet the requirements of this paragraph 2. (i) of the section.

(VII) The vacancy rate of the housing facility.

3. At least 80% of the units in the housing facility are occupied by at least one person 55 years of age or older per unit **except that** a newly constructed housing facility for first occupancy after March 12, 1989, need not comply with this paragraph 3. of this section until 25% of the units in the facility are occupied; and

   (i) The owner or manager of a housing facility publishes and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of this paragraph 3. (i) of this section:

   (I) The manner in which the housing facility is described to prospective residents.

   (II) The nature of any advertising designed to attract prospective residents.

   (III) Age verification procedures.

(IV) Lease provisions.

(V) Written rules and regulations.

(VI) Actual practices of the owner or manager in enforcing relevant lease provisions and relevant rules or regulations.

4. Housing satisfies the requirements of this section even though:

(i) On September 13, 1988, under 80% of the occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit, provided that at least 80% of the units that are occupied by new occupants after September 13, 1988, are occupied by at least one person 55 years of age or older.

(ii) There are unoccupied units, provided that at least 80% of such units are reserved for occupancy by at least one person 55 years of age or over.

(iii) There are units occupied by employees of the housing (and family members residing in the same unit) who are under 55 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

5. For guidance on the application of this Rule, the Administrator shall refer to the examples set forth in 24 C.F.R. Part 100Se ction 100.304(e), on 55 or over housing, and any other relevant sources.

(6) INTERFERENCE, COERCION OR INTIMIDATION.

(a) Prohibited interference, coercion or intimidation.

1. This subpart provides the Commission's interpretation of the conduct that is unlawful under O.C.G.A. Section 8-3-222 of the Georgia Fair Housing Law.

2. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of; or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this rule.

3. Conduct made unlawful under this rule includes, but is not limited to, the following:

(i) Coercing a person, either orally, in writing, or by other means, to deny or limit the benefits provided that person in connection with the sale or rental of a dwelling or in connection with a residential real estate-related transaction because of race, color, religion, sex, handicap, familial status, or national origin.

(ii) Threatening, intimidating or interfering with persons in their enjoyment of a dwelling because of race, color, religion, sex, handicap, familial status, or national origin of such persons, or of visitors or associates of such persons.

(iii) Threatening an employee or agent with dismissal or an adverse employment action, or taking such adverse employment action, for any effort to assist a person seeking access to the sale or rental of a dwelling or seeking access to any residential real estate-related transaction, because of race, color, religion, sex, handicap, familial status, or national origin of that person or of any person associated with that person.

(iv) Intimidating or threatening any person because that person is engaging in activities designed to make other persons aware of; or encouraging such other persons to exercise, rights granted or protected by this part.

(v) Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the Georgia Fair Housing Law, as amended.

Cite as Ga. Comp. R. & Regs. R. 186-2-.02
Authority: O.C.G.A. Secs. 8-3-200(a)(b), 8-3-201, 8-3-202, 8-3-202(a), 8-3-202(a)(3), 8-3-202(a)(4), 8-3-202(a)(5), 8-3-202(a)(6)(7), 8-3-202(a)(7)(B)(i), 8-3-202(a)(7)(B)(ii), 8-3-202(a)(7)(B)(iii)(I),(II),(III)(7)(D), 8-3-202)6), 8-3-203, 8-3-204(a)(1), 8-3-204(a)(2), 8-3-204(b), 8-3-205(a)(b), 8-3-205(b)(1)(A), 8-3-205(b)(1)(B), 8-3-205(b)(1)(C), 8-3-222.
History. Original Rule entitled "Discriminatory Conduct Under the Georgia Fair Housing Law, as Amended" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-2-.03. Fair Housing Complaint Processing.

(1) GENERAL.

(a) Purpose and applicability.

1. This part contains the procedures established by the Commission for the investigation and conciliation of complaints under O.C.G.A. Sections 8-3-208, 8-3-209, and 8-3-211 of the Georgia Fair Housing Law, as amended.

2. This part applies to:

   (i) Complaints alleging discriminatory housing practices because of race, color, religion, sex, or national origin; and

   (ii) Complaints alleging discriminatory housing practices on account of handicap or familial status occurring on or after March 12, 1989.

   (iii) Rule 186-2-.04(1)*et seq.* govern the administrative proceedings before the Board of Commissioners adjudicating charges issued under Rule 186-2-.03(6).

(b) **Definitions.** As used in this part:

1. **"Aggrieved person"** includes any person who:

   (i) Claims to have been injured by a discriminatory housing practice; or

   (ii) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

2. **"Attorney General"** means the Attorney General of the State of Georgia.

3. **"Complainant"** means the person (including the Administrator) who files a complaint under the Act.

4. **"Conciliation"** means the attempted resolution of issues raised by a complaint, or by the investigation of a complaint, through informal negotiations involving the aggrieved person, the respondent, and the Administrator.

5. **"Conciliation agreement"** means a written agreement setting forth the resolution of the issues in conciliation.

6. **"Discriminatory housing practice"** means an act that is unlawful under sections 8-3-202, 8-3-203, 8-3-204, or 8-3-222 of the Act.

7. **"Dwelling"** means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, or any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

8. The **"Georgia Fair Housing Act"** or **"The Act"** means Article 4 of Chapter 3 of Title 8, as amended, cited herein as O.C.G.A. Section 8-3-200*et seq*.

9. **"HUD"** means the United States Department of Housing and Urban Development.

10. **"Person"** includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustee in cases under Title 11 of the United States Code, receivers and fiduciaries.

11. **"Personal service"** means handing a copy of the document to the person to be served or leaving a copy of the document with a person of suitable age and discretion at the place of business, residence or unusual place of abode of the person to be served.

12. **"Receipt of service"** means the day that personal service is completed by handing or delivering a copy of the document to an appropriate person or the date that a document is delivered by certified mail.

13. "Respondent" means:

    (i) the person or other entity accused in a complaint or a charge of a discriminatory housing practice; and

    (ii) any other person or entity identified in the course of the investigation and notified as required under O.C.G.A. Section 8-3-208(d) of the Act.

14. **"To rent"** includes to lease, to sublease, to let, and, otherwise to grant for consideration the right to occupy premises not owned by the occupant.

(2) COMPLAINTS.

(a) Submission of information.

1. The Administrator will receive information concerning alleged discriminatory housing practices from any person. Where the information constitutes a complaint within the meaning of the Georgia Fair Housing Law, as amended, and this part and is furnished by an aggrieved person it will be considered to be filed under Rule 186-2-.03(2)(f).

2. Information submitted to the Administrator by the aggrieved person or persons may be made available to any other Federal, State or local agency having an interest in the matter. In making available such information, steps will be taken to protect the confidentiality of any informant or complainant where desired by the informant or complainant.

(b) **Who may file complaints.** Any aggrieved person or the Administrator may file a complaint no later than one year after an alleged discriminatory housing practice has occurred or terminated. The complaint may be filed with the assistance of an authorized representative of an aggrieved person, including any organization acting on behalf of an aggrieved person.

(c) Persons against whom complaints may be filed.

1. A complaint may be filed against any person alleged to be engaged, to have engaged, or to be about to engage, in a discriminatory housing practice.

2. A complaint may also be filed against any person who directs or controls, or has the right to direct or control, the conduct of another person with respect to any aspect of the sale, rental, advertising or financing of dwellings or the provision of brokerage services relating to the sale or rental of dwellings if that other person, acting within the scope of his or her authority as employee or agent of the directing or controlling person, is engaged, has engaged, or is about to engage, in a discriminatory housing practice.

(d) Where to file complaints.

1. Aggrieved persons may file complaints in person with, or by mail to the Commission on Equal Opportunity, Fair Housing Division in Atlanta, Georgia, or at any other satellite or regional office of the Commission located elsewhere in the State.

2. Aggrieved persons may provide information to be contained in a complaint by telephone or in person to the Commission or any of its satellite or regional offices. The Commission will reduce information provided by telephone to writing on the prescribed complaint form and send the form to the aggrieved person to be signed and affirmed as provided in Rule 186-2-.03(2)(e)1.

3. Complaints may be filed in person or by mail with the State, or with any local agency which has been certified by HUD as a"substantially equivalent" deferral agency under 24 C.F.R. Part 115 . Complaints filed with a substantially equivalent local agency will be considered to be complaints dual filed with the agency under its own law, and with HUD under the Fair Housing Act. In any case where HUD has initiated an

investigation or any action or proceedings against any person relative to any acts or omissions by such person which may be in violation of the Georgia Fair Housing Law, as amended, the Administrator has no authority to initiate or pursue against such person any investigation, civil action, or administrative enforcement covered by the provisions of the Act with regard to the same acts or omissions or facts or circumstances to which the federal investigation or proceedings are applicable.

(e) Form and content of complaint.

1. Each complaint must be in writing and must be signed and affirmed by the aggrieved person filing the complaint or, if the complaint is filed by the Commission, by the Administrator. The signature and affirmation may be made at any time during the investigation. The affirmation shall state: "I declare under penalty of perjury that the foregoing is true and correct."

2. The Administrator may require complaints to be made on prescribed forms. Complaint forms will be available in offices of the Commission. Notwithstanding any requirement for use of a prescribed form, the Commission will accept any written statement which substantially sets forth the allegations of the discriminatory housing practice under the Georgia Fair Housing Law, as amended, as a Georgia Fair Housing Law complaint. Personnel in these offices will provide appropriate assistance in filling out forms and filing a complaint.

3. Each complaint must contain substantially the following information:

   (i) The name and address of the aggrieved person;

   (ii) The name and address of the respondent;

   (iii) A description and the address of the dwelling which is involved, if appropriate;

   (iv) A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice.

(f) Date of filing of complaint.

1. Except as provided in paragraph 2. of this section, a complaint is filed when it is received by the Commission, or dual filed with HUD in a form that reasonably meets the standards of Rule 186-2-.03(2)(d).

2. The Administrator may determine that a complaint is filed for the purposes of the one-year period for the filing of complaints, upon the submission of

written information (including information provided by telephone and reduced to writing by an employee of the Commission) identifying the parties and describing generally the alleged discriminatory housing practice.

3. Where a complaint alleges a discriminatory housing practice that is continuing, as manifested in a number of incidents of such conduct, the complaint will be timely if filed within one of the last alleged occurrence of that practice.

(g) Amendment of Complaint. Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to: amendments to cure technical defects or omission, including failure to sign or affirm a complaint, to clarify or amplify the allegations in a complaint, or to join additional or substitute respondents. Except for the purposes of notifying respondents under Rule 186-2-.03(2)(i), amended complaints will be considered as having been made as of the original filing date.

(h) Service of notice on aggrieved person.

1. Upon the filing of a complaint, the Commissioner will notify, by certified mail or personal service, each aggrieved person on whose behalf the complaint was filed. The notice will:

   (i) Acknowledge the filing of the complaint and state the date that the complaint was accepted for filing.

   (ii) Include a copy of the complaint.

2. Advise the aggrieved person of the time limits applicable to complaint processing and of the procedural rights and obligations of the aggrieved person under Rules 186-2-.03(2)*et seq.* and 186-2-.04(1)*et seq.*

3. Advise the aggrieved person of his or her right to commence a civil action under O.C.G.A. Section 8-3-217 of the Georgia Fair Housing Law and Section 813 of the Fair Housing Act, in an appropriate state or United States District Court, no later than two years alter the occurrence or termination of the alleged discriminatory housing practice. The notice will state that the computation of this two-year period excludes any time during which a proceeding is pending under this part or Rule 186-2-.04(1)*et seq.* with respect to a complaint or charge based on the alleged discriminatory housing practice. The notice will also state that the time period includes the time during which an action arising from a breach of a conciliation agreement under O.C.G.A. Section 8-3-218(b)(2) of the Georgia Fair Housing Law, as amended, or Section 814(b)(2) of the Federal Fair Housing Act, is pending.

4. Advise the aggrieved person that retaliation against any person because he or she made a complaint or testified, assisted, or participated in an investigation or conciliation under this part or an administrative proceeding under Rule 186-2-.04(1)*et seq.*, is a discriminatory housing practice that is prohibited under O.C.G.A. Section 8-3-222 of the Georgia Fair Housing Law, as amended.

(i) Notification of respondent; joinder of additional or substitute respondents.

1. Within ten days of the filing of a complaint under Rule 186-2-.03(2)(f) or the filing of an amended complaint under Rule 186-2-.03(2)(g), the Administrator will serve a notice on each respondent by certified mail or by personal service. A person who is not named as a respondent in a complaint, but who is identified in the course of the investigation under Rule 186-2-.03(4) of this part as a person who is alleged to be engaged, to have engaged, or to be about to engage in the discriminatory housing practice upon which the complaint is based may be joined as an additional or substitute respondent by service of a notice on the person under this section within ten days of the identification.

2. The notice will:

(i) Identify the alleged discriminatory housing practice upon which the complaint is based, and include a copy of the complaint;

(ii) State the date that the complaint was accepted for filing;

(iii) Advise the respondent of the time limits applicable to complaint processing under this part and of the procedural rights and obligations of the respondent under this part and Rule 186-2-.04(1)*et seq.*, including the opportunity to submit an answer to the complaint within 10 days of the receipt of the notice.

(iv) Advise the respondent of the aggrieved person's right to commence a civil action under O.C.G.A. Section 8-3-217 of the Georgia Fair Housing Law, as amended, and under Section 813 of the Fair Housing Act, in an appropriate state or United States District Court, not later than two years after the occurrence or termination of the alleged discriminatory housing practice. The notice will state that the computation of this two year period excludes any time during which a proceeding is pending under this part or Rule 186-2-.04(1)*et seq.* with respect to a complaint or charge based on the alleged discriminatory housing practice. The notice will also state that the time period includes the time during which an action arising from a

breach of a conciliation agreement under O.C.G.A. Section 8-3-2 18(b)(2), or Section 814(b)(2) of the Fair Housing Act, is pending.

3. If the person is not named in the complaint, but is being joined as an additional or substitute respondent, the notice will explain the basis for the Administrator's belief that the joined person is properly joined as a respondent.

4. The notice will advise the respondent that retaliation against any person because he or she made a complaint or testified, assisted or participated in an investigation or conciliation under this part or an administrative proceeding under Rule 186-2-.04(1)*et seq.*, is a discriminatory housing practice that is prohibited under O.C.G.A. Section 8-3-222 and under Section 818 of the Fair Housing Act.

(j) Answer to complaint.

1. The respondent may file an answer not later than ten days after receipt of the notice described in Rule 186-2-.03(2)(i). The respondent may assert any defense that might be available to a defendant in a court of law. The answer must be signed and affirmed by the respondent. The affirmation must state: "I declare under penalty of perjury that the foregoing is true and correct."

2. An answer may be reasonably and fairly amended at any time with the consent of the Administrator.

(3) REFERRAL OF COMPLAINTS TO LOCAL AGENCIES.

(a) Notification and Referral to Substantially Equivalent Local Agencies.

1. Whenever a complaint alleges a discriminatory housing practice that is within the jurisdiction of a substantially equivalent local agency and the agency is certified or may accept interim referrals under 24 C.F.R. Part 115 with regard to the alleged discriminatory housing practice, the Administrator will notify the agency of the filing of the complaint and refer the complaint to the agency for further processing before the Commission takes any action with respect to the complaint. The Administrator will notify the local agency of the referral by certified mail. In no event shall the Administrator refer a complaint that is within the Administrator's jurisdiction to a local agency for handling, unless such agency has been certified by HUD as a deferral agency under 24 C.F.R. Part 115.

2. The Administrator will notify the aggrieved person and the respondent, by certified mail or personal service, of the notification and referral under

paragraph 1. of this section. The notice will advise the aggrieved person and the respondent of the aggrieved person's rights to commence a civil action under O.C.G.A. Section 8-3-217 of the Georgia Fair Housing Law, as amended, and under Section 813 of the Fair Housing Act, in an appropriate state or United States District Court, not later than two years after the occurrence or termination of the alleged discriminatory housing practice. The notice will state that the computation of this two year period excludes any time during which a proceeding is pending under this part or Rule 186-2-.04(1) with respect to a complaint or charge based on the alleged discriminatory housing practice. The notice will also state that the time period includes the time during which an action arising from a breach of a conciliation agreement under O.C.G.A. Section 8-3-218(b)(2), or Section 814(b)(2) of the Fair Housing Act, is pending.

(b) **Cessation of Action on Referred Complaints.** After a complaint is referred under Rule 186-2-.03(3)(a), the Administrator will take no further action with respect to the complaint, except as provided in Rule 186-2-.03(3)(a).

(c) Reactivation of Referred Complaints.

1. The Administrator may reactivate a complaint referred under Rule 186-2-.03(3)(a) for processing by the Commission if:

   (i) The substantially equivalent local agency consents or requests the reactivation;

   (ii) HUD determines that, with respect to the alleged discriminatory housing practice, the local agency no longer qualifies for certification as a substantially equivalent local agency and may not accept interim referrals; or

   (iii) The substantially equivalent local agency has failed to commence proceedings with respect to the complaint within 30 days of the date that it received the notification and referral of the complaint; or the agency commenced proceedings within this 30-day period, but the Administrator determines that the local agency has failed to carry the proceedings forward with reasonable promptness. The Commission will not reactivate a complaint under this paragraph 1. (iii) of this section until the Commission has conferred with the local agency to determine the reason for the delay in processing of the complaint. If the Administrator believes that the agency will proceed expeditiously following the conference, the Administrator may leave the complaint with the local agency for a reasonable time, notwithstanding the expiration of the 30-day period or a

previous failure to carry the proceedings forward with reasonable promptness.

(d) Notification Upon Reactivation.

1. Whenever a complaint referred to a local fair housing agency under Rule 186-2-.03(3)(a) is reactivated under Rule 186-2-.03(3)(c), the Administrator will notify the substantially equivalent local agency, the aggrieved person and the respondent of the Commission's reactivation. The notification will be made by certified mail or personal service.

2. The notification to the respondent and the aggrieved person will:

(i) Advise the aggrieved person and the respondent of the time limits applicable to complaint processing and the procedural rights and obligations of the aggrieved person and the respondent under this part and Rule 186-2-.04(1)*et seq.*

(ii) State that the Commission will process the complaint under the Georgia Fair Housing Law and that the local agency to which the complaint was referred may continue to process the complaint under State or local law.

(iii) Advise the aggrieved person and the respondent of the aggrieved person's rights to commence a civil action under O.C.G.A. Section 8-3-217 of the Georgia Fair Housing Law, as amended, and under Section 813 of the Fair Housing Act, in an appropriate state or United States District Court, not later than two years after the occurrence or termination of the alleged discriminatory housing practice. The notice will state that the computation of this two-year period excludes any time during which a proceeding is pending under this part or Rule 186-2-.04(1)*et seq.* with respect to a complaint or charge based on the alleged discriminatory housing practice. The notice will also state that the time period includes the time during which an action arising from a breach of a conciliation agreement under O.C.G.A. Section 8-3-218(b)(2), or Section 814(b)(2) of the Fair Housing Act, is pending.

(4) INVESTIGATIVE PROCEDURES.

(a) Investigations.

1. Upon the filing of a complaint, the Administrator will initiate an investigation before the end of the 30th day after receipt of the complaint. The purpose of an investigation is:

   (i) To obtain information concerning the events or transactions that relate to the alleged discriminatory housing practice identified in the complaint.

   (ii) To document policies or practices of the respondent involved in the alleged discriminatory housing practice raised in the complaint.

   (iii) To develop factual data necessary to make a determination whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, and to take other actions provided under this part.

2. Upon the written direction of the Administrator, the Commission may initiate an investigation of housing practices to determine whether a complaint should be filed under Rule 186-2-.03(2)*et seq*.

(b) **Systemic Processing.** Where the Administrator determines that the alleged discriminatory practices contained in a complaint are pervasive or institutional in nature, or that the processing of the complaint will involve complex issues, novel questions of fact or law, or will affect a large number of persons, the Administrator may identify the complaint for systemic processing. This determination can be based on the face of the complaint or on information gathered in connection with an investigation. Systemic investigations may focus not only on documenting facts involved in the alleged discriminatory housing practice that is the subject of the complaint, but also in review of other policies and procedures related to matters under investigation, to make sure that they also comply with the nondiscrimination requirements of the Georgia Fair Housing Law.

(c) Conduct of Investigation.

1. In conducting investigations under this part, the Administrator will seek the voluntary cooperation of all persons to obtain access to premises, records, documents, individuals, and other possible sources of information; to examine record, and copy necessary materials, and to take and record testimony or statements of persons reasonably necessary for the furtherance of the investigation.

2. The Administrator may issue subpoenas and order discovery in aid of the investigation to the same extent and subject to the same limitations as would

apply if the subpoenas or discovery were ordered or served in aid of a civil action in the superior court in which the investigation is taking place.

(d) **Cooperation of federal, state and local agencies.** The Administrator, in processing Georgia Fair Housing Law complaints, may seek the cooperation and utilize the services of Federal, State or local agencies, including any agency having regulatory or supervisory authority over financial institutions.

(e) Completion of investigation.

1. The investigation will remain open until the reasonable cause determination is made under O.C.G.A. Section 8-3-211(a) or a conciliation agreement is executed and approved under O.C.G.A. Section 8-3-209(b). Unless it is impracticable to do so, the Administrator will complete the investigation of the alleged discriminatory housing practice within 100 days of the filing of the complaint (or where the Administrator reactivates the complaint, within 100 days after service of the notice of reactivation under Rule 186-2-.03(3)(d). If the Administrator is unable to complete the investigation within the 100-day period, the Administrator will notify the aggrieved person and the respondent, by certified mail or personal service, of the reasons for the delay.

2. In any event, the Administrator shall make a final administrative disposition of a complaint within one year of the date of receipt of a complaint, unless it is unable to do so. If the Administrator is unable to do so, the Administrator shall notify the complainant and the respondent, in writing, of the reasons for not doing so.

(f) Final investigative report.

1. At the end of each investigation under this part, the Administrator will prepare a final investigative report. The investigative report will contain:

(i) The names and dates of contacts with witnesses, except that the report will not disclose the names of witnesses that request anonymity. The Commission, however, may be required to disclose the names of such witnesses in the course of an administrative hearing under O.C.G.A. Section 8-3-213(e) or a civil action under O.C.G.A. Section 8-3-217;

(ii) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

(iii) A summary description of other pertinent records;

(iv) A summary of witness statements; and

(v) Answers to interrogatories.

2. A final investigative report may be amended at any time, if additional evidence is discovered.

3. Notwithstanding the prohibitions and requirements with respect to disclosure of information contained in Rule 186-2-.03(5), the Administrator will make information derived from an investigation, including the final investigative report, available to the aggrieved person and the respondent. Following the completion of investigation, the Administrator shall notify the aggrieved person and the respondent that the final investigation report is complete and will be provided upon request.

(5) CONCILIATION PROCEDURES.

(a) Conciliation.

1. During the period beginning with the filing of the complaint and ending with the filing of a charge or the dismissal of the complaint by the Administrator, the Administrator will, to the extent feasible, attempt to conciliate the complaint.

2. In conciliating the complaint, the Administrator will attempt to achieve a just resolution of the complaint and to obtain assurances that the respondent will satisfactorily remedy any violations of the rights of the aggrieved person, and take such action as will assure the elimination of discriminatory housing practices, or the prevention of their occurrence, in the future.

(b) Conciliation agreement.

1. The terms of a settlement of a complaint will be reduced to a written conciliation agreement. The conciliation agreement shall seek to protect the interest of the aggrieved person, other persons similarly situated, and the public interest. The types of relief that may be sought for the aggrieved person are described in Rule 186-2-.03(5)(c). The provisions that may be sought for the vindication of the public interest are described in Rule 186-2-.03(6)(b).

2. The agreement must be executed by the respondent and the complainant. The agreement is subject to the approval of the Administrator, who will indicate approval by signing the agreement. The Administrator will approve an agreement and, if the Administrator is the complainant, will execute the agreement, only if:

(i) The complainant and the respondent agree to the relief accorded the aggrieved person;

(ii) The provisions of the agreement will adequately vindicate the public interest; and

(iii) If the Administrator is the complainant, all aggrieved persons named in the complaint are satisfied with the relief provided to protect their interests.

3. The Attorney General may issue a charge under Rule 186-2-.03(6)(b) if the aggrieved person and the respondent have executed a conciliation agreement that has not been approved by the Administrator.

(c) Relief sought for aggrieved persons.

1. The following types of relief may be sought for aggrieved persons in conciliation:

(i) Monetary relief in the form of damages, including damages caused by humiliation or embarrassment, and attorney fees;

(ii) Other equitable relief including, but not limited to, access to the dwelling at issue, or to a comparable dwelling, the provision of services or facilities in connection with a dwelling, or other specific relief; or

(iii) Injunctive relief appropriate to the elimination of discriminatory housing practices affecting the aggrieved person or other persons.

2. The conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Arbitration may award appropriate relief as described in paragraph 1. of this section. The aggrieved person and the respondent may, in the conciliation agreement, limit the types of relief that may be awarded under binding arbitration.

(d) Provisions sought for the public interest.

1. The following are types of provisions which may be sought for the vindication of the public interest:

(i) Elimination of discriminatory housing practices;

(ii) Prevention of future discriminatory housing practices;

(iii) Remedial affirmative activities to overcome discriminatory housing practices;

(iv) Reporting requirements;

(v) Monitoring and enforcement activities.

(e) Termination of conciliation efforts.

1. The Commission may terminate its efforts to conciliate the complaint if the respondent fails or refuses to confer with the Commission; the aggrieved person or the respondent fails to make a good faith effort to resolve any dispute; or the Commission finds, for any reason, that voluntary agreement is not likely to result.

2. Where the aggrieved person has commenced a civil action under federal or State law seeking relief with respect to the alleged discriminatory housing practice, and the trial in the action has commenced, the Commission will terminate conciliation unless the court specifically requests assistance from the Administrator.

(f) Prohibitions and requirements with respect to disclosure of information obtained during conciliation.

1. Except as provided in paragraph 2. of this section and Rule 186-2-.03(4)(f)3., nothing that is said or done in the course of conciliation under this part may be made public or used as evidence in a subsequent administrative hearing under Rule 186-2-.04(1) or in civil actions under Title VIII of the Fair Housing Act or The Georgia Fair Housing Law, as amended, without the written consent of the persons concerned.

2. Conciliation agreements shall be made public, unless the aggrieved person and respondent request nondisclosure and the Administrator determines that disclosure is not required to further the purposes of the Georgia Fair Housing Law. Notwithstanding a determination that disclosure of a conciliation agreement is not required, the Administrator may make public tabulated descriptions of the results of all conciliation efforts.

(g) **Review of compliance with conciliation agreements.** The Commission may, from time to time, review compliance with the terms of any conciliation agreement. Whenever the Commission has reasonable cause to believe that a respondent has breached a conciliation agreement, the Administrator shall refer the matter to the Attorney General with a recommendation for the filing of a civil

action under O.C.G.A. Section 8-3-218(b)(2) of the Georgia Fair Housing Law for the enforcement of the terms of the conciliation agreement.

(6) ISSUANCE OF CHARGE.

(a) Reasonable cause determination.

1. If a conciliation agreement under Rule 186-2-12-.02 has not been executed by the complainant and the respondent, and approved by the Administrator, the Administrator, within the time limits set forth in paragraph 4. of this section, shall determine whether, based on the totality of the factual circumstances known at the time of the decision, reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur. The reasonable cause determination will be based solely on the facts concerning the alleged discriminatory housing practice, provided by the complainant and respondent and otherwise, disclosed during the investigation. In making the reasonable cause determination, the Administrator shall consider whether the facts concerning the alleged discriminatory housing practice are sufficient to warrant the initiation of a civil action in state court.

2. In all cases not involving the legality of local zoning or land use laws or ordinances:

(i) If the Administrator determines that reasonable cause exists, the Administrator will immediately issue a charge under Rule 186-2-12-.02 on behalf of the aggrieved person, and shall notify the aggrieved person and the respondent of this determination by certified mail or personal service.

(ii) If the Administrator determines that no reasonable cause exists, the Administrator shall: issue a short and plain written statement of the facts upon which the Administrator has based the no reasonable cause determination; dismiss the complaint; notify the aggrieved person and the respondent of the dismissal (including the written statement of facts) by certified mail or personal service; and make public disclosure of the dismissal. Public disclosure of the dismissal shall be by issuance of a press release, except that the respondent may request that no release be made. Notwithstanding a respondent's request that no press release be issued, the fact of the dismissal, including the names of the parties, shall be public information available upon request.

(iii) If the Administrator determines that the matter involves the legality of local zoning or land use laws or ordinances, the Administrator, in lieu of making a determination regarding reasonable cause, shall

refer the investigative material to the Attorney General for appropriate action under O.C.G.A. Section 8-3-218(b)(1) of the Georgia Fair Housing Law, and shall notify the aggrieved person and the respondent of this action by certified mail or personal service.

3. The Administrator may not issue a charge under paragraph 1. of this section regarding an alleged discriminatory housing practice, if an aggrieved person has commenced a civil action under an Act of Congress or a State law seeking relief with respect to the alleged discriminatory housing practice, and the trial in the action has commenced. If a charge may not be issued because of the commencement of such a trial, the Administrator will so notify the aggrieved person and the respondent by certified mail or personal service.

4. The Administrator shall make the reasonable cause determination after the Administrator forwards the matter for consideration. The Administrator shall make a reasonable cause determination within 100 days after filing of the complaint (or where the Administrator has reactivated a complaint, within 100 days after service of the notice of reactivation under Rule 186-2-.03(3)(d), unless it is impracticable to do so.

5. If the Administrator is unable to make the determination within the 100 day period specified in paragraph 4. of this section, the Administrator will notify the aggrieved person and the respondent, by certified mail or personal service, of the reasons for the delay.

(b) Issuance of Charge.

1. A charge:

(i) Shall consist of a short and plain written statement of the fact upon which the Administrator has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(ii) Shall be based on the final investigative report; and

(iii) Need not be limited to facts or grounds that are alleged in the complaint filed under Rule 186-2-.03(2)*et seq.* If the charge is based on grounds that are alleged in the complaint, the Commission will not issue a charge with regard to the grounds unless the record of the investigation demonstrates that the respondent has been given notice and an opportunity to respond to the allegation.

2. Within three business days after the issuance of the charge, the Administrator shall:

   (i) Obtain a time and place for hearing from the Board of Commissioners;

   (ii) File the charge along with the notifications described in Rule 186-2-.03(6)(c) with the Board of Commissioners; and

   (iii) Serve the charge and notifications in accordance with Rule 186-2-.03(6)(c).

(c) Election of civil action or provision of administrative proceeding.

1. If a charge is issued under Rule 186-2-.02(6)(b), a complainant (including the Administrator, if the Commission filed the complaint), a respondent, or an aggrieved person on whose behalf the complaint is filed may elect, in lieu of an administrative proceeding under Rule 186-2-.04(1)*et seq.*, to have the claims asserted in the charge decided in a civil action under O.C.G.A. Section 8-3-213(a) of the Georgia Fair Housing Law.

2. The election must be made not later than 20 days after the receipt of service of the charge, or in the case of the Administrator, not later than 20 days after service. The notice of the election must be filed with the Board of Commissioners and served on the Administrator, the Respondent, and the aggrieved persons on whose behalf the complaint was filed. The notification will be filed and served in accordance with the procedures established under Rule 186-2-.04(1)*et seq.*

3. If an election is not made under this section, the Administrator will maintain an administrative proceeding based on the charge in accordance with the procedures under Rule 186-2-.04(1)*et seq.*

4. If an election is made under this section, the Administrator shall immediately notify and authorize the Attorney General to commence and maintain a civil action seeking relief under O.C.G.A. Section 8-3-213(a)(3) of the Georgia Fair Housing Law on behalf of the aggrieved person in an appropriate Superior Court of the State of Georgia. Such notification and authorization shall include transmission of the file in the case, including a copy of the final investigative report and the charge, to the Attorney General.

5. The Administrator shall be available for consultation concerning any legal issues raised by the Attorney General as to how best to proceed in the event

that a new court decision or newly discovered evidence is regarded as relevant to the reasonable cause determination.

(7) PROMPT JUDICIAL ACTION.

(a) Prompt judicial action.

1. If at any time following the filing of a complaint, the Administrator concludes that prompt judicial action is necessary to carry out the purposes of this part, the Administrator may authorize the Attorney General to commence a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint. The commencement of a civil action by the Attorney General under these rules will not affect the initiation or continuation of proceedings under this part or administrative proceedings under Rule 186-2-.04(1)*et seq.*

2. If the Administrator has reason to believe that a basis exists for the commencement of proceedings against the respondent under O.C.G.A. Section 8-3-218(a)(pattern or practice cases), proceedings under O.C.G.A. Section 8-3-218(c) of the Georgia Fair Housing Law (enforcement of subpoenas), or proceedings by any governmental licensing or supervisory authorities, the Administrator shall transmit the information upon which the belief is based on the Attorney General and to other appropriate authorities.

(8) Other Action.

(a) Other action by the Commission.

(i) Refer the matter to the Attorney General for appropriate action (e.g., enforcement of criminal penalties under O.C.G.A. Section 8-3-212(c) of the Act).

(ii) Take appropriate steps to inform any other federal, state or local agency with an interest in the enforcement of respondent's obligations with respect to nondiscrimination in housing.

(b) **Action by other agencies.** In accordance with O.C.G.A. Section 8-3-206(c), other state agencies, including any agency having regulatory or supervisory authority over financial institutions, are responsible for ensuring that their programs and activities relating to housing and urban development are administered in a manner affirmatively to further the goal of fair housing, and for cooperating with the Administrator in furthering the purposes of the Georgia Fair Housing Law.

Cite as Ga. Comp. R. & Regs. R. 186-2-.03
Authority: O.C.G.A. Secs. 8-3-201, 8-3-206, 8-3-206(c), 8-3-206(d)(6), 8-3-208(a), 8-3-208(b)(d), 8-3-208(c), 8-3-208(c)(d), 8-3-209, 8-3-209(b), 8-3-209(c), 8-3-209(f)(1), 8-3-210, 8-3-211, 8-3-211(a), 8-3-212(a), 8-3-

213(a)(2), 8-3-217, 8-3-217(a)(3), 8-3-218, 8-3-222.
History. Original Rule entitled "Fair Housing Complaint Processing" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-2-.04. Administrative Proceedings Under O.C.G.A. Section 8-3-213 of the Georgia Fair Housing Law, as Amende.

(1) General Information.

(a) Scope.

1. **Applicability.** This part contains the rules of practice and procedure established by the Commission on Equal Opportunity for administrative proceedings before the Board of Commissioners adjudicating the claims asserted in a charge issued under Rule 186-2-.03(6)*et seq.*, where no party - the complainant, the respondent, or an aggrieved party-elects to have the claims decided in a civil action under O.C.G.A. Section 8-3-213(a) of the Georgia Fair Housing Law.

2. **General application of rules.** Hearings under this subpart shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

3. **Conduct of proceedings.** The Commission will reasonably accommodate persons with disabilities who are participants in the hearing process or interested members of the general public.

(b) Definitions.

1. **"Administrator"** means the Administrator of the Commission on Equal Opportunity.

2. **"Aggrieved person"** includes any person who:

(i) Claims to have been injured by a discriminatory housing practice; or

(ii) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

3. **"Attorney General"** means the Attorney General for the State of Georgia.

4. **"Board"** means the members of the Board of Commissioners of the Commission on Equal Opportunity.

5. **"Chief Commissioner"** means the Chief on the panel from the Board of Commissioners assigned to adjudicate a matter which is to continue through the administrative hearing process.

6. **"Commission"** means the Commission on Equal Opportunity.

7. **"Complainant"** means the person (including the Administrator of the Commission on Equal Opportunity) who filed the complaint under Rule 186-2-.03(2).

8. **"Complaint"** means a complaint filed under Rule 186-2-.03(2).

9. **"Charge"** means the statement of facts issued under Rule 186-2-.04(4)(b) upon which the Commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.

10. **Discriminatory housing practice"** means an act that is unlawful under O.C.G.A. Sections 8-3-202, 8-3-203, 8-3-204, and 8-3-222 of the Georgia Fair Housing Law.

11. **"Georgia Fair Housing Law"** means Title 8, Article 4, Section 3; and codified as Section 8-3-200*et seq*.

12. **"Hearing"** means that part of an administrative proceeding that involves the submission of evidence, either by oral presentation or written submission, and includes the submission of briefs and oral arguments on the evidence and applicable law.

13. **"Panel"** means the members of the Board of Commissioners assigned to adjudicate a fair housing case in an administrative hearing. At least one of the panel members must be an attorney licensed to practice law in the State of Georgia.

14. **"Party"** means a person or agency named or admitted as a party to a proceeding. Party includes an aggrieved person who intervenes under Rule 186-2-.04(4)(d).

15. **"Person"** includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers and fiduciaries.

16. **"Personal service"** means handing a copy of the document to the person to be served or leaving a copy of the document with a person of suitable

age and discretion at the place of business, residence or usual place of abode of the person to be served.

17. **"Prevailing party"** has the same meaning as the term has in section 722 of the Revised Statutes of the United States (42 U.S.C. Section 1988).

18. **"Respondent"** means the person accused in a charge of discriminatory housing practice.

19. **"State"** means the State of Georgia.

(c) Time computations.

1. **In general.** In computing time under this part, the time period begins the day following the act, event, or default and includes the last day of the period, unless the last day is a Saturday, Sunday, or legal holiday observed by the State, in which case the time period includes the next business day. When the prescribed time period is seven days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

2. **Modification of time periods.** Except for time periods required by statute, the Commission may enlarge or reduce any time period required under this part where necessary to avoid prejudicing the public interest or the rights of the parties.

3. **Entry of orders.** In computing any time period involving the date of the issuance of an order or decision by the Commission, the date of issuance is the date the order or decision is served by the Chief Commissioner on the panel assigned to adjudicate the matter at issue.

4. **Computation of time for delivery by mail.** Documents are not filed until received by the Chief Commissioner. However, when documents are filed by mail, three days shall be added to the prescribed time period.

   (i) Service is effected at the time of mailing.

   (ii) When a party has the right or is required to take an action within a prescribed period after the service of a document upon the party, and the document is served by mail, three days shall be added to the prescribed period.

(d) Service and filing.

1. **Generally.** Copies of all filed documents shall be served on all parties of record. All filed documents shall clearly designate the docket number, if any, and title of the proceeding. If the Administrator is not a party to the proceeding, all documents to be filed shall be delivered or mailed to the Commission at 710 Cain Tower, Peachtree Center, 229 Peachtree Street, N.E., Atlanta, Georgia 30303-1605. If the Administrator is a party to the proceeding, all documents to be filed shall be delivered or mailed to the Chief Commissioner at the address shown in the Charge upon assignment of the panel to adjudicate the matter.

2. **By parties.** Parties shall file all documents with the Chief Commissioner and the Commission with a copy to all other parties of record. Service of documents upon any party may be made by personal service or by mailing a copy to the last known address. When a party is represented by an attorney, service shall be made upon the attorney. The person serving the document shall certify to the manner and date of service.

3. **By the Panel.** The Chief Commissioner of the panel shall serve all notices, orders, decisions and all other documents by mail to the last known address of each party.

(2) BOARD OF COMMISSIONERS.

(a) Designation.

1. Proceedings under this part shall be presided over by a panel of at least three members of the Board of Commissioners of the Commission on Equal Opportunity, as provided for pursuant to O.C.G.A. Section 8-3-213(e).

2. The Board shall annually designate panels made up of at least three members from the Board of Commissioners which will preside over proceedings adjudicated under O.C.G.A. Section 8-3-213(e). At least one of the commissioners on each panel must be an attorney licensed to practice law in the state. At the time the Board designates panel members, the Board shall also designate the Chief Commissioner of each such panel and he or she will be responsible for accepting documents for filing and issuing notices, orders, decisions and all other documents throughout the course of the proceeding.

(b) Authority.

1. The panel shall have all the powers necessary to the conduct of fair and impartial hearings as well as authority granted to agencies in conducting hearings and rendering final orders under Chapter 13 of Title 50, the

"Georgia Administrative Procedure Act," including, but not limited to the power:

(i) To conduct hearings in accordance with this part;

(ii) To administer oaths and affirmations and examine witnesses;

(iii) To issue subpoenas in accordance with Rule 186-2-.04(6);

(iv) To rule on offers of proof and receive evidence;

(v) To take depositions or have depositions taken when the ends of justice would be served;

(vi) To regulate the course of the hearing and the conduct of parties and their counsel;

(vii) To hold conferences for the settlement or simplification of the issues by consent of the parties;

(viii) To dispose of motions, procedural requests, and similar matters;

(ix) To make initial decisions as described under Rule 186-2-.04(9);

(x) To exercise such powers vested in the Administrator as are necessary and appropriate for the purpose of the hearing and conduct of the proceeding.

(c) Disqualification.

1. **Disqualification.** If any member of the panel assigned to adjudicate a matter finds that there is a basis for his or her disqualification in a proceeding, the Commissioner shall withdraw from the proceeding. Withdrawal is accomplished by entering a notice in the record and by providing a copy of the notice to the Chief Commissioner.

2. **Motion for recusal.** If a party believes that the Chief Commissioner or any other members of the assigned panel of Commissioners should be disqualified in a proceeding for any reason, the party may file a motion to recuse with the Chief Commissioner of the panel. The motion shall be supported by an affidavit setting forth the alleged grounds for disqualification. The assigned panel of Commissioners shall rule on the motion. If the panel denies the motion, the Chief Commissioner shall incorporate a written statement of the reasons for the denial in the record.

3. **Redesignation of Commissioner.** If a Commissioner is disqualified, the Chief Commissioner, or another member of the panel, shall designate another Commissioner to replace the Commissioner recused.

(d) Ex Parte communications.

1. **General.** Any ex parte communication is any direct or indirect communication concerning the merits of a pending proceeding, made by a party in the absence of any other party, to the Chief Commissioner or any of the panel members assigned to the proceeding and which was neither on the record nor on reasonable prior notice to all parties. Ex parte communications do not include communications made for the sole purpose of scheduling hearings, requesting extensions of time, or requesting information on the status of cases.

2. **Prohibition.** Ex parte communications are prohibited.

3. **Procedure upon receipt.** If any member of the panel of Commissioners assigned to a case receives an ex parte communication that the Commissioner knows or has reason to believe is prohibited, the Commissioner shall promptly place the communication, or a written statement of the substance of the communication, in the record and shall furnish copies to all parties. Unauthorized communications shall not be taken into consideration in deciding any matter in issue. Any party making a prohibited ex parte communication may be subject to sanctions including, but not limited to, exclusion from the proceeding, and adverse ruling on the issue that is the subject of the prohibited communication.

(e) **Separation of functions.** No officer, employee, or agent of the State government engaged in the performance of investigative, conciliatory, or prosecutorial functions in connection with the proceeding shall, in that proceeding or any factually related proceeding under this part, participate or advise in the decision of the panel, except as a witness or counsel during the proceedings.

(3) PARTIES.

(a) In general.

1. **Parties.** Parties to the proceeding include:

(i) The Commission. The Commission files the charge under Rule 186-2-.03(6)(b) seeking appropriate relief for an aggrieved party and vindication of the public interest.

(ii) Respondent. The respondent is a person named in the charge issued under Rule 186-2-.02(6)(b) against whom relief is sought.

(iii) Intervenors. An aggrieved person may file a request for intervention under Rule 186-2-.04(4)(d). Intervention shall be permitted if the request is timely and;

(I) The intervenor is the aggrieved person on whose behalf the charge is issued; or

(II) The intervenor is an aggrieved person who claims an interest in the property or transaction that is the subject of the charge and the disposition of the charge may as a practical matter impair or impede the aggrieved person's ability to protect that interest, unless the aggrieved person is adequately represented by the existing parties.

2. **Rights of the parties.** Each party may appear in person, be represented by counsel, examine or cross-examine witnesses, introduce documentary or other relevant evidence into the record, and request the issuance of subpoenas.

3. **Amicus Curiae.** Briefs of amicus curiae may be permitted at the discretion of the panel of Commissioners. Such participants are not parties to the proceeding.

(b) Representation.

1. **Representation of the Commission.** The Commission is represented by the Attorney General, when the Commission is a part to a proceeding in state court or U.S. District Court.

2. **Representation of other parties.** Other parties maybe represented as follows:

(i) Individuals may appear on their own behalf;

(ii) A member of a partnership may represent the partnership;

(iii) An officer of a corporation, trust or association may represent the corporation, trust or association;

(iv) An officer or employee of any governmental unit, agency or authority may represent that unit, agency or authority;

(v) An attorney admitted to practice in the State of Georgia or in any state. The attorney's representation that he or she is in good standing in any state is sufficient evidence of the attorney's qualifications under this section, unless otherwise ordered by the panel of Commissioners.

3. **Notice of appearance.** Each attorney or other representative of a party shall file a notice of appearance. The notice must indicate the party on whose behalf the appearance is made. Any individual acting in a representative capacity may be required by the panel to demonstrate authority to act in that capacity.

4. **Withdrawal.** An attorney or other representative of a party must file a written notice of intent before withdrawing from participation in the proceeding.

(c) Standards of conduct.

1. **In general.** All persons appearing in proceedings under this part shall act with integrity and an ethical manner.

2. **Exclusion.** The panel may exclude parties or their representatives for refusal to comply with directions, continued use of dilatory tactics, refusal to adhere to reasonable standards of orderly and ethical conduct, failure to act in good faith, or violations of the prohibitions against ex parte communications. If an attorney is suspended or barred from participation in a proceeding by the panel, the panel shall include in the record the reasons for the action. An attorney that is suspended or barred from participation may appeal to another attorney member of the Board of Commissioners. The proceeding will not be delayed or suspended pending disposition on the appeal except that the panel shall suspend the proceeding for a reasonable time to enable the party to obtain another attorney.

(4) PLEADING AND MOTIONS.

(a) In general.

1. **Form.** Every pleading, motion, brief, or other document shall contain a caption setting forth the title of the proceeding, the docket number assigned by the Commission, and the designation of the type of document (e.g., charge, answer or motion to dismiss).

2. **Signature.** Every pleading, motion, brief, or other document filed by a party shall be signed by the party, the party's representative, or the attorney

representing the party, and must include the signer's address and telephone number. The signature constitutes a certification that the signer has read the document; that to the best of the signer's knowledge, information and belief there is good ground to support the document; and that it is not interposed for delay.

3. **Timely filing.** The panel may refuse to consider any motion or other pleading that is not filed in a timely fashion and in compliance with this part.

(b) The charge.

1. **Filing and service.** Within three days after the issuance of a charge under Rule 186-2-.03(6)(b), the Administrator shall file the charge with the Chief Commissioner of the panel assigned to the matter and serve copies (with the additional information required under paragraph 2. of this section) on the respondent and the aggrieved person on whose behalf the complaint was filed.

2. **Contents.** The charge shall consist of a short plain written statement of the facts upon which the Administrator has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur. The following notifications shall be served with the charge:

   (i) The notice shall state that a complainant (including the Commission, if the Commission filed the complaint), a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in the charge decided in a civil action under O.C.G.A. Section 8-3-213(a)(1) of the Act, in lieu of an administrative proceeding under this part. The notice shall state that the election must be made not later than 20 days after the receipt of the service of the charge. Where the Commission is the complainant, the Administrator must make the election not later than 20 days after the service of the charge. The notice shall state that the notification of the election must be served on the Chief Commissioner, the respondent, the aggrieved party on whose behalf the complaint was filed, and the Administrator.

   (ii) The notice shall state that if no person timely elects under paragraph 2. (i) of this section to have the claims asserted in the charge decided in a civil action under O.C.G.A. Section 8-3-213(a)(1) of the Act, an administrative proceeding will be conducted. The notice shall state that if an administrative hearing is conducted:

(I) The parties will have an opportunity for a hearing at a date and place specified in the notice;

(II) The respondent will have an opportunity to file an answer to the charge within 30 days of the date of the service of the charge;

(III) The aggrieved person may participate as a party to the administrative proceeding by filing a timely request for intervention;

(IV) All discovery must be concluded 15 days before the date set for hearing.

(iii) The notice shall state that if at any time following the service of the charge on the respondent, the respondent intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of the charge, the respondent must provide a copy of the charge to the person before the respondent and the person enter into the contract, sale, encumbrance or lease.

(c) Answer to charge.

1. Within the 30 days after the service of the charge, a respondent contesting material facts alleged in a charge or contending that the respondent is entitled to judgment as a matter of law shall file an answer to the charge. An answer shall include:

(i) A statement that the respondent admits, denies, or does not have and is unable to obtain sufficient information to admit or deny, each allegation made in the charge. A statement of lack of information shall have the effect of a denial. Any allegation that is not denied shall be deemed to be admitted.

(ii) A statement of each affirmative defense and a statement of facts supporting each affirmative defense.

(d) **Request for intervention.** Upon timely application, any aggrieved person may file a request for intervention to participate as a party to the proceeding. Requests for intervention submitted within 30 days after the filing of the charge shall be considered to be timely filed.

(e) Amendments and supplemental pleading.

1. **Amendments By Right.** The Commission may amend its charge once as a matter of right prior to filing of the answer.

2. **By leave.** Upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, the panel may allow amendments to pleading upon motion of the party.

3. **Conformance to the evidence.** When issues not raised by the pleading are reasonably within the scope of the original charge and have been tried by the express or implied consent of the parties, the issues shall be treated in all respects as if they had been raised in the pleading and amendments may be made as necessary to make the pleading conform to evidence.

4. **Supplemental pleading.** The panel may, upon reasonable notice, permit supplemental pleading concerning transactions, occurrences or events that have happened or been discovered since the date of the pleading and which are relevant to any of the issues involved.

(f) Motions.

1. **Motions.** Any application for an order or other request shall be made by a motion which, unless made during an appearance before the panel, shall be made in writing. Motions or requests made during an appearance before the panel shall be stated orally and made a part of the transcript. All parties shall be given a reasonable opportunity to respond to written or oral motions or requests.

2. **Answers to written motions.** Within five days after a written motion is served, any party to the proceeding may file an answer in support of, or in opposition to the motion. Unless otherwise ordered by the panel, no further responsive documents may be filed.

3. **Oral argument.** The panel may order oral argument on any motion.

(5) DISCOVERY.

(a) Discovery.

1. **In general.** This subpart governs discovery in aid of administrative proceedings under this Part. Except for time periods stated in these rules, to the extent that these rules conflict with discovery procedures in aid of civil actions in the Superior Courts of the State of Georgia in which the investigation of the discriminatory housing practice took place, the rules contained in the Civil Practice Act, codified at O.C.G.A. Section 9-11-1*et seq.*, apply.

2. **Scope.** The parties are encouraged to engage in voluntary discovery procedures. Discovery shall be conducted as expeditiously and inexpensively as possible, consistent with the needs of all parties to obtain relevant evidence. Unless otherwise ordered by the panel, the parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding, including the existence, description, nature, custody, condition, and location of documents or persons having knowledge of any discoverable matter. It is not grounds for objection that information sought will not be admissible if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

3. **Methods.** Parties may obtain discovery by one or more of the following methods:

   (i) Deposition upon oral examination or written questions;

   (ii) Written interrogatories;

   (iii) Requests for production of documents or other evidence, for inspection and other purposes, and physical and mental examinations;

   (iv) Request for admissions.

4. **Frequency and sequence.** Unless otherwise ordered by the panel or restricted by this subpart, the frequency or sequence of these methods is not limited.

5. **Completion of discovery.** All discovery shall be completed 15 days before the date scheduled for hearing.

6. **Not intervening aggrieved person.** For the purposes of obtaining discovery from a non-intervening aggrieved person, the term "party" as used in this subpart includes the aggrieved person and whose behalf the charge was issued.

(b) Depositions.

1. **In general.** Depositions may be taken upon oral examination or upon written interrogatory before any person having the power to administer oaths.

2. **Notice.** Any party desiring to take the deposition of a witness shall indicate to the witness and to all parties the time and place of the deposition, the

name and post office address of the person before whom the deposition is to be taken, the name and address of the witness, and the subject matter of the testimony of the witness. Notice of the taking of a deposition shall be given not less than five days before the deposition is scheduled. The attendance of a witness may be compelled by subpoena under Rule 186-2-.04(6).

3. **Procedure at deposition.** Each witness deposed shall be placed under oath or affirmation, and other parties shall have the right to cross-examine. The questions propounded and all answers and objections shall be reduced to writing; read by or to, and subscribed by, the witness; and certified by the person before whom the deposition was taken.

4. **Objections.** During a deposition, a party or deponent may request suspension of the deposition on grounds of bad faith in the conduct of the examination, oppression of a deponent or party, or improper questioning or conduct. Upon the request for suspension, the deposition will be adjourned. The objecting party or deponent must immediately move the panel for a ruling on the objections. The panel may then limit the scope or manner of taking the deposition.

5. **Payment of costs of deposition.** The party requesting the deposition shall bear all costs of the deposition.

(c) Use of deposition at hearings.

1. **In general.** At the hearing, any part or all of a deposition, so far as admissible under the Civil Practice Act, may be used against any party who was present or represented at the taking of the deposition or who had due notice of the taking of the deposition, in accordance with the following provisions:

   (i) Any deposition maybe used by any party for the purpose for contradicting or impeaching the testimony of the deponent as a witness.

   (ii) The deposition of expert witnesses, may be used by any party for any purpose, unless the panel rules that such use is unfair or a violation of due process.

   (iii) The deposition of a party or of anyone who at the time of the taking of the deposition was an officer, director, or duly authorized agent of a public or private corporation, partnership, or association that is a party, may be used by any other party for any purpose.

(iv) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the panel finds:

(I) That the witness is dead;

(II) That the witness is out of the State or more than 100 miles from the place of hearing, unless it appears that the absence of the witness was procured by the party offering the deposition;

(III) That the witness is unable to attend to testify because of age, sickness, infirmity, or imprisonment;

(IV) That the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or

(V) Whenever exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(v) If a part of a deposition is offered in evidence by a party, any other party may require the party to introduce all of the deposition that is relevant to the part introduced. Any party may introduce any other part of the deposition.

(vi) Substitution of parties does not affect the right to use depositions previously taken. If a proceeding has been dismissed and another proceeding involving the same subject matter is later brought between the same parties or their representative or successors in interests, all depositions lawfully taken in the former proceeding may be used in the latter proceeding.

2. **Objections to admissibility.** Except as provided in this paragraph, objection may be made at the hearing to receiving in evidence any deposition or part of a deposition for any reason that would require the exclusion of the evidence if the witness were present and testifying.

(i) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the basis of the objection is one which might have been obviated or removed if presented at that time.

(ii) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed or cured if promptly presented, are waived unless reasonable objection is made at the taking of the deposition.

(iii) Objections to the form of written interrogatories are waived unless served in writing upon the party propounding the interrogatories.

(d) Written interrogatories.

1. **Written interrogatories to parties.** Any party may serve on any other party written interrogatories to be answered by the party served. If the part served is a public or private corporation, a partnership, an association, or a governmental agency, the interrogatories may be answered by any authorized officer or agent who shall furnish such information as may be available to the party. A party may serve not more than 30 written interrogatories on another party without an order of the panel.

2. **Responses to written interrogatories.** Each interrogatory shall be answered separately and fully in writing under oath or affirmation, unless the party objects to interrogatory. If a party objects to an interrogatory, the response shall state the reasons for the objection in lieu of an answer. The answer and objections shall be signed by the person making them, except that objections may be signed by the counsel for the party. The party upon whom the interrogatories were served shall serve a copy of the answers and objections upon all parties within 15 days after service of the interrogatories.

(e) Production of documents and other evidence; entry upon land for inspection and other purposes; and physical and mental examinations.

1. **In general.** Any party may serve on any other party a request to:

(i) Produce and permit the party making the request, or a person acting on the party's behalf, to inspect and copy any designated documents, or to inspect and copy, test, or sample any tangible things that are in the possession, custody, or control of the party upon whom the request is served;

(ii) Permit entry upon designated land or other property in the possession or control of the party upon whom the request is served

for the purpose of inspection and measuring; photographing, testing, or other purposes stated in paragraph 1. (i) hereof; or

(iii) Submit to a physical or mental examination by a physician.

2. Contents of request. The request shall:

(i) Set forth the items to be inspected by individual item or by category of items;

(ii) Describe each item or category with reasonable particularity;

(iii) Specify a reasonable time, place and manner for making the inspection and performing the related acts; and

(iv) Specify the time, place, manner, conditions, and scope of the physical or mental examination, and the person or persons who will make the examination. A report of the examining physician shall be made in accordance with O.C.G.A. Section 9-11-35(b) of the Civil Practice Act.

3. **Response to request.** Within 15 days of the service of the request, the party upon whom the request is served shall serve a written response on the party submitting the request. The response shall state, with regard to each item or category:

(i) That inspection and related activities will be permitted as requested;or

(ii) That objection is made to the request in whole or in part. If an objection is made, the response must state the reasons for the objection.

(f) Admissions.

1. **Request for admissions.** A party may serve on any other party a written request for the admission of the genuineness and authenticity of any relevant document described in or attached to the request, or for the admission of the truth of any specified relevant mater of fact.

2. **Response to request.** Each matter for which an admission is requested is admitted unless, within 15 days after service of the request, the party to whom the request is directed serves on the requesting party:

(i) A written statement specifically denying the relevant matters for which an admission is requested;

(ii) A written statement setting forth in detail why the party cannot truthfully admit or deny the matters; or

(iii) Written objections to the request alleging that the matters are privileged or irrelevant, or that the request is otherwise improper.

3. The party to whom the request is directed may not give lack of information or knowledge as a reason for failure to admit or deny, unless the party states that it has made a reasonable inquiry and that the information known or readily obtainable is insufficient to enable the party to admit or deny.

4. **Sufficiency of response.** The party requesting admissions may move for a determination of the sufficiency of answers or objections. Unless the panel determines that an objection is justified, the panel shall order that an answer be served. If the Board determines that answer does not comply with the requirements of this section, the panel may order either that the matter is admitted or that an amended answer be served.

5. **Effect of admission.** Any matter admitted under this section is conclusively established unless, upon the motion of a party, the Board permits the withdrawal or amendment of the admission. Any admission made under this section is made for the purposes of the pending proceeding only, is not an admission by the party for any other purpose, and may not be used against the party in any other proceeding.

6. **Service of requests.** Each request for admission and each written response must be served on all parties and filed with the Chief Commissioner of the panel.

(g) Supplementation of responses.

1. **In general.** A party who responded to a request for discovery with a response that was complete when made is under no duty to supplement the response to include information acquired after the response was made except:

(i) A party is under a duty to timely supplement responses with respect to any question directly addressed to:

(I) The identity and location of persons having knowledge of discoverable matters; and

(II) The identity of each person expected to be called as an expert witness at the hearing, the subject matter on which the expert witness is expected to testify, and the substance of the testimony.

(ii) A party is under a duty to timely amend a previous response if the party later obtains information upon the basis of which:

(I) The party knows the response was incorrect when made; or

(II) The party knows the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is, in substance, a knowing concealment.

2. **By order or agreement.** A duty to supplement responses may be imposed by order of the panel or by agreement of the parties.

(h) Protective orders.

1. Upon motion of a party of a person from whom discovery is sought or in accordance with Rule 186-2-.04(5)(i)3., the panel may make appropriate orders to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense as a result of the requested discovery request. The order may direct that:

(i) The discovery may not be had;

(ii) The discovery may be had only on specified terms and conditions, including a designation of time and place for discovery;

(iii) The discovery may be had by a method of discovery other than that selected by the party seeking discovery;

(iv) Certain irrelevant matters may not be the subject of discovery or that the scope of discovery be limited to certain matters;

(v) Discovery may be conducted with no one present other than persons designated by the panel;

(vi) A trade secret or other confidential research, development or commercial information may not be disclosed, or may be disclosed only in a designated way; or

(i) Failure to make or cooperate in discovery.

1. **Motion to compel discovery.** If a deponent fails to answer a question propounded, or a party upon whom a request is made under Rules 186-2-.04(5)(d) through 186-2-.04(5)(f) fails to respond adequately, objects to a request, or fails to permit inspection as requested, the discovering party may move the panel for an order compelling a response or an inspection in accordance with the request. The motion shall:

   (i) State the nature of the request;

   (ii) Set forth the response or objection of the party upon whom the request was served;

   (iii) Present arguments supporting the motion; and

   (iv) Attach copies of all relevant discovery requests and responses.

2. **Evasive or incomplete answers.** For the purposes of this section, an evasive or incomplete answer or response will be treated as a failure to answer or respond.

3. **Panel rulings.** In ruling on a motion under this section, the panel may enter an order compelling a response or an inspection in accordance with the request, may issue sanctions under paragraph 4. of this section, or may enter a protective order under Rule 186-2-.04(5)(h).

4. **Sanctions.** If a party fails to comply with an order (including an order for taking a deposition, the production of evidence within the party's control, a request for admission, or the production of witness) the panel may:

   (i) Draw an inference in favor of the requesting party with regard to the information sought;

   (ii) Prohibit the party failing to comply with the order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought;

   (iii) Permit the requesting party to introduce secondary evidence concerning the information sought;

   (iv) Strike any appropriate part of the pleadings or other submissions of the party failing to comply with such order; or

   (v) Take such other action as may be appropriate.

(6) SUBPOENAS.

(a) Subpoenas.

1. **In general.** This section governs the issuance of subpoenas in administrative proceedings under this part. Except for time periods stated in these rules, to the extent that this rule conflicts with procedures for the issuance of subpoenas in civil actions in the Superior Courts of the State, the rules of the Civil Practice Act apply.

2. **Issuance of subpoena.** Upon the written request of a party, the Chief Commissioner or any member of the panel may issue a subpoena requiring:

   (i) The attendance of a witness for the purpose of giving testimony at a deposition;

   (ii) The attendance of a witness for the purpose of giving testimony at a hearing; and

   (iii) The production of relevant books, papers, documents, or tangible things.

3. **Time of request.** Requests for subpoenas in aid of discovery must be submitted in time to permit the conclusion of discovery 15 days before the date scheduled for the hearing. If a request for subpoenas of a witness for testimony at a hearing is submitted three days or less before the hearing, the subpoena shall be issued at the discretion of the Chief Commissioner or any member of the panel, as appropriate.

4. **Service.** A subpoena may be served by any person who is not a party and is not less than 18 years of age. Service on a person shall be made by delivering a copy of the subpoena to the person and by tendering witness fees and mileage to that person. When the subpoena is issued on behalf of the Commission, witness fees and mileage need not be tendered with the subpoena.

5. **Amount of witness fees and mileage.** A witness summoned by a subpoena issued under this part is entitled to the same witness and mileage fees as a witness in proceedings in the Superior Courts of the State. Fees payable to a witness summoned by a subpoena shall be paid by the party requesting the issuance of the subpoena, or where the panel determines that a party is unable to pay the fees, the fees shall be paid by the CEO.

6. **Motion to quash or limit subpoena.** Upon a motion by the person served with a subpoena or by a party, made within five days of the service of the subpoena (but in any event not less than the time specified in the subpoena for compliance), the panel may:

(i) Quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown; or

(ii) Condition denial of the motion upon the advancement, by the party on whose behalf the subpoena was issued, of the reasonable costs of producing subpoenaed books, papers or documents. Where the circumstances require, the panel may act upon such a motion at any time after a copy of the motion has been served upon the party on whose behalf the subpoena was issued.

7. **Failure to comply with subpoena.** If a person fails to comply with a subpoena issued under this section, the party requesting the subpoena may refer the matter to the Attorney General for enforcement in appropriate proceedings under O.C.G.A. Section 8-3-218(c) of the Georgia Fair Housing Law.

(7) PREHEARING PROCEDURES.

(a) Prehearing statements.

1. **In general.** Before the commencement of the hearing, the panel may direct parties to file prehearing statements.

2. **Contents of statement.** The prehearing statement must state the name of the party or parties presenting the statement and, unless otherwise directed by the panel, briefly set forth the following:

(i) Issues involved in the proceeding;

(ii) Facts stipulated by the parties and a statement that the parties have made a good faith effort to stipulate to the greatest extent possible;

(iii) Facts in dispute;

(iv) Witnesses (together with a summary of the testimony expected) and exhibits to be presented at the hearing;

(v) A brief statement of applicable law;

(vi) Conclusions to be drawn;

(vii) Estimated time required for presentation of the party's case;

(viii) Such other information as may assist in the disposition of the proceeding.

(b) Prehearing conference.

1. **In general.** Before the commencement or during the course of the hearing, the panel may direct the parties to participate in a conference to expedite the hearing.

2. **Matters considered.** At the conference, the following matters may be considered:

   (i) Simplification and clarification of the issues;

   (ii) Necessary amendments to the pleadings;

   (iii) Stipulations of fact and of the authenticity, accuracy, and admissibility of documents;

   (iv) Limitations on the number of witnesses;

   (v) Negotiation, compromise, or settlement of issues;

   (vi) The exchange of proposed exhibits;

   (vii) Matters of which official notice will be requested;

   (viii) A schedule for the completion of actions discussed at the conference;

   (ix) Such other information as may assist in the disposition of the proceeding.

3. **Conduct of conference.** The conference may be conducted by telephone, correspondence or personal attendance. Conferences, however, shall generally be conducted by a conference call, unless the panel determines that this method is impracticable. The panel shall give reasonable notice of the time, place and manner of the conference.

4. **Record of conference.** Unless otherwise directed by the panel, the conference will not be stenographically recorded. The panel will reduce the actions taken at the conference to a written order or, if the conference takes place less than seven days before the beginning of the hearing, may make a statement on the record summarizing the actions taken at the conference.

(c) Settlement negotiations before a settlement commissioner.

1. **Appointment of settlement commissioner.** The panel, upon the motion of a party or upon its own motion, may request the panel to appoint another Commissioner, not necessarily a member of the panel, to conduct settlement

negotiations. The order appointing the settlement commissioner may confine the scope of settlement negotiations to specified issues. The order shall direct the settlement commissioner to report to the Chief Commissioner on the panel assigned to hear the matter within specified time periods.

2. **Duties of settlement commissioner.** The settlement commissioner shall convene and preside over conferences and settlement negotiations between the parties and assess the practicalities of a potential settlement.

   (i) The settlement commissioner shall report to the Chief Commissioner of the assigned panel describing the status of the settlement negotiations, evaluating settlement prospects, and recommending the termination or continuation of settlement negotiations.

3. **Termination of settlement negotiations.** Settlement negotiations shall terminate upon the order of the panel issued after consultation with the settlement commissioner.

(8) HEARING PROCEDURES.

(a) Date and place of hearing.

1. **Date.** The hearing shall commence not later than 120 days following the issuance of the charge under Rule 186-2-.03(6)(b), unless it is impracticable to do so. If the hearing cannot be commenced within this time period, the panel shall notify in writing all parties, the aggrieved persons on whose behalf the charge was filed, and the Administrator, of the reasons for the delay.

2. **Place.** The hearing will be conducted at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

3. **Notification of time and place for hearing.** The charge issued under Rule 186-2-.02(6)(b) will specify the time, date and place for the hearing. The panel may change the time, date or place of the hearing, or may temporarily adjourn or continue a hearing for good cause shown. If such a change is made or the hearing is temporarily adjourned, the panel shall give the parties at least five days notice of the revised time, date and place for the hearing, unless otherwise agreed by the parties.

(b) **Conduct of hearings.** The hearings shall be conducted in accordance with the Administrative Procedure Act (O.C.G.A. Section 50-13-13*et seq.*)

(c) **Waiver of right to appear.** If all parties waive their right to appear before the panel or to present evidence and arguments, it is not necessary for the panel to conduct an oral hearing. Such waivers shall be made in writing and filed with the Chief Commissioner of the panel. Where waivers are submitted by all parties, the panel shall make a record of the relevant written evidence submitted by the parties and pleadings submitted by the parties with respect to the issues in the proceeding. These documents shall constitute the evidence in the proceeding and the decision shall be based upon this evidence. Such hearings shall be deemed to commence on the first day that written evidence may be submitted for the record.

(d) **Evidence.** The rules of evidence contained in the Civil Practice Act shall apply to the presentation of evidence in hearings under this part.

(e) **In camera and protective orders.** The panel may limit discovery or the introduction of evidence, or may issue such protective or other orders necessary to protect privileged communications. If the panel determines that information in documents containing privileged matters should be made available to a party, the panel may order the preparation of a summary or extract of the nonprivileged matter contained in the original.

(f) Exhibits.

1. **Identification.** All exhibits offered into evidence shall be numbered sequentially and marked with a designation identifying the party offering the exhibit.

2. **Exchange of exhibits.** One copy of each exhibit offered into evidence must be furnished to each of the parties and to the panel. If the panel does not fix a time for the exchange of exhibits, the parties shall exchange copies of exhibits at the earliest practicable time before the commencement of the hearing. Exhibits submitted as rebuttal evidence are not required to be exchanged before the commencement of the hearing if the submission of such evidence could not reasonably be anticipated at that time.

(g) **Authenticity.** The authenticity of all documents furnished to the parties as required under Rule 186-2-.04(8)(f) and submitted as proposed exhibits in advance of the hearing shall be admitted unless a party files a written objection to the exhibit before the commencement of the hearing. Upon a clear showing of good cause for failure to file such a written objection, the panel may permit the party to challenge the authenticity.

(h) **Stipulations.** The parties may stipulate to any pertinent facts by oral agreement at the hearing or by written agreement at any time. Stipulations may be submitted into evidence at any time before the end of the hearing. When received into evidence, the stipulation is binding on the parties.

(i) Record of hearing.

1. **Hearing record.** All oral hearings shall be recorded and transcribed by a reporter designated by, and under the supervision of, the panel. The original transcript shall be a part of the record and shall constitute the sole official transcript. All exhibits introduced as evidence shall be marked for identification and incorporated as a part of the record. Transcripts may be obtained by the parties and by the public from the official reporter at rates not to exceed the applicable rates fixed by the contract with the reporter.

2. **Corrections.** Corrections to the official transcript will be permitted upon motion of a party. Motions for correction must be submitted within five days of the receipt of the transcript. Corrections of the official transcript will be permitted only where errors of substance are involved and upon the approval of the panel.

(j) Arguments and briefs.

1. **Arguments.** Following the submission of evidence at an oral hearing, the panel may hear oral arguments at the hearing. The panel may limit the time permitted for such arguments to avoid unreasonable delay.

2. **Submission of written briefs.** The panel may permit the submission of written briefs following the adjournment of the oral hearing. Written briefs shall be simultaneously filed by all parties and shall be due not later than 30 days following the adjournment of the oral hearing.

(k) End of hearing.

1. **Oral hearings.** Where there is an oral hearing, the hearing ends on the day of the adjournment of the oral hearing or, where written briefs are permitted, on the date that the written briefs are due.

2. **Hearing on written record.** Where the parties have waived an oral hearing, the hearing ends on the date set by the panel as the final date for the receipt of submissions by the parties.

(l) Receipt of evidence following hearing.

1. Following the end of the hearing, no additional evidence may be accepted into the record, except with the permission of the panel. The panel may receive additional evidence upon a determination that new and material evidence was not readily available before the end of the hearing, the evidence has been timely submitted, and its acceptance will not unduly prejudice the rights of the parties. However, the panel shall include in the

record any motions for attorneys' fees (including supporting documentation), and any approved corrections to the transcripts.

(9) DISMISSALS AND DECISIONS.

(a) Dismissal.

1. **Election of judicial determination.** If the complainant, the respondent, or the aggrieved person on whose behalf a complaint was filed makes a timely election to have the claims asserted in the charge decided in a civil action under O.C.G.A. Section 8-3-213(a) of the Act, the panel shall dismiss the administrative proceeding.

2. **Effect of a civil action on administrative proceeding.** The panel may not continue an administrative proceeding under this part regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved person under an act of Congress or the Georgia Fair Housing Law seeking relief with respect to that discriminatory housing practice. If such a trial is commenced, the panel shall dismiss the administrative proceeding. The commencement and maintenance of a civil action for appropriate temporary or preliminary relief under O.C.G.A. Section 8-3-209(f)(1) or proceedings for such relief under O.C.G.A. Section 8-3-217 of the Act does not affect administrative proceedings under this part.

(b) Initial decision of panel.

1. **In general.** Within the time period set forth in paragraph 4. of this section, the panel shall issue an initial decision including findings of fact and conclusions of law upon each material issue of fact or law presented on the record. The initial decision of the panel shall be based on the record of the proceeding.

2. **Finding against respondent.** If the panel finds that a respondent has engaged, or is about to engage, in a discriminatory housing practice, the panel shall issue an initial decision against the respondent and order such relief as may be appropriate. The relief may include, but is not limited to, the following:

(i) The panel may order the respondent to pay damages to the aggrieved person (including damages caused by humiliation and embarrassment).

(ii) The panel may provide for injunctive relief or such other equitable relief as may be appropriate. No such order may affect any contract,

sale, encumbrance or lease consummated before the issuance of the initial decision that involved a bona fide purchaser, encumbrance or tenant without actual knowledge of the charge issued under Rule 186-2-.03(6)(b).

(iii) To vindicate the public interest, the panel may assess a civil penalty against the respondent. The amount of the civil penalty may not exceed:

(I) $10,000, if the respondent has not been adjudged to have committed any prior discriminatory housing practice in any administrative hearing or civil action permitted under the Georgia Fair Housing Law, the Federal Fair Housing Act, or any other State or local fair housing law, or in any licensing or regulatory proceeding conducted by a Federal, State or local governmental agency.

(II) $25,000, if the respondent has been adjudged to have committed one other discriminatory housing practice in any administrative hearing or civil action permitted under the Georgia Fair Housing Law, or the Federal Fair Housing Act, or any other State or local fair housing law, or in any licensing or regulatory proceeding conducted by a Federal, State or local government agency, and the adjudication was made during the five-year period preceding the date of filing of the charge.

(III) $50,000, if the respondent has been adjudged to have committed two or more discriminatory housing practices in any administrative hearings civil action permitted under the Georgia Fair Housing Law, the Federal Fair Housing Act, or any other State or local fair housing law, or in any licensing or regulatory proceeding conducted by a Federal, State, or local government agency, and the adjudications where made during the seven-year period preceding the date of filing of the charge.

(iv) If the acts constituting the discriminatory housing practice that is the subject of the charge were committed by the same natural person who has previously been adjudged, in any administrative proceeding or civil action, to have committed acts constituting a discriminatory housing practice, the time periods set forth in paragraphs 2. (iii)(I),(II) and (III) of this section do not apply.

(v) In a proceeding involving two or more respondents, the panel may assess a civil penalty as provided under paragraph 2. of this section against each respondent that the panel determines has been engaged or is about to engage in a discriminatory housing practice.

3. **Finding in favor of respondent.** If the panel finds that a respondent has not engaged, and is not about to engage, in a discriminatory housing practice, the panel shall make an initial decision dismissing the charge.

4. **Date of issuance.** The panel shall issue an initial decision within 60 days after the end of the hearing, unless it is impracticable to do so. If the panel is unable to issue the initial decision within this time period (or within any succeeding 60-day period following the initial 60-day period), the panel shall notify in writing all parties, the aggrieved person on whose behalf the charge was filed, and the Administrator, of the reasons for the delay.

(c) **Service of initial decision.** Simultaneously with the issuance of the initial decision, the panel shall serve the initial decision on all parties, the aggrieved person on whose behalf the charge was filed, and the Administrator. The initial decision will include a notice stating that the initial decision will become the final decision of the Commission unless a majority of the entire Board of Commissioners issues a final decision under Rule 186-2-.04(9)(d) within 30 days of the date of the issuance of the initial decision.

(d) **Resolution of charge.** At any time before the issuance of a final decision under Rule 186-2-.04(9)(e), the parties may submit an agreement resolving the charge. The agreement must be signed by the Administrator, the respondent, and the aggrieved person upon whose behalf the charge was issued. The panel shall accept the agreement by issuing an initial decision based on the agreed findings. The submission of an agreement resolving the charge constitutes a waiver of any right to challenge or contest the validity of a decision entered in accordance with the agreement.

(e) Final decision.

1. **Issuance of final decision by the entire board of commissioners.** The Board of Commissioners may review any finding of fact, conclusion of law, or order contained in the initial decision of the panel and issue a final decision in the proceeding. A majority of the Board may affirm, modify or set aside, in whole or in part, the initial decision or remand the initial decision for further proceedings. The Board shall serve the final decision on all parties no later than 30 days from the date of issuance of the initial decision of the panel. The final decision shall be served on all parties, the

aggrieved person on whose behalf the charge was filed, and the Administrator.

2. **No final decision by the board.** If the Board does not serve a final decision within the time period described above, the initial decision of the panel will become the final decision of the Commission. For the purposes of this part, such a final decision will be considered to have been issued 30 days following the date of issuance of the initial decision.

3. **Public disclosure.** The Commission shall make public disclosure of each final decision.

4. **Decisions on remand.** If the Board remands the decision for further proceedings, the panel shall issue an initial decision on remand within 60 days of the date of issuance of the Board's decision, unless it is impractical to do so. If the panel is unable to issue the initial decision within this time period (or within any succeeding 60-day period following the initial 60-day period), the panel shall notify in writing the parties, the aggrieved person on whose behalf the charge was filed, and the Administrator, of the reasons for the delay.

(f) Action upon issuance of a final decision.

1. **Licensed or regulated businesses.** If a final decision includes a finding that a respondent has engaged or is about to engage in a discriminatory housing practice in the course of a business that is subject to licensing or regulation by a Federal, State or local governmental agency, the Administrator will notify the governmental agency of the decision by:

   (i) Sending copies of the findings of fact, conclusions of law and the final decision to the governmental agency by certified mail; and

   (ii) Recommending appropriate disciplinary action to the governmental agency, including, where appropriate, the suspension or revocation of the license of the respondent.

   (iii) The Administrator shall notify the appropriate governmental agencies within 30 days alter the date of issuance of the final decision, unless a petition for judicial review of the final decision as described in Rule 186-2-.04(10) has been filed before the issuance of the notification of the agency. If such a petition has been filed, the Administrator will provide the notification to the governmental agency within 30 days of the date that the final decision is affirmed upon review. If a petition for judicial review is timely filed following the notification of the governmental agency, the

Administrator will promptly notify the government agency of the petition and withdraw his or her recommendation.

2. **Notification to the Attorney General.** If a final decision includes a finding that a respondent has engaged or is about to engage in a discriminatory housing practice and another final decision including such a finding was issued under this part within the five years preceding the date of issuance of the final decision, the Administrator will notify the Attorney General of the decisions by sending a copy of the final decisions in each administrative proceeding.

(g) Attorney's fees and costs.

1. Following the issuance of the final decision under Rule 186-2-.04(9)(e), any prevailing party may apply for attorneys' fees and costs. The panel will issue an initial decision awarding or denying such fees and costs. The initial decision will become the final decision of the Commission unless the Board reviews the initial decision and issues a final decision on fees and costs within 30 days. The recovery of reasonable attorney's fees and costs will be permitted as follows:

(i) If the respondent is the prevailing party, an intervenor will be liable for reasonable attorney's fees and costs only to the extent that the intervenor's participation in the administrative proceeding was frivolous or vexatious, or was for the purpose of harassment.

(ii) To the extent that an intervenor is a prevailing party, the respondent will be liable for reasonable attorney's fees unless special circumstances make the recovery of such fees and costs unjust.

(10) JUDICIAL REVIEW AND ENFORCEMENT OF FINAL DECISION.

(a) Judicial review of final decision.

1. **Petition for review.** Any party adversely affected by a final decision under Rule 186-2-.04(9)(e) may file a petition in the appropriate State Superior Court for review of the decision under O.C.G.A. Section 8-3-215(a) of the Georgia Fair Housing Law. The petition must be filed within 30 days of the date of issuance of the final decision.

2. **No petition for review.** If no petition for review is filed under paragraph 1. within 45 days from the date of issuance of the final decision, the findings of fact and final decision shall be conclusive in connection with any petition for enforcement described under Rule 186-2-.04(10)(a)1. filed

there after by the Administrator, and in connection with any petition for enforcement described under Rule 186-2-.04(10)(a)2.

(b) Enforcement of final decision.

1. **Enforcement by the Commission.** Following the issuance of a final decision under Rule 186-2-.04(9)(e), the Administrator may petition the appropriate State Superior Court for the enforcement of the final decision and for appropriate temporary relief or restraining order after the final decision has been made an order of the court in accordance with O.C.G.A. Section 8-3-216.

2. **Enforcement by others.** If before the expiration of 60 days from the date of issuance of the final decision under Rule 186-2-.04(9)(e), no petition for review of the final decision described under Rule 186-2-.04(10)(a) has been filed, and the Administrator has not sought enforcement of the final decision as described in paragraph 1. of this section, any person entitled to relief under the final decision may petition the appropriate State Superior Court for the enforcement of the final decision.

Cite as Ga. Comp. R. & Regs. R. 186-2-.04
Authority: O.C.G.A. Secs. 8-3-201, 8-3-212(a)(b)(c), 8-3-212(c)(1)(2), 8-3-213, 8-3-213(a), 8-3-213(c)(1), 8-3-213(e)(1), 8-3-213(5)(1)(A)(B), 8-3-213(e)(1)(B), 8-3-213(e)(1)(8), 8-3-213(e)(3), 8-3-213(e)(4), 8-3-213(e)(7(, 8-3-214, 8-3-214(a)(b), 8-3-214(b), 8-3-214(c), 8-3-215(a), 8-3-215(c), 8-3-216, 8-3-217, 8-3-218(c), 9-11-5, 9-11-6(e).
History. Original Rule entitled "Administrative Proceedings Under O.C.G.A. Section 8-3-213 of the Georgia Fair Housing Law. as Amended" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-2-.05. Fair Housing Administrative Meetings Under The Georgia Fair Housing Law.

(1) **Purpose.** The purpose of this part is to establish procedures for public meetings or conference that may be used to assist the Administrator in achieving the aims of the Georgia Fair Housing Law for the promotion and assurance of equal opportunity in housing without regard to race, color, religion, sex, handicap, familial status, or national origin and, specifically, to carry out all other responsibilities of the Administrator in this regard.

(2) **Definitions.** As used in this section:

(a) **"Administrator"** means the Administrator of the Commission on Equal Opportunity.

(b) **"Meeting"** means a public meeting or conference held under the authority of the Georgia Fair Housing Law and this section.

(c) **"Georgia Fair Housing Law"** means O.C.G.A. Section 8-3-200*et seq.*, as amended.

Cite as Ga. Comp. R. & Regs. R. 186-2-.05
Authority: O.C.G.A. Sec. 8-3-206.
History. Original Rule entitled "Fair Housing Administrative Meetings Under the Georgia Fair Housing Law" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-2-.06. Fair Housing Advertising.

(1) **Policy.** It is the policy of the State of Georgia to provide, within constitutional limitations, for fair housing throughout the United States. The provisions of the Georgia Fair Housing Law, as amended (O.C.G.A. 8-3-200*et seq.*) make it unlawful to discriminate in the sale, rental, and financing of housing, and in the provision of brokerage and appraisal services, because of race, color, religion, sex, handicap, familial status, or national origin. O.C.G.A. Section 8-3-202(a)(3) of the Georgia Fair Housing Law, as amended, makes it unlawful to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination. However, the prohibitions of the act regarding familial status do not apply with respect to "housing for older persons", as defined in O.C.G.A. Section 8-3-205 of the Act.

(2) **Purpose.** The purpose of this part is to assist all advertising media, advertising agencies and all other persons who use advertising to make, print, or publish, or cause to be made, printed, or published, advertisements with respect to the sale, rental, or financing of dwellings which are in compliance with the requirements of the Fair Housing Act. These regulations also describe the matters this Department will review in evaluating compliance with the Fair Housing Act in connection with investigations of complaints alleging discriminatory housing practices involving advertising.

(3) **Definitions.** As used in this part:

(a) **"Assistant Secretary"** means the Assistant Secretary for Fair Housing and Equal Opportunity.

(b) **"General Counsel"** means the General Counsel of the Department of Housing and Urban Development.

(c) **"Dwelling"** means any building, structure, or portion there of which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location there on of any such building, structure, or portion thereof.

(d) **"Family"** includes a single individual.

(e) **"Person"** includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.

(f) **"To rent"** includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(g) **"Discriminatory housing practice"** means an act that is unlawful under Sections 804, 805, 806, or 818 of the Fair Housing Act.

(h) **"Handicap"** means, with respect to a person:

1. A physical or mental impairment which substantially limits one or more of such person's major life activities;

2. A record of having such an impairment; or

3. Being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the controlled Substances Act (21 U.S.C. 802). For purposes of this part, an individual shall not be considered to have a handicap solely because that individual is a transvestite.

(i) **"Familial status"** means one or more individuals (who have not attained the age of 18 years) being domiciled with:

1. A parent or another person having legal custody of such individual or individuals; or

2. The designee of such parent or other person having such custody, with the written permission of such parent or other person. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(4) Scope.

(a) **General.** This part describes the matters the Commission will review in evaluating compliance with the Georgia Fair Housing Law in connection with investigations of complaints alleging discriminatory housing practices involving advertising. Use of these criteria will be considered by the Administrator in making determinations as to whether there is reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.

1. **Advertising media.** This part provides criteria for use by advertising media in determining whether to accept and publish advertising regarding sales or rental transactions. Use of these criteria will be considered by the Administrator in making determinations as to whether there is reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.

2. **Persons placing advertisements.** A failure by persons placing advertisements to use the criteria contained in this part, when found in connection with the investigation of a complaint alleging the making or use of discriminatory advertisements, will be considered by the Administrator in making a determination of reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.

(b) **Affirmative advertising efforts.** Nothing in this part shall be construed to restrict advertising efforts designed to attract persons to dwellings who would not ordinarily be expected to apply, when such efforts are pursuant to an affirmative marketing program or undertaken to remedy the effects of prior discrimination in connection with the advertising or marketing of dwellings.

(5) USE OF WORDS, PHRASES, SYMBOLS, AND VISUAL AIDS.

(a) **General.** The following words, phrases, symbols, and forms typify those most often used in residential real estate advertising to convey either overt or tacit discriminatory preferences or limitations. In considering a complaint under the Georgia Fair Housing Law, the Commission will normally consider the use of these and comparable words, phrases, symbols, and forms to indicate a possible violation of the Act and to establish a need for further proceedings on the complaint, if it is apparent from the context of the usage that discrimination within the meaning of the act is likely to result.

1. **Words descriptive of dwelling, landlord, and tenants.** White private home, Colored home, Jewish home, Hispanic residence, adult building.

2. Words indicative of race, color, religion, sex, handicap, familial status or national origin:

   (i) **Race** - Negro, Black, Caucasian, Oriental, American Indian;

(ii) **Color** - White, Black, Colored;

(iii) **Religion** - Protestant, Christian, Catholic, Jew;

(iv) **National origin** - Mexican American, Puerto Rican, Philippine, Polish, Hungarian, Irish, Italian, Chicano, African, Hispanic, Chinese, Indian, Latino;

(v) **Sex** - the exclusive use of words in advertisements, including those involving the rental of separate units in a single or multi-family dwelling, stating or tending to imply that the housing being advertised is available to persons of only one sex and not the other, except where the sharing of living areas is involved. Nothing in this part restricts advertisements of dwellings used exclusively for dormitory facilities by educational institutions.

(vi) **Handicap** - crippled, blind, deaf, mentally ill, retarded, impaired, handicapped, physically fit. Nothing in this part restricts the inclusion of information about the availability of accessible housing in advertising of dwellings.

(vii) **Familial status** - adults, children, singles, mature persons. Nothing in this part restricts advertisements of dwellings which are intended and operated for occupancy by older persons and which constitute "housing for older persons" as defined in these rules.

(viii) **Catch words** - Words and phrases used in a discriminatory context should be avoided,
e.g.,"restricted","exclusive","private","integrated",
"traditional","board approval" or "membership approval."

3. **Symbols or logotypes.** Symbols or logotypes which imply or suggest race, color, religion, sex, handicap, familial status, or national origin.

4. **Colloquialism.** Words or phrases used regionally or locally which imply or suggest race, color, religion, sex, handicap, familial status, or national origin.

5. **Directions to real estate for sale or rent (use of maps or written instructions).** Directions can imply a discriminatory preference, limitation, or exclusion. For example, references to real estate location made in terms of racial or national origin significant landmarks, such as an existing black development (signal to blacks) or an existing development known for its exclusion of minorities (signal to whites). Specific directions which make

reference to a racial or national origin significant area may indicate a preference. References to a synagogue, congregation or parish may also indicate a religious preference.

6. **Area (location) description.** Names of facilities which cater to a particular racial, national origin or religious group, such as country club or private school designations, or names of facilities which are used exclusively by one sex may indicate a preference.

(6) Selective use of advertising media or content.

(a) General.

1. The selective use of advertising media or content when particular combinations there of are used exclusively with respect to various housing developments or sites can lead to discriminatory results and may indicate a violation of the Georgia Fair Housing Law. For example, the use of English language media alone or the exclusive use of media catering to the majority population in an area, when, in such area, there are also available non-English language or other minority media, may have discriminatory impact. Similarly, the selective use of human models in advertisements may have discriminatory impact. The following are examples of the selective use of advertisements which may be discriminatory:

(i) **Selective geographic advertisements.** Such selective use may involve the strategic placement of billboards; brochure advertisements distributed within a limited geographic area by hand or in the mail; advertising in particular geographic coverage editions of major metropolitan newspapers or in newspapers of limited circulation which are mainly advertising segment of the community; or displays or announcements available only in selected sales offices.

(ii) **Selective use of equal opportunity slogan or logo.** When placing advertisements, such selective use may involve placing the equal housing opportunity slogan or logo in advertising reaching some geographic areas, but not others, or with respect to some properties but not others.

(iii) **Selective use of human models when conducting an advertising campaign.** Selective advertising may involve an advertising campaign using human models primarily in media that cater to one racial or national origin segment of the population without a complementary advertising campaign that is directed at other groups. Another example may involve use of racially mixed models by a developer to advertise one development and not others. Similar

care must be exercised in advertising in publications or other media directed at one particular sex, or at persons without children. Such selective advertising may involve the use of human models of members of only one sex, or of adults only, in displays, photographs or drawings to indicate preferences for one sex or the other, or for adults to the exclusion of children.

(7) Fair housing policy and practices.

(a) General.

1. In the investigation of complaints, the Administrator will consider the implementation of fair housing policies and practices provided in this section as evidence of compliance with the prohibitions against discrimination in advertising under the Georgia Fair Housing Law.

(i) **Use of Equal Housing Opportunity logotype, statement, or slogan.** All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the homeseeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin. The choice of logotype, statement or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. Table I (see Appendix I) indicates suggested use of the logotype, statement, or slogan and size of logotype. Table II (see Appendix I) contains copies of the suggested Equal Housing Opportunity logotype, statement and slogan.

(ii) **Use of human models.** Human models in photographs, drawings, or other graphic techniques may not be used to indicate exclusiveness because of race, color, religion, sex, handicap, familial status, or national origin. If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes, and, when appropriate, families with children. Models, if used, should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap, familial status, or national origin, and is not for the exclusive use of one such group.

(iii) **Coverage of local laws.** Where the Equal Housing Opportunity statement is used, the advertisement may also include a statement regarding the coverage of any local fair housing or human rights

ordinance prohibiting discrimination in the sale, rental or financing of dwellings.

(iv) Notification of fair housing policy:

(I) **Employees.** All publishers of advertisements, advertising agencies, and firms engaged in the sale, rental or financing of real estate should provide a printed copy of their nondiscrimination policy to each employee and officer.

(II) **Clients.** All publishers or advertisements and advertising agencies should post a copy of their nondiscrimination policy in a conspicuous location wherever persons place advertising and should have copies available for all firms and persons using their advertising services.

(III) **Publishers' notice.** All publishers should publish at the beginning of the real estate advertising section a notice such as that appearing in Table III (see Appendix I). The notice may include a statement regarding the coverage of any local fair housing or human rights ordinance prohibiting discrimination in the sale, rental or financing of dwellings.

Appendix I to Rule 186-2-.06*et seq.* - Fair Housing Advertising.

The following three tables may serve as a guide for the use of the Equal Housing Opportunity logotype, statement, slogan, and publisher's notice for advertising:

Table I

A simple formula can guide the real estate advertiser in using the Equal Housing Opportunity logotype, statement, or slogan.

In all space advertising (advertising in regularly printed media such as newspapers or magazines) the following standards should be used:

Size of Advertisement	Size of logotype in inches
1/2 page or larger	2×2

1/8 page up to 1/2 page	1×1
4 column inches to 1/8 page	1/2×1/2
Less than 4 column inches	(1)
1/ Do not use less than 4 column inches.	

In any other advertisements, if other logotypes are used in the advertisement, then the Equal Housing Opportunity logo should be of a size at least equal to the largest of the other logotypes; if no other logotypes are used, then the type should be bold display face which is clearly visible. Alternatively, when no other logotypes are used, 3 to 5 percent of an advertisement may be devoted to a statement. The type should be bold display face which is clearly visible. Alternatively, when no other logotypes are used, 3 to 5 percent of an advertisement may be devoted to a statement of the equal housing opportunity policy. In space advertising which is less than 4 column inches (one column 4 inches long or two columns 2 inches long) of a page in size, the Equal Housing Opportunity slogan should be used. Such advertisements may be grouped with other advertisements under a caption which states that the housing is available to all without regard to race, color, religion, sex, handicap, familial status, or national origin.

Table II

Illustrations of Logotype, Statement, and Slogan. Equal Housing Opportunity Logotype:

Equal Housing Opportunity Statement: We are pledged to the letter and spirit of Georgia policy for the achievement of equal housing opportunity throughout the State. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin.

Equal Housing Opportunity Slogan: "Equal Housing Opportunity."

Table III

Illustration of Media Notice - Publisher's notice: All real estate advertised herein is subject to the Georgia Fair Housing Act, which makes it illegal to advertise "any preference, limitation, or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or intention to make any such preference, limitation, or discrimination."

We will not knowingly accept any advertising for real estate which is in violation of the law. All persons are hereby informed that all dwellings advertised are available on an equal opportunity basis.

Cite as Ga. Comp. R. & Regs. R. 186-2-.06
Authority: O.C.G.A. Secs. 8-3-200(b), 8-3-201, 8-3-202(a)(3), 8-3-206, 8-3-206(a).
History. Original Rule entitled "Fair Housing Advertising" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-2-.07. Fair Housing Poster.

(1) **Purpose.** The regulations set forth in this part contain the procedures established by the Administrator with respect to the display of the fair housing poster by persons subject to O.C.G.A. Sections 8-3-202, 8-3-203, 8-3-204 of the Georgia Fair Housing Law.

(2) Definitions.

(a) "Discriminatory housing practice" means an act that is unlawful under Sections 8-3-202, 8-3-203, 8-3-204, or 8-3-222 of the Act.

(b) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers and fiduciaries.

(c) "Fair housing poster" means the poster prescribed by the Administrator for display by persons subject to O.C.G.A. Section 8-3-202, 8-3-203, and 8-3-204 of the Act.

(d) "The Act" means the Georgia Fair Housing Law, as amended, and codified at O.C.G.A. Section 8-3-200*et seq.*

(3) Persons subject.

(a) Except to the extent that paragraph (2) of this section applies, all persons subject to O.C.G.A. Section 8-3-202 of the Act relating to discrimination in the sale or rental of housing and other prohibited practices, shall post and maintain a fair housing poster as follows:

(b) All persons subject to O.C.G.A. Section 8-3-204 of the Act relating to discrimination in residential real estate-related transactions, shall post and maintain a fair housing poster at all their places of business which participate in the covered activities.

(4) **Location of posters.** All fair housing posters shall be prominently displayed so as to be readily apparent to all persons seeking housing accommodations or seeking to engage in residential real estate-related transactions or brokerage services as contemplated by Sections 8-3-202, 8-3-203, and 8-3-204 of the Act.

(5) Description of posters.

(a) The fair housing poster shall bear the following legend:

(Image Not Yet Available)

EQUAL HOUSING OPPORTUNITY

We do business in Accordance with the Georgia Fair Housing Law.

IT IS ILLEGAL TO DISCRIMINATE AGAINST ANY PERSON BECAUSE OF RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS (HAVING ONE OR MORE CHILDREN), OR NATIONAL ORIGIN.

- In the sale or rental of housing or residential lots.

- In advertising the sale or rental of housing.

- In the financing of housing.

- In the appraisal of housing.

- In the provision of real estate brokerage services.

- Blockbusting is also illegal.

Cite as Ga. Comp. R. & Regs. R. 186-2-.07
Authority: O.C.G.A. Secs. 8-3-200(b), 8-3-206(a).
History. Original Rule entitled "Fair Housing Poster" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.

Rule 186-2-.08. 24 C.F.R. Part 110, Federal Fair Housing Poster Regulations.

The Administrator hereby adopts and incorporates by reference 24 C.F.R. Part 110 Federal Regulations, as Rule 186-2-.08 in the Rules and Regulations governing the Georgia Fair Housing Law.

Cite as Ga. Comp. R. & Regs. R. 186-2-.08
Authority: O.C.G.A. Secs. 8-3-200(b), 8-3-206.
History. Original Rule entitled " 24 C.F.R. Part 110, Federal Fair Housing Poster Regulations" adopted. F. Dec. 29, 1992; eff. Jan. 18, 1993.