WEST VIRGINIA CODE: §16b-17-8

§16B-17-8. Commission powers; functions; services.

The commission is hereby authorized and empowered:

(a) To cooperate and work with federal, state and local government officers, units, activities and agencies in the promotion and attainment of more harmonious understanding and greater equality of rights between and among all racial, religious and ethnic groups in this state;

(b) To enlist the cooperation of racial, religious and ethnic units, community and civic organizations, industrial and labor organizations and other identifiable groups of the state in programs and campaigns devoted to the advancement of tolerance, understanding and the equal protection of the laws of all groups and peoples;

(c) To receive, investigate and pass upon complaints alleging discrimination in employment or places of public accommodations, because of race, religion, color, national origin, ancestry, sex, age, blindness or disability, and complaints alleging discrimination in the sale, purchase, lease, rental and financing of housing accommodations or real property because of race, religion, color, national origin, ancestry, sex, blindness, disability or familial status, and to initiate its own consideration of any situations, circumstances or problems, including therein any racial, religious or ethnic group tensions, prejudice, disorder or discrimination reported or existing within the state relating to employment, places of public accommodations, housing accommodations and real property;

(d) To hold and conduct public and private hearings, in the county where the respondent resides or transacts business or where agreed to by the parties or where the acts complained of occurred, on complaints, matters and questions before the commission and, in connection therewith, relating to discrimination in employment or places of public accommodations, housing accommodations or real property and during the investigation of any formal complaint before the commission relating to employment, places of public accommodations, housing accommodations or real property to:

(1) Issue subpoenas and subpoenas duces tecum upon the approval of the executive director or the chairperson of the commission; administer oaths; take the testimony of any person under oath; and make reimbursement for travel and other reasonable and necessary expenses in connection with such attendance;

(2) Furnish copies of public hearing records to parties involved therein upon their payment of the reasonable costs thereof to the commission;

(3) Delegate to an administrative law judge who shall be an attorney, duly licensed to practice law in West Virginia, the power and authority to hold and conduct hearings, as

WV Legislature

herein provided, to determine all questions of fact and law presented during the hearing and to render a final decision on the merits of the complaint, subject to the review of the commission as hereinafter set forth.

Any respondent or complainant who shall feel aggrieved at any final action of an administrative law judge shall file a written notice of appeal with the commission by serving such notice on the executive director and upon all other parties within 30 days after receipt of the administrative law judge's decision. The commission shall limit its review upon such appeals to whether the administrative law judge's decision is:

(A) In conformity with the Constitution and the laws of the state and the United States;

(B) Within the commission's statutory jurisdiction or authority;

(C) Made in accordance with procedures required by law or established by appropriate rules of the commission;

(D) Supported by substantial evidence on the whole record; or

(E) Not arbitrary, capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(4) To enter into conciliation agreements and consent orders.

Each conciliation agreement shall include provisions requiring the respondent to refrain from the commission of unlawful discriminatory practices in the future and shall contain such further provisions as may be agreed upon by the commission and the respondent.

If the respondent and the commission agree upon conciliation terms, the commission shall serve upon the complainant a copy of the proposed conciliation agreement. If the complainant agrees to the terms of the agreement or fails to object to such terms within 15 days after its service upon him or her, the commission shall issue an order embodying such conciliation agreement. If the complainant objects to the agreement, he or she shall serve a specification of his or her objections upon the commission within such period. Unless such objections are met or withdrawn within 10 days after service thereof, the commission shall notice the complaint for hearing.

Notwithstanding any other provisions of this section, the commission may, where it finds the terms of the conciliation agreement to be in the public interest, execute such agreement, and limit the hearing to the objections of the complainant.

If a conciliation agreement is entered into, the commission shall serve a copy of the order embodying such agreement upon all parties to the proceeding.

Not later than one year from the date of a conciliation agreement, the commission shall investigate whether the respondent is complying with the terms of such agreement. Upon a

WV Legislature

finding of noncompliance, the commission shall take appropriate action to assure compliance;

(5) To apply to the circuit court of the county where the respondent resides or transacts business for enforcement of any conciliation agreement or consent order by seeking specific performance of such agreement or consent order;

(6) To issue cease and desist orders against any person found, after a public hearing, to have violated the provisions of this article or the rules of the commission;

(7) To apply to the circuit court of the county where the respondent resides or transacts business for an order enforcing any lawful cease and desist order issued by the commission;

(e) To recommend to the Governor and Legislature policies, procedures, practices and legislation in matters and questions affecting human rights;

(f) To delegate to its executive director such powers, duties and functions as may be necessary and expedient in carrying out the objectives and purposes of this article who shall report to the Inspector General;

(g) To prepare a written report on its work, functions and services for each year ending on June 30 and to deliver copies thereof to the Governor on or before December 1, next thereafter;

(h) To do all other acts and deeds necessary and proper to carry out and accomplish effectively the objects, functions and services contemplated by the provisions of this article, including the promulgation of legislative rules in accordance with the provisions of §29A-3-1 *et seq*. of this code, implementing the powers and authority hereby vested in the commission;

(i) To create such advisory agencies and conciliation councils, local, regional or statewide, as in its judgment will aid in effectuating the purposes of this article, to study the problems of discrimination in all or specific fields or instances of discrimination because of race, religion, color, national origin, ancestry, sex, age, blindness, disability or familial status; to foster, through community effort or otherwise, goodwill, cooperation and conciliation among the groups and elements of the population of this state, and to make recommendations to the commission for the development of policies and procedures, and for programs of formal and informal education, which the commission may recommend to the appropriate state agency. Such advisory agencies and conciliation councils shall be composed of representative citizens serving without pay. The commission may itself make the studies and perform the acts authorized by this subdivision. It may, by voluntary conferences with parties in interest, endeavor by conciliation and persuasion to eliminate discrimination in all the stated fields and to foster goodwill and cooperation among all elements of the population of the state;

(j) To accept contributions from any person to assist in the effectuation of the purposes of

WV Legislature

this section and to seek and enlist the cooperation of private, charitable, religious, labor, civic and benevolent organizations for the purposes of this section;

(k) To issue such publications and such results of investigation and research as in its judgment will tend to promote goodwill and minimize or eliminate discrimination: *Provided,* That the identity of the parties involved shall not be disclosed.

WV Legislature