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1       **CHAPTER 819. TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION**

2       **SUBCHAPTER A. GENERAL PROVISIONS**

3       **§819.1. Purpose.**

4           The purpose of this chapter is to implement the following statutory provisions: Texas  
5           Labor Code, Chapter 21 (relating to employment discrimination) and Chapter 301,  
6           Subchapter I (relating to the Civil Rights Division); Texas Property Code, Chapter 301,  
7           (relating to the Texas Fair Housing Act); and Texas Government Code, Chapter 437,  
8           §437.204 and Subchapter I (relating to unlawful termination of state military members  
9           ordered to training or duty).

10       *The provisions of this §819.1 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
11       *amended to be effective August 1, 2016, 41 TexReg 5559*

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13       **§819.2. Definitions.**

14           In addition to the definitions contained in §800.2 of this title, the following words and  
15           terms, when used in this chapter, shall have the following meanings, unless the context  
16           clearly indicates otherwise.

- 17           (1)   Agency--The unit of state government established under Texas Labor Code,  
18               Chapter 301, that is presided over by the Commission.
- 19           (2)   Commission--The body of governance established under Texas Labor Code,  
20               Chapter 301.
- 21           (3)   Complainant--A person claiming to be aggrieved by a violation of Texas Labor  
22               Code, Chapter 21, or Texas Property Code, Chapter 301, and who files a  
23               complaint under one of these chapters.
- 24           (4)   CRD--Texas Workforce Commission Civil Rights Division.
- 25           (5)   CRD director--The director, or the director's authorized designee, of the Texas  
26               Workforce Commission Civil Rights Division, as established under Texas  
27               Labor Code §301.009(a). The CRD director is the authorized designee of the  
28               Agency's executive director for purposes of enforcing the statutes referenced in  
29               §819.1 of this subchapter.
- 30           (6)   Fair Employment Practices Agency--A state or local government agency  
31               designated by the U.S. Equal Employment Opportunity Commission (EEOC)  
32               to investigate perfected employment discrimination complaints in the state or  
33               local government agency's jurisdiction.

- 1 (7) Fair Housing Assistance Program Agency--A state or local government agency  
 2 designated by the U.S. Department of Housing and Urban Development  
 3 (HUD) to investigate Fair Housing Act complaints in the state or local  
 4 government agency's jurisdiction.
- 5 (8) Party--A person who, having a justiciable interest in a matter before CRD, is  
 6 admitted to full participation in a proceeding concerning that matter.
- 7 (9) Person--One or more individuals or an association, corporation, joint stock  
 8 company, labor organization, legal representative, mutual company,  
 9 partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated  
 10 organization, the state, or a political subdivision or agency of the state.
- 11 (10) Respondent--A person against whom a complaint has been filed in accordance  
 12 with Texas Labor Code, Chapter 21, or Texas Property Code, Chapter 301.

13 *The provisions of this §819.2 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
 14 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*  
 15 *2016, 41 TexReg 5559*

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17 **§819.3. Roles and Responsibilities of the Texas Workforce Commission and CRD.**

- 18 (a) Responsibilities of the Agency:
- 19 (1) Establish policies for CRD;
- 20 (2) Appoint CRD director by and through the Agency's executive director;
- 21 (3) Supervise CRD director by and through the Agency's executive director in  
 22 administering the activities of CRD;
- 23 (4) Serve as the state Fair Employment Practices Agency (FEPA), which is  
 24 authorized, with respect to unlawful employment practices, to:
- 25 (A) seek relief;
- 26 (B) grant relief; and
- 27 (C) institute civil proceedings; and
- 28 (5) Serve as the state Fair Housing Assistance Program (FHAP), which is  
 29 authorized, with respect to unlawful housing practices, to:
- 30 (A) seek relief;
- 31 (B) grant relief; and

1 (C) institute civil proceedings.

2 (b) Responsibilities of CRD:

3 (1) Administer Texas Labor Code, Chapter 21; Texas Property Code, Chapter 301;  
4 and Texas Government Code §437.204 and Subchapter I; and

5 (2) Collect, analyze, and report statewide information regarding employment and  
6 housing discrimination complaints filed with CRD, EEOC, HUD, local  
7 commissions, and municipalities in Texas to be included in CRD's annual  
8 report to the Governor and the Texas legislature.

9 *The provisions of this §819.3 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
10 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*  
11 *2016, 41 TexReg 5559*

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13 **SUBCHAPTER B. EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS**

14 **§819.10. Purpose.**

15 The purpose of Subchapters B - F of this chapter is to set forth the procedures for CRD to  
16 execute its responsibilities in the administration and enforcement of Texas Labor Code,  
17 Chapter 21. Texas provides, within constitutional limits, equal employment opportunities  
18 and provides rights and remedies substantially equivalent to those granted under federal  
19 law. No person shall be subject to discriminatory employment practices based on race,  
20 color, disability, religion, sex, national origin, or age.

21 *The provisions of this §819.10 adopted to be effective September 27, 2005, 30 TexReg 6065*

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23 **§819.11. Definitions.**

24 The following words and terms, when used in Subchapter B, Equal Employment  
25 Opportunity Provisions; Subchapter C, Equal Employment Opportunity Reports,  
26 Training, and Reviews; Subchapter D, Equal Employment Opportunity Complaints and  
27 Appeals Process; Subchapter E, Equal Employment Opportunity Deferrals; and  
28 Subchapter F, Equal Employment Opportunity Records and Recordkeeping shall have the  
29 following meanings, unless the context clearly indicates otherwise.

30 (1) Bona fide occupational qualification--A qualification:

31 (A) that is reasonably related to the satisfactory performance of the duties of  
32 a job; and

- 1 (B) for which there is a factual basis for believing that no members of the  
2 excluded group would be able to satisfactorily perform the duties of the  
3 job with safety and efficiency.
- 4 (2) Civil Rights Act--The Civil Rights Act of 1964, as amended by the Equal  
5 Employment Opportunity Act of 1972 and the Civil Rights Act of 1991; the  
6 Age Discrimination in Employment Act of 1976, as amended; the  
7 Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act  
8 of 1990, as amended; and Texas Labor Code, Chapter 21, regarding  
9 Employment Discrimination.
- 10 (3) Complaint--A written statement made under oath stating that an unlawful  
11 employment practice has been committed, setting forth the facts on which the  
12 complaint is based, and received within 180 days of the alleged unlawful  
13 employment practice.
- 14 (4) Conciliation--The settlement of a dispute by mutual written agreement in order  
15 to avoid litigation where a determination has been made that there is  
16 reasonable cause to believe an unlawful employment practice has occurred.
- 17 (5) Disability--A mental or physical impairment that substantially limits at least  
18 one major life activity of an individual, a record of such mental or physical  
19 impairment, or being regarded as having such an impairment as set forth in  
20 §3(2) of the Americans with Disabilities Act of 1990, as amended, and Texas  
21 Labor Code §21.002(6).
- 22 (6) Employer--A person who is engaged in an industry affecting commerce and  
23 who has 15 or more employees for each working day in each of 20 or more  
24 calendar weeks in the current or preceding calendar year and any agent of that  
25 person. The term includes an individual elected to public office in Texas or a  
26 political subdivision of Texas, or a political subdivision and any state agency  
27 or instrumentality, including public institutions of higher education, regardless  
28 of the number of individuals employed. The term excludes a franchisor from  
29 being considered an employer of a franchisee or a franchisee's employees. The  
30 term also exempts the Texas Military Forces from being an employer, as  
31 claims of discrimination against the Texas Military Forces by service members  
32 on state active duty shall be processed in accordance with military regulations  
33 and procedures as authorized by Texas Government Code §437.212.
- 34 (7) Local commission--Created by one or more political subdivisions acting  
35 jointly, pursuant to Texas Labor Code §21.152, and recognized as a Fair  
36 Employment Practices Agency by EEOC pursuant to U.S. Civil Rights Act,  
37 Title VII, §706, as amended by the Equal Employment Opportunity Act of  
38 1972, the Civil Rights Act of 1991, and the Americans With Disabilities Act of  
39 1990, as amended.



1 (8) Mediation--An alternative dispute resolution process to resolve a dispute by  
2 mutual written agreement among the complainant, respondent, and CRD.

3 (9) Perfected complaint--An employment discrimination complaint that CRD has  
4 determined meets all of the requirements of Texas Labor Code, Chapter 21,  
5 and for which CRD will initiate an investigation.

6 *The provisions of this §819.11 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
7 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*  
8 *2016, 41 TexReg 5559*

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10 **§819.12. Unlawful Employment Practices.**

11 (a) Discrimination by Employer. An employer commits an unlawful employment  
12 practice if based on race, color, disability, religion, sex, national origin, or age, the  
13 employer:

14  
15 (1) fails or refuses to hire an individual, discharges an individual, or discriminates  
16 in any other manner against an individual in connection with compensation or  
17 the terms, conditions, or privileges of employment; or

18  
19 (2) limits, segregates, or classifies an employee or applicant for employment in a  
20 manner that deprives or tends to deprive an individual of an employment  
21 opportunity or adversely affects in any other manner the status of an employee.  
22

23 (b) Discrimination by Employment Agency. An employment agency commits an  
24 unlawful employment practice if based on race, color, disability, religion, sex,  
25 national origin, or age, it:

26  
27 (1) fails or refuses to refer for employment or discriminates in any other manner  
28 against an individual; or

29  
30 (2) classifies or refers an individual for employment on that basis.  
31

32 (c) Discrimination by Labor Organization. A labor organization commits an unlawful  
33 employment practice if based on race, color, disability, religion, sex, national origin,  
34 or age, it:

35  
36 (1) excludes or expels from membership or discriminates in any other manner  
37 against an individual; or

38  
39 (2) limits, segregates, or classifies a member or an applicant for membership, or  
40 classifies or fails or refuses to refer for employment an individual in a manner  
41 that:  
42

- 1 (A) deprives or tends to deprive an individual of any employment  
2 opportunity;
- 3
- 4 (B) limits an employment opportunity or adversely affects in any other  
5 manner the status of an employee or of an applicant for employment; or  
6
- 7 (C) causes or attempts to cause an employer to violate this subchapter.  
8
- 9 (d) Admission or Participation in Training Program. An employer, labor organization, or  
10 joint labor-management committee controlling an apprenticeship, on-the-job  
11 training, or other training or retraining program commits an unlawful employment  
12 practice if based on race, color, disability, religion, sex, national origin, or age, it  
13 discriminates against an individual in admission to or participation in the program,  
14 unless a training or retraining opportunity or program is provided under an  
15 affirmative action plan approved by federal or state law, rule, or court order. The  
16 prohibition against discrimination based on age applies only to individuals who are  
17 at least 40 years of age.  
18
- 19 (e) Retaliation. An employer, employment agency, or labor organization, commits an  
20 unlawful employment practice based on race, color, disability, religion, sex, national  
21 origin, or age if the employer, employment agency, or labor organization retaliates or  
22 discriminates against an individual who:  
23
- 24 (1) opposes a discriminatory practice;
- 25
- 26 (2) makes or files a charge;
- 27
- 28 (3) files a complaint; or
- 29
- 30 (4) testifies, assists, or participates in any manner in an investigation, proceeding,  
31 or hearing.  
32
- 33 (f) Aiding or Abetting Discrimination. An employer, employment agency, or labor  
34 organization commits an unlawful employment practice if it aids, abets, incites, or  
35 coerces an individual to engage in an unlawful discriminatory practice based on race,  
36 color, disability, religion, sex, national origin, or age.  
37
- 38 (g) Interference with the Agency or CRD. An employer, employment agency, or labor  
39 organization commits an unlawful employment practice if it willfully interferes with  
40 the performance of a duty or the exercise of a power by CRD or by the Agency in  
41 relation to CRD.  
42
- 43 (h) Prevention of Compliance. An employer, employment agency, or labor organization  
44 commits an unlawful employment practice if it willfully obstructs or prevents an  
45 individual from complying with Texas Labor Code, Chapter 21, or a rule adopted or  
46 order issued under Texas Labor Code, Chapter 21.

- 1  
2 (i) Discriminatory Notice or Advertisement. An employer, employment agency, labor  
3 organization, or joint labor-management committee controlling an apprenticeship,  
4 on-the-job training, or other training or retraining program commits an unlawful  
5 employment practice if it prints or publishes or causes to be printed or published a  
6 notice or advertisement relating to employment that:  
7  
8 (1) indicates a preference, limitation, specification, or discrimination based on  
9 race, color, disability, religion, sex, national origin, or age; and  
10  
11 (2) concerns an employee's status, employment, or admission to or membership or  
12 participation in a labor organization or training or retraining program.  
13  
14 (j) Bona Fide Occupational Qualification. A bona fide occupational qualification is an  
15 affirmative defense to discrimination.  
16

17 *The provisions of this §819.12 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
18 *amended to be effective August 1, 2016, 41 TexReg 5559; amended to be effective July 6, 2020,*  
19 *45 TexReg 4530*

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21 **SUBCHAPTER C. EQUAL EMPLOYMENT OPPORTUNITY REPORTS, TRAINING,**  
22 **AND REVIEWS**

23 **§819.21. Civilian Workforce Composition Report.**

24 CRD shall prepare a civilian workforce composition report pursuant to Texas Labor Code  
25 §21.0035 using the best available data from all appropriate sources.

26 *The provisions of this §819.21 adopted to be effective September 27, 2005, 30 TexReg 6065*

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28 **§819.23. Review of State Agency Policies and Procedures.**

29 (a) Except as provided by subsection (b) of this section, CRD shall review the  
30 personnel policies and procedures system (PPPS) of each state agency once every six  
31 years on a staggered schedule to determine compliance with Texas Labor Code,  
32 Chapter 21.

33 (b) CRD may conduct a review of the PPPS of a state agency more frequently than  
34 required by subsection (a) when such review is indicated by a risk assessment based  
35 on the following criteria:

- 36 (1) Data on complaints against a state agency;  
37 (2) Previous review findings;

- 1 (3) Changes in leadership of a state agency;
- 2 (4) The date of the last on-site review;
- 3 (5) Compliance by the state agency with submission of a self-assessment to CRD;
- 4 and
- 5 (6) Any other related information collected and maintained by the Agency.

6 (c) CRD shall notify a state agency of its review of the agency's personnel policies and  
7 procedures by mail, or electronic communication upon agreement of the agency, at  
8 the beginning of the fiscal year in which CRD is to conduct the review. The review  
9 of each state agency shall be completed and recommendations issued on or before  
10 the one-year anniversary date on which CRD issued its notification letter to the  
11 agency head.

12 *The provisions of this §819.23 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
13 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*  
14 *2016, 41 TexReg 5559*

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16 **§819.24. Standard Employment Discrimination Training.**

- 17 (a) Each state agency shall provide its employees with standard employment  
18 discrimination training no later than the 30th day after the date the employee is hired  
19 by the agency, with supplemental training every two years thereafter. The Agency  
20 shall develop or approve the materials for use by state agencies in providing standard  
21 employment discrimination training.
- 22 (b) The minimum standards for the content of standard employment discrimination  
23 training shall include, but not be limited to, requiring participants to:
  - 24 (1) identify an unlawful employment practice according to the Civil Rights Act;
  - 25 (2) apply knowledge of the applicable laws by correctly identifying whether  
26 individual case studies would be considered violations;
  - 27 (3) identify the protected classes under federal and state law;
  - 28 (4) list a complainant's rights and remedies;
  - 29 (5) identify the agency personnel to whom a complaint shall be addressed; and
  - 30 (6) describe the general stages involved in processing a complaint.

31 *The provisions of this §819.24 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
32 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*  
33 *2016, 41 TexReg 5559*

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2 **§819.25. Compliance Employment Discrimination Training.**

- 3 (a) For purposes of this section, the term "complaint with merit" shall mean a complaint  
4 that is resolved, either by a cause finding or through withdrawal of the complaint  
5 with a remedy favorable to the complainant, such as a negotiated settlement,  
6 withdrawal with benefits, or conciliation.
- 7 (b) State agencies receiving three or more complaints with merit within a fiscal year  
8 shall provide compliance employment discrimination training. The training may be  
9 provided by the Agency or by another entity or person approved by the Agency.
- 10 (c) CRD's minimum standards for the content of compliance employment discrimination  
11 training shall include, but not be limited to, requiring participants to:
- 12 (1) distinguish between disparate treatment and disparate impact;
- 13 (2) identify the elements of a complaint involving disparate treatment and  
14 disparate impact;
- 15 (3) explain the defenses available to an employer resulting from both statute and  
16 case law involving disparate treatment and disparate impact;
- 17 (4) explain the burden of proof requirements for disparate treatment and disparate  
18 impact;
- 19 (5) identify criteria for accurately measuring compliance with applicable laws;
- 20 (6) define the different types of employment discrimination;
- 21 (7) identify the appropriate action to be taken in a situation involving a potential  
22 case of employment discrimination; and
- 23 (8) describe strategies for prevention of employment discrimination.

24 *The provisions of this §819.25 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
25 *amended to be effective August 1, 2016, 41 TexReg 5559*

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27 **§819.26. Standard and Compliance Employment Discrimination Training Delivery.**

- 28 (a) The minimum standards for the delivery of standard and compliance employment  
29 discrimination training shall include, but not be limited to:
- 30 (1) a determination of the effectiveness of the training;

- 1 (2) the use of training that takes advantage of technological advances, such as  
2 videos, CDs, and Web-based delivery systems; and
- 3 (3) the documentation of training that shall be provided to CRD, including the date  
4 the training was provided, description of the training program used, names of  
5 participants, and the agency contact person. Web-based training records may  
6 be retained electronically.
- 7 (b) In addition to the minimum standards set forth in subsection (a) of this section, the  
8 delivery of compliance employment discrimination training shall be highly  
9 interactive to ensure the engagement of the trainee.

10 *The provisions of this §819.26 adopted to be effective September 27, 2005, 30 TexReg 6065*

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12 **SUBCHAPTER D. EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS AND**  
13 **APPEALS PROCESS**

14 **§819.41. Filing a Complaint.**

- 15 (a) A person may telephone, write, visit, e-mail, fax, or otherwise contact CRD or a  
16 local commission office recognized by EEOC as a Fair Employment Practices  
17 Agency to obtain information on filing a complaint with CRD.
- 18 (b) At the complainant's request, CRD:
- 19 (1) shall confer with the complainant about the facts and circumstances that may  
20 constitute the alleged unlawful employment practice;
- 21 (2) shall assist the complainant in perfecting the complaint if the facts and  
22 circumstances appear to constitute an alleged unlawful employment practice;  
23 or
- 24 (3) may advise the complainant if the facts and circumstances presented to CRD  
25 do not appear to constitute an unlawful employment practice.
- 26 (c) The complaint shall be filed in writing and either signed under oath or subscribed by  
27 the person making the declaration as true under penalty of perjury and in  
28 substantially the form prescribed by Texas Civil Practice and Remedies Code,  
29 Chapter 132, or its successor statute. It may be filed with CRD by mail, electronic  
30 communication, fax, or in person with:
- 31 (1) the CRD office on a CRD-provided form;
- 32 (2) an EEOC office; or

- 1 (3) a local commission office recognized by EEOC as a Fair Employment  
2 Practices Agency.
- 3 (d) The complaint shall set forth the following information:
- 4 (1) Harm experienced by the complainant as a result of the alleged unlawful  
5 employment practice;
- 6 (2) Explanation, if any, given by the employer to the complainant for the alleged  
7 unlawful employment practice;
- 8 (3) A declaration of unlawful discrimination under federal or state law;
- 9 (4) Facts upon which the complaint is based, including the date, place, and  
10 circumstances of the alleged unlawful employment practice; and
- 11 (5) Sufficient information to enable CRD to identify the employer, e.g., employer  
12 ID, business address, and business phone.
- 13 (e) A complaint shall be filed within 180 days after the date on which the alleged  
14 unlawful employment practice occurred.
- 15 (f) A complaint may be withdrawn by a complainant only with the consent of the CRD  
16 director.
- 17 (g) A perfected complaint may be amended by the complainant to cure technical defects  
18 or omissions, or to clarify and amplify allegations made therein. Such amendment or  
19 amendments alleging additional acts that constitute unlawful employment practices  
20 related to or growing out of the subject matter of the original complaint shall relate  
21 back to the date the complaint was first filed. CRD shall provide a copy of the  
22 perfected complaint to the respondent. An amended perfected complaint shall be  
23 subject to the procedures set forth in applicable law.
- 24 (h) A respondent shall be mailed a copy of the perfected complaint within 10 days after  
25 CRD receives the perfected complaint. If CRD receives a complaint that is not  
26 perfected within 180 days of the alleged unlawful employment practice, CRD shall  
27 notify the respondent that a complaint has been filed and the process of perfecting  
28 the complaint is in progress.
- 29 (i) The complainant and respondent shall be advised upon request by CRD of the status  
30 of their perfected complaint, unless doing so would jeopardize an undercover  
31 investigation by another state, federal, or local government.

32 *The provisions of this §819.41 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
33 *amended to be effective June 16, 2014, 39 TexReg 4659*

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1       **§819.42. Legal Representation.**

2           The complainant and respondent may be represented by an attorney or designated agent.

3       *The provisions of this §819.42 adopted to be effective September 27, 2005, 30 TexReg 6065*

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5       **§819.43. Investigation of a Perfected Complaint.**

6           (a) The CRD director shall determine the nature and scope of the investigation within  
7           the context of the allegations set forth in the perfected complaint.

8           (b) CRD may, as part of a perfected complaint investigation, require a fact-finding  
9           conference with the complainant and the respondent prior to a determination on a  
10          perfected complaint. A fact-finding conference primarily is an investigative forum  
11          intended to define the issues, determine which elements are undisputed, and solicit  
12          information regarding the allegations.

13          (c) At all reasonable times in the perfected complaint investigation, the CRD director  
14          shall have access to:

15           (1) necessary witnesses for examination under oath or affirmation; and

16           (2) records, documents, and other information relevant to the investigation of  
17           alleged violations of Texas Labor Code, Chapter 21, for inspection and  
18           copying.

19          (d) As part of the perfected complaint investigation, CRD may request information  
20          relevant to the alleged violations of Texas Labor Code, Chapter 21. In obtaining this  
21          information, CRD may use, but is not limited to using, any of the following:

22           (1) Oral and video interviews and depositions;

23           (2) Written interrogatories;

24           (3) Production of documents and records;

25           (4) Requests for admissions;

26           (5) On-site inspection of respondent's facilities;

27           (6) Written statements or affidavits;

28           (7) A written statement of position or information provided by the complainant or  
29           the respondent that is either under oath or subscribed in conformity with this  
30           section regarding the allegations in the complaint; or



1 (8) Other forms of discovery authorized by the Administrative Procedure Act,  
2 Texas Government Code §§2001.081 - 2001.103, or the Texas Rules of Civil  
3 Procedure.

4 (e) CRD may establish time requirements regarding responses to requests for  
5 information relevant to an investigation of alleged violations of Texas Labor Code,  
6 Chapter 21. The CRD director may extend such time requirements for good cause  
7 shown.

8 *The provisions of this §819.43 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
9 *amended to be effective June 16, 2014, 39 TexReg 4659*

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11 **§819.44. Mediation.**

12 (a) Between filing of a complaint and prior to the cause determination, CRD may invite  
13 both the complainant and the respondent to attempt to resolve their dispute through  
14 mediation. Either party to the perfected complaint may also request mediation to  
15 resolve the complaint during this period.

16 (b) For mediation to occur, both the complainant and the respondent shall agree to the  
17 mediation. If there is no agreement, CRD shall continue with the investigation of the  
18 perfected complaint.

19 (c) If the complainant and respondent reach a settlement and execute a written  
20 agreement disposing of the perfected complaint, the agreement is binding and  
21 enforceable in the same manner as any other written contract.

22 (d) If mediation between the complainant and the respondent does not result in an  
23 agreement, CRD shall continue to investigate the perfected complaint.

24 *The provisions of this §819.44 adopted to be effective September 27, 2005, 30 TexReg 6065*

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26 **§819.45. Subpoena.**

27 (a) The CRD director shall have the authority to sign and issue a subpoena to compel the  
28 attendance of necessary witnesses for examination or testimony under oath or  
29 affirmation, and to compel the production of records, documents, and other evidence  
30 relevant to the investigation of alleged violations of Texas Labor Code, Chapter 21,  
31 for inspection and copying. Neither the complainant nor the respondent shall have  
32 the right to demand that a subpoena be issued.

33 (b) A person served with a subpoena issued by the CRD director who does not intend to  
34 comply may petition CRD in writing to revoke or modify the subpoena within five  
35 working days after receipt of the subpoena. Such petition shall identify separately

1 each portion of the subpoena with which the petitioner does not intend to comply,  
2 and for each portion shall state the grounds upon which the petitioner relies. A copy  
3 of the subpoena shall be attached to the petition. The CRD director shall review the  
4 petition and make a final determination on revoking or modifying the subpoena.  
5 CRD shall provide a copy of the final determination on the petition to the petitioner  
6 by mail, or electronic communication upon agreement of the petitioner.

- 7 (c) If a person fails to comply with a subpoena, CRD may apply to the district court of  
8 the county in which the person is found, resides, or transacts business for an order  
9 directing compliance pursuant to Texas Labor Code §21.306(b).

10 *The provisions of this §819.45 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
11 *amended to be effective June 16, 2014, 39 TexReg 4659*

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13 **§819.46. Dismissal of Complaint.**

- 14 (a) The CRD director may dismiss a complaint if:

- 15 (1) it is not filed timely;  
16 (2) it fails to state a claim under Texas Labor Code, Chapter 21;  
17 (3) a complainant fails to perfect a complaint within 10 days of the receipt of the  
18 complaint; or  
19 (4) a complainant fails to cooperate, fails or refuses to appear or to be available for  
20 interviews or conferences, or fails or refuses to provide requested information.  
21 Prior to dismissing the complaint, the complainant shall be notified and given a  
22 reasonable time to respond.

- 23 (b) CRD shall notify the complainant as required by law, by certified mail of its  
24 dismissal of a complaint. The respondent and any federal enforcement agency shall  
25 be notified of the dismissal of a complaint.

- 26 (c) CRD shall notify the complainant, by mail, of the complainant's right to file a civil  
27 action against the respondent named in the perfected complaint pursuant to Texas  
28 Labor Code §21.208 and §21.252, and §819.50 of this subchapter.

29 *The provisions of this §819.46 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
30 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*  
31 *2016, 41 TexReg 5559*

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1       **§819.47. Cause Determination.**

- 2           (a) The CRD director shall review the investigation report and record of evidence to  
3           determine if there is reasonable cause to believe the respondent has engaged in an  
4           unlawful employment practice.
- 5           (b) If after the review, the CRD director determines that reasonable cause exists, the  
6           CRD director shall confer with the Commission members. If at least two of the three  
7           Commission members concur with the CRD director's determination that the  
8           respondent has engaged in an unlawful employment practice, the CRD director shall  
9           issue a letter of cause determination. The cause determination letter shall be provided  
10          by mail, or electronic communication upon agreement of the person or entity, to the  
11          complainant, respondent, and any agency as required by law and shall contain the  
12          CRD director's finding that the evidence supports the perfected complaint and  
13          include an invitation to participate in conciliation.

14          *The provisions of this §819.47 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
15          *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*  
16          *2016, 41 TexReg 5559*

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18       **§819.48. Conciliation.**

- 19           (a) When a letter of cause determination has been issued, CRD shall attempt to  
20           eliminate such unlawful employment practice by conciliation, and to secure a just  
21           resolution through a conciliation agreement signed by the complainant, respondent,  
22           and the CRD director.
- 23           (b) CRD shall obtain proof of the respondent's compliance with a conciliation  
24           agreement before the case is closed.
- 25           (c) CRD shall provide notification of an unsuccessful conciliation agreement to:
- 26               (1) the complainant by certified mail; and
- 27               (2) the respondent by mail.

28          *The provisions of this §819.48 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
29          *amended to be effective June 16, 2014, 39 TexReg 4659*

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31       **§819.49. No Cause Determination.**

32           A completed investigation may result in a determination that there is no reasonable cause  
33           to believe that the respondent has engaged in an unlawful employment practice as alleged  
34           in the perfected complaint. If after the review, the CRD director determines that no

1 reasonable cause exists, the CRD director shall issue a letter of no cause determination.  
2 The no cause determination letter shall be sent by mail, or electronic communication  
3 upon agreement of the person or entity, to the complainant, respondent, and any agency  
4 as required by law and shall contain the CRD director's finding that the evidence does not  
5 support the perfected complaint.

6 *The provisions of this §819.49 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
7 *amended to be effective June 16, 2014, 39 TexReg 4659*

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9 **§819.50. Right to File a Civil Action.**

10 (a) CRD shall inform the complainant by certified mail of:

- 11 (1) the dismissal of a complaint filed with CRD; or  
12 (2) the failure to resolve a complaint in writing that was filed with CRD 180 days  
13 previously. CRD shall inform the complainant of the complainant's right to  
14 request from CRD a notice of right to file a civil action against the respondent.  
15 Upon receipt of a written request, CRD may issue a notice of right to file a  
16 civil action.

17 (b) Before the expiration of 180 days after filing the complaint and upon a written  
18 request from a complainant, CRD shall issue a notice of right to file a civil action if:

- 19 (1) written confirmation by a physician licensed to practice medicine in Texas  
20 states that the complainant has a life threatening illness; or  
21 (2) certification by the CRD director states that the administrative processing of  
22 the perfected complaint cannot be completed before the expiration of the 180th  
23 day after the complaint was filed. The certification shall take into account the  
24 exigent circumstances of the complainant.

25 (c) CRD shall issue notice under subsection (b) of this section by certified mail no later  
26 than the fifth business day after receipt of the complainant's request.

27 (d) The complainant's written request shall include the respondent's name, CRD  
28 complaint number, and EEOC complaint number if the complaint has been deferred  
29 by EEOC.

30 *The provisions of this §819.50 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
31 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*  
32 *2016, 41 TexReg 5559*

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1       **§819.51. Failure to Issue Notice of Right to File a Civil Action.**

2           CRD's failure to issue a notice of right to file a civil action after 180 days from the date  
3           the complaint is received by CRD does not affect the complainant's right to bring a civil  
4           action against the respondent under Texas Labor Code §21.252(d).

5       *The provisions of this §819.51 adopted to be effective September 27, 2005, 30 TexReg 6065*

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7       **§819.52. Judicial Enforcement.**

8           (a) On a majority vote of the Commission, CRD may bring a civil action against a  
9           respondent named in a perfected complaint pursuant to the requirements of Texas  
10          Labor Code §21.251.

11          (b) Upon a determination by the Commission to bring a civil action, CRD shall notify  
12          the complainant by certified mail.

13          (c) On a majority vote of the Commission, CRD may pursue intervention in a civil  
14          action pursuant to the requirements of Texas Labor Code §21.255.

15       *The provisions of this §819.52 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
16       *amended to be effective August 1, 2016, 41 TexReg 5559*

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18       **SUBCHAPTER E. EQUAL EMPLOYMENT OPPORTUNITY DEFERRALS**

19       **§819.71. Equal Employment Opportunity Deferrals among Federal, State, and Local**  
20       **Agencies.**

21           For the purpose of satisfying the filing requirements of Texas Labor Code §21.201, the  
22           following shall apply:

23           (1) For a complaint filed with CRD over which EEOC has deferred jurisdiction,  
24           timeliness of the complaint shall be determined by the date the complaint is  
25           received by CRD.

26           (2) For a complaint filed with EEOC and deferred to CRD, timeliness of the  
27           complaint shall be determined by the date on which the complaint is received  
28           by EEOC.

29           (3) For a complaint filed with a local commission and deferred to CRD, timeliness  
30           of the complaint shall be determined by the date on which the complaint is  
31           received by the local commission.

1        *The provisions of this §819.71 adopted to be effective September 27, 2005, 30 TexReg 6065*

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3        **§819.72. Requirements for a Local Commission.**

4            To be a local commission eligible to receive deferrals from CRD, pursuant to Texas  
5            Labor Code §§21.151 - 21.156, and this chapter, the local commission must be currently  
6            certified by the EEOC as a Fair Employment Practices Agency (FEPA).

7        *The provisions of this §819.72 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
8        *amended to be effective August 1, 2016, 41 TexReg 5559*

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10       **§819.73. Deferral to Local Commission.**

- 11            (a) Texas Labor Code §21.155 grants to a local commission the exclusive right to take  
12            appropriate action within the scope of its power and jurisdiction to process a  
13            complaint deferred by CRD pursuant to the requirements of Texas Labor Code  
14            §21.155, and this chapter.
- 15            (b) CRD shall not assume jurisdiction over a complaint deferred to a local commission,  
16            pursuant to Texas Labor Code §21.155, except:
- 17                    (1) where the local commission defers a complaint under its jurisdiction to CRD;
- 18                    (2) where the complaint is received by CRD within 180 days of the alleged  
19                    violation but beyond the period of limitation of the appropriate local  
20                    commission; and
- 21                    (3) where the local commission has not acted on the complaint pursuant to the  
22                    requirements of Texas Labor Code §21.155(c), and this chapter.

23        *The provisions of this §819.73 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
24        *amended to be effective June 16, 2014, 39 TexReg 4659*

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26       **§819.74. Deferral Procedures.**

- 27            (a) CRD shall defer a complaint subject to Texas Labor Code §21.155(a) to a local  
28            commission within five working days of the date the complaint is received.
- 29            (b) A local commission may waive its right to the period of exclusive processing of a  
30            complaint with respect to any complaint or category of complaint by deferring a  
31            matter under its jurisdiction to CRD, pursuant to Texas Labor Code §21.156.

- 1 (c) All complaints received by CRD subject to deferral to a local commission shall be  
2 dated and time stamped upon receipt.
- 3 (d) CRD shall transmit a copy of a complaint it receives that is subject to deferral to a  
4 local commission by certified mail to the appropriate local commission. Proceedings  
5 by the local commission are deemed to have commenced on the date such complaint  
6 is mailed.
- 7 (e) A local commission shall transmit to CRD by certified mail, a copy of a complaint  
8 deferred to it by EEOC and over which CRD has deferral jurisdiction.
- 9 (f) CRD shall notify the complainant and respondent in writing that it has forwarded the  
10 complaint to the local commission.

11 *The provisions of this §819.74 adopted to be effective September 27, 2005, 30 TexReg 6065*

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13 **§819.75. Final Determination of a Local Commission.**

14 If a local commission does not intend to act on a complaint deferred by CRD, the local  
15 commission shall notify CRD by mail or electronic communication within 60 working  
16 days.

17 *The provisions of this §819.75 adopted to be effective June 16, 2014, 39 TexReg 4659*

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19 **§819.76. Workshare Agreements.**

20 The Agency shall enter into workshare agreements with EEOC and local commissions to  
21 ensure an effective and integrated administrative review procedure, share information,  
22 and provide technical assistance and training.

23 *The provisions of this §819.76 adopted to be effective September 27, 2005, 30 TexReg 6065*

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25 **SUBCHAPTER F. EQUAL EMPLOYMENT OPPORTUNITY RECORDS AND**  
26 **RECORDKEEPING**

27 **§819.91. Preservation and Use.**

28 CRD shall require a person under investigation to make and keep records pursuant to the  
29 requirements of Texas Labor Code §§21.301 - 21.303.

30 *The provisions of this §819.91 adopted to be effective September 27, 2005, 30 TexReg 6065*

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1       **§819.92. Access to CRD Records.**

2           (a) Pursuant to Texas Labor Code §21.304 and §21.305, CRD shall, on written request of  
3           a party to a perfected complaint filed under Texas Labor Code §21.201, allow the  
4           party access to CRD's records, unless the perfected complaint has been resolved  
5           through a voluntary settlement or conciliation agreement:

6           (1) following the final action of CRD; or

7           (2) if a party to the perfected complaint or the party's attorney certifies in writing  
8           that a civil action relating to the perfected complaint is pending in federal court  
9           alleging a violation of federal law.

10          (b) The information described in Texas Labor Code §21.305(c) is not public information  
11          and shall not be disclosed to a party to a complaint filed under Texas Labor Code  
12          §21.201.

13          *The provisions of this §819.92 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
14          *amended to be effective February 12, 2007, 32 TexReg 553; amended to be effective*  
15          *December 10, 2012, 37 TexReg 9656*

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17       **§819.93. Disposal of Files and Related Documents.**

18           Pursuant to a certified records retention schedule, CRD shall retain case files and related  
19           documents that have not been forwarded to EEOC for seven years after the administrative  
20           review procedures have been completed, except when a civil action has been filed in state  
21           court under Texas Labor Code, Chapter 21. When a civil action has been filed in state  
22           court, case files and related documents shall be retained until the final disposition of the  
23           lawsuit. At the end of the retention period, CRD may dispose of the case files and related  
24           documents.

25          *The provisions of this §819.93 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
26          *amended to be effective June 16, 2014, 39 TexReg 4659*

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28       **SUBCHAPTER G. TEXAS FAIR HOUSING ACT PROVISIONS**

29       **§819.111. Purpose.**

30           The purpose of Subchapters G - L of this chapter is to establish procedures for CRD to  
31           execute its responsibilities in the administration and enforcement of the Texas Fair  
32           Housing Act. Texas provides, within constitutional limitations, for fair housing  
33           throughout the state and provides rights and remedies substantially equivalent to those  
34           granted under federal law. No person shall be subject to discriminatory housing practices  
35           based on race, color, disability, religion, sex, national origin, or familial status in the sale,



1 rental, advertising of dwellings, inspection of dwellings, entry into a neighborhood, in the  
2 provision of brokerage services, or in the availability of residential real estate-related  
3 transactions.

4 *The provisions of this §819.111 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
5 *amended to be effective June 16, 2014, 39 TexReg 4659*

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7 **§819.112. Definitions.**

8 The following words and terms, when used in Subchapter G, Texas Fair Housing Act  
9 Provisions; Subchapter H, Discriminatory Housing Practices; Subchapter I, Texas Fair  
10 Housing Act Complaints and Appeals Process; Subchapter J, Fair Housing Deferral to  
11 Municipalities; Subchapter K, Fair Housing Administrative Hearings and Judicial  
12 Review; and Subchapter L, Fair Housing Fund, shall have the following meanings, unless  
13 the context clearly indicates otherwise.

- 14 (1) Accessible or readily accessible to and usable by--Means a public or common  
15 use area can be approached, entered, and used by individuals with disabilities,  
16 as set forth in Texas Property Code §301.025(c)(3). Compliance with the  
17 appropriate requirements of the American National Standards Institute (ANSI)  
18 for buildings and facilities providing accessibility and usability for persons  
19 having physical disabilities, commonly cited as ANSI A117.1, satisfies this  
20 requirement.
- 21 (2) Accessible building entrance--A building entrance that is accessible by  
22 individuals with disabilities, as set forth in Texas Property Code §301.025(c).  
23 Compliance with the appropriate requirements of ANSI for buildings and  
24 facilities providing accessibility and usability for persons having physical  
25 disabilities, commonly cited as ANSI A117.1, satisfies this requirement.
- 26 (3) Accessible route--A route that is accessible by individuals with disabilities, as  
27 set forth in Texas Property Code §301.025(c). Compliance with the appropriate  
28 requirements of ANSI for buildings and facilities providing accessibility and  
29 usability for persons having physical disabilities, commonly cited as ANSI  
30 A117.1, satisfies this requirement.
- 31 (4) Building--A structure, facility, or the portion thereof that contains or serves  
32 one or more dwelling units.
- 33 (5) Common use areas--Rooms, spaces, or elements inside or outside of a  
34 building that are made available for the use of residents or the guests of a  
35 building. These areas include, but are not limited to, hallways, lounges,  
36 lobbies, laundry rooms, refuse rooms, mailrooms, recreational areas, and  
37 passageways among and between buildings.

- 1 (6) Complaint--A written statement made under oath stating that an unlawful  
2 housing practice has been committed, setting forth the facts on which the  
3 complaint is based, and received within one year of the date the alleged  
4 unlawful housing practice occurred or terminated, whichever is later, and for  
5 which CRD shall initiate an investigation.
- 6 (7) Controlled substance--Any drug or other substance or immediate precursor as  
7 defined in the Controlled Substances Act, 21 U.S.C. §802 or the Texas  
8 Controlled Substances Act, Texas Health and Safety Code Chapter 481.
- 9 (8) Disability--A mental or physical impairment that substantially limits at least  
10 one major life activity, a record of such an impairment, or being regarded as  
11 having such an impairment. The term does not include current illegal use of or  
12 addiction to any drug or illegal or controlled substance; and reference to "an  
13 individual with a disability" or perceived as "disabled" does not apply to an  
14 individual based on that individual's sexual orientation or because that  
15 individual is a transvestite.
- 16 (A) Physical or mental impairment includes:
- 17 (i) any physiological disorder or condition, cosmetic disfigurement, or  
18 anatomical loss affecting one or more of the following body  
19 systems: neurological, musculoskeletal, special sense organs,  
20 respiratory, including speech organs, cardiovascular, reproductive,  
21 digestive, genitourinary, hemic and lymphatic, skin, and endocrine;  
22 or
- 23 (ii) any mental or psychological disorder, such as intellectual disability,  
24 organic brain syndrome, emotional or mental illness, and specific  
25 learning disabilities. The term "physical or mental impairment"  
26 includes, but is not limited to, such diseases and conditions as  
27 orthopedic, visual, speech and hearing impairments, cerebral palsy,  
28 autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer,  
29 heart disease, diabetes, human immunodeficiency virus infection,  
30 intellectual disability, emotional illness, drug addiction (other than  
31 addiction caused by current, illegal use of a controlled substance)  
32 and alcoholism.
- 33 (B) Major life activity means a function such as caring for one's self,  
34 performing manual tasks, walking, seeing, hearing, speaking, breathing,  
35 learning, and working.
- 36 (C) A record of having such an impairment means a history of, or  
37 misclassification as having, a mental or physical impairment that  
38 substantially limits one or more major life activity.
- 39 (D) Being regarded as having an impairment means having:

- 1 (i) a physical or mental impairment that does not substantially limit one  
2 or more major life activity but that is treated by another person as  
3 constituting such a limitation;
- 4 (ii) a physical or mental impairment that substantially limits one or  
5 more major life activity only as a result of the attitudes of others  
6 toward such impairment; or
- 7 (iii) none of the impairments in subparagraph (A) of this paragraph but  
8 is treated by another person as having such an impairment.
- 9 (9) Discriminatory housing practice--An action prohibited by Texas Fair Housing  
10 Act, Subchapter B, or conduct that is an offense under Texas Fair Housing Act,  
11 Subchapter I.
- 12 (10) Entrance--Any access point to a building or portion of a building used by  
13 residents for the purpose of entering the building.
- 14 (11) Exterior--All areas of the premises outside of an individual dwelling unit.
- 15 (12) Ground floor--Within a building, any floor with an entrance on an accessible  
16 route. A building may have more than one ground floor.
- 17 (13) Interior--The spaces, parts, components, or elements of an individual dwelling  
18 unit.
- 19 (14) Modification--Any change to the public or common use areas of a building or  
20 any change to a dwelling unit.
- 21 (15) Premises--The interior or exterior spaces, parts, components, or elements of a  
22 building, including individual dwelling units and the public and common use  
23 areas of a building.
- 24 (16) Public use areas--Interior or exterior rooms or spaces of a building that are  
25 made available to the general public. Public use may be provided at a building  
26 that is privately or publicly owned.
- 27 (17) Site--A parcel of land bounded by a property line or a designated portion of a  
28 public right of way.
- 29 (18) Texas Fair Housing Act--Texas Property Code, Chapter 301.

1 (19) United States Fair Housing Act--Title VIII of the Civil Rights Act of 1968, as  
2 amended by the Fair Housing Amendments Act of 1988.

3 *The provisions of this §819.112 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
4 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*  
5 *2016, 41 TexReg 5559*

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7 **SUBCHAPTER H. DISCRIMINATORY HOUSING PRACTICES**

8 **§819.121. Discrimination Based on Familial Status.**

9 It is an unlawful housing practice to discriminate based on familial status. Familial status  
10 includes:

- 11 (1) pregnancy;
- 12 (2) being domiciled with an individual younger than 18 years of age in regard to  
13 whom the person is the parent or legal custodian or has the written permission  
14 of the parent or legal custodian for domicile with that person; or
- 15 (3) being in the process of obtaining legal custody of an individual younger than  
16 18 years of age.

17 *The provisions of this §819.121 adopted to be effective September 27, 2005, 30 TexReg 6065*

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19 **§819.122. Exemptions Based on Familial Status.**

- 20 (a) Discrimination prohibitions under the Texas Fair Housing Act based on familial  
21 status do not apply to housing provided under any federal or state program that the  
22 US Department of Housing and Urban Development (HUD) Secretary has  
23 determined is designed and operated specifically to assist elderly persons, as defined  
24 in the federal or state program.
- 25 (b) Discrimination prohibitions under the Texas Fair Housing Act based on familial  
26 status do not apply to housing intended for and solely occupied by individuals 62  
27 years of age or older. This exemption shall apply regardless of the fact that:
- 28 (1) there were individuals residing in such housing on September 13, 1988, who  
29 were under 62 years of age, provided that all new occupants are 62 years of  
30 age or older;
- 31 (2) there are unoccupied units, provided that such units are reserved for occupancy  
32 for individuals 62 years of age or older; or

- 1 (3) there are units occupied by employees of the housing (and family members  
2 residing in the same unit) who are under 62 years of age provided they perform  
3 substantial duties directly related to the management or maintenance of the  
4 housing.
- 5 (c) Discrimination prohibitions under the Texas Fair Housing Act based on familial  
6 status do not apply to housing intended and operated for occupancy by individuals 55  
7 years of age or older if:
- 8 (1) at least 80 percent of the units in the housing facility are occupied by at least  
9 one person 55 years of age or older. However:
- 10 (A) a newly constructed housing facility for first occupancy after March 12,  
11 1989, need not comply with this 80 percent occupancy requirement until  
12 25 percent of the units in the facility are occupied; and
- 13 (B) a housing facility or community may not evict, refuse to renew leases, or  
14 otherwise penalize families with children in order to achieve occupancy  
15 of at least 80 percent of the occupied units by at least one person 55  
16 years of age or older;
- 17 (2) the owner or manager of a housing facility publishes and adheres to policies  
18 and procedures that demonstrate an intent by the owner or manager to provide  
19 housing for individuals 55 years of age or older. The following factors, among  
20 others, are relevant in determining whether the owner or manager of a housing  
21 facility has complied with the requirements of this paragraph:
- 22 (A) The manner in which the housing facility is described to prospective  
23 residents;
- 24 (B) The nature of any advertising designed to attract prospective residents;
- 25 (C) Age verification procedures;
- 26 (D) Lease provisions;
- 27 (E) Written rules and regulations;
- 28 (F) Actual practices of the housing facility or community; and
- 29 (G) Public posting in common areas of statements describing the facility or  
30 community as housing for individuals 55 years of age or older; and
- 31 (3) the housing facility satisfies the requirements of this section regardless of the  
32 fact that:
- 33 (A) as of September 13, 1988, under 80 percent of the occupied units in the  
34 housing facility were occupied by at least one person 55 years of age or

1                   older, provided that at least 80 percent of the units that were occupied by  
2                   new occupants after September 13, 1988, were occupied by at least one  
3                   person 55 years of age or older;

4                   (B) there are unoccupied units, provided that at least 80 percent of such units  
5                   are reserved for occupancy by at least one person 55 years of age or  
6                   older; and

7                   (C) there are units occupied by employees of the housing facility (and family  
8                   members residing in the same unit) who are under 55 years of age  
9                   provided they perform substantial duties directly related to the  
10                  management or maintenance of the housing.

11                  *The provisions of this §819.122 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
12                  *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*  
13                  *2016, 41 TexReg 5559; amended to be effective May 14, 2018, 43 TexReg 3119*

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15                  **§819.123. Discrimination in Sale, Rental, Terms, Conditions, Privileges, Services, and**  
16                  **Facilities.**

17                  (a) It is unlawful to discriminate based on race, color, disability, religion, sex, national  
18                  origin, or familial status by imposing different terms, conditions, or privileges  
19                  relating to the sale or rental of a dwelling or to deny or limit services or facilities in  
20                  connection with the sale or rental of a dwelling.

21                  (b) Prohibited actions under this section include, but are not limited to:

22                  (1) using different provisions in leases or contracts of sale, such as those relating  
23                  to rental charges, security deposits, and the terms of a lease and those relating  
24                  to down payment and closing requirements based on race, color, disability,  
25                  religion, sex, national origin, or familial status;

26                  (2) failing to maintain or repair or delaying maintenance or repairs of sale or rental  
27                  dwellings based on race, color, disability, religion, sex, national origin, or  
28                  familial status;

29                  (3) failing to process an offer for the sale or rental of a dwelling or to  
30                  communicate an offer accurately based on race, color, disability, religion, sex,  
31                  national origin, or familial status;

32                  (4) limiting the use of privileges, services, or facilities associated with a dwelling  
33                  based on race, color, disability, religion, sex, national origin, or familial status;  
34                  and

- 1 (5) denying or limiting services or facilities in connection with the sale or rental of  
2 a dwelling because a person failed or refused to provide sexual favors.

3 *The provisions of this §819.123 adopted to be effective September 27, 2005, 30 TexReg 6065*

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5 **§819.124. Other Prohibited Sale and Rental Conduct.**

6 (a) It is unlawful to discriminate based on race, color, disability, religion, sex, national  
7 origin, or familial status by restricting or attempting to restrict the choices of a  
8 person by word or conduct in connection with seeking, negotiating for, buying, or  
9 renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing  
10 patterns, or to discourage or obstruct choices in a community, neighborhood, or  
11 development. Prohibited practices under this section generally refer to unlawful  
12 steering practices that include, but are not limited to, discrimination by:

13 (1) discouraging any person from inspecting, purchasing, or renting a dwelling  
14 based on race, color, disability, religion, sex, national origin, or familial status  
15 in a community, neighborhood, or development;

16 (2) discouraging the purchase or rental of a dwelling based on race, color,  
17 disability, religion, sex, national origin, or familial status by exaggerating  
18 drawbacks or failing to inform any person of desirable features of a dwelling or  
19 of a community, neighborhood, or development;

20 (3) communicating to a potential buyer or renter that he or she would not be  
21 comfortable or compatible with existing residents of a community,  
22 neighborhood, or development based on race, color, disability, religion, sex,  
23 national origin, or familial status; and

24 (4) assigning any person to a particular section of a community, neighborhood, or  
25 development or to a particular floor of a building based on race, color,  
26 disability, religion, sex, national origin, or familial status.

27 (b) It is unlawful to discriminate based on race, color, disability, religion, sex, national  
28 origin, or familial status by engaging in any conduct relating to the provision of  
29 housing or of services and facilities in connection therewith that otherwise makes  
30 unavailable or denies dwellings to individuals. Prohibited sales and rental practices  
31 under this section include, but are not limited to, discrimination by:

32 (1) discharging or taking other adverse action against an employee, broker, or  
33 agent because he or she refused to participate in a discriminatory housing  
34 practice;

35 (2) employing codes or other devices to segregate or reject potential buyers or  
36 renters; refusing to take or to show listings of dwellings in certain areas based  
37 on race, color, disability, religion, sex, national origin, or familial status; or

1 refusing to deal with certain brokers or agents because they or one or more of  
2 their clients are of a particular race, color, disability, religion, sex, national  
3 origin, or familial status;

4 (3) denying or delaying the processing of an application made by a potential buyer  
5 or renter or refusing to approve such a person for occupancy in a cooperative  
6 or condominium dwelling based on race, color, disability, religion, sex,  
7 national origin, or familial status; and

8 (4) refusing to provide municipal services or property or hazard insurance for  
9 dwellings or providing such services or insurance differently based on race,  
10 color, disability, religion, sex, national origin, or familial status.

11 *The provisions of this §819.124 adopted to be effective September 27, 2005, 30 TexReg 6065*

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13 **§819.125. Discriminatory Advertisements, Statements, and Notices.**

14 (a) It is unlawful to discriminate based on race, color, disability, religion, sex, national  
15 origin, or familial status by making, printing, or publishing, or causing to be made,  
16 printed, or published, any notice, statement, or advertisement with respect to the sale  
17 or rental of a dwelling that indicates any preference, limitation, or discrimination, or  
18 an intention to make any such preference, limitation, or discrimination.

19 (b) The prohibitions in this section shall apply to all written or oral notices or statements  
20 by a person engaged in the sale or rental of a dwelling. Written notices and  
21 statements include any applications, flyers, brochures, deeds, signs, banners, posters,  
22 billboards, electronic communications, or any documents used with respect to the  
23 sale or rental of a dwelling.

24 (c) Discriminatory notices, statements, and advertisements include, but are not limited  
25 to:

26 (1) using words, phrases, photographs, illustrations, symbols, or forms that convey  
27 that dwellings are available or not available to a particular group of individuals  
28 based on race, color, disability, religion, sex, national origin, or familial status;

29 (2) expressing to agents, brokers, employees, prospective sellers or renters, or any  
30 other individuals a preference for or limitation on any potential buyer or renter  
31 based on race, color, disability, religion, sex, national origin, or familial status;

32 (3) selecting media or locations for advertising the sale or rental of dwellings that  
33 deny particular segments of the housing market information about housing  
34 opportunities based on race, color, disability, religion, sex, national origin, or  
35 familial status; and



- 1 (4) refusing to publish advertising for the sale or rental of dwellings or requiring  
2 different charges or terms for such advertising based on race, color, disability,  
3 religion, sex, national origin, or familial status.

4 *The provisions of this §819.125 adopted to be effective September 27, 2005, 30 TexReg 6065*

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6 **§819.126. Discriminatory Representations on the Availability of Dwellings.**

- 7 (a) It is unlawful to discriminate, based on race, color, disability, religion, sex, national  
8 origin, or familial status, by providing inaccurate or untrue information about the  
9 availability of dwellings for sale or rent.

- 10 (b) Prohibited actions under this section include, but are not limited to:

- 11 (1) indicating through words or conduct that a dwelling that is available for  
12 inspection, sale, or rent has been sold or rented based on race, color, disability,  
13 religion, sex, national origin, or familial status;
- 14 (2) representing that covenants or other deed, trust, or lease provisions that purport  
15 to restrict the sale or rental of dwellings based on race, color, disability,  
16 religion, sex, national origin, or familial status preclude the sale or rental of a  
17 dwelling to a person;
- 18 (3) enforcing covenants or other deed, trust, or lease provisions that preclude the  
19 sale or rental of a dwelling to any person based on race, color, disability,  
20 religion, sex, national origin, or familial status;
- 21 (4) limiting information, through words or conduct, regarding suitably priced  
22 dwellings available for inspection, sale, or rent based on race, color, disability,  
23 religion, sex, national origin, or familial status; and
- 24 (5) providing false or inaccurate information regarding the availability of a  
25 dwelling for sale or rent to any person, including testers, regardless of whether  
26 such person is actually seeking housing based on race, color, disability,  
27 religion, sex, national origin, or familial status.

28 *The provisions of this §819.126 adopted to be effective September 27, 2005, 30 TexReg 6065*

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30 **§819.127. Discriminatory Practices Regarding Entry into a Neighborhood.**

- 31 (a) It is unlawful to discriminate based on race, color, disability, religion, sex, national  
32 origin, or familial status by inducing or attempting to induce for profit a person to  
33 sell or rent a dwelling by representations regarding the entry or prospective entry into  
34 the neighborhood of an individual or group of individuals.

1 (b) Prohibited actions under this section include, but are not limited to:

- 2 (1) engaging in conduct (including uninvited solicitations for listings) that conveys  
3 to a person that a neighborhood is undergoing or is about to undergo a change  
4 in the race, color, disability, religion, sex, national origin, or familial status of  
5 individuals residing in it or in order to encourage the person to offer a dwelling  
6 for sale or rent; and
- 7 (2) encouraging a person to sell or rent a dwelling through assertions that the entry  
8 or prospective entry of individuals of a particular race, color, disability,  
9 religion, sex, national origin, or familial status can or will result in undesirable  
10 consequences for the project, neighborhood, or community, such as a lowering  
11 of property values, an increase in criminal or antisocial behavior, or a decline  
12 in the quality of schools or other services or facilities.

13 *The provisions of this §819.127 adopted to be effective September 27, 2005, 30 TexReg 6065*

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15 **§819.128. Discrimination in the Selling, Brokering, or Appraising of Residential Real**  
16 **Property.**

- 17 (a) It is unlawful for a person whose business includes engaging in selling, brokering, or  
18 appraising of residential real property to discriminate based on race, color, disability,  
19 religion, sex, national origin, or familial status.
- 20 (b) It is unlawful to discriminate based on race, color, disability, religion, sex, national  
21 origin, or familial status by denying any person access to or membership or  
22 participation in any multiple listing service, real estate brokers' organization, or other  
23 service, organization, or facility relating to the business of selling or renting  
24 dwellings, or to discriminate against any person in the terms or conditions of such  
25 access, membership, or participation.
- 26 (c) Prohibited actions under this section include, but are not limited to:
- 27 (1) setting different fees for access to or membership in a multiple listing service;
- 28 (2) denying or limiting benefits accruing to members in a real estate brokers'  
29 organization;
- 30 (3) imposing different standards or criteria for membership in a real estate sales or  
31 rental organization; and
- 32 (4) establishing geographic boundaries or office location or residence  
33 requirements for access to, or membership or participation in, any multiple  
34 listing service, real estate brokers' organization, or other service, organization,  
35 or facility relating to the business of selling or renting dwellings.

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

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

13 *The provisions of this §819.128 adopted to be effective September 27, 2005, 30 TexReg 6065*

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15 **§819.129. Discrimination in Residential Real Estate Transactions.**

16 It is unlawful for a person whose business includes engaging in residential real estate-  
17 related transactions to discriminate based on race, color, disability, religion, sex, national  
18 origin, or familial status in making such a transaction available or in the terms or  
19 conditions of such a transaction.

20 *The provisions of this §819.129 adopted to be effective September 27, 2005, 30 TexReg 6065*

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22 **§819.130. Discrimination in Making Loans and in the Provision of Other Financial**  
23 **Assistance.**

24 (a) It is unlawful for a person whose business includes engaging in residential real  
25 estate-related transactions to discriminate based on race, color, disability, religion,  
26 sex, national origin, or familial status in making loans or other financial assistance  
27 available for a dwelling, or which is or is to be secured by a dwelling.

28 (b) It is unlawful for a person engaged in making loans or in the provision of other  
29 financial assistance relating to the purchase, construction, improvement, repair, or  
30 maintenance of dwellings that are secured by residential real estate to impose  
31 different terms or conditions for the availability of such loans or other financial  
32 assistance based on race, color, disability, religion, sex, national origin, or familial  
33 status.

34 (c) Prohibited practices under this section include, but are not limited to:

35 (1) failing or refusing to provide to a person, in connection with a residential real  
36 estate-related transaction, information regarding the availability of loans or

1 other financial assistance, application requirements, procedures, or standards  
2 for the review and approval of loans or financial assistance, or providing  
3 information that is inaccurate or different from that provided to others based on  
4 race, color, disability, religion, sex, national origin, or familial status;

5 (2) using different policies, practices, or procedures in evaluating or determining  
6 creditworthiness of any person in connection with the provision of a loan or  
7 other financial assistance for a dwelling or for a loan or other financial  
8 assistance that is secured by residential real estate based on race, color,  
9 disability, religion, sex, national origin, or familial status; and

10 (3) determining the type of loan or other financial assistance to be provided with  
11 respect to a dwelling, or fixing the amount, interest rate, duration, or other  
12 terms of a loan or other financial assistance for a dwelling or for a loan or other  
13 financial assistance that is secured by residential real estate based on race,  
14 color, disability, religion, sex, national origin, or familial status.

15 *The provisions of this §819.130 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
16 *amended to be effective June 16, 2014, 39 TexReg 4659*

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18 **§819.131. Discrimination in Purchasing Loans.**

19 (a) It is unlawful for a person engaged in the purchasing of loans or other debts or  
20 securities that support the purchase, construction, improvement, repair, or  
21 maintenance of a dwelling, or that are secured by residential real estate, to  
22 discriminate based on race, color, disability, religion, sex, national origin, or familial  
23 status by refusing to purchase such loans, debts, or securities, or by imposing  
24 different terms or conditions for such purchases.

25 (b) Unlawful conduct under this section includes, but is not limited to:

26 (1) purchasing loans or other debts or securities that relate to or are secured by  
27 dwellings in certain communities or neighborhoods but not in others based on  
28 race, color, disability, religion, sex, national origin, or familial status;

29 (2) pooling or packaging loans or other debts or securities differently that relate to  
30 or are secured by dwellings based on race, color, disability, religion, sex,  
31 national origin, or familial status; and

32 (3) imposing or using different terms or conditions on the marketing or sale of  
33 securities issued on the basis of loans or other debts or securities that relate to  
34 or are secured by dwellings based on race, color, disability, religion, sex,  
35 national origin, or familial status.

36 (c) This section does not prevent consideration of factors justified by business necessity  
37 in the purchasing of loans, including requirements of state or federal law relating to a

1 transaction's financial security or to protection against default or reduction of the  
2 value of the security. Thus, this provision does not preclude considerations  
3 employed in normal and prudent transactions provided that no such factor may in  
4 any way relate to race, color, disability, religion, sex, national origin, or familial  
5 status.

6 *The provisions of this §819.131 adopted to be effective September 27, 2005, 30 TexReg 6065*

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8 **§819.132. Discrimination Based on Disability.**

9 (a) It is unlawful to discriminate by refusing to sell or rent, or otherwise make  
10 unavailable, or deny a dwelling to a potential buyer or renter based on a disability of:

- 11 (1) the potential buyer or renter;
- 12 (2) a person residing in or intending to reside in that dwelling after it is so sold,  
13 rented, or made available; or
- 14 (3) any person associated with that person.

15 (b) It is unlawful to discriminate against any person in the terms, conditions, or  
16 privileges of the sale or rental of a dwelling, or in the provision of services or  
17 facilities in connection with such dwelling, because of a disability of:

- 18 (1) that buyer or renter;
- 19 (2) a person residing in or intending to reside in that dwelling after it is so sold,  
20 rented, or made available; or
- 21 (3) any person associated with that person.

22 (c) It is unlawful to make an inquiry to determine whether a potential buyer or renter of  
23 a dwelling, a person intending to reside in that dwelling after it is sold, rented, or  
24 made available, or any person associated with that potential buyer or renter has a  
25 disability. However, this section does not prohibit the following inquiries, provided  
26 they are made of each potential buyer or renter, whether or not the person has a  
27 disability:

- 28 (1) Whether the potential buyer or renter is able to meet the requirements of  
29 ownership or tenancy;
- 30 (2) Whether the potential buyer or renter qualifies for a dwelling available only to  
31 individuals with disabilities or to people with a particular type of disability;
- 32 (3) Whether the potential buyer or renter qualifies for a priority available to  
33 individuals with disabilities or to people with a particular type of disability;

1 (4) Whether the potential buyer or renter is a current illegal abuser or addict of a  
2 controlled substance; or

3 (5) Whether the potential buyer or renter has been convicted of the illegal  
4 manufacture or distribution of a controlled substance.

5 *The provisions of this §819.132 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
6 *amended to be effective June 16, 2014, 39 TexReg 4659*

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8 **§819.133. Discrimination in Refusing Reasonable Modifications of Existing Premises.**

9 (a) It is unlawful for a person to refuse to allow, at the expense of an individual with a  
10 disability, reasonable modifications of existing premises, occupied or to be occupied  
11 by an individual with a disability, if the proposed modifications may be necessary to  
12 afford the individual with a disability full enjoyment of the premises of a dwelling.  
13 In the case of a rental, the landlord may, where it is reasonable to do so, condition  
14 permission for a modification on the renter agreeing to restore the interior of the  
15 premises to the condition that existed before the modification, reasonable wear and  
16 tear excepted. The landlord may not increase a customarily required security deposit  
17 for individuals with disabilities. However, where it is necessary to ensure with  
18 reasonable certainty that funds are available to pay for the restorations at the end of  
19 the tenancy, the landlord may negotiate as part of such a restoration agreement a  
20 provision requiring that the tenant pay into an interest-bearing escrow account, over  
21 a reasonable period, a reasonable amount of money not to exceed the cost of the  
22 restorations. The interest in any such account shall accrue to the benefit of the tenant.

23 (b) As a condition for granting a renter permission for a modification, a landlord may  
24 require a reasonable description of the proposed modifications, reasonable  
25 assurances that the work will be done in a workmanlike manner, and assurances that  
26 required building permits will be obtained.

27 *The provisions of this §819.133 adopted to be effective September 27, 2005, 30 TexReg 6065*

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29 **§819.134. Discrimination in Refusing Reasonable Accommodations.**

30 It is unlawful for a person to refuse to make reasonable accommodations in rules,  
31 policies, practices, or services, when such accommodations may be necessary to afford an  
32 individual with a disability equal opportunity to use and enjoy a dwelling unit, including  
33 public and common use areas.

34 *The provisions of this §819.134 adopted to be effective September 27, 2005, 30 TexReg 6065*

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1       **§819.135. Discrimination in Design and Construction Requirements.**

- 2           (a) It is unlawful to design and construct covered multifamily dwellings for first  
3           occupancy after March 13, 1991, that do not have at least one building entrance on  
4           an accessible route, unless it is impractical to do so because of the terrain or unusual  
5           characteristics of the site. For purposes of this section, covered multifamily  
6           dwellings shall be deemed to be designed and constructed for first occupancy on or  
7           before March 13, 1991, if they are occupied by that date or if the last building permit  
8           or renewal for the covered multifamily dwellings is issued by a state, county, or local  
9           government on or before January 13, 1990. The burden of establishing impracticality  
10          because of terrain or unusual site characteristics is on the person who designed or  
11          constructed the housing facility.
- 12          (b) It is unlawful to design and construct covered multifamily dwellings for first  
13          occupancy after March 13, 1991, with a building entrance on an accessible route that  
14          do not provide:
- 15               (1) public and common use areas readily accessible to and usable by individuals  
16               with disabilities;
- 17               (2) doors that are sufficiently wide to allow passage into and within the entire  
18               premises by individuals in wheelchairs; or
- 19               (3) interior premises with the following features of adaptable design:
- 20                     (A) accessible routes into and through the covered dwelling unit;
- 21                     (B) light switches, electrical outlets, thermostats, and other environmental  
22                     controls in accessible locations;
- 23                     (C) reinforcements in bathroom walls to allow later installation of grab bars  
24                     around the toilet, tub, shower, stall, and shower seat, where such  
25                     facilities are provided; and
- 26                     (D) usable kitchens and bathrooms to allow an individual in a wheelchair to  
27                     maneuver.
- 28          (c) Compliance with the appropriate requirements of ANSI A117.1 suffices to satisfy  
29          the requirements of subsection (b)(3) of this section.
- 30          (d) Compliance with a duly enacted law of a state or unit of general local government  
31          that includes the requirements of subsections (a) and (b) of this section satisfies the  
32          requirements of subsections (a) and (b) of this section.
- 33          (e) This section does not invalidate or limit the laws of a state or political subdivision of  
34          a state that require dwellings to be designed and constructed in a manner that affords  
35          individuals with disabilities greater access than is required by this section.

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3        **§819.136. Prohibited Interference, Coercion, Intimidation, Retaliation, or Harassment.**

4            (a) It is unlawful to interfere, coerce, intimidate, retaliate against, or harass any person  
5            in the exercise or enjoyment of, or on account of that person having exercised or  
6            enjoyed, or on account of that person having aided or encouraged any other person in  
7            the exercise or enjoyment of, any right granted or protected by the Texas Fair  
8            Housing Act.

9            (b) Prohibited conduct made unlawful under this section includes, but is not limited to:

10            (1) coercing a person, either orally, in writing, or by other means, to deny or limit  
11            the benefits provided that person in connection with the sale or rental of a  
12            dwelling or in connection with a residential real estate-related transaction  
13            based on race, color, disability, religion, sex, national origin, or familial status;

14            (2) threatening, intimidating, or interfering with individuals in their enjoyment of a  
15            dwelling based on race, color, disability, religion, sex, national origin, or  
16            familial status of such individuals, or of visitors or associates of such  
17            individuals;

18            (3) threatening an employee or agent with dismissal or an adverse employment  
19            action, or taking such adverse employment action, for any effort to assist a  
20            person seeking access to the sale or rental of a dwelling or seeking access to  
21            any residential real estate-related transaction, based on the race, color,  
22            disability, religion, sex, national origin, or familial status of that person or of  
23            any person associated with that individual;

24            (4) intimidating or threatening any person because that person is engaging in  
25            activities designed to make other individuals aware of, or encouraging such  
26            other individuals to exercise rights granted or protected by this chapter;

27            (5) retaliating against any person because that person has made a complaint,  
28            testified, assisted, or participated in any manner in a proceeding under the  
29            Texas Fair Housing Act;

30            (6) retaliating against any person because that person reported a discriminatory  
31            housing practice to a housing provider or other authority; and

32            (7) harassing any person because of race, color, religion, sex, familial status,  
33            national origin, or disability:

34                    (A) Quid pro quo harassment. Quid pro quo harassment refers to an  
35                    unwelcome request or demand to engage in conduct where submission to  
36                    the request or demand, either explicitly or implicitly, is made a condition



1 related to the sale, rental, or availability of a dwelling; the terms,  
2 conditions, or privileges of the sale or rental, or the provision of services  
3 or facilities in connection therewith; or the availability, terms, or  
4 conditions of a residential real estate-related transaction. An unwelcome  
5 request or demand may constitute quid pro quo harassment even if a  
6 person acquiesces in the unwelcome request or demand.

7 (B) Hostile environment harassment. Hostile environment harassment refers  
8 to unwelcome conduct that is sufficiently severe or pervasive as to  
9 interfere with the availability, sale, rental, or use or enjoyment of a  
10 dwelling; the terms, conditions, or privileges of the sale or rental, or the  
11 provision or enjoyment of services or facilities in connection therewith;  
12 or the availability, terms, or conditions of a residential real estate-related  
13 transaction. Hostile environment harassment does not require a change in  
14 the economic benefits, terms, or conditions of the dwelling or housing-  
15 related services or facilities, or of the residential real-estate transaction.

16 *The provisions of this §819.136 adopted to be effective August 1, 2016, 41 TexReg 5559;*  
17 *amended to be effective May 14, 2018, 43 TexReg 3119*

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19 **SUBCHAPTER I. TEXAS FAIR HOUSING ACT COMPLAINTS AND INVESTIGATIONS**  
20 **PROCESS**

21 **§819.151. Filing a Complaint.**

- 22 (a) A person may telephone, write, visit, e-mail, fax, or otherwise contact CRD to obtain  
23 information on filing a complaint with CRD.
- 24 (b) At the complainant's request, CRD:
- 25 (1) shall confer with the complainant about the facts and circumstances that may  
26 constitute the alleged unlawful housing practice; and
- 27 (2) shall assist the complainant with preparation of the complaint if the facts and  
28 circumstances constitute an alleged unlawful housing practice; or
- 29 (3) may advise the complainant if the facts and circumstances presented to CRD  
30 do not appear to constitute an unlawful housing practice.
- 31 (c) The complaint shall be filed in writing and under oath with CRD by electronic  
32 communication, mail, fax, or in person with:
- 33 (1) the CRD office on a CRD-provided form;
- 34 (2) a HUD office; or

- 1 (3) a local municipality certified by HUD.
- 2 (d) The CRD director may require complaints to be made in writing, under oath, on a  
3 prescribed form. The complaint shall include the following information:
- 4 (1) The name and address of the complainant;
- 5 (2) The name and address of the respondent;
- 6 (3) A description and address of the dwelling that is involved, if appropriate;
- 7 (4) The basis for the alleged discriminatory housing practices, which may include  
8 any of the following: race, color, disability, religion, sex, national origin, or  
9 familial status;
- 10 (5) A concise statement of the facts and circumstances that constitute alleged  
11 discriminatory housing practices under the Texas Fair Housing Act, including  
12 identification of personal harm, reason given to complainant by respondent for  
13 the action taken; and
- 14 (6) A declaration of unlawful discrimination under federal or state law.
- 15 (e) A complaint shall be filed on or before the first anniversary of the date the alleged  
16 discriminatory housing practice occurs or terminates, whichever is later.
- 17 (f) The date of the filing of the complaint is the date when it is received by CRD or  
18 dual-filed with HUD, except when the CRD director determines that a complaint is  
19 timely filed for the purposes of the one-year period for filing of complaints upon  
20 submission of written information (including information provided by telephone by  
21 the complainant and documented by CRD) that is substantially equivalent to the  
22 information identified in subsection (d) of this section. When a complaint alleges  
23 discriminatory housing practices that are continuing, as manifested in a number of  
24 incidents of such conduct, the complaint shall be timely when filed within one year  
25 of the last alleged occurrence.
- 26 (g) A complaint may be amended to cure technical defects or omissions, or to clarify  
27 and amplify allegations made therein. Such amendment or amendments alleging  
28 additional acts that constitute unlawful housing practices related to or growing out of  
29 the subject matter of the original complaint shall relate back to the date the complaint  
30 was first filed. CRD shall provide a copy of the complaint to the respondent. An  
31 amended complaint shall be subject to the procedures set forth in applicable law.
- 32 (h) The CRD director may file a complaint when the CRD director receives information  
33 from a credible source that one or more individuals may have violated the rights of  
34 one or more individuals protected by the Texas Fair Housing Act. A complaint filed  
35 by the CRD director shall be considered for approval by the Commission at a  
36 meeting following the filing of the complaint. Upon a majority vote of the  
37 Commission, the complaint is approved and any investigation of the complaint shall

1 continue. If a majority of the Commission does not approve the complaint, such  
2 complaint shall be withdrawn by CRD.

3 (i) The complainant and respondent shall be notified periodically by CRD of the status  
4 of their complaint, unless the notice would jeopardize an undercover investigation by  
5 another state, federal, or local government.

6 (j) Upon the acceptance of a complaint, the CRD director shall notify by mail, or  
7 electronic communication upon agreement of the complainant, each complainant on  
8 whose behalf the complaint was filed. The notice shall:

9 (1) acknowledge the filing of the complaint and state the date that the complaint  
10 was accepted for filing;

11 (2) include a copy of the complaint;

12 (3) advise the complainant of the time limits applicable to complaint processing  
13 and of the procedural rights and obligations of the complainant under the  
14 Texas Fair Housing Act and this chapter;

15 (4) advise the complainant of his or her right to commence a civil action under the  
16 Texas Fair Housing Act, Subchapter H, and federal law, not later than two  
17 years after the occurrence or termination of the alleged discriminatory housing  
18 practice. The notice shall state that the computation of this two-year period  
19 excludes any time during which an administrative hearing is pending under this  
20 chapter and Texas Fair Housing Act, Subchapter E, with respect to a complaint  
21 or charge based on the alleged discriminatory housing practice; and

22 (5) advise the complainant that retaliation against any person because he or she  
23 made a complaint or testified, assisted, or participated in an investigation,  
24 conciliation, or an administrative proceeding under this chapter is a  
25 discriminatory housing practice that is prohibited under the Texas Fair  
26 Housing Act and this chapter.

27 *The provisions of this §819.151 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
28 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*  
29 *2016, 41 TexReg 5559*

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31 **§819.152. Legal Representation.**

32 The complainant and respondent may be represented by an attorney or designated agent.

33 *The provisions of this §819.152 adopted to be effective September 27, 2005, 30 TexReg 6065*

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1       **§819.153. Investigation of a Complaint.**

- 2           (a) Upon the acceptance of a complaint under this chapter, CRD shall initiate an  
3           investigation. The CRD director may initiate an investigation to determine whether a  
4           complaint should be filed under this chapter and the Texas Fair Housing Act,  
5           Subchapter E. Such investigations shall be conducted in accordance with the  
6           procedures set forth in this chapter. CRD also may invite the parties to participate in  
7           a voluntary mediation program in an effort to conciliate the dispute.
- 8           (b) The CRD director shall determine the scope and nature of the investigation within  
9           the context of the allegations set forth in the complaint.
- 10          (c) At all reasonable times in the complaint investigation, the CRD director shall have  
11          access to:
- 12               (1) necessary witnesses for examination under oath or affirmation; and
- 13               (2) records, documents, and other information relevant to the investigation of  
14               alleged violations of the Texas Fair Housing Act, for inspection and copying.
- 15          (d) Within 20 days of the acceptance of a complaint or amended complaint under this  
16          chapter, the CRD director shall serve a notice on each respondent by regular mail, or  
17          electronic communication upon agreement of the respondent. A person who is not  
18          named as a respondent in a complaint, but who is identified in the course of the  
19          investigation under the Texas Fair Housing Act, Subchapter E, and this chapter, as a  
20          person who is alleged to be engaged or to have engaged in the discriminatory  
21          housing practice upon which the complaint is based, may be joined as an additional  
22          or substitute respondent by service of a notice on the person under this section.
- 23          (e) The notice to a respondent shall include, but not be limited to, the following:
- 24               (1) Identification of the alleged discriminatory housing practice upon which the  
25               complaint is based, and a copy of the complaint;
- 26               (2) Date that the complaint was accepted for filing;
- 27               (3) Time limits applicable to complaint processing under this chapter and the  
28               procedural rights and obligations of the respondent under the Texas Fair  
29               Housing Act, and this chapter, including the opportunity to submit an answer  
30               to the complaint within 10 days of the receipt of the notice;
- 31               (4) Complainant's right to commence a civil action under the Texas Fair Housing  
32               Act, Subchapter H, and federal law, not later than two years after the  
33               occurrence or termination of the alleged discriminatory housing practice; an  
34               explanation that the computation of the two-year period excludes any time  
35               during which an administrative hearing is pending under this chapter or the  
36               Texas Fair Housing Act, Subchapter E, with respect to a complaint or charge  
37               based on the alleged discriminatory housing practice;

- 1 (5) If the person is not named in the complaint, but is being joined as an  
2 additional or substitute respondent, an explanation of the basis for the CRD  
3 director's belief that the joined person is properly joined as a respondent;
- 4 (6) Instruction that retaliation against any person because he or she made a  
5 complaint or testified, assisted, or participated in an investigation, conciliation,  
6 or an administrative proceeding under this chapter is a discriminatory housing  
7 practice that is prohibited under the Texas Fair Housing Act;
- 8 (7) Invitation to enter into a conciliation agreement for the purpose of resolving  
9 the complaint; and
- 10 (8) Initial request for information and documentation concerning the facts and  
11 circumstances surrounding the alleged discriminatory housing practice set  
12 forth in the complaint.
- 13 (f) The respondent may file an answer not later than 10 days after receipt of the notice  
14 described in this section. The respondent may assert any defense that might be  
15 available to a defendant in a court of law. The written answer shall either be signed  
16 under oath or subscribed by the person making the declaration as true under penalty  
17 of perjury and in substantially the form prescribed by Texas Civil Practice and  
18 Remedies Code, Chapter 132, or its successor statute.
- 19 (g) An answer may be reasonably and fairly amended at any time.
- 20 (h) CRD may conduct discovery in aid of the investigation by the same methods and to  
21 the same extent that parties may conduct discovery in an administrative proceeding  
22 under the Texas Fair Housing Act, Subchapter E. The CRD director shall have the  
23 power to issue subpoenas described under the Texas Fair Housing Act, Subchapter  
24 D, in support of the investigation.
- 25 (i) As part of the complaint investigation, CRD may request information relevant to the  
26 alleged violations of the Texas Fair Housing Act. In obtaining this information, CRD  
27 may use, but is not limited to using, any of the following:
- 28 (1) Oral and video interviews and depositions;
- 29 (2) Written interrogatories;
- 30 (3) Production of documents and records;
- 31 (4) Requests for admissions;
- 32 (5) On-site inspection of respondent's facilities;
- 33 (6) Written statements or affidavits;

- 1 (7) A written statement of position or information provided by the complainant or  
2 the respondent that is either under oath or subscribed in conformity with this  
3 section regarding the allegations in the complaint; or
- 4 (8) Other forms of discovery authorized by the Administrative Procedure Act,  
5 Texas Government Code §§2001.081 - 2001.103, or the Texas Rules of Civil  
6 Procedure.
- 7 (j) CRD may establish time requirements regarding responses to requests for  
8 information relevant to an investigation of alleged violations of the Texas Fair  
9 Housing Act. The CRD director may extend such time requirements for good cause  
10 shown.
- 11 (k) CRD shall complete the initial investigation of the alleged discriminatory housing  
12 practice within 100 days of the filing of the complaint, unless it is impracticable to  
13 do so.
- 14 (l) The complaint shall remain open until a no reasonable cause determination is made, a  
15 charge is made, or a conciliation agreement is executed and approved under this  
16 chapter and the Texas Fair Housing Act, Subchapter E.
- 17 (m) At the end of each investigation under this chapter, CRD shall prepare a final  
18 investigative report. The investigative report shall contain:
- 19 (1) the names and dates of contacts with witnesses. The report shall not disclose  
20 the names of witnesses that request anonymity; however, the names of such  
21 witnesses may be required to be disclosed in the course of an administrative  
22 hearing or a civil action;
- 23 (2) a summary and the dates of correspondence and other contacts with the  
24 complainant and the respondent;
- 25 (3) a summary description of other pertinent records;
- 26 (4) a summary of witness statements; and
- 27 (5) answers to interrogatories.
- 28 (n) A final investigative report may be amended if additional evidence is discovered.
- 29 (o) CRD shall provide a summary of the final determination and shall make available  
30 the full investigative report to the complainant and the respondent.

31 *The provisions of this §819.153 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
32 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*  
33 *2016, 41 TexReg 5559*

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1       **§819.154. Pattern and Practice Complaints.**

2           When the CRD director determines that the alleged discriminatory practices contained in  
3           a complaint are pervasive or institutional in nature, or that the processing of the  
4           complaint may involve complex issues, questions of first impression, or may affect a  
5           large number of people, the CRD director may identify it as a pattern and practice  
6           complaint. This determination can be based on the face of the complaint or on  
7           information gathered in connection with an investigation. Pattern and practice  
8           investigations may focus not only on documenting facts involved in the complaint but  
9           also on review of other policies and procedures to ensure compliance with the  
10          nondiscrimination requirements of the Texas Fair Housing Act.

11          *The provisions of this §819.154 adopted to be effective September 27, 2005, 30 TexReg 6065*

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13       **§819.155. Conciliation.**

- 14           (a) During the period beginning with the filing of the complaint and ending with the  
15           filing of a charge or the dismissal of the complaint by the CRD director, CRD shall  
16           attempt to conciliate the complaint.
- 17           (b) In conciliating a complaint, CRD shall attempt to achieve a just resolution of the  
18           complaint and to obtain assurances that the respondent will satisfactorily remedy any  
19           violations of the rights of the complainant, and take such action that will assure the  
20           elimination of discriminatory housing practices, or the prevention of their  
21           occurrence, in the future.
- 22           (c) The terms of a settlement of a complaint shall be reduced to a written conciliation  
23           agreement. The conciliation agreement shall protect the interests of the complainant,  
24           other people similarly situated, and the public interest.
- 25           (d) The agreement is subject to the approval of the CRD director, who shall indicate  
26           approval by signing the agreement. The CRD director shall approve an agreement  
27           and execute the agreement, only if:
- 28               (1) the complainant and the respondent agree to the relief; and
- 29               (2) the provisions of the agreement shall adequately protect the public interest.
- 30           (e) CRD may issue a charge under the Texas Fair Housing Act and this chapter if the  
31           complainant and the respondent have executed an agreement that has not been  
32           approved by the CRD director.
- 33           (f) CRD may terminate its efforts to conciliate the complaint if:
- 34               (1) the complainant or the respondent fails or refuses to confer with CRD;

1 (2) the complainant or the respondent fails to make a good faith effort to resolve  
2 any dispute; or

3 (3) the CRD director finds, for any reason, that voluntary agreement is not likely  
4 to result.

5 (g) When the complainant has commenced a civil action under federal or state law  
6 seeking relief for the alleged discriminatory housing practice, the CRD director shall  
7 terminate conciliation.

8 (h) The CRD director may review compliance with the terms of any conciliation  
9 agreement. If the CRD director has reasonable cause to believe that a complainant or  
10 a respondent has breached a conciliation agreement, the CRD director may refer the  
11 matter to the Office of the Attorney General with a recommendation for the filing of  
12 a civil action under the Texas Fair Housing Act, Subchapter G, for the enforcement  
13 of the terms of the conciliation agreement.

14 *The provisions of this §819.155 adopted to be effective September 27, 2005, 30 TexReg 6065*

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16 **§819.156. Reasonable Cause Determination and Issuance of a Charge.**

17 (a) If a conciliation agreement under this chapter and the Texas Fair Housing Act,  
18 Subchapter E, has not been executed by the complainant and the respondent, and  
19 approved by the CRD director, the CRD director on behalf of the Agency, within the  
20 time limits set forth in subsection (f) of this section, shall determine whether, based  
21 on the totality of the factual circumstances known at the time of the decision,  
22 reasonable cause exists to believe that a discriminatory housing practice has  
23 occurred. The reasonable cause determination shall be based solely on the facts  
24 concerning the alleged discriminatory housing practice, provided by complainant and  
25 respondent or otherwise disclosed during the investigation. In making the reasonable  
26 cause determination, the CRD director shall consider whether the facts concerning  
27 the alleged discriminatory housing practice are sufficient to warrant the initiation of  
28 a civil action in state district court.

29 (b) If the CRD director determines that reasonable cause exists, the CRD director shall  
30 immediately issue a charge under the Texas Fair Housing Act, Subchapter E, and this  
31 chapter on behalf of the complainant, and shall notify the complainant and the  
32 respondent of this determination by certified mail or personal service.

33 (c) If the CRD director determines that no reasonable cause exists, the CRD director  
34 shall issue a short written statement of the facts upon which the CRD director has  
35 based the no reasonable cause determination; dismiss the complaint; notify the  
36 complainant and the respondent of the dismissal (including the written statement of  
37 facts) by certified mail or personal service; and make public disclosure of the  
38 dismissal.



- 1 (d) If the CRD director determines that the matter involves the legality of local zoning  
2 or land use laws or ordinances, the CRD director, in lieu of making a determination  
3 regarding reasonable cause, shall refer the investigative materials to the Office of the  
4 Attorney General for appropriate action under the Texas Fair Housing Act,  
5 Subchapter G, and shall notify the complainant and the respondent of this action by  
6 certified mail or personal service.
- 7 (e) The CRD director shall not issue a charge under this chapter and the Texas Fair  
8 Housing Act, Subchapter E, regarding an alleged discriminatory housing practice, if  
9 a complainant has commenced the trial of a civil action under federal or state law  
10 seeking relief with respect to the alleged discriminatory housing practice. If a charge  
11 is not issued because of the commencement of a trial of a civil action, the CRD  
12 director shall notify the complainant and the respondent by certified mail or personal  
13 service.
- 14 (f) The CRD director shall make a reasonable cause determination within 100 days after  
15 filing of the complaint.
- 16 (g) If the CRD director is unable to make the determination within the 100-day period,  
17 the CRD director shall notify the complainant and the respondent, by certified mail  
18 or personal service, of the reasons for the delay.
- 19 (h) The CRD director shall notify the complainant and respondent, and any aggrieved  
20 person on whose behalf a complaint has been filed, that they may elect to have the  
21 claims asserted in the charge decided in a civil action, as provided in Texas Property  
22 Code §301.131, or an administrative hearing pursuant to §819.191 of this chapter.

23 *The provisions of this §819.156 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
24 *amended to be effective June 16, 2014, 39 TexReg 4659; amended to be effective August 1,*  
25 *2016, 41 TexReg 5559*

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27 **SUBCHAPTER J. FAIR HOUSING DEFERRAL TO MUNICIPALITIES**

28 **§819.171. Deferral.**

29 Pursuant to Texas Fair Housing Act §301.068, CRD may defer proceedings and refer  
30 complaints to a municipality that is currently certified by HUD as a Fair Housing  
31 Assistance Program (FHAP) to investigate fair housing complaints and enforce  
32 violations.

33 *The provisions of this §819.171 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
34 *amended to be effective August 1, 2016, 41 TexReg 5559*

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1 **SUBCHAPTER K. FAIR HOUSING ADMINISTRATIVE HEARINGS AND JUDICIAL**  
2 **REVIEW**

3 **§819.191. Administrative Hearings.**

- 4 (a) Administrative hearings shall be conducted by the Agency's Special Hearings  
5 Department pursuant to the procedures set forth in this Subchapter K, which  
6 incorporates the procedures set forth in Texas Government Code, Chapter 2001,  
7 Subchapters C - D, F - H, and Z, and adapts such procedures specifically for fair  
8 housing administrative hearings. If any procedures under this Subchapter K are in  
9 conflict with Texas Government Code, Chapter 2001, Subchapters C - D, F - H, or Z,  
10 such subchapters under Chapter 2001 shall control.
- 11 (b) Hearings may be conducted by electronic means, including but not limited to  
12 telephonic hearings, unless the hearing officer determines that an in-person hearing  
13 is necessary.
- 14 (c) Parties needing special accommodations, including the need for a bilingual or sign  
15 language interpreter, shall make this request before the hearing is set, if possible, or  
16 as soon as practical.

17 *The provisions of this §819.191 adopted to be effective August 1, 2016, 41 TexReg 5559*

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19 **§819.192. Parties.**

- 20 (a) Parties to proceedings under this section are the Agency, respondent(s) and any  
21 intervenors. Respondents include persons named as such in a charge issued under  
22 §819.156.
- 23 (b) An aggrieved person as defined under Texas Property Code §301.003(1) is not a  
24 party but may file a motion to intervene. Requests for intervention shall be filed  
25 within 50 days after the issuance of the charge; however, the hearing officer may  
26 allow intervention beyond that time. An intervenor's right to participate as a party  
27 may be restricted by order of the hearing officer.
- 28 (c) Intervention shall be permitted if the person requesting intervention is:
- 29 (1) The aggrieved person on whose behalf the charge is issued; or
- 30 (2) An aggrieved person who claims an interest in the property or transaction that  
31 is the subject of the charge and the disposition of the charge may, as a practical  
32 matter, impair or impede this person's ability to protect that interest, unless the  
33 aggrieved person is adequately represented by the existing parties.

- 1 (d) If an aggrieved person does not intervene within 50 days after issuance of the  
2 charge, and the parties have reached a settlement, the hearing officer shall dismiss  
3 the case.

4 *The provisions of this §819.192 adopted to be effective August 1, 2016, 41 TexReg 5559*

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6 **§819.193. Evidence and Pre-hearing Conference.**

- 7 (a) Evidence Generally. Evidence, including hearsay evidence, shall be admitted if it is  
8 relevant and if in the judgment of the hearing officer it is the kind of evidence on  
9 which reasonably prudent persons are accustomed to rely in conducting their affairs.  
10 However, the hearing officer may exclude evidence if its probative value is  
11 outweighed by the danger of unfair prejudice, by confusion of the issues, or by  
12 reasonable concern for undue delay, waste of time, or needless presentation of  
13 cumulative evidence.
- 14 (b) Exchange of Exhibits. To be considered as evidence in a decision, any document or  
15 physical evidence must be entered as an exhibit at the hearing. Any documentary  
16 evidence to be presented during a telephonic hearing shall be exchanged with all  
17 parties in advance of the hearing and a copy shall be provided to the hearing officer  
18 in advance of the hearing. Upon consideration of a party's proffered reason for  
19 failure to exchange documentary evidence in advance of the hearing, the hearing  
20 officer may admit or exclude same, or grant a postponement of the hearing, in the  
21 discretion of the hearing officer.
- 22 (c) Stipulations. The parties, with the consent of the hearing officer, may agree in  
23 writing to facts that are not in controversy. The hearing officer may decide the appeal  
24 on the basis of such stipulations or, at the hearing officer's discretion, may set the  
25 appeal for hearing and take such further evidence as the hearing officer deems  
26 necessary.
- 27 (d) The hearing officer may, on the hearing officer's own motion or at the request of any  
28 party, set an informal prehearing conference and require that all parties attend.  
29 Notice of the conference shall be in writing to each party. The conference will be  
30 held in accordance with §819.191 of these Rules, and will be an official part of the  
31 hearing record. Pursuant to the conference, the hearing officer may consider:
- 32 (1) establishing the identities of parties and witnesses;
- 33 (2) the agreement of the parties on facts that are not in controversy;
- 34 (3) conciliation of the dispute;
- 35 (4) clarification of the issues;
- 36 (5) procedures for scheduling and conduct of the hearing;

1 (6) exchange of documents; and

2 (7) any other matter that promotes the orderly and prompt conduct of the hearing.

3 *The provisions of this §819.193 adopted to be effective August 1, 2016, 41 TexReg 5559*

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5 **§819.194. Notice of Hearing.**

6 (a) The Agency shall assign a hearing officer and mail a notice of hearing to the parties  
7 and/or their designated representatives. The notice of hearing shall be in writing and  
8 include:

9 (1) a statement of the date, time, place, and nature of the hearing;

10 (2) a statement of the legal authority and jurisdiction under which the hearing is to  
11 be held;

12 (3) a reference to the sections of the statutes and rules involved; and

13 (4) either:

14 (A) a short, plain statement of the factual matters asserted; or

15 (B) an attachment that incorporates by reference the factual matters asserted  
16 in the complaint.

17 (b) The notice of hearing shall be issued at least 10 calendar days before the date of the  
18 hearing by sending it to each party's last known address, as shown by Agency  
19 records, by first-class mail.

20 *The provisions of this §819.194 adopted to be effective August 1, 2016, 41 TexReg 5559;*  
21 *amended to be effective May 14, 2018, 43 TexReg 3119*

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23 **§819.195. Postponement and Continuance.**

24 On the hearing officer's own motion, or for good cause, at a party's request, the hearing  
25 officer may postpone or continue a hearing.

26 *The provisions of this §819.195 adopted to be effective August 1, 2016, 41 TexReg 5559*

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1       **§819.196. Default.**

2           If a party to whom a notice of hearing is served or provided under this section fails to  
3           appear for hearing, the hearing officer may proceed in that party's absence on a default  
4           basis. If a proposal for decision or final decision is issued, the factual allegations listed in  
5           the notice of hearing may be deemed admitted. If a party fails to appear at a hearing, the  
6           hearing officer will issue a notice of default to that party. A party may file a motion no  
7           later than 15 calendar days after the notice of default is mailed to set aside a default  
8           announced at the hearing and to reopen the record. If a timely motion to set aside a  
9           default is filed, the hearing officer may grant the motion, set aside the default, and reopen  
10          the hearing for good cause shown, or in the interests of justice.

11       *The provisions of this §819.196 adopted to be effective August 1, 2016, 41 TexReg 5559*

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13       **§819.197. Ex Parte Communications.**

14           (a) Except as provided in this chapter, and unless required for the disposition of ex parte  
15           matters authorized by law, neither the hearing officer nor a Commission member  
16           may communicate, directly or indirectly, in connection with any issue of fact or law  
17           with a party or representative of a party, except on notice and opportunity for all  
18           parties to participate.

19           (b) The hearing officer or a Commission member may communicate concerning the case  
20           with an Agency employee who has not participated in the hearing, but may do so  
21           only for the purpose of using the special skills or knowledge of the Agency and its  
22           staff in evaluating the evidence.

23           (c) For purposes of this section, the Agency is considered to be a party to the case.

24       *The provisions of this §819.197 adopted to be effective August 1, 2016, 41 TexReg 5559*

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26       **§819.198. Proposal for Decision.**

27           (a) The hearing officer shall prepare a proposal for decision containing a statement of  
28           the reasons for the proposed decision and of each finding of fact and conclusion of  
29           law.

30           (b) The hearing officer shall submit a copy of the proposal for decision to each party by  
31           first-class mail. The parties may submit to the hearing officer exceptions to the  
32           proposal for decision and replies to exceptions to the proposal for decision.

33           (c) Exceptions shall be filed within 15 calendar days after the date of service of the  
34           proposal for decision. A reply to the exceptions shall be filed within 15 calendar days  
35           of the filing of the exceptions. The date of service shall be presumed to be on the

1 third day after the date on which the proposal for decision is mailed. The hearing  
2 officer may extend or shorten the time to file exceptions or replies.

3 (d) The hearing officer shall review all exceptions and replies and notify the parties as to  
4 whether the hearing officer recommends any changes to the proposal for decision.

5 (e) The hearing officer will not issue a proposal for decision during the 15-day period  
6 referenced in §819.196 within which a defaulting party may file a motion to set aside  
7 a default and to reopen the record.

8 *The provisions of this §819.198 adopted to be effective August 1, 2016, 41 TexReg 5559*

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10 **§819.199. Commission Decision.**

11 (a) After the time for filing exceptions and replies to exceptions has expired, the  
12 Commission shall consider the hearing officer's report and the proposal for decision.  
13 The Commission may adopt the proposal for decision, modify and adopt it, reject it  
14 and issue a Commission decision, or remand the matter to the hearing officer. The  
15 Commission shall issue its decision within 60 calendar days of the end of the  
16 exceptions period. The hearing officer may extend the period in which the decision  
17 may be signed and prepare the decision for the Commission.

18 (b) A Commission decision that is adverse to one or more parties shall be in writing and  
19 signed after a majority vote of the Commission. Such a decision shall include  
20 findings of fact and conclusions of law separately stated. Findings of fact, if set forth  
21 in statutory language, shall be accompanied by a concise and explicit statement of  
22 the underlying facts supporting the findings. Findings of fact shall be based  
23 exclusively on the evidence and on matters officially noticed.

24 (c) The Agency shall notify each party to a contested case of any decision or order of  
25 the Commission by using at least one of the following methods of service:

26 (1) personal service;

27 (2) if agreed to by the party to be notified, service by electronic means sent to the  
28 current email address or facsimile number of the party's attorney of record or  
29 of the party if the party is not represented by counsel; or

30 (3) first-class, certified, or registered mail sent to the last known address of the  
31 party's attorney of record or of the party if the party is not represented by  
32 counsel.

33 (d) A Commission decision becomes final:

34 (1) if a motion for rehearing is not filed on time, on the expiration of the period  
35 for filing a motion for rehearing;

- 1 (2) if a motion for rehearing is filed on time, on the date:
- 2 (A) the order overruling the latest filed motion for rehearing is signed; or
- 3 (B) the latest filed motion for rehearing is overruled by operation of law;
- 4 (3) if the Commission finds that an imminent peril to the public health, safety, or
- 5 welfare requires immediate effect of a decision on the date the decision is
- 6 signed, provided that the Commission incorporates in the decision a factual
- 7 and legal basis establishing such imminent peril; or
- 8 (4) on the date specified in the decision for a case in which all parties agree to the
- 9 specified date in writing or on the record, if the specified date is not before the
- 10 date the decision is signed or later than the 20th day after the date the decision
- 11 was issued.

12 *The provisions of this §819.199 adopted to be effective August 1, 2016, 41 TexReg 5559;*

13 *amended to be effective May 14, 2018, 43 TexReg 3119*

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15 **§819.200. Motion for Rehearing.**

- 16 (a) A motion for rehearing is required to exhaust all administrative remedies. A motion
- 17 for rehearing must be filed not later than the 25th calendar day after the date the
- 18 Commission decision is signed, unless the time for filing the motion has been
- 19 modified by agreement between the parties and approved by the Commission. Any
- 20 reply to a motion for rehearing shall be filed with the Commission not later than the
- 21 40th calendar day after the date the Commission decision is signed. A party filing a
- 22 motion for rehearing or a reply to a motion for rehearing shall serve a copy on each
- 23 party within the filing deadline using the notification methods set forth in
- 24 §819.199(c).
- 25 (b) The Commission may, by written order, extend the time for filing motions and
- 26 replies and for taking Commission action. No extension may extend the period for
- 27 Commission action beyond 100 days after the date the decision is signed. In the
- 28 event of an extension, a motion for rehearing is denied on the date fixed by the
- 29 written order or, in the absence of a fixed date, 100 days from the date the decision is
- 30 signed.
- 31 (c) If a party files a motion for rehearing, the Commission may:
- 32 (1) grant such motion and remand for rehearing;
- 33 (2) deny such motion, either expressly or by operation of law; or

1 (3) render a decision and issue an order that no rehearing shall be necessary  
2 because imminent peril to the public health, safety, or welfare requires  
3 immediate effect be given to the final order.

4 (d) If the Commission does not act on the motion for rehearing within 55 calendar days  
5 after the date the decision was signed, the motion is denied by operation of law and  
6 the decision is final.

7 (e) A motion for rehearing must identify with particularity findings of fact or  
8 conclusions of law that are the subject of the complaint and any evidentiary or legal  
9 ruling claimed to be erroneous. The motion must also state the legal and factual basis  
10 for the claimed error.

11 *The provisions of this §819.200 adopted to be effective August 1, 2016, 41 TexReg 5559;*  
12 *amended to be effective May 14, 2018, 43 TexReg 3119*

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14 **§819.201. Judicial Review.**

15 (a) A person who has exhausted all administrative remedies available under the Texas  
16 Fair Housing Act and who is aggrieved by a final decision of the Commission is  
17 entitled to judicial review under the substantial evidence rule as set forth in  
18 Administrative Procedure Act §2001.001, et seq.

19 (b) Proceedings for judicial review are instituted by filing a petition in a Travis County  
20 district court within 30 calendar days after the final decision is mailed.

21 *The provisions of this §819.201 adopted to be effective August 1, 2016, 41 TexReg 5559*

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23 **SUBCHAPTER L. FAIR HOUSING FUND**

24 **§819.221. Fair Housing Fund.**

25 (a) A fair housing fund is a fund in the state treasury in the custody of the Texas  
26 Comptroller of Public Accounts.

27 (b) Civil penalties assessed against a respondent under the Texas Fair Housing Act,  
28 Subchapters E and G, shall be deposited to the credit of the fair housing fund.

29 (c) The Agency may use monies deposited to the credit of the fair housing fund for the  
30 administration of the Texas Fair Housing Act.

31 (d) Gifts and grants received as authorized by the Texas Fair Housing Act, Subchapter D,  
32 shall be deposited to the credit of the fair housing fund.



1        *The provisions of this §819.221 adopted to be effective September 27, 2005, 30 TexReg 6065;*  
2        *amended to be effective August 1, 2016, 41 TexReg 5559*

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