

charge under the Fair Housing Act can only be resolved with the agreement of the aggrieved person on whose behalf the charge was issued. If the agreement is in the public interest, the ALJ shall accept it by issuing an initial decision and consent order based on the agreement.

Subpart E—Discovery

§ 180.500 Discovery.

(a) *In general.* This subpart governs discovery in aid of administrative proceedings under this part. Discovery in Fair Housing Act matters shall be completed 15 days before the date scheduled for hearing or at such time as the ALJ shall direct. Discovery in non-Fair Housing Act matters shall be completed as the ALJ directs.

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

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

- (1) Deposition upon oral examination or written questions.
- (2) Written interrogatories.
- (3) Requests for the production of documents or other evidence for inspection and other purposes.
- (4) Requests for admissions.
- (5) Upon motion of a party, the presiding ALJ may issue an order requiring a physical or mental examination of a party or of a person in the custody or under the legal control of a party.

(d) *Frequency and sequence.* Unless otherwise ordered by the ALJ or restricted by this subpart, the frequency

or sequence of these methods is not limited.

(e) *Non-intervening aggrieved person.* For purposes of obtaining discovery from a non-intervening aggrieved person, the term *party* as used in this subpart includes the aggrieved person.

§ 180.505 Supplementation of responses.

A party is under a duty, in a timely fashion, to:

(a) Supplement a response with respect to any question directly addressed to:

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

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

(b) Amend a response if the party later obtains information upon the basis of which:

(1) The party knows the response was incorrect when made, or

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

(c) Supplement other responses, as imposed by order of the ALJ or by agreement of the parties.

§ 180.510 Interrogatories.

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

(b) Each interrogatory shall be answered separately and fully in writing under oath or affirmation, unless it is objected to, in which event, the reasons for the objection shall be stated in lieu of an answer. The answers shall be signed by the person making them, and

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the objections may be signed by the attorney or other representative making them. The answers and objections shall be served within 15 days after service of the interrogatories.

(c) It is a sufficient answer to an interrogatory to specify the records from which the answer may be derived or ascertained if:

(1) The answer to the interrogatory may be derived or ascertained from the records of the party on whom the interrogatory has been served or from an examination, audit or inspection of such records, or from a compilation, abstract or summary based thereon, and

(2) The burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as the party served. The party serving the interrogatory shall be afforded reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. The specification shall include sufficient detail to permit the interrogating party to locate and identify the individual records from which the answer may be ascertained.

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

§ 180.515 Depositions.

(a) *Notice.* Upon written notice to the witness and to all other parties, a party may take the testimony of a witness by deposition and may request the production of specified documents or materials by the witness at the deposition. Notice of the taking of a deposition shall be given not less than five days before the deposition is scheduled. The notice shall state:

(1) The purpose and general scope of the deposition;

(2) The time and place of the deposition;

(3) The name and address of the person before whom the deposition is to be taken;

(4) The name and address of the witness; and

(5) A specification of the documents and materials that the witness is requested to produce.

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(b) *Deposition of an organization.* If the deposition of a public or private corporation, partnership, association, or governmental agency is sought, the organization so named shall designate one or more officers, directors or agents to testify on its behalf, and may set forth, for each person designated, the matters on which he/she will testify.

(c) *Procedure at deposition.* Depositions may be taken before any disinterested person having power to administer oaths in the location where the deposition is to be taken. Each deponent shall be placed under oath or affirmation, and the other parties will have the right to cross-examine. The deponent may have counsel present during the deposition. The questions propounded and all answers and objections thereto shall be reduced to writing, read by or to and subscribed by the witness, and certified by the person before whom the deposition was taken. Non-intervening aggrieved persons may be present at depositions in which they are not the deponent.

(d) *Motion to terminate or limit examination.* During the taking of a deposition, a party or the witness may request suspension of the deposition on the grounds of bad faith in the conduct of the examination, oppression of the witness or party, or improper questioning or conduct. Upon request for suspension, the deposition will be adjourned. The objecting party or witness must immediately move the ALJ for a ruling on the objection. The ALJ may then limit the scope or manner of taking the deposition.

(e) *Waiver of deposing officer's disqualification.* Objection to taking a deposition because of the disqualification of the officer before whom it is taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could have been discovered with reasonable diligence.

(f) *Payment of costs of deposition.* The party requesting the deposition shall bear all costs of the deposition.

§ 180.520 Use of deposition at hearings.

(a) *In general.* At the hearing, any part or all of a deposition, so far as admissible under the Federal Rules of