

**City and County of San Francisco**  
**HUMAN RIGHTS COMMISSION**

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**Mawuli Tugbenyoh**  
Executive Director

**Daniel Lurie**  
Mayor

**RULES OF PROCEDURE FOR FILING A COMPLAINT UNDER CHAPTER 12.H  
OF THE ADMINISTRATIVE CODE (CITY OF REFUGE ORDINANCE)**

1. Ordinance:
  - A. Chapter 12.H of the San Francisco Administrative Code affirms that San Francisco is a City and County of refuge and prohibits any Department, Agency, Commission, officer, or employee of the City and County from using any City funds or resources to assist in the enforcement of federal immigration law or to gather or disseminate information regarding the immigration status of individuals in the City, with certain exceptions.
  - B. Chapter 12.H.4 mandates that the Human Rights Commission shall review the compliance of City departments, agencies, commissions, and employees with the mandates of this ordinance under certain conditions.
2. Definitions:
  - A. Department: Any department, agency, commission, or officer of the City and County of San Francisco.
  - B. Director: Director of the Human Rights Commission (HRC).
3. Complaints:
  - A. A complaint may be filed by anyone who believes that a City Department is not or may not be in complete compliance with the requirements of Chapter 12.H.
  - B. The complaint may be made in writing or, if made verbally, shall be put in writing by the HRC staff person receiving the complaint.
4. Request for Inquiry (RFI):
  - A. A RFI may be made by anyone who believes that a City Department is not or may not be in complete compliance with the requirements of Chapter 12.H.
  - B. The RFI may be made in writing or, if made verbally, shall be put in writing by the HRC staff person receiving the RFI.

5. Contents of Written Filing of Complaint or RFI:

The written filing shall contain:

- A. The complete name and address of the person making the complaint or RFI, if the person making the filing does not request anonymity.
- B. A plain and concise statement of the facts which provide a basis for the complaint or RFI, including the date, time, and location of the incident.
- C. The name and Department of the City employee alleged to have violated the ordinance. However, in the event that the person filing the complaint or RFI is unable to identify a person by name and/or a specific Department of the City, the statement of facts should provide enough information to reasonably support a belief that the alleged actions constituting the violation were carried out by an employee or representative of the City and County of San Francisco.
- D. In the event that the Department which is the object of the allegations has as part of its structure an internal agency which investigates complaints against departmental employees, the person making the filing shall be referred to that agency. Such a referral is exclusive of the obligation of the HRC to review departmental compliance.

6. Confidentiality:

The identity of any person making a filing shall remain confidential. In addition, confidentiality shall extend to any person whose identity is revealed by an investigation made by the HRC under this ordinance, to the extent that a breach of confidentiality would violate the provisions of this ordinance. All investigative records, including filings, shall be maintained in a locked file which shall be available only to the Director and his or her designees (who shall be identified in writing). All other access shall be by written request and provided only on a need-to-know basis consistent with the provisions of this ordinance. Release of any name, address, or identifying information contained in the filing shall be only on the written authorization of the person making the filing.

7. Time of Filing:

No complaint or RFI may be filed more than 90 days from the time that an incident is alleged to have occurred, or that the complainant became aware that the action violating this ordinance occurred, or that the complainant became aware that such an action was in violation of this ordinance, whichever date occurred most recently. This time can be extended by the action of the Director when he or she determines that mitigating circumstances permit it or fairness requires it.

8. Review by Staff/Staff Report:

- A. After receipt of the complaint or RFI, the HRC staff person shall review the information to determine whether, in his or her opinion, the actions alleged are sufficient to

constitute a violation of Chapter 12.H. The decision shall be made in consultation with the unit supervisors and, if necessary, the Director or the City Attorney.

- B. Staff shall determine which City Department is responsible for the alleged violation. In the event that insufficient information is contained in the written filing to determine the Department with specificity, that fact shall not of itself cause the filing to be dismissed.
- C. A staff report shall be completed within 10 working days of the receipt of the filing, which shall contain the filing (subject to the provisions of section 6), the staff determination that the allegations are sufficient to constitute a violation of the ordinance, and the identity of the City employee and Department of City government involved.
- D. If staff determines that the allegations are not sufficient to constitute a violation of the ordinance and that further investigation does not or will not provide such information, a recommendation of dismissal of the charge shall be made with the approval of the Director. Such a dismissal can be appealed to the Director for his or her review. The decision of the Director is final.

9. Notice of Alleged Violation of Chapter 12.H:

- A. A Notice of Alleged Violation (Notice), including the staff report indicated in section 8.C shall be mailed to the Department Head of the appropriate Department.
- B. The Notice shall advise the Department Head of the filing and ask for a written response to the allegations.
- C. The Notice shall be signed by the Director.
- D. If it has not been possible to determine the specific Department involved in the filing, the Notice shall be sent to both the Mayor and the Chief Administrative Officer.

10. Response:

- A. The Department's response shall be made within 10 working days of receipt of the Notice from the HRC and shall be signed by the Department Head or his or her representative. This time may be extended for good cause.
- B. In addition to responding to the specific charges contained in the filing, the response shall include the steps which the Department has taken to ensure compliance with the ordinance.

11. Investigation:

- A. If the Department's response denies the allegations contained in the filing or if the response is incomplete, HRC staff shall initiate an investigation which shall be completed within 90 days from receipt of the response.

- B. The investigation shall attempt to determine whether the allegations contained in the filing are true and whether the Department Head has carried out the requirements of Chapter 12.H.
- C. A report shall be prepared for the Director detailing the finding of the staff investigation, the basis for that finding, and the staff recommendation.
- D. The Director shall make a determination based on the staff finding or may require that further investigation be done. The Director's determination shall be final.
- E. The Director's determination shall be forwarded to the Department Head and a copy sent to the Mayor or the Chief Administrative Officer as appropriate. If the identity of the specific City Department involved remains unknown, a copy of the Director's determination shall be submitted to both the Mayor and the Chief Administrative Officer.

12. Annual Report:

An annual report shall be prepared for the HRC, which after approving it, the Director, shall forward it to the Mayor, the Chief Administrative Officer, and the President of the Board of Supervisors.