



**Human Rights Commission
Meeting Minutes
Regular Meeting
January 21, 2021
Virtual/Electronic Meeting
6:30 pm**

Link to rebroadcast: <https://boxcast.tv/channel/vabajtzeuyv3iclkx1a>

1. WELCOME

- a. CALL TO ORDER
 - i. Chair, Mary Bauer, called the meeting to order at 6:32 pm
- b. ROLL CALL
 - i. Mary Bauer
 - ii. Kathryn Laughon
 - iii. Jeanette Abi-Nader
 - iv. Shantell Bingham
 - v. Jessica Harris
 - vi. Sue Lewis
 - vii. Tobiah Mundt
 - viii. Andrew Orban
 - ix. Alex Oxford
 - x. Lyndele von Schill
- c. MISSION (recited by all): *Act as a strong advocate to justice and equal opportunity by providing citywide leadership and guidance in the area of civil rights.*

2. MATTERS BY THE PUBLIC

- a. PUBLIC COMMENT
 - i. None.
- b. COMMISSION RESPONSE TO MATTERS BY THE PUBLIC
 - i. None.

3. MINUTES

- a. Review of minutes from July 16, 2020 Regular Meeting*
 - i. Motion to approve as written
 1. Sue Lewis
 - ii. Second
 1. Kathryn Laughon
 - iii. Discussion
 1. None.
 - iv. Vote
 1. In favor: 7
 2. Opposed: 0
 3. Abstained: 2 (Including Chair)

4. BUSINESS MATTERS

- a. Fair Housing Assistance Program (FHAP) Overview w/ Erik Steinecker

- i. HUD provides annual, non-competitive funding to states and local governments that provide rights, remedies, and procedures that are substantially equivalent to the federal Fair Housing Act.
- ii. Once substantial equivalence is achieved, the program is ongoing.
- iii. HUD also provides technical assistance and funding to FHAP agencies.
- iv. FHAP agencies must demonstrate the following
 1. Backing of the state or local government
 2. Ability and commitment to process complaints
- v. Funding from HUD include
 1. Complaint processing funds
 2. Administrative cost funds
 3. Training dollars based on number of FTEs
 - a. Both for staff development and associated travel
- vi. Two phases of substantial equivalence certification
 1. Interim certification
 - a. Can last up to 3 years
 - b. Trial period – not full certification
 - c. Includes general funding to build capacity
 - d. Agency has an interim agreement contract with HUD
 - i. This serves as the funding agreement
 - ii. Funds are based on performance rendered
 2. Full certification
 - a. Will last 5 years
 - b. Region 3 HUD office will do recertification
 - i. Government Technical Representatives (GTR)
 - ii. Government Technical Monitors (GTM)
 - c. Regional GTR and GTM are primary contacts
 - i. Agency reports cases received
 - ii. Provide technical guidance to agency
 - d. Recertification every 5 years
 - e. Performance assessment every 2 years
 - i. GTM will visit agency
 - ii. Case file review
 - iii. Staff conversations
 - iv. Ensure agency meets performance standards
 1. Quality complaint processing
 2. Limited use of administrative closures
 3. Attempted use of conciliation

- throughout the investigation process
 - 4. Obtaining meaningful and adequate relief
 - 5. Doing education and outreach
 - 6. Processing the minimum number of cases required for size of jurisdiction
 - a. Charlottesville population ~50K
 - i. First tier (under 90K): 4 cases/year
 - ii. Agencies are not held to this standard during the capacity-building stage
 - b. Processing involves
 - i. Intake
 - ii. Investigation
 - iii. Attempt to conciliate
 - iv. Closure
 - vii. Commissioner asks for clarification on administrative closures
 - 1. Administrative closures can occur when
 - a. Complainant is non-responsive
 - b. Non-responsive witnesses
 - c. Respondent moves and can't be found
 - d. Complaint is non-jurisdictional
 - e. Withdrawal without resolution
 - viii. HUD payments to agencies
 - 1. HUD will still compensate the agency
 - a. Full case closure in 2020: \$3,000
 - b. Admin. closure in 2020: \$1,500
 - c. Effective conciliation: +\$200 (along with case closure)
 - i. Meaningful relief for individual
 - ii. Public interest relief
 - 1. Alleviates future complaints
 - a. Training
 - b. Policy changes by respondent
 - 2. Capacity-building stage
 - a. HUD has discretion to give up to \$120K
 - b. Goes up or down depending on agency use/need
- ix. Benefits to FHAP

1. Considered “ultimate idea of federalism”
 - a. Locality enforces its own civil rights matters
 - i. HUD supports and helps build capacity
 - b. 80% of fair housing complaints are handled locally
 - i. HUD handles the other 20%
 2. HUD offers funding to build capacity and train
 3. Once agency fully certified, other funds available
 - a. Partnership funds
 - i. Work with other orgs to do outreach
 1. Testing with FHIP agencies
- x. Obligations of agency
1. Must provide quality investigations
 - a. Take the case through final disposition
 - i. Hold an administrative hearing and issue a final order on the merits of the case
 1. HUD can provide \$5,000
 - ii. If no administrative hearing, allow parties to elect
 1. Agency takes case forward on behalf of complainant in a civil action
 2. HUD can provide \$8,000 if case filed in court
 2. While HUD funding supports the work, it is not meant to cover all costs and local jurisdiction should be supportive
 - a. Sometimes conflict can arise with the legal office
 - i. Agency and city attorney’s office
 - ii. At the state level: agency and AG’s office
 - b. Sometimes there is a capacity issue with agencies that have enforcement duties over multiple protected activities
 - i. If FHAP: 20% of funding and staffing must be committed to fair housing
- xi. Commissioner asks about staffing requirements for FHAP
1. HUD supports jurisdictions that are smaller than Charlottesville
 - a. Some agencies only have half an FTE dedicated to the FHAP
 - b. Whatever the staff level, agency must meet requirements
 2. HUD can support the agency to build capacity, but that funding should not be the sole support since it runs out
 - a. City must meaningfully support the agency
- xii. Commissioner asks about the 20% requirement

1. 20% of the budget must be dedicated
 - a. Education and outreach
 - b. Investigator payroll
 - c. Materials in support of fair housing
 2. Demonstrate that 1/5 of energy and resources dedicated
 3. There is a grace period during the capacity-building stage
 - a. This is the time to confirm the support of the City
- xiii. 24 CFR part 115
1. Shows the detailed administrative requirements of FHAP
 - a. 307 (Part 3)
 - i. Budget and finance
 - ii. Recording and recordkeeping
 - iii. Testing
 - iv. Training
 - v. Data support system
 1. HUD has a case processing system
 - vi. Other civil rights requirements
 - vii. Constitutional issues referred to HUD
 - viii. Subcontracting of services
 1. What can and cannot be subcontracted
 2. Agency investigates, decides, and enforces
 - b. 206 (Part 2)
 - i. Performance standards
 - c. 204
 - i. Adequacy of law
 - ii. Everything in this section needs to be in agency's ordinance
- xiv. Commissioner asks about separation of decision-making processes by staff, i.e. investigation vs. issuing findings
1. This varies by agency
 - a. Some are state agencies that partner with AG's office and don't even have Commissions
 2. Review of case process and timeliness requirements
 - a. Complaint received
 - b. Intake process to determine jurisdiction
 - c. Complaint dual-filed (w/in 20 days of receipt)
 - i. Case opened
 - ii. Report to HUD
 - d. Notice sent to parties to complaint
 - e. Respondent has 10 days to respond
 - f. Agency starts the investigation (w/in 30 days)
 - i. After notice sent out

- g. 100 days to finish investigation
 - i. If not completed, 100-day letter sent
- h. Up to one year for final disposition
 - i. If reasonable cause
 - 1. Issue determination
 - 2. Provide instructions
 - 3. If there is a hearing body
 - a. Afford opportunity to go to court
 - 4. If no hearing body
 - a. Goes straight to court
 - 5. Most cases conciliate
 - a. Agency would draft agreement
 - b. Agency would monitor compliance
- 3. All of the case processes could be done by one person
 - a. Some agencies have mediators on staff
 - b. At HUD
 - i. Investigator
 - 1. Handles investigation and settlement
 - ii. Director
 - 1. Issues determination
 - c. Not sure how many agencies have one person doing all steps
 - i. Local laws/ordinances may dictate the roles of staff
- xv. Commissioner asks about the necessity of amending the Charlottesville Human Rights Ordinance in order be a FHAP
 - 1. Formal process
 - a. Present substantially equivalent ordinance along with a letter requesting consideration
 - b. HUD general counsel will then review
 - 2. Informal process
 - a. Erik and Joe (Director) offer informal review and suggestions first
 - b. Can guide the agency toward drafting an ordinance that can pass at the local level
 - c. The process takes time (year to year and a half)
 - i. HUD gives feedback on the ordinance
 - ii. Local agency passes amended ordinance
 - iii. Local agency submits for formal review
- xvi. Commissioner asks if the formal review must take place before

the interim agreement can start

1. Yes. The substantially equivalent ordinance must be in place.
 2. Rights, remedies, and procedures must be in place for the agency to provide the service.
- xvii. Staff asks if HUD software has an associated fee charged to the agency
1. HUD Enforcement Management System (HEMS)
 - a. Does not cost the agency to use
 - b. HUD created and maintained
 - c. This is how HUD tracks the cases
 - d. It is a requirement of the program
 - e. HUD can provide reports back to the agency
 2. Some agencies use their own system and HEMS
 3. Smaller agencies may only use HEMS
- xviii. Staff asks that if there is an obligation by the agency to provide legal counsel to the Complainant if there is a determination of cause and the case entered into civil action in general district court
1. Varies by agency
 2. The agency is required to bring a case forward on behalf of the Complainant
 3. The agency does not represent the Complainant
 4. At HUD
 - a. Will hold an administrative hearing
 - b. Department of Justice will bring the case forward in court
 - c. The Complainant may have their own counsel as well
 5. For the City
 - a. The Commission will hold a hearing
 - b. The City Attorney's Office will bring the case forward in court
 - c. The Complainant may have their own counsel
 6. City attorney would represent the Commission or City of Charlottesville
 - a. Some offices challenge this because sometimes the legal office does not agree to bring the case
 - b. To alleviate this conflict
 - i. Involve the legal office early if probable cause is suspected
 - ii. This also ensures that the investigation includes getting documents and testimonies that the legal office would need

- iii. Once the case moves to adjudication
 - 1. The request for documents becomes more formal, so it is easier to request documents at the investigative stage
- iv. Best functioning agencies are ones that have a good relationship with the legal team
- xix. Commissioner question about whether other activities like studies of discrimination would count toward the 20%
 - 1. The 20% requirement is vague for a reason, i.e. "it depends"
 - 2. Would assume that a long-term study about housing discrimination would be a proper use of the funding
 - a. As long as the funding does not appear to be propping up the agency and it is still meeting the enforcement requirements
 - 3. These requirements apply only to fully certified agencies
- xx. Commissioner asks about legal representation for a Complainant that cannot afford an attorney. Would the Complainant be expected to self-represent? What would the role of the Office of Human Rights be?
 - 1. The attorney bringing the action forward does not represent the Complainant
 - 2. The attorney bringing the action forward represents the agency
 - a. If the agency reasonable cause to believe that discrimination has occurred within its legal jurisdiction
 - 3. Certain Cities might not have legal authority, per the ordinance, to represent a private citizen
- xxi. Commissioner asks if the City asks for damages on the Complainant's behalf or if the remedy relates only to the violation of the ordinance.
 - 1. The City attorney can ask for the following on behalf of the Complainant
 - a. Compensatory damages
 - b. Injunctive relief
 - c. Punitive damages
 - i. Punishment for discrimination
 - ii. Civil penalties
- xxii. Commissioner asks if incorporating Erik's suggestions into the Ordinance and making the letter of request would be sufficient to begin the process of entering into an agreement with HUD or if

the ordinance needs additional changes.

1. Probably both, as it is a process
 2. The Office of General Counsel (OGC) will do a review
 3. The Assistant Secretary for Fair Housing will make a final decision
 4. The timeline is not guaranteed
 5. Erik and Joe will provide guidance along the way
 6. OGC may come back with additional recommendations
 - a. Because Joe used to do OGC reviews, he can offer helpful guidance
 7. The HRC should put together another draft of the ordinance and Erik can provide additional guidance
 8. The most substantially equivalent version of the Federal Fair Housing Act is the language in the Act itself
 - a. If an agency's ordinance is deficient in a particular section, cutting and pasting the Fair Housing Act is a way to ensure substantial equivalence
 9. HUD considers that it is already engaged in the conversation about FHAP with the Charlottesville HRC
 - a. Oftentimes they will provide feedback to an agency on what needs changing in the ordinance and the agency does not respond further
- xxiii. Commissioner asks if part of the HUD funding could be used for staff salaries.
1. Capacity-building funds are flexible
 - a. Agency must determine where resources are needed
 - b. As long as fall into performance requirements set by HUD during the interim period, the money can be used flexibly
 2. Once fully certified
 - a. Case processing funds
 - i. Provided for the case completion and performance
 - ii. How the funds are used is up to the agency
 - b. Administrative cost funds
 - i. Based on the size of the jurisdiction and calculated based on area costs
 - c. Training funds and Partnership funds
 - i. Require prior approval before use for specific purposes
 3. CARES Act gave HUD Fair Housing \$1.5 million to distribute
 - a. Sent out RFPs to FHAPs

- i. Some FHAPs hired additional staff
 - 4. The key is to demonstrate commitment
 - a. Show that the City supports the program
 - b. Demonstrate that 20% of the budget goes to fair housing
 - c. Show that HUD is not just propping up the program
 - d. Capacity-building stage should help the agency be prepared for this
- xxiv. Commissioner notes that part of City Council and City Management being interested in supporting the FHAP process will be to show that HUD can help fund staff positions.
 - 1. Some small jurisdictions process a lot of cases and the funding does help
 - 2. Localities use “E-locks” as a way to receive funds through HUD
 - 3. Payments are made during the fourth quarter of each year
 - a. July 1 – June 30 is the case processing period
 - 4. Agencies have 5 years to draw the money down
 - a. Some agencies pull the funds immediately
 - b. Others take more time
 - 5. Training and Admin funds come with full certification
 - a. Dependent upon caseloads and number of FTEs
- xxv. Vice Mayor Magill asks if subcontracting is permitted in the ordinance if it only pertains to the other protected activities outside of housing.
 - 1. Many jurisdictions create separate fair housing ordinance
 - a. Or a separate subsection within the same ordinance
 - 2. Some jurisdictions will try to combine enforcement procedures within the same ordinance for different protective activities
 - a. This can be problematic
 - i. Example: EEOC procedures are different that HUD procedures
 - 3. When procedures are combined across all protected classes it affects substantial equivalence
 - a. Especially if a state law affects the procedures for one protected activity that then jeopardizes substantial equivalence for housing
- xxvi. Erik reiterates that he is available for additional questions
 - 1. Erik departs the meeting
- xxvii. Chair recommendations for next steps
 - 1. Discuss both FHAP and FEPA at the retreat on 2/27/21

2. Consider the level of commitment required to enter into one or both
 3. Still need more information on FEPA
 - a. Staff response
 - i. James Yao has offered to meet with the Chair and Vice Chair
 - ii. Staff will attempt to schedule prior to the retreat
 - iii. He was not prepared to attend the retreat or a Commission meeting at this time
- xxviii. Chair asks if Commissioners have further thoughts
1. Commissioner comments
 - a. Feel like this was the first major step toward understanding the FHAP commitment
 - b. Interested in discussing further and deciding next steps during the retreat
 - b. HRC Director/OHR Manager hiring discussion
 - i. During the presentation to Council on 1/19/2021, Chair emphasized the need to hire a Director for the OHR/HRC
 - ii. Chair asks HRC about next steps to move this forward
 1. Commissioner comments
 - a. Definite need for staffing as the Director position has been vacant for almost one year
 - b. Staffing is needed to get significant work done
 - c. HRC has reviewed the position description and offered suggestions
 - d. If Council feels that the HRC is valuable, then hiring a Director needs to be a priority
 - e. Reaching out to the new City Manager for a meeting with Chair and Vice Chair would be a good next step
 - f. Job description should be revisited
 - g. Waiting for other positions to be filled prior to hiring the Director does not seem like a reasonable
 - iii. Chair provides an brief report the presentation on 1/19/2021
 1. Council recommended a few minor revisions to Ordinance
 2. Council will add the revised Ordinance to the consent agenda for their meeting on 2/1/2021
 3. Chair and staff emphasized the need for hiring a Director
 4. Council gave the impression that hiring a Director was important
 - iv. Commissioner comments
 1. Previous staffing decisions were made under Dr. Richardson as City Manager

2. Dr. Richardson also re-worked the City's organizational structure which put the HRC/OHR in a diminished position
 3. Agreement that meeting with the new City Manager, advocating for the hiring of a Director, and clarifying the HRC/OHR position in the organizational structure is important
 4. **Chair and Vice Chair will move forward to set up a meeting with the City Manager**
- v. Vice Mayor Magill comments
1. Suggests revisiting the Director position description especially if the enforcement duties are prioritized
 - a. Chair response
 - i. Agrees that revisiting the job description would be valuable
 - ii. **Chair will work on a revised draft of the Director job description**
- vi. Commissioner asks where to find the federal statutes referenced by Erik Steinecker
1. Staff notes that the statutes are referenced in Erik's comments on the Ordinance
 2. Staff also put the comments in a separate document with links the referenced federal statutes (see attached)
- vii. Commissioner asks about the timeframe for Council approval of the Ordinance
1. The revised Ordinance will be on the 2/1/2021 Council consent agenda
- viii. Commissioner asks if there needs to be a vote regarding the meeting with the City Manager to advocate for a Director
1. Chair notes that the Ordinance mandates the hiring of a director and a vote seems unnecessary unless a Commissioner feels strongly that there be a vote
- c. OHR STAFF REPORT
- i. Staff shares the changes to the Ordinance suggested by Council
 1. Sec. 2-432
 - a. Replaced "as well as" with "and"
 - b. Added "significant and" before "demonstrable ties"
 2. Sec. 2-437 (c)
 - a. Replaced "jurisdiction" with "if the Complainant presents a prima facie case"
 3. Next steps
 - a. **Present the revised Ordinance to City Attorney for approval and conversion to ADA compliant document**
 - i. Allyson Davies gives her approval of

language and instructs staff to email Lisa Robertson and request her approval and the conversion

- b. **Submit ADA compliant document to Clerk for inclusion in consent agenda for 2/1/21 Council meeting**

4. Other updates

- a. Service data for 2020 is included in the staff report in the agenda packet
- b. Annual report for CY2020 to be compiled soon
 - i. **Staff will meet with Chair and Former Chair to discuss**

d. CHAIR UPDATE

- i. Strategic planning during retreat on 2/27/21
 - 1. Goal is to complete the retreat having one or two big things to work on
 - 2. Encourages Commissioners to think of ideas and circulate those ideas
 - 3. Encourages members of the public to also share ideas
 - 4. One potential idea
 - a. All tenants in eviction cases have lawyers
 - b. Open to other ideas, this is one example
 - 5. Guiding theme: creating a more equitable City

5. WORK SESSION

- a. No ad hoc committee updates

6. MATTERS BY THE PUBLIC

- a. PUBLIC COMMENT
 - i. None.
- b. COMMISSIONER RESPONSE TO MATTERS BY THE PUBLIC
 - i. None.

7. COMMISSIONER UPDATES

- a. Sue
 - i. VAHR set next meeting for Monday, 2/22, 7:00pm
 - ii. Asks if dues are paid
 - 1. Staff confirms that dues were paid for 2020
 - a. Notes that an invoice is necessary for 2021 dues
 - iii. No new changes to the bylaws around dues
 - iv. Sue will confirm that VHAR treasurer has all Commissioner names
- b. Kathryn
 - i. Sunday, 1/24, 1:00pm
 - ii. Jefferson School African American Heritage Center
 - iii. Community conversation about the COVID vaccine
 - iv. Shelby Edwards will moderate
 - v. Will be on Facebook Live
 - vi. Asks Commissioners to help share the message

8. NEXT STEPS

- a. Chair and Vice Chair will move forward to set up a meeting with the City Manager
- b. Chair will work on a revised draft of the Director job description
- c. Staff will send the revised Ordinance to the City Attorney for final approval and conversion to ADA compliant format
- d. Staff will send the approved and ADA compliant Ordinance to the Clerk by Friday 1/22/21, for inclusion in the 2/1/21 Council consent agenda
- e. Sue will ask the VAHR Treasurer about membership dues for 2021

9. ADJOURN

- a. Meeting adjourned at 8:12pm

Pending HRC Approval

Overview of Erik Steinecker's Review of the Human Rights Ordinance

Quick summary of needed changes to Ordinance

1. Ordinance Sec. 2-431
 - a. Specifically state what actions constitute housing discrimination
 - b. Include a retaliation provision
2. Ordinance Sec. 2-437
 - a. Include specific investigative procedures rather than references to other laws
 - i. Notice requirements
 - ii. Investigation timeframes
 - iii. Ability to file a response by respondent
 - iv. Service of charge
 - b. City must be a party to any agreement arising from conciliation
 - i. Must monitor terms and ensure implementation
 - c. Cannot sub-contract any part of the core investigative functions
3. Ordinance 2-439.1
 - a. Must specify that, upon a finding of probable cause, the case must proceed to enforcement either through:
 - i. An administrative hearing
 - ii. Filing a civil action and proceeding through final disposition
 - b. If an administrative hearing is offered, the City must provide an **election option** stipulating that:
 - i. Either party can choose to elect to have claims asserted in civil action.
 - ii. Notice requirement on the party requesting election.
 - iii. If election is made, the law official shall commence and maintain a civil action on behalf of the aggrieved person.
 - c. The City or the HRC must have the authority to:
 - i. Grant or seek prompt judicial action
 - ii. Issue and seek enforceable subpoenas
 - iii. Grant actual damages in administrative proceeding
 - iv. Grant injunctive or other equitable relief
 - v. Provide civil penalties and an election option
 - d. Where reasonable cause is found...
 - i. The Complainant must have the ability to have their case proceed through civil action **AND** the City is responsible for bringing forward a case on behalf of the Complainant.

Sec. 2-431 (a)

1. Missing familial status as a protected class, which is more expansive than “pregnancy/childbirth”.
 - a. **OHR Note: Familial status is included in the proposed amendments to the Ordinance currently under consideration by Council.**

Sec. 2-431 (b)

1. Generally, this ordinance sites to state and federal law, but does itself specially define what actions constitute discrimination in housing (e.g., 42 U.S.C. §§ 3604 – 3606).
 - a. <https://www.law.cornell.edu/uscode/text/42/3604>
2. No retaliation provision comparable to § 3617.
 - a. <https://www.law.cornell.edu/uscode/text/42/3617>

Sec. 2-437 (b)

1. Per 24 C.F.R. § 115.204(f), “a law will be found inadequate ‘on its face’ if it permits any of the agency’s decision-making authority to be contracted out or delegated to a non-governmental authority.”
 - a. **OHR Note: The proposed amendments to the Ordinance removes referral to PHA and the EEOC.**

Sec. 2-437 (c)

1. This section is missing the following (analogous to 42 U.S.C. § 3610 - <https://www.law.cornell.edu/uscode/text/42/3610>) such as:
 - a. **Notice requirements** (e.g., of filing, response, findings)
 - b. **Investigation timeframes** (e.g., filed within 30 days, response within 10 days, 100 days to complete investigation, final disposition within one year).
 - c. Ability to file a **response** by respondent
 - d. **Service** of a charge
2. The FHAP implementing regulation at 24 C.F.R. § 115.204 (<https://www.law.cornell.edu/cfr/text/24/115.204>) identifies what investigative procedures are specifically required to be stipulated in the law itself (as opposed to other laws or regulations).

Sec. 2-437 (e)

1. As per the FHAP implementing regulation at 24 C.F.R. § 115.204(a)(2)(iv), “any conciliation agreement arising out of conciliation efforts by the agency shall be an agreement between the respondent, the complainant, and the agency.” (emphasis added). Once executed, the agency should monitor the terms of the agreement to ensure implementation. (<https://www.law.cornell.edu/cfr/text/24/115.204>)

Sec. 2-437 (f)

1. As noted above, this would be considered inadequate on its face for subcontracting out core investigative functions.

Sec. 2-439.1 (b)

1. Under the Act at 42 U.S.C. § 3610(g) (<https://www.law.cornell.edu/uscode/text/42/3610>) and under the FHAP regulation at 24 C.F.R. § 115.204(b) (<https://www.law.cornell.edu/cfr/text/24/115.204>), a case must proceed to enforcement upon a

finding of probable/reasonable cause, either through an administrative hearing or by filing a civil action and proceed through final disposition.

Sec. 2-439.1 (c)

1. Note, that if an administrative hearing is provided to the parties, the agency must also provide an **election option** analogous to 24 U.S.C. § 3612 (a) and (o) (<https://www.law.cornell.edu/uscode/text/42/3612>). The election provision should stipulate that:
 - a. Either party can choose to elect to have claims asserted in civil action
 - b. Notice requirement on the party requesting election.
 - c. If election is made, the law official shall commence and maintain a civil action on behalf of the aggrieved person.

Sec. 2-439.1 (i)

1. Under 24 C.F.R. § 115.204(b) (<https://www.law.cornell.edu/cfr/text/24/115.204>), the agency or commission must have the authority to grant or seek prompt judicial action, issue and seek enforceable subpoenas, grant actual damages in an administrative proceeding, grant injunctive or other equitable relief, provide provided civil penalties, and an election option.

Sec/ 2-439.2 (b)

1. Where reasonable cause is found, the complainant must have the ability to have their case proceed through a civil action, and the agency is responsible for bringing forward a case on behalf of the complainant.