

CHAPTER 363

DEPARTMENT OF HUMAN RIGHTS

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363.01 DEFINITIONS.

[For text of subds 1 to 24, see M.S.1986]

Subd. 25. **Disability.** "Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who (1) has a physical, sensory, or mental impairment which substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

[For text of subds 25a to 38, see M.S.1986]

Subd. 39. **Employee.** "Employee" means an individual who is employed by an employer and who resides or works in this state. Employee includes a commission salesperson, as defined in section 181.145, who resides or works in this state.

History: 1987 c 23 s 1; 1987 c 282 s 2

363.02 EXEMPTIONS.

Subdivision 1. **Employment.** The provisions of section 363.03, subdivision 1, shall not apply to:

- (1) The employment of any individual
 - (a) by the individual's parent, grandparent, spouse, child, or grandchild, or
 - (b) in the domestic service of any person;
- (2) A religious or fraternal corporation, association, or society, with respect to qualifications based on religion, when religion shall be a bona fide occupational qualification for employment;
- (3) The employment of one person in place of another, standing by itself, shall not be evidence of an unfair discriminatory practice;
- (4) The operation of a bona fide seniority system which mandates differences in such things as wages, hiring priorities, layoff priorities, vacation credit, and job assignments based on seniority, so long as the operation of the system is not a subterfuge to evade the provisions of this chapter;
- (5) With respect to age discrimination, a practice by which a labor organization or employer offers or supplies varying insurance benefits or other fringe benefits to members or employees of differing ages, so long as the cost to the labor organization or employer for the benefits is reasonably equivalent for all members or employees;
- (6) A restriction imposed by state statute, home rule charter, ordinance, or civil service rule, and applied uniformly and without exception to all individuals, which establishes a maximum age for entry into employment as a peace officer or firefighter.
- (7) Nothing in this chapter concerning age discrimination shall be construed to validate or permit age requirements which have a disproportionate impact on persons of any class otherwise protected by section 363.03, subdivision 1 or 5.

It is not an unfair employment practice for an employer, employment agency, or labor organization:

- (i) to require or request a person to undergo physical examination, which may include a medical history, for the purpose of determining the person's capability to

perform available employment, provided (a) that an offer of employment has been made on condition that the person meets the physical or mental requirements of the job; (b) that the examination tests only for essential job-related abilities; and (c) that the examination except for examinations authorized under chapter 176 is required of all persons conditionally offered employment for the same position regardless of disability; or

(ii) with the consent of the employee, to obtain additional medical information for the purposes of establishing an employee health record;

(iii) to administer preemployment tests, provided that the tests (a) measure only essential job-related abilities, (b) are required of all applicants for the same position regardless of disability except for tests authorized under chapter 176, and (c) accurately measure the applicant's aptitude, achievement level, or whatever factors they purport to measure rather than reflecting the applicant's impaired sensory, manual, or speaking skills, except when those skills are the factors that the tests purport to measure; or

(iv) to limit receipt of benefits payable under a fringe benefit plan for disabilities to that period of time which a licensed physician reasonably determines a person is unable to work; or

(v) to provide special safety considerations for pregnant women involved in tasks which are potentially hazardous to the health of the unborn child, as determined by medical criteria.

[For text of subds 2 and 2a, see M.S.1986]

Subd. 3. Education. (a) It is not an unfair discriminatory practice for a religious or denominational institution to limit admission or give preference to applicants of the same religion. The provisions of section 363.03, subdivision 5, relating to sex, shall not apply to a private educational institution, or branch or level of a private educational institution, in which students of only one sex are permitted to enroll. Nothing in this chapter shall prohibit an educational institution from using academic qualifications or achievements as criteria for admission or requiring from applicants information which relates to academic qualifications or achievements.

(b) Notwithstanding any other provisions of this chapter or any law to the contrary, it is not an unfair discriminatory practice for an educational institution or a public service to operate or sponsor separate athletic teams and activities for members of each sex or to restrict membership on an athletic team to participants of one sex, if this separation or restriction meets the requirements of section 126.21.

(c) The department of human rights shall investigate all charges alleging sex discrimination in athletic programs in educational institutions and public services pursuant to the standards and requirements of section 126.21 and the procedures enumerated in this chapter.

(d) Nothing in this chapter restricts or limits the rights, procedures, and remedies available under section 504 of the Rehabilitation Act of 1973, United States Code, title 29, section 794, or the Education of the Handicapped Act, United States Code, title 20, sections 1401 and following.

[For text of subd 4, see M.S.1986]

Subd. 5. Disability. Nothing in this chapter shall be construed to prohibit any program, service, facility, or privilege afforded to a person with a disability which is intended to habilitate, rehabilitate, or accommodate that person. It is a defense to a complaint or action brought under the employment provisions of this chapter that the person bringing the complaint or action has a disability which in the circumstances and even with reasonable accommodation, as defined in section 363.03, subdivision 1, clause (6), poses a serious threat to the health or safety of the disabled person or others. The burden of proving this defense is upon the respondent.

[For text of subds 6 and 7, see M.S.1986]

History: 1987 c 23 s 2; 1987 c 129 s 1,2

363.03 UNFAIR DISCRIMINATORY PRACTICES.

Subdivision 1. **Employment.** Except when based on a bona fide occupational qualification, it is an unfair employment practice:

(1) For a labor organization, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age,

(a) to deny full and equal membership rights to a person seeking membership or to a member;

(b) to expel a member from membership;

(c) to discriminate against a person seeking membership or a member with respect to hiring, apprenticeship, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment; or

(d) to fail to classify properly, or refer for employment or otherwise to discriminate against a person or member.

(2) For an employer, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, or age,

(a) to refuse to hire or to maintain a system of employment which unreasonably excludes a person seeking employment; or

(b) to discharge an employee; or

(c) to discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment.

(3) For an employment agency, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age,

(a) to refuse or fail to accept, register, classify properly, or refer for employment or otherwise to discriminate against a person; or

(b) to comply with a request from an employer for referral of applicants for employment if the request indicates directly or indirectly that the employer fails to comply with the provisions of this chapter.

(4) For an employer, employment agency, or labor organization, before a person is employed by an employer or admitted to membership in a labor organization, to

(a) require the person to furnish information that pertains to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability, unless, for the purpose of national security, information pertaining to national origin is required by the United States, this state or a political subdivision or agency of the United States or this state, or for the purpose of compliance with the public contracts act or any rule, regulation, or laws of the United States or of this state requiring information pertaining to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability is required by the United States or a political subdivision or agency of the United States; or

(b) cause to be printed or published a notice or advertisement that relates to employment or membership and discloses a preference, limitation, specification, or discrimination based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age.

(5) For an employer, an employment agency or a labor organization, with respect to all employment related purposes, including receipt of benefits under fringe benefit programs, not to treat women affected by pregnancy, childbirth, or disabilities related to pregnancy or childbirth, the same as other persons who are not so affected but who are similar in their ability or inability to work.

(6) For an employer with 50 or more permanent, full-time employees, an employment agency or a labor organization, not to make reasonable accommodation to the known disability of a qualified disabled person or job applicant unless the employer, agency, or organization can demonstrate that the accommodation would impose an undue hardship on the business, agency, or organization. "Reasonable accommodation" means steps which must be taken to accommodate the known physical or mental

limitations of a qualified disabled person. "Reasonable accommodation" may include but is not limited to: (a) making facilities readily accessible to and usable by disabled persons; and (b) job restructuring, modified work schedules that do not reduce the total number of hours normally worked, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis.

In determining whether an accommodation would impose an undue hardship on the operation of a business or organization, factors to be considered include:

(a) the overall size of the business or organization with respect to number of employees or members and the number and type of facilities;

(b) the type of the operation, including the composition and structure of the work force, and the number of employees at the location where the employment would occur;

(c) the nature and cost of the needed accommodation;

(d) the reasonable ability to finance the accommodation at each site of business; and

(e) documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the disabled person or with knowledgeable disabled persons or organizations.

A prospective employer need not pay for an accommodation for a job applicant if it is available from an alternative source without cost to the employer or applicant.

[For text of subds 2 to 4, see M.S.1986]

Subd. 5. Educational institution. It is an unfair discriminatory practice:

(1) To discriminate in any manner in the full utilization of or benefit from any educational institution, or the services rendered thereby to any person because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance or disability, or to fail to ensure physical and program access for disabled persons. For purposes of this paragraph, program access includes but is not limited to providing taped texts, interpreters or other methods of making orally delivered materials available, readers in libraries, adapted classroom equipment, and similar auxiliary aids or services. Program access does not include providing attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

(2) To exclude, expel, or otherwise discriminate against a person seeking admission as a student, or a person enrolled as a student because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance or disability.

(3) To make or use a written or oral inquiry, or form of application for admission that elicits or attempts to elicit information, or to make or keep a record, concerning the race, color, creed, religion, national origin, sex, age, marital status or disability of a person seeking admission, except as permitted by rules of the department.

[For text of subds 6 and 7, see M.S.1986]

Subd. 8. Credit; sex discrimination. It is an unfair discriminatory practice:

(1) to discriminate in the extension of personal or commercial credit to a person, or in the requirements for obtaining credit, because of sex or marital status; or

(2) for a credit card issuer to refuse to issue a credit card to a woman under her current or former surname unless there is an intent to defraud or mislead, except that a credit card issuer may require that a woman requesting a card under a former surname open a separate account in that name. A credit card issuer may also require disclosure of any other names under which the credit card applicant may have a credit history.

[For text of subds 8a and 9, see M.S.1986]

Subd. 10. Discrimination against blind, handicapped, or deaf persons prohibited.

(a) It is an unfair discriminatory practice for an owner, operator or manager of a hotel, restaurant, public conveyance or other public place, to prohibit a blind, physically handicapped, or deaf person from taking a service dog into the public place or conveyance if the service dog can be properly identified as being from a recognized school for seeing eye, hearing ear, service, or guide dogs, and if the dog is properly harnessed or leashed so that the blind, physically handicapped, or deaf person may maintain control of the dog.

(b) No person shall require a blind, physically handicapped, or deaf person to make an extra payment or pay an additional charge when taking a service dog into any of the public places referred to in paragraph (a).

History: 1987 c 23 s 3; 1987 c 129 s 3; 1987 c 141 s 2; 1987 c 245 s 1

363.05 DUTIES OF COMMISSIONER.

Subdivision 1. **Formulation of policies.** The commissioner shall formulate policies to effectuate the purposes of this chapter and shall:

(1) exercise leadership under the direction of the governor in the development of human rights policies and programs, and make recommendations to the governor and the legislature for their consideration and implementation;

(2) establish and maintain a principal office in St. Paul, and any other necessary branch offices at any location within the state;

(3) meet and function at any place within the state;

(4) employ attorneys, clerks, and other employees and agents as the commissioner may deem necessary and prescribe their duties;

(5) to the extent permitted by federal law and regulation, utilize the records of the department of jobs and training of the state when necessary to effectuate the purposes of this chapter;

(6) obtain upon request and utilize the services of all state governmental departments and agencies;

(7) adopt suitable rules for effectuating the purposes of this chapter;

(8) issue complaints, receive and investigate charges alleging unfair discriminatory practices, and determine whether or not probable cause exists for hearing;

(9) subpoena witnesses, administer oaths, take testimony, and require the production for examination of any books or papers relative to any matter under investigation or in question;

(10) attempt, by means of education, conference, conciliation, and persuasion to eliminate unfair discriminatory practices as being contrary to the public policy of the state;

(11) develop and conduct programs of formal and informal education designed to eliminate discrimination and intergroup conflict by use of educational techniques and programs the commissioner deems necessary;

(12) make a written report of the activities of the commissioner to the governor each year and to the legislature by November 15 of each even-numbered year;

(13) accept gifts, bequests, grants or other payments public and private to help finance the activities of the department;

(14) create such local and statewide advisory committees as will in the commissioner's judgment aid in effectuating the purposes of the department of human rights;

(15) develop such programs as will aid in determining the compliance throughout the state with the provisions of this chapter, and in the furtherance of such duties, conduct research and study discriminatory practices based upon race, color, creed, religion, national origin, sex, age, disability, marital status, status with regard to public assistance, familial status, or other factors and develop accurate data on the nature and extent of discrimination and other matters as they may affect housing, employment, public accommodations, schools, and other areas of public life;

(16) develop and disseminate technical assistance to persons subject to the provisions of this chapter, and to agencies and officers of governmental and private agencies;

(17) provide staff services to such advisory committees as may be created in aid of the functions of the department of human rights;

(18) make grants in aid to the extent that appropriations are made available for that purpose in aid of carrying out duties and responsibilities; and

(19) cooperate and consult with the commissioner of labor and industry regarding the investigation of violations of, and resolution of complaints regarding section 363.03, subdivision 9.

In performing these duties, the commissioner shall give priority to those duties in clauses (8), (9), and (10) and to the duties in section 363.073.

[For text of subd 2, see M.S.1986]

History: 1987 c 375 s 2

363.06 GRIEVANCES.

Subdivision 1. Actions. Any person aggrieved by a violation of this chapter may bring a civil action as provided in section 363.14, subdivision 1, clause (a), or may file a verified charge with the commissioner or the commissioner's designated agent. A charge filed with the commissioner must be in writing on a form provided by the commissioner and signed by the charging party. The charge must state the name of the person alleged to have committed an unfair discriminatory practice, and set out a summary of the details of the practice complained of. The commissioner may require a charging party to provide the address of the person alleged to have committed the unfair discriminatory practice, names of witnesses, documents, and any other information necessary to process the charge. The commissioner may dismiss a charge when the charging party fails to provide required information. The commissioner within ten days of the filing shall serve a copy of the charge and a form for use in responding to the charge upon the respondent personally or by mail. The respondent shall file with the department a written response to the charge within 20 days of receipt of the charge.

[For text of subds 2 and 3, see M.S.1986]

Subd. 4. Inquiry into charge. (1) Consistent with clause (7), the commissioner shall promptly inquire into the truth of the allegations of the charge. The commissioner shall make an immediate inquiry when a charge alleges actual or threatened physical violence. The commissioner shall also make an immediate inquiry when it appears that a charge is frivolous or without merit and shall dismiss those charges.

The commissioner shall give priority to investigating and processing those charges, in the order below, which the commissioner determines have the following characteristics:

- (a) there is evidence of irreparable harm if immediate action is not taken;
- (b) there is evidence that the respondent has intentionally engaged in a reprisal;
- (c) a significant number of recent charges have been filed against the respondent;
- (d) the respondent is a government entity;
- (e) there is potential for broadly promoting the policies of this chapter; or
- (f) the charge is supported by substantial and credible documentation, witnesses, or other evidence.

The commissioner shall inform charging parties of these priorities and shall tell each party if their charge is a priority case or not.

On other charges the commissioner shall make a determination within 12 months after the charge was filed as to whether or not there is probable cause to credit the allegation of unfair discriminatory practices, and

(2) If the commissioner determines after investigation that no probable cause exists to credit the allegations of the unfair discriminatory practice, the commissioner

shall, within ten days of the determination, serve upon the charging party and respondent written notice of the determination. Within ten days after receipt of notice, the charging party may request in writing, on forms prepared by the department, that the commissioner reconsider the determination. The request shall contain a brief statement of the reasons for and new evidence in support of the request for reconsideration. At the time of submission of the request to the commissioner, the charging party shall deliver or mail to the respondent a copy of the request for reconsideration. The commissioner shall either reaffirm or reverse the determination of no probable cause within 20 days after receipt of the request for reconsideration, and shall within ten days notify in writing the charging party and respondent of the decision to reaffirm or reverse.

A decision by the commissioner that no probable cause exists to credit the allegations of an unfair discriminatory practice shall not be appealed to the court of appeals pursuant to section 363.072 or sections 14.63 to 14.68.

(3) If the commissioner determines after investigation that probable cause exists to credit the allegations of unfair discriminatory practices, the commissioner shall serve on the respondent and the respondent's attorney if the respondent is represented by counsel, by first class mail, a notice setting forth a short plain written statement of the alleged facts which support the finding of probable cause and an enumeration of the provisions of law allegedly violated. If the commissioner determines that attempts to eliminate the alleged unfair practices through conciliation pursuant to subdivision 5 have been or would be unsuccessful or unproductive, the commissioner shall issue a complaint and serve on the respondent, by registered or certified mail, a written notice of hearing together with a copy of the complaint, requiring the respondent to answer the allegations of the complaint at a hearing before an administrative law judge at a time and place specified in the notice, not less than ten days after service of said complaint. A copy of the notice shall be furnished to the charging party and the attorney general.

(4) If, at any time after the filing of a charge, the commissioner has reason to believe that a respondent has engaged in any unfair discriminatory practice, the commissioner may file a petition in the district court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this chapter, including an order or decree restraining the respondent from doing or procuring an act tending to render ineffectual an order the commissioner may enter with respect to the complaint. The court shall have power to grant temporary relief or a restraining order as it deems just and proper, but no relief or order extending beyond ten days shall be granted except by consent of the respondent or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice. Except as modified by this section, the Minnesota rules of civil procedure shall apply to an application, and the district court shall have authority to grant or deny the relief sought on conditions as it deems just and equitable. All hearings under this section shall be given precedence as nearly as practicable over all other pending civil actions.

(5) If a lessor, after engaging in a discriminatory practice defined in section 363.03, subdivision 2, clause (1)(a), leases or rents a dwelling unit to a person who has no knowledge of the practice or of the existence of a charge with respect to the practice, the lessor shall be liable for actual damages sustained by a person by reason of a final order as provided in this section requiring the person to be evicted from the dwelling unit.

(6) In any complaint issued under this section, the commissioner may seek relief for a class of individuals affected by an unfair discriminatory practice occurring on or after a date 300 days prior to the filing of the charge from which the complaint originates.

(7) The commissioner may adopt policies to determine which charges are processed

and the order in which charges are processed based on their particular social or legal significance, administrative convenience, difficulty of resolution, or other standard consistent with the provisions of this chapter.

(8) The chief administrative law judge shall adopt policies to provide sanctions for intentional and frivolous delay caused by any charging party or respondent in an investigation, hearing, or any other aspect of proceedings before the department under this chapter.

[For text of subds 4a to 8, see M.S.1986]

History: 1987 c 375 s 3,4

363.071 HEARINGS.

Subdivision 1. Conduct of hearings. A complaint issued by the commissioner shall be heard as a contested case, except that the report of the administrative law judge shall be binding on all parties to the proceeding and if appropriate shall be implemented by an order as provided for in subdivision 2. The hearing shall be conducted at a place designated by the commissioner, within the county where the unfair discriminatory practice occurred or where the respondent resides or has a principal place of business. The hearing shall be conducted in accordance with sections 14.57 to 14.62, and is subject to appeal in accordance with sections 14.63 to 14.68.

Subd. 1a. Hearings 180 days after charge. At any time after 180 days from the filing of a charge, if there has been neither a finding of probable cause nor of no probable cause, the charging party may file a request with the commissioner to appear at a hearing on the party's own behalf or through a private attorney. The amount of time during which a case is involved in significant settlement negotiations, is being investigated by another enforcement agency under a work sharing agreement, or has been referred to mediation or to a local human rights commission for no fault grievance processing is not counted in computing the 180 days. Tolling of the time during settlement negotiations requires written approval of the charging party or the party's attorney. The right of a charging party to file a request for hearing does not apply in cases that have been certified as complex by the commissioner within 60 days of the filing of the charge. A case may not be certified as complex unless it involves multiple parties or issues, presents complex issues of law or fact, or presents substantially new issues of law in the discrimination area. Within five days of certifying a case as complex, the commissioner shall give notice of the certification to the charging party and the respondent. The commissioner shall make a determination of probable cause or no probable cause within one year of the filing of a case in which the time has not been counted or a case certified as complex. Upon receipt of the request, the commissioner shall review the documents and information held in the department's files concerning the charge and shall release to the charging party and respondent all documents and information that are accessible to the charging party and respondent under sections 13.01 to 13.87. The commissioner shall forward the request for hearing to the office of administrative hearings, which shall promptly set the matter for hearing. If the charging party prevails at this hearing, the administrative law judge may require the respondent to reimburse the charging party for reasonable attorney's fees.

Subd. 2. Determination of discriminatory practice. The administrative law judge shall make findings of fact and conclusions of law, and if the administrative law judge finds that the respondent has engaged in an unfair discriminatory practice, the administrative law judge shall issue an order directing the respondent to cease and desist from the unfair discriminatory practice found to exist and to take such affirmative action as in the judgment of the administrative law judge will effectuate the purposes of this chapter. The order shall be a final decision of the department. The administrative law judge shall order any respondent found to be in violation of any provision of section 363.03 to pay a civil penalty to the state. This penalty is in addition to compensatory and punitive damages to be paid to an aggrieved party. The administrative law judge shall determine the amount of the civil penalty to be paid, taking into account the

seriousness and extent of the violation, the public harm occasioned by the violation, whether the violation was intentional, and the financial resources of the respondent. Any penalties imposed under this provision shall be paid into the general fund of the state. In all cases where the administrative law judge finds that the respondent has engaged in an unfair discriminatory practice the administrative law judge shall order the respondent to pay an aggrieved party, who has suffered discrimination, compensatory damages in an amount up to three times the actual damages sustained. In all cases, the administrative law judge may also order the respondent to pay an aggrieved party, who has suffered discrimination, damages for mental anguish or suffering and reasonable attorney's fees, in addition to punitive damages in an amount not more than \$6,000. Punitive damages shall be awarded pursuant to section 549.20. In any case where a political subdivision is a respondent the total of punitive damages awarded an aggrieved party may not exceed \$6,000 and in that case if there are two or more respondents the punitive damages may be apportioned among them. Punitive damages may only be assessed against a political subdivision in its capacity as a corporate entity and no regular or ex officio member of a governing body of a political subdivision shall be personally liable for payment of punitive damages pursuant to this subdivision. In addition to the aforesaid remedies, in a case involving discrimination in

(a) employment, the administrative law judge may order the hiring, reinstatement or upgrading of an aggrieved party, who has suffered discrimination, with or without back pay, admission or restoration to membership in a labor organization, or admission to or participation in an apprenticeship training program, on-the-job training program, or other retraining program, or any other relief the administrative law judge deems just and equitable.

(b) housing, the administrative law judge may order the sale, lease, or rental of the housing accommodation or other real property to an aggrieved party, who has suffered discrimination, or the sale, lease or rental of a like accommodation or other real property owned by or under the control of the person against whom the complaint was filed, according to terms as listed with a real estate broker, or if no such listing has been made, as otherwise advertised or offered by the vendor or lessor, or any other relief the administrative law judge deems just and equitable.

The administrative law judge shall cause the findings of fact, conclusions of law, and order to be served on the respondent personally, on the charging party by registered or certified mail, and shall furnish copies to the attorney general and the commissioner.

Subd. 3. Dismissal of hearing. If the administrative law judge makes findings of fact, conclusions of law, and an order in favor of the respondent, the order shall be a final decision of the department.

Subd. 4. Respondents subject to state licensing or regulatory power. In the case of a respondent which is subject to the licensing or regulatory power of the state or any political subdivision or agency thereof, if the administrative law judge determines that the respondent has engaged in a discriminatory practice, and if the respondent does not cease to engage in such discriminatory practice, the commissioner may so certify to the licensing or regulatory agency. Unless such determination of discriminatory practice is reversed in the course of judicial review, a final determination is binding on the licensing or regulatory agency. Such agency may take appropriate administrative action, including suspension or revocation of the respondent's license or certificate of public convenience and necessity, if the agency is otherwise authorized to take such action.

Subd. 5. Public contracts. In the case of a respondent which is a party to a public contract, if the administrative law judge determines that the respondent has engaged in a discriminatory practice, the commissioner may so certify to the contract letting agency. Unless the finding of a discriminatory practice is reversed in the course of judicial review, a final determination is binding on the contract letting agency and the agency may take appropriate administrative action, including the imposition of financial penalties or termination of the contract, in whole or in part, if the agency is otherwise authorized to take the action.

Subd. 6. **Subpoenas.** After the issuance of a complaint pursuant to section 363.06, subdivision 4, a charging party or a respondent may request that the administrative law judge issue subpoenas requiring the presence of witnesses or the production for examination of books or papers not privileged and relevant to any matter in question at the hearing.

History: 1987 c 375 s 5

363.116 TRANSFER TO COMMISSIONER.

A local commission may refer a matter under its jurisdiction to the commissioner.

The charging party has the option of filing a charge either with a local commission or the department. Notwithstanding the provisions of any ordinance or resolution to the contrary, a charge may be filed with a local commission within 300 days after the occurrence of the practice. The exercise of such choice in filing a charge with one agency shall preclude the option of filing the same charge with the other agency. At the time a charge comes to the attention of a local agency, the agency or its representative shall inform the charging party of this option, and of the party's rights under Laws 1967, chapter 897.

Where this chapter provides additional protections and remedies not provided for under a local antidiscrimination ordinance, the local commission shall advise a party bringing a charge under a local ordinance of those additional protections and remedies and of the option to file a charge under this chapter.

The term "local commission" as used in this section has the same meaning given the term in section 363.115.

History: 1987 c 129 s 4