



STATE OF NEBRASKA EQUAL OPPORTUNITY COMMISSION

File Review and Subpoena Procedures

Pursuant to the Nebraska Fair Employment Practice Act, which governs the Nebraska Equal Opportunity Commission (NEOC), file reviews and subpoenas will only be granted on cases officially closed by the Commission.

Closed case files are kept in the Lincoln NEOC office for a period of nine (9) months from the date of the final determination¹. After nine months, any recordings related to the file are erased and the files are sent to an off-site storage facility until the case has been closed for five (5) years. After five (5) years, the file is destroyed.

File Review

If a case has not been filed in court, you may review the file in one of the NEOC's three offices as long as you are a party to the case. In order to conduct a file review, a written request must be made to the Executive Director in the Lincoln office a minimum of ten (10) working days in advance of the requested review date. The request must reflect the appropriate NEB case number and the case name. If you are an attorney for a party, please indicate which party you represent. You will be notified in writing when the file is available. Please contact the NEOC within seven (7) days to arrange a time for the file review. If you do not contact the NEOC, the file will be returned to storage.

Documents may not be copied during a file review; however, recordings may be listened to and documents may be examined. Sufficient time should be allowed for reviewing the file in its entirety.

Subpoenas

Subpoenas will only be honored on cases that have been officially closed by the NEOC. Case files are not public records; therefore, the Freedom of Information Act does not apply. Case files will not be released to an individual who is not a party to the case. For attorneys, your name and the name of the party you represent should be indicated on the subpoena.

The properly completed subpoena must reflect the appropriate NEB case number, the name of the Complainant and the Respondent, and the court docket number. The subpoena must be sent to the attention of the Executive Director at the Lincoln office and received at least ten working days prior to the date the file is to be retrieved. A letter confirming the availability of the file will be sent. The party submitting the subpoena may pick up the file at one of the Commission's three offices within seven (7) working days unless other arrangements have been made. The party submitting the subpoena will be required to sign for the file. Counsel does not have the authority to make the case file available to another party while it is in their possession. If counsel is not located within the State of Nebraska, local counsel must be obtained or the Respondent may pick up the file. The NEOC does not ship case files outside the state.

The subpoena will be treated as a friendly subpoena, and a witness fee will not be accepted.

¹ A Final Determination is the step in the process when a determination letter is issued that closes the case. If the case has received a reasonable cause finding, the case is not closed at this point. The case will proceed to conciliation and is not available for review until after the conciliation process has concluded, and the case is closed or is referred to the public hearing process. Although the case is not officially closed when it enters the public hearing process, it is available for review at this stage. Please see the public hearing section for details on how to proceed at this point.

While the file is in your possession, you may make copies of anything in the file; however, the file must be returned to any NEOC office within ten (10) working days. Files must be returned in the same condition they were in when picked up. Files that are not returned in person must be sent using a method that allows for tracking. Failure to return the file within ten (10) working days may result in a motion to compel and a request for sanctions.

The case file can also be made available via secure ShareFile wherein the parties will receive the file via a secure e-mail and can download documents from the case file.

Public Hearing

When a case has been ordered to public hearing, you will be allowed to check the file out without a subpoena. A written request for the file must be made to the Executive Director in the Lincoln office.

The request must contain the appropriate NEB case number and case name. If you are an attorney for a party, please indicate which party you represent. It must be made at least ten (10) working days prior to the date the file is to be retrieved.

While the file is in your possession, you may make copies of anything in the file; however, the file must be returned to any NEOC office within ten (10) working days. Files must be returned in the same condition they were in when picked up. Files that are not returned in person must be sent using a method that allows for tracking. Failure to return the file within ten (10) working days may result in a motion to compel and a request for sanctions.

The case file can also be made available via secure ShareFile wherein the parties will receive the file via a secure e-mail and can download documents from the case file.

Copy of Recordings

If a recording is requested after a case is closed, the request must be made in writing to the Executive Director. Parties are entitled to copies of recordings in which they (or their client) participated in the interview.

The quality of recordings is not guaranteed.

You will have the option to have the digital recording e-mailed to you or placed on a compact disc. Currently there is no cost for this service.