

15. Does the FF take notes during the conference?

The FF takes informal, self-reminder notes of the statement, responses and/or documents, as she/he deems necessary. Remember that the FFC is not a formal hearing, which a stenographic transcript is required. It is a meeting for the purpose of gathering the facts and evidence about the issues of the complaint. In accordance with the LFUCHRC Regulation, these investigative notes are privileged and may not be given to either party.

16. May the Charging Party, Respondent or their attorneys ask questions of or cross-examine each other?

The FFC is one of the ways in which the LFUCHRC investigates a complaint. The FF is the investigator who controls the proceedings, asks the questions and probes the issues. If anyone else has a question that she/he wants asked at the FFC, then the question should be suggested to the FF who will ask the question provided she/he determines it is relevant and appropriate.

17. How much time does the FFC take?

A FFC may last from 30 minutes to two hours depending upon the complexity of the complaint and the cooperation of the two parties.

18. How can the two parties cooperate to make a more effective FFC?

The Charging Party and Respondent can do four things to expedite the conference and its purposes. The Charging Party and Respondent should:

- a. Provide LFUCHRC all written statements, witness testimony, information and documentation which spell out or support their respective position at least five days before the FFC.
- b. Not delay the FFC with postponements and rescheduling.
- c. Present candidly their own position and supportive evidence, and listen respectfully to the position and supportive evidence of the others at the FFC.
- d. Consider whether a settlement is possible. If

the parties are willing, settlement negotiations may be conducted at the FFC.

19. Will the investigation of the complaint end with the FFC?

When the parties are cooperative and have provided the information necessary to reach a finding, often the evidence gathered at the FFC is sufficient to make a determination. However, in those instances where there is not sufficient data and documents, the FF will outline those items which are necessary and inform each party of the additional information required. The investigation will continue until the LFUCHRC is able to recommend a finding.

20. If I have other questions about the FFC, from whom may I obtain the answers?

The FF, who will conduct the FFC, can provide any additional information that you may need about the FFC. His or her name, with an accompanying telephone number, is at the end of the Notice of the FFC that you will receive when the FFC is scheduled.



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**FACTS ABOUT
FACT—FINDING**



**LEXINGTON-FAYETTE URBAN COUNTY
HUMAN RIGHTS COMMISSION**

1. What is a Fact-Finding Conference?

A Fact-Finding Conference (FFC) is a face-to-face meeting of the Charging Party (the person who alleges the discrimination) and the Respondent (the person or company against whom the allegations are made) arranged and conducted by the LFUC Human Rights Commission (LFUCHRC), so both parties may present evidence in support of their positions on the complaint, and reply to the position of the other. Also, they may consider the possibility of a voluntary, negotiated settlement of the complaint.

2. What is the purpose of a FFC?

The FFC is an investigative tool designed to secure either a prompt investigation or an early settlement.

3. Is the FFC an Administrative Hearing?

No, the FFC is not an Administrative Hearing, nor is it a trial. Rather, it is an effective and direct way for the LFUCHRC to investigate and secure the facts about the complaint by getting the concerned parties around a conference table. The LFUCHRC is not required by law to hold a FFC, and in some cases, it will not do so. Neither party is compelled by law or regulations to attend a FFC; the charging party or respondent may opt for a regular investigation.



4. Is it better to have a FFC on a complaint?

We believe it is. The Charging Party, Respondent and LFUCHRC all benefit from the FFC. The FFC is held shortly after the complaint is served, when the two parties may be more willing to resolve the issue, and while the events surrounding the alleged discrimination can still be recalled with detail, and the witnesses and documents are readily available. The FFC makes it more likely the facts of the case will be secured promptly, clearly, and completely, or that a fair and early settlement of the complaint will be reached.

5. What happens if a FFC is not held?

Instead of the two parties meeting face-to-face for two or three hours and presenting their facts and evidence at a FFC table, the facts and evidence will have to be secured by separate contacts with the Charging Party and Respondent over a period of months. The two parties will be contacted by letter, phone, on-site reviews and interviews, as well as individual conferences in the LFUCHRC office. For both parties, this is more time consuming and a less cost-effective way of investigating the complaint.

6. What is the legal basis for investigating a complaint by means of a FFC?

LFUCHRC's Regulations, KRS 344.250 state: "The Commission may request access to premises, records, and documents relevant to the complaint and the right to examine, photograph, copy evidence and interview witnesses."

These tasks are precisely what are done at a FFC.

7. Who conducts the FFC?

A LFUCHRC staff investigator conducts the FFC. She/he is called the "Fact-Finder" (FF). The FF is not an advocate for either party, but is rather an impartial investigator who probes the issues to obtain information and documentation from the two parties regarding their respective positions.

8. When is the FFC held?

The FFC is held, whenever possible, within five or six weeks of the service of the complaint. The parties are notified of the exact date and time.

9. Where is the FFC held?

The FFC is usually held at the LFUCHRC office.

10. Who participates in the FFC?

The three major participants in the FFC are the LFUCHRC FF; the Charging Party; and the Respondent. Whoever represents the Respondent should have the authority to speak for and sign agreements binding the Respondent. The Charging Party may also designate a representative to attend.

11. May other persons participate in the FFC?

Yes. Witnesses who have direct knowledge about the incident or practices which are the issue of the complaint, or who have other relevant information may also participate in the FFC. Witnesses for both parties should only be present during their testimony.

12. May the Charging Party and Respondent be represented by legal counsel?

Either party may be represented by legal counsel at the FFC, provided the attorney has entered a "Notice of Appearance" statement. However, the attorneys strictly have an advisory role toward their clients and may not testify at the conference except to matters of which they have firsthand knowledge, nor may they ask direct questions of either party.

13. What happens if the Charging Party cannot afford an attorney?

It is not necessary for the Charging Party to have an attorney. Any Charging Party who is not represented by legal counsel is allowed to bring one person to the conference for advice and moral support. That other person strictly has an advisory role, and may only testify to matters of which she/he has firsthand knowledge. The FF is responsible for making sure each party—with or without an attorney—has fair and full opportunity to present their facts and evidence.

14. How does the FF secure the facts about the allegations?

The FF questions one party and then questions the other concerning the individual incidents or practices, which are alleged to be discriminatory. The Charging Party and Respondent are given alternate opportunities to respond and/or rebut the statements of the other, as well as present documents or testimony in support of their own position. The FF identifies further documentation necessary to resolve the complaint.

