



# **NAACP**

## **CIVIL RIGHTS REFERENCE MANUAL**

**GUIDE  
FOR  
BRANCH LEGAL REDRESS  
COMMITTEES**

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## **I. INTRODUCTION TO THE CIVIL RIGHTS MANUAL**

This NAACP Civil Rights Reference Manual is designed to provide a clear statement of the NAACP's legal program, policies and procedures. Units should use it as a guide when addressing legal related issues.

The principal goal of the Manual is to systematize the manner in which legal matters are resolved. It addresses most law related issues that may arise in the course of providing assistance. If your legal redress committee is unable to resolve an issue, please call the National Office for guidance.

**Primarily, the actions by a branch do not constitute action by the National office unless such has been expressly agreed to by the National office. The procedures set out in this Manual are instructive. No liability to third parties is implied for a branch's failure to follow any procedure set out herein.**

## **II. HISTORICAL OVERVIEW**

Since its inception in 1909, the NAACP has been steadfast in the belief that racial segregation and discrimination limit and diminish human potential, ultimately denying the full benefits of freedom to African Americans. Thus, the NAACP has been at the forefront of legal struggles to secure full civil rights for African-Americans and others.

Today, the struggle continues and the NAACP must remain vigilant. Racism has changed its face, having often become more subtle and sophisticated, but it is as pervasive and invidious as in the past.

Historically, it has been the crucial support from volunteers that has enabled the NAACP to remain the oldest, largest, most powerful, most feared and most effective civil rights organization in the world. Tens of thousands of African Americans and their allies have worked tirelessly and relentlessly through the NAACP's branch network. These activities have most assisted the NAACP's legal architects in winning victories; they are the true heroes of the many NAACP battles.

Now more than ever the NAACP must continue to be able to rely upon a strong cadre of loyalists to staff the front lines on the last battlefield.

### **III. ACTION BY NAACP UNITS**

NAACP units should be proactive in establishing their legal priorities. Each NAACP unit should annually plan an agenda of legal goals and then focus its energies on accomplishing the prescribed goals. Unless a unit has a clear plan for its legal program, the unit will constantly find itself in a reactionary mode, besieged with hundreds of varied complaints at any given time, trying to accommodate requests for NAACP intervention. Units must avoid the "tail wagging the dog" syndrome.

Setting a legal agenda (such as testing for housing discrimination, challenging legislative redistricting, or targeting inferior schools) will enhance the probability that a unit will tie into existing National office legal programs. Some concerns that fall outside the unit's legal agenda will certainly occur and will require attention. A well formulated and coordinated legal agenda will also produce better prepared volunteers. A unit can, through better planning, best integrate community empowering initiatives (such as direct action) with litigation activities, such methods complementing the other. For example, a unit in deciding to concentrate on improving the local educational system might stage demonstrations at the school board's headquarters (approval to conduct such demonstrations must be approved in advance by the General Counsel). Having failed to respond favorably, the board might be served with a lawsuit under the legal department's ongoing education litigation program.

All NAACP work that potentially involves legal or administrative complaints or litigation should be processed through the unit's Legal Redress Committee which should work in tandem with the state conference, Regional Directors and the National Office.

## **LEGISLATION AND LOBBYING**

The Washington Bureau is the legislative arm of the NAACP, translating the Association's policies and resolutions into a legislative program. The Bureau monitors Congress, the White House, the Courts and governmental agencies. Working with Congress, the Bureau seeks to influence legislation - improving it or blocking it - and to win support for initiatives that protect the rights of African-Americans.

The NAACP is well known and respected on Capitol Hill. Those successes must be repeated in the state capitals of our respective units. City, county and state legislatures must come to realize that the NAACP is a powerful voice not only in Washington but in every jurisdiction where laws are passed.

Historically, the NAACP has dedicated itself to bringing about change through well directed legislative efforts. It must maintain, if not accelerate, this task by continuing to be the nation's foremost civil rights watchdog. Each NAACP unit must also increase its commitment of resources and rededicate its efforts to working with the system at the local level, the state, county, and city legislature and the local school board. Civil rights legislation remains a crucial NAACP objective at the local as well as federal level.

As 501(c)(4) entities, NAACP units are not restricted in their ability to engage in lobbying.

As the federal government continues the trend of decentralization, restoring more power to the states and local jurisdictions, the NAACP must respond by monitoring and challenging the laws that result. Furthermore, we must be creative in developing good legislation where there is none based on sound principles of law.

Effective lobbying is a recognized and generally respected legislative tool. Without lobbying, the Civil Rights Act, Voting Rights Act, and Fair Housing Act never would have become law. Lobbying has also strengthened and extended these statutes.

The Washington Bureau serves as the first point of contact for any NAACP unit wishing to promote either federal or local legislation.

The Washington Bureau is located at:

**NAACP Washington Bureau**  
1025 Vermont Avenue, N.W., Suite 730  
Washington, D.C. 20005  
(202) 638-2269/(202) 638-5936 fax



The Washington Bureau depends upon the strong support of NAACP local units to keep timely pressure on their Representatives to promote and protect the interests of African Americans.

Caveat: The NAACP and its units are non-partisan entities that does not endorse candidates for public office.

**The following lobbying methods are suggested for NAACP unit implementation:**

1. Each unit must have a standing Political Action Committee. If possible, one of the members should be a lawyer.

2. The Committee should report to the unit monthly, during the legislative session, on all bills that effect civil rights. It should keep a running tally, listing each bill's number and name, the lead sponsor, which committee has jurisdiction over it, when hearings are scheduled, when the bill will be marked up, and what its chances are for passage. In most states, a daily or a weekly list of bills and their status is available on a subscription basis from the legislative clerk.

3. The Committee may identify a problem it thinks can be solved through legislation. The Committee should first check with the National Office to determine whether the Association has adopted a policy on the issue. The National Office may know which other NAACP units already have grappled with the issue on a legislative level. If another unit in another state has already succeeded in persuading its legislature to enact a bill, you can learn and benefit from its experience. Perhaps you can borrow the language it used in its bill.

4. Set up an appointment with a sympathetic elected official. Often this will be the Chairperson of the Legislative Black Caucus. Confirm the appointment in writing. Do your homework. Marshall the facts. Find out in advance where the legislator stands and how he has voted on previous issues in this area.

5. If you are able to get a statement from the legislator in support of your position or objectives, publicize it. This is good publicity for the NAACP and serves as a reminder to the legislator of what he promised.

6. Seek support from other sympathetic organizations. On the national level, the NAACP plays a key role in the Leadership Conference for Civil Rights. The Conference includes more than 185 organizations that are in agreement with the Association on most issues. Many of these organizations have local affiliates that you should consider contacting and involving in local campaigns to secure passage of the legislation.

7. Prepare a position paper. This document succinctly outlines your goals and lays out the research you have done on the issue. Do this whether you are seeking new legislation or wish

to challenge proposed legislation.

**8.** Meet with the media. Provide local reporters with background information they can use as they cover an issue. You can provide this information through a press conference or a press release. You can also meet with a paper's editorial board, or phone a reporter who covers the legislature or social issues.

**9.** Draft legislation if new legislation is what you are seeking. This is a technical exercise. Therefore, you should obtain help from the Washington Bureau or from other NAACP members who have legislative experience. This draft, along with the position paper, gives the lawmaker a firm foundation for analysis.

**10.** Provide a list of witnesses who are available to testify during the committee hearings. This lets your legislator know that there are experts or influential people supporting your position.

**11.** The NAACP unit President should testify. Political Action Committee members should help others prepare their testimony. Consult legislative staffers on the technical requirements for submitting testimony for the record. The written testimony is suitable for use as a handout after the witness uses it. Good testimony includes the following:

- \* A lead sentence that states the name and capacity of the person presenting the testimony and whether the NAACP supports or does not support the bill.
- \* An indication of how many members you have or for whom you're speaking.
- \* A statement of the interest of the NAACP and the African American community about the issue.
- \* Statistics and other evidence of the problem to be addressed by the bill, and the reasons the bill is the best way to address the problem.
- \* "Anecdotal evidence/storytelling." This is the most powerful part of your testimony. Such evidence includes examples of how the problem has affected people's lives. You can point out how similar legislation elsewhere has helped people. This has good media appeal. The testimony then serves as a vehicle to make the legislation make sense to legislators not informed on the subject matter.
- \* Send copies of your testimony and the proposed or opposed legislation to the Washington Bureau.

**12.** Conduct a letter writing campaign. This strategy, when organized properly, enhances your profile before the legislator. The legislator will realize that you are backed by the NAACP's large and broad constituency, hardly an isolated voice.

**13.** Hold a "Legislative Mobilization." A Legislative Mobilization is a series of organized visits to the legislature. Working in teams, several NAACP members should visit each legislator's office to explain the NAACP's position on civil rights issues. NAACP members can answer questions and seek support. The Washington Bureau conducts a national Legislative Mobilization each spring; it provides an excellent model for state and local mobilizations.

**14.** Follow up! Check regularly on the status of each bill. Be prepared to return for an additional status check by lobbying members who represent "swing votes." These are the members whose votes you need for passage.

NAACP units should stay abreast of all related legislation in their respective jurisdictions and should maintain relations with local lawmakers so that civil rights issues receive priority. It is imperative that the NAACP units become an integral player in the local legislative process.

**Please take note that the President/CEO's Office and the Washington Bureau are the proper offices to explain the NAACP's position on legislative issues of national importance. If you are uncertain, please do not hesitate to call and ask for guidance and assistance.**

### **WASHINGTON BUREAU LEGISLATIVE CONFERENCE**

Each year, the Washington Bureau conducts a 2-day legislative conference in Washington, D.C. to provide an opportunity for voters to lobby their Congressperson and strengthen the NAACP's network in order to maximize a quick response on issues of grave concern to the African American community. Participants attend briefings, by members of Congress and legislative advocates, on the NAACP's legislative agenda. The Bureau provides a "kit" to each participant that includes "Backgrounders" and "Talking Points" on the Association's legislative program. This information is excellent reference material in lobbying members of Congress during their home visits as well. In addition, throughout the year Legislative Updates are available from the Washington Bureau on the Association's legislative program.

### **HOW TO MONITOR THE IMPLEMENTATION OF LAWS**

The legislation that you supported has finally passed the U.S. Congress, your state law

making body or your city council and now has been signed by the Chief Executive. What's next?

### **HOW TO IDENTIFY LEGISLATION**

Your bill has been given a number and name. Here is an example from the U.S. Congress, with similar systems probably used by states and local governments: "**Public Law 102-25**, Benefits for Persian Gulf War Troops." This number designates the bill as having been passed by the 102nd Congress and the 25th Act signed by the President.

### **HOW TO SECURE COPIES OF THE LEGISLATION**

You may secure copies of legislation of interest from (in descending order of efficiency):

1. Call or write your representative on the legislative making body. Indicate that you are a constituent. Be sure to identify the legislation by number, name or issue. If you lobbied for the legislation, this is your opportunity to thank your representative for his or her support.

2. If you know the sponsors of the legislation, call or write that person even if you are not a constituent. Sponsors are usually pleased that you are interested in legislation they have sponsored.

3. Order copies from the Superintendent of Documents, U.S. Government Printing Office. You must identify a similar office for your state and local government. For small cities, find out where such documents are available for public viewing or copying. Some local governments do not have the resources to provide copies but you may be able to pay fees to obtain copies.

### **REGULATIONS**

Some agencies use delaying tactics when it suits their purposes. Should an agency delay regulations, which are of interest to you, contact your representative, the legislative sponsor and the agency by telephone or letter indicating your concern over the delay. Request that the implementing agency begin the regulatory process at the lowest level provided by the Administrative Procedures Act (APA) of 1946 or other governing statutes or regulations at the state or local level. Ask for public hearings. Request at least that a notice of intent to publish rules be issued. Insist that the APA be followed to the letter. The APA for federal agencies sets forth the steps that must be followed. Again, contact the appropriate legislative official who will in turn put pressure on the agency. Agencies are very responsive to "elected officials" since they depend on Congress for their appropriations.

### **PROGRAM RULES**

Now that you have the agency moving at the speed you desire, look next at how you can

influence the development of the specific program being implemented.

Case I. The legislation was very specific and you are pleased with the provisions, so you want the legislation implemented immediately. You should ask for Final rules for implementing technical amendments. Since the APA requires a Notice of Proposed Rulemaking, you will have to justify the request. If you don't have strong justification, then you should request Interim-Final rules. These rules have the force of law when published in the Federal Register, in the case of the Federal Government. However, these regulations provide for a comment period which allows for additional modification before publication in final form. You must identify your state and local regulations' publications.

Case II. You want to go through the entire rulemaking process. You may want either public hearings held or to meet with rule makers. In either case, your interest would be best served by working through the NAACP as a group. For example, the U.S. Department of Education and the Social Security Administration of the U.S. Department of Health and Human Services usually announce, in the **Federal Register**, that hearings will be held across the country (major cities within the 10 federal regions), because their regulations often affect a significant part of the population. Plan to testify at these hearings. Let the regulators know how you want to see the program implemented or changed. Again, organizations seem to carry more weight.

## **EXECUTIVE ORDERS**

### **A. FEDERAL**

An executive order is a regulation having the force of law issued by the President to the military and/or executive departments and other agencies of the government. Federal law requires that all presidential proclamations and executive orders be published in the "Federal Register" to become effective.

Unlike regulations, there is no comment period to modify or change executive orders. They are effective immediately when published. Therefore, you are encouraged to lobby the President prior to the issuance of the proclamation or executive order to effectively participate in the content and substance of them.

Proclamations and executive orders generally relate to the policies of the president. For example, a proclamation could declare that a specific day should be celebrated in honor of a person or event. Examples of executive orders are those that declare President's policies against discrimination in government. The proclamations and orders are usually national in scope.

### **B. STATE AND LOCAL**

Similar procedures are used on the state and local level by governors, mayors and chief executives of other jurisdictions. Their proclamations and executive orders must also be published to be effective. You should become aware of the local political process through active participation.

## **SUMMARY**

All NAACP units should have an active political action committee which focuses not only on nonpartisan political issues but is an active participant and monitor of the legislative process as well.

## **POLITICAL EMPOWERMENT**

### **VOTER EDUCATION AND REGISTRATION**

African American political empowerment is a primary NAACP objective. The right to vote is guaranteed by the 15th Amendment and further secured by the 1965 Voting Rights Act. Today, NAACP political action programs protect and enhance African American political representation and engender our full participation in the political process at all levels of government.

The Voter Education Department is responsible for directing the NAACP's voter education and political action programs, including assisting all units organizing voter education, voter registration and get-out-the-vote programs.

The Voter Education Department also works in conjunction with the Legal Department to monitor reapportionment and redistricting deliberations in the United States.

However, it is critical that units not rely only on litigation to empower African American voters. Voter registration cannot be more critical to our mission. Furthermore, during election campaigns, NAACP units can act as nonpartisan, good-government organizations, polling candidates on their positions on civil rights issues and publishing the results in the newspapers and broadcast media.

## **I. VOTER EDUCATION**

The goal of NAACP voter education programs is to heighten awareness of substantive issues of concern to African Americans including the importance of participating in the electoral process.

NAACP units should sponsor candidate forums, town meetings and voter education workshops. In addition, NAACP units should distribute flyers, posters and pamphlets designed to increase awareness about the importance of voter participation.

Voter education programs use techniques such as: compiling and publicizing voting records of legislators; polling legislators regarding their position on civil rights issues and publicizing such positions; presenting candidates for public office in public forums for community assessment, and taking a public stand on civil rights issues and instructing the community.

## **II. VOTER REGISTRATION**

Every NAACP unit should have an annual voter registration campaign.

The goal of a voter registration campaign is to increase the number of African American registered voters. In order to organize an effective nonpartisan voter education drive, units should coordinate voter registration activities with labor unions, churches and other nonpartisan organizations. Television, radio and print media will publicize the importance of registering to vote and will often make available free public service announcements (PSA's).

A Voter Registration Committee is the heart of a successful voter registration campaign. It is most effective when composed of ten to fifteen hard working members -- community leaders, business and financial people, ministers, media personnel, elected officials, youth, students and senior citizens. When it is broadly representative, it will be perceived by public officials as a helpful group for increasing voter registration and turnout.

The Committee should remain flexible and non-bureaucratic without sacrificing cohesiveness, efficiency and effectiveness. To accomplish this, it must remain nonpartisan and focus on the single issue of increasing African American participation in the political process. Other issues must be handled by other unit committees.

Ideally, the Committee should have at least one full-time employee, to manage the voter registration campaign on a day-to-day basis. To identify such a person, the Committee should consider (1) persons who can take social service leave from area corporations; (2) volunteers able to work for a nominal salary; or (3) college interns.

The Committee should conduct research and planning as well as collect materials on: voter registration and turnout in past elections; current registration figures and lists of registered voters; absentee ballot procedures; registration deadlines; locations of polling places; and evaluations of past voter participation campaigns.

## **III. GET-OUT-THE-VOTE COMPONENT**

The goal of an NAACP get-out-the-vote campaign is to insure maximum black voter participation at the polls on election day. Units should coordinate get-out-the-vote campaigns and complete the following tasks: recruit volunteers to staff phone banks; conduct door-to-door

canvassing; sponsor get-out-the-vote rallies; organize van/car pools; broadcast public service announcements; target African American and other minority citizens who were recently registered to vote; and target African American communities with a history of a low voter turnout.

#### **IV. POLITICAL ACTIVITY BY NAACP OFFICERS AND MEMBERS**

The NAACP is a nonpartisan organization and does not endorse candidates for political office. However, an NAACP unit may take a position on substantive ballot issues, such as referenda.

Unit officers and members should not allow the NAACP name to be linked with specific candidates for political office. This prohibition does not mean that NAACP members or officers may not seek elective or appointive political office. Unit officers who run for political positions must make it clear that they are doing so as citizens and not as official representatives of the NAACP. NAACP unit officers who, in the course of their activity as citizens, acquire partisan identification should make it plain that they are acting in their private, and not their NAACP capacities.

#### **PROPOSED RULES FOR IMPLEMENTING THE NAACP 1968 POLICY ENTITLED "PUBLIC OFFICEHOLDING" AND THE 1966 NAACP POLICIES ON POLITICAL ACTION**

##### **PUBLIC OFFICE AND NAACP OFFICERS**

1. Any unit officer or committee chairperson who qualifies to run for public office shall relinquish such office or chair temporarily during the period of such candidacy.
2. Any unit officer or committee chairperson who is elected to office shall immediately tender a resignation from such unit office or chair to the governing board of the unit which shall, at its next regularly scheduled meeting, vote to accept or reject the same. Should the board vote to reject the resignation, the officer or committee chairperson tendering the same shall make a conscientious examination of the situation and determine whether continued service will be substantially free of conflict and in the best interest of the NAACP. Should the answer to the question be in the affirmative the officer may continue to serve. The officer or chair shall continue to evaluate the situation with respect to conflicts and the potential for conflict and resign should conditions change. Any officer continuing to serve after substantial conflict of the potential for substantial conflict has been manifested is subject to removal through the Article X Procedure.
3. Any unit officer or committee chairperson who is appointed to elective public



office to fill a vacancy or otherwise or to appointive public office in which the officer or committee chair is expected to take public positions on issues on behalf of a governmental subdivision or agency or an elected official shall follow the procedure set forth in number two above.

## **ECONOMIC DEVELOPMENT AND FAIR SHARE PROGRAMS**

In December 1981, the NAACP Board of Directors embarked upon a program strategy that focused on the private sector as a foundation for economic advancement for African Americans. The principal objective of this approach was to promote the growth of entrepreneurship among African Americans, and to promote employment opportunities with private sector companies, thereby empowering African Americans to fully participate in this country's capitalistic system. A by-product of this approach is the NAACP's Operation Fair Share Program.

Extensive materials, on establishing and operating a Fair Share Program area, are available from:

**NAACP Program Department**  
4805 Mt. Hope Drive  
Baltimore, MD 21215  
(410) 486-9149

This section summarizes the structure of NAACP economic development activity.

*\* See Appendix for Model and Forms.*

### **Private Sector Contracts: Operation Fair Share Program**

Operation Fair Share seeks to renegotiate Black America's relationship with Corporate America, and to insure that a fair share of the dollars spent by African American consumers is reinvested into their communities in the form of jobs and business opportunities.

In purpose and design, the Operation Fair Share Program seeks to achieve specific objectives as follows:

- \* Establishment of minority vendor programs for purchases of goods and services, including utilization of African American contractors, professionals, and financial and insurance institutions;

- \* Establishment of aggressive affirmative action programs and opportunities for the advancement of African Americans into senior management positions;
- \* Representation of African Americans on corporate boards of directors.

## **Methodology**

The methodology of the Operation Fair Share Program is to negotiate voluntary, written agreements with major corporations to identify goals within each of the fair share objectives listed above.

The activities of the program consist of three essential components:

1. Research and selection of potential target companies;
2. Negotiations: Setting goals and signing a formal agreement;
3. Compliance: Establishing monitoring procedures to insure implementation of the agreement and to measure progress;

Factors that motivate corporations to enter into Fair Share agreements vary. Some companies are moved by a sense of corporate social responsibility and fairness, others by a desire to increase their market share with African American consumers, and still others by fear of reprisal such as withdrawal of economic support for their products.

Operation Fair Share has both a local and national component. NAACP units and state conferences should focus their efforts on local or regional companies -- those firms with a regional, state, or local market for their products -- The efforts of the National office's Economic Development Program are directed at firms with a national market.

Fair Share guidelines for NAACP units have been developed by Economic Development Program staff to aid units in carrying out the program. Training and technical assistance also is provided to support NAACP units in their Fair Share efforts.

Details on how to establish a Fair Share Agreement are included in the Appendix.

## **Accomplishments**

In its first twelve years of operation, the Operation Fair Share Program was responsible for more than 50 agreements with major corporations.

Translated into potential economic benefits for African Americans, over the succeeding five years, these agreements could mean \$2 billion in procurement contracts to African Americans companies; \$250 million in banks; \$125 million in advertising with African American owned media; and \$500 million in insurance coverage through African American professionals. The Program projects an average increase of 12 percent in the number of African American employees working for these companies.

### **MEDIA RELATIONS**

In certain instances, media exposure is essential to an effective NAACP strategy. Units should usually inform the public about the injustices illustrated by a case. This educates the public about the persistence and reality of discrimination and underscores the legal rights of victims. It also serves as a caution to others not to engage in discrimination.

Public relations is the planned use of actions and communications to build awareness, shape public opinion and influence the attitudes and behavior of important policy and decision makers. Effective public relations is a planned commitment to present a specific image. In addition to individual case efforts in media exposure, units should have an ongoing public relations program. This program should be designed to increase public recognition for the NAACP; gain media coverage; build support for the NAACP; and establish stronger links with the community and other organizations.

Before making public statements in an individual case, be sure the complainants feel comfortable with and agree to possible publicity. The complainants may fear retaliation (even though it is illegal), or they may wish to avoid public attention. Always abide by the complainants' wishes.

If you decide to inform the public about a case, here are some of the means you can use:

#### **1. Speakers**

Send NAACP speakers to churches, civic organizations, fraternal organizations, labor unions, and to meetings of interested organizations to acquaint such groups with the facts of the case and to obtain their support and cooperation.

#### **2. Leaflets**

Prepare short, accurate leaflets for distribution setting forth clearly and concisely the facts in the case. Maintain high production standards such as clean strong copy and strong graphic design. Clear such documents in advance with legal counsel to be sure nothing contained in these documents could expose the unit to liability. Also, check with the General Counsel for guidance.

### 3. Press, Radio and Television

Meetings with the local press should take place as often as possible so that the press may have the facts and the views of the NAACP. Make every effort to attract coverage in leading magazines and newspapers. To receive assistance with publicity, contact the NAACP Director of Communications in the National Office. The phone number is (410) 358-8900.

Press coverage has often galvanized widespread support for a case or public issue. Without the media, much of the political and social change that came about through boycotts, sit-ins and other formal protests would have taken years - if not decades - of protest. Yet, the media too often provide inaccurate, incomplete or biased coverage of African Americans. All NAACP units must learn how the media works and learn how to get better media coverage of NAACP activities.

Here are ten key points:

1. In dealing with the media, the single most important concept to remember is that it is a time-sensitive business. **Be aware of deadlines.** At some point, news gathering stops and the story must be aired or must be printed.

2. The placement of a story is as important as the tone or emphasis of the story. Placement is a function of the way the media perceives civil rights' importance on the agenda of public issues. By exercising this "agenda setting" function, the media largely determines what issues the public is supposed to perceive as critical and what issues the public is supposed to ignore. All units should have a standing Press and Publicity Committee to work with media and news decision-makers to help them understand the importance of keeping civil rights issues on the forefront of the public agenda.

3. Sometimes reporters or editors will make a decision not to use a civil rights story often because of deadlines, and will substitute another story in its place. This happens often to civil rights news because reporters -- even non-racist reporters with the best of intentions -- may simply lack the education, experience or knowledge of the issues to write a coherent and complete civil rights story. You must bear this in mind and be sure you take the initiative to educate and sensitize reporters covering NAACP activities.

4. A highly professional approach gets results. You should have: a professional typewriter, computer or word processor; a letter quality printer; clean professional stationery and envelopes approved by the National Office; a fax machine, telephone answering machine or answering service; mailing and telephone lists, including the names of key media contacts such as newspaper city editors and broadcast assignment editors; handouts on the NAACP/unit and its President; and written background material on issues and events.

5. A press release generally should be no longer than one neat, attractive page. Use short sentences and paragraphs. It should concisely present the information regarding your news event or news maker. It should usually focus on upcoming events, not what has already taken place. The press release should use everyday words, making the main points prominently and boldly through fact statements and quotations from your President. All of the crucial elements should be there: **Who, What, Where, Why, When and How**. Include a contact person's name and phone number (a.m. and p.m. availability) at the top of the release.

**NOTE: Please fax copies of all press releases to the Director of Communications. He or she will frequently receive calls about unit activities. He/she will be more prepared to handle these calls if he is aware of what you are doing in advance. The fax number is (410)764-7357.**

6. Have only two media contact persons: the President (or, in her absence, the First Vice President) and the Chairperson of the Press and Publicity Committee. Other NAACP members, particularly committee chairpersons, may give the press background information about issues in their field of specialization, but they are not to speak for the NAACP units. This is to avoid chaos.

7. As an alternative to a press conference, consider scheduling a "news availability." This means that your spokesperson(s) will be available during specified hours to discuss an issue or document with the press in sequential interviews. Another creative approach: hold a press tour when the issue has a physical manifestation that will produce dramatic visual images. Examples: a toxic waste dump; slum housing; dirt roads; an all-white business or public agency. Or use it to tell a positive story, such as the regeneration of a destroyed neighborhood or the successful integration of a neighborhood or school. A press tour is especially useful before a demonstration or the filing of a law suit, to prepare the media for the next day's story in context.

8. The black press is your first line of defense against racism. It's been around even longer than the NAACP. Without the black press, the black community would have only a filtered and distorted view of the NAACP. Don't ever feel that some stories are "too good" or "too important" for the black press.

9. To do a good news interview:

- \* Do your homework. Don't reply to questions unless your answers are well thought out and verifiable. If you don't know the answer to a question, offer to find out and provide it as soon as possible. Then do it.
- \* Give answers in terms that the public will understand and be able to relate to. Give quotable quotes. Tell stories and provide statistics and anecdotes.
- \* Don't argue or get angry with the reporter. Speak in positive terms without emotion or character assassination.

- \* Don't slander anyone.
- \* Explain that you are trying to be fair with your adversary.
- \* Avoid the temptation to unnecessarily attack other organizations or individuals.
- \* Don't attack individuals. Attack institutions.
- \* Remember that certain things shouldn't be dignified with a comment, but other things cannot be allowed to stand without being challenged. Do not dignify every countercharge by our opponents. Countercharges distract attention from our issues. Stick to your issue.

10. Until acts are proven in a court of law to be discriminatory, they are **alleged** to be discriminatory. Never say "Josephine Jones was not rented the apartment because the rental manager said "we don't rent to black people." Say "Our complaint with HUD alleges that Josephine Jones was not rented the apartment because the rental manager said "we don't rent to black people." As long as the legal complaint or lawsuit was filed in good faith, the NAACP's actions will usually be immune from liability. Likewise, truthfully report what the lawsuit alleges. The First Amendment and other protections will usually safeguard you and the NAACP.

Finally, always remember that any public statements must assume the high moral tone and commitment to fairness which is a hallmark of the NAACP. We do not engage in litigation to punish people or companies: we do it to redress wrongs, to make victims whole, to educate the public, and to move toward a discrimination-free society.

Publicity is crucial to advancing the mission of the NAACP. Sophisticated use of the media is a skill all NAACP units must strive to obtain.

### **BOYCOTTS, DEMONSTRATIONS, PICKETS AND RALLIES**

Written approval from General Counsel must be obtained before you lead, participate in, or endorse a boycott, demonstration, picket, rally or coalition.

A boycott is a campaign designed to withhold patronization of a business, service or establishment until the business meets the boycott's demands. Well organized boycotts can be effective tools in pursuing civil rights goals. A boycott is a last resort tactic, to be used where more negotiations, political action, rallies or demonstrations have failed. A demonstration may be a march rally, sit-in or a picket. Careful research and a well-planned publicity campaign are essential to a credible, effective boycott, demonstration or picket.

Bear in mind that a boycott is intended first to educate the public, and only second to deprive discriminators of the economic fruits of African American patronage. If your activity maintains an educative and informative tone, and if it is designed to impress upon the public that they can and should use their dollars to assure fair play in the marketplace, then the boycott will be a long range success even if it fails to gain all of its immediate objectives. Moreover, a boycott that is seen as an educative initiative is very unlikely to result in a lawsuit. Even the targets of such a boycott will respect us for the way we carried the boycott out.

You have a constitutional right to boycott, picket or demonstrate against establishments that discriminate. If you lead or participate in a boycott, demonstration, picket or rally and it doesn't turn violent, your activity generally is constitutionally protected.

However, in some states, secondary boycotts may be unlawful. A secondary boycott occurs when concerted, coercive pressure is directed toward customers, to cause them to withhold or withdraw their patronage from the establishment. You must check your state's statute.

**The following procedures apply to boycotts, demonstrations and pickets:**

**1.** The unit must obtain a sworn statement of facts from a complainant. This statement shall contain all pertinent facts including dates, and the nature of the problem. If there is no complainant, i.e., the unit generated the investigation on its own, then an NAACP unit resolution reflecting the facts should be duly passed.

**2.** The unit, through its legal redress committee, should undertake a thorough investigation of all the facts surrounding the complaint. The unit investigation should reveal each version of the facts as alleged by the complainant and the target of her complaint.

**3.** The unit must obtain any and all required permits. All city ordinances and state statutes for the protest must be complied with.

**4.** The demonstration protest must be of a nonviolent nature, and any and all signs, if signs are permitted, must carry nonviolent messages. Signs should not call for the termination of an employee. The unit should seek an open investigation of the occurrence, demand that disciplinary action commensurate with the seriousness of the offense be imposed, and request that training reforms be implemented to prevent future recurrences.

**5.** The NAACP must have complete charge and control of the demonstration/protest strategy. In other words, the unit should refrain from joining other coalitions unless the NAACP is in a position to direct all activities under the supervision of the NAACP.

6. If possible, all demonstration participants should sign a waiver of liability and receive a disclaimer form.

7. The unit must ensure that there is adequate security so that protestors/demonstrators are free from harassment.

Once you have responded in writing addressing each of the aforesaid, the General Counsel may issue authorization to proceed. You must request such permission in writing from the General Counsel.

### **HOW TO ORGANIZE A BOYCOTT, DEMONSTRATION, PICKET, OR RALLY**

#### **DO'S:**

1. Each unit must pass a resolution approving involvement in the boycott, demonstration, picket or rally.
2. Notify the State Conference President. Notify your Regional Director. Request permission and obtain approval from the Office of the General Counsel before using the name of the Association in conducting a boycott, demonstration or picket.
3. Provide station/store watchers, pickets, and legal observers (such as lawyers, law students or paralegals) at boycott sites.
4. Encourage people to join the common cause through public speeches and private solicitations.
5. Provide transportation to alternative businesses providing comparable products, foods and services.
6. Provide literature that thoroughly explains why the boycott was called.
7. Educate the participants on the laws of the jurisdiction.
8. Make sure that you have proper security, necessary permits and sufficient insurance if required.
9. Obey orders from law enforcement officials, even if the order is clearly unlawful. Report the matter to the NAACP Legal Department. The matter can be resolved later through a lawsuit or restraining order.



### **DON'TS:**

1. Don't engage in unauthorized boycotts, demonstrations, pickets or rallies using the NAACP's name.
2. Don't use defamatory, demeaning, threatening or obscene language to or about any person.
3. Don't engage in, or be seen as threatening, physical force or violence against customers, prospective customers or proprietors.
4. Don't intimidate, threaten, ostracize or degrade those who may cross the picket line.
5. Don't agree with anyone to use force against any person or property.
6. Don't organize a boycott, demonstration, picket or rally to advance private economic interests.
7. Don't authorize, ratify, or even discuss illegal conduct at meetings or anywhere else.
8. Don't make speeches likely to instigate lawless action.
9. Don't take part in coalitions unless prior approval from the National Office has been obtained.

### **CIVIL DISTURBANCES**

Civil disturbances are violent protests which lack constitutional protection. On the other hand, civil disobedience is nonviolent and rests on the central tenet that members are willing to protest unjust laws and accept the punishment, including jail.

The NAACP does not condone civil disturbances and advises all units that they should not become engaged in such activity. A hallmark of the NAACP has been its effectiveness in using peaceful or civil remedies to right wrongs.

In the event that a peaceful protest turns violent, the following steps should be taken:

1. Immediately notify the Regional Director and seek guidance and support;

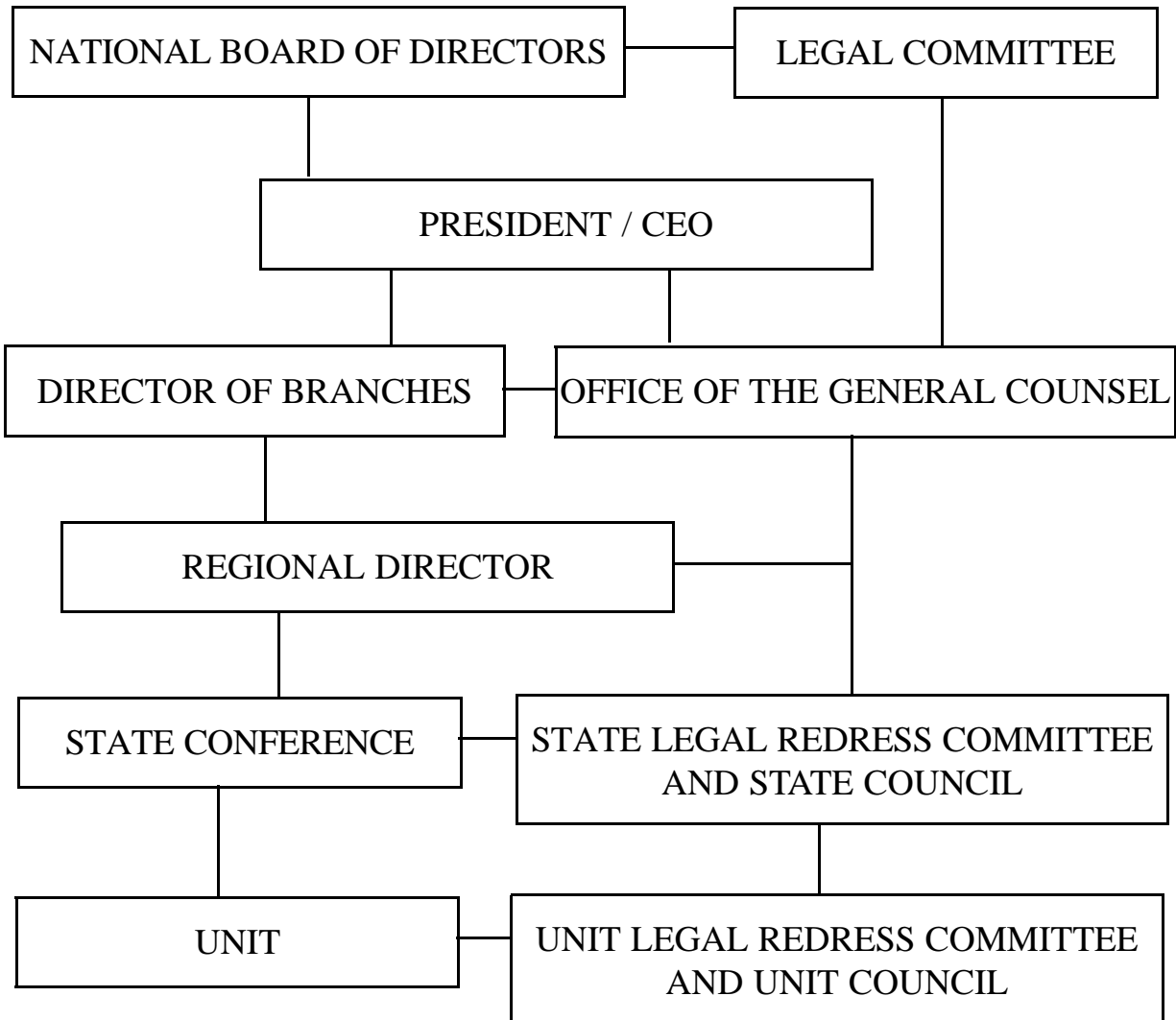
2. Provide safe assistance to prevent the loss of life and property;
3. Provide solace, consolation and support to any victims and members of their families;
4. Immediately assist in obtaining legal representation;
5. Publicly issue condemnations of any violations of law, whether committed by police or by citizens.
6. Provide information viable, nonviolent protest alternatives for the community.
7. Obey the orders of law enforcement personnel.

### **III. PROCESSING LEGAL ISSUES AND COMPLAINTS**

#### **NAACP LEGAL STRUCTURE**

Here is the organizational structure for NAACP legal programs. Please note that written requests for Legal Department intervention generally work up the chain. Ideally, a request should go through several stages of review before it is presented to the General Counsel.

**The basic structure is as follows:**



## **NATIONAL LEGAL COMMITTEE**

The National Board of Directors annually appoints a National Legal Committee. The members of this National Legal Committee consult with and advise the General Counsel as well as report to the National Board concerning legal programmatic issues. Those selected to serve on the National Legal Committee have a demonstrated expertise in civil rights law.

## **OFFICE OF THE GENERAL COUNSEL - NATIONAL LEGAL STAFF**

The General Counsel heads the National Legal Department and provides legal counsel to protect the NAACP and advance its legal agenda. The General Counsel is the only person within the NAACP who is identified by such title. The General Counsel supervises the Assistant General Counsels who assist him/her in maintaining the legal program of the NAACP.

Each lawyer on the National legal staff has general responsibility for an NAACP region. You should acquaint yourself with the staff lawyer assigned to your region and use him or her as your liaison to the General Counsel. However, the legal staff is available to also service other units of the NAACP whenever appropriate legal matters are referred to them.

The National Legal Staff is based at the National Office in Baltimore. The telephone number is (410) 486-9180.

## **OFFICE OF REGIONAL DIRECTORS**

**NAACP REGIONS I & IV  
4929 Wilshire Blvd. Suite 360  
Los Angeles, California 90010  
(213) 931-6331**

Region I covers Alaska, Arizona, Utah, California, Hawaii, Washington, Nevada, Idaho and Oregon. Region VI covers Louisiana, Oklahoma, Texas, New Mexico and Arkansas.

**NAACP REGION V  
970 Martin Luther King Drive, SW  
Atlanta, Georgia 30318  
(404) 688-6506**

Region V covers Mississippi, North Carolina, South Carolina, Tennessee, Alabama, Florida and Georgia.

**NAACP REGIONS II & VII**  
**39 Broadway**  
**New York, New York 10006**  
**(212) 344-7474**

Region II covers Pennsylvania, Vermont, New Jersey, Connecticut, Massachusetts, Maine, New Hampshire, New York, Rhode Island, Delaware and Germany. Region VII covers District of Columbia, Virginia and Maryland.

**NAACP REGIONS III & IV**  
**17 Ford Street**  
**Highland Park, Michigan 48203**  
**(313) 869-3333**

Region III covers Illinois, Indiana, Ohio, West Virginia, Michigan, Kentucky and Wisconsin. Region IV covers Colorado, North Dakota, South Dakota, Nebraska, Missouri, Minnesota, Iowa, Kansas, Wyoming and Montana.

**STATE CONFERENCE LEGAL REDRESS COMMITTEE**

Each state conference should have legal redress committee consisting of persons knowledgeable about civil rights issues. The state conference should select a chairperson, preferably "Conference Counsel," to head this committee.

**STATE CONFERENCE COUNSEL**

Each state conference is encouraged to appoint legal counsel to assist with legal concerns as directed by the legal redress committee and the state conference executive committee. State Conference Counsel should serve without pay (pro bono).

**UNIT LEGAL REDRESS COMMITTEE**

Each unit should appoint a legal redress committee and attempt to locate at least one attorney to serve on the committee. The duty of this committee is investigate all cases referred to it by the NAACP unit, which constitutes the first step in the review process.

A unit's legal redress committee should also consult with the state conference's counsel, as well as with staff attorneys in the General Counsel's office. This committee should supervise all litigation in which a unit is involved.

Legal redress committees should not give legal advice to complainants and shall make it clear to all persons that it does not have the legal authority to unilaterally accept or intervene in a case. Rather, it can only recommend NAACP legal involvement. The General Counsel and the

President/CEO together are the only persons who can approve litigation in the NAACP's name. All persons seeking NAACP assistance should sign a Release and Disclaimer (See Release and Disclaimer Form in the Appendix).

At no time shall a legal redress committee solicit a fee for services or refer cases to private attorneys for monetary gain.

Legal redress committees should identify several lawyers or firms willing to consider NAACP referrals of civil rights cases, preferably at a reasonable fee, or pro bono (without pay).

A person seeking a lawyer referral should be provided with the names of at least three lawyers or firms. The final selection of an attorney must be left to the discretion of the person seeking assistance. It must be made clear to anyone seeking a lawyer referral that the NAACP in no way vouches for the competency of the attorney selected.

A legal redress committee must be certain not to mislead anyone as to the extent of NAACP involvement. It must be made clear to all complainants the exact nature of the NAACP's role.

Units should avoid delay in handling complaints. Moreover, remind complainants to consult with an attorney immediately and to follow the advice of their attorney to ensure that statutory deadlines are met.

In addition, legal redress committees should make it clear that the NAACP does not accept responsibility for the return or care of unsolicited documents. Persons wishing to leave documents, should submit photocopies only.

### **UNIT COUNSEL**

Each NAACP unit is encouraged to name its own unit counsel to handle internal legal affairs and to administer legal programs at the direction of the legal redress committee or executive. The unit's committee counsel should serve pro bono (without pay).

## **RECOMMENDED PROCEDURES FOR COMPLAINT INTAKE**

### **STEP ONE**

#### **A. WRITTEN REQUEST FOR ASSISTANCE**

A complainant should either write or personally come to a unit's office to register a written complaint.

## **STEP TWO**

### **B. INVESTIGATE -- GET THE FACTS**

The legal redress committee should thoroughly investigate each legal complaint. The investigation should answer these questions:

1. **What really happened?**

Establish whether the facts alleged by the complainant did occur as they were presented.

2. **What is the other side's story?**

Obtain the other side's story, preferably also in writing.

3. **Did a violation of the law occur?**

Determine what federal, state or local laws have been potentially violated. If no laws have been broken,

4. **Did a civil rights violation occur?**

Ascertain whether race, color, sex, age, disability, religion or national origin was a motivating factor for the violation. The NAACP's primary focus should be on race based discrimination.

5. **Does the violation beg a remedy and would litigation be beneficial?**

Be sure there are no major mitigating factors or defenses which would make it futile, unnecessary or unwise to bring litigation. For example, suppose a low level company supervisor racially discriminated against an employee. The company president, upon learning what happened, immediately fired the supervisor and instituted remedial procedures to guarantee that the discrimination would not happen again. Based on these facts, it may not be beneficial to sue the company.

6. **Have you attempted to resolve the dispute through negotiation?**

While the NAACP is renowned for its litigation victories, we have followed the time-honored practice of first confronting a potential defendant and making an attempt to conciliate a honored practice of first confronting the potential defendant and making an attempt to conciliate a dispute prior to filing a lawsuit. Parties should attempt to workout a dispute before a lawsuit is filed, if it is all possible.

Once an NAACP unit has conducted a thorough investigation and has all of the pertinent facts, the unit should make a decision whether to confront the opposing party. In some instances, this may be futile. However, in the majority of situations, opposing sides are willing to sit down and discuss differences in a coherent, rational fashion. This meeting should be conducted in a non-threatening manner and in an environment suitable for an open discussion of the issues. The purpose of this meeting is not only to ascertain the position of the opposing party, but to attempt to identify areas of mutual agreement. The information gained from such a meeting may be useful in the future. In any case, there is a possibility that such discussions will lead to a resolution of the matter and corrective future behavior. If the meeting does not result in a positive outcome, the unit can proceed to the next step, filing a lawsuit.

**7. Have the criteria for case acceptance been met?**

- A. Will the case help establish new legal precedent or protect existing precedent, to the benefit of African-Americans generally?
- B. Can a broad remedy be achieved (affecting a significant number in the black community)? Can the case be brought as a class action?
- C. Has a violation of a fundamental or constitutional right occurred?
- D. Will the violation go unredressed or will the complainant be unlikely to be able to obtain effective legal assistance absent NAACP intervention?
- E. What financial and moral support will the NAACP unit lend to the case throughout the litigation and what immediate and future human and economic resources can the Legal Department contribute?

**8. Was a recommendation made to the unit and adopted by resolution?**

The investigatory committee should recommend action to the Executive Committee associated with the suit, the membership must demonstrate its solidarity with such decision by passing a resolution to that effect.

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**9. Has approval from General Counsel been obtained?**

Before any lawsuit may be filed in the NAACP's name, prior written approval and instructions from the General Counsel must be obtained. The General Counsel must be consulted even when a case is not brought in the name of the NAACP if the case is being supported by the unit or may be viewed by the public as an NAACP case. When a case is not actually an NAACP suit, units must take every precaution to ensure that media do not



describe it as such, including the issuance of public disclaimers.

### **HANDLING CRIMINAL CASES**

The NAACP seeks to ensure that no innocent person is charged with or convicted of a crime solely because of race. In addition to applying the case criteria listed in number 7 above, assistance in criminal cases should be limited to situations where:

1. The defendant is innocent but has been charged with a crime because of his/her race; or
2. A defendant's fundamental rights have been violated, notwithstanding his guilt or innocence (e.g. African Americans excluded from jury; police use of excessive force; improper use of lineup; lynching; racial profile stop).

It may become apparent after investigation that race was not the reason for a defendant's prosecution or conviction. For example, if the victim, arresting officer, eyewitness, prosecutor or judge is African American, or if African Americans sat on the jury rendering the guilty verdict, it may be the reality that a defendant through misfortune, is simply caught up in the criminal justice system's web. The more African Americans playing some role in the defendant's prosecution and conviction, more remote is the possibility that race is the overriding reason for the defendant's circumstance.

Of course, the mere involvement of African Americans does not preclude race as the reason for a defendant's charge and conviction. The criteria must be applied on a case by case basis.

### **RESEARCHING LEGAL ISSUES**

Before taking a position on any issue, it is important that "we do our homework." In large measure, longevity and success depend upon whether we know what we are talking about **before** we go public on an issue.

Research is necessary even when you know the problem presented. Not everyone is as close to the issue as you are, and others will need objective evidence to be persuaded. Journalists can tell your story more effectively when your position is presented persuasively. Validate your position with statistics and appropriate anecdotal evidence.

When determining the facts, we must not ascertain only those facts which bolster our position. We also want to know what information our adversaries will marshal against us. If that information is sufficiently convincing, we might realize that we are on the wrong side of an issue. Whichever side we are on, we will be more respected, and thus more effective, when the public and the press can rely on us for the basic facts.

When a complainant comes to the NAACP with an allegation of discrimination, someone must investigate to be sure the story is valid. The complainant should be thoroughly interviewed. The complainant should be asked the names of witnesses who will talk to the NAACP. Then the witnesses must be contacted and asked to describe the events as they know them. Don't tell the witnesses what the complainant said and then ask if they agree. Instead, ask them to tell you what they know. Sample interview forms for various types of complaints are provided in the Appendix. You can devise your own for different types of cases.

Much research is "reactive." That is, it responds usually to a complaint or an emergency situation. However, units should primarily conduct "pro-active" research. This takes planning. Pro-active research is not motivated by a single complaint. It is burdened by a built-in deadline. It is designed to study a persistent problem, perhaps one which does not lend itself to complaints.

Here are some examples of issues which can be brought to life through pro-active research:

- All of the streets on one side of town have gutters, sidewalks and street lights, while streets in the African American community have none of these.
- A cable TV franchisee is slow to wire African American neighborhoods even though it promised not to "redline" certain parts of town as a condition of winning its franchise through competitive bidding.
- A particular automobile manufacturer has no African American dealerships.
- Certain supermarket chains charge more and sell inferior food at higher prices at locations where they predominately serve African Americans.
- Fast food chains pay less per hour at central city locations than at suburban locations.
- Most of the leading banks and savings and loan institutions seldom or never extend credit to the residents, potential homeowners or businesses located in certain African American neighborhoods.
- A health club has a quota on African American members. African Americans are quoted higher dues or told there is no room for additional patrons.
- African Americans lack the voter participation rate of whites, and the jury system is based on voter rolls. Consequently, African Americans are under-represented on juries.
- Certain judges, over a period of time, give larger fines or more jail time to first-time

African American offenders than to first-time white offenders for the same traffic offenses.

- A magnet school plan is implemented so as to segregate students within the magnet schools.
- A large apartment complex shows only less desirable apartments to African Americans, or puts them on a "black" waiting list.
- The volunteer fire department has never accepted an African American volunteer through its secret ballot procedure.
- Certain police officers remain on the force despite long records of complaints of mistreatment of minority suspects and non-suspects.
- The leading television station almost never has any African American guests on its only local public affairs program, unless it is to discuss "Black History Month." The station never interviews African American doctors, economists, or sociologists for their expert comments on the news.
- The public ambulance service response rate is much slower in African American neighborhoods.
- Toxic dump sites are located in a poor area populated predominantly by African Americans and other minorities.
- African Americans are seldom named to any of the dozens of local appointive boards and commissions.
- The school board election district lines are drawn so that the African American population is split, making it difficult or impossible to elect an African American candidate to the school board.
- The disaster relief contingency plans to be used in case of flood or other environmental catastrophe, or in case of a nuclear plant accident, essentially sacrifices the African American community.
- Public housing projects have been concentrated and built in one section of a city where municipal services and amenities are limited.

Here are some of the common techniques used to probe issues such as these.

## **1. PAPER TRAILS**

Historical documents (newspaper articles, minutes of governmental meetings, old maps, and books) are often useful in learning what motivated the initiation of discriminatory practices. These types of materials are frequently introduced in court cases such as school desegregation and voting rights suits.

Current documents, such as memoranda, letters, and consultant's reports, are frequently available for the asking from governmental agencies. The federal government, most state governments, and many local governments are covered by freedom of information statutes such as the federal Freedom of Information Act (FOIA). These statutes permit citizens to request information, not otherwise available, and to obtain it unless it is privileged. Examples of privileged materials are certain law enforcement records, personnel files, and trade secrets. Most freedom of information statutes require the government to produce a schedule of documents it considers privileged. The Legal Department can assist you in making a FOIA request. (See Appendix)

## **2. QUESTIONNAIRES**

A factual or opinion survey can often pinpoint differences in treatment, or at least differences in the respondents' perceptions of how they are treated. Questionnaires can be used both as an organizing technique or as a research technique. Questions can ask what issues concern people most, or what they would like the NAACP to focus upon.

However, questionnaires are subject to intentional or unintentional abuse. This can happen when questions are worded to suggest the desired answer, or when an unrepresentative group of respondents is questioned.

Before designing or administering a questionnaire, obtain the assistance of a research methods or statistics instructor at a local university.

## **3. FIELD SURVEYS**

Examples of field surveys: include going to the job site and taking a head count of African American employees; driving the streets to determine which ones are paved; touring public housing units to determine how many have housing or building code violations. Field surveys render amazing information and are easy to do. Youth and college chapter members can often be recruited and trained to do these surveys accurately and unobtrusively. They are potentially the most cost effective method of information gathering at our disposal.

#### **4. TESTERS**

When you suspect that a business establishment, an employer, or a landlord treats customers or job applicants differently because of their race, one way to verify how the business operates is to send white and black testers to the site to pose as prospective customers or applicants. Testers should be paired and should share similar characteristics and qualifications (age, appearance, gender, demeanor, resumes) except for race. For example, the pair of testers should have comparable social and educational characteristics and should make their visits close in time to each other, but not so close as to arouse suspicion.

A testing operation must be planned with great care, preferably by experienced consultants, so that it cannot be successfully challenged in court if the test itself becomes evidence in a lawsuit. Before utilizing any testers, contact the National Office Legal Department for guidance.

#### **5. INTERVIEWS**

Once you have learned the issues of a dispute, you should approach those persons who are responsible for the problem and obtain their story. Do not confront them right away with everything you know. Instead, use the information already obtained to frame the questions you will pose to them. Hear them out and evaluate their position. Do additional research if necessary to confirm or refute their explanations. Visit with them again to confront them with all of the evidence.

#### **SUMMARY**

This brief discussion of research only skims the surface of things you can do to carry out an effective investigation. The range of useful research techniques is limited only by your creativity, determination and resources. Research is a prerequisite and is indispensable to successful litigation. Remember that thorough research will breed positive results for you.

#### **KEEPING RECORDS**

NAACP units should keep an accurate log of each complaint that is received whether by phone or in person. This record should reflect the name, address and telephone number of the complainant, the date, the nature of the complaint and the time spent on it, i.e., housing discrimination, employment, etc. This log should also show the disposition of the complaint. A handy form can be devised to do this. (See Appendix) These figures should be compiled into

monthly statistics. This will give you a firm idea of what is going on in your community as well as ascertain how much time volunteers are devoting to investigations.

## V. NAACP LEGAL PROGRAMS, POLICIES AND PROCEDURES

### **NAACP LEGAL PROGRAMS, POLICIES & PROCEDURES**

#### **CRITERIA FOR CASE ACCEPTANCE**

The NAACP Legal Department will and local units should also make the following considerations in determining whether to accept a case for litigation:

1. Will the case help establish a new legal precedent or protect existing precedent, to the benefit of African Americans as a whole?
2. Can a broad remedy be achieved, affecting a significant number in the African American community? Or, can the case be brought as a class action?
3. Has violation of a fundamental or constitutional right occurred?
4. Will the violation go unredressed or is the person unlikely to obtain effective assistance of counsel absent NAACP intervention?
5. What financial support will the unit lend to the case and what immediate human and economic resources can the Legal Department contribute?

The Legal Department would like to say “yes” to every deserving request for assistance. However, reality mandates our evaluation of the criteria set above. Because the NAACP can’t accept every proposed case, the strongest cases must be selected.

In instances where the NAACP does not accept a case, alternatives should be explored. For example, you might solicit the local offices of Legal Services, a nearby law school, the local bar, other public interest organizations, the network of lawyers and lawfirms who have officially affiliated with the National Office legal department or with the local branch.

#### **HOW UNITS INITIATE LITIGATION**

No NAACP unit may initiate litigation in the name of the Association without prior written approval of both the General Counsel and the **President/CEO**. There are no exceptions to this policy.

Units may not become officially involved in litigation, either where the NAACP is named as a party plaintiff or where affiliation with the NAACP is identified in the litigation, without the approval of the General Counsel and President/CEO. There are common sense reasons for this policy:

1. We must be **consistent**, preventing the NAACP from becoming involved in litigation which supports issues contrary to established NAACP policy;
2. We must be **thoughtful**, choosing our cases carefully and recognizing that bad facts make bad law;
3. We must be **prepared**, making certain that the proper resources and guidance are given to a case.

## **CAN NON-NAACP LAWYERS PROVIDE ASSISTANCE TO OR REPRESENT THE NAACP ?**

There may be instances where the NAACP General Counsel will approve a case but choose not to serve as lead counsel. The Legal Department often uses local co-counsel to provide litigation assistance to units and to sometimes serve as lead counsel. In routine unit investigations, units are encouraged to identify and work with local lawyers in the community. Such relationships aid the unit in furthering its legal program objectives and ideally should be coordinated by the unit's legal redress committee. However, all lawsuits require General Counsel's approval, as explained throughout this Manual, and the decision on all counsel, lead and co-counsel, shall be made also by the General Counsel. If any outside attorney or organization approaches the unit either requesting assistance in a case or offering to represent the unit in a lawsuit, the attorney or organization should be referred to the General Counsel.

Following are the rules applicable to situations where a unit is affiliated with any case not being litigated by the National Office Legal Department:  
(insert language from Roosevelt Walter's letter)

## **COALITIONS**

### **HOW MAY UNITS ASSOCIATE WITH OTHER ORGANIZATIONS?**

NAACP units must consult with the General Counsel before joining any coalition. The General Counsel will assess the Association's exposure to liability and the potential for

undesirable coalition actions being attributed to the NAACP.

## **HANDLING SUITS AGAINST THE NAACP**

The General Counsel must be notified in writing immediately of any suit filed against any unit of the Association or against any officer of any unit within the Association. You must also notify your Regional Director and State Conference President. Such notice should include a brief narrative of the circumstances which led to the lawsuit, including copies of any pertinent documents, newspaper articles and date and time of the transaction. Failure to submit a timely notice of service of suit may prevent a unit or officer from invoking rights under Article IX, Section 8 (Indemnification) of the Constitution of the NAACP.

You should also notify the General Counsel, Regional Director, and State Conference President when you receive a demand letter from a lawyer or an individual threatening a lawsuit against the NAACP, any unit, or any officer of any unit. You should mail or fax a copy of this to the Legal Department.

## **DEFAMATION**

Suits most commonly filed against units and their officers assert claims of libel or slander. The following instructions will help you avoid pitfalls that lead to unnecessary litigation.

Whenever you speak, even if you are talking "off the record" or to friends, you may be presumed to be speaking for the NAACP. Though you may declare your comments "personal opinion" or "not the NAACP's opinion" others still may presume you are speaking for the NAACP. Therefore, officers should be mindful of their comments. When you are elected to an NAACP office, you should expect that your normal expectation of privacy will sometimes be compromised.

The First Amendment of the Constitution of the United States precludes the government from restraining free expression. Nonetheless, some expression is not protected under the First Amendment. The classic example of unprotected speech is someone falsely yelling "fire" in a crowded theater. Nor does the First Amendment protect speech based on untruths that is almost certain to cause, or actually has caused injury to an individual's reputation. This form of unprotected speech is known as "defamation."

Defamation can take the form of either libel (written) or slander (spoken). These are "torts" -- civil wrongs. They are not crimes; the state does not prosecute people for defamation. Instead, private citizens and, much less frequently, public officials can bring civil suits when they are defamed.



An individual who thinks she has been defamed cannot reclaim her entire reputation; a lie cannot be "taken back" out of the conscious or subconscious minds of all who read or heard it. Therefore, the person harmed will be able to seek money damages to compensate her for the harm done by the defamatory statements and all repetitions of those statements.

## **WHAT TYPES OF STATEMENTS MAY BE FOUND TO BE DEFAMATORY?**

Here are three situations you should avoid:

1. Accusing someone of doing an act which, if it happened, would be a crime, when the person has not been convicted of that crime. If the person has not been charged with any crime, or even if the person has been indicted and will be tried, say only that the person allegedly did the act.

2. Accusing someone of "moral turpitude" -- which, put simply, means being a dishonest or unethical person. A good example of a charge not to make is "Ms. X is a racist." Even if Ms. X comes to work in a sheet and pillow case, it is safer to say "Ms. X's termination of 82 African American employees without cause appears to be racially motivated." or we allege that these terminations violated Title VII of the 1964 Civil Rights Act." This makes it clear that your indignation is directed at her deed, not at her personally. It focuses attention on the harm and not the perpetrator.

3. Making demands that a person be fired. Instead demand that "appropriate discipline, commensurate with the seriousness of the violation, be applied."

"Truth" is an absolute defense against a defamation suit. Therefore, the best way to protect yourself and the Association is to make sure that statements you make are (1) facts you can back up or (2) allegations, clearly identified as unproven but with good cause to believe, or (3) statements which do not attack an individual.

## **V. NAACP LEGAL PROGRAMS**

### **VOTING RIGHTS**

#### **REAPPORTIONMENT AND REDISTRICTING**

In America's recent history, violence, intimidation, poll taxes, literacy tests, and a host of other devices were used to prevent African Americans from voting. After these barriers were

largely eliminated and large numbers of minority voters began to register and vote, additional barriers were created which limited or eliminated African American voting power. For example, election district lines were racially gerrymandered.

A principal law protecting voting rights is the Voting Rights Act (VRA) of 1965, which has been subsequently reenacted and amended; it is discussed further below. The Voting Rights Act does not guarantee the election of African Americans. Instead, it is designed to insure that the ability of African American voters to select the candidates of their choice is not impaired by racially discriminatory procedures. Election procedures violate the Voting Rights Act when they have the **effect** of diluting minority voting strength, even if they were not adopted with the intent to discriminate.

All NAACP units must arm themselves to use the power of the VRA to end minority vote dilution. A redistricting committee should be set up in each unit so that NAACP members can study elections systems affecting its members and identify systems that need to be challenged. Although there are many technicalities involved in championing voting rights, the process is not so difficult that NAACP units should remain on the sidelines. The cost in African American voting strength is too great to allow any district to be overlooked.

## REAPPORTIONMENT AND THE ONE-PERSON, ONE-VOTE DOCTRINE

Reapportionment occurs because the United States Constitution has been interpreted to include a "one-person, one-vote" doctrine. This doctrine requires that districts for U.S. Congressional seats represent approximately equal populations. The doctrine also applies to State legislatures and legislative districts for all other bodies such as city and county councils and school boards. This doctrine tries to make the value of each person's vote as equal as possible by equalizing populations represented by legislative districts.

Since populations move about and increase or decrease at different rates within all jurisdictions, the census done every ten years provides current information for analyzing and equalizing the population in legislative districts. This usually requires a redrawing of election district lines of every governmental body that elect representatives from districts rather than by at-large elections.

Virtually all governments hire consultants or create staff positions so that reapportionment can be accomplished. These governments create new legislative plans that allegedly conform to the minimal requirements of the one-person, one-vote doctrine. The African American community must insure that those people doing the redistricting do not take away the gains that have been already achieved and that they give minority voters the full empowerment that is theirs under the provisions of the VRA. Reapportionment and redistricting offer many opportunities for African Americans to increase their voting strength.

## THE VOTING RIGHTS ACT

Section 2 of the Voting Rights Act, as amended in 1982, prohibits any voting practice or procedure that "results in a denial or abridgement of the right to vote on account of race or color."

In an important decision, (**Thornburg v. Gingles, 478 U.S. 30 (1986)**) the U.S. Supreme Court held that the 1982 amendments to the Voting Rights Act meant that a finding of discriminatory purpose or intent is no longer required for establishing a voting rights case.

The basic Gingles ruling requires that, in most situations, three factors be present if a successful minority vote dilution challenge is to be mounted. Therefore, to establish a violation of the Voting Rights Act, you must have information that allows you to answer "yes" to the following questions:

- i. Are African Americans located in an area that is reasonably compact geographically and contains sufficient numbers of African Americans, so that a single member district with a majority African American voting age population could be fairly drawn?

- ii. Are African Americans politically cohesive in the district(s) being drawn? In other words, do they tend to vote as a bloc, casting most of their votes for the same candidates for offices?
- iii. Do whites in the jurisdiction vote as a bloc, casting their ballots in such concentrations such that candidates of choice of the African American community are usually defeated? [called polarized voting].

While it is necessary to prove all three of these factors in litigation, it is not necessary to prove the second and third items about voting patterns when advocating before a legislative redistricting body. NAACP advocates may be asked, however, about polarized voting and should have some familiarity with election results in their area. This means that the key focus is the creation of alternate election district plans for the jurisdiction that creates compact districts more compatible with the U.S. Constitution and the VRA than the plans proposed by the government. With guidance from the General Counsel, NAACP units should adopt plans with compact districts and present them to the governmental body engaged in redistricting.

## **IDENTIFYING RACIAL GERRYMANDERING**

Gerrymandering refers to any practice used in the drawing of election district lines that results in increasing the political advantage of one group over others. Traditionally, most Americans think of gerrymandering as involving districts drawn with odd shapes and crooked lines. However, racially discriminatory gerrymandering is often accomplished by the drawing of very regularly shaped districts. In looking for racial gerrymandering, NAACP units should not focus solely on the shape of election districts, but instead look at their population composition and their relationship to the ability of minority communities to elect the candidates of their choice.

There are several key practices used in drawing election districts lines that cause dilution of African American voting strength. Be familiar with each of these so that you can identify it if you see it in a plan proposed somewhere in your jurisdiction.

### **Cracking**

Cracking occurs when district lines are drawn so that an area of concentrated African American population, which could constitute one or more majority African American districts, is divided among several predominantly white districts, minimizing African American voting strength.

### **Stacking**

Stacking occurs where heavily African American districts or concentrations of African American population, sufficient for independent representation, are combined with

predominantly white districts or concentrations of population. This most classically happens in the creation or reapportionment of multi-member districts.

### **Packing**

This happens when lines are drawn in a way that creates districts that are 70, 80, or 90% or more African American. Every African American vote that is put into such a district over and above what is needed to make election of candidates of choice a realistic possibility (usually 60 - 65%) can be a wasted vote.

### **At-Large Voting and Multi-Member Districts**

These systems often preclude the creation of districts which can elect the candidates of choice of African American voters, allowing majority white populations to control all of the legislature's seats. Your at-large election system may never have been challenged because previously there was not a sufficient concentration of African Americans in the jurisdiction to create a new majority African American district. Be vigilant!!! Population changes revealed by the Census might make the system vulnerable to attack.

## **SECTION 5 PRECLEARANCESECTION 5 PRECLEARANCE**

Section 5 of the Voting Rights Act requires that all jurisdictions in states called "covered jurisdictions," which primarily include the southern states and parts of eight others, submit all voting law changes to the Department of Justice for administrative clearance or to the U.S. District Court for the District of Columbia for judicial clearance before implementing the changes. Most voting law changes are submitted through the administrative process rather than through the judicial system.

Section 5 preclearance is required for any change in the voting law that "alter(s) the election law of a covered State in even a minor way." Section 5 specifically covers changes in election districts due to reapportionment and redistricting as well as the switch from an at-large to single-member district system of elections. Any other action that changes anything about a voting system in a jurisdiction is probably covered.

When a covered jurisdiction submits a plan for preclearance, the burden of proof is on the jurisdiction, not the minority citizens or the Justice Department, to prove that the adoption of the new plan was free from discriminatory intent and that the new plan does not have discriminatory effect as to the rights of minority voters. Failure on either of these two prongs will result in failure to obtain preclearance.

Section 5 gives the power to review submitted voting law changes to the U.S. Attorney General. The Attorney General can either approve the change or enter an objection. In practice, most of the process has been delegated to the Assistant Attorney General in charge of the Civil

Rights Division. There is a Voting Rights Section within the Civil Rights Division and it has a special Section 5 Unit. The submissions of “covered” governments receive their initial review here.

Initial submissions are made by the jurisdiction through its legal representative, who sends the Justice Department a letter explaining the new law and the reasons for its adoption, along with a copy of the law itself and other required supporting material.

Any individual or group may provide the Justice Department with their arguments supporting or objecting to a jurisdiction's proposed new election procedures. This should be done in the form of a Comment Letter. This letter should not merely state that a plan should be objected to or approved, but should provide reasons and supporting documentation. It will be very useful to recite a record of the African American community's attempts to participate in the redistricting process as well as to provide copies of any alternative plans submitted to the local government which offered greater protection of minority voting rights.

The Justice Department publishes, and distributes on a weekly basis, a notice listing of all Section 5 submissions. Anyone can get on the mailing list for this notice by writing to the Section 5 Unit at the Department of Justice. Each State Conference in “covered” areas should have a person from its Political Action Committee who is on this mailing list. This person should be responsible for contacting local units in areas where there have been submissions to ensure the NAACP is submitting objections to the Justice Department, if this is warranted.

The Voting Rights Act gives the Justice Department 60 days after receiving a complete Section 5 submission to make an objection to the proposed change in the voting law. This means that voting rights advocates have to be vigilant in monitoring submissions and filing prompt, detailed objection letters when such are needed.

If a jurisdiction tries to implement an unprecleared voting law change, private parties or the Justice Department may file an action in the local federal court to halt implementation of the practice until there is Section 5 approval. Justice Department preclearance of a redistricting plan does not preclude a separate challenge in federal court.

## **ALTERNATIVE STRATEGIES FOR POLITICAL EMPOWERMENT**

There are several possible alternative remedies when you are unable to create a majority African American district that meets the Gingles guidelines. Some of these are most effectively used during the processes of reapportionment or redistricting. Others may only be an option during litigation or when a different election system is being proposed.

The following strategies often increase the electoral viability of the candidates of choice of African American voters:

- A. Developing coalitions with other minority groups, such as Hispanics, to create a district;
- B. Demonstrating the ability to elect candidates of choice from a district with a high, yet non-majority, African American population, i.e., from a minority "influence" district;
- C. Increasing the number of seats on the electoral body so that a smaller percentage of the population is elected;
- D. Changing to a "cumulative" or "limited" voting system for the election of officials. Through this concept, used in corporate elections and in some municipal governments for many years, voters get several votes, but have the option of concentrating their votes on just one or a few candidates of choice to dramatically increase their chances of being elected.

## **IMPORTANCE OF NAACP PARTICIPATION**

Many who will draw new lines during reapportionment will attempt to limit African American voting power. To counter this threat, NAACP units must know the principles that govern redistricting as well as the protections of the Voting Rights Act. NAACP members should accept nothing less than full empowerment of African American communities. If negotiation with those doing the redistricting does not achieve this result, then the next step is a legal challenge through the Justice Department, or by private suit. Contact the NAACP Legal Department for assistance.

It is critical that units not rely only on litigation to empower African American voters. Voter registration is a critical part of our mission. Furthermore, during election campaigns, NAACP units can act as nonpartisan, good-government organizations, polling candidates on their positions on civil rights issues and publishing the results in the newspapers and broadcast media. Equally as important is participation in "Get Out the Vote" campaigns in the African American community.

## **EDUCATION - QUALITY SCHOOLS, DESEGREGATION AND EDUCATIONAL JUSTICE**

### **A. POLICY**

Equal educational opportunity for African Americans has been a fundamental goal of the NAACP since its founding. As epitomized by the landmark Brown v. Board of Education 347 U.S. 483 (1954), the NAACP has been a leader in litigating school desegregation and quality education issues in public education.

The NAACP is committed to quality education and remains unalterably opposed to the "separate but equal" concept that once served as the foundation for segregation on the basis of race and color.

Today there are more African American children attending racially identifiable or all black public schools than was true prior to Brown in 1954. Many African American children are simply not being properly educated by urban and rural school districts. Thus, even where racial isolation is not a significant feature of school system organization, there remains a most critical need to provide equal educational opportunity for African American and other minority children. The vast majority of African American children have yet to taste the full fruits of a quality education. The devastating damage of unequal or inferior education has been documented over and over again. There is no choice but to provide high educational standards and accountability of the schools for effectively educating minority children.

Therefore, the NAACP seeks quality education for all minority group children within desegregated schools. In order to successfully obtain this objective, NAACP units should adhere to the following fundamental policy guidelines:

1. The issues of school desegregation and quality education should address and include three basic areas: (a) confronting unequal educational outcomes; (b) eliminating physical segregation, and (c) eliminating "within school" segregation.
2. Court ordered decrees resulting from desegregation suits should be carefully monitored and maintained until unitary status is achieved. Unitary status means that the school district has complied with all the requirements for desegregation and the full command of the constitution. The required unitary status in (1) faculty, (2) staff, (3) student assignment, (4) transportation, (5) facilities, (6) resources and (7) extracurricular activities (green factors) must work to reduce achievement gaps and ensure that gaps in all educational measures of achievement are reduced to "zero" between the races;
3. Unitary status must depend on outcomes that are traceable not to the racial characteristics of the student, but to the student's level of personal achievement independent of race, sex or social class;
4. School districts with dormant desegregation cases or decrees should be carefully monitored to review and ascertain that unitary status has been maintained and that the school district is presently operating free of discriminatory or segregative practices or results. For example, changes in housing patterns often have an impact on racial demographics of the school system, requiring modification of desegregation decrees or amendments to pending desegregation suits.



5. Issues of quality education such as equal educational opportunity, educational malpractice and equitable funding should be addressed in court orders and desegregation plans and attacked as present effects or vestiges of a previously intentionally segregated or discriminatory system. In other instances, these issues may be pursued under state or federal statutes and constitutional provisions.

## **B. AREAS OF ACTION FOR STATE CONFERENCES AND UNITS**

All NAACP State Conferences and units should have organized and active education committees to locally implement NAACP policies and to monitor school districts in pursuing the elimination of physical segregation and "within school" segregation and in confronting unequal outcomes.

### **1. Achieving and Maintaining Maximum Desegregation**

First generation desegregation suits dealt with the elimination of segregated, separate and unequal schools. Student assignment plans were implemented to eliminate racial isolation and to create "racial balance." The many positive outcomes and beneficial gains made by minority children in desegregated schools are well documented. NAACP units must actively monitor school districts to determine whether maximum desegregation is being achieved and maintained. This requires NAACP familiarity with the existing desegregation orders or consent decrees under which a school district is operating, as well as, where relevant, any specific proposals or motions which would change or alter the school district's desegregation plan or obligations.

A general analysis of the present status of desegregation and equitable opportunities for a quality education within a school district can be accomplished by monitoring (a) student enrollment, assignment and transfers, (b) administration, faculty and staff, (c) physical facilities, including capital improvements, schools closed, schools opened, and available equipment, (d) transportation, (e) extracurricular activities, (f) course offerings, curricula and academic programs, (g) disciplinary policies and actions, (h) graduation profiles, and (i) per pupil funding and revenues.

NAACP units must not become a party to or give approval or endorsement of any specific desegregation plan or settlement without first consulting with and submitting the plan to the NAACP Legal Department for its review and written approval.

### **2. Eliminating "Within School" Segregation**

Second generation desegregation problems focus on "within school" segregation and discrimination. These issues include equal access to courses and programs and placement in desirable course sequences that lead to higher attainment on an equal basis. NAACP units must call for and monitor the elimination of policies and practices which lead to isolation or

differential treatment based on the racial, sexual or cultural characteristics of the student. Specific areas of concern include (a) discipline, suspensions or expulsions, (b) tracking and long-term grouping practices that favor one group over another in a discriminatory fashion, (c) access to special programs, resources, quality teachers and challenging curricula, (d) access to desegregated and diverse cultural groups within classrooms, among students and teachers, and (e) grade retention.

NAACP units should also monitor other school practices which result in racial isolation, such as segregated seating, minority under-representation in extracurricular activities, lack of cultural diversity in curricula, administration or faculty attitudes toward minority students, and racial insensitivity.

### **3. Confronting Unequal Educational Outcomes**

Third generation desegregation issues deal with unequal educational outcomes and the critical "achievement gap" problems that exist in the classroom and on standardized tests. The elimination of gaps in incentive and reward structures in schools is also important. These issues concern student performance at or above grade level, the awarding of superior grades, honors and scholarships and assuring equal outcomes from equal efforts in the classroom.

The quality of the teaching staff and educational leadership is pertinent to problems of unequal outcomes. NAACP units should work to involve parents with school administrators to monitor the instructional repertoires of teachers and academic departments to improve teacher skills, attitudes and sensitivity to cultural diversity. Expectations for African American and white students must also be equal in order to eliminate the achievement gap between students.

### **4. School Administration, Funding And Political Action**

In conjunction with the comprehensive monitoring and actions necessary to eliminate physical segregation, "within school" segregation and unequal outcomes, the NAACP must increasingly seek remedies in the areas of administrative and funding practices and political representation. These goals include: (a) elimination of all other discriminatory policies and practices to insure the employment and assignment of minorities in administrative, teaching and other positions on a nondiscriminatory basis throughout local school systems and state education departments; (b) inclusion of African American school personnel on advisory, policy and decision-making committees within school systems; (c) African American representatives on local and state boards of education who are committed to NAACP objectives and policies; (d) increased political action in the areas of voter registration, education and participation in order to promote and support candidates or nominees for school board posts who support NAACP objectives; and (e) increased political action to promote referendums which advance NAACP objectives and oppose those which have the effect of circumventing school desegregation and quality education for African American children.

NAACP units should carefully monitor the equity with which funds and other education resources are allocated throughout each school system and between school systems. Patterns of allocating educational resources, including school financing, school districting, and the assignment of teachers and students, often create gross inequities between affluent whites in the suburbs and disadvantaged minorities in the central city. All such inequities should be eliminated. States must assume responsibility and accountability for equal educational opportunity for minority children in every school district.

The NAACP must continue to monitor against the transfer of public school property or funds to private schools and oppose voucher plans which have the effect of allocating public funds for education in private schools or which serve to make public schools financially competitive rather than academically equal.

NAACP units should also monitor magnet schools, schools of choice and "choice plans" to ensure compliance with desegregation orders and NAACP objectives. Student and staff composition should closely reflect the racial and ethnic composition of the system. External monitoring systems should be implemented that will prevent re-segregation and deprivation of services and resources in non-choice or magnet schools and programs. The location of facilities should be chosen for their racial, ethnic and socioeconomic neutrality to insure desegregation. School districts should employ nondiscriminatory admission's policies so that a wide spectrum of students may participate in all special programs such as magnet schools.

## **C. HIGHER EDUCATION**

The constitutional principles of Brown v. Board of Education apply to all aspects of higher public education. Fully desegregated colleges and universities are essential to the education of African Americans. While historically black colleges and universities play a significant role in the education of our people, they cannot be expected to solve all of the educational needs of African American students.

NAACP units should diligently monitor all aspects of higher education, with a particular emphasis on the following: minority enrollment; criteria for admissions; enhancement of minorities in administration, faculty and staff, including disparities in salaries; academic programs, including disparities in baccalaureate, masters, specialist, doctoral and other programs; unnecessary duplication of programs at separate facilities; physical facilities and new capital outlays; funding; minority representation on boards of trustees and other policy-making bodies; and, the use of race-based scholarships, financial aid or other assistance programs necessary for equal opportunity in higher education.

## **FIRST AND FOURTEENTH AMENDMENT**

Speech that is merely offensive or disagreeable may not be prohibited by the government. The U.S. Constitution, through the First and Fourteenth Amendments, guarantees each person freedom of speech and freedom of association.

In NAACP v Claiborne Hardware Co., 458 U.S. 886 (1982), the Supreme Court reversed the Mississippi Supreme Court's imposition of damages on the NAACP in an action arising out of an economic boycott of white owned businesses by African Americans. In Claiborne, a local branch of the NAACP participated in a boycott of local white merchants. The boycott was supported by speeches and nonviolent picketing. NAACP participants repeatedly encouraged others to join in its cause. The names of boycott violators were read aloud at meetings at the First Baptist Church and published in a local black newspaper. Nonparticipants were urged to join the boycott and demonstrations, both through public addresses and through personal solicitations.

The Supreme Court ruled that these elements of the boycott involved speech in its most direct form. The Court ruled that boycotts are a form of speech or conduct that is ordinarily entitled to protection under the First and Fourteenth Amendments. It held that such speech does not lose its protected character simply because it may embarrass others or be seen as coercing people into action.

However, when speech moves into conduct, such conduct may lose its constitutional protection. In Chaplinsky v New Hampshire, the Supreme Court ruled that there are certain well defined and narrowly limited classes of speeches, the prevention and punishment of which does not raise Constitutional problems.

These areas include:

- A. lewd, obscene & profane language;
- B. libelous language; and
- C. insulting and fighting words (words whose very utterance inflicts injury or tends to invite an immediate breach of the peace.)

The Constitution recognizes the constitutional right of every citizen to harbor and express beliefs on any subject whatsoever and to associate with others who share similar beliefs. That protection may evaporate when speech crosses the line and becomes otherwise unlawful action. Thus, the Constitution does not protect epithets or personal abuse. These acts can be prosecuted under criminal statutes. Acts such as cross burning and other offensive contacts are actionable

under such statutes.

Free expression can be chilled when an organization expressing unpopular views must publicly reveal the names of its members. In a landmark 1958 Supreme Court case, **NAACP v. Alabama**, 357 U.S. 449, the Supreme Court held that the NAACP did not have to disclose its membership rolls and that members had a right to associate with whomever they pleased.

Following the same principal, another landmark Supreme Court decision, **NAACP v. Button**, 371 U.S. 415 (1963), held that the NAACP had a right to solicit legal cases from aggrieved parties. This enabled the NAACP to actively search for victims of civil rights violations and assist them in prosecuting their claims to the full extent of the law.

The Legal Department will undertake representation of African Americans who have been denied their right to freedom of speech, freedom of association and the right to solicitation by counsel under the First and Fourteenth amendments. When these claims come to the attention of NAACP units, such claims should be processed as all other legal claims.

## **EMPLOYMENT**

The NAACP believes that every individual has a fundamental right to secure a job for which she is qualified without discrimination because of race, color, religion, sex, or national origin. Pervasive racial discrimination in employment functions as a barrier that prohibits an entire racial group from making social and political progress.

Historically, the NAACP has viewed cases of employment discrimination as matters of the highest priority, deserving of full support by all units. Hence, every unit must be prepared to assist potential complainants in challenging those government and private employers who engage in discrimination.

The principal federal law prohibiting most employment discrimination is Title VII of the 1964 Civil Rights Act, as amended in 1991. Congress intended Title VII to eliminate intentional discrimination and to guarantee equal treatment, although not necessarily equal status, to all employees. Title VII prohibits discrimination in every stage of the employment process, including recruitment, job advertisements, interviewing, testing, hiring, work assignments and classifications, terms and conditions of employment, use of company facilities, working conditions, compensation, fringe benefits, retirement plans and disability leave, training and apprenticeship programs, compensation, transfer, promotion, layoff, recall, suspension, and termination. Title VII prohibits retaliation against a person who files a charge of discrimination, participates in an investigation, or opposes an unlawful employment practice

## **Relief Under Title VII**

Title VII provides compensation that would make the victims of discrimination whole. Usually this is done by the payment of "back pay" to victims of employment discrimination, covering a period of up to two years between the time the discrimination began and the time it ceased or the employee resigned. Title VII also requires the imposition of retroactive promotion or reinstatement when it is necessary to make the plaintiff whole.

Besides back pay, other remedies available through Title VII include:

1. advising all employees of their rights under the laws that EEOC enforces and their right to be free from retaliation;
2. correcting the source of the identified discrimination and minimizing the chance of it happening again;
3. nondiscriminatory and retroactive placement to the position the victim would have received if the discrimination had not occurred, or to a substantially equivalent position;
4. in cases of retaliation, a restraining order (obtained by the EEOC from a court) preventing the employer from retaliating further;
5. attorneys' fees and costs.

Often the complainant will want to seek punitive damages. These damages will be much greater than simply the value of back pay. Such damages are invoked for blatant, deliberate discrimination in order to make a public example of a guilty employer. An important point to remember is that these damages will not be available except through a court case. Even then, they are seldom ordered, and recent Supreme Court rulings make it even less likely that they will be ordered for most types of employment discrimination grievances.

Thus, the only way most victims of harassment or unequal working conditions may now obtain punitive damages is to seek relief under the few state or local civil rights statutes providing such relief.

### **Handling Employment Discrimination Complaints**

Employment discrimination complaints comprise more than half of the complaints most units receive. Thus, handling employment discrimination complaints is possibly the single most time consuming function of every NAACP unit.

However, unit and nonlawyer officials must be careful not to provide advice to possible victims of discrimination that could later be construed to be "legal advice." This could result in a suit against a unit or official by a civil rights victim who was given the wrong advice. **The**

**only advice you should give a discrimination victim is to see a lawyer.**

Unit members should read the NAACP Labor Department's "Handbook for Addressing Discrimination Complaints." For routine use, a model employment discrimination complaint form is included in the Appendix to this Manual. These forms should be reviewed by your legal redress committee for input.

After the complainant fills out the complaint form, you should help the individual understand whether the action complained of is a civil rights problem. For example, if fired from her job, you should ask what the employer's probable defense will be. If the defense will be "frequent tardiness" and she acknowledges being frequently tardy, and that white employees with similar tardiness records were also fired, then you should inform her that she probably doesn't have a strong civil rights grievance.

In the most frequent cases -- those involving terminations -- some of the factors to consider in deciding whether a case can be proved include:

1. How many other African Americans work for that employer, and in what capacities? How does this compare to the availability of qualified and qualifiable African Americans in the community or the metropolitan area?
2. Why does the employee claim she is being dismissed, and what will the employer's defense be?
3. Was the employee warned before being dismissed?
4. Would the dismissed employee's behavior be permitted by white employees?
5. Were there any previous incidents that showed the employer's racial prejudice or discrimination?
6. What is the likelihood of other employees or witnesses stepping forward to support the charge of discrimination?

Even if the NAACP cannot provide representation directly, you can recommend the names of three lawyers so that the complainant can independently select one who meets her needs. You should make the victim aware of how -- with or without a lawyer -- she may file a discrimination complaint with the EEOC or a state or local human rights agency. Every NAACP official should get to know the directors of those agencies and learn (1) over which employers it has jurisdiction; (2) over which types of discrimination it has jurisdiction; (3) when complaints must be filed; and (4) how the agency would prefer that the NAACP help present or refer cases to it.

Under Title VII, an employment discrimination victim cannot proceed immediately to court. Because civil rights litigation is expensive and can take years, the EEOC and parallel state and local agencies are a useful first step in the handling of most civil rights grievances. It is inexpensive -- and ideally not all that time consuming -- for the litigants to put their cases forward at the agency level.

Even if the parties later wind up in court, both the complainant and the alleged discriminator (the respondent) will have benefitted by knowing what the other's testimony will be, and thus whether the case likely can be won and how much in damages is really at stake. The agency's staff generally will provide a reading of whether the complaint will stand up in court. If the complaint is strong, the agency will do an investigation and develop key information that will be needed in a later court case. Since this research is done at the government's expense, the victim will not have to incur the substantial cost of obtaining it on her own.

Finally, agencies can bring the parties together and encourage them to settle. Agencies often will propose specific settlement terms. While neither side has to accept such settlements, the agency's proposals are frequently the basis for the resolution of many of its cases before trial.

To file a complaint of employment discrimination, the complainant need only appear at any field office of the EEOC and fill out a complaint form. No lawyer is needed to file a complaint. If there is no field office in the area, call, toll free, **1-800-669-4000** for more information. In some instances, Charges may be filed by mail or taken over the telephone. A Charge can be filed by or on behalf of an individual or group. Organizational complaints may be filed in the Branch's name. Charges must be filed within 180 days of the alleged discriminatory act. In some (but not all) areas where there is a local or state human rights agency, Charges may be filed generally up to 300 days after the discriminatory act takes place.

**It is advisable to contact EEOC immediately when discrimination is suspected. If the Charge is not filed on time, the EEOC will not investigate it and the complainant will obtain no relief.**

During a complainant's initial contact with the EEOC she will be interviewed by an Equal Opportunity Specialist (EOS). The EOS will take down the complaint and give it to the complainant to sign. After it is signed, the complainant is called a "Charge" (or "Charge of Discrimination").

To develop the Charge, the EOS will have the complainant complete an informational questionnaire seeking the following: name, address, and telephone number of the employer, the name of the supervisor or job interviewer; the date(s) the alleged discrimination occurred; and the nature of the discrimination. The EOS also will ask the complainant to provide information about other potentially aggrieved persons; if there is a "class" of persons in her similar situation it will be noted on the face of her Charge.



Next, the complainant will be counseled so that she will understand what to expect while her Charge is being investigated. If her case cannot be handled by EEOC, it will be referred to the proper agency.

Sometimes the complainant will be afraid the employer will retaliate against her for filing the complaint -- for example, by withholding or falsifying a job reference; by preventing her from obtaining a promotion or transfer; by publicizing the complaint so as to hold the complainant up to public scorn; by giving her undesirable work assignments or by verbally abusing her. Many complainants do not bother filing EEO charges because they do not trust the system to protect them from retaliation, or because they feel that even if they ultimately obtain relief, the employer will get revenge later.

Complainants -- especially those with grievances against small companies or working in small and specialized industries where "everyone knows each other" -- frequently fear that if they file a Charge they will never work in that industry again. This fear persists even though it is absolutely illegal under Title VII to retaliate against a person for exercising her legal right to file a Charge or be a witness for another complainant. Indeed, the EEOC views retaliation as a cardinal sin, a direct affront to its own ability to fairly process and evaluate complaints.

This is why it is very important for the unit to counsel employment discrimination victims thoroughly. Every genuine victim of discrimination should be given all the necessary moral support, and legal support if possible, to bring and follow through on an EEO charge. A victim should not be pressured to file a Charge when it really is not in her best interest, but units should try to impress upon victims that their sense of well being can only improve if they refuse to let the employer get away with unlawful acts against them. Such employers only will become emboldened and do it again to others with impunity.

One way for a victim to receive protection against retaliation is for the victim to file the complaint under a "John Doe" or "Jane Doe" name, or to have the NAACP unit file the complaint as a "third party complainant" on behalf of the unnamed individual. The EEOC's rules, and those of most local human rights agencies, allow these procedures to protect fearful complainants. While the employer usually will be able to figure out who the complainant is from the facts of the case, the employer will understand that it faces very serious sanctions if it retaliates against such a "Doe" or third party complainant.

After the Charge has been filed, the employer will be notified that the complainant has filed a Charge of discrimination. At that time, unless the case obviously has no merit and can be disposed of with a simple written order, the complainant and the employer normally will be asked to go to the EEOC field office for a fact-finding conference to discuss the allegations.

The fact-finding conference is conducted by an Equal Opportunity Specialist (**EOS**) who is trained to conduct these conferences and to investigate employment discrimination charges.

The employer will be asked to bring only those witnesses who have actual knowledge of the facts. The complainant's witnesses will be interviewed before the conference, and only those with knowledge of the facts are permitted to speak at the conference.

Lawyers for both sides may attend these conferences and advise their clients, but they are not permitted to conduct cross-examination or formally participate in the proceedings. The EOS will ask all of the questions.

Most Charges filed with the EEOC are resolved without a lengthy investigation. Some Charges, however, require investigation beyond the fact-finding conference, or they were not appropriate for a fact-finding conference. These types of Charges will be investigated by either a rapid charge unit or an extended investigation unit.

A Charge assigned for extended investigation will be processed by a team that includes an attorney. The attorney will be involved in all critical decision stages as the investigation proceeds and will work on the case from beginning to end. If possible, extended investigations will include a visit to the facility in question.

Whether the EEOC's staff review is cursory, involved a fact-finding conference, or involved extended investigation, it ultimately will be resolved by a finding either of "probable cause" or "no probable cause" that the discrimination occurred.

If there was a probable cause finding, the staff will begin conciliation efforts between the complainant and the employer. Neither side is required to enter into conciliation, and either side may request a review of the findings with EEOC's headquarters staff in Washington, D.C.

When a "cause" or "no cause" finding is issued, the complainant and the employer will both be notified in writing. The complainant will be informed of her right to take the case to federal court. Sometimes a "cause" finding is so strong that the EEOC itself will go to court on behalf of the complainant. More frequently, however, the complainant will have to find her own lawyer to take the employer to court.

A "no cause" finding almost always should be read as a good indication that if the case is taken to court, the complainant probably will lose. A "cause" finding is a good indication that the complainant could win in court. However, complainants should understand that the federal judiciary is not as pro-civil rights as it once was, and the majority of federal judges these days tend not to be very sympathetic to employment discrimination complainants.

If the Commission decides not to take a case to federal court on its own, it will issue the complainant a "right to sue" letter. This letter permits the complainant to file her own suit in federal district court. The suit must be filed within 90 days of the issuance of the right to sue letter. As a practical matter, such a suit should be filed on the complainant's behalf by an attorney experienced in civil rights litigation.

The complainant is not required to wait the several months (or more) it often takes the EEOC to complete its investigation and issue a "cause" or "no cause" finding. If more than 180 days have passed since the Charge was filed, the complainant may request the EEOC to issue a right to sue letter at once, and the Commission must do so. However, most complainants will find it worthwhile to wait for the EEOC to complete its investigation, since the fruits of that investigation usually can be used as evidence in the federal court case.

### **Affirmative Action**

Affirmative action is the name given to remedies designed to alleviate the problems of systematic discrimination.

If discrimination were only a matter of personal prejudice, or if it could be remedied simply by not discriminating anymore, affirmative action would not be necessary. However, African Americans have been systematically excluded from economic, educational and social opportunities for hundreds of years -- both by law and by private custom. As a result of this history, this nation's institutions almost automatically confer advantages on whites, and impose disadvantages on African Americans.

The affirmative use of race as one of several factors to be weighed in hiring decisions is a temporary means to overcome this long history of institutional discrimination.

Unit labor and industry committees have the primary responsibility for monitoring companies' affirmative action plans and negotiating those plans with companies in need of them.

To evaluate whether a company needs an affirmative action plan, a Labor and Industry Committee should ask these questions:

1. Does the company have a reputation in the community as a fair employer?
2. What is the statistical representation of African Americans at all levels in the company hierarchy?
3. Does the company recruit by using print and broadcast media oriented toward the African American community? Does it make use of other resources that have access to African American job candidates (such as local black colleges, the Urban League, or the unit itself)? Does it do such recruiting for all job openings or only some of them?
4. Are there enough African Americans in the community or metropolitan area with the skills necessary to work for the company? If not, are there enough African Americans who are "qualifiable" (able to be trained) to obtain these

skills?

Affirmative action plans may be developed through voluntary negotiation with a company or by court order as part of the resolution of a discrimination suit. Sometimes a court will approve a “consent decree” whereby the employer and African American employees (as a class) will agree that a certain percentage of future job hires must be African Americans until they attain some measure of meaningful representation on the job.

### **EMPLOYMENT - SUBURBAN LITIGATION PROJECT**

The NAACP’s “Suburban Litigation Project” employs a new litigation strategy to address employment discrimination. Lawsuits are designed to challenge suburban municipalities, which are in close proximity to larger urban centers with large African American populations, that have residency requirements for municipal employment. These residency requirements have the effect of denying employment opportunities to many African American workers living nearby who would otherwise qualify for these rewarding jobs.

Many of the jurisdictions sued are located on the periphery of towns or cities with large African American populations. Despite the proximity to localities with a high concentration of African Americans, virtually all the jurisdictions sued have no African Americans in their work force, including the police and fire departments.

Under the Suburban Litigation Project, the NAACP has filed employment discrimination lawsuits against towns in New Jersey, Ohio and Connecticut. They include Clifton, New Jersey; Town of Harrison, New Jersey; East Haven, Connecticut; Town of Millburn, New Jersey; Borough of Fort Lee, New Jersey; Town of West Orange, New Jersey; Town of Kearny, New Jersey; Town of Bayonne, New Jersey; Brook Park, Ohio; Fairview Park, Ohio and Parma, Ohio.

This project has been successful in that the NAACP reached consent decrees with most of the jurisdictions. A decision was reached on the merits in **Newark Branch, NAACP v Town of Harrison**, 907 F.2d 1408 (3rd Cir.1990).

The Suburban Litigation Project has two major objectives:

1. to establish the right of our NAACP units to bring employment discrimination suits in their own name; and

2. to open job opportunities in the suburbs to NAACP members and to other African Americans.

The Suburban Litigation Program requires the full cooperation of local NAACP units, and a willingness of NAACP members to identify themselves as being interested in working for a suburban employer. This project has shown that by employing a broad based legal strategy, employment discrimination can be eradicated.

## **HOUSING**

Every citizen must have the right to live wherever he or she can afford to live. Segregated neighborhoods mean segregated schools, diminished job opportunities and political representation, inferior public services and police protection, and social decay.

Despite the passage of the 1968 Fair Housing Act and the 1988 Amendments, which prohibit racially discriminatory housing practices, widespread housing discrimination persists, particularly in the sale or rental of housing. These practices promote segregation and also impede access to decent housing.

Title VIII of the Civil Rights Act of 1968 (Fair Housing Law) declares that it is national policy to provide fair housing throughout the United States and prohibits seven specific kinds of discriminatory acts regarding housing if the discrimination is based on race, color, religion, sex, disability, familial status and national origin:

- Refusal to sell or rent or otherwise deal with a person.
- Discriminating in the conditions or terms of sale, rental, or occupancy.
- Falsely denying housing is available.
- Discriminatory Advertising indicating a limitation or preference.
- Blockbusting - causing a person(s) to sell or rent by telling them that members of a minority group are moving to an area.
- Discrimination in the financing of houses by banks, savings and loan associations, and mortgage companies.
- Denial of membership or participation in brokerage, multiple listing, or other real estate services.

- Interference (intimidation, threats, coercion, etc.) to keep a person from the full benefits of the Federal Fair Housing Law.

The NAACP seeks to provide an adequate supply of decent, affordable housing. In addition, housing violations should be recorded and used in a litigation strategy to oppose school district motions for unitary status.

NAACP national housing policy is implemented through local branch housing committees. This standing committee should undertake the following functions:

1. Study housing conditions in the community, compiling and monitoring information on patterns of segregation;
2. Receive and investigate complaints of discrimination, sending testers and facilitating litigation where necessary;
3. Oppose restrictive practices whether public or private;
4. Meet with lenders to review their compliance with the Community Reinvestment Act, seeking to harness their resources for investment in new low income housing; and
5. Disseminate information and build grassroots support for the elimination of discrimination in housing.

Once the NAACP unit receives a housing discrimination complaint, the complainant should be advised to seek the services of an attorney and that his or her complaint can be filed with appropriate governmental agency; usually HUD and the State civil rights entity. The aggrieved home seeker may complete a copy of the NAACP Housing Discrimination Complaint Form (See Appendix). The NAACP unit should then determine if the facts and initial investigation support a charge of discrimination. If so, the complaint should be filed with the requisite agencies to preserve the complainant's rights.

### **USING TESTERS TO PROVE HOUSING DISCRIMINATION**

The 1988 Amendments to the Fair Housing Act allow the broader use of testers in housing discrimination cases. Testers are particularly valuable in housing cases because they permit a quick and reliable reading of whether applicants of different races are treated differently. Testers help root out discrimination by providing proof that African Americans and white persons, similar except for their race, are treated differently when they apply for the same housing.

Before an NAACP unit engages in testing, members of the unit should attend a training seminar for testers so that testers are familiar with substantive and procedural aspects of the law. Contact the Legal Department if your unit is interested in setting up a training program for testers.

Housing tests usually operate in the following way. A unit testing program would send testers to the dwelling or rental office, preferably on at least two occasions, to determine whether applicants are treated differently. The testers should be persons of both races. They should be demographically similar to each other -- the same sex and roughly the same age -- and should be dressed about the same way. They should not go together; the white testers should appear after the African American testers have come and gone. The testers should take careful notes on what happens and what is said by whom. Then the testers should be prepared to go to court as witnesses for the initial complainant if the result of the test is that members of the two races were treated differently.

Testers may themselves be victimized by racial discrimination, since one's willingness to engage in civil rights compliance research does not immunize a person from the emotional damage caused by acts of discrimination. Therefore, testers may also sue in their own names and recover damages. The testers need not actually desire to reside in the apartment or house.

Units should take the lead in establishing that housing discrimination exists, facilitate litigation when it can be proven, and draw public attention to the discrimination so as to hold the perpetrators accountable. Here are some of the housing issues upon which units should focus.

### **Discrimination against Individual Buyers and Renters.**

- I. This takes many well known forms, among them:
  - a. **Racial Steering.** Realtors or managers of housing projects often recommend housing units only in certain neighborhoods to African American buyers or renters. In large housing projects, certain wings or floors unofficially may be off limits to African Americans, and vacant units there will not be shown to African Americans.
  - b. **Price Discrimination.** Some sellers and renters will deal with African Americans, but may quote or charge them higher prices than whites.
  - c. **Discrimination in Financing.** Some banks and savings and loans almost always refuse to provide financing to African Americans seeking to move into certain neighborhoods. These institutions may already hold numerous mortgages in those neighborhoods and may be reflecting the residents' desire that the neighborhood remain all or mostly white. The systematic practice of discriminating against African American entry into particular neighborhoods is called "redlining" and is discussed further below.

2. **Racial Harassment.** Once African American or racially mixed families move into some neighborhoods, they may find themselves victims of vandalism or violence. Frequently the perpetrators are not neighborhood residents.

The first line of defense against racial harassment is strong support from the NAACP unit for the victims. The NAACP should persuade the police to post a nightly vigil in front of the victim's house. Victims should be encouraged to file formal charges with law enforcement bodies or file civil suits against the perpetrators of harassment.

3. **Redlining.** Segregation is maintained when some banks, savings and loans or insurance companies draw a line on a map around segregated neighborhoods and refuse to finance home, insurance sales or home improvements there. This practice, called "redlining," denies economic empowerment to African Americans and speeds the drain of dollars away from the African American community.

Redlining also makes it difficult for African Americans to move into integrated neighborhoods. When moving to another neighborhood, one usually must sell or rent one's current dwelling to finance the move, or at least improve the dwelling so that it can be rented. When mortgages or home improvement loans are unavailable, ghetto dwellers are locked in and cannot move.

The way to end redlining is to identify it and expose it. Banks and savings and loans are required to provide, on request, a report on lending practices by neighborhood (census tract). This report is called a Community Redevelopment Act Statement (CRA). Each bank or savings and loan unit is required to post a notice indicating where the Statement may be obtained.

By reviewing these Statements and following up by interviewing senior bank and savings and loan officials, it is possible to identify which institutions practice redlining. Public exposure and intensive negotiations can often end this practice.

4. **Segregated Siting of Public Housing.** Few political decisions have greater long term impact on generations of African Americans than the decision on where to locate a new public housing project. Placement of public housing in a ghetto almost insures that the children who will be born there will attend segregated schools. This principle was the basis of our landmark 1988 Yonkers decision, **U.S. v Yonkers** 856 F.2d. 444 (2d Cir. 1988).

NAACP unit housing committees must keep abreast of the local government's agenda for deciding on public housing proposals. We must lobby heavily, insisting that any new public housing be scattered throughout the metropolitan area. Lawsuits can be brought by the Legal Department regarding segregated siting decisions.



5. **Weak Code Enforcement.** The vigilance of housing code enforcement is almost always determined by the racial composition of a neighborhood. By allowing a neighborhood to deteriorate, governments decrease the likelihood of neighborhood residents ever being able to afford to move to integrated neighborhoods, or of the neighborhood itself becoming integrated.

Many rural counties do not have housing codes, even where such codes would entitle the counties to receive federal housing rehabilitation funds. Even localities with housing codes often do nothing to prevent or punish retaliatory evictions -- the practice of some landlords of finding a pretext to evict tenants who complain about code violations. Sometimes the municipality, in its role as the landlord in public housing projects, is a prime offender of its own codes. Public officials must be held directly accountable for inhumane conditions in public housing.

6. **Unsafe Housing Conditions.** Rural units must focus on the elimination or renovation of housing that is unfit for human habitation. Sometimes entire trailer parks, or post-reconstruction villages or settlements off the main highways, serve as dumping grounds for the poorest of the poor.

Units should periodically survey local housing conditions. Such a survey may often be accomplished with the assistance of youth and college chapter members. The volunteers should not only note the frequency of various poor housing conditions, but should also include photographs or a videotape in their documentation. By publishing and publicizing the survey results, and filing suit where necessary, the unit can insure that residents of this type of housing live in conditions of basic dignity.

**PLEASE NOTE THAT THE NAACP HOUSING DEPARTMENT HAS PUBLISHED AN EXCELLENT BROCHURE ENTITLED, "NAACP HOUSING MANUAL" ALONG WITH A BROCHURE ENTITLED, "DISCRIMINATION AGAINST FAMILIES WITH CHILDREN IN THE LENDING AND FINANCIAL AREAS." ALL NAACP UNITS SHOULD USE THESE FOR INFORMATION AND FURTHER REFERENCE.**

#### **COMMUNITY REINVESTMENT ACT MONITORING (CRA)\***

NAACP units can put pressure on banks and savings and loan associations to curtail redlining and ensure an equal flow of credit into African-American communities by using the requirements of the Community Reinvestment Act. This Act requires financial institutions to meet credit needs of its entire community including moderate and low income areas and can be used by NAACP units to preclude a financial institution from opening or relocating a branch office and merging with or acquiring another institution.

Most banks and savings and loan institutions are supervised by one of the following federal regulatory agencies:

- Federal Deposit Insurance Corporation (FDIC)
- Office of Thrift Supervision (OTS)
- Office of the Comptroller of the Currency (OCC)
- Board of Governors of the Federal Reserve System (FBR)

Additionally, the Fair Housing Amendments Act of 1988 requires the agencies to cooperate with the U.S. Department of Housing and Urban Development (HUD) by administering their program affirmatively to promote fair housing. These agencies have adopted nearly identical regulations to carry out the requirements of CRA.

## **PURPOSE**

The purpose of this NAACP unit activity is to assure that for low and moderate income neighborhoods, banking and other financial institutions are making credit equally available in these areas as in more affluent communities. NAACP units can serve as a collector of community complaints for the federal regulatory agencies who supervise these institutions. Most banks, savings and loan institutions (holding companies) are required to comply with the CRA.

## **IMPLEMENTATION**

The CRA law requires the federal agencies that supervise these institutions to assess their record of community investment. Community groups serve as a valuable resource to these agencies by providing information about how well these financial institutions are meeting their obligations.

- Each institution is required to have a Community Reinvestment Act Statement, approved by its Board of Directors. Obtain a copy! This will contain a map of the community the bank claims to serve; also a list of the type of loans the bank has reported it will make; and the name of the federal agency to be contacted to comment on the bank's performance.

- Perform spot checks to see that a CRA notice is posted in a public lobby of the bank and in all of its branches.

- Ask to see the Public File of written comments about the institution and the responses they gave to each. Copies of any responses made to previous comments must also be kept on file.

- Urge the community to report to the NAACP unit any loan rejections or mistreatment. Keep a written record of each complaint received. File complaints with the particular institution so that they can be placed in the CRA file.

- Send a copy of the complaint to the appropriate regulatory agency (See Appendix).

-Contact the federal regulatory agency. Inform them of your project and that their examiners may contact the NAACP unit whenever an assessment is performed of that institution.

-NAACP unit follow-up. Be prepared to file a formal complaint with the federal government if your monitoring reveals serious differences in the treatment of African-Americans or in making loans in low income areas. Contact the NAACP National Office and your State Conference about findings and plans for filing the complaint.

-Notify the press of your projects and your findings. A noticeable change in lenders attitudes has resulted from publicity.

\*Taken from NAACP Housing Manual, 1993

## **HEALTH**

The NAACP believes that good health and access to adequate health care is the foundation for community stability and success. The strength of any minority group is conditioned to a large degree on the physical and mental well being of its members. In this regard, equal access to quality health care for all ages is the ultimate civil right. Thus, it is crucial that all NAACP State Conferences and units review, examine and assess the health status of blacks. Aggressive efforts must be taken to improve the health status of minorities.

The NAACP has adopted the World Health Organization's definition of health as a state of complete physical, mental and social well being and not just the absence of disease or infirmity. Thus, health is irrevocably connected with any progressive or moral action taken against the many problems which plague our communities today, including racism, discrimination, unemployment, poverty, segregation, and inequity in education, housing, crime and drug abuse with its accompanying violence.

On almost every measure of health, African-Americans are disproportionately over-represented in terms of poorer health, and inaccessibility to quality health care. The wide disparity between the races in all critical health indicators is alarming and requires direct action. African-Americans are also under-represented as members of the health-care professions.

The NAACP health care agenda for African-Americans embraces a wide range of issues, including pre and post-natal care, adequate nutrition, accessible and affordable facilities for health care for minorities, the realities of HIV/AIDS, and the high costs of health services and insurance. These problems must be pursued vigorously. The present model of health care must be reformed to provide quality services and accessibility for all Americans on an equal basis.

### **1. AREAS OF ACTION FOR STATE CONFERENCES AND UNITS**

NAACP State Conferences and units should organize health committees and diligently monitor the health and health care status of African Americans, giving paramount attention to the following:

#### **ACCESSIBILITY**

In many black communities, the legacy of “separate but equal” health care persists and private facilities remain virtually inaccessible to African Americans while public hospitals and other state and local federally funded facilities operate overburdened and under funded. Legal remedies exist to protect African Americans from discrimination in access to private health care facilities:

a) **The Emergency Medical Treatment and Active Labor Act** prohibits the practice known as "patient dumping" where hospitals deny treatment to emergency room patients or women active in labor, often by transferring them to another hospital in an unstabilized condition, for whatever reasons, including race, undesirability of condition or inability to pay. The Act imposes serious penalties on violating facilities and provides for a private right of action (law suit on negligence theory) to the individuals who may be victims of such conduct. NAACP units should monitor hospitals closely and be alert to organizing potential plaintiffs for both class actions as well as individual law suits.

b) Private health care facilities that receive federal funds in the form of grants or loans are also under a duty to treat patients regardless of their ability to pay. Many suits challenging indigent discrimination under the Hill-Burton Act have been successful. Well over half of the private hospitals in the country receive Hill-Burton funds, a list of which may be obtained from the U.S. Department of Health and Human Services, Office of Civil Rights. The NAACP Legal Department can bring these suits if the proper research has been done by the NAACP unit in each respective community where patients have been denied service.

c) Title VI of the Civil Rights Act of 1964 prohibits discrimination in any programs, including health care and health care facilities, that receive federal financial assistance. This provides the NAACP with another means of legal redress or political action. Again, the NAACP unit must collect the evidence and amass the crucial data in order for the Legal Department to proceed.

The NAACP can effectively pursue a strategy of enforcement of existing laws against health care discrimination and require a greater measure of public accountability by private health care providers. The NAACP must also monitor against the "privatization" of public facilities, hospital closures and relocations which adversely affect African American communities.

## **2. MINORITY PARTICIPATION IN HEALTH CARE PROFESSIONS**

**While African Americans comprise more than 13% of the U.S. population,** they make up only 3% of physicians and are woefully under-represented in specialties, particularly in internal medicine and in academic positions in medical schools. This under-representation is detrimental to minorities and to the country as a whole. Solutions include (a) expansion of recruitment efforts for minority students at all levels and in all specialties, (b) increased governmental financial aid to those in need, (c) affirmative action in pre-medical and medical schools (student and faculty), (d) increased supportive academic programs for minorities, including counseling and advisory services, and (e) desegregation of the medical profession at all academic and service levels.

### **3. NURSING HOME DISCRIMINATION**

Even operating as publicly licensed health care facilities, nursing homes remain highly segregated. A common discriminatory practice employed by nursing homes which limit access to poor minorities and Medicaid patients is known as "limited bed certification." This enables nursing homes to determine, at their discretion, the number of beds that will be certified for participation in the Medicaid Program and to change the number of beds available throughout the year. This form of Medicaid manipulation and racial discrimination by exclusion may be challenged under Title VI and the Medicaid statute.

All NAACP units suspecting nursing homes of such discrimination should attempt to collect as much evidence and data as possible and forward it to the Legal Department.

### **4. MATERNAL AND CHILD HEALTH**

Overwhelming evidence shows that comprehensive maternity care, including medical, nutritional and supportive services, has a significant impact on infant mortality, particularly in the case of infants born in poverty. NAACP units should actively monitor and call for comprehensive prenatal care programs for blacks and increased funding for such programs. These programs should include physical exams, developmental assessments, immunizations, parenting, and education and treatment for acute and chronic illnesses. Efforts must also include the organization of "outreach" programs for pregnant women, especially teenagers, and ongoing educational programs and support for increased public and private funding for comprehensive family planning services targeted to the African American community.

The Health Committee of each unit shall actively lobby the legislative and executive units to assure these health care priorities are adequately funded and implemented.

### **5. HEALTH CARE COSTS AND INSURANCE COVERAGE**

The United States is the only major industrialized nation without a universal health insurance system that ensures access to health care for all its citizens, leaving more than 38 million Americans without health insurance coverage. This is a particular problem for many African-Americans who are less likely to have well paying jobs with comprehensive employer-financed health insurance. Public programs such as Medicaid, Medicare, and community health centers are an important source of care for many low income minorities, but they fail to assist all of those in needs. NAACP units should organize advocacy and support for expanded public coverage for low income families and health care reform which provides for universal coverage for all, cost containment and adequate and fair financing.

## **6. THE HIV/AIDS EPIDEMIC**

Blacks accounted for a disproportionate share (28%) of all reported AIDS cases through July 1991. The risk of AIDS in black men is 2.8 times as great as that in white men; for black women, it is 13.2 times as great as that in white women; and for African American children it is 11.6 times as great as that in white children.

NAACP units must vigorously support increased governmental awareness and funding in relation to HIV/AIDS and services for the victims of AIDS, educate the black community as to their unique risks, organize education and outreach programs to develop and implement activities to assist HIV infected individuals in adopting behaviors that will reduce the transmission rate of the virus and reduce the number of African Americans participating in high risk activities.

## **7. HEALTH AND COMMUNITY INPUT**

NAACP units should organize health screening programs, health fairs and health education, particularly in relation to early detection and treatment of diseases and conditions such as cancer, high blood pressure, stroke and cirrhosis. Units should also organize local health action task forces to monitor and promote increased African American participation in regional, state and local policy levels, medical boards, etc.

## **8. MENTAL HEALTH**

NAACP units should take the lead in forming local forces to assess local mental health services with a special focus on laws and regulations which restrict care and adequacy of funding for programs and the supply of trained mental health personnel at all levels.

## **9. SMOKING, ALCOHOL AND DRUG ABUSE**

With an increased effort to promote quality health and environmental lifestyles beneficial to blacks, NAACP units should organize, promote and support educational programs and services regarding the harmful and often deadly effects of tobacco, alcohol and drug abuse, including rehabilitation services.

## **ENVIRONMENTAL JUSTICE**

NAACP units should focus on issues concerning the environment and the adverse effects of environmental racism upon the African American community. Environmental issues have paramount importance. Ever increasing evidence shows that a disproportionate environmental burden is carried by black communities across the country. African Americans are disproportionately exposed to hazards from toxic waste, air pollution, adulterated water supplies, and housing containing lead paint.

The NAACP has identified the following areas which raise the most concerns:

- LEAD PAINT POISONING
- DISEASES CAUSED BY ASBESTOS EXPOSURE
- CLEAN WATER AND AIR STANDARDS
- TOXIC WASTE DISPOSAL.

### **1. LEAD PAINT**

The Centers for Disease Control has concluded that some four million children, primarily those in inner cities and older urban areas, are at risk of lead paint poisoning. Older buildings, where the at-risk children are housed, are likely to contain lead paint which children ingest, and lead pipes which leak lead into tap water. Brain damage from lead poisoning is insidious as the symptoms do not manifest until toxic levels are to a point where brain damage is severe and often irreversible. The overwhelming majority of at risk youngsters are poor and African American.

Despite the fact that a majority of cities and states have outlawed the use of lead paint and provided for testing, enforcement efforts are woefully deficient.

NAACP units must educate and train their members concerning lead poisoning issues. NAACP units should identify sources of lead paint poisoning in their communities and press local officials to abate the problem through direct removal. Units should identify programs for testing of infants and children, the most vulnerable groups of people who may be exposed to lead poisoning.

NAACP units must vigorously urge various health departments and public health services to implement testing procedures which have been mandated by law. In cases where a unit is unable to enlist local cooperation, the unit should pass a resolution, supported by statistical and empirical data, to involve the Legal Department of the National Office in its abatement efforts.

### **1. ASBESTOS**

The U.S. Environmental Protection Agency adopted a gradual ban on all asbestos in 1989. The phase-in of asbestos elimination was to be completed by 1997. Despite the regulations, studies have shown that the public in general, and minorities in particular, does not appreciate or understand the dangers that asbestos pose as a carcinogen. Many older buildings contain asbestos in floor coverings, insulation and ceiling components. Left undisturbed, asbestos fibers pose only a minimal risk. However, once airborne, asbestos fibers become a



deadly cancer causing agent.

Most of the focus concerning asbestos contamination and programs which foster removal have been of a commercial nature. NAACP units, however, can undertake programs of information and education to identify and eliminate the non-commercial, residential asbestos threat. NAACP units are encouraged to contact "White Lung" programs which many communities have available. If such an organization is not active in your community, NAACP efforts should be undertaken to create such an association to test buildings for the presence of asbestos and to abate the health threatening conditions caused by the presence of asbestos.

If local officials are reluctant to meet these needs, the unit should resolve to enlist the support of the National legal staff in order to address these issues. The unit must first compile the proper statistical and empirical data.

## **2. CLEAN WATER & AIR STANDARDS**

At the request of the Governor of the State of Alabama, the NAACP became a co-petitioner in that state's petition for rulemaking requesting that the EPA establish zero as the national water quality criteria for dioxin. Dioxin is a carcinogen or cancer causing agent. Dioxin contamination most often occurs from industrial runoff which pollutes streams and rivers. Humans then ingest dioxin from consumption of fresh water fish. African Americans are often subsistence fishermen, and thus consume more fish than do other segments of the population. Therefore, African Americans have a higher potential for exposure to dioxin than do other groups. Current EPA standards for dioxin levels fail to address the increased risk of dioxin toxicity which minorities face. Units must become aggressive advocates to eliminate this problem, both through influencing EPA rulemaking and by litigating against polluters. Units should educate themselves with respect to EPA regulations concerning clean water and air standards applicable to their communities.

If a unit suspects a violation of these statutes, it should contact the EPA and local authorities for an investigation and elimination of such contamination. If the EPA or local authorities are not responsive, then the National Legal Department may be able to step in and compel that such measures are taken by initiating litigation.

## **3. TOXIC WASTE DISPOSAL**

The majority of unsupervised toxic waste facilities are located in poor and minority communities. Studies undertaken by the EPA indicate that the most polluted communities include the industrial corridor of Chicago, the Pesticide Bowl of Central California farms and settlements along the Columbia River. These communities are heavily populated by African Americans, Hispanics and Native Americans. NAACP units must aggressively seek out the location of toxic waste and other facilities in their communities. Units should encourage testing of ground water and air samples near any toxic waste disposal sites which may be located in their

communities.

Most local ordinances require public comment before a toxic waste disposal site is established. Such notices appear in local newspapers or in courthouse notices. Hearings are held before the local city council or governmental units and may appear in the agenda for that body. Units should undertake diligent efforts to make themselves aware of such hearings, educate themselves as to the facts and present testimony to protect the health and welfare of the community as a whole. Should an NAACP unit be unable to influence rulemaking bodies with respect to these issues, it should pass a resolution calling for the intervention of the Legal Department of the National Office.

## **PRISONERS RIGHTS**

### **INMATE REQUESTS FOR ASSISTANCE**

Since 19..., the NAACP has operated an NAACP National Prison Program in state and federal prisons throughout the nation. The Program consists of fully chartered units in both state and federal prisons. The objectives of the Prison Program are:

1. To assist in the rehabilitation process of incarcerated men and women who have made up their minds that they want to change the pattern of their behavior;
2. To channel the energy, time and talents of prisoners into constructive pursuits;
3. To assist prospective parolees in securing firm job commitments before their release and;
4. To reduce the rate of recidivism and the amount of taxpayers' dollars spent by returning more ex-offenders to their communities as assets rather than as liabilities.

Most units will receive a large number of requests for assistance from inmates. There are challenging obstacles to lending assistance. For example:

- Prisons may be either a federal, state or local jail thus making it difficult to come up with a general approach to apply to all three systems;
- The incarcerated individual may already have been tried and convicted or may have already lost an appeal leaving no option to intervene in the case;
- Thoughtful assessment must be applied to the facts in order to determine whether "race" is the overwhelming reason for the inmate's plight;

- On site investigation may be difficult.

## **PROCEDURE**

### **1. INVESTIGATION**

As in any action initiated by a unit in behalf of someone suffering alleged discrimination, the first step is to conduct a thorough investigation of the facts. In cases involving prisoners, the problems most complained of usually fall into one of three general categories:

#### **a) DEPRIVATION OF CIVIL RIGHTS**

Under this broad heading fall a wide range of complaints including, but not limited to, blacks being unfairly struck from jury, ineffective assistance of counsel, the use of illegally obtained evidence, witnesses who gave false testimony and, tainted evidence used against the individual;

#### **b) PRISON CONDITIONS**

Under this category are the complaints regarding treatment and conditions during incarceration. Such complaints can include lack of proper medical care, overcrowded and unsanitary living conditions, physical abuse by guards, and unfair or retaliatory punishment.

#### **c) APPEALS**

All court judgments are appealable ostensibly until the U.S. Supreme Court has spoken. Because appeals often present complex legal issues explained later, cases involving appeals often present the least opportunity for a unit to provide assistance.

### **LENDING MORAL SUPPORT OR LEGAL REPRESENTATION**

During the course of the investigation, it should become clear whether or not the person, either currently in jail or threatened with jail, is currently represented by an attorney, it is imperative that the attorney is made aware of the NAACP unit's involvement in the case. In most instances, the attorney will be able to provide the unit a clear understanding of both what has gone on before, and the issues currently at hand. Furthermore, it is important that the attorney be aware of any involvement of any person or organization on behalf of a client, so that everyone will be working toward the same goals. Oftentimes, the attorney will ask for the unit's assistance, and that attorney will be in a position to guide the unit to the areas that will be in a position to guide the unit to the areas that will help most with the case.

### **3. REFERRALS**

There will be times when the most assistance a unit can offer will be a referral to a particular service agency or group that specializes in prisoner issues. One is the **Prisoner's Assistance Directory**, which is published periodically by the **National Prison Project**. This publication lists not only the major national organizations dedicated to prison issues, but it also lists the local organizations by state. Please refer to the Appendix for other agencies.

It would be useful for the local NAACP unit to maintain a current list of those attorneys in the community that handle criminal and/or prison cases. Often the most useful service a unit can offer a prisoner or criminal suspect is the name of a good attorney. One must be very careful, however, to not make the NAACP unit the guarantor of that attorney's services or abilities. The unit should offer such referrals with the clear understanding that the person and not the unit makes the final decision to retain or not to retain the attorney. Again, the unit should provide the individual with the names of at least three attorneys from which to choose.

After thorough investigation and with the full cooperation of the defendant (and his or her attorney), the unit may want to intercede. In those instances, the case should be handled much like any other civil rights cases in which a unit intervenes. The unit may generally treat the case as a matter for political action. The NAACP generally seeks to champion rights in a way that has broad impact. Units intervention in prison cases should be generally limited to the following instances:

1. assistance to persons who are victims of injustice solely because of their color;
2. assistance in cases where fundamental civil or human rights are involved; and
3. assistance to establish or maintain principals of law and basic rights.

### **POLICE MISCONDUCT**

The NAACP is frequently asked to take action regarding police misconduct which may occur in various forms.

#### **WHAT IS POLICE MISCONDUCT?**

1. Verbal Abuse and Harassment, such as when a police officer uses a racial slur while speaking to a suspect or bystander;

2. Use of Excessive Force, such as when some police officer slaps or kicks a suspect who has already been handcuffed or has offered no resistance;

3. Unjustified Use of Deadly Force, such as when a police officer literally strangles a suspect to death using a "choke hold" or other means.

The unit should always advise any alleged victim of police misconduct to consult with an attorney immediately.

### **IS THE USE OF DEADLY FORCE EVER JUSTIFIED?**

Yes. Every incident involving a shooting or a killing by a police officer does not automatically constitute "police misconduct."

Some states allow the police to use deadly force to arrest felony suspects. Felonies are major crimes, such as murder, rape, burglary or arson, for which the maximum penalty is death or more than one year in prison. Some states also allow the police to use deadly force against a "fleeing felon," meaning anyone suspected of committing a felony who tries to get away from the crime scene.

All states allow a police office to use deadly force to protect the life of an innocent bystander or to protect the police officer against imminent, grievous, physical injury or death.

### **WHAT IF A PERSON IS STOPPED OR ARRESTED BY THE POLICE? Units should educate the minority community on the following NAACP observations:**

1. It does not pay to act belligerent when stopped by the police, even if you are innocent. If stopped, you need to understand that the police officer is in command. You can defend your rights at a later time.

2. Try not to be arrested. Do not allow the police to "bait" you. You may be in the right, but once you are arrested, however unlawfully, you will look as though you are in the wrong.

3. Do not "resist" arrest. Do not make any quick or "threatening" motion or verbally threaten the police.

4. If you are arrested, make mental notes while in police custody. Once you are by yourself, write down all details regarding any police misconduct that you have suffered (including the police officer's name, badge number, physical description, and patrol car number). Make similar notes if you are not arrested but believe that you have been mistreated. The facts regarding what happened will be important later on if you press charges against a particular police officer.

5. Do not interfere with the arrest of another person. Write down all the details regarding any police misconduct that you witness.

## **HOW SHOULD UNITS INVESTIGATE POLICE MISCONDUCT?**

1. It is important that we confront all types of police misconduct, including harassment or abuse of discretion, as well as incidents resulting in physical injury or death.

2. A unit must take the necessary time to investigate the facts and collect witness statements before making any formal charge of police misconduct or demanding involvement by outside agencies. Credible witness testimony can be critical in helping to prove that a police officer acted improperly. Frivolous complaints only serve to increase tensions.

3. Witnesses should be interviewed as soon after the incident as possible. The unit can help collect sworn statements from any person who actually witnessed the police officer's conduct. Pictures taken when the incident occurred should also be collected as valuable evidence and safely stored for future use.

4. Always investigate fully before making formal charges of police brutality. Try to determine whether previous complaints alleging police misconduct have been filed against the officer whose conduct you are protesting. Obtain and review reports regarding past incidents involving police misconduct in the community.

5. Request, in writing, a copy of the police incident report and official coroner's report on any police shooting death where the circumstances of the death are unclear or subject to conflicting reports.

6. Determine whether the police department has an official, written policy for handling complaints alleging police misconduct. Request, in writing, a copy of any such policy for future use.

## **HOW THE NAACP CAN DEMAND AN INVESTIGATION AND CALL FOR ACTION**

1. Attempt to first communicate with police administrative personnel and other locally elected officials (for example, the mayor and members of the city council) in an attempt to have them initiate formal proceedings against the officer suspected of police misconduct.

2. Next, submit witness statements, pictures and other evidence with a written demand for a prompt and impartial investigation. The demand for an investigation may be accompanied by a demand for the police officer's immediate suspension.

3. Be careful to avoid making declarative, potentially slanderous statements such as "Officer Doe murdered John Williams." Instead, you may say, "If the (shooting) is found to be unnecessary, then we insist that disciplinary action be taken against Officer Doe."

4. If police brutality is a problem in your community, you should also contact and seek assistance from the local office of any of the following agencies:

(a) Local District Attorney, State Attorney General or U.S. District Attorney's Office;

(b) Federal Bureau of Investigation (FBI);

(c) Community Relations Service of the U.S. Department of Justice (see Appendix).

5. Seek additional guidance from the NAACP Legal Department at the National Office.

## **FILING OF A CIVIL ACTION**

A person who has been a victim of police misconduct, or her relatives if she is dead, may file a civil action under federal or state law for damages to recover for the injury or wrongful death. Once a civil action has been filed (or private counsel has been retained) the unit should be very careful that its actions do not compromise any legal representation of the victim. The NAACP unit should carefully coordinate all of its actions with the victim's counsel.

## **HOW THE NAACP UNIT CAN ORGANIZE TO IMPROVE POLICE-CITIZEN RELATIONS**

1. While it is important for the NAACP to protest incidents of police misconduct, it is just as important for the NAACP unit to commit itself to the long term goal of improving police-citizen relations.

2. For detailed, practical guidelines regarding how to organize against police-citizen violence -- such as tips on gathering data, lobbying for the passage of clear guidelines regarding the use of deadly force by police officers, how to form meaningful community coalitions or creating a Civilian Complaint Review Board for Police Misconduct -- please refer to the **POLICE-CITIZEN VIOLENCE: AN ORGANIZING GUIDE FOR COMMUNITY LEADERS**, NAACP Police-Citizen Project (New York, 1983), and to **Beyond The Rodney King Story: An Investigation of Police Conduct in Minoity Communities - NAACP and the Criminal Justice Institute at Harvard Law School**, 1995, Northwestern University Press.

## **MILITARY JUSTICE**

The NAACP seeks to foster, support and encourage equal opportunity for black veterans and black military personnel regarding their military status. The NAACP maintains that all African American veteran, service members and dependents should be guaranteed the right to apply for advancement and benefits, without regard to race, color, sex, sexual preference, national origin, religion, age, mental or physical disabilities.

The NAACP and its Units may, when requested:

- \* Become involved in a racially discriminatory matter in reviewing pending court-martial proceedings against African American personnel in the Uniformed Services and provide counsel where it appears that an injustice has been perpetrated because of race;
- \* Assist in obtaining reviews of court-martial convictions involving African Americans when racial discrimination is involved;
- \* Work with the Department of Defense Military Equal Opportunity Office and the Equal Opportunity Offices of each of the services to investigate, monitor and resolve legal complaints based on race;
- \* Assist in filing claims for benefits when the denial appears to be based on race;
- \* Assist an individual in filing a racial discrimination complaint.

Each NAACP unit should appoint an NAACP Armed Services & Veteran Affairs Committee with the specific mission of pressing the armed services to adopt mechanisms to assure equality and discourage discrimination. This committee should also seek to establish working relationships with those agencies in government, national, state and local, having the responsibility in the affairs of members of the various Armed Services and veterans in seeing that programs are administered fairly and in a nondiscriminatory manner.

Units should process military cases in the same way as they process other legal claims. The complainant should contact the unit, either in writing or in person, to file a complaint. The unit should then refer such complaints to the legal redress committee for an evaluation of the facts. If it is determined that the issue involves a matter involving racial discrimination, the legal redress committee may make a recommendation to seek assistance.

NAACP units can do one of three things to seek assistance and process an alleged complaint of discrimination:



1. If the complaint is from a veteran or dependent on a particular installation regarding denial of a benefit or privilege, refer the complaint to the Senior Commander of the installation.

2. If the complaint is from an active duty or reserve service member or her dependent, refer the complaint through the chain of command, starting with the Senior Commander of the installation.

3. The complaint can be sent to the National Director of the Armed Services and Veteran Affairs Department. If the complaint reflects widespread race discrimination, the Director will forward the complaint to the Legal Department.

Units should consult **NAACP Armed Services & Veterans Affairs Department Training Guide** for specifics regarding how military justice claims should be processed.

## **VI. PROCEDURAL TOOLS IN CIVIL RIGHTS LITIGATION**

### **PROCEDURAL TOOLS IN CIVIL RIGHTS LITIGATION**

There are many State and Local Human Rights Agencies which have authorized enforcement powers to process discrimination complaints. NAACP Units should become familiar with the procedures and policies for their respective jurisdiction. In some instances, qualified state and local agencies are given the opportunity to act first on charges of discrimination prior to the assumption of jurisdiction by a federal agency.

### **SOME FEDERAL AGENCIES WHICH HANDLE DISCRIMINATION COMPLAINTS**

#### **EQUAL EMPLOYMENT OPPORTUNITIES COMMISSION, (EEOC)**

1800 L Street, N.W.

Washington, D.C. 20006

(202) 634-6753

EEOC has local offices in each state and charges may be filed or made at the office in any State within 180 days.

Works to end job discrimination (including sexual harassment) by private and government employers based on race, color, religion, sex, national origin, age, or reprisal for protest of employment practices alleged to be unlawful in hiring, promotion, firing, wages, and other terms and conditions of employment. The EEOC enforces Title VII of the Civil Rights Act

of 1964, as amended, which includes the Pregnancy Discrimination Act; Age Discrimination in employment Act; Equal Pay Act; and, in the federal sector, disabled discrimination laws. The Commission receives charges of Discrimination; attempts conciliation or settlement; can bring court action to force compliance; has review and appeals responsibility in the federal sector.

**NATIONAL LABOR RELATIONS BOARD, NLRB**

1717 Pennsylvania Avenue, N.W.  
Washington, D.C. 20570  
(202) 254-9430

Prevents and remedies unfair labor practices by employers and labor unions; conducts elections among employees to determine whether they wish to be represented by a labor union for collective bargaining purposes.

**DEPARTMENT OF EDUCATION**

400 Maryland Avenue, S.W.  
Room 4181  
Washington, D.C. 20202  
(202) 732-3000

Assistant Secretary for Civil Rights  
330 C Street, S.W.  
Room 5000  
Washington, D.C. 20202  
(202) 732-1213

Investigates, negotiates and litigates allegations of discrimination by schools, universities, state and local governments.

**DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, HUD**

451 7th Street S.W.  
Washington, D.C. 20410  
1-800 424-8590

Assistant Secretary for Fair Housing & Equal Opportunity  
451-7th Street, S.W.  
Room 5100  
Washington, D.C. 20410

HUD assists with any problem of housing discrimination. A person has up to one year to file a complaint. See Appendix for Regional Offices locations and numbers.

**DEPARTMENT OF JUSTICE**

Attorney General  
Department of Justice  
10th & Constitution Avenue, N.W.  
Room 5111  
Washington, D.C. 20530

Civil Rights Division  
Assistant Attorney General  
Department of Justice  
10th & Constitution Avenue, N.W.  
Room 5100  
Washington, D.C. 20530  
(202) 755-7252

The Department of Justice's Civil Rights Division was set up in 1957 to enforce the Civil Rights Act of 1957 and was subsequently charged with enforcing the Civil Rights Act of 1960, 1964, 1968, as well as a number of criminal statutes concerning deprivation of constitutional rights, along with enforcing Fair Housing and school desegregation laws.

**COMMISSION ON CIVIL RIGHTS**

1121 Vermont Avenue, N.W.  
Room 800  
Washington, D.C. 20425  
(202) 523-5571

Researches federal policy in areas of equal employment and job discrimination; monitors the economic status of minorities and women, including their employment, unemployment and earnings.

**DEPARTMENT OF LABOR**

200 Constitution Avenue, N.W.  
Washington, D.C. 20210  
(202) 523-8271

Directorate of Civil Rights  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210  
(202) 523-8927

Promotes and develops the welfare of U.S. wage earners; administers federal labor laws; acts as principal advisor to the president on policies relating to wage earners, working conditions, and employment opportunities.

## **FREEDOM OF INFORMATION ACT**

The Freedom of Information Act establishes that records in the possession of government agencies and departments should be accessible to the public. The Freedom of Information Act applies to documents held by agencies in the executive branch of the federal government. The executive branch includes cabinet departments, military departments, government corporations, government controlled corporations, independent regulatory agencies and other establishments in the executive branch.

The FOIA does not apply to elected officials of the federal Government or to the federal judiciary, private companies, a person who receives grants or contracts; tax exempt organizations or state and local governments.

To make a FOIA request, an individual needs to send a written request to the agency which has the desired records. Such letters can be short and simple. (See Appendix) The letter should state that the request is being made under FOIA; identify the records requested as specifically as possible; include your name and address. There may be a small fee for copying. A requester should keep a copy of the request letter and related correspondence until the request has been finally resolved.

# **VII. LEGAL ISSUES REGARDING UNIT ADMINISTRATION**

## **LEGAL ISSUES REGARDING UNIT ADMINISTRATION**

### **INSURANCE**

NAACP units should investigate whether it is necessary to obtain insurance coverage. This determination will most likely be based on a number of factors, i.e., does the unit operate an office; does the NAACP unit employ personnel; does the unit engage in activities which by their nature or by law require insurance coverage. In addition, there may be some instances in which spot coverage may be necessary such as for demonstrations, marches, dinners or other fund raising events.

It is the unit's responsibility to investigate and to comply with the requirements for insurance in their respective jurisdiction.

## **POLICY ON FUND RAISING**

To avoid submitting competing requests to the same funding organizations, all units submitting requests for funds for legal programs must send such requests beforehand to the Legal Department for attention and approval. This includes requests sent regarding IOLTA, foundations and other funding sources.

## **ACCEPTANCE OF PROPERTY**

As a rule, units may not own real estate. Likewise, the NAACP is not desirous of charitable property if maintenance of such will cost the Association more than the property is worth. For this reason, the following criteria are applied by the National Office when considering whether to accept or sell property.

### **Acceptance of Real Estate**

1. Can the property be sold for a value greater than fifteen thousand dollars (\$15,000)?;
2. Has the NAACP obtained at least two (2) independent and impartial appraisals?;
3. Can the property be sold within six months if the property is accepted;
4. Will the NAACP be subjected to excessive liability by acquiring the property?

### **Sale of Real Estate**

1. Has the NAACP obtained at least two (2) independent and impartial appraisals?
2. Has there been a positive determination with respect to the oil, gas, mineral and air rights?
3. Has there been a determination for future economic development and its effect on the sale of the land?
4. Do ongoing costs of maintenance (weed removal, property taxes, liability insurance) outweigh the advantages of keeping the property?

## **TAX RESPONSIBILITIES FOR NAACP UNITS AS 501(C)(4) ENTITIES**

### **DISCLOSURE OF NONDEDUCTIBILITY OF CONTRIBUTIONS**

#### **501(c)(4) Organizations**

##### **Overview**

**Gifts and contributions to § 501(c)(4) organizations are not tax deductible.** It is the organization's responsibility to inform donors and contributors of this every time it makes a fund raising solicitation.

- Organizations are required to make this disclosure through an **express statement** (in a conspicuous and easily recognizable format) that notifies contributors that their contributions or gifts are not deductible as charitable contributions for Federal income tax purposes.
- The term **fund raising solicitation** includes any solicitation of contributions or gifts in written or printed form, by television, by radio or by telephone. It does not include any letters or telephone calls that are not part of a coordinated fund raising campaign soliciting more than 10 persons during the calendar year.
- The disclosure requirement does not apply to an oral request for contributions that is **not made over the telephone** (for example, an oral solicitation made during door-to-door fund raising). However, if any written or printed materials are distributed in connection with this oral solicitation, the disclosure requirement applies to those materials.
- The penalty for not including the required disclosure is **\$1,000** per day, up to a maximum annual penalty of **\$10,000**. In other words, the organization is assessed \$1,000 for each day a solicitation is mailed, distributed, published, broadcast or spoken by telephone, **not** for each noncomplying solicitation.

**Example:** If an NAACP unit mails 500 noncomplying solicitations on March 30 and 50 noncomplying solicitations on April 5, the penalty would be \$2,000.

\* If the disclosure isn't made because the law is being intentionally disregarded, the \$10,000 cap does not apply. Moreover, severe penalties based on up to 50% of the total cost of the solicitations may be assessed.

## **DISCLOSURE OF NONDEDUCTIBILITY OF CONTRIBUTIONS**

### **"THE SAFE HARBOR"**

**In an effort to show organizations what constitutes an acceptable disclosure notice, the Treasury Department has set out the following guidelines:**

**For solicitation by mail, leaflet, or advertisement in a newspaper, magazine or other print medium:**

**Four requirements**

- 4. The solicitation includes whichever of the following statements the organization deems appropriate:**
  - a. "Contributions or gifts to this NAACP unit are not deductible as charitable contributions for Federal income tax purposes."**
  - b. "Contributions or gifts to this NAACP unit are not tax deductible."**
  - c. "Contributions or gifts to this NAACP unit are not tax deductible as charitable contributions."**
- 5. The statement is in at least the same size type as the primary message stated in the body of the letter, leaflet or ad;**
- 6. The statement is included on the message side of any card or tear off section that the contributor returns with the contribution; and**
- 7. The statement is either the first sentence in a paragraph or itself constitutes a paragraph.**

## **For solicitation by telephone:**

### **Three requirements**

- 1. The solicitation includes whichever of the following statements the organization deems appropriate:**
  - a. "Contributions or gifts to this NAACP unit are not deductible as charitable contributions for Federal income tax purposes."**
  - b. "Contributions or gifts to this NAACP unit are not tax deductible."**
  - c. "Contributions or gifts to this NAACP unit are not tax deductible as charitable contributions."**
- 2. The statement is made in close proximity to the request for contributions, during the same telephone call, by the telephone solicitor; and**
- 3. Any written confirmation or billing sent to a person pledging to contribute during the telephone solicitation complies with the requirements for print medium solicitations.**

## **For solicitation by television:**

### **Two Requirements**

- 1. The solicitation includes whichever of the following statements the organization deems appropriate:**
  - a. "Contributions or gifts to this NAACP unit are not deductible as charitable contributions for Federal income tax purposes."**
  - b. "Contributions or gifts to this NAACP unit are not tax deductible."**
  - c. "Contributions or gifts to this NAACP unit are not tax deductible as charitable contributions."**
- 2. If the statement is spoken, it is in close proximity to the request for contributions; if the statement appears on the television screen, it is in large, easily readable type, and appears on the screen for at least five seconds.**



## **For solicitation by radio:**

### **Two Requirements**

1. The solicitation includes whichever of the following statements the organization deems appropriate:
  - a. "Contributions or gifts to this NAACP unit are not deductible as charitable contributions for Federal income tax purposes."
  - b. "Contributions or gifts to this NAACP unit are not tax deductible."
  - c. "Contributions or gifts to this NAACP unit are not tax deductible as charitable contributions."
2. The statement is made in close proximity to the request for contributions during the same radio solicitation announcement.

## **FUND RAISING ACTIVITIES**

### **501(c)(3) Organizations**

#### **Overview**

A payment to a qualified charitable organization, such as the NAACP parent organization, must be a gift in order to be deductible as a charitable contribution. Where patrons of fund raising activities (such as charity balls, bazaars, banquets, shows and athletic events) receive a privilege or benefit in connection with a payment to the organization, the presumption is that the payment was not a gift. To over-ride this presumption, the taxpayer needs to show that the payment was in excess of the fair market value of the item or admission purchased; this excess can then be construed as a gift.

The charitable organization is responsible for notifying contributors whenever a gift is being solicited in connection with a fund raising event. The organization is also responsible for notifying the

**contributor of the amount of the gift being solicited.**

**FUND RAISING ACTIVITY GUIDELINES**

**501(c)(3) Organizations**

Benefits received in connection with a payment to a charity will be considered to have insubstantial fair market value for the purposes of advising patrons if:

1. The payment occurs in the context of a fund raising campaign in which the charity informs patrons how much of their payment is a deductible contribution; and either

2. (a) The fair market value of all the benefits received in connection with the payment is not more than 2 percent of the payment, or \$50.00, whichever is less.

OR

(b) The payment is \$30.09 or more and the only benefits received in connection with the payment are token items (bookmarks, calendars, key chains, mugs, posters, tee-shirts, etc.) bearing the organization's name or logo. The cost (as opposed to fair market value) of all the benefits received by a donor must, in the aggregate, is not more than \$6.01.

OR

(c) The fund raising campaign meets the following two requirements:

i) The charity mails or otherwise distributes free, unordered items to patrons. To meet this requirement, any item received by a patron must not have been distributed at the patron's request or with the express consent of the patron. Any item distributed must be accompanied by a request for a charitable contribution and by a statement that the patron may retain the item whether or not the patron makes a contribution.

ii) The cost (as opposed to the fair market value) of all such items, in the aggregate, distributed by or on behalf of the organization to a single patron in a calendar year is not more than \$6.01.

- The \$30.09 and \$6.01 values stated above are not set in stone. Rather, the Treasury Department reviews these values periodically and makes adjustments for inflation. The current values were set in 1992.
- For the purposes of these guidelines, newsletters or program guides (other than commercial quality publications) will be treated as if they do not have a measurable fair market value or cost if their primary purpose is to inform members about the activities of the organization and if they are not available to non-members by paid subscription or through newsstand sales. Whether a publication is considered, a commercial quality

publication depends upon all of the facts and circumstances. Generally, publications that contain articles written for compensation and that accept advertising will be treated as commercial quality publications having measurable fair market value or cost. Professional journals, whether or not articles are written for compensation and advertising is accepted, will normally be treated as commercial quality publications. For the purposes of these guidelines, the cost of a commercial quality publication includes the cost of production and distribution and must be computed without regard to income from advertising or newsstand or subscription sales.

- The total amount of a pledge payable in installments will be considered to be the amount of the contributor's payment.
- Benefits provided by charities in the form of cash or its equivalent will never be considered insubstantial!

## EXAMPLES OF WHAT IS DEDUCTIBLE AS A CHARITABLE CONTRIBUTION: FUND RAISING CONTEXT

### Example 1.

Ms. Smith receives a brochure soliciting contributions for the support of the NAACP. The brochure states: "As a grateful token of appreciation for your help, the NAACP will send to you your choice of one of the several articles listed below, depending upon the amount of your donation." The remainder of the brochure is devoted to a catalog-type listing of articles of merchandise with the suggested amount of donation necessary to receive each particular article. There is no evidence of any significant difference between the suggested donation and the fair market value of any such article. The brochure contains the further notation that all donations to the NAACP are tax deductible.

Payments of the suggested amounts solicited by the NAACP are not deductible as a charitable contribution. Under the circumstances, the amounts solicited as "donations" are simply the purchase prices of the articles listed in the brochure.

### Example 2.

The NAACP gives its contributors lapel pins reading "NAACP Member" in return for payments of \$15.00. The fair market value of the lapel pin is \$.25. Since the fair market value of the pin is less than 2 percent of the payment (and the fair market value of the pin is less than \$50.00), the NAACP may advise its contributors that the full amount of the payment is a deductible contribution.

### Example 3.

Assume the same facts as Example 2, except that the NAACP also sends contributors a newsletter the primary purpose of which is to inform members about the activities of the organization. The newsletter is not available to non-members by paid subscription or through newsstand sales. Moreover, it is not a commercial quality publication. Since the newsletter has no fair market value and since the fair market value of the pin is less than 2 percent of the payment (and less than \$50.00), the NAACP may advise its contributors that the full amount of the payment is a deductible contribution.

### Example 4.

For a payment of \$15.00, the NAACP sends its contributors a bulletin the primary purpose of which is to inform members about upcoming events sponsored by the organization. The bulletin is not available to non-members by paid subscription or through newsstand sales. The bulletin is written by a salaried staff member at the NAACP, but it accepts no advertising. It is printed on magazine quality paper and

it is distributed on a quarterly basis. Under the facts and circumstances, the bulletin is not a commercial quality publication. Since the bulletin has no fair market value, the NAACP may advise its contributors that the full amount of the payment is a deductible contribution.

Example 5.

In 1993, the NAACP sends its contributors a newsletter for one year in return for a contribution of \$40.00. The cost of production and distribution of the newsletter is \$4.00 per year per contributor and its fair market value is \$7.00. The newsletter is not available to non-members by paid subscription or through newsstand sales. It is written by a salaried staff member at the NAACP and it accepts advertising. The newsletter, therefore, is a commercial quality publication. However, since the cost of the newsletter is \$4.00 and it is received in return for a contribution of \$40.00, the NAACP may advise its contributors that the full amount of the payment is a deductible contribution.

Example 6.

Assume the same facts as Example 5, except that the NAACP also gives its contributors a coffee mug with the organization's logo. The cost of the mug to the organization is \$3.00. Its fair market value is \$5.00. Since the newsletter costs \$4.00 and the coffee mug costs \$3.00, their aggregate cost exceeds the 1992 limit. The organization should inform its contributors that \$28.00 of their contribution is deductible and \$12.00 is not. The result would be the same even if these benefits were received separately in return for two separate contributions of \$40.00 each, because the cost of all the low cost items received in one year is aggregated in determining whether the limit is exceeded.

Example 7.

The NAACP holds a testimonial dinner in a hotel banquet hall. Tickets to the dinner cost \$50.00 a piece. The fair market value of the dinner is \$20.00. The organization should inform those who purchase tickets that \$30.00 of their contribution is deductible and \$20.00 is not.

## FUND RAISING ACTIVITIES

### 501(c)(3) and 501(c)(4) Joint Efforts

Membership drives are one area of fund raising that the NAACP National Office and the NAACP unit offices work on together. When membership dues are collected by a specific unit, a percentage of the funds stay with that unit, and a percentage is forwarded to the National Office. Because the National Office holds 501(c)(3) status, the payments made to it are tax deductible. However, the money that remains at the 501(c)(4) NAACP Unit office is not. Members need to be informed as to what amount of their membership fee is tax deductible. An example of how that information should be presented on a membership solicitation form appears on the next page of this packet.

- This same notification requirement holds for any joint fund raising effort in which a percentage of the money raised is forwarded to the National Office and a percentage is retained by an NAACP unit office.

Example: An NAACP unit office holds a testimonial dinner in a hotel banquet hall. Tickets to the dinner cost \$50 a piece. The fair market value of the dinner is \$20. Half of the net proceeds of the ticket sales are sent to the NAACP National Office; the other half is kept by the unit office.

Only \$15 of the \$50 ticket price is tax deductible. Twenty dollars is not deductible because it is equal to the fair market value of the ticket. Of the remaining \$30, \$15 is allocated to the unit office, a 501(c)(4) organization. Since donations to 501(c)(4) organizations are not tax deductible, the contributor is only allowed to declare the remaining \$15 as a charitable contribution. The fact that only \$15 is tax deductible should be printed clearly, and in easy-to-read type on the ticket. [See membership solicitation form example on next page.]

## **EXAMPLE - MEMBERSHIP SOLICITATION FORM**

Contributions or gifts to this NAACP unit are not deductible as charitable contributions. However, a portion of your dues is passed on to the NAACP National Organization, and those payments are tax deductible. The specific amounts that qualify as a tax deduction are as follows:

\$3	Membership .....	\$1.00 is tax deductible
\$8	Membership .....	no deduction
\$10	Membership .....	\$6.10 is tax deductible
\$15	Membership .....	\$5.10 is tax deductible
\$25	Membership .....	\$10.10 is tax deductible
\$50	Membership .....	\$25 is tax deductible
\$500	Membership .....	\$295 is tax deductible

## UNRELATED BUSINESS TAXABLE INCOME

### 501(c)(3) and 501(c)(4) Organizations

If a tax exempt organization engages in a trade or business that is unrelated to its tax exempt purpose, the income generated from that trade or business may be subject to tax. Whether or not such income is taxable, depends on the nature of the business and how often such business activities take place.

- Certain intermittent income producing activities occur so infrequently that neither their recurrence nor the manner of their conduct will cause them to be regarded as trade or business regularly carried on. For example, income producing or fund raising activities lasting only a short period of time will not ordinarily be treated as regularly carried on if they recur only occasionally or sporadically. Furthermore, such activities will not be regarded as regularly carried on merely because they are conducted on an annually recurrent basis. *Accordingly, income derived from the conduct of an annual dance or similar fund raising event for charity would not be income from trade or business regularly carried on.*
- The term "unrelated trade or business" does not include the selling of merchandise, if substantially all of the merchandise has been received by the organization as gifts or contributions.
- The term "unrelated trade or business" does not include any trade or business in which substantially all the work has been performed for the organization by volunteers who receive no compensation for their services.



## UNRELATED BUSINESS TAXABLE INCOME

### Examples

- Example 1: An NAACP unit office holds an annual dance. The dance generates income in the form of ticket proceeds. Because the event only occurs once a year, the income from it is not considered taxable.
- Example 2: Same as Example 1, except that everyone who attends the dance receives a brochure containing advertisements paid for by local merchants. The brochure will probably be considered unrelated business taxable income, even though it is only passed out once a year.
- Example 3: An NAACP unit office holds a bake sale every month. The bake sale is unrelated to the tax exempt purpose of the organization, and it is an activity that is carried on regularly. The income generated from the bake sales is unrelated business taxable income.
- Example 4: An NAACP unit office operates a bookstore that sells a wide variety of literature. The bookstore is open seven days a week. The bookstore is unrelated to the tax exempt purpose of the organization, and the business of selling books is carried on regularly. The income generated from the bookstore is unrelated business taxable income.
- Example 5: An NAACP unit office operates a parking garage located beneath its office building. The garage is open to the public seven days a week. The garage is unrelated to the tax exempt purpose of the organization, and generates income on a regular basis. Therefore, the income from the garage is unrelated business taxable income.

## EMPLOYEE v. INDEPENDENT CONTRACTOR

### Overview

There are different requirements for the obligations of an organization which engages independent contractors and employees. When an organization engages an independent contractor to perform services its only requirement is to send out a Form 1099 at the end of the year if it has paid that independent contractor \$600 or more. An employee/employer relationship entails much more significant tax responsibilities. The employer must withhold income taxes and the employee's share of social security taxes. In addition, the employer must pay over its share of social security taxes. Employers must deposit the withheld taxes on a regular basis which can be as often as every three days depending on the size of the organization. The employer must also file quarterly employment tax returns and an annual employment tax return. It must also send each employee a Form W-2 reporting the wages at the end of the year.

The failure to withhold or pay over taxes withheld is a serious matter. Indeed, if an organization fails to do so, the organization as well as the individuals in that organization who were responsible for the payroll are personally liable for the taxes due.

For obvious reasons, the IRS believes that most workers are employees, not independent contractors. Accordingly, if a unit engages an individual to perform services, it must be very careful in determining whether or not the individual is an employee or independent contractor.

## WHO IS AN EMPLOYEE?

The key distinction between employees and independent contractors is the element of control. Generally, an employer-employee relationship exists when the employer has the right to control what work an individual does and how she will go about doing it. Recognizing that this is not the easiest test to apply, the Treasury Department issued a revenue ruling in 1987 that listed twenty factors to consider when making an employee/independent contractor determination. These factors, and the brief explanation that the Department provided for them, are set out below.

### **The Twenty Factors**

#### 1. Instructions

A worker who is required to comply with other persons' instructions about when, where, and how he or she is to work, is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions.

#### 2. Training

Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner.

#### 3. Integration

Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business.

#### 4. Services Rendered Personally

If the services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results.

#### 5. Hiring, Supervising, and Paying Assistants

If the person or persons for whom the services are performed hire, supervise, and pay assistants, that factor generally shows control over the workers on the job. However, if one worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, this factor indicates an independent contractor status.

#### 6. Continuing Relationship

A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship may exist where work is performed at frequently recurring although irregular intervals.

#### 7. Set Hours of Work

The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control.

#### 8. Full Time Required

If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, such person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor, on the other hand, is free to work when and for whom he or she chooses.

#### 9. Doing Work on Employer's Premises

If the work is performed on the premises of the person or persons for whom the services are performed, that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform such services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required.

#### 10. Order or Sequence Set

If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, that factor shows that the worker is not free to follow the worker's own pattern of work but must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if such person or persons retain the right to do so.

#### 11. Oral or Written Reports

A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control.

#### 12. Payment by Hour, Week, Month

Payment by the hour, week, or month generally points to an employer-employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on a straight commission generally indicates that the worker is an independent contractor.

#### 13. Payment of Business and/or Traveling Expenses

If the person or persons for whom the services are performed ordinarily pay the worker's business and/or traveling expenses, the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities.

#### 14. Furnishing of Tools and Materials

The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship.

#### 15. Significant Investment

If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees (such as the maintenance of an office rented at fair value from an unrelated party), that factor tends to indicate that the worker is an independent contractor. On the other hand, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for such facilities and, accordingly, the existence of an employer-employee relationship. Special scrutiny is required with respect to certain types of facilities, such as home offices.

#### 16. Realization of Profit or Loss

A worker who can realize a profit or suffer a loss as a result of the worker's services (in addition to the profit or loss ordinarily realized by employees) is generally an independent contractor, but the worker who cannot, is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for his or her services, however, is common to both independent contractors and employees and thus does not constitute a sufficient economic risk to support treatment as an independent contractor.

#### 17. Working for More Than One Firm at a Time

If a worker performs more than de minimus, services, for a multiple of unrelated persons or firms at the same time, that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one person may be an

employee of each of the persons, especially where such persons are part of the same service arrangement.

18. Making Service Available to General Public

The fact that a worker makes his or her services available to the general public on a regular and consistent basis indicates an independent contractor relationship.

19. Right to Discharge

The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor, on the other hand, cannot be fired so long as the independent contractor produces a result that meets the contract specifications.

20. Right to Terminate

If the worker has the right to end his or her relationship with the person for whom the services are performed at any time he or she wishes without incurring liability, that factor indicates an employer-employee relationship.

## WHO IS AN EMPLOYEE?

### Examples

- Clerical workers, such as file clerks, are almost always considered employees. They are usually required to follow explicit instructions regarding what work to do and how to do it, and to do it in a specific pre-set order or sequence. They also meet the payment, continuing relationship and full time guidelines associated with employees.
- A secretary is generally considered an employee for the same reasons as stated above. However, if the office sends its work out to an off-site secretarial service, the office is probably dealing with an independent contractor. This is especially true if the service works for more than one firm at a time and if the service has the responsibility of supervising and hiring the individual workers.
- A temporary worker sent by a temporary service company is not considered an employee. When a firm hires a temporary worker, it does not pay the worker directly. Rather, it pays the temp service who then issues a check to the individual worker. In temporary worker situations, the firm is dealing with the service entity as a whole, and therefore, is dealing with an independent contractor.
- A professional fundraiser may or may not be considered an employee. In this case, it would be important to apply the twenty factors to the specific circumstances to see what level of control is present in the employment situation.
- A lawyer or accountant is generally an independent contractor. Lawyers and accountants make their services available to the general public and work for more than one organization at a time. The control level that is present in employer-employee relationships is not present here.

## 1099 FORMS

The IRS has developed a series of 1099 forms that are used to report various types of income. The form used to report income received for work done by an independent contractor is the 1099-MISC (form 1099 - Miscellaneous Income). The amount paid is reported in Box 7 of the form - Non-employee Compensation. [A copy of the 1099-MISC form appears on the next page of this packet.]

According to the IRS, if the following four conditions are met, a payment is generally reportable as non-employee compensation:

- (1) you made the payment to someone who is not your employee;
- (2) you made the payment for services rendered in the course of your trade or business;
- (3) you made the payment to someone other than a corporation, e.g., an individual or a partnership; and
- (4) you made payments to the payee of at least \$600 during the year.

Examples of payments to be reported in Box 7 are:

- (1) Attorneys' and accountants' fees for professional services.
- (2) A fee paid to a non-employee and travel reimbursement for which the non-employee did not account to the payer if the fee and reimbursement aggregate at least \$600.
- (3) Payment to non-employee entertainers for services.



## VIII. LEGAL MEANS TO LEAVE MONEY/PROPERTY TO THE NAACP

### WILLS AND BEQUESTS

All NAACP members should be encouraged to make donations to the NAACP in their wills. These gifts or bequests can result in substantial tax savings to an estate. NAACP members and supporters can make these bequests to the NAACP. The NAACP has been officially classified as "charitable and educational" by the Internal Revenue Service, under Section 501(c)(3) of the Internal Revenue Code. This means that the NAACP may receive bequests for support for many of our programs and activities. These bequests will be deductible for federal estate tax purposes. Under Section 2055 of the Internal Revenue Code, deductions are permitted in the amount of such bequests from the gross taxable estates of deceased persons.

The NAACP is tax exempt. Therefore, all bequests should be made in the name of the NAACP. An individual may designate that the NAACP unit office receives a portion of the bequest from the National office.

Donors must exercise care to make sure that the bequest is done correctly and that the NAACP is accurately named.

As with all legal matters, members and friends of the NAACP should consult an attorney to draft their wills and be sure that their bequests to the NAACP are should be encouraged to consult an attorney to draft their will and make sure their bequests to the NAACP are done correctly. An attorney will be able to explain the tax advantages of making a bequest to the NAACP. For Federal estate tax purposes, the deductibility of such a bequest will permit the actual dollar outlay for taxes to be substantially less than the face amount of the bequest. This is particularly true for persons of considerable wealth. A tax attorney can calculate the actual savings possible through such bequests.

A donor may structure a bequest in several ways. It need not be made outright, but may be planned to take effect only upon the death of other family members whom the donor has provided for in her will. In this way, a donor may provide for family members while still enabling funds to be used to advance the social goals of the NAACP when the funds are no longer needed for the support of family members. Individuals should be encouraged to leave property, jewelry, art, stocks, bonds or anything of value to the NAACP. The exception would be real property not needed by a local NAACP Unit, if that property would be difficult to sell and would require upkeep and the payment of property taxes.

Bequests may be structured to further the general purposes of the NAACP, or may be earmarked for some particular NAACP program or activity. Although the NAACP will welcome and be grateful for such bequests for a specific purpose, the NAACP prefers unrestricted bequests which would enable the funds to be used for the programs most in need of support.

For guidance to attorneys drafting wills which contemplate a bequest to the NAACP here are examples of some forms such bequests might take. These forms must be adapted by the attorney to conform to the requirements of the instrument she is drafting, and to conform with the laws of the state in which the will is made. The attorney should be aware of the relationships between such bequests and the other provisions of the will.

### **UNRESTRICTED BEQUEST**

#### **SAMPLE 1**

I give and bequeath the sum of \_\_\_\_\_ Dollars (\$ ) to the NAACP having its principal office at 4805 Mt. Hope Drive, Baltimore, Maryland 21215, for its general purposes.

#### **SAMPLE 2**

I give and bequeath my real property located at \_\_\_\_\_ to the NAACP having its principal office at 4805 Mt. Hope Drive, Baltimore, Maryland 21215, for its general purposes.

### **RESTRICTED BEQUEST**

#### **SAMPLE 3**

I give and bequeath the sum of \_\_\_\_\_ Dollars (\$ ) to the NAACP having its principal office at 4805 Mt. Hope Drive, Baltimore, Maryland 21215, for the purpose of (insert particular purpose desired, e.g. furthering the NAACP programs for legal defense and civil rights litigation.)

## IX. APPENDICES

### RELEASE AND DISCLAIMER

I, \_\_\_\_\_, reside at \_\_\_\_\_.  
\_\_\_\_\_. By placing my initials to the left of each numbered item below, I affirm that I understand it and agree with it.

- \_\_\_ 1. I have submitted to the \_\_\_\_\_ unit of the NAACP ("NAACP") a Complaint of Discrimination directed against \_\_\_\_\_ ("Respondent").
- \_\_\_ 2. I understand that the NAACP is a private, nonprofit, voluntary organization. It is not a government agency. Filing a complaint with the NAACP is not the same as filing a complaint with an administrative agency or filing a suit in a court of law. Whatever rights I have to file a complaint with an administrative agency or to file a civil lawsuit are completely unaffected by whether or not I have filed this my complaint with the NAACP.
- \_\_\_ 3. The deadline by which I must file my complaint or lawsuit with \_\_\_\_\_ is \_\_\_\_\_. If I do not file my complaint or lawsuit with \_\_\_\_\_ by that time, I may have no right to a recovery from any harm from the respondent.
- \_\_\_ 4. I have authorized the NAACP to investigate my complaint; (2) to attempt to mediate my complaint with Respondent in order to explore the possibility of settlement; and (3) if there is no settlement, to provide me at least three referrals of lawyers who may consider representing me in litigation against Respondent.
- \_\_\_ 5. I understand that the NAACP in no way guarantees the competency, professionalism or fitness of the lawyers whose names have provided.
- \_\_\_ 6. I will provide the NAACP copies (not originals) of whatever documents I have to support the complaint. If I request in writing that some of the material be held in confidence, the NAACP will hold it in confidence; otherwise the NAACP may share it with the Respondent or with state or federal anti-discrimination agencies.
- \_\_\_ 7. If the NAACP mediates my complaint with Respondent, I will refrain from filing my complaint with a state or federal anti-discrimination agency, or filing a lawsuit while the mediation is in progress. However, I am free at any time, after notifying the NAACP of my intentions, to terminate the mediation and file my complaint with a state or federal anti-discrimination agency or file a lawsuit. If the mediation is nonbinding, I am not required to accept a settlement with Respondent.



# NAACF

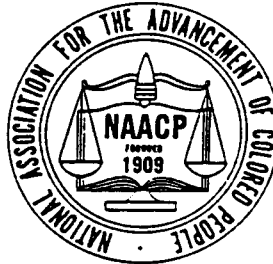
Branch/Unit

[illegible]

**Use additional sheets if necessary. See reverse side for completion instructions.**

# HOW TO FILE A COMPLAINT OF DISCRIMINATION

## Local NAACP Unit




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For more information contact the Labor and Industry Committee of NAACP unit in your community.

*Prepared by the Labor Department of the NAACP*

## WHAT TO TELL US

Answer all questions and be as specific as possible. These directions are numbered to match the questions on the form.

**Question 1:** Be sure to give your full name and address. If you do not have a phone, give a phone number where you can be reached.

**Question 2:** Please check the box that indicates what you believe to be the cause of discrimination. If other, please state what other.

**Question 3:** If you believe that other parties (for example, a labor union or any employment agency, in addition to an employer) were involved in the act of discrimination, list them on last line of section 3.

**Question 4, 5, & 6:** If you have consulted an attorney or filed this complaint with a state or local human relations commission, Federal government, union or agency, check "yes" and give the name.

**Question 7:** Give the day, month and year of most recent date the discrimination took place. In some instances, the discrimination may be continuing; for example, seniority lines are segregated.

**Question 8:** Tell us as much as you can. For example: Were you fired? Did you fail to get a promotion? Did the company refuse to hire you? Did the union or employment agency refuse to refer you to a job? Who

discriminated against you? Why do you believe it was because of your race, color, religion, national origin, sex, age or other?

**Question 9:** Sign your name, and mail or take to the nearest NAACP Unit.

## INSTRUCTIONS TO NAACP UNITS

NAACP units should refer complainants alleging employment discrimination to an appropriate agency for official investigation, i.e. EEOC, State or Local Human Rights Commission. Labor and Industry Committees of local NAACP units are further encouraged to forward the information on this form to an appropriate agency and to monitor the agency's work on all cases referred by the NAACP. To the extent resources allow, NAACP units may provide other supportive assistance to the complainant.

In virtually all instances of employment discrimination, complainants will lose their right to any form of legal remedy if they do not file a complaint with the EEOC within 180 days of the event of the alleged discriminatory. If your state has a human or civil rights commission, then this time period is expanded to 300 days. If there is any doubt, file within 180 days just to be sure.

## The seal of the National Association for the Advancement of Colored People (NAACP) is circular. It features a central image of a pair of scales of justice, with a torch resting on the top beam. The scales are flanked by the words "NAACP" and "1909". The outer ring of the seal contains the text "NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE" in a circular arrangement.

1	YOUR NAME _____	PHONE NUMBER _____
	STREET ADDRESS _____	
	CITY _____	STATE _____ ZIP CODE _____
2	WAS THE DISCRIMINATION BECAUSE OF: <i>(Please check those that apply)</i> <input type="checkbox"/> RACE OR COLOR <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> SEX <input type="checkbox"/> AGE <input type="checkbox"/> HANDICAPPED STATUS <input type="checkbox"/> OTHER	
	WHO DISCRIMINATED AGAINST YOU? GIVE NAME AND ADDRESS OF THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, LICENSING AGENCY, ETC. <i>(List all)</i> NAME _____ STREET ADDRESS _____ CITY _____ STATE _____ ZIP CODE _____ AND (Other parties if any) _____	
4	HAVE YOU FILED A COMPLAINT WITH ANY GOVERNMENTAL AGENCY(IES)? WHICH ONE(S)? <div style="text-align: right;"><input type="checkbox"/> YES    <input type="checkbox"/> NO</div>	
5	HAVE YOU FILED A GRIEVANCE WITH YOUR UNION <input type="checkbox"/> YES <input type="checkbox"/> NO NAME OF LOCAL AND REPRESENTATIVE: _____	
6	HAVE YOU RETAINED AN ATTORNEY REGARDING THIS CASE <input type="checkbox"/> YES <input type="checkbox"/> NO NAME OF ATTORNEY _____ ADDRESS _____ PHONE _____	
7	THE ACTUAL DATE OR THE MOST RECENT DATE ON WHICH THIS DISCRIMINATION OCCURRED: _____ TIME OF DAY _____ MONTH _____ DAY _____ YEAR _____	
8	EXPLAIN WHAT UNFAIR THING WAS DONE TO YOU:	
9	I AFFIRM THAT I HAVE READ THE ABOVE CHARGE AND THAT IT IS TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF. _____ <div style="display: flex; justify-content: space-between;"> <span>(SIGNATURE OF COMPLAINANT)</span> <span>(DATE)</span> </div>	

# DIRECTORY OF EEOC DISTRICT OFFICES

## Equal Employment Opportunity Commission

Program Operations . . . . . 202-663-4801

### Areas Served

AK, ID, OR, WA . . . . . 206-442-0968  
 AL, MS . . . . . 205-731-0083  
 AR, TN . . . . . 901-521-2617  
 AS, CA (northern), CM, GU, HI, TT . . . 415-744-6500  
 AZ, NM, UT . . . . . 602-640-5000  
 CA (southern), NV . . . . . 213-251-7278  
 CO, MT, ND, NE, SD, WY . . . . . 303-866-1300  
 CT, MA, ME, NH, NY, PR, RI,  
 VI, VT . . . . . 212-264-7161  
 CZ, FL . . . . . 305-536-4491  
 DC, MD, VA . . . . . 301-962-3932  
 DE, NJ, PA, WV . . . . . 215-597-7784  
 GA . . . . . 404-331-6093  
 IA, MN, WI . . . . . 414-291-1111  
 IL . . . . . 312-353-2713  
 KS, MO . . . . . 314-425-6585  
 IN . . . . . 317-226-7212  
 KY . . . . . 502-582-6082  
 LA . . . . . 504-589-2329  
 MI . . . . . 313-226-7636  
 NC, SC . . . . . 704-567-7100  
 OH . . . . . 216-522-2001  
 OK, TX (northern) . . . . . 214-767-7015  
 TX (central) . . . . . 713-653-3320  
 TX (southern) . . . . . 512-229-4810

## Alabama

Equal Employment Opportunity Commission  
 Birmingham District Office  
 2121 Eighth Avenue, North, Suite 824  
 Birmingham, Alabama 35203  
 Telephone: (205) 731-0083

## Arizona

Equal Employment Opportunity Commission  
 Phoenix District Office  
 4520 North Central Avenue, Suite 300  
 Phoenix, Arizona 85012-1848  
 Telephone: (602) 640-5000

## Arkansas

Equal Employment Opportunity Commission  
 Little Rock Area Office  
 320 West Capitol Avenue, Suite 621  
 Little Rock, Arkansas 72201  
 Telephone: (501) 378-5060

## California

Equal Employment Opportunity Commission  
 Fresno Local Office  
 1313 P Street, Suite 103  
 Fresno, California 93721  
 Telephone: (209) 487-5793

Equal Employment Opportunity Commission  
 Los Angeles District Office  
 3660 Wilshire Boulevard, Fifth Floor  
 Los Angeles, California, 90010  
 Telephone: (213) 251-7278

Equal Employment Opportunity Commission  
 Oakland Local Office  
 1333 Broadway - Room 430  
 Oakland, California 94612  
 Telephone: (415) 273-7588

Equal Employment Opportunity Commission  
 San Diego Local Office  
 880 Front Street, Room 4S-21  
 San Diego, California 92188  
 Telephone: (619) 293-6288

Equal Employment Opportunity Commission  
 San Francisco District Office  
 901 Market Street, Suite 500  
 San Francisco, California 94103  
 Telephone: (415) 744-6500

Equal Employment Opportunity Commission  
 San Jose Local Office  
 280 South First Street, Room 4150  
 San Jose, California 95113  
 Telephone: (408) 291-7352

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**Colorado**

Equal Employment Opportunity Commission  
Denver District Office  
1845 Sherman Street, Second Floor  
Denver, Colorado 80203  
Telephone: (303) 866-1300

**Florida**

Equal Employment Opportunity Commission  
Miami District Office  
1 Northeast First Street, Sixth Floor  
Miami, Florida 33132  
Telephone: (305) 536-4491

Equal Employment Opportunity Commission  
Tampa Area Office  
700 Twiggs Street, Room 302  
Tampa, Florida 33602  
Telephone: (813) 228-2310

**Georgia**

Equal Employment Opportunity Commission  
Atlanta District Office  
75 Piedmont Avenue, N.E., Suite 1100  
Atlanta, Georgia 30335  
Telephone: (404) 331-6093

Equal Employment Opportunity Commission  
Savannah Local Office  
10 Whitaker Street, Suite B  
Savannah, Georgia 31401  
Telephone: (912) 944-4234

**Hawaii**

Equal Employment Opportunity Commission  
Honolulu Local Office  
677 Ala Moana Blvd., Suite 404  
P.O. Box 50082  
Honolulu, Hawaii 96813  
Telephone: (808) 541-3120

**Illinois**

Equal Employment Opportunity Commission  
Chicago District Office  
536 South Clark Street, Room 930-A  
Chicago, Illinois 60605  
Telephone: (312) 353-2713

**Indiana**

Equal Employment Opportunity Commission  
Indianapolis District Office  
46 East Ohio Street, Room 456  
Indianapolis, Indiana 46204  
Telephone: (317) 269-7212

**Kentucky**

Equal Employment Opportunity Commission  
Louisville Area Office  
601 West Broadway, Room 613  
Louisville, Kentucky 40202  
Telephone: (502) 582-6082

**Louisiana**

Equal Employment Opportunity Commission  
New Orleans District Office  
701 Loyola Avenue, Suite 600  
New Orleans, Louisiana 70113  
Telephone: (504) 589-2329

**Maryland**

Equal Employment Opportunity Commission  
Baltimore District Office  
109 Market Place, Suite 4000  
Baltimore, Maryland 21202  
Telephone: (301) 962-3932

**Massachusetts**

Equal Employment Opportunity Commission  
Boston Area Office  
JFK Federal Building, Room 409-B  
Boston, Massachusetts 02203  
Telephone: (617) 565-3200

**Michigan**

Equal Employment Opportunity Commission  
Detroit District Office  
477 Michigan Avenue, Room 1540  
Detroit, Michigan 48226  
Telephone: (313) 226-7636

**Minnesota**

Equal Employment Opportunity Commission  
Minneapolis Local Office  
220 Second Street South, Room 108  
Minneapolis, Minnesota 55401-2141  
Telephone: (612) 370-3330

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**Mississippi**

Equal Employment Opportunity Commission  
Jackson Area Office  
100 West Capitol Street, Suite 721  
Jackson, Mississippi 39269  
Telephone: (601) 965-4537

**Missouri**

Equal Employment Opportunity Commission  
Kansas City Area Office  
911 Walnut, Tenth Floor  
Kansas City, Missouri 64106  
Telephone: (816) 426-5773

Equal Employment Opportunity Commission  
St. Louis District Office  
625 N. Euclid Street, 5th Floor  
St. Louis, Missouri 63108  
Telephone: (314) 425-6585

**New Jersey**

Equal Employment Opportunity Commission  
Newark Area Office  
60 Park Place, Room 301  
Newark, New Jersey 07102  
Telephone: (201) 645-6383

**New York**

Equal Employment Opportunity Commission  
Buffalo Local Office  
28 Church Street, Room 301  
Buffalo, New York 14202  
Telephone: (716) 846-4441

Equal Employment Opportunity Commission  
New York District Office  
90 Church Street, Room 1501  
New York, New York 10007  
Telephone: (212) 264-7161

**New Mexico**

Equal Employment Opportunity Commission  
Albuquerque Area Office  
505 Marquette, N.W., Suite 1105  
Albuquerque, New Mexico 87102-2189  
Telephone: (505) 766-2061

**North Carolina**

Equal Employment Opportunity Commission  
Charlotte District Office  
5500 Central Avenue  
Charlotte, North Carolina 28212  
Telephone: (704) 567-7100

Equal Employment Opportunity Commission  
Greensboro Local Office  
324 West Market Street, Room B-27  
P.O. Box 3363  
Greensboro, North Carolina 27401  
Telephone: (919) 333-5174

Equal Employment Opportunity Commission  
Raleigh Area Office  
1309 Annapolis Drive  
Raleigh, North Carolina 27608  
Telephone: (919) 856-4064

**Ohio**

Equal Employment Opportunity Commission  
Cincinnati Area Office  
550 Main Street, Room 7015  
Cincinnati, Ohio 45202  
Telephone: (513) 684-2851

Equal Employment Opportunity Commission  
Cleveland District Office  
1375 Euclid Avenue, Room 600  
Cleveland, Ohio 44115  
Telephone: (216) 522-2001

**Oklahoma**

Equal Employment Opportunity Commission  
Oklahoma City Area Office  
531 Couch Drive  
Oklahoma City, Oklahoma 73102  
Telephone: (405) 231-4911

**Pennsylvania**

Equal Employment Opportunity Commission  
Philadelphia District Office  
1421 Cherry Street, Tenth Floor  
Philadelphia, Pennsylvania 19102  
Telephone: (215) 597-7784

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**Pennsylvania**

Equal Employment Opportunity Commission  
Pittsburgh Area Office  
1000 Liberty Avenue, Room 2038-A  
Pittsburgh, Pennsylvania 15222  
Telephone: (412) 644-3444

**South Carolina**

Equal Employment Opportunity Commission  
Greenville Local Office  
300 East Washington Street, Suite B41  
Greenville, South Carolina 29601  
Telephone: (803) 233-1791

**Tennessee**

Equal Employment Opportunity Commission  
Memphis District Office  
1407 Union Avenue, Suite 502  
Memphis, Tennessee 38104  
Telephone: (901) 521-2617

Equal Employment Opportunity Commission  
Nashville Area Office  
404 James Robertson Parkway, Suite 1100  
Nashville, Tennessee 37219-1588  
Telephone: (615) 736-5820

**Texas**

Equal Employment Opportunity Commission  
Dallas District Office  
8303 Elmbrook Drive  
Dallas, Texas 75247  
Telephone: (214) 767-7015

Equal Employment Opportunity Commission  
El Paso Local Office  
700 East San Antonio Street, Room B-406  
El Paso, Texas 79901  
Telephone: (915) 534-6550

Equal Employment Opportunity Commission  
Houston District Office  
1919 Smith Street, 7th Floor  
Houston, Texas 77002  
Telephone: (713) 653-3320

Equal Employment Opportunity Commission  
San Antonio District Office  
5410 Fredericksburg Rd., Suite 200  
San Antonio, Texas 78229  
Telephone: (512) 229-4810

**Virginia**

Equal Employment Opportunity Commission  
Norfolk Area Office  
200 Grandby Mall, Room 412  
Norfolk, Virginia 23510  
Telephone: (804) 441-3470

Equal Employment Opportunity Commission  
Richmond Area Office  
400 North 8th Street, Room 7026  
Richmond, Virginia 23240  
Telephone: (804) 771-2692

**Washington**

Equal Employment Opportunity Commission  
Seattle District Office  
2815 Second Avenue, Suite 500  
Seattle, Washington 98121  
Telephone: (206) 442-0968

**District of Columbia**

Equal Employment Opportunity Commission  
Washington Field Office  
1400 L Street, N.W., Suite 200  
Washington, D.C. 20005  
Telephone: (202) 275-7377

**Wisconsin**

Equal Employment Opportunity Commission  
Milwaukee District Office  
310 West Wisconsin Avenue, Suite 800  
Milwaukee, Wisconsin 53203  
Telephone: (414) 291-1111

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# NATIONAL LABOR RELATIONS BOARD

*Many area offices are responsible for serving parts of states; therefore, some states appear on this list more than once.  
For public assistance, call or write to the nearest office.*

Area Served	Telephone	Address
AK, ID, MT, OR, WA	(206) 442-4532	915 2nd Ave., Seattle, WA 98174
AL, FL, LA, MS	(504) 589-6361	1515 Poydras St., New Orleans, LA 70112
AL, GA, TN	(404) 331-2896	101 Marietta St. N.W., Atlanta, GA 30323
AR, MS, TN	(901) 521-2725	1407 Union Ave., (mailing address: P.O. Box 41559), Memphis, TN 38174
AZ, NM, TX	(602) 261-3361	234 N. Central Ave., Phoenix, AZ 85004
CA	(213) 688-5200	615 S. Flower St., Los Angeles, CA 90017
CA, HI	(415) 995-5300	901 Market St., San Francisco, CA 94103
CA, NV	(213) 209-7352	11000 Wilshire Blvd., Los Angeles, CA 90024
	(415) 273-7200	2201 Broadway, (mailing address: P.O. Box 12983), Oakland, CA 94604
CO, UT, WY	(303) 844-3551	600 17th St., Denver, CO 80202
CT	(203) 240-3522	1 Commercial Plaza, Hartford, CT 06103
DC, DE, MD, VA, WV	(301) 962-2822	109 Market Place, Baltimore, MD 21202
DE, NJ, PA	(215) 597-7601	615 Chestnut St., Philadelphia, PA 19106
FL	(813) 228-2641	700 Twiggs St., (mailing address: P.O. Box 172068), Tampa, FL 33672
IA, IL	(309) 671-7080	411 Hamilton Blvd., Peoria, IL 61602
IA, MN, ND, SD, WI	(612) 348-1757	110 S. 4th St., Minneapolis, MN 55401
IL, IN	(312) 353-7570	219 S. Dearborn St., Chicago, IL 60604
IL, MO	(314) 425-4167	210 Tucker Blvd. N., St. Louis, MO 63101
IN	(317) 269-7430	575 N. Pennsylvania St. Indianapolis, IN 46204
KS, MO, NE	(913) 236-2777	5799 Broadmoor, Mission, KS 66202
KY, OH, WV	(513) 684-3686	550 Main St., Cincinnati, OH 45202
MA, ME, NH, RI, VT	(617) 565-6700	10 Causeway St., Boston, MA 02222
MI	(313) 226-3200	477 Michigan Ave., Detroit, MI 48226
MI, WI	(414) 291-3861	310 W. Wisconsin Ave. Milwaukee, WI 53203
NC, SC	(919) 761-3201	251 N. Main St., Winston-Salem, NC 27101
NJ	(201) 645-2100	970 Broad St., Newark, NJ 07102
NY	(212) 264-0300	26 Federal Plaza, New York, NY 10278
	(718) 330-7713	75 Clinton St., Brooklyn, NY 11201
	(716) 846-4931	111 W. Huron St., Buffalo, NY 14202
OH	(216) 522-3715	1240 E. 9th St., Cleveland, OH 44199
OK, TX	(817) 334-2921	819 Taylor St., Fort Worth, TX 76102
PA, WV	(412) 644-2977	1000 Liberty Ave., Pittsburgh, PA 15222
PR, VI	(809) 766-5437	U.S. Courthouse and Federal Bldg., Carlos E. Chardon Ave., Hato Rey, PR 00918
TX	(713) 220-2365	515 Rusk St., Houston, TX 77002

# INSTRUCTIONS FOR FILING A HOUSING DISCRIMINATION COMPLAINT

1. Following is a N.A.A.C.P. complaint form, for use by Local Branches and State Conferences, to receive reports of housing discrimination. The form will be used in providing assistance to victims of housing discrimination.
2. Four copies of this form should be completed for each complaint. The original should be give to the Complainant; one copy should be forwarded to the N.A.A.C.P. Regional Office; one copy should be retained for referral of complaint to a government agency or attorney representing the Complainant; and one copy should be retained by the Branch or Unit receiving the complaint.
3. The information requested in this form may be used by the N.A.A.C.P. to provide information to agencies and/or attorneys processing a formal complaint of discrimination on behalf of the Complainant. Otherwise, this information will not be released with the written authorization of the Complainant.

## N.A.A.C.P. HOUSING DISCRIMINATION COMPLAINT FORM *PLEASE PRINT OR TYPE*

Branch Name: \_\_\_\_\_

Address: \_\_\_\_\_

Interviewer's Name: \_\_\_\_\_

Telephone ( ) \_\_\_\_\_ Telephone ( ) \_\_\_\_\_

Basis for complaint: \_\_\_\_\_ Race: \_\_\_\_\_ Color \_\_\_\_\_ Sex \_\_\_\_\_

Religion: \_\_\_\_\_ Handicap \_\_\_\_\_

Familial Status: \_\_\_\_\_ National Origin: \_\_\_\_\_

\_\_\_\_\_  
Name, address, and telephone number of Complainant:

\_\_\_\_\_  
Date alledeged discrimination occurred:

Approximate time of day:

Place:

Address of house or property in question:

Name, address, and telephone number of person accused:

Check the blank that describes the accused:

☐ Builder ☐ Owner ☐ Broker ☐ Salesperson ☐ Manager ☐ Bank

Narrative Statement of Complainant. What happened?  
Attach additional sheet if necessary.

What kind of house or property was involved?

☐ Single family house ☐ A building for 2, 3, or 4 families

☐ A building for 5 or more families ☐ Other

Did the owner live there? ☐ Yes ☐ No

Is the property or house: ☐ Being sold ☐ Being rented

Supportive Data (business cards of complainant, realtor, etc.; advertisements; demographic data; specific units offered, etc.)

Witnesses to alleged discrimination: name, address and telephone number:

Describe any follow-up action to be taken, and by whom?

Other Comments:

**THE COMPLAINANT SHOULD ANSWER THE FOLLOWING QUESTIONS**

1. How did the complainant find out about the unit offered for sale/rent?

- 
2. What type of accommodations were requested by complainant?

What was the response of the accused?

What size, location, and price was the complainant offered?

What units/properties were shown to the complainant?

- 
3. What information was volunteered/requested by each party?

- 
4. Does the accused own or operate other properties that you are aware of?  
If so, please identify the properties.

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Complainant's Signature\_\_\_\_\_

Date\_\_\_\_\_

Witness' Signature\_\_\_\_\_

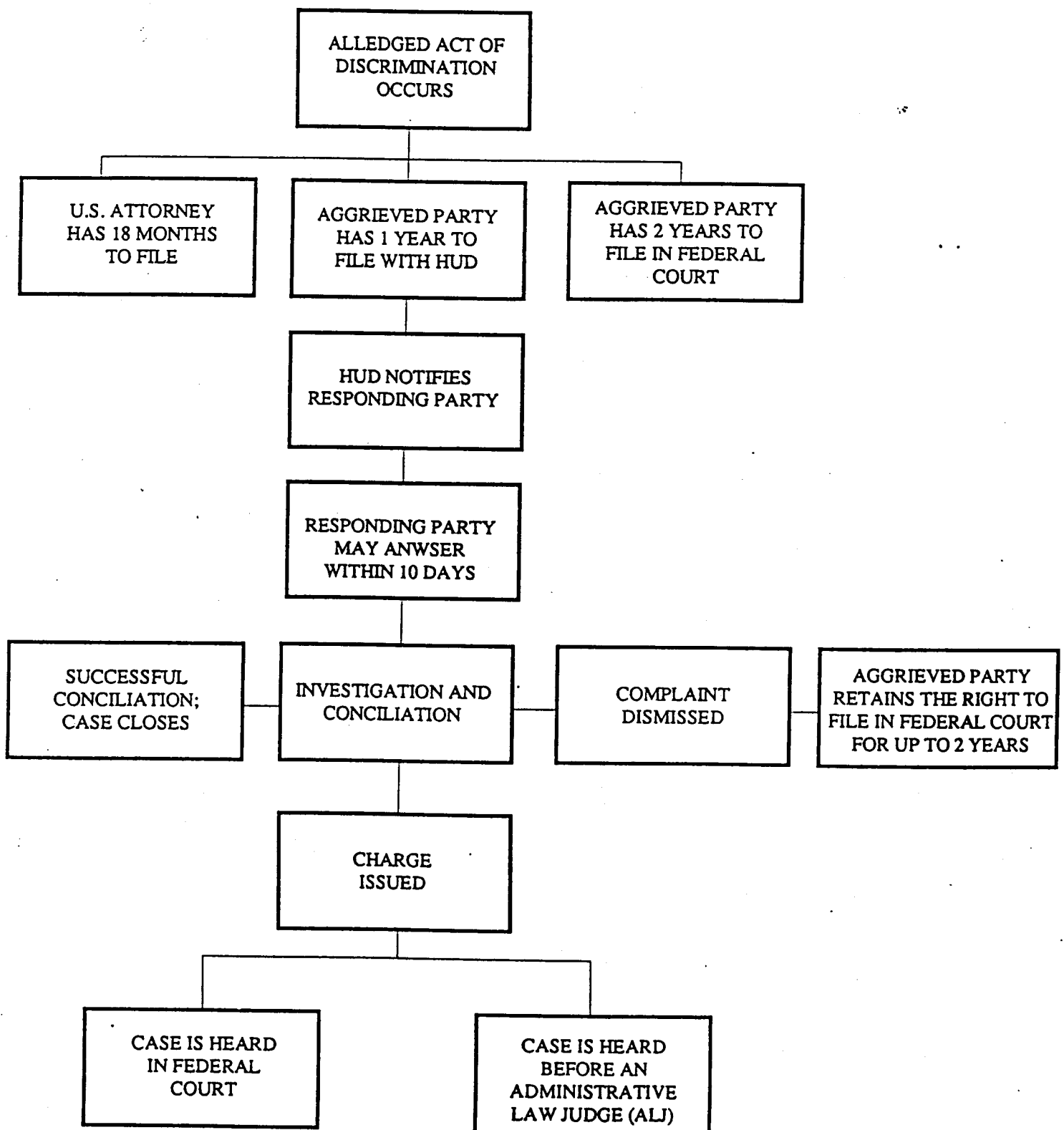
Date\_\_\_\_\_

Interviewer's Signature\_\_\_\_\_

Date\_\_\_\_\_

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# FAIR HOUSING COMPLAINT PROCESS



# DIRECTORY OF FEDERAL AGENCIES

## Listing of HUD Regional Offices

(HUD Hotline) 1-800-424-8590

### Region I

Boston (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont)

HUD - Fair Housing and Equal Opportunity (FHEO)  
Boston Federal Office Building  
10 Causeway Street  
Boston, MA 02222-1092

### Region II

New York (New York, New Jersey, Puerto Rico, and the Virgin Islands)

HUD - Fair Housing and Equal Opportunity (FHEO)  
26 Federal Plaza  
New York, NY 10278-0068

### Region III

Philadelphia (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia)

HUD - Fair Housing and Equal Opportunity (FHEO)  
Liberty Square Building, 105 S. 7th Street  
Philadelphia, PA 19106-3392

### Region IV

Atlanta (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee)

HUD - Fair Housing and Equal Opportunity (FHEO)  
Richard B. Russell Federal Building  
75 Spring Street, S.W.  
Atlanta, GA 30303-3388

### Region V

Chicago (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin)

HUD - Fair Housing and Equal Opportunity (FHEO)  
626 West Jackson Boulevard  
Chicago, IL 60606-5760

### Region VI

Forth Worth (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas)

HUD - Fair Housing and Equal Opportunity (FHEO)  
1600 Throckmorton, P.O. Box 2905  
Fort Worth, TX 76113-2905

### Region VII

Kansas City (Iowa, Kansas, Missouri, and Nebraska)

HUD - Fair Housing and Equal Opportunity (FHEO)  
Professional Building, 1103 Grand Avenue  
Kansas City, MO 64106-2496

### Region VIII

Denver (Colorado, Montana, North Dakota, South Dakota, Wyoming, and Utah)

HUD - Fair Housing and Equal Opportunity (FHEO)  
Executive Tower Building, 1405 Curtis Street  
Denver, CO 80202-2349

### Region IX

San Francisco (Arizona, California, Hawaii, Nevada, Guam, and American Samoa)

HUD - Fair Housing and Equal Opportunity (FHEO)  
450 Golden Gate Avenue  
San Francisco, CA 94102-3448

### Region X

Seattle (Alaska, Idaho, Oregon, and Washington)

HUD - Fair Housing and Equal Opportunity (FHEO)  
Arcade Plaza Building, 1321 Second Avenue  
Seattle, WA 98101-2054

HUD has primary responsibility for implementing the Fair Housing Act. Other federal agencies monitor compliance by particular types of lenders.

Office of Fair Housing and Equal Opportunity  
Department of Housing and Urban Development HUD  
Washington, DC 20410-2000 - 1-800-424-8590

### National Banks

Compliance Management-Comptroller of the Currency  
Washington, DC 20219 - 202-287-4265

### State Member Banks of the Federal Reserve System

Division of Consumer and Community Affairs  
Federal Reserve Board  
Washington, DC 20551 - 202-452-3946

### Nonmember Federally Insured State Banks

Office of Consumer Programs  
Federal Deposit Insurance Corporation  
Washington, DC 20456  
1-800-424-5488 - 202-898-3536

### Savings and Loan Associations

Division of Consumer and Civil Rights  
Office of Thrift Supervision  
Washington, DC 20552 - 202-682-9640

### Federal Credit Unions

Office of Examination and Insurance  
National Credit Union Administration  
Washington, DC 20456 - 202-326-3224

### Other Lenders

#### Bureau of Consumer Protection

Federal Trade Commission  
Washington, DC 20580

#### Department of Justice

Housing and Civil Enforcement Section  
Washington, DC 20530 - 202-514-2000



## **SAMPLE FREEDOM OF INFORMATION ACT REQUEST LETTER**

**Agency Head (or Freedom of Information Act Officer)**  
**Name of Agency**  
**Address of Agency**  
**City, State, Zip Code**

**RE: Freedom of Information Act Request**

**Dear \_\_\_\_\_:**

**This is a request under the Freedom of Information Act. I request that a copy of the following documents (or documents containing the following information) be provided to me: (identify the documents or information as specifically as possible).**

**In order to help to determine my status to assess fees, you should know that I am (insert a suitable description of the requester and the purpose of the request).**

### **(Sample Requester Descriptions)**

**"a representative of the news media affiliated with the \_\_\_\_\_ newspaper (magazine, television station, etc.), and this request is made as part of news gathering and not for a commercial use."**

**"affiliated with an educational or noncommercial scientific institution, and this request is made for a scholarly or scientific purpose and not for a commercial use."**

**"affiliated with an educational or non-commercial scientific institution, and this request is made for a scholarly or scientific purpose and not for a commercial use."**

**"an individual seeking information for personal use and not for a commercial use."**

**"affiliated with a private corporation and am seeking information for use in the company's business."**

**(Optional) I am willing to pay fees for this request up to a maximum of \$ \_\_\_\_\_. If you estimate that the fees will exceed this limit, please inform me first.**

**(Optional) I request a waiver of all fees for this request. Disclosure of the requested information to me is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in my commercial interest. (Include a specific explanation.)**

**Thank you for your consideration of this request.**

**Sincerely,**

**Name**

**Address**

**City, State, Zip Code**

**Telephone Number (Optional)**

OPERATION FAIR SHARE PURPOSE AND GOALS

TO EVALUATE CORPORATE AMERICA'S RELATIONSHIP TO THE  
BLACK COMMUNITY RELEVANT TO THE FOLLOWING  
FAIR SHARE GOALS:

- AGGRESSIVE AFFIRMATIVE ACTION PROGRAMS;
- HIRING AND PROMOTION OF BLACKS INTO SENIOR MANAGEMENT POSITIONS;
- ESTABLISHMENT OF VIABLE MINORITY PURCHASING POLICIES AND PROGRAMS, INCLUDING UTILIZATION OF BLACK CONTRACTORS, OUTSIDE BLACK PROFESSIONALS -- IN ACCOUNTING, LAW, ADVERTISING, PUBLIC RELATIONS, AND CONSULTING -- AND BLACK FINANCIAL AND INSURANCE INSTITUTIONS; AND,
- REPRESENTATION OF BLACKS ON CORPORATE BOARDS; AND CHARITABLE CONTRIBUTIONS TO BLACK ORGANIZATIONS AND CAUSES.
- SEEKS TO ADDRESS ECONOMIC INEQUALITY BY EFFECTIVELY USING BLACK CONSUMER POWER TO ADVOCATE FOR WRITTEN AGREEMENTS BETWEEN THE NAACP AND MAJOR CORPORATIONS OUTLINING GOALS BASED ON CORPORATIONS CORPORATE SOCIAL RESPONSIBILITY AND THE STATED FAIR SHARE PRINCIPLES.

## UNIT IMPLEMENTATION

ADOPTION OF THE FAIR SHARE PROGRAM AS A UNIT PROJECT  
PREFERABLY AS A KEY PROJECT OF AN ECONOMIC DEVELOPMENT  
COMMITTEE.

- DESIGNATION OF A COMMITTEE TO IMPLEMENT THE PROGRAM.
- NOTIFICATION OF NAACP ECONOMIC DEVELOPMENT PROGRAM  
DIRECTOR OF THE NAME OF COMMITTEE CHAIRPERSON.
- ADHERENCE TO NAACP POLICIES AND GUIDELINES FOR CARRYING  
OUT THE PROGRAM.

## COMMITTEE ACTIVITIES

SELECTION OF TARGET COMPANIES:

- COMPANIES MANDATED BY THE NATIONAL OFFICE (I.E., BANKS  
AND UTILITY COMPANIES).
- COMPANIES WITH A LOCAL PRESENCE AND MARKET FOR THEIR  
PRODUCTS.
- PRODUCTS OFFERED BY THE COMPANY, HAVING HIGH CONSUMER USE  
AND RECOGNITION IN THE BLACK COMMUNITY.

## *RESEARCH OF TARGET COMPANIES:*

- GATHERING OF INFORMATION TO FORMULATE A PROFILE ON THE TARGET COMPANY IN ORDER TO DEVELOP A KNOWLEDGE BASE FOR NEGOTIATIONS.
- RESEARCH SOURCES:
  - QUESTIONNAIRES AND SURVEYS.
  - ANNUAL AND CORPORATE SOCIAL RESPONSIBILITY REPORTS.
  - INTERVIEWS WITH PRESENT AND/OR FORMER EMPLOYEES.
  - MEETINGS WITH PRESENT AND/OR FORMER BLACK BOARD MEMBERS.
  - PUBLICLY AVAILABLE MATERIALS FROM LIBRARIES, GOVERNMENT AGENCIES, PROFESSIONAL AND INDUSTRY ASSOCIATIONS, NEWSPAPERS AND JOURNALS.
  - DIRECT QUESTIONS TO TARGET COMPANY REPRESENTATIVES DURING COMMITTEE MEETINGS WITH THE COMPANY.

## NEGOTIATIONS:

- INITIAL CONTACT WITH THE TARGET COMPANY'S PRESIDENT BY LETTER REQUESTING A MEETING TO DISCUSS THE FAIR SHARE PROGRAM AND ITS GOALS AND OBJECTIVES.
- COMMITTEE SHOULD MEET TO DISCUSS STRATEGY PRIOR TO MEETING WITH TARGET COMPANY.
- NEGOTIATIONS SHOULD BE APPROACHED IN A FIRM MANNER, HOWEVER, IN A SPIRIT OF COOPERATION.
- AT INITIAL MEETING, COMMITTEE SPOKESPERSON SHOULD OUTLINE THE FAIR SHARE PROGRAM AND ITS PRINCIPLES, AND EXPLAIN THAT THE COMMITTEE IS SEEKING A WRITTEN STATEMENT OR AGREEMENT OUTLINING COMMITMENTS IN EACH OF THE FIVE (5) FAIR SHARE GOALS.
- SEND A LETTER TO THE COMPANY CONFIRMING WHAT WAS AGREED TO AT THE INITIAL SESSION, INCLUDING A DATE FOR A FOLLOW-UP MEETING IF NECESSARY.
- DRAFT COPY OF ANY PROPOSED FAIR SHARE AGREEMENT IS TO BE SENT TO DIRECTOR OF ECONOMIC DEVELOPMENT FOR APPROVAL PRIOR TO SUBMISSION TO THE COMPANY.
- DATE IS SET FOR SIGNING AND PUBLICLY ANNOUNCING THE AGREEMENT.
- COPY OF SIGNED AGREEMENT IS FORWARDED TO DIRECTOR OF ECONOMIC DEVELOPMENT.

NOTE: THE NEGOTIATIONS PROCESS SHOULD TAKE NO MORE THAN 90 DAYS.

## *MONITORING AND REVIEW:*

### MONITORING AND IMPLEMENTATION OF THE FAIR SHARE AGREEMENT.

- AGREEMENT SHOULD CONTAIN LANGUAGE CREATING AN ON-GOING TASK FORCE TO MEASURE THE PROGRESS MADE BY THE COMPANY IN IMPLEMENTING THE GOALS AND OBJECTIVES OF THE AGREEMENT.
- TASK FORCE OF NAACP AND COMPANY REPRESENTATIVES TO MEET AT LEAST SEMI-ANNUALLY.
- FORWARD COPIES OF MONITORING MEETING REPORT AND INFORMATION TO THE DIRECTOR OF ECONOMIC DEVELOPMENT.
- REFER TO MONITORING GUIDELINES DISTRIBUTED 4/88.

## *DIRECT ACTION:*

- BOYCOTTS SHOULD BE COMMENCED ONLY AFTER THE BUSINESS OR GOVERNMENT TO BE BOYCOTTED HAS BEEN GIVEN A REASONABLE AMOUNT OF TIME TO CORRECT THE CONDITIONS COMPLAINED OF. EVERY EFFORT SHOULD BE MADE TO MEET WITH, DISCUSS AND RESOLVE THE PROBLEM.
- REVIEW AND COMPLY WITH NAACP POLICY DIRECTIVES CONCERNING BOYCOTTS AND DIRECT ACTION CAMPAIGNS.
- NOTIFY REGIONAL DIRECTOR AND DIRECTOR OF ECONOMIC DEVELOPMENT PRIOR TO ISSUING PUBLIC STATEMENTS REGARDING ANTICIPATED DIRECT ACTION ACTIVITIES.

## *ORGANIZING COMMUNITY SUPPORT:*

### BUILDING OF COMMUNITY SUPPORT SHOULD BEGIN UPON ADOPTION OF THE FAIR SHARE PROGRAM.

- BRIEF OF BLACK FRATERNAL ORGANIZATIONS, MINISTERIAL ALLIANCES, NEIGHBORHOOD ASSOCIATIONS, PROFESSIONAL GROUPS, AND SOCIAL CLUBS ON FAIR SHARE.
- BRIEF LOCAL BLACK BUSINESS OWNERS ABOUT THE BUSINESS OPPORTUNITIES GENERATED THROUGH BRANCH FAIR SHARE ACTIVITIES.

## RESEARCH QUESTIONNAIRE

### SAMPLE

1. Where is the firm located?
2. Does it have subsidiaries?
3. Where are they located?
4. What business is the firm in?
5. Who runs the firm?
6. How many people work for the firm?
7. Where are they located?
8. How much money did the firm make last year, two years ago, five years ago?
9. What is the firm's place in its industry?
10. How is the industry doing overall?
11. What are the key issues for the industry?
12. How many Blacks and other minorities work for the firm?
13. What are their positions?
14. Do most of them work in low-pay, low-skill, no future jobs?
15. Does the firm have a career development program available to them?
16. Does the firm have a minority vendor program?
17. What is the dollar value of the firm's purchasing program for this year, last year, five years back?
18. Which bank does the firm use?
19. Are any of its banks minority owned?
20. Where does the firm derive its profits?
21. What percentage of its profits come from Black and minority consumers?



22. What are the firm's activities with minority communities?
23. Does the firm have a foundation?
24. What does the foundation do?
25. Which charities and groups, does it support?

MODEL AGREEMENT

*A FAIR SHARE AGREEMENT BETWEEN ABC COMPANY AND  
THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE*

This Agreement is effective this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, and is executed jointly by the ABC Company and the National Association for the Advancement of Colored People (NAACP).

This Agreement stands as a moral commitment to continue the expansion of opportunities available through ABC for blacks and other minorities.

It involves a mutual moral commitment on the part of ABC and the NAACP to work towards eliminating social inequities in the American economy wherever it exists.

Towards this end, the NAACP acknowledges the steps already taken by ABC to bring about solutions to these problems and commends ABC for the progressive steps taken in executing this Agreement.

Therefore, acknowledging the significance of this commitment and its goals and objectives to provide a fair share of economic opportunities to blacks and other minorities, ABC Company will establish reasonable and appropriate policies to accomplish fair share goals in the areas of:

- Employment and upward mobility;
- Business development; and,
- Corporate board representation.

A. Employment and Upward Mobility.

ABC will establish as a goal, a minimum of \_\_\_\_\_ percent employment of blacks in all job categories of its workforce, including officials and manager, professionals, technicians, and sales workers, by 19\_\_.

ABC agrees to further expand management opportunities for blacks and in times of economic cutbacks endeavor to maintain such levels. ABC will continue to stress the importance of upward mobility in "official and managers" and "professional" job categories and to achieve \_\_\_\_\_ percent black representation in these categories by 19\_\_.

ABC agrees to hire or promote a vice president who is black within a reasonable period of time.

ABC agrees to develop a plan for implementation of the aforementioned employment goals.

B. Business Development.

ABC agrees to make every reasonable effort to increase the dollar volume of business which it transacts with black owned businesses to approximately \_\_\_\_\_ percent of its total contracts with outside suppliers. These efforts will include, but not be limited to, the following:

- contractors
- accounting and legal services
- advertisement and public relations
- janitorial services
- landscaping
- office supplies and furniture

C. Corporate Board Representation.

ABC believes the input of black and other minority Americans at the policy (or board) level of company decision-making is consistent with overall objectives of involving blacks and other minorities at all levels of the corporate operations of ABC.

Accordingly, ABC will endeavor to appoint a black to its Board of Directors within a reasonable time of the execution of this Agreement.

The Executive Director of the NAACP and Chief Executive Officer of ABC or their designees will meet on an on-going basis to monitor and aid the facilitation of this Agreement.

NAACP

THE ABC COMPANY

By: \_\_\_\_\_ By: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

NOTE: This document is to serve only as a MODEL. Actual negotiated Agreements should reflect the constraints of the Company, the industry in which it operates, and commitments solicited through the negotiation process.

FAIR SHARE AGREEMENT MONITORING FORM

DATE: \_\_\_\_\_

1. Name of Company: \_\_\_\_\_
2. Date of Monitoring Committee Meeting: \_\_\_\_\_
3. Date of Fair Share Agreement was Signed: \_\_\_\_\_
4. Employment Status:
  - A. Initial Employment Data (when the agreement was signed)
    - i) Total number of employees \_\_\_\_\_  
(a) % of managers and officials \_\_\_\_\_
    - ii) Total number of Black employees \_\_\_\_\_  
(a) % of Black managers and officials \_\_\_\_\_
  - B. Current Employment Data (as of monitoring committee meeting)
    - i) Total number of employees \_\_\_\_\_  
(a) % of managers and officials \_\_\_\_\_
    - ii) Total number of Black employees \_\_\_\_\_  
(a) % of black managers and officials \_\_\_\_\_
  - C. If a Management Training Program Exists:
    - i) Total number of participants \_\_\_\_\_
    - ii) Total number of Black participants \_\_\_\_\_
  - D. Comments: (Describe method for recruiting Blacks, describe any other special circumstances, problems, etc.)
5. Business Procurement Status: (Other than insurance and banking)
  - A. Initial Procurement Date (when the agreement was signed):
    - (1) Total purchases \$ \_\_\_\_\_
    - (2) Purchases with Blacks \$ \_\_\_\_\_

B. Current Procurement Data (as of monitoring committee meeting)

(1) Total purchases \$\_\_\_\_\_

(2) Purchases with Blacks \$\_\_\_\_\_

C. Attach a listing of the Black firms utilized:

D. Comments: (Describe special circumstances, problems, etc.)

6. Insurance Utilization Status:

A. Initial Data (when the Agreement was signed)

(1) Total \$\_\_\_\_\_

(2) Total with Blacks \$\_\_\_\_\_

B. Current Data (as of monitoring committee meeting)

(1) Total \$\_\_\_\_\_

(2) Total with Blacks \$\_\_\_\_\_

C. Attach a listing of the Black Insurance Companies utilized.

D. Comments: (Note also re-insurance use of Black firms)

7. Banking Status:

A. Initial Data (when the Agreement was signed)

(1) Total \$\_\_\_\_\_

(2) Total with Blacks \$\_\_\_\_\_

B. Current Data (as of monitoring committee meeting)

(1) Total \$\_\_\_\_\_

(2) Total with Blacks \$\_\_\_\_\_

C. Attach a listing of the Black Banks utilized:

D. Comments: (Note account types, duration, fee arrangements)

8. Advertising Status:

A. Initial Data (when the Agreement was signed)

(1) Total \$\_\_\_\_\_

(2) Total with Blacks \$\_\_\_\_\_

B. Current Data (as of monitoring committee meeting)

(1) Total \$ \_\_\_\_\_

(2) Total with Blacks \$ \_\_\_\_\_

C. Attach a listing of the Black-owned Media utilized:

D. Comments:

9. Philanthropic Contributions:

A. Initial Data (when the Agreement was signed)

(1) Total \$ \_\_\_\_\_

(2) Total with Blacks \$ \_\_\_\_\_

B. Current Data (as of monitoring committee meeting)

(1) Total \$ \_\_\_\_\_

(2) Total with Blacks \$ \_\_\_\_\_

C. Comments:

10. What is the date of the next scheduled meeting \_\_\_\_\_

NOTE: Feel free to attach a narrative addressing any aspect not adequately discussed elsewhere on this form.

- \_\_\_ 8. NAACP will receive no funds from any mediation or settlement. Persons conducting settlement and negotiate are not lawyers and are not providing legal services.
- \_\_\_ 9. I agree that if I accept a settlement with Respondent, I will be required to sign a release of Claims against a Respondent, and I will honor the terms of such a Release and Claim.
- \_\_\_ 10. I understand that if the NAACP refers me to a private attorney, I am not required to retain her and she is not required to offer legal representation to me. I understand that such representation as she might offer to me need not be without charge, but may be on whatever terms she and I agree on. I understand that she does not also represent the NAACP, nor is she employed by or paid by the NAACP.
- \_\_\_ 11. I understand that the NAACP is not a law firm and cannot provide me with legal advice or legal representation. Although some of its members and volunteers are lawyers, they represent the NAACP and not me personally.
- \_\_\_ 12. I release and hold harmless the NAACP, its officers, directors, employees, agents, personal actions and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreement, promises, variances, trespasses, damages, judgements, executions, claims, and demands whosoever, in law in equity, which I ever had, may have in the future, or which any of my personal representative, successors, heirs or assigns hereafter can, shall or may have against the NAACP, upon or by reason o the NAACP's handling of my Complaint of Discrimination.

Dated \_\_\_\_\_

Agreed \_\_\_\_\_