LCR | LAWYERS FOR CIVIL RIGHTS BOSTON

January 30, 2026

Sunila Thomas George, Chair
Massachusetts Commission Against Discrimination (MCAD)
One Ashburton Place, Suite 601
Boston, MA 02108
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Re: Public Comment on MCAD's Proposed Procedural Regulations

Dear Chair George and MCAD Commissioners:

On behalf of Lawyers for Civil Rights and our concerned community partners—the Brazilian Worker Center, Justice at Work, the Massachusetts Coalition for Occupational Safety and Health, the NAACP–Boston Branch, and the Urban League of Eastern Massachusetts—we respectfully submit these comments regarding the recently-proposed changes to MCAD's procedural regulations.

We certainly acknowledge and appreciate the workload pressures MCAD staff are navigating, and we support efforts to better fund the agency so that it can meet community needs. However, we are concerned that the proposed regulations are unlawful and would ultimately increase administrative burdens at a time when staff caseloads are already under great strain.

As detailed below, the proposed regulations impermissibly curtail the rights of victims of discrimination who seek redress from MCAD. If adopted, the regulations would further weaken MCAD's protections and would particularly impact those who most need MCAD's assistance: people of color, low-wage workers, immigrants, non-English speakers, and other marginalized populations. Further, unlike previous MCAD regulations, they were proposed with no meaningful input from the signatories to this letter or from other organizations representing impacted communities.

Accordingly, we respectfully urge MCAD to withdraw the proposed regulations in their entirety because they are incompatible with the agency's legislative mandate. At a minimum, MCAD should make significant changes to address the existential concerns outlined below, and the revised regulations should be re-issued for an additional round of public comment.[1]

[1] In light of the gravity of the changes proposed, we requested on December 15, 2025 that MCAD extend the time for public comment. To date, that request has not been formally acted upon, although we understand that comments submitted after January 30, 2026 might still be considered. To the extent that MCAD does not withdraw the proposed regulations entirely, we respectfully renew our request that the public be given more meaningful time to weigh in on these significant changes.

I. Interest of Commenters

The **Brazilian Worker Center (BWC)** is a nonprofit, membership organization that supports and educates immigrant workers about workplace rights, immigration issues, and health equity. The organization empowers immigrants with the knowledge and skills needed to advance economic, social, political, and racial justice for all.

Justice at Work is a multilingual legal nonprofit that supports organizations of workers in low-paying industries. Its staff offer direct legal services to members of worker organizations, train workers and organizers on their workplace rights and ways to assert them, and provide ongoing legal counsel to groups of workers organizing for better conditions. In this context, Justice at Work regularly directs workers to the MCAD's processes for *pro se* complainants and also handles matters before the MCAD.

Lawyers for Civil Rights (LCR) is a non-profit organization that provides free legal services to individuals and families in Massachusetts. For over 50 years, LCR has fought against discrimination and sought equal opportunity for people of color and immigrants through creative and courageous legal action, education, and economic empowerment in collaboration with law firms and community partners. LCR represents clients in numerous impact areas, including employment and housing discrimination, and, in this capacity, regularly works with clients who are directly impacted by MCAD's policies and practices.

The **Massachusetts Coalition for Occupational Safety and Health (MassCOSH)** is a nonprofit membership organization dedicated to advancing safe, healthy, and equitable workplaces across Massachusetts, particularly for immigrants, low-wage workers, and workers of color. MassCOSH provides support services to its members, including information and support with MCAD complaints.

The **NAACP, Boston Branch,** is a nonprofit civil rights organization dedicated to eliminating racial discrimination and advancing social, economic, and political equity, including by addressing employment discrimination through advocacy, community engagement, and coalition-building in the Boston area.

The **Urban League of Massachusetts (ULEM)** is a non-profit, membership- and community-based organization committed to eradicating racial, social, and economic barriers to employment and promoting economic development, including by connecting affected members to legal support for filing employment discrimination complaints with the Commission.

II. The Proposed Regulations Run Counter to MCAD's Statutory Mandate

Massachusetts has a long and proud tradition of civil rights enforcement. In 1946, we became the first state to adopt an omnibus civil rights statute, codified as Chapter 151B of Massachusetts General Laws.[2] The law is intended to be sweeping. Its drafters wrote that

[2] G.L. c. 151B, inserted by St. 1946, c. 368, § 4.

discriminatory conduct serves as a "harmful influence to our democratic institutions" and proclaimed that "no well-informed, right thinking person can be oblivious or indifferent to this evil." *Report of the Special Commission Relative to the Matter of Discrimination Against Persons in Employment Because of Their Race, Color, Religion, of Nationality*, H.R. Rep. No. 337, 154th Leg., 1st Sess. at 2 (Mass. 1945). Further, the elimination of discrimination, the Legislature declared, is a "corner-stone" upon which "world peace must be based." *Report of the Governor's Committee to Recommend Fair Employment Practice Legislation*, H.R. REP. No. 400, 154th Leg., 2nd Sess., at 7 (Mass. 1946).

In keeping with its mandate to eliminate the scourge of discrimination, the statute makes clear that "this chapter shall be construed liberally for the accomplishment of its purposes, and any law inconsistent with any provision of this chapter shall not apply." G.L. c. 151B, § 9. Under section 3 of the statute, the MCAD is charged with effectuating the purposes of the statute, including promulgating rules and regulations to implement its statutory commands.

Unfortunately, MCAD has failed to meet these statutory directives for many years. In 2024, LCR and ULEM summarized many of these failings in a detailed letter, focusing in particular on MCAD's failure to afford *pro se* individuals a meaningful opportunity to file complaints by intake and its failure to conduct timely investigations or render timely adjudications. Since that time, these problems have only escalated. MCAD's backlog (*i.e.*, non-housing investigations pending for over 18 months), which was already at record levels in 2024, skyrocketed over 26% in the last Fiscal Year and now exceeds 2300 cases.[3]

Rather than addressing these deficiencies, the proposed regulations move further in the wrong direction. In a variety of ways, they narrow access to the MCAD and make it even more likely that the law's intended beneficiaries—victims of discrimination—will be left without redress.

III. Specific Problems With Proposed Regulations[4]

A. The Proposed Regulations Impose Severe Restrictions on the Manner of Filing Complaints

1. Mail-In Filings

Currently, complainants may file an initial complaint (1) by "delivery" in person or through the mail, (2) through in-person or virtual intakes with MCAD staff, or (3) for complainants represented by lawyers or Duly Authorized Representatives ("DARs"), through the online portal. 1.04(a)(b) (current form of regulation); MCAD website, https://www.mass.gov/decision-tree/file-a-complaint-of-discrimination-at-the-mcad. The mail and walk-in intake options remain an important avenue for many victims of discrimination. In the last fiscal year, 7% of complaints

[3] *See* MCAD Annual Report FY 2025 ("2025 Annual Report") at 9, available at https://www.mass.gov/lists/mcad-annual-reports.

[4] The existing/proposed regulations are found at 804 CMR 1.00 *et seq*. and are referenced below as "1.xx."

were filed by mail, while 26% were filed after a virtual intake, and 36% were filed after a walk-in intake. 2025 Annual Report at 8.

The proposed regulations, however, would require virtually all complainants to use the on-line portal, with only very limited exceptions—such as the submission of a request for reasonable accommodation. *See* Proposed Regulations 1.15(16) (filings other than through the portal will not be permitted "absent good cause," *i.e.* a "compelling inability" to access or use the portal). Even then, the proposed regulations state that "such filings are strongly discouraged," and filing in this manner "may cause delay in the processing of the complaint . . . "1.04(2)(a)(3).

Even if a complainant is permitted to file an initial complaint by mail, under the proposed regulations they are still required to handle all future filings via the portal, unless they prove (through the same undetermined process) that they can demonstrate a *compelling* inability to access or use the portal. The electronic filing requirement and the unclear nature of the exception to the general rule are barriers to access that are extremely problematic for *pro se* complainants who may lack technical skills or access to computers.

The pandemic brought to the forefront the inequity of access to technology and the severity of the digital divide plaguing the Commonwealth. Even before the pandemic, in Massachusetts, 42,260 households with school aged children were without internet subscriptions, and 14,047 households with school-aged children were without any computing device.[5] Even for Massachusetts households with internet at home, about 9% of those households depend solely on unstable connections to the internet such as mobile phone data plans.[6] Certain areas of Massachusetts are more affected than others by the digital divide. In Franklin County, towns such as Monroe and Wendell contain 51% of households and 40% of households without internet service subscriptions respectively.[7] Low-income urban communities are also affected with areas like Springfield (31 percent), Lawrence (31 percent), Holyoke (29 percent), and Lowell (27 percent) demonstrating severe lack of internet access.[8] The lived reality of victims of discrimination who are affected by the digital divide underscores the importance of ensuring that mailed complaints are never treated differently for timing and investigation purposes than any other complaints.

2. *Pro Se* Portal Filings

Currently, *pro se* complainants lack the option of filing through an electronic portal. While expanding portal access could increase filing convenience for unrepresented complainants, it

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[5] U.S. Census Bureau, *Age By Presence Of A Computer And Types Of Internet Subscription In Household*, (ACS Survey 2019), https://data.census.gov/cedsci/table?q=internet&g=0400000US25&tid=ACSDT1Y2019.B28005&hidePreview=true.

[6] *Id.*

[7] *Gateway Cities at the Center of the Digital Divide in Massachusetts*, MassINC (May 5, 2020), https://massinc.org/2020/05/05/gateway-cities-at-the-center-of-the-digital-divide-in-massachusetts/.

[8] *Id.*

would also eliminate the meaningful assistance that MCAD staff currently provide in helping complainants marshal their facts or formulate their claims into an adequate complaint. That differs from the current situation, in which anyone seeking to file a complaint can obtain assistance from MCAD staff. This serves as a critical safeguard for *pro se* litigants who lack legal training and may struggle to articulate their claims clearly or in legally cognizable manner. This new reality is likely to undermine and defeat many complaints, including legitimate ones, for failure to meet an impermissibly harsher standard for filing and surviving dismissal.

B. The Proposed Regulations Impermissibly Allow MCAD To Reject Claims Without Investigation

The authorizing statute states that MCAD "shall . . . make . . . prompt investigation in connection" with "the filing of any complaint." G.L. c. 151B, § 5. This statutory command for MCAD to promptly investigate *all* filed complaints is both unequivocal and mandatory. *Oberlies v. Attorney General,* 479 Mass. 823, 838 n.13 (2018) ("It is well established that use of the word 'shall' [in a law] indicates a mandatory duty"); *Patel v. 7-Eleven, Inc.*, 494 Mass. 562, 567 n.14 ("the word 'any' has an expansive meaning, that is, one or some indiscriminately of any kind . . . .") (internal quotation omitted).

Under the current version of 1.05(2)(b), MCAD is authorized to dismiss complaints without an investigation only for very narrow threshold reasons, such as jurisdictional or frivolousness issues. Otherwise, as required by section 5 of the authorizing statute, MCAD must investigate and make a finding as to probable cause (or lack thereof) for each filed complaint.

The proposed regulations would impermissibly expand MCAD's authority to dismiss a complaint without any factual investigation, under any of the following circumstances:

- the complaint is "vague";
- the monetary/non-monetary harm alleged is "de minimus" (sic), moot, or mitigated;
- there is a "tenuous nexus" between the protected class and the complained of discriminatory conduct; or
- the "public interest" requires the MCAD to focus on complaints with "greater impact" on its mission.

1.05(2)(b)(6)-(9).

Allowing dismissals on these grounds would be flatly contrary to the authorizing statute and, therefore, if adopted, would be invalid. *See Electronics Corp. of America v. Commr. of Revenue*, 402 Mass. 672, 676-77 (1988) (a regulation that is more restrictive than its authorizing statute is invalid; an administrative board has no authority to promulgate a regulation in conflict with the statute creating that board).

Section 5 requires a prompt investigation of *all* filed complaints. The proposed regulation attempts to circumvent this clear inconsistency with the statute by calling the new screening mechanism a "preliminary investigation." 1.05(2). But MCAD cannot evade its statutory mandate in this manner. Chapter 151B's use of the term "investigation" means a factual inquiry, not an on-

the-papers assessment before the facts have been developed. *See United States v. Allergan, Inc.*, 46 F.4th 991, 998 & n.7 (9th Cir. 2022) ("investigation" means a fact-finding process to obtain information) (citation omitted); *see also* Cornell Law School, Legal Information Institute ("an investigation is an inquiry, whether formal or informal, intended to develop a factual record"), *available at* https://www.law.cornell.edu/wex/investigation (last visited Jan. 21, 2026).

Further, each of the stated grounds for dismissal is problematic. Many *pro se* complaints can be characterized as "**vague**" simply because non-lawyers often submit allegations that are conclusory, lack clear timelines, or describe events imprecisely, not because the underlying claims lack merit. The very task of MCAD's investigation is to flesh them out. Indeed, many pathbreaking employment cases have begun with "vague" complaints that may appear to have a "tenuous nexus" to discrimination or another of the proposed grounds for dismissal. *Sanchez v. Standard Brands, Inc.*, is a classic example of a case where agency staff revised an arguably "vague" and "tenuous" complaint into an EEOC charge that became a major lawsuit. 431 F.2d 455 (5th Cir. 1970). There, the complainant's *pro se* charge to the EEOC read in its entirety:

> . . . my boss lady hit me at my rear end and about a month before that I hurt my thumb and was out of work for seven days and the Company didn't pay me. I hurt my thumb at work.

Id. at 458. After consultation with the EEOC staff, the facts were contextualized as an allegation that Sanchez's supervisor singled out Mexican-American women for physical and verbal aggression and denied them promotional opportunities. Ultimately, the case was filed as a class action in federal court. *See id*. at 459-60. As this case amply demonstrates, limitations arising from imperfect exposition of a claim do not warrant or authorize premature dismissal of a complaint.

Similarly, "**de minimis**" is a standard that has been applied in various areas of law, including areas of labor law other than discrimination. For example, the Occupational Safety and Health Administration ("OSHA") applies it to decline to penalize technical non-compliance with health and safety standards where the same safety goal is achieved by alternate methods or the non-compliance is inconsequential. OSHA Standard 1903.14(a). However, this rationale does not translate to discrimination cases where the harm is substantive, not technical. Indeed, the "de minimis" doctrine is specifically disfavored in employment law. For example, a recent Ninth Circuit decision, *Cadena v. Customer Connexx LLC*, held that there was no "de minimis" exception for non-payment of wages for the time it took workers to boot up and shut down their computers daily. 107 F. 4th 902, 915 (9th Cir. 2024).

Attempting to import a "de minimis" exception into discrimination law is particularly inappropriate. Chapter 151B does not allow an employer to discriminate against, or racially harass, a worker, "just a little." Nor is it the law that an employer may pay one worker less than another for discriminatory reasons by "just a few dollars" if the reason for that is discriminatory. *See, e.g., Muldrow v. City of St. Louis*, 601 U.S. 346, 355-56 (2024) (under Title VII, any difference in a term or condition of employment because of an employee's protected class is illegal; the harm need not be significant, serious, or substantial). There is no "de minimis" exception in Chapter 151B—and MCAD cannot unilaterally create one by regulation. *See Electronics Corp. of America*, 402 Mass. at 676-77.

The proposed regulations are also unclear about what it means for harm to be "**moot**" or "**mitigated**," and provide no definition for these terms. Mootness generally refers to circumstances or actions by the parties that end a controversy without court intervention. *E.g.*, *PIC Vokey v. Massachusetts Insurers Insolvency Fund,* 381 Mass. 386, 388 (1980) (settlement of claim rendered arbitration proceedings moot); *EEOC v. Goodyear Aerospace Corp.*, 813 F. 2d 1539, 1543 (9th Cir. 1987) (individual's settlement of claim rendered case moot). However, it is unclear what "moot" means in the proposed regulations. Cases are not automatically moot, for example, if an employer voluntarily ends discriminatory conduct without agreeing not to resume it, or if the conduct's harm persists. *See, e.g.*, *A.Y. Allee v. Medrano*, 416 U.S. 802, 811 (1974) ("an action . . . does not become moot merely because the conduct complained of has terminated, if there is a possibility of recurrence, since otherwise the defendants would be free to return to [their] old ways"); *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., Inc.*, 528 U.S. 167, 189 (2000) (defendant's "voluntary cessation" of allegedly wrongful conduct does not render claim moot unless "absolutely clear" that challenged conduct "could not reasonably be expected to recur").[9] Cases should not be dismissed as moot unless it is evident that the issue is fully resolved, and that all concomitant and attendant harms have been redressed, with no continuing effects. But the proposed regulations do not require that. The meaning of "mitigated" in the proposed regulations is equally unclear and concerning because it risks leaving victims of discrimination without meaningful redress.[10]

Similarly, if the filed complaint sets forth only a "**tenuous nexus**" between a protected class and the complained-of discriminatory conduct, this nexus should be fleshed out by MCAD's investigation. There is an established body of caselaw recognizing that proving discrimination is difficult and that the complainant may rely on indirect evidence, including proof of pretext, evidence of comparator treatment, and evidence of the employer's disingenuousness. *See, e.g.*, *Bulwer v. Mt. Auburn Hospital,* 473 Mass. 672, 689 (2016) (employer's motive is "elusive and rarely is established by other than circumstantial evidence") (citing authorities) (cleaned up). If those methods fail, then these cases should receive a lack of probable cause determination. But it is contrary to law to make that determination at a preliminary stage, without the benefit of further development—particularly for *pro se* litigants.

By diluting its own standards—in contravention of the governing statute—MCAD sends a dangerous message: discrimination is permissible so long as the harm can be obscured as "vague," "de minimis," or papered over through superficial "mitigation." This framework does not deter discrimination; it invites it. It predictably encourages strategic wrongdoing by rewarding defendants who calibrate discriminatory conduct to evade scrutiny rather than comply with the law—and by incentivizing ever more sophisticated forms of discrimination. The result is entrenched discrimination and victims left without meaningful protection or redress.

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[9] *See also Sheely v. MRI Radiology P.A.*, 505 F. 3d 1173, 1184-89 (11th Cir. 2007) (case not moot where employer ended challenged practice but refused to acknowledge wrongdoing).

[10] If the intent is to refer to cases that have been resolved by the parties between themselves, these cases should go through the MCAD settlement-approval process to help preclude future retaliation, ensure that the resolution is adequate, and preserve a record of the complaint should the issues recur.

Moreover, the "**public interest**" criterion for dismissal is particularly problematic, since it is completely subjective and essentially standardless. Inclusion of this criterion would allow MCAD unlimited discretion not to investigate complaints for reasons that the public will never learn. That is the antithesis of the transparent approach that a public agency should take. Moreover, it is directly contrary to MCAD's authorizing statute. As explained above, under Chapter 151B, MCAD is *required* to investigate all cases to determine whether there is probable cause.

Even apart from the criteria to be used in this pre-screening, the process itself is problematic and contrary to law. While this newly-expanded pre-screening process is underway, untrammeled by any time limits, the complainant's clock for a court complaint continues to tick. The respondent may or may not be notified that a case is pending, and otherwise, MCAD does not obligate itself to engage or communicate with the parties in any way. This will inevitably lead to even longer delays than are currently experienced. The lack of any required input whatsoever from the complainant into this process almost ensures that there will be confusion and misunderstandings of the nature of the claims, and an over-eagerness to dismiss complaints. This process also forces the MCAD into the highly inappropriate role of a pseudo-respondent, looking for holes or cracks in complaints to eliminate them, rather than an independent investigator. This threatens the integrity of the complaint adjudication process and fundamentally undermines MCAD's credibility, legitimacy, and trust with the communities it is charged to serve.

C. The Proposed Regulations Impermissibly Alter the Probable Cause Standard

Under the authorizing statute and the current regulations, in order for a claim to progress out of the investigative stage toward a hearing, MCAD must find "probable cause," *i.e.* whether it is "more probable than not" that discrimination has occurred. 1.08(1)(f)(1). In determining whether that standard is satisfied, the current rules provide that "disputes involving genuine issues of material fact shall be reserved for a factfinder at a public hearing" —and are not to be made by the investigator. *Id.* This is, of course, the standard for denying summary judgment in court and permitting civil cases to go to trial. This is an appropriate standard as it provides a methodology for investigators to use: accept undisputed facts, refrain from weighing competing evidence where facts are contested, and ask only whether, if the complainant's version of the disputed facts were credited, the facts would support a finding of discrimination. If so, the case should proceed.

At least in theory, that standard prevents investigators from trying to decide the facts themselves, which is not their role, and which could lead to unwarranted lack of probable cause determinations. Without this explicit legal standard in place, an investigator could simply reject the complainant's account and recommend a lack-of-probable-cause finding, even where evidence supports the claim. That outcome usurps the role of the public hearing required by c. 151B, § 5 and as such, is illegal, yet the proposed change appears to allow it.

D. The Proposed Regulations Impermissibly Eliminate In-Person Appeals

Under the existing rules, if a lack of probable cause determination issues, the complainant may appeal and receive a hearing before an MCAD Commissioner. At the hearing, the complainant may present "oral or written reasons," as well as evidence, why the lack of probable

cause decision was wrong. In practice, represented parties typically submit a written argument in advance of or at the hearing, along with an oral argument at the hearing, while *pro se* parties typically present their arguments orally at the hearing. Although these appeals are seldom successful, their success typically depends on the ability of the complainant to respond to the issues raised by the presiding MCAD Commissioner at the live hearing.

The proposed rules eliminate all live hearings, except as a reasonable accommodation, and require complainants to make appeal arguments only in writing. This sets up a major disadvantage for most *pro se* parties, as many lack access to the technology necessary to prepare written submissions or the legal training required to draft effective written arguments. The practical effect would be to foreclose meaningful appellate review for most unrepresented parties. Moreover, it also violates c. 151B, § 5, which requires a "preliminary *hearing*" upon a complainant's written request "as a matter of right" after an adverse causal ruling.

E. The Proposed Regulations Exacerbate the Information Imbalance Between Complainants and Respondents

It is a truism that employers typically hold most of the information needed to develop a case, but the proposed regulations prevent the disclosure of that information in at least two ways: the parties are no longer permitted even the opportunity to request permission to conduct pre-determination discovery; and the parties are not authorized to obtain the other party's responses to information requests.

Elimination of pre-determination discovery. Section 1.05 (13) as currently written allows parties represented by counsel to seek the opportunity to conduct limited pre-determination discovery and allows Commissioners to independently authorize such discovery on their own initiative. The proposed regulations strike that section in its entirety. The MCAD should not eliminate even the opportunity to ask for an important fact-gathering tool.

No requirement to share information provided to the MCAD. The proposed elimination of section 1.05(13) makes section 105(4)(d) even more problematic. When employers answer MCAD Requests for Information, they are not required to provide their responses to complainants, and investigators are barred from requiring them to do so, even with confidential information redacted. This effectively keeps complainants in the dark and limits their ability to build their cases. It also deprives a complainant of the ability to dispute, explain, or contextualize facts that the employer has provided to the Investigator.

The proposed regulations should require this information to be shared to help level the informational playing field, develop narratives for proper legal assessment of probable cause, and enhance transparency at MCAD.

The opaque "preliminary" investigation tool, taken with the information imbalance noted above, communicates that the MCAD believes that complainants have nothing to contribute to the factual or analytical development of their cases. Complainants are very likely to understand what information is important to pursue, and how it fits into a larger understanding of the case, in ways that an Investigator unfamiliar with the particular workplace may not.

F. The Proposed Regulations Introduce DARs Without Appropriate Guardrails

The proposed regulations allow parties to designate a DAR to make filings on their behalf with the MCAD through the new portal pre-causal determination. While the undersigned generally do not oppose innovative ways to assist *pro se* individuals, appropriate guardrails must be in place to ensure against problematic practices.

In theory, DARs could assist complainants, particularly *pro se* individuals, in navigating the new portal or improving the clarity of their complaints, especially where the DAR is a trusted friend or family member. In practice, however, the proposed regulations risk creating an unregulated intermediary role that could be exploited. Without clear limitations or safeguards, there is a substantial risk that a cottage industry may arise similar to the infamous "notario" system in the immigration context, in which unqualified individuals charge vulnerable individuals, similar to victims of discrimination, for assistance that is ineffective, misleading, or harmful.

G. The Proposed Regulations Apply an Incorrect Standard to Deciding Attorneys' Fee Awards

Successful complainants are entitled to an award of attorneys' fees. The proposed regulations state that attorneys' fees petitions must include "information about average hourly rates for attorneys with similar experience." But "average" hourly rates are not the correct standard. Under well-established caselaw, attorneys' fee awards must be based on "fair market rates" or "reasonable rates." *See, e.g.*, *Fontaine v. Ebtec Corp.*, 415 Mass. 309, 325-26 (1993) (adopting lodestar method for use in c. 151B cases; a "fair market rate for time reasonably spent . . . is the basic measure of a reasonable attorney's fee under State law"). Adopting the standard set forth in the proposed regulations would be inconsistent with state civil rights case law and would discourage competent counsel from taking on employment discrimination matters, resulting in even more cases proceeding *pro se* and further straining an already overburdened MCAD docket.

IV. CONCLUSION

If adopted, the proposed regulations would significantly undermine the remedial and adjudicatory purpose of G.L. c. 151B, restricting access to justice for the very communities the MCAD is charged with protecting, and prioritizing administrative shortcuts over meaningful civil rights enforcement. MCAD has long served as a critical bulwark against discrimination in the Commonwealth. Preserving that role requires regulations that expand access, promote transparency, and ensure that complaints are fully and fairly investigated—not prematurely or impermissibly screened out.

For these reasons, we respectfully request that the regulations be withdrawn in their entirety. Any new regulations should be adopted only after full engagement with the communities affected, especially marginalized communities. They should then be subject to a subsequent round of public comment. At a minimum, to avoid inconsistency with the authorizing statute that would subject the proposed regulations to legal challenge, these regulations must be significantly modified to eliminate the significant deficiencies cited above.

Respectfully submitted,

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