

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF HUMAN RIGHTS**



HUMAN RIGHTS ACT OF 1977

As Amended March 8, 2006

**Title 2, Chapter 14 - Human Rights
District of Columbia Code**

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UNIT A. HUMAN RIGHTS LAW

SUBCHAPTER I. GENERAL PROVISIONS

§ 2-1401.01. Intent of Council.

It is the intent of the Council of the District of Columbia, in enacting this chapter, to secure an end in the District of Columbia to discrimination for any reason other than that of individual merit, including, but not limited to, discrimination by reason of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, and place of residence or business.

§ 2-1401.02. Definitions.

The following words and terms when used in this chapter have the following meanings:

- (1) “Administrative Procedure Act” means the “District of Columbia Administrative Procedure Act,” (§ 2-501 et seq.).
- (2) “Age” means 18 years of age or older.
- (3) “Chairman” means the duly appointed Chairman of the District of Columbia Commission on Human Rights.
- (4) “Commission” means the District of Columbia Commission on Human Rights. As established by Commissioner’s Order No. 71-224, dated July 8, 1971.
- (5) “Council” means the Council of the District of Columbia as established by 1-204.01(a).
- (5A) “Disability” means a physical or mental impairment that substantially limits one or more of the major life activities of an individual having a record of such an impairment or being regarded as having such an impairment.
- (6) “Director” means the Director of the District of Columbia Office of Human Rights, or a designate.
- (7) “District” means the District of Columbia.
- (8) “Educational institution” means any public or private institution including an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system or university; and a business, nursing, professional, secretarial, technical, or vocational school; and includes an agent of an educational institution.
- (9) “Employee” means any individual employed by or seeking employment from an employer.

- (10.) “Employer” means any person who, for compensation, employs an individual, except for the employer’s parent, spouse, children or domestic servants, engaged in work in and about the employer’s household; any person acting in the interest of such employer, directly or indirectly; and any professional association.
- (11.) “Employment agency” means any, person regularly undertaking or attempting, with or without compensation, to procure employees for an employer or to procure for employees, opportunities to work for an employer, and includes an agent of such a person.
- (11A) “Familial status” means one or more individuals under 18 years of age being domiciled with: (1) a parent or other person having legal custody of the individual; or (2) the designee, with written authorization of the parent, or other persons having legal custody of individuals under 18 years of age. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or in the process of securing legal custody of any individual under 18 years of age.
- (11B) “Family member” means, with respect to an individual and genetic information, the spouse of the individual, dependent child (whether born or placed for adoption with the individual), and all other individuals related by blood to the individual, spouse, or child.
- (12.) “Family responsibilities” means the state of being, or the potential to become, a contributor to the support of a person or persons in a dependent relationship, irrespective of their number, including the state of being the subject of an order of withholding or similar proceedings for the purpose of paying child support or a debt related to child support.
- (12A) “Gender Identity or expression” means a gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual’s assigned sex at birth.
- (12A-1) “Genetic information” means information about the presence of any gene, chromosome, protein, or certain metabolites that indicate or confirm that an individual or an individual’s family member has a mutation or other genotype that is scientifically or medically believed to cause a disease, disorder, or syndrome, if the information is obtained from a genetic test.
- (12B) “Genetic test” means an analysis of human chromosomes, genes, gene products, or genetic information that is used to identify the presence of absence of inherited or congenital alterations in genetic material that are associated with disease or illness. A genetic test shall not include a test for the presence of illegal drugs, routine physical measurements, or chemical, blood or urine analysis, unless conducted purposefully to obtain genetic information.
- (12C) “Health benefit plan” means any accident and health insurance policy or certificate, hospital and medical services corporation contract, health maintenance organization subscriber contract, plan provided by a multiple employer welfare arrangement, or plan provided by another benefit arrangement. The term “health care benefit plan” does not mean accident only, credit or disability insurance; coverage of Medicare services or federal employee benefit plans, pursuant to contracts with the United States government; Medicare supplemental or long-term care insurance; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as supplemental to liability insurance, insurance arising out of workers compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; insurance under which benefits are payable with or without regard to fault and that is statutorily

required to be contained in any liability insurance policy or equivalent self-insurance; or life insurance.

- (12D) “Health insurer” means any person that provides one or more health benefits plans, or insurance in the District of Columbia, including an insurer, a hospital and medical services corporation, a fraternal benefits society, a health maintenance organization, a multiple employer welfare arrangement, or any other person providing a plan of health insurance subject to the authority of the Commissioner of the Department of Insurance, Securities, and Banking.
- (13.) “Hearing tribunal,” mean members of the Commission, or one (1) or more hearing examiners, appointed by the Commission to conduct a hearing.
- (14.) “Housing business”, means a business operated under the authority of a license issued by the Mayor, or other authorized District agent, pursuant to § 47-2828 and the regulations promulgated thereunder.
- (15.) “Labor organization” means any organization, agency, employee representation committee, group, association, or plan in which employees participate directly or indirectly; and which exists for the purpose, in whole or in part, of dealing with employers, or any agent thereof, concerning grievances, labor disputes, wages, rates of pay, hours, or other terms, conditions, or privileges of employment; and any conference, general committee, joint or system board, or joint council, which is subordinate to a national or international organization.
- (16.) “Make public” means disclosure to the public or to the news media of any personal or business data obtained during the course of an investigation of a complaint filed under the provisions of this chapter, but not to include the publication of EEO-1, EEO-2, or EEO-3 reports as required by the Equal Employment Opportunity Commission, or any other data in the course of any administrative or judicial proceeding under Title VII of the Civil Rights Act of 1964 involving such information; nor shall it include access to such data by staff or the Office of Human Rights, members of the Commission on Human Rights, or parties to a proceeding, nor shall it include publication of aggregated data from individual reports.
- (17.) Marital status” means the state of being married, single, divorced, separated, or widowed and the usual conditions associated therewith, including pregnancy or parenthood.
- (18.) “Matriculation” means the condition of being enrolled in a college, or university; or in a business, nursing, professional, secretarial, technical or vocational school; or in an adult education program.
- (19.) “Office” means the District of Columbia Office of Human Rights, as established by Commissioner’s Order No. 71-224, dated July 8, 1971, as amended.
- (20.) (A) “Owner” means 1 of the following:
- (i) Any person, or any one of a number of persons in whom is vested all or any part of the legal or equitable ownership, dominion, or title to any real property;
 - (ii) The committee, conservator, or any other legal guardian of a person who for any reason is non sui juris, in whom is vested the legal or equitable ownership, dominion or title to any real property; or

(iii) A trustee, elected or appointed or required by law to execute a trust, other than a trustee under a deed of trust to secure the payment of money; or one who, as agent of, or fiduciary, or officer appointed by the court for the estate of the person defined in sub-subparagraph (i) of this subparagraph shall have charge, care or control of any real property.

(B) The term “owner” shall also include the lessee, the sublessee, assignee, managing agent, or other person having the right of ownership or possession of, or the right to sell, rent or lease, any real property.

(21.) “Person” means any individual, firm, partnership, mutual company, joint-stock company, corporation, association, organization, unincorporated organization, labor union, government agency, incorporated society, statutory or common-law trust, estate, executor, administrator, receiver, trustee, conservator, liquidator, trustee in bankruptcy, committee, assignee, officer, employee, principal or agent, legal or personal representative, real estate broker or salesman or any agent or representative of any of the foregoing.

(22.) “Personal appearance” means the outward appearance of any person, irrespective of sex, with regard to bodily condition or characteristics, manner or style of dress, and manner style of personal grooming, including, but not limited to, hair style and beards. It shall not relate, however, to the requirement of cleanliness, uniforms, or prescribed standards, when uniformly applied for admittance to a public accommodation, or when uniformly applied to a class of employees for a reasonable business purpose; or when such bodily conditions or characteristics, style or manner of dress or personal grooming presents a danger to the health, welfare or safety of any individual.

(23.) Repealed.

(24.) “Place of public accommodation” means all places included in the meaning of such terms as inns, taverns, road houses, hotels, motels, whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest; restaurants or eating houses, or any place where food is sold for consumption on the premises; buffets, saloons, barrooms, or any store, park or enclosure where spirituous or malt liquors are sold; ice cream parlors, confectioneries, soda fountains; and all stores where ice cream, ice and fruit preparation or their derivatives, or where beverages of any kind are retailed for consumption on the premises, wholesale and retail stores, and establishments dealing with goods or services of any kind, including, but not limited to, the credit facilities thereof, banks, savings and loan associations, establishments of mortgage bankers and bankers, all other financial institutions, and credit information bureaus; insurance companies and establishments of insurance policy brokers; dispensaries, clinics, hospitals, bath-houses, swimming pools, laundries and all other cleaning establishments; barber shops, beauty parlors, theaters, motion picture houses, airdromes, roof gardens, music halls, race courses, skating rinks, amusement and recreation parks, trailer camps, resort camps, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiards and pool parlors; garages, all public conveyances operated on land or water or in the air, as well as the stations terminals thereof; travel or tour advisory services, agencies or bureaus; public halls and public elevators of buildings and structures, occupied by 2 or more tenants, or by the owner and 1 or more tenants. Such term shall not include any institution, club, or place of accommodation, which is in its nature distinctly private except, that any such institution, club or place of accommodation shall be subject to the provisions of § 2-1402.67.

A place of accommodation, institution, or club shall not be considered in its nature distinctly private if the place of accommodation, institution, or club:

- (A) Has 350 or more members;
 - (B) Serves meals on a regular basis; and
 - (C) Regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages directly or indirectly from or on behalf of nonmembers for the furtherance of trade or business.
- (25.) “Political affiliation” means the state of belonging to or endorsing any political party.
- (26.) “Real estate broker (or salesperson)” means any person licensed as such in accordance with the provisions of Chapter 17 of Title 42.
- (27.) “Real Estate Commission” means the Real Estate Commission of the District of Columbia established by § 42-1739.
- (28.) “Sexual orientation” means male or female homosexuality, heterosexuality and bisexuality, by preference or practice.
- (29.) “Source of income” means the point, the cause, or the form of the origination, or transmittal of gains of property accruing to a person in a stated period of time; including, but not limited to money and property secured from any occupation, profession or activity, from any contract, agreement or settlement, from federal payments, court-ordered payments, from payments received as gifts, bequests, annuities, life insurance policies and compensation for illness or injury, except in a case where conflict of interest may exist.
- (30.) “Transaction in real property” means the exhibiting, listing, advertising, negotiating, agreeing to transfer or transferring, whether by sale, lease, sublease, rent, assignment or other agreement, any interest in real property or improvements thereon, including, but not limited to, leaseholds and other real chattels.
- (31.) “Unlawful discriminatory practice” means those discriminatory practices, which are so specified in subchapter II of Unit A of this chapter. “Unlawful discriminatory practice” shall include harassment engaged in for discriminatory reasons specified in section 211(a) [§2-1402.11]

§ 2-1401.03. Exceptions.

- (a) Any practice which has a discriminatory effect and which would otherwise be prohibited by this chapter shall not be deemed unlawful if it can be established that such practice is not intentionally devised or operated to contravene the prohibitions of this chapter and can be justified by business necessity. Under this chapter, a “business necessity” exception is applicable only in each individual case where it can be proved by a respondent that, without such exception, such business cannot be conducted; a “business necessity” exception cannot be justified by the facts of increased cost to business, business efficiency, the comparative characteristics of one group as opposed to another, the stereotyped characterization of one group as opposed to another, and the preferences of co-workers, employers, customers or any other person. The business necessity exemption is inapplicable to complaints of unlawful discrimination in residential real estate transactions and to complaints alleging violations of the Fair Housing Act, approved April 11, 1968 (42 U.S.C. § 3601 et seq.) (“FHA”).
- (b) Nothing in this chapter shall be construed to bar any religious or political organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious or political organization, from limiting employment, or admission to or giving preference to persons of the same religion or political persuasion as is calculated by the organization to promote the religious or political principles for which it is established or maintained.
- (c) Nothing in this chapter shall be construed to supersede any federal rule, regulation or act.
- (d) Nothing in this chapter shall prohibit any religious organization, association, or society or non-profit organization which is operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sales, rental or occupancy of housing accommodations which it owns or operates for other than a commercial purpose to members of the same religion or organization, or from giving preference to these persons, unless the entity restricts its membership on the basis of race, color, or national origin. This chapter does not prohibit a private club, not open to the public, which incident to its primary purpose, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of these lodgings to its members or from giving preference to its members.
- (e) Nothing in this act shall prohibit an employer, an employment agency, or a labor organization from seeking, obtaining, or using genetic information to determine the existence of a bona fide occupational qualification reasonably necessary for the normal operation of an employer’s business or enterprise; provided, that the employee or applicant for employment provides, in writing, his or her informed consent, the genetic information is provided to the employee or applicant for employment in writing as soon as it is available, and the genetic information is not disclosed to any other person.

- (f) Nothing in this act shall prohibit an employer from seeking, obtaining, or using genetic information about an employee to:
- (1) Investigate a workers' compensation or disability compensation claim; or
 - (2) Determine an employee's susceptibility or level of exposure to potentially toxic substances in the workplace; provided, that the employee provides, in writing, his or her informed consent, and the genetic information is not disclosed to any other person.

§ 2-1401.04. Severability of Provisions.

If any provision, or part thereof of this chapter or application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of the provision, or part thereof, to other persons not similarly situated or to other circumstances is not to be affected thereby.

§ 2-1401.05. Discrimination based on pregnancy, childbirth, or related medical conditions.

- (a) For the purposes of interpreting this chapter, discrimination on the basis of sex shall include, but not be limited to, discrimination on the basis of pregnancy, childbirth, or related medical conditions.
- (b) Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and this requirement shall include, but not be limited to, a requirement that an employer must treat an employee temporarily unable to perform the functions of her job because of her pregnancy-related condition in the same manner as it treats other temporarily disabled employees.

SUBCHAPTER II. PROHIBITED ACTS OF DISCRIMINATION

Part A. General.

§ 2-1402.01. General.

Every individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the District and to have an equal opportunity to participate in all aspects of life, including, but not limited to, in employment, in places of public accommodation, resort or amusement, in educational institutions, in public service, and in housing and commercial space accommodations.