

**Frequently Asked Questions and Answers
Regarding the Amendments to Chapter 18 of the Phoenix City Code
(Human Relations Ordinance)
March 28, 2013**

Chapter 18 of the Phoenix City Code gives the city of Phoenix Equal Opportunity Department (EOD) the authority to investigate discrimination complaints in housing, employment and public accommodations. EOD also has the authority to investigate allegations of sexual orientation discrimination against employers with 35 or more employees, which do business with the city of Phoenix.

Chapter 18 is hereafter referred to as the Human Relations Ordinance. The questions and answers below provide information about the Human Relations Ordinance and the adopted amendments.

1. What are the current protections in the Human Relations Ordinance?

The ordinance has non-discrimination provisions in the following categories:

(1) Employment and (2) Public Accommodations: race, color, religion, **sexual orientation, gender identity or expression, disability**, sex, national origin, age, genetic information (covered for employment only) or marital status; (3) Housing: race, color, religion, sex, **sexual orientation, gender identity or expression**, familial status, national origin, disability, pregnancy or domicile of a minor; (4) City Construction Contracts and (5) City Supplier and Lessee Contracts: race, color, religion, sex, **sexual orientation, gender identity or expression**, national origin, age or disability. (**Bold indicates newly added protections**).

2. Who is covered by the Human Relations Ordinance?

Employers, employment agencies, housing providers, and places of public accommodation located within the city of Phoenix.

An employer is defined as a person doing business within the city of Phoenix who has one or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, but does not include: the United States or any department or agency thereof; a corporation wholly owned by the government of the United States or Indian tribe; the state of Arizona or any department or agency thereof; the city of Phoenix or any political subdivision of the state, including any community college district or high school or common school district; a bona fide private membership club (other than a labor organization) that is exempt from taxation under the Internal Revenue Code of 1986.

An employment agency is defined as any person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for individuals opportunities to work for an employer and includes the employees of an employer charged with that responsibility.

Housing providers include any person identified as agent for the owner or who owns a dwelling unit that is for rent, lease, sublease, sale, let or otherwise grant for consideration the right to occupy premises not owned by the occupant. Exemptions for housing providers include the following: owners that **own three or fewer** single family houses at one time and the house was sold or rented without the use of a real estate

agent or prohibited statement or advertisement, the sale or rental of rooms or units in a dwelling occupied or intended to be occupied by no more than four families including the owner, religious organizations and private clubs and housing for older persons.

Places of public accommodation means all public places of entertainment, amusement or recreation; all public places where food or beverages are sold; public places operated for the lodging of transients or for the benefit, use or accommodation of those seeking healing or recreation; and all establishments offering their services, facilities or goods to or soliciting patronage from members of the general public. This does not include private clubs or any place which is in its nature distinctly private.

3. What are the amendments to the Human Relations Ordinance?

Structurally, nothing changed. The majority of the protections were already in place. The changes became effective on March 28, 2013. The changes expanded some protections and clarified some language in the ordinance. The changes include adding “sexual orientation,” “gender identity and expression,” and “disability” as protected categories. The ordinance will continue to contain exemptions for religious organizations, small private landlords, senior housing and private clubs, among others.

4. How was each section of the Human Relations Ordinance changed?

Article 1- Disability, sexual orientation, and gender identity or expression were added as protected categories for employment and public accommodations.

Article II- Gender identity or expression was added as a protected category for city employment and city services.

Article III- Sexual orientation and gender identity or expression were added as protected categories for fair housing.

Article IV- Sexual orientation and gender identity or expression were added as protected categories to the required contract language for contractors with 35 or more employees and who do business with the city.

Article V- Sexual orientation and gender identity or expression were added as protected categories to the required contract language for vendors with 35 or more employees and who do business with the city.

5. What are the changes to the definitions for protected categories?

The adopted new standard definitions for protected categories are:

“**Disability**” means with respect to an individual, except any impairment caused by current use of illegal drugs, any of the following: a physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such physical or mental impairment or being regarded as having such physical or mental impairment. Disability and disability discrimination shall be interpreted in a manner consistent with the Americans with Disabilities Act of 1990 (as amended), the federal regulations promulgated thereunder, and judicial decisions construing them.

“Gender” means the socially constructed roles, behaviors, characteristics or attributes associated with masculinity or femininity.

“Gender identity or expression” means an individual’s self-identification as male, female or something in between, and shall include an individual’s appearance, mannerisms or other characteristics only insofar as they relate to gender with or without regard to the individual’s designated sex at birth.

“Sex” means biological or anatomical sex as male or female as designated at birth, and shall be interpreted broadly to include all distinctions based upon gender, pregnancy, childbirth or medical related conditions.

“Sexual orientation” means an enduring pattern of emotional, romantic or sexual attractions to men, women or both sexes, as well as the genders that accompany them, and shall include discrimination based upon the identification, perception or status of an individual’s same-sex, opposite-sex or bisexual orientation.

6. What is the purpose of the amendments?

The purpose of the amendments to the Human Relations Ordinance is to expand the protections from illegal sexual orientation, gender identity or expression, and disability discrimination and harassment for employees who work, tenants who reside, and patrons of establishments located in the city of Phoenix.

7. Why is the ordinance being amended?

The adopted amendments were developed in response to community concerns raised about employment, housing, and public accommodation discrimination against people with disabilities and the LGBT (Lesbian, Gay, Bisexual and Transgender) community in Phoenix.

The amendments were presented to both the Human Relations Commission (HRC) and the Mayor’s Commission on Disability Issues (MCDI). Both the HRC and MCDI unanimously recommended the amendments to the Mayor and City Council for approval. The Phoenix City Council also approved the amendments.

8. Was the community notified of the amendments and given an opportunity to provide input?

Yes. Both the HRC and the MCDI held meetings open to the public on these amendments. HRC discussed the proposed amendments at its January 28, and February 5, 2013 commission meetings. MCDI held a meeting on February 4, 2013, and discussed the proposed amendments. These meetings were open to the public and posted in accordance with open meeting law. Some members of the community attended these meetings and provided feedback.

The HRC and MCDI held a joint public hearing on February 12, 2013, to allow members of the public to provide feedback. This hearing was posted in compliance with the open meeting law. Members of the public both for and against the proposed

amendments provided feedback. Both commissions voted unanimously to recommend that the City Council support the proposed amendments to the ordinance. More than 500 people provided input during the February 26, 2013 Phoenix City Council meeting.

9. What are the Human Relations Commission (HRC) and Mayor’s Commission on Disability Issues (MCDI)?

Both the HRC and MCDI have 17 members and are comprised of volunteers appointed by the mayor and City Council. These citizen commissions develop programs and advise the mayor and City Council on matters related to human and civil rights and disability concerns.

10. When will the amendments to the ordinance take effect?

The changes are effective March 28, 2013.

11. Will alleged discriminatory acts that occurred prior to March 28, 2013, be covered by the amendments?

No. The amendments do not apply retroactively. For example, the amendments would not apply to a situation in which an employer allegedly failed to hire or terminated someone on March 1, 2013, even if the person did not file a complaint with EOD until after March 28, 2013.

12. Has the ordinance always included criminal penalties in lieu of civil sanctions for discrimination in employment and public accommodations?

Yes. Since its inception in 1969, the ordinance has included the possibility of criminal penalties. The language in Article I allowing the City Attorney to file a criminal complaint, if conciliation efforts failed, was added in 1992.

13. When were the amendments to the Human Relations Ordinance approved and by whom?

The Phoenix City Council approved the revisions to the ordinance in a public meeting held on Tuesday, February 26, 2013. The final vote was 5 to 3.

14. How will EOD track the number of complaints made under the approved amendments?

EOD will create a case code for each type of complaint made under the approved amendments.

15. How can I file a complaint if I feel I am a victim of discrimination?

It is illegal to discriminate on the basis of age, race, color, sex, religion, national origin, genetic information, marital status and, effective March 28, 2013, sexual orientation and gender identity or expression in any aspect of employment. The city investigates employment discrimination complaints against Phoenix employers.

It also is illegal for the city or any city contractor or supplier with more than 35 employees to discriminate on the basis of sexual orientation and, effective March 28, 2013, gender identity or expression. The city will investigate these complaints.

If you suspect you have been discriminated against in employment, call the Equal Opportunity Department's Compliance and Enforcement Division at 602-262-7486/voice or 602-534-1557/TTY. You also can submit your complaint online at www.phoenix.gov/eod/forms.

Federal and state governments investigate larger employers. For information, call the federal Equal Employment Opportunity Commission (602-640-5000/voice or 1-800-514-0393/TTY) or the Arizona Civil Rights Division of the Attorney General's Office (602-542-5263/voice or 602-542-5002/TTY).

Persons with disabilities are protected against discrimination under the Americans with Disabilities Act and the Arizonans with Disabilities Act. This protection is afforded to all employees who work for employers with more than 15 employees. For more information, contact the U.S. Equal Employment Opportunity Commission or the Arizona Attorney General's Office.