

**D**iscrimination is defined in The Kentucky Civil Rights Act (KRS Chapter 344) as any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons, or the aiding, abetting, inciting, coercing, or compelling thereof made unlawful under this law.



## Equal Opportunity is the law

It is against the law to discriminate against any person in the area of employment. This is true regardless of the person's age, color, disability, national origin, race, religion, sex or tobacco-smoking status. It is also unlawful to retaliate against any person who seeks help for discrimination from the Kentucky Commission on Human Rights.

## The Promise of Equal Opportunity

It is unlawful to discriminate against any individual in regard to recruiting, hiring and promotion, transfer, work assignments, performance measurements, the work environment, job training, discipline and discharge, wages and benefits, or any other term, condition, or privilege of employment. United States and Kentucky civil rights laws prohibit not only intentional discrimination, but also neutral job policies that disproportionately affect persons of a certain protected class and that are not related to the job and the needs of the business. Employers should adopt "best practices" to reduce the likelihood of discrimination and to address impediments to equal employment opportunity.

## Who Must Comply

The law applies to employers of eight or more people (15 in a disability claim), in businesses, employment agencies, labor organizations, licensing agencies, federal agencies, and the Commonwealth of Kentucky and its political subdivisions, including public schools.

## Unlawful Actions

Discriminatory practices include harassment or different treatment on the basis of age, color, disability, national origin, race, religion, sex or tobacco-smoking status; retaliation against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices; employment decisions based on stereotypes or assumptions about the abilities, traits or performance of individuals based on their protected class or their association with an individual of a particular protected class. The law also prohibits discrimination because of participation in schools or places of worship associated with a particular racial, ethnic or religious group.

### Age

The law specifically prohibits discrimination in employment against individuals who are age 40 or over. It is unlawful to publish or make statements or specifications in job notices or advertisements of age preference and limitations. An age limit may only be specified in the rare circumstance where age has been proven to be a bona fide occupational qualification. The denial of equal opportunity on the basis of age by apprenticeship programs, including joint labor-management apprenticeship programs is prohibited. An employer may not deny benefits to older employees.

### Disability

It is unlawful to discriminate against a person on the basis of disability in all employment practices. An individual with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Major life activities are activities that an average person can perform with little or no difficulty, to include but are not limited to, walking, breathing, seeing, hearing, speaking and learning.

### Qualified Individual with a Disability

A qualified employee or applicant with a disability is someone who satisfies skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position.

### National Origin

Discrimination is prohibited against an individual because of birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group. A rule requiring that employees speak only English on the job may violate the law unless an employer shows that the requirement is necessary for conducting business. The U.S. Immigration Reform and Control Act requires employers to assure that employees hired are legally authorized to work in the U.S. However, an employer who requests employment verification only for individuals of a particular national origin, or individuals who appear to be or sound foreign, may violate both civil rights and immigration law; verification must be obtained from all applicants and employees. Employers who impose citizenship requirements or give preferences to U.S. citizens in hiring or employment opportunities also may violate the law.

### Race or Color

Equal employment opportunity cannot be denied any person because of his/her racial group or perceived racial group, his/her race-linked characteristics (e.g., hair texture, color, facial features), or because of his/her marriage to or association with someone of a particular race or color. The law also prohibits employment decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals of certain racial groups. The prohibitions apply regardless of whether the discrimination is directed at Whites, Blacks, Asians, Latinos, Arabs, Native

Americans, Native Hawaiians and Pacific Islanders, multi-racial individuals, or persons of any other race, color or ethnicity.

### Religion

Employers may not treat employees or applicants more or less favorably because of their religious beliefs or practices. For example, an employer may not refuse to hire individuals of a certain religion, may not impose stricter promotion requirements for persons of a certain religion, and may not impose more or different work requirements on an employee because of that employee's religious beliefs or practices. Employers must reasonably accommodate employees' religious practices unless doing so would impose an undue hardship on the employer. Employers must permit employees to engage in religious expression, unless the religious expression would impose an undue hardship on the employer. Generally, an employer may not place more restrictions on religious expression than on other forms of expression that have a comparable effect on workplace efficiency.

### Retaliation

An employer may not fire, demote, harass or otherwise "retaliate" against an individual for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination. The law protects individuals from coercion, intimidation, threat, harassment, or interference in their exercise of their own rights or their encouragement of someone else's exercise of rights granted by law.

### Sex

It is unlawful to discriminate against a person on the basis of the person's gender. Moreover, sexual harassment is a form of sex discrimination that violates the law. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile or offensive work environment.

# Employment



## How to File a Complaint

You may contact the Kentucky Commission on Human Rights to make a charge of discrimination by phone, in person, or by fax or email. See the front of this pamphlet for contact details. Remember, you must contact our office within 180 days of the discriminatory incident in order to file an employment discrimination complaint. After you contact us, our representative will interview you to get details about what occurred. Once it is determined that the Kentucky Commission on Human Rights has jurisdiction to handle the complaint and that your concern meets the requirements of a complaint, your case will be assigned to a staff person. You may then opt to have your case investigated by one of our enforcement officers until the complaint is settled or reaches a final outcome as determined by the Board of Commissioners, which acts with the authority of a court of law. Or you may choose to participate in our mediation program. Mediation is an informal, voluntary process, which provides a forum for discussion about the complaint between you, the other parties involved and a neutral mediator, with the aim of resolving the complaint.

(Continued from front)

The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex. The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker or a non-employee. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct. Unlawful sexual harassment may occur without economic injury to or discharge of the victim. The harasser's conduct must be unwelcome. It is helpful for the victim to inform the harasser directly that the conduct is unwelcome and must stop. The victim should use any employer complaint mechanism or grievance system available.

### Pregnancy

Employers must treat pregnancy, childbirth and related medical conditions in the same way as other temporary illnesses or conditions.

### Equal Pay

Discrimination is prohibited on the basis of sex in the payment of wages or benefits, where men and women perform work of similar skill, effort, and responsibility for the same employer under similar working conditions.

### Tobacco Smoking or Non-Smoking Status

It is an unlawful under the Kentucky Civil Rights Act for an employer to fail or refuse to hire, or to discharge any individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions or privileges of employment because the individual is a smoker or nonsmoker; to limit, segregate or classify employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect status as an employee because the individual is a smoker or nonsmoker; or to require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products outside the course of employment, as long as the person complies with any workplace policy concerning smoking.

\_\_\_\_ I may have experienced discrimination. Contact me about filing a complaint.

\_\_\_\_ Add me to your newsletter email list.

\_\_\_\_ Add me to invitation lists for your panel discussions, Kentucky Civil Rights Hall of Fame and other special events.

\_\_\_\_ Other \_\_\_\_\_

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Phone \_\_\_\_\_  
 Email \_\_\_\_\_

Kentucky Commission on Human Rights  
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## Kentucky Commission on Human Rights

PROTECTOR OF CIVIL RIGHTS  
 VOICE FOR EQUALITY  
 CATALYST FOR POSITIVE CHANGE

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