**Discrimination 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, pregnancy, 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 regards 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, pregnancy, 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, religious group.

### Age

The law specifically prohibits discrimination in employment against individuals who are age 40 or over. It's 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 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. Major life activities are regarding as activities that an average person can perform with little or difficulty, to include but are not limited to, walking, breathing, 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 the 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 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 to any persons because of their racial group or perceived racial group, their race-linked characteristics (e.g. hair texture, color, facial features), or because of their marriage 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, Pacific Islanders, multi-racial individuals, or persons or 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 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 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.

The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite

## To know if you can file a complaint of discrimination, scan here to complete an inquiry form:

kchr.ky.gov

## Contact us if you need help with discrimination or would like more information:

Kentucky Commission on Human Rights
312 Whittington Parkway, Ste. 020
Louisville KY 40222
(502) 595 - 4024
1(800) 292 - 5566
Email: kchr.mail@ky.gov
kchr.ky.gov

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sex. The harasser can be the victim's supervisors, 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's 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

Under the KCRA, it is unlawful for an employer to fail to make reasonable accommodations for any employee with limitations related to pregnancy, childbirth, or pregnancy related medical conditions who requests an accommodation, including but not limited to: (1) the need for more frequent or longer breaks; (2) time off to recover from childbirth; (3) acquisition or modification of equipment; ( 4) appropriate seating; (5) temporary transfer to a less strenuous or less hazardous position; (6) job restructuring; (7) light duty; modified work schedule; and (8) private space that is not a bathroom for expressing breast milk.

### 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's 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 an 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.

## How to File a Complaint

You may complete a questionnaire/inquiry form online at kchr.ky.gov. Once you complete and submit your inquiry, an intake officer will carefully review the information, will contact you for additional information if necessary, and let you know if the Kentucky Commission on Human Rights can file a complaint of discrimination on your behalf. If a complaint can be filed, the Commission will prepare the complaint for you to sign and to have it notarized. If you need assistance submitting an inquiry, please contact us by phone, in person, by fax, email, or by mail. An employment complaint must be filed within 180 days of the alleged incident of discrimination. A complaint is filed only when the Commission timely receives your signed and notarized complaint.

Once the Commission receives your signed and notarized complaint, your complaint will be assigned to an enforcement officer (investigator). The enforcement officer will thoroughly and impartially investigate the circumstances of the complaint. The enforcement officer will also work with you and the respondent to reach a satisfactory resolution by conciliating the case, if possible. Conciliation is similar to a settlement. Otherwise, after an investigation is complete, and if a probable cause finding is made, the case will be moved into litigation phase and will be handled a Commission attorney.

Another alternative is to participate in our mediation program. Mediation is an informal, voluntary process, which provides a forum for discussion about the complainant between you, the other parties involved and neutral mediator, with the aim of quickly resolving the complaint. The mediation process is confidential.

# Employment



# Kentucky Commission on Human Rights

**PROTECTOR OF CIVIL RIGHTS**
**VOICE FOR EQUALITY**
**CATALYST FOR POSITIVE CHANGE**

Employment Brochure
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