

Council ordinance #102562 ("Seattle Fair Employment Practices Ordinance") prohibiting sexual orientation discrimination in employment, September 18, 1973.

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ORDINANCE 102562

AN ORDINANCE relating to and prohibiting discriminatory practices based on race, color, sex, marital status, sexual orientation, political ideology, age, creed, religion, ancestry or national origin with respect to employment; defining offenses and prescribing penalties, remedies, and enforcement procedures; and repealing Ordinance 100642.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. **SHORT TITLE.** This ordinance shall constitute the "Seattle Fair Employment Practices Ordinance" and may be cited as such.

Section 2. **DECLARATION OF POLICY.** It is hereby declared to be the policy of The City of Seattle, in the exercise of its police powers for the protection of the public health, safety, and general welfare, and for the maintenance of peace and good government, to assure equal opportunity to all persons, free from restrictions because of race, color, sex, marital status, sexual orientation, political ideology, age, creed, religion, ancestry, or national origin.

The provisions of this ordinance shall apply to both private employers and The City of Seattle, and shall be liberally construed for accomplishment of its policies and purposes; provided that nothing in this ordinance shall be construed so as to infringe upon the administrative authority vested in the Civil Service Commission and City Departments by the City Charter.

Nothing herein shall be deemed to deny any person in any way the right to institute any action or to pursue any civil or criminal remedy for the violation of such person's civil rights.

Section 3. **DEFINITIONS.** When used in this ordinance, unless the context otherwise requires --

(A) "Department" means the Department of Human Rights of The City of Seattle.

(B) "Director" means the Director of the Department of Human Rights, the Director of the Office of Women's Rights, and/or the Director of the Division on Aging of the Department of Human Resources, as the context requires.

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(C) "Commission" means the Seattle Human Rights Commission, the Seattle Women's Commission, and/or the Seattle Technical Advisory Committee on Aging, as the context requires.

(D) "Discrimination", "discriminate", and/or "discriminatory act" means any act, whether by itself or as part of a practice, the effect of which is to differentiate between or among individuals or groups of individuals by reason of race, color, age, sex, marital status, sexual orientation, political ideology, creed, religion, ancestry, or national origin, unless based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, enterprise or employment.

(E) "Employer" means any employer who employs four or more persons and includes the head of any department, division or office of the City of Seattle or their designee and any person acting in the interest of such an employer.

(F) "Employee" means any person employed by an employer.

(G) "Employment agency" means any person undertaking with or without compensation to procure opportunities to work or to procure, recruit, refer, or place employees for an employer or in employment.

(H) "Labor organization" means any organization existing for the purpose of (1) collective bargaining for or on behalf of employees, (2) dealing with employers concerning grievances, terms or conditions of employment, or (3) other mutual aid or protection in relation to employment.

(I) "Party" shall include the person charging or making a complaint alleging an unfair employment practice, the person alleged or found to have committed an unfair employment practice, the Department of Human Rights, the Office of Women's Rights, and the Division on Aging of the Department of Human Resources.

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(J) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent or employee, whether one or more natural persons, and further includes the City of Seattle and any department, division, office, agency or instrumentality thereof.

(K) "Respondent" means any person alleged or found to have committed an unfair employment practice.

Section 4. UNFAIR EMPLOYMENT PRACTICES.

(A) It is an unfair employment practice within the City of Seattle for any --

(1) Employer to discriminate against any person with respect to hiring, tenure, promotion, terms, conditions, wages or privileges of employment, or with respect to any matter directly or indirectly related to employment;

(2) Employer, employment agency, or labor organization to discriminate by establishing, announcing or following a policy of denying or limiting employment or membership opportunities to any person;

(3) Employer, employment agency, or labor organization to print, circulate, or cause to be printed, published or circulated, any statement, advertisement, or publication relating to employment or membership, or to use any form of application therefor, which indicates any preference, limitation, specification, or discrimination based upon race, color, sex, marital status, sexual orientation, political ideology, age, creed, religion, ancestry, or national origin, unless based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, enterprise or employment; provided that nothing herein shall prevent an employer from ascertaining and recording data as to race, color, sex, marital status, sexual orientation, political ideology, age, creed, religion,

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ancestry, or national origin, whether before or after employment, for the purpose of making reports specifically required by agencies of federal, state or local government for the purpose of eliminating and preventing discrimination or overcoming its effects, or for other purposes authorized by state law or the rules and regulations of the Washington State Human Rights Commission;

(4) Employment agency to discriminate against any person with respect to any reference for employment, assignment as to job classification or otherwise;

(5) Labor organization to discriminate against any person by limiting, segregating, or classifying its membership in any way that would:

(a) deprive or tend to deprive any person of employment opportunities;

(b) limit any person's employment opportunities or otherwise adversely affect such person's status as an applicant for employment or as an employee;

(c) adversely affect the wages, hours, or conditions of employment of any person;

(6) Employer, employment agency, or labor organization to penalize or discriminate in any manner against any individual because he/she has opposed any practice forbidden by this ordinance or because he/she has made a charge, testified or assisted in any manner in any investigation, proceeding, or hearing initiated under the provisions of this ordinance.

(7) Employer, employment agency, labor organization, or any joint labor-management committee controlling apprentice training programs to discriminate against any person with respect to admission to or participation in any guidance program, apprenticeship training program or other occupational training program.

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(8) Publisher, firm, corporation, organization, or association printing, publishing or circulating any newspaper, magazine or other written publication, to print or cause to be printed or circulated any advertisement with knowledge that the same is in violation of above paragraph (7) of this section, or to segregate and separately designate advertisements as applying only to men or women unless as to any such advertisement, sex is a bona fide occupational qualification reasonably necessary to the particular business or employment.

(9) Person to:

- (a) Knowingly and wilfully aid, abet, incite, compel, or coerce the doing of any act declared herein to be an unfair employment practice; provided that this subparagraph (9)(a) shall have no application to any act declared to be an unfair employment practice under paragraph (6) of this section.
- (b) Obstruct or prevent any person from complying with the provisions of this ordinance.
- (c) Attempt directly or indirectly to commit any act declared by this Section 4 to be an unfair employment practice.

(8) The provisions of this section insofar as they declare discrimination on the basis of age to be an unfair employment practice shall not be applicable with respect to individuals who are sixty-five years of age or older.

Section 5. ENFORCEMENT.

(A) A complaint alleging an unfair employment practice shall be in writing and signed by the charging party, describing the unfair employment practice complained of and must be filed within six months of the occurrence of the alleged unfair employment practice by:

- (1) Any person, or the person's attorney, when the person claims to be aggrieved by an unfair employment practice.

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- (2) Any Commission or Director as defined in Section 3 of this ordinance whenever any such Commission or Director has reason to believe that any person has been engaged or is engaging in an unfair employment practice.
- (3) A State or Federal agency concerned with discrimination in employment whenever any such agency has reason to believe that an unfair employment practice has been or is being committed.
- (4) Any Labor organization which has reason to believe that an unfair employment practice has been or is being committed.

Complaints pertaining solely to race, color, creed, religion, ancestry, national origin, or political ideology shall be filed with the Department of Human Rights which shall have primary enforcement responsibility with respect thereto; complaints pertaining solely to sex, marital status or sexual orientation shall be filed with the Office of Women's Rights which shall have primary enforcement responsibility with respect thereto; and complaints pertaining solely to age shall be filed with the Division on Aging which shall have primary enforcement responsibility with respect thereto; provided that a complaint alleging more than one or a combination of such factors may be filed with the department or division having jurisdiction over any one of such factors. In such case the receiving Office, Division or Department shall, promptly and before investigation, notify any other Office, Division or Department wherein the complaint could have been filed that the complaint has been received and provide a copy thereof upon request.

(5) A complaint shall not be rejected as insufficient because of failure to include all required information so long as it substantially satisfies the informational requirements necessary for processing. The charging party may amend a complaint in any respect

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before notice of hearing on the matter and thereafter may amend the complaint only with permission of the hearing examiner which permission shall be granted when justice will be served thereby and all parties are allowed time to prepare their case with respect to additional or expanded charges which they did not and could not have reasonably foreseen would be in issue at the hearing.

(C) After the filing of a complaint, the Director or in case of joint enforcement responsibility, the Director of Human Rights jointly with the Director of the Office of Women's Rights and/or the Division on Aging as the complaint requires, shall promptly refer for investigation and ascertainment of the facts. The results of the investigation shall be reduced to written findings of fact, and a finding shall be made that there is or is not reasonable cause for believing that an unfair practice has been or is being committed.

(D) If the finding is made that there is no reasonable cause, said finding shall be furnished to the charging party and to the respondent. Within thirty days after receipt of the finding, the charging party shall have the right to appeal such finding to the commission having hearing responsibility by filing a written statement of appeal with it. If the right that no appeal is taken or such appeal is unsuccessful, the complaint shall be dismissed.

(E) If the finding is made initially or on appeal that reasonable cause exists to believe that an unfair employment practice has occurred, the Director shall endeavor to eliminate the unfair practice by conference, conciliation and persuasion which may include as a condition of settlement the elimination of the unfair employment practice, hiring, reinstatement or upgrading with or without back pay, admittance or restoration to membership in a labor organization, admittance to participation in a guidance apprenticeship-training or retraining program, or such other requirements as may lawfully be

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agreed upon by the parties, and the Director. Any settlement agreement shall be reduced to writing and signed by the respondent. An order shall then be entered by the Director setting forth the terms of the agreement. Copies of such order shall be delivered to all affected parties and the original thereof filed with the City Clerk. If no agreement can be reached, a finding to that effect shall be made and reduced to writing with a copy thereof furnished to the charging party and the respondent.

(F) In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of a finding to that effect, the complaint and any and all findings made, shall be certified by the Director to the appropriate Commission(s) for hearing. The Director shall then cause to be issued and served in the name of the Commission or Commissions having hearing responsibility written notice of hearing to all parties as provided by law.

The hearing shall be conducted by a hearing examiner from the office of hearing examiner, if available, or otherwise by a hearing examiner appointed by the Presiding Judge of Seattle Municipal Court, in consultation with the Director. In order to promote uniformity of rules and procedures for hearings, the hearing examiner shall, with the advice of the Director of the Department of Human Rights, the Director of the Office of Human Rights, and the Director of the Division on Aging, and with the approval of their respective commissions, present to the City Council, written rules and procedures for the conduct of hearings consistent with this ordinance and the Seattle Administrative Code. Until such formal rules are adopted, the hearing examiner may use such rules as may be approved by the appropriate Director(s).

The President of the Commission, or where joint enforcement responsibility is involved, the President of the Human Rights Commission jointly with the President of the Human Rights Commission and/or the President of the Technical Advisory Committee on Aging as the case requires, shall appoint a hearing panel of not more than three (commissioners or persons acting in the name of the Commission with the majority determined by the nature of the complaint, who shall represent the Commission(s) at the hearing.

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Within such period as may be fixed by rule, the Hearing Examiner presiding at the hearing shall prepare a written recommendation which shall be filed as a public record and copies thereof mailed to each party and to other interested persons. Such recommendations shall contain a brief summary of the evidence considered and shall state the examiner's findings and conclusions upon which such recommendation is based, together with a brief statement of the examiner's reasons therefor. The examiner's recommendation shall be in the form of a proposed decision which may be adopted by the hearing panel as its decision in the case.

The final decision after the hearing shall be made by the hearing panel, within 30 days after receipt of and upon full consideration of the proposed decision of the Hearing Examiner, as provided in the Seattle Administrative Code. The hearing panel shall set a date for consideration of the proposed decision, and shall give notice thereof to all parties not later than ten days prior to such date.

(G) In the event the hearing panel shall determine that respondent has been engaged in or is engaged in any unfair employment practice, the hearing panel shall issue, in the name of the Commission, and cause to be served on the respondent an order setting forth its decision and reasons therefor and requiring the respondent to cease and desist from such unfair practice or practices and to take such affirmative action, including but not limited to, hiring, reinstatement or upgrading with or without back pay, admit or restore to membership in a labor organization, admit to participation in a guidance, apprentice training or retraining program, or to take such other action as, in the judgment of the hearing panel will effectuate the purposes of this ordinance which may include a requirement for report on the matter of compliance.

(H) In the event the respondent refuses or fails to comply with any order of a Director or hearing panel, the Director of the

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department having primary enforcement responsibility shall certify the time and the entire record of its proceedings to the Corporate Counsel, who shall invoke the aid of the appropriate court to secure enforcement or compliance with the order, or to impose a civil penalty as set forth in Section 6, or both; provided, that in any case in which the order is directed to the City, or to any department, division, board, or agency thereof, a copy of such order shall be transmitted to the Mayor who shall take appropriate action to secure compliance therewith.

(1) The Department, the Office of Women's Rights and the Division on Aging, in the performance of their functions, may enlist the aid of all departments of the city government, and all said departments are hereby directed to fully cooperate therewith.

(2) The Department of Human Rights, the Office of Women's Rights and the Division on Aging, in carrying out the specific duties imposed by this ordinance, may request the aid of the City Council through its proper committee in the conduct of any further investigation and enforcement.

Section 5. PENALTIES. Any person who shall knowingly and wilfully resist, prevent, impede or interfere with a Director, Hearing Examiner, or Hearing Panel in the performance of duties pursuant to this ordinance, or shall fail, refuse or neglect to comply with any lawful decision or order of a Director, Hearing Examiner, or hearing panel, or any person who knowingly makes a false complaint under this ordinance shall be subject to a civil penalty of not more than five hundred dollars, in addition to any other penalty, sanction, injunction or remedial decree imposed by order of any court.

Section 7. GENERALITY. If any clause, sentence, paragraph, or part of this ordinance, or the application thereof to any person or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

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(To be used for all Ordinances except Emergencies.)

Section 8. Ordinance 100642 entitled:

"AN ORDINANCE relating to and prohibiting discrimination in employment or in advertisements therefor, defining offenses, and prescribing penalties."

is hereby repealed; provided that such repeal shall not affect any right accrued, any duty imposed, any penalty incurred, or any proceeding commenced under or by virtue of such ordinance.

Section 9. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 10 day of September, 1973

and signed by me in open session in attestation of its passage this 10 day of September, 1973

President of the City Council.

Approved by me this 18 day of September, 1973

Wm. Uhlir
Mayor

Filed by me this 18 day of September, 1973

R. J. Anderson
City Controller and City Clerk

(SEAL)

Published SEP 20 1973

By *J. P. [Signature]*
Deputy Clerk