

**Colorado Department of Regulatory Agencies
Civil Rights Division**

Sexual Orientation in Employment – Frequently Asked Questions

Are people protected from employment discrimination based on their sexual orientation?

Yes, as of August 3, 2007, Colorado’s anti-discrimination laws recognize sexual orientation as a protected class in employment. It is unlawful for an employer to make employment decisions such as hiring, promoting, demoting, or discharging, based on an employee’s sexual orientation. It is unlawful for an employment agency to refuse to list, classify, or refer a qualified individual for employment for an available job based on the individual’s sexual orientation. It is unlawful for a labor organization to exclude any qualified individual from full membership rights or to otherwise discriminate against any of its members in regard to equal work opportunities based on the member’s sexual orientation. It is unlawful for an employer, employment agency or labor organization to print or circulate any statement, advertisement, or publication that expresses either directly or indirectly any preference as to the sexual orientation of its employees, prospective employees, or members.

What is “Sexual Orientation”?

Colorado Revised Statutes §24-34-401 (7.5) defines sexual orientation as “a person’s orientation toward Heterosexuality, Homosexuality, Bisexuality, or Transgender status or an employer’s perception thereof.” If an employer misperceives an employee’s sexual orientation (assuming an employee to be heterosexual, homosexual, bisexual or transgender) and makes business decisions or subjects the employee to harassment based on its misperception, the employee is still protected by the anti-discrimination law.

What is “Transgender”?

“Transgender” is an umbrella term for people whose gender identity or expression does not conform to the person’s assigned sex at birth.

May an employer inquire about an applicant’s sexual orientation or gender identity?

No. An employer may not make an inquiry in connection with prospective employment that expresses limitation, specification or discrimination, or any intent to make such limitation, specification or discrimination, as to sexual orientation or gender identity or gender expression.

May an employer enforce dress and grooming standards?

Yes. An employer may require that an employee adhere to reasonable grooming, appearance and dress standards that are directly related to the nature of their position as long as the employer allows employees to appear, groom and dress consistent with their gender identity. “Nothing in this section shall preclude an employer from requiring compliance with a reasonable dress code as long as the dress code is applied consistently.”§24-34-402 (5)

Does the new law require employers to eliminate gender-segregated bathrooms?

No. Employers may maintain gender segregated restrooms, however, employers should allow employees to access those restrooms in accordance with their gender identity, rather than their assigned sex at birth.

What is meant by “harassment” and “hostile work environment”?

Harassment is defined as any action or behavior that creates a hostile work environment based upon an individual’s sexual orientation. In analyzing harassment cases the Colorado Civil Rights Division considers the severity and pervasiveness of the alleged harassment.

Who is considered an employer?

Under the Colorado Anti-Discrimination Act an ‘employer’ is defined as the state of Colorado or any political subdivision, commission, department, institution or school district thereof and every other person employing persons within the state.

Are any employers excluded?

No. Colorado anti-discrimination statutes recognize all employers, regardless of size, however, it is not inclusive of religious organizations or association, except such organizations or associations supported in whole or in part by money raised by taxation or public borrowing. There is no minimum number of employees required to be considered an employer.

Are claims of sexual orientation discrimination jointly filed with the Equal Employment Opportunity Commission (EEOC)?

No. Federal statutes do not currently prohibit employment discrimination based on sexual orientation.

If I file a charge of discrimination will become public information?

Charges of discrimination filed with the Colorado Civil Rights Division are confidential during the investigation stage and are not released to the general public by the Division. However, the parties involved in the charge are not bound by such rules of confidentiality. When an individual files a claim of discrimination a copy of the charge is sent to the employer.

How can I file a charge of discrimination?

An individual may file a charge of discrimination by contacting us directly or through our website. An intake form must be filled out and submitted within six months from the last discriminatory act taken by the employer. Once your intake packet is submitted one of the Division’s intake staff will draft a charge of discrimination and send a copy to you for your signature. Once we receive a **signed** copy of your charge of discrimination, your claim is thus filed.

How long do I have to file a charge of discrimination?

The statute of limitations for filing a charge with the Colorado Civil Rights Division is **six (6) months from the date of the last alleged discriminatory act**. All acts of discrimination regarding sexual orientation must have occurred on or after August 3, 2007, to be covered by the anti-discrimination law. If an act of discrimination occurred prior to August 3, 2007, please contact your city or county’s Human Relations or Anti-Discrimination office to determine whether or not a local ordinance affords you any anti-discrimination protection and to inquire as to what their statute of limitations is.

**Colorado Civil Rights Division
1560 Broadway, Suite 1050
Denver, Colorado 80202
303-894-2997**