

FILING A CHARGE OF DISCRIMINATION WITH THE COLORADO CIVIL RIGHTS DIVISION

How to file:

If you believe that you have been discriminated against in employment, housing, or public accommodations, you may file a charge with the Colorado Civil Rights Commission/Division. The charging party signs a formal charge form that allows the Colorado Civil Rights Division to investigate the case.

Where to file:

- ◆ A charge may be filed at any office of the Colorado Civil Rights Commission/Division listed in this publication.
- ◆ A charge of employment discrimination may be filed also with the U.S. Equal Employment Opportunity Commission (EEOC).
- ◆ A charge of housing discrimination may be filed also with the U.S. Department of Housing and Urban Development (HUD) Fair Housing Enforcement Center.
- ◆ The Colorado Civil Rights Commission/ Division has cooperative agreements with both EEOC and HUD which prevent duplication in filing and processing a charge. A charge is referred automatically to the more appropriate agency.

When to file:

From the date of the alleged act of discrimination, a charge must be filed with the Colorado Civil Rights Commission/Division within the following time limits:

Employment	6 months
Housing	1 year
Public Accommodations	60 days

EMPLOYMENT

Sex discrimination...

including sexual harassment, with or without loss of earnings, is prohibited by Colorado civil rights laws that apply to written and unwritten employment policies and practices of employers, employment agencies, labor organizations or occupational training programs and schools. Prohibited policies and practices include:

- ◆ Job advertisements and classifications.
- ◆ Selection and hiring.
- ◆ Promotion and demotion, layoff and recall.
- ◆ Wages and benefits.
- ◆ Termination.
- ◆ Retaliation.

A BONA FIDE OCCUPATIONAL

QUALIFICATION (BFOQ) may be a justification for limiting some types of employment opportunities on the basis of sex, but it is extremely difficult for the sex of the applicant to be a valid or necessary job requirement. A BFOQ is interpreted very strictly by the courts. Sex is not a BFOQ because a job requires physical labor, travel, unusual work schedules or conditions, or because of the preferences of employers, employees, customers, or others.

A "yes" to any of the following questions may indicate sex discrimination.

Job Classifications

- Is a job classified as male or female, or is any preference or limitation on the basis of sex indicated without a BFOQ? Journeyman, orderly, secretary, "Girl Friday," or waitress are not for only one sex!
- Are sex stereotypes or other employment data based on sex used in employment decisions? For example, does the employer refuse to hire a woman because she is assumed to be "less aggressive" or to have less strength than a man, or refuse to hire a man because the job requires clerical or intricate assembly work?
- Are separate pay progression or seniority lists for employees maintained on the basis of sex?

Equal Pay and Benefits

- Is different pay given for jobs with substantially equal duties, responsibility, and impact? Duties which carry substantially equal responsibility but are performed under unequal titles and at unequal rates of compensation may be indicators of sex discrimination.

Applicants, Interviews, and Selection

- Is any information asked that would indicate the applicant's sex? Information required for affirmative action must be justified and kept separate from other records of the applicant.
- Are any inquiries made about marital status, spouse, children, child care arrangements, pregnancy, or future childbearing plans?

Request a copy of CCRC/D's Preventing Job Discrimination brochure for other regulated preemployment inquiries.



HOUSING

Housing Issues:

Discrimination on the basis of sex, marital status, familial status (custody of children under age 18), and disability is prohibited by Colorado fair housing laws in housing practices such as:

- Refusing to show rent, lease, sell or transfer housing.
- Causing unequal terms, conditions and privileges in housing OR in financial assistance for housing. For example, denial of equal services or repairs, or a requirement for a higher security deposit or a higher rental price may be indicators of discrimination. *Are requirements for a co-signer applied based on the sex of the applicant?*
- Making any inquiry or reference regarding the applicant's sex or marital status.
- Advertising any preference or limitation in housing on the basis of sex, marital status or familial status.
- Segregating and/or separating in housing. *Is the person shown only part of a neighborhood or town? Is the person advised of listings on a discriminatory basis?*

There are other housing practices in which discrimination is prohibited. Request a copy of CCRC/D's Housing Discrimination brochure for further information.

Types of Housing:

Colorado civil rights housing laws cover apartments, condominiums, duplexes and similar attached housing, mobile homes and trailer courts, vacant land, commercial property and private homes. Exemptions include a room for rent in a home occupied by the owner or renter, premises leased to members of one sex, and residential zoning on the basis of marital status. Certain types of housing for older persons are also exempt.

Testing: Did a test indicate that you were treated differently? To test for discrimination in housing, a friend of a different sex or marital status, for example, may inquire about the same housing before or after your inquiry, and then the treatments are compared. You also may plan to telephone before or after your visit and then to compare those answers with the answers you receive in person.

A "yes" to any of the following questions may indicate sex discrimination.



EMPLOYMENT

Pregnancy And Childbirth

- Are there written or unwritten employment policies and practices which discriminate against applicants or employees because of pregnancy? Policies and practices provided for any other temporary disabilities must be extended to pregnancy-related conditions, including:
 - ◆ Reinstatement without loss of seniority, pay and other benefits.
 - ◆ Commencement and duration of leave.

Childbearing and other pregnancy-related conditions of a female employee are justification for a leave of absence for a reasonable period of time to be determined on an individual basis by the woman and her doctor.

Does the employer:

- Refuse to hire women because women might become pregnant or because an applicant is pregnant?
- Terminate a woman's employment when she becomes pregnant or has any pregnancy-related conditions?
- Force a pregnant women to leave her job or to return to her job at dates other than those determined by the employee and her doctor?
- Refuse to hold an employee's job open while the employee is on medical leave for pregnancy-related conditions?
- Require only employees with pregnancy-related conditions to provide certification from a doctor as to leave and return dates or to signify their intent to return to work in return for disability pay?
- Provide alternative job duties for employees with other temporary disabilities but deny the same treatment to employees with pregnancy-related conditions?

RECONGNIZING AND PREVENTING SEXUAL HARASSMENT

Defining Sexual Harassment:

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical behavior of a sexual nature which result in discrimination in employment, housing, public accommodations. Examples of behaviors recognized as sexual harassment include:

“I refused to cooperate sexually with my boss and now he's given me a poor evaluation.”

“My supervisor is always patting or pinching me or making sexual remarks to me.”

“When I applied for an apartment, the property manager said he would get me an apartment if he could visit me when he wanted to...”

Barriers to Ending Sexual Harassment...

Silence by the victim or recipient. The harasser often views this as acceptance. Notify the harasser, supervisor, co-workers and personnel department. Silence, quitting, or requesting a transfer are common reactions by victims that delay recognition and prevention of sexual harassment, especially for future victims.

The view that a change in dress and behavior of the victim would prevent sexual harassment. Dress and behavior, attractiveness, age or marital status are not factors in determining who will be a victim! Sexual harassment is a power play and works only if the victim is vulnerable. In sexual harassment and its more serious forms, assault and battery, the victim often seems to bear the blame for this illegal action and may hesitate to take the necessary actions to stop sexual harassment because of “guilt” feelings caused by this view.

Fear of retaliation. Fear of losing their job or of other forms of retaliation often prevents victims from reporting incidents. However, both state and federal laws protect persons against retaliation. If reporting an incident of sexual harassment or filing a charge results in the loss of a person's job, benefits, or other protected civil rights, that person may file a separate charge of retaliation.

Prevention Measures:

Employers and other persons regulated by state civil rights laws in employment, housing, and public accommodations are responsible for the behavior of their supervisory and non-supervisory personnel and their agents. Suggested steps to prevent sexual harassment include:

- Formulate and publicize a strong company policy against sexual harassment.
- Provide and publicize a grievance process for complaints of sexual harassment.
- Notify all personnel of the disciplinary consequences for sexual harassment.
- Provide prompt, impartial and effective responses to complaints of sexual harassment.
- Take steps to prevent sexual harassment when integrating males and females into non-traditional jobs. Sexual harassment doesn't “come with the job”!



PUBLIC ACCOMMODATIONS

Any limitation or preference in providing service or access to places of public accommodation on the basis of sex or marital status is prohibited by Colorado civil rights laws. (Admission may be restricted to members of one sex if there is a bona fide reason or necessity.)

Types of Public Accommodations...

which are regulated by state civil rights laws include (but are not limited to):

- ◆ Businesses engaged in any sales or offering any services to the public.
- ◆ Any place to eat, drink, sleep or rest.
- ◆ Any public recreational or transportation facility.
- ◆ Any public building or facility.
- ◆ Educational institutions.
- ◆ Health care services and facilities.

Advertising...

which indicates any discriminatory preference or limitation in providing services or access to public accommodations is prohibited. A notice such as WE RESERVE THE RIGHT TO REFUSE SERVICE TO ANYONE is illegal.

Choosing A Remedy:

A charge of discrimination in public accommodations may be filed with either the Colorado Civil Rights Division or with the county court, but not with both. It is advisable to contact a CCRD office or an attorney before deciding which course of action to follow.