

● LAW AGAINST DISCRIMINATION

STATUTORY CITATION: N.H. Rev. Stat. §§ 354-A:1 – 354-A:26

GENERAL SUMMARY: The Law Against Discrimination declares, in part, that the opportunity to obtain employment without discrimination because of age, sex, race, creed, color, marital status, physical or mental disability, national origin, or sexual orientation is a civil right. The employment provisions in the Act, which are applicable to most agricultural and non-agricultural employers with 6 or more employees, defines certain unlawful employment practices and establishes an administrative framework for resolving discrimination charges lodged by job applicants and employees.

SPECIFIC TERMS AND CONDITIONS

DISCRIMINATORY PRACTICES — Among other unlawful acts described in the statute, it is generally illegal for an employer:

(1) To refuse to hire a job applicant, to discharge an employee, or to discriminate against an applicant or employee in the terms, conditions or privileges of employment because of the individual's age, sex, race, color, marital status, physical or mental disability, religious creed, national origin, or sexual orientation, unless such distinction is based on a bona fide occupational qualification.

(2) To print or circulate any employment-related statement or advertisement, or to use any type of job application form, which directly or indirectly expresses any limitation, preference or discrimination on grounds of age, sex, race, color, marital status, physical or mental disability, religious creed, national origin, or sexual orientation, unless based on a bona fide occupational qualification.

Similar or comparable acts committed by a labor organization or employment agency are also forbidden.

COMPLAINTS — Anyone claiming to be aggrieved by an unlawful discriminatory practice may file a written complaint with the state enforcement agency within 180 days after the alleged act occurred. If the agency's initial investigation finds sufficient evidence of a violation, the agency must try to eliminate the practice complained of by conference, conciliation and persuasion, but whenever informal efforts are unsuccessful or other circumstances warrant, the agency must call a hearing to allow the employer or other respondent to answer the charges formally. A finding that the respondent did, in fact, engage in unlawful discrimination will result in an order requiring the employer to halt the illegal practice and take appropriate affirmative action to correct any damage suffered by the complainant.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Commission for Human Rights, Concord, New Hampshire 03301 (603-271-2767)*. In monitoring compliance with the Law Against Discrimination, the Commission is authorized to receive, investigate and rule on complaints alleging violations. This authority includes the power to hold hearings, subpoena documents and witnesses, and take sworn testimony. Besides being subject to administrative orders for affirmative corrective action (which may involve such measures as hiring, reinstatement and back pay), employers and other entities that violate these provisions are subject to criminal prosecution. Under New Hampshire state law, individuals can be held personally liable for aiding and abetting discriminatory conduct.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *U.S. Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000)*. A worker who files a discrimination complaint with the state Commission on Human Rights against a New Hampshire employer who has 15 or more employees preserves his or her rights under the federal law enforced by EEOC (*see entry, U.S. — Civil Rights — Fair Employment Practices*).