

Title C-2

Unlawful Discriminatory Practices

§ 21-9.8 Unlawful discriminatory practices.

1. It shall be an unlawful discriminatory practice:

a. For an employer to refuse to hire or employ or to bar or to discharge from employment or to discriminate against any individual in compensation or in terms, conditions or privileges of employment, because of the actual or perceived gender, race, color, creed, national origin, disability, age, religion, source of income or sexual orientation of any such individual.

b. For an employment agency to discriminate against any individual in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants to an employer or employers because of actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation.

c. For a labor organization to exclude or to expel from its membership or to discriminate in any way against any of its members or against any employer or any individual employed by an employer because of the actual or perceived gender, race, color, creed, national origin, ethnicity, disability age, religion, source of income or sexual orientation of any individual.

d. For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly any limitation, specification or discrimination as to actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

e. For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he has opposed any practices forbidden under this title or because he had filed a complaint, testified or assisted in any proceeding under this title.

(Amended by Local Law 38-2000, effective December 13, 2000; amended by Local Law No. 7-2004, in effect June 28, 2004.)

2. It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs:

a. To refuse to select any person or persons for an apprentice training program registered with the state of New York because of actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual

orientation and on any basis other than their lack of qualifications as determined by objective criteria which permit review.

b. To deny to or withhold from any person because of his actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation, the right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, or other occupational training or retraining program.

c. To discriminate against any person in his or her pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs because of actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation.

d. To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for such programs or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

3. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of the actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation of any person directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that any of the accommodation, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation or that the patronage of any person because of actual or perceived gender, race, color, creed, national origin, ethnicity, disability, age, religion, source of income or sexual orientation is unwelcome, objectionable or not acceptable, desired or solicited.

4. No person shall aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this title, or attempt to do so.

5. No person engaged in any activity to which this title applies shall retaliate or discriminate against any person because he or she has opposed any practices forbidden under the title or because he has filed a complaint, testified, or assisted in any proceeding under this title.

§ 21-9.9 Enforcement.

a. It shall be the duty of the Nassau County Commission on human rights to receive and investigate complaints and to initiate its own investigations of violations of this title, to hold hearings, compel the attendance of witnesses, administer oaths, take the testimony of any person under oath, and in connection thereof to require the production of any evidence relating to any matter under investigation or any question before the commission, provided, however, that the commission shall not have jurisdiction to hear a complaint if (i) the complainant has previously initiated a civil action in a court of competent jurisdiction with respect to the same grievance that is the subject of the complaint under this title unless such civil action has been dismissed without prejudice or withdrawn without prejudice; (ii) the complainant has previously filed and has an action or proceeding pending before an administrative agency of the state of New York with respect to the same grievance that is the subject of the complaint under this title; or (iii) the complainant has previously filed a complaint with the State Division of Human Rights with respect to the same grievance that is the subject of the complaint under this title. The County Attorney is hereby authorized to take such action as necessary to obtain enforcement of the provisions of this title, including the enforcement of corrective orders and the assessment of penalties and fines as provided herein. Any action taken by such commission or County Attorney under this title shall not require resolution of the Legislature.

b. Where the commission determines that probable cause exists to believe that a respondent has engaged, or is engaging, in a practice prohibited by this title, the commission shall issue a written notice of its determination to the complainant and the respondent. A finding of probable cause is not a final order of the commission and shall not be subject to administrative or judicial review.

c. At any time after the filing of a complaint with the commission alleging an unlawful discriminatory practice under this title, where there is reason to believe that the respondent, or any other person acting in concert with the respondent, is doing or causing to be done any act that would tend to render ineffectual relief that could be ordered, the County Attorney may commence a special proceeding in accordance with article sixty-three of the civil practice law and rules for an order to show cause why the respondent and such other persons should not be enjoined from doing or causing such acts to be done.

§21-9.9.1 Penalties. Any person who shall be found to have violated any of the provisions of section 21-9.8 of this title shall, shall, in addition to such corrective action, be liable for a penalty of not less than five thousand nor more than ten thousand dollars that shall be

recoverable for and payable to the aggrieved, and shall, in addition be subject, for the first such offense, for a fine of no less than five thousand dollars nor more than ten thousand dollars and, for each subsequent offense, to a fine of no less than ten thousand nor more than twenty thousand dollars.

§21-9.9-b Separability. If any portion, subsection, sentence, clause, phrase, or portion of this title is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not effect the validity of the remaining portions thereof.

(Title C-2 added by Local Law No. 7, 1970 in effect January 1, 1971; amended by Local Law 38-2000; amended by Local Law No. 7-2004, in effect June 28, 2004.)