

CLERK FILE No.

300647

REPORT OF COMMITTEE

Clerk File No. 300647, Chapters 40 and 60 of the Seattle Human Rights Department Rules.

Honorable President:

Your

to which was referred the within would respectfully report that we have considered the same and respectfully recommend

Filed

May 11, 1995

By

Margaret Carter

Deputy

ACTION OF THE COUNCIL

Referred	To
Referred	To
Referred	To
Reported	Disposition
Re-referred	To
Reported	Disposition

Your  
Seattle  
Human Rights Department

Germaine W. Covington, Director  
Norman B. Rice, Mayor

May 10, 1995

Judith Pippin, City Clerk  
City of Seattle  
Municipal Building, Room 104  
Seattle, WA 98104

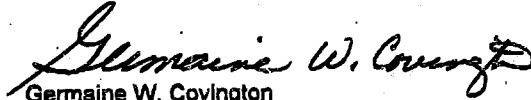
Re: Seattle Human Rights Rules Chapters 40 and 60

Dear Ms. Pippin:

Enclosed are two copies of the recently amended Seattle Human Rights Rules Chapters 40 and 60 for your records.

I certify that the enclosed are true and correct copies of Seattle Human Rights Rules Chapters 40 and 60, as adopted by me today in accordance with the procedures set forth in SMC Ch. 3.02.

Sincerely,

  
Germaine W. Covington  
Director

Enclosures

cc: Bruce Brooks, Deputy Mayor  
Miriam Reed, Law Department



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CITY CLERK

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An equal employment opportunity - affirmative action employer.  
City of Seattle—Human Rights Department, 700 Third Avenue, Suite 250, Seattle, Washington 98104-1849 (206) 684-4500, 684-4503 (TDD), FAX (206) 684-0392  
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**SEATTLE HUMAN RIGHTS DEPARTMENT**

**Seattle Human Rights Rules  
Chapter 60**

**Handicap**

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**SEATTLE HUMAN RIGHTS DEPARTMENT**  
**Seattle Human Rights Rules**  
**Chapter 60**  
**Handicap**

**SHRR 60-041. SCOPE OF CHAPTER**

This chapter contains rules interpreting and implementing the handicap discrimination coverage of the Seattle Fair Employment Practices Ordinance SMC Ch. 14.04, and the Open Housing and Public Accommodations Ordinance, SMC Ch. 14.08.

**SHRR 60-042. DEFINITIONS**

In this chapter, the following words are used in the meaning given, unless the context clearly indicates another meaning. These definitions supplement those in SHRR 40-015.

"Handicap" is short for the Ordinance term "the presence of any sensory, mental or physical handicap", except when it appears as part of the full term.

An "able handicapped worker" is a person whose handicap does not prevent the proper performance of the particular job in question.

**SHRR 60-043. GENERAL APPROACH TO ENFORCEMENT**

1. For the purpose of determining whether an unfair practice under the Seattle Fair Employment Practices Ordinance or under the Open Housing and Public Accommodations Ordinance has occurred:

- (a) A condition is a "sensory, mental or physical handicap" if it is an abnormality, impairment or disability and is a reason why the person having the condition did not get or keep the job in question, or was denied equal pay for equal work, or was discriminated against in other terms and conditions of employment, or was subjected to an unfair real estate practice, or was denied full enjoyment of a place of public accommodation, or was denied equal treatment in other areas covered by the ordinances. In other words, a person will be considered to be handicapped by a sensory, mental or physical condition if he or she is discriminated against because of the condition and the condition is an abnormality, impairment or disability.

- (b) "The presence of a sensory, mental or physical handicap" includes, but is not limited to, circumstances where a sensory, mental or physical condition:
- i) is medically cognizable or diagnosable;
  - ii) exists as a record or history; or
  - iii) is perceived to exist, whether or not it exists in fact.
2. An example of subsection (1)(b)(ii) is a medical record showing that the worker had a heart attack five years ago. An example of subsection (1)(b)(iii) is the rejection of a person for employment who had a florid face and the employer thought that the person had high blood pressure, but in fact the person did not have high blood pressure.

**SHRR 60-044. PREFERENCE FOR HANDICAPPED IS NOT AN UNFAIR PRACTICE**

The Seattle Fair Employment Practices Ordinance and the Open Housing and Public Accommodations Ordinance state that it is an unfair practice to discriminate against a person because of the presence of any handicap. Discrimination in favor of a person because of the person's handicap or discrimination against persons because they are not handicapped (a handicap is not present) is not an unfair practice. This nonreciprocal operation is different from the operation of the ordinances in all other areas. For example, it is an unfair practice for an employer to discriminate either for or against persons because of race, sex, etc.

**SHRR 60-045. BONA FIDE OCCUPATIONAL QUALIFICATION**

1. The special rules in this section supplement the general rules on the bona fide occupational qualification in SHRR 60-030, et. seq.
2. No bona fide occupational qualification question is raised by preferential treatment of handicapped persons, since such treatment is not an unfair practice. See SHRR 60-044.
3. A bona fide occupational qualification differs from the statutory requirement that the handicapped individual be able to properly perform on the job. The determination of ability to do the job is made on an individual basis, for each person for each job. A bona fide occupational qualification is a requirement

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4. The following job requirements are bona fide occupational qualifications:
  - (a) Any specific requirement set out in a statute of the United States or the State of Washington, or an ordinance of Seattle, or an authorized regulator of the United States government, or the State of Washington.
  - (b) Any specific requirement set out in an authorized rule, or other official act of a unit of the City of Seattle unless such ordinance, rule or act is inconsistent with the Seattle Fair Employment Practices Ordinance and these rules.
5. The following are not bona fide occupational qualifications:
  - (a) Preference or objections of co-workers, the employer, clients, or customers;
  - (b) Physical obstacles or inadequacies at work facilities that reasonably can be corrected as provided in SHRR 60-046.

**SHRR 60-046. ACCOMMODATION FOR HANDICAPPED PERSONS**

1. It is an unfair practice to fail or refuse to make reasonable accommodations to the sensory, mental or physical handicap limitations of persons protected by the Seattle Fair Employment Practices Ordinance unless it is demonstrated that such an accommodation would impose an undue hardship on the conduct of the business.
2. It is an unfair practice to refuse to hire or to otherwise discriminate against an able handicapped worker because the person in authority will be subject to the requirements of this section if the worker is hired, promoted, etc.
3. The cost of accommodating an able handicapped worker will be considered to be an undue hardship on the conduct of the employer's business, only if it is unreasonably high in view of the size of the employer's business, the value of the employee's work, whether the cost can be included in planned remodeling or maintenance, the requirements of other laws and contracts, and other appropriate considerations.

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**SHRR 60-090. ADVISORY RULING**

Any person within the jurisdiction of the City of Seattle and subject to or affected by the application or possible application of a bona fide occupational qualification to particular circumstances may petition the Director in writing for an advisory ruling. Any such request should set forth the facts of the particular circumstances in detail keeping in mind that an advisory ruling may be relied upon only to the extent that the facts upon which it is based are accurate and complete.

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SEATTLE HUMAN RIGHTS DEPARTMENT

Seattle Human Rights Rules  
Chapter 40

CITY CLERK

Practice and Procedure in Discrimination Cases

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**SEATTLE HUMAN RIGHTS DEPARTMENT**  
**Seattle Human Rights Rules**  
**Chapter 40**  
**Practice and Procedure in Discrimination Cases**

**General Provisions**

**SHRR 40-050. APPLICABILITY OF RULES**

- (1) These rules (Chapter 40) govern the procedures of the Seattle Human Rights Department in administering the Fair Employment Practices Ordinance No. 109116, as amended, Seattle Municipal Code (S.M.C.) Ch. 14.04, the Open Housing Ordinance No. 104839, as amended, S.M.C. Ch. 14.08 and applicable provisions of Ordinance No. 97971, as amended, S.M.C. Ch. 3.22, which established the Human Rights Department. The rules govern the procedure from the charging party's initial inquiry until the charge is withdrawn or the Director or his or her designee dismisses the charge, administratively closes the case, refers the matter to the City Attorney for prosecution, or, in City Employment cases, obtains confirmation the respondent has complied with the Director's order.
- (2) These rules and any amendment to these rules shall apply to charges pending before the Department when the rules or the amendment are or is adopted except that anything already done need not be redone to comply with the rules or with the amendment.

**SHRR 40-010. RELATION TO ORDINANCES**

These rules supplement the provisions of the Fair Employment Practices Ordinance, as amended, of the Open Housing Ordinance, as amended and of Ordinance No. 97971, as amended.

**SHRR 40-015. DEFINITIONS**

- (1) Definitions of most terms used in these rules are found in the Fair Employment Practices Ordinance and the Open Housing Ordinance. See S.M.C. 14.04.030 and 14.08.020. For the convenience of the users of these rules, the definitions contained in S.M.C. 14.04.030 and 14.08.020 are restated in this subsection. If there is any discrepancy in the definitions stated in this subsection and those contained in S.M.C. 14.04.030 and 14.08.020, the latter definitions shall be followed.

- a. In matters arising under the Fair Employment Practices Ordinance, unless the context otherwise requires:
- (i) "Charging party" means the person aggrieved by an alleged unfair employment practice or the person making a charge on another person's behalf, or the Director when the Director files a charge.
  - (ii) "City department" means any agency, office, board or commission of the city, or any department employee acting on its behalf, but shall not mean a public corporation chartered under Ordinance 103387 (S.M.C. Ch. 3.110), or its successor ordinances, or any contractor, consultant, concessionaire or lessee.
  - (iii) "Commission" means the Seattle Human Rights Commission.
  - (iv) "Department" means the Human Rights Department of the City.
  - (v) "Director" means the Director of the Human Rights Department or her or his designee.
  - (vi) "Discrimination," "discriminate," and/or "discriminatory act" means any act, by itself or as part of a practice, which is intended to or results in different treatment or differentiates between or among individuals or groups of individuals by reason of race, color, age, sex, marital status, sexual orientation, political ideology, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap.
  - (vii) "Employee" means any person employed by an employer.
  - (viii) "Employer" means any person who has four or more employees, or the employer's designee or any person acting in the interest of such employer.
  - (ix) "Employment agency" means any person undertaking with or without compensation to procure opportunities to work or to procure, recruit, refer, or place individuals with an employer or in employment.
  - (x) "Labor organization" means any organization or employee group or association in which employees participate and which exists for the purpose of (1) collective bargaining for or on behalf of employees, (2) dealing with employers concerning grievances, labor disputes, terms or conditions of employment, or (3) other mutual aid or protection of such employees in relation to their employment.
  - (xi) "Marital status" means the presence or absence of a marital relationship and includes the status of married, separated, divorced, engaged, widowed, single or cohabitating.

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- (xii) "Party" includes the person charging or making a complaint or upon whose behalf a complaint is made alleging an unfair employment practice, the person alleged or found to have committed an unfair employment practice and the Human Rights Department.
  - (xiii) "Person" includes one or more individuals, partnerships, associations, organizations, trade or professional associations, corporations, public corporation, cooperatives, legal representatives, trustees, trustees in bankruptcy, 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 any department, office, agency or instrumentality of the city.
  - (xiv) "Political ideology" means any idea or belief, or coordinated body of ideas or beliefs, relating to the purpose, conduct, organization, function or basis of government and related institutions and activities, whether or not characteristic of any political party or group. This term includes membership in a political party or group and includes conduct, reasonably related to political ideology, which does not interfere with job performance.
  - (xv) "Respondent" means any person who is alleged or found to have committed an unfair employment practice prohibited by this chapter.
  - (xvi) "Sexual orientation" means actual or perceived male or female heterosexuality, bisexuality, homosexuality, transsexuality or transvestism and includes a person's attitudes, preferences, beliefs and practices pertaining thereto.
- b. In matters arising under the Open Housing Ordinance, unless the context otherwise requires:
- (i) "Charging party" means the person aggrieved by an unfair practice, or the person making a charge on another person's behalf, or the Director when the Director files a charge.
  - (ii) "City" means The City of Seattle.
  - (iii) "City department" means any agency, office, board or commission of the City, or any department employee acting on its behalf, but shall not mean a public corporation chartered under Ordinance 103387, or its successor ordinances, or any contractor, consultant, or concessionaire or lessee.
  - (iv) "Commission" means the Seattle Human Rights Commission.
  - (v) "Department" means the Seattle Human Rights Department.

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- (vi) "Director" means the Director of the Seattle Human Rights Department or her or his designee.
- (vii) "Discriminate" means any conduct, whether by single act or as part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals, because of race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, political ideology, possession or use of a Section 8 rent certificate, the presence of any sensory, mental or physical handicap or the use of a trained guide or service dog by a handicapped person.
- (iii) "Dwelling" means any building, structure, or portion thereof which is occupied as, or is designed or intended for occupancy as, a residence by one or more individuals or families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (ix) "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, color, sex, marital status, parental status, sexual orientation, political ideology, creed, religion, national origin, ancestry, persons holding a Section 8 rent certificate, persons with any sensory, mental or physical handicap, or handicapped persons using trained guide or service dogs, to be treated as not welcome, accepted, desired or solicited.
- (x) "Holder" means a person possessing a Section 8 rent certificate.
- (xi) "Housing accommodations" includes any dwelling, rooming unit, rooming house, lot or parcel of land in the City which is used, intended to be used, or arranged or designed to be used as, or improved with, a residential structure for one (1) or more human beings.
- (xii) "Lender" includes any bank, insurance company, savings or building and loan association, credit union, trust company, mortgage company, or other person or agent thereof, engaged wholly or partly in the business of lending money for the financing or acquisition, construction, repair or maintenance of real property.

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- (xiii) "Marital status" means the presence or absence of a marital relationship and includes the status of married, separated, divorced, engaged, widowed, single or cohabitating.
- (xiv) "Occupant" includes any person who has established residence or has the right to occupancy of real property.
- (xv) "Owner" includes persons who own, lease, sublease, rent, operate, manage, have charge of, control or have the right of ownership, possession, management, charge, or control of real property on their own behalf or on behalf of another.
- (xvi) "Parental status" means being a parent, step-parent, adoptive parent, guardian, foster parent or custodian of a minor child or children under the age of 18 years, or the designee of a parent or other person having legal custody of a child or children under the age of 18 years, with the written permission of such parent or other person, which child or children shall reside permanently or temporarily or shall seek full enjoyment of any place of public accommodation with such parent or other person. In addition, parental status shall refer to any person who is pregnant or who is in the process of acquiring legal custody of any person who has not yet attained the age of 18 years.
- (xvii) "Party" includes the person charging or making a charge or complaint or upon whose behalf a charge or complaint is made alleging an unfair practice, the person alleged or found to have committed an unfair practice and the Seattle Human Rights Department.
- (xviii) "Person" includes one or more individuals, partnerships, organizations, trade or professional associations, corporations, legal representatives, trustees, trustees in bankruptcy and receivers. It includes any owner, lessee, proprietor, manager, agent or employee, whether one (1) or more natural persons, and further includes any political or civil subdivisions or agency or instrumentality of the City.
- (xix) "Place of public accommodation" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy or use of any property or facilities, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services or personal property, or for the rendering of personal services, or for public conveyance or transportation on land,

water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates or assembles for amusement, recreation or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two (2) or more tenants, or by the owner and one (1) or more tenants, or any public library or private educational institution, or private schools of special instruction, or nursery schools, or day care centers or children's camps.

- (xx) "Political ideology" means any idea or belief, or coordinated body of ideas or beliefs, relating to the purpose, conduct, organization, function or basis of government and related institutions and activities, whether or not characteristic of any political party or group. This term includes membership in a political party or group and includes conduct, reasonably related to political ideology, which does not interfere with the property rights of the landowner as it applies to housing, or which does not cause substantial and material disruption of the property rights of the provider of a place of public accommodation.
- (xxi) "Prospective borrower" includes any person who seeks to borrow money to finance the acquisition, construction, repair, or maintenance of real property.
- (xxii) "Prospective occupant" includes any person who seeks to purchase, lease, sublease or rent real property.
- (xxiii) "Real estate agent, salesperson or employee" includes any person employed by, associated with or acting for a real estate broker to perform or assist in the performance of any or all of the functions of a real estate broker.
- (xxiv) "Real estate broker" includes any person who for a fee, commission, or other valuable consideration, lists for sale, sells, purchases, exchanges, leases or subleases, rents, or negotiates or offers or attempts to negotiate the sale, purchase, exchange, lease, sublease or rental of real property of another, or holds themselves out as engaged in the business of selling, purchasing, exchanging, listing, leasing, subleasing, or renting real property of another, or collects the rental for use of real property of another.
- (xxv) "Real estate-related transaction" means any of the following:

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