

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER f: GENERAL ADMINISTRATION

PART 429
EQUAL EMPLOYMENT OPPORTUNITY THROUGH THE
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Section

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AUTHORITY: Implementing the U. S. Constitution; 1964 Civil Rights Act, Titles VI and VII (42 U.S.C. 2000d et seq. and 2000e et seq.); 1973 Rehabilitation Act, Sections 503 and 504 (29 U.S.C. 793 and 794); The Age Discrimination Act (42 U.S.C. 6101 et seq.); Executive Order 11246 (as revised) and the Illinois Human Rights Act [775 ILCS 5]; and authorized by Section 4 of the Children and Family Services Act [20 ILCS 505/4].

SOURCE: Adopted and codified at 5 Ill. Reg. 7800, effective August 3, 1981; amended at 46 Ill. Reg. 11304, effective June 16, 2022.

Section 429.1 Purpose

These rules describe the Department's policy of nondiscrimination in employment practices. Refer to Part 308, Nondiscrimination Requirements of Department Service Providers.

Section 429.2 Definitions

"Affirmative action", as applied in this Part, is the undertaking of specific personnel steps in recruiting, selecting, placing, transferring, promoting, and other basic terms and conditions of employment, for the purpose of eliminating present effects of past or current discrimination.

"Age" means the chronological age of a person who is at least 40 years old, except with regard to any practice described in Section 2-102 of the Illinois Human Rights Act, insofar as that practice concerns training or apprenticeship programs. In the case of training or apprenticeship programs, for the purposes of Section 2-102 of the Illinois Human Rights Act, "age" means the chronological age of a person who is 18 but not yet 40 years old.

"Aggrieved party" means a person who is alleged or proved to have been injured by a civil rights violation or believes he or she will be injured by a civil rights violation under Article 3 of the Illinois Human Rights Act that is about to occur.

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"Charge" means an allegation filed with the Illinois Department of Human Rights by an aggrieved party or initiated by the Department under its authority.

"Civil rights violation" includes and shall be limited to only those specific acts set forth in Sections 2-102, 2-103, 2-105, 3-102, 3-102.1, 3-103, 3-104, 3-104.1, 3-105, 3-105.1, 4-102, 4-103, 5-102, 5A-102, 6-101, and 6-102 of the Illinois Human Rights Act.

"Commission" means the Human Rights Commission created by the Illinois Human Rights Act.

"Complainant" means a person including the Illinois Department of Human Rights who files a charge of civil rights violation with the Department or the Commission.

"Complaint" means the formal pleading filed by DHR with the Commission following an investigation and finding of substantial evidence of a civil rights violation. [775 ILCS 5/1-103]

"Department" or "DCFS" means the Department of Children and Family Services, unless otherwise specified.

"Disability" means a determinable physical or mental characteristic of a person, including, but not limited to, a determinable physical characteristic which necessitates the person's use of a guide, hearing or support dog, the history of such characteristic, or the perception of such characteristic by the person complained against, which may result from disease, injury, congenital condition of birth or functional disorder and which characteristic, is not related to:

a person's ability to perform the duties of a particular job or position, neither is a person's illegal use of drugs or alcohol to be considered a disability;

a person's ability to acquire, rent, or maintain a housing accommodation;

a person's ability to repay;

a person's ability to utilize and benefit from a place of public accommodation.

It does include any mental, psychological, or developmental disability, including autism spectrum disorders. [775 ILCS 5/1-103]

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"Employment discrimination" or "discrimination", as applied in this Part, means any policy, procedure or practice that has an adverse effect on an applicant, employee or group of employees with regard to their hiring, firing, compensation, terms, conditions or privileges of employment as prohibited in Section 429.3.

"Marital status" means the legal status of being married, single, separated, divorced, or widowed.

"Military status" means a person's status on active duty in or status as a veteran of the armed forces of the United States, status as a current member or veteran of any reserve component of the armed forces of the United States, including the United States Army Reserve, United States Marine Corps Reserve, United States Navy Reserve, United States Air Force Reserve, and United States Coast Guard Reserve, or status as a current member or veteran of the Illinois Army National Guard or Illinois Air National Guard.

"National origin" means the place in which a person or one of his or her ancestors was born.

"Order of protection status" means a person's status as being a person protected under an order of protection issued pursuant to the Illinois Domestic Violence Act of 1986, Article 112A of the Code of Criminal Procedure of 1963, the Stalking No Contact Order Act, or the Civil No Contact Order Act, or an order of protection issued by a court of another state.

"Person" includes one or more individuals, partnerships, associations or organizations, labor organizations, labor unions, joint apprenticeship committees, or union labor associations, corporations, the State of Illinois and its instrumentalities, political subdivisions, units of local government, legal representatives, trustees in bankruptcy or receivers.

"Pregnancy" means pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth.

"Religion" includes all aspects of religious observance and practice, as well as belief, except that with respect to employers, for the purposes of Article 2, "religion" has the meaning ascribed to it in paragraph (F) of Section 2-101 of the Illinois Human Rights Act.

"Sex" means the status of being male or female.

"Sexual orientation" means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth. "Sexual orientation" does not include a physical or sexual attraction to a minor by an adult.

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"Unfavorable military discharge" includes discharges from the Armed Forces of the United States, their Reserve components, or any National Guard or Naval Militia which are classified as RE-3 or the equivalent thereof, but does not include those characterized as RE-4 or "Dishonorable".

"Unlawful Discrimination" means discrimination against a person because of his or her actual or perceived: race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service as those terms are defined in this Section. [775 ILCS 5/1-103]

(Source: Amended at 46 Ill. Reg. 11304, effective June 16, 2022)

Section 429.3 The Department's Affirmative Action Policy

- a) The Department will not discriminate in employment on the grounds of race, color, religion, sex, marital status, national origin or ancestry, age, disability, order of protection status, military status, sexual orientation, or pregnancy. This policy is mandated by both federal and state law, including the Civil Rights Act of 1964 (amended, 1972), presidential and gubernatorial executive orders, various other policies and guidelines, and a general recognition of the importance of eliminating artificial, arbitrary, and unnecessary barriers to employment.
- b) The policy of affirmative action shall require an analysis of the Department's work force to determine underutilization of any of the protected classes: Blacks, Hispanics, Native Americans, Asian Americans and women. When an underutilization is determined, goals will be set, in compliance with applicable law, to ensure utilization regarding representation in the population, availability and requisite skills.
- c) This policy also requires agencies and individuals that do business with the Department to comply with this Part. (See 89 Ill. Adm. Code 308, Nondiscrimination Requirements of Department Service Providers.)
- d) Nothing in this policy shall prohibit the Department from denying employment to persons due to documented criminal convictions. However, the Department will consider the gravity of the offense, the circumstances under which it occurred, the background and age of the applicant at the time of the offense and whether the offense is related to the applicant's suitability for employment.

(Source: Amended at 46 Ill. Reg. 11304, effective June 16, 2022)

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Section 429.4 Employment Discrimination Complaints

- a) Complaints of alleged employment discrimination shall be resolved informally whenever possible. If an employee or applicant for employment believes discrimination has occurred, the complainant should contact the Department administrator responsible for affirmative action to discuss the matter. This initial contact (if other than in writing) is to be followed by a written statement of the complaint being filed with the Department administrator responsible for affirmative action. No complaint shall be accepted for investigation if not filed with the Department's administrator responsible for affirmative action within 180 days of the alleged discriminatory acts.
- b) The written complaint should provide information to adequately explain the alleged discriminatory acts. If the complaint does not set forth enough information concerning the alleged discriminatory acts, the Division of Diversity and Equity will attempt to contact the complainant to secure additional information. Within 5 working days following the filing of the complaint, a staff person from the Division of Diversity and Equity will initiate an investigation of the complaint. Upon completion of the investigation (within 30 work days) a determination as to whether evidence exists to support or not support the charges, as filed, will be made. Within 5 work days following the completion of the investigation, the complainant and regional or unit administrator shall be notified by the Division of Diversity and Equity, in writing, of the determination. The written notification to the regional or unit administrator will include the remedial measures, if any, which should be implemented within 10 work days of the receipt of such notice. If the complainant is dissatisfied with the findings of the investigation, and/or the recommended remedial action, the complainant will be informed of other available avenues for resolving complaints.
- c) The relief provisions provided above shall be the exclusive Departmental procedure for persons complaining of Department discriminatory acts in employment but shall not be construed as limiting a person's right to utilize existing legal remedies. A person complaining of any manner of employment discrimination also has the right to file complaints with the Illinois Department of Human Rights, and the U.S. Equal Employment Opportunity Commission.

(Source: Amended at 46 Ill. Reg. 11304, effective June 16, 2022)

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