

Chapter 45, BINGHAMTON HUMAN RIGHTS LAW

[HISTORY: Adopted by the City Council of the City of Binghamton 12-15-08 by L.L. No. 1-2008]

§ 45-1. Name.

This Local Law shall be referred to as the Binghamton Human Rights Law.

§ 45-2. Purpose and Intent. [Amended 2-2-09 by Ord. No. 5-2009]

It is the intent of the Binghamton City Council, in enacting the Binghamton Human Rights Law, to protect and safeguard the right and opportunity of all persons to be free from discrimination based on a person's actual or perceived age, race, color, creed, religion, national origin, ancestry, disability, marital status, sex, sexual orientation, gender identity or expression, **weight or height**, and to empower the courts to provide for remedies for any such discrimination. The authority for this Local Law is the exercise of the City's police power to preserve and care for the safety, health, comfort, and general welfare of its residents and visitors.

§ 45-3. Definitions. [Amended 2-2-09 by Ord. No. 5-2009; Amended 3-17-10 by Local Law 1-2010]

"Discriminate, Discrimination or Discriminatory" shall mean any act, policy, advertisement or practice which, regardless of intent, has the effect of subjecting any person to differential treatment in and as a result of that person's actual or perceived age, race, color, creed, religion, national origin, ancestry, disability, marital status, sex, sexual orientation, gender identity or expression, **weight or height**. Discrimination also includes any differential treatment because of one's association with a person or group of people identified herein.

"Educational Institution" shall mean any educational institution and any business, nursing, professional, secretarial, technical, or vocational school. Such term shall not include any educational institutions under the supervision of the Regents of the State of New York.

"Employee" shall mean any individual employed or seeking employment from an employer.

"Employer" shall mean any person who, for compensation, regularly employs five or more individuals, not including the employer's parents, spouse or children. For purposes of this ordinance, an "employer" is also any person acting on behalf of an employer, directly or indirectly, or any employment agency.

"Gender identity or expression" shall mean having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth.

"Person" shall mean any natural person, firm, the City of Binghamton, corporation, partnership, limited liability company, or other organization, association or group of persons however arranged;

"Weight" and "Height" as follows:

Weight is a numerical measurement of total body weight, the ratio of a person's weight in relation to height or an individual's unique physical composition of weight through body size, shape and proportions.

"Weight" encompasses, but is not limited to, an impression of a person as fat or thin regardless of the numerical measurement. An individual's body size, shape, proportions, and composition may make them appear fat or thin regardless of numerical weight. Height is a numerical measurement of total body height, an expression of a person's height in relation to weight, or an individual's unique physical composition of height through body size, shape and proportions.

"Height" encompasses, but is not limited to an impression of a person as tall or short regardless of numerical measurement. The length of a person's limbs in proportion to the person's body may create an impression that the person is short, tall, or atypically proportioned, independent of numerical measurements of height.

"Place of public accommodation" shall include all establishments within the City of Binghamton which offers goods, services, accommodations and entertainment to the public. A place of public accommodation does not include any institution or club which by its nature is distinctly private.

"Sexual orientation" means heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.

§ 45-4. Prohibited Acts of Discrimination — Employment [Amended 3-17-10 by Local Law 1-2010]

The opportunity to obtain employment without discrimination is hereby recognized as and declared to be a civil right. With regard to employment, it shall be unlawful for any employers or labor organizations to engage in any of the following acts, wholly or partially for a discriminatory reason:

- A. To discriminate against any individual, with respect to failure to hire, refusal to hire, discharge, compensation, terms, conditions, or privileges of employment, including promotion; however nothing in this subsection shall be construed to require any employer to provide benefits, such as insurance, to individuals not employed by the employer;
- B. To limit, segregate, or classify employees in any way which would deprive any employee of employment opportunities, or which would otherwise adversely affect his or her status as an employee; or
- C. To fail or refuse to refer for employment, or to give negative information to a potential employer of any individual, in such a manner that would deprive an individual's employment opportunities or that would otherwise adversely affect an individual's status as an applicant or prospective employee.

§ 45-5. Prohibited Acts of Discrimination - Housing and Real Estate Transactions. [Amended 3-17-10 by Local Law 1-2010]

The opportunity to obtain housing and to engage in real estate transactions without discrimination is hereby recognized as and declared to be a civil right. With regard to housing and real estate transactions, it shall be unlawful to engage in any of the following acts wholly or partially for a discriminatory reason:

- A. To discriminate by impeding, delaying, discouraging, imposing different terms, or otherwise limiting or restricting any transaction in real estate;
- B. To discriminate in the terms and conditions, or in performing, or refusing to perform, any act necessary to determining an individual's financial ability to engage in a real estate transaction, or to represent falsely that an interest in real estate is not available for transaction;
- C. For a property manager to discriminate by refusing to provide equal treatment of, or services to, occupants or potential occupants of any real estate which he or she manages; or
- D. It shall not be an unlawful discriminatory practice for an owner, lessor or renter to refuse to rent, lease or sublease a portion of a single family dwelling unit where it is anticipated that the owner, lessor or renter will be occupying any portion of the single-family dwelling.

§ 45-6. Prohibited Acts of Discrimination - - Business Establishment or Public Accommodations.

The opportunity to enter business establishments or public accommodations without discrimination is hereby recognized as and declared to be a civil right. It shall be unlawful for a business establishment or place of public accommodation to deny, directly or indirectly, any person the full enjoyment of the goods, services, facilities, privileges, advantages, and accommodations wholly or partially for a discriminatory reason.

§ 45-7. Prohibited Acts of Discrimination - - Educational Institutions.

The opportunity to obtain an education without discrimination is hereby recognized as and declared to be a civil right. It shall be unlawful for an educational institution to engage in any of the following acts wholly or partially for a discriminatory reason: to deny, restrict, abridge or condition the use of, or access to, any educational facilities or educational services to any person otherwise qualified.

§ 45-8. General Exceptions. [Amended 3-17-10 by Local Law 1-2010]

A. It shall not be an unlawful discriminatory practice for an employer to observe the conditions of a bona fide seniority system or a bona fide employee benefit system based on age such as a retirement, pension or insurance plan which is not a subterfuge or pretext to evade the purposes of this Local Law.

B. Nothing contained in this Local Law shall be deemed to prohibit selection or rejection based solely upon a bona fide occupational qualification, or a bona fide physical requirement.

C. Nothing contained in this Local Law shall be deemed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised by or controlled by or in connection with a religious organization, from limiting employment, sales or rental of housing accommodations, admission to or giving preference to persons of the same religion or denomination, or from taking such action as is calculated by such organization to promote the religious principles for which it is established or maintained. Provided however, that this exception shall not apply to any program operated by any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, if the same receives any form of financial assistance from the City of Binghamton.

§ 45-9. Private Right of Action.

Any person who discriminates or commits any prohibited act against any individual or individuals based upon age, race, color, creed, religion, national origin, ancestry, disability, marital status, sex, sexual orientation, gender identity or expression, weight or height, shall be liable in a civil action or proceeding maintained by such individual or group of individuals for injunctive relief, damages, or any other appropriate relief in law or equity. In any such action or proceeding, the court, in its discretion, may allow the party commencing such action or proceeding, if such party prevails, a reasonable attorney's fee as part of the costs.

§45-10. Effective Date.

The Binghamton Human Rights Law shall take effect upon filing with the Secretary of State.

§ 45-11. Prohibition on retaliatory action.

It shall be an unlawful discriminatory practice for any person, agency, institution, firm, corporation, partnership or other organization, or association or group of persons to whom this chapter applies to retaliate or discriminate against any person because he or she has opposed any practices forbidden under this chapter or because he or she has filed a complaint, testified, or assisted in any proceeding under this chapter.

§ 45-12. Severability.

If any clause, sentence, paragraph or part of this Chapter or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Chapter.