

Regulations



of the

Philadelphia Commission on Human Relations

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PHILADELPHIA COMMISSION ON HUMAN RELATIONS

REGULATION NO. 1

SCOPE, SEVERABILITY, CONSTRUCTION AND DEFINITIONS

1.0 PRIOR REGULATIONS RESCINDED. All prior Regulations promulgated by the Commission are hereby rescinded.

1.1 SCOPE. This Regulation, promulgated by the Commission pursuant to its authority under Sections 4-700 and 4-701 of the Home Rule Charter and Section 9-1111 of the Fair Practices Ordinance, sets forth the definitions of certain terms as used throughout the Regulations promulgated by the Commission.

1.2 SEVERABILITY. If any clause, sentence, paragraph or part of the Regulations promulgated by the Commission or the application thereof to any person or circumstances 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 these Regulations nor the application of such clause, sentence, paragraph or part to other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph or part thereof and to the persons or circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the Commission that these Regulations would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from their coverage.

1.3 CONSTRUCTION OF REGULATIONS. The Regulations promulgated by the Commission shall be liberally construed to accomplish the purposes of the Fair Practices Ordinance and the Home Rule Charter.

1.4 DEFINITIONS. As used throughout the Commission's Regulations, the following words and phrases shall have the meanings indicated.

a. Adjudicatory Hearing. A public hearing conducted by the Commission as provided for in Section 9-1117 of the Fair Practices Ordinance.

b. Age. Section 9-1102(1)(a) of the Fair Practices Ordinance defines **Age** as: for the purpose of employment, 40 years or greater.

c. Commercial Property. Section 9-1102(1)(b) of the Fair Practices Ordinance defines **Commercial Property** as: any building, structure, facility, or land, or portion thereof, which is used, occupied or is intended, arranged or designed to be used or occupied for the purpose of operating a business, an office, a factory or any public accommodation; and any vacant land offered for sale, lease or held for the purpose of constructing or locating thereon any such building, structure, facility, business concern or public accommodation.

d. Chairperson. The duly appointed chairperson of the Commission.

- e. **Commission.** The Philadelphia Commission on Human Relations.
 - f. **Commission Staff.** The term includes, but is not limited to, the Executive Director, deputy directors, assistant directors, and other personnel the Commission employs.
 - g. **Commissioner.** One of the duly appointed members of the Commission.
 - h. **Complainant.** Any person filing a Complaint, including the Commission or its delegated representatives.
 - i. **Complaint.** The written and verified allegations made by a person or entity to the Commission, which charges violation(s) of the Fair Practices Ordinance in accordance with the requirements set forth in Regulation 2.04.
 - j. **Disability.** Section 9-1102(1)(d) of the Fair Practices Ordinance defines **Disability** as: with respect to an individual, a physical or mental impairment that substantially limits one or more of his or her major life activities, a record of such an impairment, or being regarded as having such an impairment. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures.
 - k. **Discrimination.** Section 9-1102(1)(e) of the Fair Practices Ordinance defines **Discrimination** as: any direct or indirect practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, differentiation or preference in the treatment of a person on the basis of actual or perceived race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability, marital status, source of income, familial status, genetic information or domestic or sexual violence victim status, or other act or practice made unlawful under this Chapter or under the nondiscrimination laws of the United States or the Commonwealth of Pennsylvania.
 - l. **Domestic or Sexual Violence Victim Status.** Section 9-1102(1)(f) of the Fair Practices Ordinance defines **Domestic or Sexual Violence Victim Status** as: the status of being subjected to acts of domestic violence, sexual assault or stalking as defined by Section 9-3201 of this Code (relating to entitlement to leave due to domestic violence, sexual assault or stalking) or to any conduct enumerated in 18 Pa. C.S. Section 3121 (relating to rape), 4302 (relating to incest), 6312 (relating to sexual abuse of children), 6318 (relating to unlawful contact with minor), 6320 (relating to sexual exploitation of children), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault) or 3126 (relating to indecent assault).
- Domestic Worker.** Section 9-1102(1)(g) of the Fair Practices Ordinance defines **Domestic Worker** as: an individual employed in a home or residence for the purpose of caring for a child, serving as a companion for a sick, convalescing or elderly person, housekeeping, or for any other domestic service purpose. Domestic worker does not include any individual who is (.1) working on a casual basis, (.2) engaged in providing companionship services, as defined in Section 213(15)(a) of the Fair Labor

Standards Act of 1938, and who is employed by an employer or agency other than the family or household using his or her services; or (.3) a relative through blood, marriage or adoption of the employer or the individual for whom the worker is delivering services under a program funded or administered by federal, state or local government.

m. Educational Hearing. A public hearing conducted by the Commission as provided for in Sections 4-700 and 701 of the Home Rule Charter.

n. Employer. Section 9-1102(1)(h) of the Fair Practices Ordinance defines **Employer** as: any person who does business in the City of Philadelphia through employees or who employs one or more employees exclusive of parents, spouse or children, including any public agency or authority; any agency, authority or other instrumentality of the Commonwealth; and the City, its departments, boards and commissions.

o. Employment Agency. Section 9-1102(1)(i) of the Fair Practices Ordinance defines **Employment Agency** as: any person regularly undertaking with or without compensation to procure opportunities to work or to procure, recruit, refer or place employees.

p. Executive Director. The duly appointed executive director of the Commission.

q. Familial Status. Section 9-1102(1)(j) of the Fair Practices Ordinance defines **Familial Status** as: when used in this Chapter in all contexts other than housing, the state of being or becoming a provider of care or support to a family member. Family member shall include the individual's spouse, Life Partner, parents, grandparents, siblings, or in-laws; and children, grandchildren, nieces, or nephews (including through adoption or other dependent or custodial relationship). With respect to housing, one or more individuals who have not attained the age of 21 years being domiciled with: (.1) a parent or other person having legal custody of such individual or individuals; or (.2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

r. Fair Practices Ordinance. Chapter 9-1100 of The Philadelphia Code, titled in full as "Philadelphia Fair Practices Ordinance: Protections Against Unlawful Discrimination."

s. Gender Identity. Section 9-1102(1)(k) of the Fair Practices Ordinance defines **Gender Identity** as: self-perception, or perception by others, as male or female, and shall include an individual's appearance, behavior, or physical characteristics, that may be in accord with, or opposed to, one's physical anatomy, chromosomal sex, or sex assigned at birth; and shall include, but not be limited to, individuals who are undergoing or have completed sex reassignment.

t. Genetic Information. Section 9-1102(1)(l) of the Fair Practices Ordinance defines **Genetic Information** as: with respect to an individual, information about such individual's Genetic Tests, the Genetic Tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual.

u. Genetic Test. Section 9-1102(1)(m) of the Fair Practices Ordinance defines **Genetic Test** as: an analysis of DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations or chromosomal changes.

v. Hearing Commissioners. The one or more Commissioners designated by the Chairperson to conduct Preliminary Hearings, Adjudicatory Hearings or Educational Hearings.

w. Home Rule Charter. The Philadelphia Home Rule Charter.

x. Housing Accommodation. Section 9-1102(1)(n) of the Fair Practices Ordinance defines **Housing Accommodation** as: any building, structure or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied as the home residence or sleeping place of one or more individuals, groups, or families, and any vacant land offered for sale or lease or held for the purpose of constructing or locating thereon any such building, structure or portion thereof.

y. Labor Organization. Section 9-1102(1)(o) of the Fair Practices Ordinance defines **Labor Organization** as: any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or of other mutual aid or protection in relation to employment.

z. Lending Institution. Section 9-1102(1)(p) of the Fair Practices Ordinance defines **Lending Institution** as: any bank, insurance company, savings and loan association or any other person or organization regularly engaged in the business of lending money or guaranteeing loans.

aa. Life Partner. A member of a Life Partnership that is verified pursuant to Regulation 3.

bb. Life Partnership. Section 9-1102(1)(r) of the Fair Practices Ordinance defines **Life Partnership** as: a long-term committed relationship between two unmarried individuals of the same gender who: (.1) are residents of the City of Philadelphia; or one of whom is employed in the City, owns real property in the City, owns and operates a business in the City, or is a recipient of or has a vested interest in employee benefits from the City of Philadelphia; (.2) are at least 18 years old and competent to contract; (.3) are not related to each other by blood in any way which would prohibit marriage in the Commonwealth of Pennsylvania; (.4) have no other Life Partner but the other person; (.5) have not been a member of a different Life Partnership for the past twelve months unless the prior Life Partnership ended as a result of the death of the other Life Partner; (.6) agree to share the common necessities of life and to be responsible for each other's

common welfare; (.7) share at least one residence with the other Life Partner; and (.8) agree under penalty of law to notify the Commission of any change in the status of the Life Partnership.

cc. Owner. Section 9-1102(1)(s) of the Fair Practices Ordinance defines **Owner** as: including a lessee, sublessee, assignee, manager, agent, or any other person having the right of ownership or possession or the authority to sell, rent, or lease any housing accommodation, commercial property or other real property, including any public agency or authority, any agency, authority or other instrumentality of the Commonwealth; and the City, its departments, boards and commissions.

dd. Marital Status. Section 9-1102(1)(t) of the Fair Practices Ordinance defines **Marital Status** as: the status of being single, married, separated, divorced, widowed or a Life Partner.

ee. Party or Parties. The Complainant and/or Respondent and others permitted by these Regulations to intervene in the proceedings before the Commission.

ff. Person. Section 9-1102(1)(u) of the Fair Practices Ordinance defines **Person** as: an individual, partnership, corporation, or association, including those acting in a fiduciary or representative capacity whether appointed by a court or otherwise.

gg. Personal Residence. Section 9-1102(1)(v) of the Fair Practices Ordinance defines **Personal Residence** as: a building or structure, occupied by the owner thereof as a bona fide residence for himself or herself and any member of his or her family forming his or her household, containing living quarters occupied or intended to be occupied by either no more than two individuals, two groups or two families living independently of each other, or no more than three inhabitants of a rooming house living independently of each other in addition to the owner thereof and any of his or her family forming his or her household.

ii. Preliminary Hearing. A public hearing as provided for in Sections 4-700 and 701 of the Home Rule Charter.

jj. Public Accommodation. Section 9-1102(1)(w) of the Fair Practices Ordinance defines **Public Accommodation** as: any place, provider or public conveyance, whether licensed or not, which solicits or accepts the patronage or trade of the public or whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public; including all facilities of and services provided by any public agency or authority; any agency, authority or other instrumentality of the Commonwealth; and the City, its departments, boards and commissions.

kk. Real Property. Section 9-1102(1)(x) of the Fair Practices Ordinance defines **Real Property** as: any land, building, dwelling, or leasehold, or interest in any of them; or any unit or interest in a condominium, real estate cooperative, or planned community.

ll. Respondent. The person against whom a Complaint is filed.

mm. Rooming House. Section 9-1102(1)(y) of the Fair Practices Ordinance defines **Rooming House** as: a building containing rooming units arranged or occupied for lodging, with or without meals, and not occupied as a one-family dwelling or a two-family dwelling.

nn. Rooming Unit. Section 9-1102(1)(z) of the Fair Practices Ordinance defines **Rooming Unit** as: any room or group of rooms which together form a single habitable unit occupied or intended to be occupied by an individual or family for living or sleeping, but not for cooking purposes.

oo. Sexual Orientation. Section 9-1102(1)(AA) of the Fair Practices Ordinance defines **Sexual Orientation** as: male or female homosexuality, heterosexuality and bisexuality, by preference, practice or as perceived by others.

pp. Solicit. Section 9-1102(1)(BB) of the Fair Practices Ordinance defines **Solicit** as: in connection with housing accommodation, commercial property or other real property, to mail or deliver any printed matter to the owner or occupant of such property by any real estate broker or agent or representative of any such broker or agent or to make any oral communication either in person or by telephone to the owner or occupant of such property by any real estate broker or agent which advertises the accomplishments or abilities of the real estate broker or agent to sell or rent property, which requests or suggests that the owner list his or her property for sale or rent with the real estate broker or agent, or which offers to purchase or rent the owner's property.

qq. Source of Income. Section 9-1102(1)(CC) of the Fair Practices Ordinance defines **Source of Income** as: including any lawful source of income, and shall include, but not be limited to, earned income, child support, alimony, insurance and pension proceeds; all forms of public assistance, including Temporary Assistance for Needy Families; and housing assistance programs.

rr. Verified. When used in reference to a written statement of fact by the signer, **Verified** means supported by oath or affirmation or made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification of documents.

PHILADELPHIA COMMISSION ON HUMAN RELATIONS

REGULATION NO. 2

PRACTICE AND PROCEDURES

2.0 SCOPE. This Regulation, promulgated by the Commission pursuant to its authority under Sections 4-700 and 4-701 of the Home Rule Charter and Section 9-1111 of the Fair Practices Ordinance, sets forth the procedures for the Commission's investigations, the conduct of enforcement proceedings, and related matters.

2.1 POWERS OF THE COMMISSION. The Commission shall have the power to investigate all matters related to its responsibilities under the Fair Practices Ordinance. Pursuant to Section 4-701 of the Home Rule Charter and Section 9-1111 of the Fair Practices Ordinance, the Commission and its designated agents shall have the power to initiate, receive, investigate, and adjudicate Complaints charging unlawful discrimination practices. Pursuant to Sections 9-1120 and 9-1121 of the Fair Practices Ordinance, the Commission shall have the authority to impose its enforcement powers, including the issuance of orders, fines, and other remedies. This Regulation does not limit the other powers and functions of the Commission, including but not limited to the Commission's powers to institute and conduct educational programs to promote the equal rights and opportunities of all persons.

2.2 SEPARATION OF POWERS. The Commission shall maintain a separation between its investigatory function and adjudicatory function. In that regard, the Commission's investigatory power shall be vested in the Commission Staff as directed by the Executive Director. The Commission's adjudicatory power shall be vested in the Commissioners.

2.3 COMPLAINTS.

a. General. Section 9-1112(1) of the Fair Practices Ordinance provides that: Any person claiming to be aggrieved by an unlawful employment, public accommodation or housing and real property practice may make, sign and file with the Commission a verified Complaint in writing which shall state the name and address of the person or persons alleged to have committed the unlawful practice and the particulars thereof. The Complaint shall also contain such other information as may be required by the Commission.

b. Commission-Initiated Complaint. Section 9-1112(2) of the Fair Practices Ordinance provides that: The Commission, upon its own initiative, may sign and file a Complaint in the manner prescribed in § 9-1112(1) (relating to procedures for filing Complaints).

c. Timing. Section 9-1112(3) of the Fair Practices Ordinance provides that: No Complaint shall be considered unless it is filed with the Commission within three hundred (300) days after the occurrence of the alleged unlawful practice.

d. No Dual Filing with PHRC. Section 9-1112(4) of the Fair Practices Ordinance provides that: The Commission shall not accept a Complaint from any person who has filed a complaint with the Pennsylvania Human Relations Commission with respect to the same grievance.

e. Service. Section 9-1112(5) of the Fair Practices Ordinance provides that: Upon the filing of a Complaint, the Commission shall serve notice upon the Complainant acknowledging the filing and advising the Complainant of the time limits and choice of forums provided under the law. The Commission shall also promptly serve notice of such Complaint on the Respondent or person charged with the commission of an unlawful employment, public accommodations or housing and real property practice, advising of his or her procedural rights and obligations under this Chapter, together with a copy of the Complaint.

f. Amendment. Section 9-1112(6) of the Fair Practices Ordinance provides that: The Complainant or the Commission shall have the power reasonably and fairly to amend his, her, or its Complaint. *See also* Section 2.6 of this Regulation.

g. Filing. A Complaint shall be mailed or hand-delivered to the Commission at: City of Philadelphia Commission on Human Relations, The Curtis Center, 601 Walnut Street, Suite 300 South, Philadelphia, Pennsylvania 19106.

h. Manner of Service. The Commission will serve the Complaint by registered or certified mail pursuant to 231 Pa. Code Rule 403.

i. Withdrawal. A Complaint may be withdrawn by the Complainant with the consent of the Commission.

2.4 ANSWERS.

a. General. Section 9-1113(1) of the Fair Practices Ordinance provides that: The Respondent shall answer the Complaint in writing and shall specifically admit, deny, or explain each of the facts alleged in the Complaint, unless the Respondent is without knowledge or information sufficient to form a belief, in which case the Respondent shall so state, and such statement shall operate as a denial.

b. Denials. Section 9-1113(2) of the Fair Practices Ordinance provides that: Any allegation in the Complaint not specifically denied or explained shall be deemed admitted and shall be so found by the Commission unless good cause to the contrary is shown.

c. Amendment. Section 9-1113(1) of the Fair Practices Ordinance provides that: The Respondent shall have the power reasonably and fairly to amend its Answer. *See also* Section 2.6 of this Regulation.

d. Timing. The Respondent must file a verified Answer with the Commission within twenty-eight (28) days of its receipt of the Complaint.

e. Filing. An original of the Answer plus one copy shall be sent via certified mail or hand-delivered to the Commission at: Philadelphia Commission on Human Relations, The Curtis Center, 601 Walnut Street, Suite 300 South, Philadelphia, Pennsylvania 19106.

f. Service. The Respondent shall send a copy of the Answer to the Complainant via certified mail.

g. Extensions. If the Respondent requires an extension to file the Answer, the Respondent must make the request in writing, show good cause for the extension and notify Complainant. If both Parties are represented by attorneys, the Parties' counsel must confer and stipulate to a new deadline for the filing of the Answer. All extension requests must be approved by the Commission Staff.

h. Default Judgment. If the Respondent fails to file an Answer within twenty-eight (28) days or fails to request an extension within twenty-eight (28) days, the Respondent shall be subject to default judgment.

2.5 COMPLAINANT'S REPLY TO ANSWER.

a. General. A Complainant may file a Reply to Respondent's Answer within twenty-eight (28) days after the receipt of the Answer. Complainant's Reply shall address any affirmative defenses, counter-arguments, and/or new matter raised by Respondent in the Answer.

b. Filing. The Complainant shall send an original of the Reply plus one copy via certified mail or hand-delivered to the Commission at: Philadelphia Commission on Human Relations, The Curtis Center, 601 Walnut Street, Suite 300 South, Philadelphia, Pennsylvania 19106.

c. Service. The Complainant shall send a copy of the Reply via certified mail to the Respondent. The Complainant may request the Commission Staff to serve the Respondent upon a showing of undue hardship.

d. Extensions. If the Complainant requires an extension to file the Reply, the Complainant must make the request in writing, show good cause for the extension and notify Respondent. If both Parties are represented by attorneys, the Parties' counsel must confer and stipulate to a new deadline for the filing of the Answer. All requests for extension must be approved by the Commission Staff.

e. Dismissal. A Complaint may be dismissed based upon the Complainant's failure to address Respondent's affirmative defenses, counter-arguments, and/or new matter.

2.6 AMENDMENT OF COMPLAINT OR ANSWER.

a. General. A Party may amend his, her or its pleading at any time without permission of the Commission if no responsive pleading has been filed, or, once as a

matter of course within twenty-one (21) days after serving it. After such time period expires if a responsive pleading has been filed, a Party may amend only with the opposing Party's written consent or with the approval of the Commission.

b. Filing. An original of the amended Complaint or Answer plus one copy shall be sent via certified mail or hand-delivered to the Commission at: Philadelphia Commission on Human Relations, The Curtis Center, 601 Walnut Street, Suite 300 South, Philadelphia, Pennsylvania 19106.

c. Service. The amending Party shall send a copy of the amended Complaint or Reply via certified mail to the other Party.

2.7 OBLIGATIONS OF THE PARTIES.

a. Submissions to the Commission. The Parties shall provide an original plus one copy of all submissions to the Commission.

b. Change of Address. All Parties shall have the responsibility to provide the Commission with notice of any change of address and with notice of any prolonged absence from that current address.

2.8 PRELIMINARY HEARINGS.

a. General. The Commission, in its discretion, may direct a Preliminary Hearing, pursuant to Section 4-701 of the Home Rule Charter, to determine whether a case should be dismissed prior to completion of an investigation or whenever the Commission deems a Preliminary Hearing necessary or appropriate.

b. Recordings and Interpreters. Preliminary Hearings shall be stenographically recorded, and the Commission may, at its discretion, apportion the costs associated with such recording among the Parties. If a Party requires an Interpreter, written notice must be provided to the Commission within fourteen (14) days of the Preliminary Hearing. The costs associated with an interpreter will not be charged to the requesting Party, pursuant to 2 Pa. Cons. Stat. § 562.

c. Hearsay. Pursuant to 2 Pa. C.S. § 554, the Hearing Commissioners shall not be bound by the technical rules of evidence during a Preliminary Hearing. However, hearsay alone cannot be the basis for a finding by the Commission.

d. Decision and Order. The Commission will notify all Parties, in writing, of the results of any Preliminary Hearing.

2.9 FACT FINDING CONFERENCES. The Commission may require a fact-finding conference with the Parties prior to a determination on a Complaint of discrimination. The conference is primarily an investigative forum intended to define the issues, determine which elements are undisputed, resolve those issues that can be resolved, and ascertain whether there is a basis for negotiated settlement of the Complaint.

2.10 SUBPOENAS. The Commission Staff shall have the authority to issue subpoenas for witnesses and the production of documents on behalf of the Commission in connection with any investigation conducted in accordance with Section 8-409 of the Home Rule Charter. The Party responding shall provide an original plus one copy of all documents produced in compliance with the subpoena. If any person refuses to comply with a subpoena issued by the Commission, the Commission may apply for the enforcement of the subpoena in the appropriate Court of Common Pleas.

2.11 PROBABLE CAUSE FINDING. The Commission Staff may recommend a finding of probable cause where there is a reasonable ground, based upon the investigation, to suspect that a Respondent committed or is committing an unlawful discriminatory practice in violation of the Fair Practices Ordinance. If the Commission finds there is probable cause to believe an unlawful discriminatory practice occurred, the Commission may direct an Adjudicatory Hearing pursuant to Section 9-1117 of the Fair Practices Ordinance.

2.12 STAFF RECOMMENDATIONS FOR CASE CLOSING. The Commission Staff may recommend one of the following to the Commissioners for the basis of a case closing:

a. Charge Not Substantiated. The Commission Staff may recommend a finding of Charge Not Substantiated where the preponderance of the evidence suggests that discrimination did not occur or where there is insufficient evidence to warrant a finding of probable cause.

i. Letter of Determination. Where the Commission completes its investigation of a charge and finds that there is not probable cause to believe that an unlawful discriminatory practice occurred or is occurring, the Commission shall issue a letter of determination to all Parties involved regarding its conclusion. The letter will also notify the Parties of the Commission's reconsideration procedure. See Paragraph 2.14.

b. Satisfactorily Adjusted. The Commission Staff may recommend a finding of Satisfactorily Adjusted where formal settlement agreements have been signed, thereby closing the case, or where the Complainant has signed a withdrawal form due to satisfaction with changes implemented by the Respondent addressing the charge in the Complaint.

c. Lack of Jurisdiction. The Commission Staff may recommend a finding of Lack of Jurisdiction prior to the completion of an investigation. The Commissioners, in their discretion, may direct a Preliminary Hearing to determine whether a case should be dismissed for Lack of Jurisdiction.

d. Administrative Action. The Commission Staff may recommend a finding of Administrative Action where the case closes prior to the completion of an investigation based on the following: failure to cooperate; failure to locate; waiver for right to sue; Complaint withdrawn; Chapter 7 bankruptcy; or court action.

2.13 SETTLEMENT. Prior to the issuance of a determination as to probable cause, the Commission Staff may encourage the Parties to settle the Complaint on terms that are mutually agreeable. Where settlement is successful, the terms of the settlement agreement shall be reduced to writing and shall be signed by the Parties. A copy of the signed agreement shall be sent to the Parties. The Complaint shall thereafter be dismissed and the case closed.

2.14 RECONSIDERATION. After a case is closed based upon a recommendation of Charge Not Substantiated, Administrative Action, or Lack of Jurisdiction where no Preliminary Hearing has been conducted, either Party may petition the Commissioners for a review of the investigation and reconsideration of the case closing. Such reconsideration will be granted only on the conditions that: (i) the request is made within fourteen (14) days of receipt of the final determination letter; and (ii) one of the Parties will provide new or unconsidered evidence. The reconsideration decision will be made by at least one Commissioner who, at his or her discretion, may direct the Parties to appear at a Preliminary Hearing on the claims presented for reconsideration.

2.15 APPEAL TO JUDICIAL REVIEW. The Parties have the right to appeal and seek judicial review of any order of the Commission in accordance with Section 9-1119 of the Fair Practices Ordinance.

2.16 PRIVATE RIGHT OF ACTION. A Complainant has a private right of action in accordance with Section 9-1122 of the Fair Practices Ordinance.

PHILADELPHIA COMMISSION ON HUMAN RELATIONS

REGULATION NO. 3

PROBABLE CAUSE FINDINGS, DISCOVERY AMONG PARTIES AND ADJUDICATORY HEARINGS

3.0 SCOPE. This Regulation, promulgated by the Commission pursuant to its authority under Sections 4-700 and 4-701 of the Home Rule Charter and Section 9-1111 of the Fair Practices Ordinance, sets forth the procedures upon a finding of probable cause, for discovery among the Parties, for the Commission's conduct of Adjudicatory Hearings, and related matters.

3.1 PROBABLE CAUSE FINDING. If the Commission finds there is probable cause to believe an unlawful discriminatory practice occurred in violation of the Fair Practices Ordinance, the Commission may direct an Adjudicatory Hearing pursuant to Section 9-1117 of the Fair Practices Ordinance. Prior to the Adjudicatory Hearing, the Parties may utilize the discovery measures described in Section 3.2 of these Regulations in preparation of the Adjudicatory Hearing.

3.2 DISCOVERY AMONG THE PARTIES.

a. Interrogatories.

- i.** A Party may serve written interrogatories, not exceeding twenty-five (25) in number including subparts, upon any other Party. Interrogatories served upon a public or private corporation, partnership or association shall be answered by an officer or agent who is authorized to furnish the requested information.
- ii.** The recipient of the interrogatories shall answer each interrogatory separately and in writing.
- iii.** Answers to interrogatories shall be verified pursuant to 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.
- iv.** The recipient of the interrogatories shall serve a copy of the answers to the interrogatories upon requesting Party and provide two copies to the Commission within twenty-one (21) days after service of the interrogatories.

b. Production of Documents.

- i.** A Party may serve a written request for the production of documents upon any other Party. A request for the production of documents served upon a public or private corporation, partnership or association shall be answered by an officer or agent who is authorized to furnish the requested information.

- ii. The request for production of documents must describe with reasonable particularity each item or category of items to be produced.
 - iii. The recipient of the request for production of documents shall, within twenty-one (21) days after service of the request, (a) serve a copy of the answers to the request for production of documents, along with responsive documents, upon the requesting Party, and (b) provide two copies to the Commission, along with two sets of responsive documents.
- c. Requests for Admissions.**
- i. Any Party may send to another Party a written request for the admission of the truth of a matter or of the authenticity of any writing, document or record, a copy of which is attached to the request, relevant to the pending proceeding.
 - ii. The recipient of the request for admissions shall serve a copy of the answers to the request for admissions upon the requesting Party and provide two copies to the Commission within twenty-one (21) days after service of the request.
 - iii. Answers to requests for admissions shall be verified pursuant to 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.
 - iv. Matters referred to in subsection (i) will be deemed admitted unless, within twenty-one (21) days after service of the request, the recipient serves upon the requesting Party a sworn and properly executed answer admitting, denying or objecting to each item.
 - v. Reasons for all objections shall be stated.
 - vi. All that is not denied in an answer shall be deemed to be admitted. If an answer reads “denied in part” or “admitted in part,” the answer shall also state with specificity that which is denied and that which is admitted.
 - vii. Upon motion by a Party requesting admissions, a Commissioner, designated by the Chairperson to decide the motion, will determine if the answer complies with this section. The Commissioner may order that the matter is admitted or denied or that the request or answer shall be amended as the circumstances warrant.

3.3 ADJUDICATORY HEARINGS. The function of an Adjudicatory Hearing is similar to that of a trial. Both Parties will be given an opportunity to present their cases before

Hearing Commissioners. The Hearing Commissioners shall decide the case on the merits and are not bound by the Staff's recommendation of Probable Cause.

a. Notice. To commence an Adjudicatory Hearing, the Commission shall serve written notice to each Party with the date, time, and location of the hearing.

b. Pre-Hearing Statement. Each Party shall submit a pre-hearing statement, plus one copy, to the Commission seven (7) days prior to the Adjudicatory Hearing. The statement must contain the following: (i) a summary of the facts; (ii) the legal basis for the claims; (iii) a list of all documents or other tangible items to be introduced as evidence; and (iv) a list of witnesses along with their telephone numbers, addresses, and brief narratives of their expected testimony. The Parties must also exchange copies of their respective Pre-Hearing Statement with each other seven (7) days prior to the Adjudicatory Hearing.

c. Recordings and Interpreters. Adjudicatory Hearings shall be stenographically recorded, and the Commission may, at its discretion, apportion the costs associated with such recording among the Parties. If a Party requires an Interpreter, written notice must be provided to the Commission at least fourteen (14) days prior to the Adjudicatory Hearing. The costs associated with an interpreter will not be charged to the requesting Party, pursuant to 2 Pa. Cons. Stat. § 562.

d. Appearance and Representation. The Parties are required to appear before the Commission at the Adjudicatory Hearing. If either Party wishes to be represented by an attorney or other individual at the Public Hearing, the Party must advise the Commission and provide it with a letter of representation, stating the name, address, telephone number and state bar number, if applicable, of the representative. Although not required, each Party is encouraged to retain counsel to represent him or her at the Adjudicatory Hearing.

e. Failure to Appear at Adjudicatory Hearing. If a Party fails to appear at the time and place designated for the hearing, proof of notice of the hearing shall be entered on the record. Upon failure of a Party to appear and entry of proof of notice on the record, and except where the Hearing Commissioners are able to determine that legitimate, unforeseen circumstances exist to justify a continuance, the Adjudicatory Hearing will proceed without the Party.

f. Oaths and Affirmations. The Hearing Commissioners and their designated agents shall have the power to administer oaths and take testimony on any matter relevant to the alleged unlawful practices that are the subject of the Adjudicatory Hearing.

g. Conduct of Adjudicatory Hearings.

i. Evidence. All documents and all witnesses to be presented at trial must be properly detailed in the Pre-Hearing Statement. No other evidence will be admitted during the Adjudicatory Hearing.

- ii. **Examination and Cross-Examination.** Witnesses shall testify under oath or affirmation and shall be subject to reasonable examination and cross-examination. Witnesses shall appear on behalf of or at the invitation or subpoena of the Commission or on behalf of the Parties to the proceeding.
- iii. **Examination of Witnesses by the Hearing Commissioners.** The Hearing Commissioners may ask questions to witnesses at any time.
- iv. **Limitations of Witnesses and Examination.** The Hearing Commissioners may limit the testimony of witnesses whose testimony is cumulative or similar. The Hearing Commissioners may also limit the time spent on the direct or cross-examination of a witness or a Party's overall examination/cross-examination of witnesses.
- v. **Maintenance of Order.** The Hearing Commissioners may exclude an individual from an Adjudicatory Hearing or limit the number of persons attending an Adjudicatory Hearing as necessary to limit disruption and maintain order and efficiency.

h. **Hearsay.** Pursuant to 2 Pa. C.S. § 554, the Hearing Commissioners shall not be bound by the technical rules of evidence during an Adjudicatory Hearing. However, hearsay alone cannot be the basis for a finding by the Commission.

i. **Post-Hearing Briefs.** Unless waived by the Parties with the consent of the Commission, participants in an Adjudicatory Hearing shall have the right to file Post-Hearing Briefs. The manner and time of filing will be as directed by the Hearing Commissioners, giving regard for the magnitude of the record, the complexity of the issues, and other matters as may be deemed necessary or appropriate. An original plus a copy of the Post-Hearing Briefs shall be provided to the Commission. The Parties must also exchange copies of their respective Post-Hearing Briefs with each other.

j. **Decision and Order.** Section 9-1118 of the Fair Practices Ordinance provides that:

- i. If, upon all the evidence at the hearing, the Commission shall find that Respondent has been engaged in or is engaged in any unlawful practice, the Commission shall state its findings of fact and shall issue and cause to be served on the Respondent an order requiring the Respondent to cease and desist from such unlawful practice or practices and to take such affirmative action which in the judgment of the Commission will effectuate the purposes of this Chapter, including but not limited to, an order directing the Respondent to comply with any of the remedies set forth in §§ 9-1105 (relating to remedies for unlawful employment practices), 9-1107 (relating to

remedies for unlawful public accommodations practices), or 9-1110 (relating to remedies for unlawful housing and real property practices), and any of the penalties set forth in § 9-1121 (relating to penalties).

- ii.** An order by the Commission may require a Respondent to file a report showing compliance and the procedures adopted to effect compliance.

PHILADELPHIA COMMISSION ON HUMAN RELATIONS

REGULATION NO. 4

EDUCATIONAL HEARINGS

4.0 SCOPE. This Regulation, promulgated by the Commission pursuant to its authority under Sections 4-700 and 4-701 of the Home Rule Charter and Section 9-1111 of the Fair Practices Ordinance, sets forth the procedures for the Commission's Educational Hearings.

4.1 POWER TO CONDUCT EDUCATIONAL HEARINGS. Whenever, in the opinion of the Commission, an Educational Hearing is deemed appropriate to obtain information, for the purpose of securing enactment or revision of laws or regulations, or for the purpose of ascertaining the existence or extent of discriminatory practices whether or not prohibited by law, or for the purpose of public education, the Commission may on appropriate notice to the public and interested persons, hold an Educational Hearing in accordance with the power conferred by Sections 4-700 and 4-701 of the Philadelphia Home Rule Charter.

4.2 NOTICE. An appropriate notice stating the time and place of the Educational Hearing, and the matter or matters to be considered or inquired into, shall be given to interested persons in such manner as the Commission may direct.

4.3 ATTENDANCE AND PARTICIPATION. Any person desiring to testify or otherwise participate in an Educational Hearing shall notify the Commission in writing not less than twenty-four (24) hours prior to the Educational Hearing. The Commission may require that requests to participate be accompanied by a full written statement of the matter intended to be presented, and the method of presentation, at the Educational Hearing. Any such statement may, in the discretion of the Hearing Commissioners, be accepted as evidence in such Educational Hearings in lieu of personal appearance or testimony of any person.

4.4 PROCEDURES IN EDUCATIONAL HEARINGS.

a. The Hearing Commissioners shall have power to allow any person or his representative to examine witnesses and submit evidence. Any person may be allowed to participate in person or through a representative, in the discretion of the Hearing Commissioners.

b. The rules of evidence shall not apply.

c. The Hearing Commissioners may, in their discretion, require witnesses to testify under oath or affirmation and shall have the power to administer oaths and affirmations.

d. Verbatim transcripts of testimony need not be kept. The Hearing Commissioners shall direct an appropriate method of recording the proceedings in such hearings.

e. Subpoenas for attendance of witnesses and production of documents may be issued by the Commission in accordance with Section 8-409 of the Home Rule Charter.

f. Any witness may be accompanied by counsel, who may advise the witness during his testimony.

g. Questioning of witnesses may be conducted by the Hearing Commissioners or the counsel for the Commission.

4.5 FINDINGS AND REPORTS. The Hearing Commissioners shall have the power to make and publish their findings in such form as they deem appropriate, together with recommendations for such action as may appear necessary.

PHILADELPHIA COMMISSION ON HUMAN RELATIONS

REGULATION NO. 5

PUBLIC MEETINGS

5.0 SCOPE. This Regulation, promulgated by the Commission pursuant to its authority under Sections 4-700 and 4-701 of the Home Rule Charter and Section 9-1111 of the Fair Practices Ordinance, sets forth the procedures for the Commission's Public Meetings.

5.1 ATTENDANCE AT PUBLIC MEETINGS. Public Meetings shall be conducted only when there is a quorum of Commissioners. A majority of active members of the Commission shall constitute a quorum. These meetings are open to the general public.

5.2 NOTIFICATION OF PUBLIC MEETINGS. Notification of Public Meetings is made by published legal notice.

5.3 OPPORTUNITY TO ADDRESS A PUBLIC MEETING. The Commission may require that any person desiring to address a Public Meeting notify the Commission in writing not less than twenty-four (24) hours prior to the Public Meeting. The Commission reserves the right to grant or deny permission to address the Public Meeting and to limit the length of any speaker's presentation.

PHILADELPHIA COMMISSION ON HUMAN RELATIONS

REGULATION NO. 6

LIFE PARTNERSHIP

6.0 SCOPE. This Regulation, promulgated by the Commission pursuant to its authority under Sections 4-700 and 4-701 of the Home Rule Charter and Section 9-1111 of the Fair Practices Ordinance, sets forth the procedures for Life Partnership Verification and Termination.

6.1 DEFINITION. Section 9-1102(1)(r) of the Fair Practices Ordinance defines Life Partnership as: a long-term committed relationship between two unmarried individuals of the same gender who: (.1) are residents of the City of Philadelphia; or one of whom is employed in the City, owns real property in the City, owns and operates a business in the City, or is a recipient of or has a vested interest in employee benefits from the City of Philadelphia; (.2) are at least 18 years old and competent to contract; (.3) are not related to each other by blood in any way which would prohibit marriage in the Commonwealth of Pennsylvania; (.4) have no other Life Partner but the other person; (.5) have not been a member of a different Life Partnership for the past twelve months unless the prior Life Partnership ended as a result of the death of the other Life Partner; (.6) agree to share the common necessities of life and to be responsible for each other's common welfare; (.7) share at least one residence with the other Life Partner; and (.8) agree under penalty of law to notify the Commission of any change in the status of the Life Partnership.

6.2 VERIFICATION. No Life Partnership shall be recognized as such under the Fair Practices Ordinance unless the members of the Life Partnership have verified the Life Partnership by filing with the Commission, on penalty of perjury, a Verification Statement in the form required by Section 6.3 of this Regulation. Members of the Life Partnership must file with the Commission proof that the Life Partners have been interdependent for at least three (3) months prior to the date the Verification Statement is filed, such proof to include at least two of the following:

- a. Common ownership of real property or a common leasehold interest in property;
- b. Common ownership of a motor vehicle;
- c. Driver's licenses or other state-issued identification listing a common address;
- d. Proof of joint bank accounts or credit accounts;
- e. Proof of designation as a beneficiary for life insurance or retirement benefits, or beneficiary designation under a partner's will;
- f. Proof of appointment as attorney-in-fact or agent under a partner's durable power of attorney or health care power of attorney.

6.3 REQUIRED FORMS. The following forms, attached to these Regulations as Exhibits “A” through “D,” are hereby approved as the official forms which must be used pursuant to Sections 9-1123 and 9-1124 of the Philadelphia Fair Practices Ordinance:

- A. Life Partnership Verification Statement
- B. Joint Life Partnership Termination Statement
- C. Individual Life Partnership Termination Statement
- D. Termination Statement Proof of Service

6.4 EFFECTIVE DATE OF TERMINATION STATEMENT. Pursuant to Section 9-1124(1) of the Fair Practices Ordinance, if a Termination Statement is signed by both Life Partners, it shall become effective sixty (60) days from the date the Termination Statement is filed with the Commission. If a Termination Statement is not signed by both Life Partners, it shall become effective sixty (60) days from the date the Termination Statement Proof of Service (setting forth that a copy of the Individual Life Partnership Termination Statement was served, personally or by certified or registered mail, on the other Life Partner) is filed with the Commission. For the purposes of that provision, service by certified or registered mail to the other Life Partner at his or her last known address shall be deemed sufficient service.

6.5 FEES. The Commission will issue letters accepting or rejecting Verification Statements without a fee. The Commission will also provide, upon request of successful applicants and payment of a fee of Ten Dollars (\$10.00), a ceremonial certificate evidencing the verification of their Life Partnership.



Philadelphia Commission on Human Relations *Life Partnership Verification Statement*

601 Walnut Street, 3rd Floor, Suite 300 South, Philadelphia, PA 19106 · (215) 686-4670

We declare under penalty of perjury that all of the information that we have provided on this form is true, correct and complete to the best of our knowledge. We acknowledge that false statements on this form are punishable pursuant to 18 Pa. C.S. Section 4904 (unsworn falsification to authorities).

We hereby certify that we are members of a Life Partnership meeting each of the following requirements for the existence of a Life Partnership set forth in Section 9-1102(1)(r) of the Philadelphia Fair Practices Ordinance.

1. We are in long-term committed relationship between two (2) unmarried individuals of the same gender;
2. We are residents of the City of Philadelphia; or one (1) of us is employed in the city, owns real property in the City, owns and operates a business in the City, or is a recipient of or has a vested interest in employee benefits from the City of Philadelphia;
3. We are both at least eighteen (18) years old and competent to contract;
4. We are not related to each other by blood in any way which would prohibit marriage in the Commonwealth of Pennsylvania;
5. We have no other Life Partner but each other
6. Neither of us have been members of a different Life Partnership at any point during the past twelve (12) months (unless the prior Life Partnership ended as a result of the death of the other Life Partner);
7. We agree to share the common necessities of life and to be responsible for each other's common welfare;
8. We share at least one (1) residence with each other;
9. We agree under penalty of law to notify the Commission of any change in the status of the Life Partnership.

We are submitting with this Verification Statement evidence that we have been interdependent for at least three (3) months prior to the date this Verification statement is filed, including proof of at least two (2) of the following (check those items for which proof is submitted).

- Common ownership of real property or a common leasehold interest in property.
- Common ownership of a motor vehicle.
- Driver's licenses or other state-issued identification listing a common address.
- Proof of joint bank accounts or credit accounts.
- Proof of designation as a beneficiary for life insurance or retirement benefits, or beneficiary designation under a partner's will.

Exhibit A

____ Proof of appointment as attorney-in-fact or agent under a partner's durable power of attorney or health care power of attorney

We agree to provide the Philadelphia Commission on Human Relations a Life Partnership Termination Statement within thirty (30) days of the date of termination if our Life Partnership should terminate.

Print Name

Print Name

Date

Date

Address - Street

Address - Street

Address – City, State, Zip

Address – City, State, Zip

Telephone Number

Telephone Number

City I.D. # (if applicable)

City I.D. # (if applicable)

Signed

Signed

Exhibit B



Philadelphia Commission on Human Relations
Joint Life Partnership Termination Statement

601 Walnut Street, 3rd Floor, Suite 300 South, Philadelphia, PA 19106 · (215) 686-4670

We declare under penalty of perjury that all of the information that we have provided on this form is true, correct and complete to the best of our knowledge. We acknowledge that false statements on this form are punishable pursuant to 18 Pa. C.S. Section 4904 (unsworn falsification to authorities).

We certify that we are no longer Life Partners and request that our Life Partnership be terminated. We understand that this termination will become effective sixty (60) days from the date this Termination Statement is filed.

Print Name

Print Name

Date

Date

Address - Street

Address - Street

Address – City, State, Zip

Address – City, State, Zip

Telephone Number

Telephone Number

City I.D. # (if applicable)

City I.D. # (if applicable)

Signed

Signed

Exhibit C



Philadelphia Commission on Human Relations
Individual Life Partnership Termination Statement

601 Walnut Street, 3rd Floor, Suite 300 South, Philadelphia, PA 19106 · (215) 686-4670

I declare under penalty of perjury that all of the information that I have provided on this form is true, correct and complete to the best of my knowledge. I acknowledge that false statements on this form are punishable pursuant to 18 Pa. C.S. Section 4904 (unsworn falsification to authorities).

I certify that I am no longer a Life Partner with _____.

I understand that this termination will become effective sixty (60) days from the date that I file with the Commission a "Termination Statement Proof of Service" stating that a copy of this Termination Statement was served, either personally or by certified or registered mail, on my former life partner.

Print Name

Date

Address - Street

Address – City, State, Zip

Telephone Number

City I.D. # (if applicable)

Signed

Exhibit D



Philadelphia Commission on Human Relations
Termination Statement Proof of Service

601 Walnut Street, 3rd Floor, Suite 300 South, Philadelphia, PA 19106 · (215) 686-4670

I declare under penalty of perjury that all of the information that I have provided on this form is true, correct and complete to the best of my knowledge. I acknowledge that false statements on this form are punishable pursuant to 18 Pa. C.S. Section 4904 (unsworn falsification to authorities).

I hereby certify that on (insert date) _____ I served on (insert name of Life Partner on whom Service was made) _____

_____ a copy of the Individual Life

Partnership Termination Statement signed by (insert name of Life Partner who signed Termination Statement) _____.

Such service was made by (indicate either personal service or service by registered or certified mail) _____

_____ to the following

address (insert address):

Print Name

Date

Address - Street

Address – City, State, Zip

Telephone Number

City I.D. # (if applicable)

Signed

PHILADELPHIA COMMISSION ON HUMAN RELATIONS

AMENDED REGULATION NO. 7

WAGE EQUITY ORDINANCE

7.0. Scope. This Regulation, promulgated by the Commission pursuant to its authority under Sections 4-700 and 4-701 of the Home Rule Charter and Section 9-1111 of the Fair Practices Ordinance, sets forth additional definitions and directions pertaining to the Wage Equity Ordinance, Section 9-1131.

7.1. Employer. Section 9-1102(1)(h) of the Fair Practices Ordinance defines Employer as: any person who does business in the City of Philadelphia through employees or who employs one or more employees exclusive of parents, spouse or children, including any public agency or authority; any agency, authority or other instrumentality of the Commonwealth; and the city, its department, boards and commissions.

a. For purposes of Section 9-1131, an “Employer,” in addition to the requirements of Section 9-1102(1)(h), must be a person who engages in the process of interviewing a Prospective Employee with the intention of considering such Prospective Employee for a position located within the City.

7.2 Prospective Employee. An individual who is seeking a position with a new Employer, and whom the Employer is considering hiring for a position located within the City.

a. If an individual seeks a new position (also within the City) with the individual’s current employer, the prohibitions of Section 9-1131(2) shall apply with respect to the employee’s wage history from any previous employer.

7.3. Knowingly and willingly. As used in Section 9-1131(2)(b), “knowingly and willingly” means an action taken voluntarily, with an understanding of the nature and quality of the act. For example, a Prospective Employee “knowingly and willingly” discloses salary history in the context of an employment interview if the Employer has not made a prohibited inquiry under Section 9-1131(2) and the Prospective Employee voluntarily discloses salary history without prompting from the employer.¹ A disclosure of salary history is without prompting if the Employer has not encouraged the disclosure based on the overall context and the Employer’s words or actions.

¹ See *Greater Phila. Chamber of Commerce vs. City of Phila.*, 949 F.3d 116, 155 n. 290 (3d Cir. 2020) (noting that under the Ordinance “applicants can voluntarily provide salary history if *they feel it is in their best interest*” but that “[t]his, of course, does not suggest that an employer can goad or cajole an employee into disclosing prior wages or salary”) (emphasis in original).

7.4 Inquiries prohibited or allowed under § 1131(2)(a).

a. An Employer shall not include a question on paper or electronic employment applications asking Prospective Employees to provide their salary history at any current or previous position, even if the Employer notifies Prospective Employees that they need not answer the question.

b. An Employer may ask a Prospective Employee other questions relevant to the setting of a future salary, such as questions about: the applicant's salary requirements or expectations; skill level; objective measures of productivity that do not require disclosure of salary history, such as revenue, sales, production reports, or profits generated; or experience relative to the position for which the applicant is being considered.

7.5 Evidence before the Commission.

a. A Prospective Employee must prove a violation of the Wage Equity Ordinance by a preponderance of the evidence consistent with the burden of proof in the Fair Practices Ordinance.

b. In determining whether an Employer violated Section 9-1131(2), the Commission will consider relevant evidence, including but not limited to facts regarding the interaction(s) between the Employer and Prospective Employee, the overall context of the interaction(s), and other conduct relating to the Employer's compliance with the Wage Equity Ordinance.

7.6 Enforcement Date.

a. The Commission will begin enforcing the Wage Equity Ordinance on September 1, 2020 (the "Enforcement Date").

b. All interviews, applications, hiring decisions, and policies for Prospective Employees must comply with the Wage Equity Ordinance beginning on the Enforcement Date.

PHILADELPHIA COMMISSION ON HUMAN RELATIONS

REGULATION NO. 8

CASH PAYMENTS IN RETAIL ESTABLISHMENTS

- 8.0. Scope.** This Regulation, promulgated by the Commission pursuant to its authority under Sections 4-700 and 4-70I of the Home Ruic Charter and Sections 9-1111 and 9-1132(4) of the Fair Practices Ordinance, sets forth additional definitions and directions pertaining to the Cashless Retail Prohibition Ordinance, Section 9-1132.
- 8.1. Consumer Goods defined.** Items bought or acquired by individuals for personal, family or household consumption or use.
- 8.2. Consumer Services defined.** Any kind of services offered to individuals primarily for personal, family or household purposes which have intangible value with no physical form, *i.e.*, an experience, result or process.
- 8.3. Accommodations defined.** "Accommodations" for purposes of Section 9-1132 means residential premises, hotels, inns, bed and breakfast establishments, and other limited lodging rentals.
- 8.4. At Retail.** Section 9-1132(I) prohibits "a person selling or offering for sale consumer goods or services at retail" from refusing to accept cash as a fonn of payment. Subject to the exclusions set forth in this Section 8.4 and in Section 8.5, a transaction is "at retail" if it involves a payment for the acquisition of a consumer good or service, for a purpose other than resale. The following transactions are excluded from coverage under this Ordinance:
- a. Transactions conducted by telephone, mail, or internet;
 - b. Payments at parking lots and parking garages;
 - c. All transactions, including membership fees, at wholesale clubs that sell consumer goods and services through a membership model;
 - d. All transactions, including membership fees, at retail stores that sell consumer goods exclusively through a membership model requiring payment by means of an affiliated mobile device application or onlinc application. This exclusion does not apply to memberships at service providers such as fitness clubs.
 - e. Transactions for the rental of consumer goods, services, or accommodations for which posting of collateral or security is typically required;
 - f. Consumer goods or services provided exclusively to employees; and consumer goods or services provided at a facility whose overwhelmingly predominant purpose is to provide such goods or services to employees, and where the possibility of purchases by non-employees is at most incidental to that predominant purpose.

8.4.1. "At Retail," per its definition, contemplates a retail sales transaction conducted in person in the City of Philadelphia and therefore shall not include transactions conducted through automated or other non-person payment processes, including:

- The purchase of items from vending machines;
- The purchase of services through machine vending or kiosk vending, such as massage chairs;
- A prearranged payment for a prearranged rideshare service which is conducted exclusively through the use of a mobile application.

8.4.2. (a) A transaction initiated by means of the telephone or internet but completed in person at the seller's location_ (for example. a food order over the telephone or internet which the purchaser picks up), is a retail transaction subject to the requirement to accept cash.

(b) A transaction initiated by means of the telephone or internet but completed in person off premises (for example, a food order over the telephone or internet which the purchaser has delivered to a home or office), is not a retail transaction subject to the requirement to accept cash.

(c) A transaction initiated by means of the telephone or internet, where payment is made by the customer from off the premises, by telephone or internet, is not a retail transaction subject to the requirement to accept cash.

8.4.3. A transaction with City government for a consumer service that is conducted in person, including payments for City services, City fines, or fees for City licenses and permits, is not subject to the requirement to accept cash, so long as the City maintains at least one convenient location where cash is accepted for such transactions.

8.5 Cash Conversion. A seller of consumer goods or services who does not accept cash payments but directly provides its customers with ready access to a means of converting cash to an all-purpose pre-paid card, such as through a cash-to-card kiosk machine, is not in violation of the Ordinance, provided that:

- The conversion machine is operational and easily accessible at the point of purchase; and

The conversion is free and no additional cost is added to the purchase.

8.6 No discounts or penalties. No retail dealer shall offer a discount for payment by means other than cash; and no retail dealer shall impose a penalty or any additional charges for payment with cash.

**PHILADELPHIA COMMISSION ON HUMAN RELATIONS
REGULATION NO. 9
UNIFORM POLICY OF NON-DISCRIMINATION AS TO TRANSGENDER AND
GENDER NON-CONFORMING YOUTH**

9.0 SCOPE. This regulation, promulgated by the Commission pursuant to its authority under Section 9-1133 of the Home Rule Charter and Section 9-1111 of the Fair Practices Ordinance, applies to conduct that takes place in institutions serving youth, on their property, at their sponsored functions or activities. This regulation also pertains to the usage of electronic technology and electronic communication that occurs in institutions serving youth, including but not limited to, on their property, at their sponsored functions and activities, and on their computers, networks, forums, and mailing lists.

9.1 DEFINITIONS.

- a. Youth.** Shall have the meaning given in § 9-1133(1).
- b. Institution or Institutions.** Shall have the meaning given to the term “Institutions Serving Youth” in § 9-1133(1).
- c. Gender identity.** Shall have the meaning given in § 9-1102(1).
- d. Transgender.** Individuals whose self-determined gender identity is different from the sex classification assigned to them at birth. Included are individuals making social and medical transitions in accord with their self-determined gender identity.
- e. Gender expression.** The way a person expresses gender to others through behavior, clothing, hairstyles, activities, voice, or mannerisms.
- f. Gender nonconforming.** Shall have the meaning given in § 9-1133(1).
- g. Gender-neutral pronouns.** Pronouns, such as they/them/their (singular), which are used by some transgender and gender non-conforming individuals. Gender neutral terms also include “parent/legal guardian” instead of “mother” or “father” and “child/youth” instead of “girl” or “boy.”

9.2 GUIDANCE.

- a. Names/Pronouns**
Institutions shall use the name and pronouns with which a youth identifies in all interactions between the youth and the institution as well as in written correspondence, records or communication of the institution. The intentional or persistent refusal to respect a youth’s gender identity or gender expression (for example, intentionally referring to the youth by a name or pronoun that does not correspond to the youth’s gender identity or gender expression) is a violation of

this regulation. Upon receipt of a complaint alleging such violation, the Commission shall investigate the complaint pursuant to the practices and procedures set forth in Regulation No. 2.

b. Hate Speech

Institution personnel shall not use derogatory or offensive terminologies when communicating with or referring to a transgender or gender nonconforming individual. Institution personnel shall take reasonable steps to prevent and promptly correct any derogatory or offensive terminologies used in communication with or in reference to a transgender or gender nonconforming individual. Offensive slurs when used in any context may be considered hate speech.

c. Privacy/Confidentiality

Institution personnel shall not disclose information that may reveal a youth's transgender identity or gender nonconformity to others, including staff, peers, parents, and other members of the public, unless the youth has authorized such disclosure. Institution personnel shall take reasonable steps to prevent and promptly correct any disclosure of information that may reveal a youth's transgender identity or gender nonconformity to others, including staff, peers, parents, and other members of the public, unless the youth has authorized such disclosure. The intentional or persistent disclosure of a youth's gender identity, or gender nonconformity, or the failure to secure documents or other information pertaining to the youth's gender identity or gender nonconformity is a violation of this regulation. Upon receipt of a complaint alleging such violation, the Commission shall investigate the complaint pursuant to the practices and procedures set forth in Regulation No. 2.

d. Gender-Expansive Activities

To the extent possible, institutions should reduce or eliminate the practice of segregating youth by gender. In situations where youth are segregated by gender, youth shall be assigned and permitted to participate in any such activities consistent with their gender identity.

h. Gender-Neutral Language

To the extent possible, institutions should use gender-neutral language in written communication, regardless of a youth's gender identity. This includes using "they" (singular) instead of "he/she." This also includes using "parent/legal guardian" instead of "mother" or "father" and "child/youth" instead of "girl" or "boy."

e. Restroom Access

Youth shall have access to the restroom that corresponds to their gender identity. Any youth who has a need or desire for increased privacy, regardless of the underlying reason, should be provided access to a single-stall restroom, but no youth shall be required to use such a restroom. To the extent a single-stall

restroom is unavailable, the institution shall provide a reasonable alternative arrangement that is agreeable to the child/youth.

f. Locker/Dressing Room Access

Children/youth shall have access to the locker/dressing room that corresponds to their gender identity. Any youth with a need or desire for heightened privacy, regardless of the underlying reason, should be provided with a reasonable alternative arrangement that is agreeable to the youth. Any alternative arrangement should be provided in a way that protects the confidentiality of a youth's gender identity.

g. Dress Codes/Uniforms

Where dress codes exist, youth shall be permitted to dress in clothing that corresponds to their gender identity or gender expression, including maintaining a gender-neutral appearance.

9.3 DISCRIMINATION/ HARASSMENT.

a. Discrimination

Section 9-1102(1)(e) of the Fair Practices Ordinance defines Discrimination as: Any direct or indirect practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, differentiation or preference in the treatment of a person on the basis of actual or perceived race, ethnicity, color, sex (including pregnancy, childbirth, or a related medical condition), sexual orientation, gender identity, religion, national origin, ancestry, age, disability, marital status, source of income, familial status, genetic information or domestic or sexual violence victim status, or other act or practice made unlawful under this Chapter or under the nondiscrimination laws of the United States or the Commonwealth of Pennsylvania as unlawful.

Any violation of Section 9-1133, as explained in these regulations, may create a presumption of discrimination under the Fair Practices Ordinance. Upon receipt of a complaint alleging such violation, the Commission shall investigate the complaint pursuant to the practices and procedures set forth in Regulation No. 2.

b. Investigation

It shall be the responsibility of each institution to ensure that any incident of discrimination, harassment, or violence is immediately and thoroughly investigated. The institution shall fully communicate the process which will be used during the investigation and communicate the status of the investigation to the youth. The institution shall take appropriate corrective action to remediate discrimination or harassment.

9.4 TRAINING AND POSTING REQUIREMENT. Institutions shall regularly conduct training for all staff members on their responsibilities under the uniform policy of non-discrimination set forth in applicable laws and this regulation. To the extent possible, institutions

shall implement ongoing professional development to build the skills of all staff members to prevent, identify, and respond to bullying, harassment, and discrimination against transgender and gender nonconforming youth. The institution shall make the uniform policy of non-discrimination known to the youth population it serves in English and the primary languages of youth who commonly access the institution. The institution shall post the written policy in a location accessible to all, on its organizational website, and by such other notification measures as the institution determines will reasonably provide notice of the policy.

9.5 EXEMPTIONS. Any institution or program claiming exemption from compliance with the uniform policy of nondiscrimination based on bona fide religious purposes or any other legal basis shall raise such affirmative defense in its Answer to the Complaint, in accordance with the practices and procedures set forth in Regulation No. 2. The Commission shall grant exemptions to the extent required by applicable legal precedent at the time of the request.