

## **Chapter 40**

### **HUMAN RELATIONS**

#### **§ 40-1. Purpose and declaration of policy.**

- A. The Borough of Bridgeport finds it necessary to enact appropriate legislation in order to ensure that all persons within the Borough, regardless of actual or perceived race, color, sex, religion, ancestry, genetic information, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, mental or physical disability, veteran status, or the use of guide or support animals and/or mechanical aids (hereinafter collectively, "characteristics") enjoy the full benefits of citizenship and are afforded equal opportunities for employment, commercial property, housing and the use of public accommodations, and to have equal access to post-secondary educational institutions.
- B. It is hereby declared to be the public policy of Bridgeport Borough to foster the employment of all individuals in accordance with their fullest capacities regardless of their actual or perceived characteristics, and to safeguard their right to obtain and hold employment without such discrimination, to assure equal opportunities to all such individuals and to safeguard their rights to public accommodation and to secure housing accommodation and commercial property without regard to their actual or perceived characteristics, and to have equal access to post-secondary educational institutions without regard to their actual or perceived characteristics.
- C. Nothing in this chapter shall be construed as supporting or advocating any particular doctrine, position, point of view, lifestyle or religious view. To the contrary, it is the intention of this chapter that all persons be treated fairly and equally, and it is the express intent of this chapter to guarantee fair and equal treatment under the law to all people of the Borough.
- D. This chapter shall be deemed an exercise of the police power of Bridgeport Borough for the protection of the public welfare, prosperity, health and peace of the Bridgeport community.

#### **§ 40-2. Definitions.**

To the extent words and phrases appearing in this chapter are not expressly defined herein, the meaning of the words and phrases in this chapter shall be construed consistently with the Pennsylvania Human Relations Act. The following words and phrases, when used in this chapter, shall have the following meanings:

**BOROUGH** — The Borough of Bridgeport, County of Montgomery, Commonwealth of Pennsylvania.

**BOROUGH COUNCIL** — The Borough Council of the Bridgeport Borough.

DISCRIMINATION — Any discriminatory act(s) taken by any person, employer, employment agency, labor organization or public accommodation on the basis of actual or perceived race, color, sex, religion, ancestry, genetic information, national origin, sexual orientation, gender identity or expression, familial status, marital status, age, mental or physical disability, veteran status, or use of guide or support animals and/or mechanical aids.

DISCRIMINATORY ACTS — Discriminatory acts include, but are not limited to, all acts defined in the Pennsylvania Human Relations Act, Title VII of the Civil Rights Act of 1991, the Age Discrimination in Employment Act and/or any other federal law addressing discrimination based on any protected characteristic protected by this ordinance, or any acts of discrimination regardless of whether such actions would otherwise be lawful under state or federal law. The fact that the Pennsylvania Human Relations Act would not define a practice as unlawful when that practice is taken on the basis of actual or perceived sexual orientation, gender identity or expression, genetic information, veteran status, or marital status shall not exempt such practice from being considered a discriminatory act under this chapter.

EDUCATIONAL INSTITUTION — Those post-secondary programs defined as educational institutions pursuant to the Pennsylvania Fair Educational Opportunities Act, 24 P.S. § 5001 et seq.

EMPLOYEE — A person who is hired for a wage, salary, fee, or payment to perform work for an employer on a regular basis. A person will be deemed to be an employee if such person regularly performs services for the employer for compensation and the employer controls what work will be done by the person and how it will be done. The term does not include any individuals who, as a part of their employment, reside in the personal residence of the employer.

EMPLOYER — Any person who employs one or more employees, including the Borough, its departments, boards and commissions, and any other government agency within its jurisdiction.

GENDER IDENTITY OR EXPRESSION — Self-perception, or perception by others, as male or female, or lack thereof, 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 is not limited to, persons who are undergoing or have completed sex reassignment, are transgendered or gender variant.

GENETIC INFORMATION — That information which is defined as genetic information in the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff.

HOUSING ACCOMMODATIONS —

A. The term includes:

- (1) Any building, structure, mobile home site or facility, 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, whether or not living independently of each other; and

- (2) Any vacant land publicly offered for sale or lease for the purpose of constructing or locating thereon any such building, structure, mobile home site or facility.

B. The term "housing accommodation" shall not include any personal residence offered for rent by the owner or lessee thereof or by his or her broker, salesperson, agent or employee.

ORDINANCE — This chapter, which shall also be known as the "Human Relations Ordinance."

PERSON — Any natural person, fraternal, civic or other membership organization, corporation, general or limited partnership, proprietorship, limited liability company, or similar business organization, including the Borough, its departments, boards and commissions, and other for-profit and nonprofit organizations.

PERSONAL RESIDENCE — A building or structure containing living quarters occupied or intended to be occupied by no more than two individuals, two groups or two families living independently of each other and used by the owner or lessee thereof as a bona fide residence for himself and any members of his family forming his household.

PUBLIC ACCOMMODATION — Any accommodation, resort or amusement which is open to, accepts or solicits the patronage of the general public or offers goods or services, including loans, to the general public or is listed in Section 4(1) of the Pennsylvania Human Relations Act, 43 P.S. § 954(1), but shall not include any accommodations which are in their nature distinctly private.

SEXUAL ORIENTATION — Actual or perceived homosexuality, heterosexuality and/or bisexuality.

### **§ 40-3. Unlawful practices.**

- A. Discrimination in housing, employment, commercial property, public accommodations or access to post-secondary educational institutions is prohibited under this chapter.
- B. Retaliation against any individual because such individual has opposed any practice forbidden by this chapter, or because such individual has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing under this chapter is prohibited under this chapter.
- C. Aiding, abetting, inciting, compelling or coercing the doing of any act declared by this chapter to be an unlawful practice, or obstructing or preventing any person from complying with the provisions of this chapter is prohibited under this chapter.

**§ 40-4. Exceptions.**

Notwithstanding any other provision of this chapter, the following shall not be considered unlawful under this chapter, or shall otherwise not apply:

- A. Employment practices for a religious corporation, organization, or association, not supported in whole or in part by governmental appropriations, in refusing to hire, house, employ, or otherwise accommodate an individual on the basis of such religious organization's established and demonstrated religious principles or beliefs.
- B. Selections or preferences by a religious institution, denomination or organization, or any charitable or educational organization which is operated or controlled by a religious organization, given to a member of that same religious organization when determined by such organization to promote the established and demonstrated religious principles or beliefs of the organization.
- C. Selections or preferences by any bona fide private or fraternal organization given to a member of that same private or fraternal organization when determined by such organization to promote the aims, purposes or fraternal principles for which the organization is established or maintained.
- D. Enforcement of a dress code or grooming which is reasonably related to the business or profession being conducted, provided that: (1) such dress code or grooming is not a subterfuge for discriminatory purposes; (2) the employer reasonably accommodates the bona fide religious practices or disability of an employee; or (3) the enforcement of a dress code or grooming does not have a disparate impact on employees with a characteristic protected by this ordinance.
- E. The advertising, rental, or leasing of housing accommodations in a single-sex dormitory.

**§ 40-5. Establishment of Human Relations Commission.**

- A. Pursuant to 43 P.S. § 962.1 of the Pennsylvania Human Relations Act, there is hereby established a Human Relations Commission in and for Bridgeport Borough (hereinafter referred to as the "Bridgeport Human Relations Commission" or the "Commission").
- B. The Bridgeport Human Relations Commission shall consist of three members and one alternate member who shall serve terms of five years each. At all times there shall be an odd number of members. All members of the Commission shall be appointed by the Borough Council and shall be residents of the Borough. Members of the Commission shall serve without salary but may be paid expenses incurred in the performance of their duties, as approved by Borough Council. Each member, when initially appointed, will have a term of three, four or five years. The terms will be arranged in such a manner that all future terms

will be in five-year increments, with one member of the Commission up for appointment each year.

- C. One of the Commission's members shall be appointed as the Chairperson of the Commission by Borough Council. The Chairperson will be responsible for setting Commission meetings, coordinating with the Borough Manager regarding complaints and answers received, and generally ensuring that the duties of the Commission are fulfilled. The Chairperson may delegate responsibility for Commission duties to specific members of the Commission.
- D. Borough Council hereby grants to the Commission all of the powers necessary to execute its duties, as established in this chapter.
- E. The Commission shall be empowered to promulgate such additional procedures to those set forth herein as it determines to be necessary or desirable to implement the intent of this chapter, subject to review and approval of Borough Council.
- F. A member of the Commission shall hold office until his or her successor has been appointed by Borough Council. However, a member of the Commission may be removed at any time, with or without cause, by a majority vote of Borough Council.
- G. If a vacancy shall occur by reason of the death, disqualification, resignation, or removal of a member, a successor shall be appointed by Borough Council to fill the remainder of the unexpired term.
- H. The Commission shall keep a full record of its business and shall no less than annually make a written report of its activities, if any, to Borough Council. Interim reports may be made as often as may be necessary or as requested by Borough Council. In addition to written reports, and upon request of Borough Council, the Commission shall send a representative to attend a Council/Committee meeting in order to present on any matters so requested.

**§ 40-6. Procedures; expanded procedures.**

- A. Filing a complaint.
  - (1) Any person(s) claiming to be aggrieved by an unlawful practice, as set forth above, may submit a signed, verified, written, and completed complaint alleging violations of this chapter. The written complaint shall include the following information:
    - (a) The name, address, and contact information of the aggrieved person(s);
    - (b) The name and address, and contact information of the person(s) alleged to have committed the prohibited practice;
    - (c) A concise statement of the facts substantiating the complaint, including pertinent dates, locations, and persons involved;

- (d) If applicable, the address and a description of the public accommodation, dwelling, commercial property, or housing accommodation which is involved; and
  - (e) Such other information as may be required by the Borough.
- (2) Completed written complaints must be delivered to the Borough Office to the attention of the Borough Manager. All completed complaints must be received by the Borough Office within 180 days of the alleged act of discrimination to be considered timely.
  - (3) The Borough Manager shall record the date and time the written complaint was delivered to the Borough Office and shall convey the complaint received to the Chairperson of the Commission within 10 work days of the Office's receipt of the completed, written complaint. The Borough Manager shall return to the submitter any complaints deemed incomplete or not in technical compliance with this section, along with an explanation for the rejection.
  - (4) The Borough Office may promulgate forms for use by persons wishing to file a complaint. However, complaints which are prepared without the use of an approved form shall be deemed acceptable under this chapter so long as the requirements of this section can be clearly determined from the document submitted.
- B. Notification and answer.
- (1) Within 30 days of its receipt of a complaint from the Borough Manager, the Human Relations Commission shall determine if it has jurisdiction hereunder to hear the complaint. If the Commission determines that it does not have such jurisdiction, it shall dismiss the complaint and notify the allegedly aggrieved party. If the Commission determines it has jurisdiction to hear the complaint, it shall proceed to:
    - (a) Send a copy of the complaint to the person(s) charged with a discriminatory practice (the "respondent[s]"); and
    - (b) Send a notice to the person(s) allegedly aggrieved (the "complainant"), informing the complainant that the complaint has been received.
  - (2) If the respondent wishes to address the complaint, the respondent shall file a written verified answer to the complaint within 30 days of receipt of the complaint. An answer to a complaint may be filed in the same manner as an original complaint or submitted to the Chairperson of the Commission. If the answer is filed with the Borough Office, it shall be conveyed by the Borough Manager to the Chairperson of Commission within 10 work days of the Borough Office's receipt thereof. The Commission shall promptly send a copy of the answer to the person(s) allegedly aggrieved.

## C. Mediation.

- (1) Mediation conference. If an answer to the complaint has been received, or 10 days following the deadline to answer the complaint if no answer was received, the Commission shall invite the parties to voluntarily participate in a mediation conference concerning the dispute. The parties shall respond to the invitation to participate in a mediation conference within 15 days of being invited to participate.
- (2) Conference procedures. If mediation is elected by the parties, the parties may jointly select a mediator, in which case they shall be jointly responsible for all financial costs and expenses associated with mediation and may allocate the costs of mediation as they agree. If the parties do not jointly select a mediator or agree to allocation of costs pursuant to approved procedures of the Commission, the Chairperson of the Commission shall select a mediator, who may be either a member of the Commission or a volunteer from the community. The parties shall meet with mediator at a location mutually agreeable to the parties within 30 days of the agreement to participate in the mediation. Mediation proceedings shall otherwise be confidential. Neither the results thereof nor any record made in connection therewith shall be made public unless agreed to in writing by both parties to the dispute.
- (3) Conciliation. The mediator shall notify the Commission of whether the mediation conference resulted in a resolution of the complaint within 10 days from the date of such resolution or, alternatively, 10 days from the date that the mediator determines that mediation will not be possible. In the event the complaint is resolved through the mediation, the Commission shall notify the parties that the complaint has been dismissed.

D. Disposition of the complaint. Provided the Commission has not elected under Subsection F of this section to use expanded procedures, and if the complaint is not resolved through the mediation conference, the Commission shall notify the complainant that the complainant may pursue any available remedy under law or equity, including, but not limited to, pursuing the matter in court or pursuing any available claims under the Pennsylvania Human Relations Commission and/or the federal Equal Employment Opportunity Commission.

E. Failure of complainant to respond or cooperate with investigation. Failure of the complainant to respond to the Commission's inquiries in a timely manner, attend a scheduled mediation conference, or otherwise participate or cooperate with any of the Commission's proceedings or investigation shall result in a dismissal of the complaint, with notice being provided to both parties by the Commission of such dismissal and the reasons therefor.

- F. Option of the Commission to elect for expanded procedures. The Commission shall have the authority to elect, upon majority vote, to adopt expanded procedures as set forth in Subsections G through L of this section subject to approval by Borough Council and appropriation of necessary funding, if any, for such procedures. Any such election for expanded procedures must be approved by Council prior to the filing of a complaint in order for such procedures to be utilized in resolving the complaint. In the event that such procedures are adopted, they must, while in effect, be applied to all complaints that are not resolved through a mediation conference. If the Commission has adopted expanded procedures, it may also, by majority vote and in its sole discretion, eliminate such procedures.
- G. Expanded procedures; investigation and dismissal of complaint.
- (1) Investigation. If the mediation conference was successful in resolving the complaint, the Commission shall follow the procedures set forth in Subsection C of this section for dismissing the complaint. If the mediation conference was not successful in resolving the complaint, the Commission shall, in a timely fashion, investigate the allegations of discrimination set forth in the complaint. The Commission may, in the conduct of such investigation, issue subpoenas to any person with information regarding the alleged unlawful practice to furnish such information, records or other documents to the Commission, or to give sworn testimony, as necessary to assist in its investigation.
  - (2) Finding of no cause. If it shall be determined after the Commission's investigation that there is no basis for the allegations of the complaint, the Commission shall cause to be issued and served upon the party's written notice of such determination. This notice shall inform the complainant that the complainant may proceed to pursue any available remedy under law or equity, including, but not limited to, pursuing the matter in court or pursuing any available claims under the Pennsylvania Human Relations Commission and/or the federal Equal Employment Opportunity Commission.
  - (3) Conciliation. If the Commission, after investigation, determines that probable cause exists for the allegations of the complaint, the Commission shall immediately endeavor to eliminate the unlawful practice complained of by persuasion, conference and conciliation.
- H. Expanded procedures; public hearing.
- (1) If the Commission, in its discretion, finds it is not possible to eliminate the unlawful practices by persuasion, conference or conciliation, the Commission shall cause to be issued and served a written notice scheduling a public hearing before the Commission at a time and place to be specified in such notice.

- (2) The Commission may designate one or more of its members to preside at such a hearing or it may, at its election, conduct such hearing en banc. Any Commission member who acted as a mediator, investigator or conciliator shall not participate in such public hearing except as a witness to present the results of the investigation.
- (3) At the public hearing, the case in support of or against the complaint shall be presented to the Commission by the respective parties or their attorneys. The complainant must appear at the hearing to provide testimony; otherwise the complaint shall be dismissed. If the respondent does not appear at the hearing, the complainant shall still present testimony to substantiate the complaint. Both the complainant and the respondent may introduce the testimony of additional witnesses and may submit other relevant evidence. The Commission and the parties shall not be bound by the strict rules of evidence at the hearing, but irrelevant or unduly repetitious evidence may be excluded by the Commission in its discretion.
- (4) At the public hearing, the Commission shall be represented by the Borough Solicitor. A court reporter shall make a formal record of the proceedings.

I. Expanded procedures; findings and award.

- (1) If, after receiving all the evidence at the hearing, the Commission finds by a preponderance of the evidence that the respondent has engaged in or is engaging in any unlawful practice, as set forth above, 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 practices. Additionally, the Commission may order, in its sole discretion, compensation for loss of work in matters involving the unlawful practice, hiring, reinstatement or upgrading of employees, with or without back pay, admission or restoration to membership in any respondent labor organization, the making of reasonable accommodations, or selling or leasing specified housing accommodations or publicly offered commercial property upon such equal terms and conditions as were available to other persons at the time of the unlawful practice, compensatory damages, punitive damages, emotional distress damages, payment of any other verifiable, reasonable out-of-pocket expenses caused by such unlawful discriminatory practice, including, but not limited to payment of the complainant's reasonable attorneys' fees and costs, or any remedies available to the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act. Such attorneys' fees may include reasonable time for representation before the Commission at the public hearing under this chapter but shall not include time incurred in the filing of the complaint or appearances before the Commission or mediator in the mediation

or conciliation process. Back pay liability shall not accrue from a date more than three years prior to the filing of a complaint charging violations of this chapter. It shall be the duty of the complainant to substantiate at the public hearing the amounts of any such losses to be ordered by the Commission.

- (2) If the Commission determines that the respondent has engaged in or is engaging in any such unlawful practices as set forth in Subsection I(1) above, the Commission shall order that the fees incurred by the Borough, including the Borough's attorneys' fees associated with the complaint and the hearing, and other costs of the public hearing, including advertising and court reporting costs, shall be paid by the respondent.
  - (3) The Commission's order may also assess a civil penalty against the respondent in an amount not exceeding \$10,000 with respect to all matters alleged in the complaint.
  - (4) If, upon all the evidence at the hearing, the Commission finds that a respondent has not engaged in or is not engaging in any unlawful practice, and also finds that the complaint was brought by the complainant in bad faith, or the complainant fails to appear at the public hearing without a reasonable excuse, the Commission may award attorneys' fees and costs to the prevailing respondent, and shall order the complainant to pay for the Borough's attorneys' fees and public hearing costs.
- J. Expanded procedures finding of no discrimination. If upon all the evidence the Commission shall find that a respondent has not engaged in any unlawful discriminatory practice by a preponderance of the evidence, the Commission shall state its findings of fact and shall issue and cause to be served on the parties an order dismissing the complaint as to such respondent. The Commission shall also provide a notice to the complainant that the complainant may proceed to pursue any available remedy under law or equity, including, but not limited to, pursuing the matter in court or pursuing any available claims under the Pennsylvania Human Relations Commission and/or the federal Equal Employment Opportunity Commission.
- K. Expanded procedures; appeal. Any order of the Commission may be appealed to the Court of Common Pleas of Montgomery County within 60 days of its date as provided by law. The Borough shall retain the right to intervene in any appeal.
- L. Expanded procedures; enforcement. When the Commission has heard and decided any complaint brought before it, enforcement of its order shall be initiated by the filing of a petition in court, together with a transcript of the record of the hearing before the Commission, and issuance and service of a copy of said petition as in proceedings in equity.

**§ 40-7. Private right of action and nonlimitation of remedies.**

Having exhausted the administrative remedies set forth herein, an aggrieved person shall have the right to pursue any rights or causes of action at law or in equity to which such person may be entitled. Nothing in this chapter limits the right of an aggrieved person to recover under any other applicable law or legal theory.