

TABLE OF CONTENTS
FOR
EQUAL OPPORTUNITY

INTRODUCTION **EO-1**

PENNSYLVANIA LEGAL OBLIGATIONS **EO-1**

Pennsylvania Human Relations Act (PHRA) **EO-2**

Pennsylvania Equal Pay Law **EO-6**

Pennsylvania Crime Victims Act **EO-7**

Discrimination Charges **EO-7**

FEDERAL LEGAL OBLIGATIONS **EO-12**

Immigration Reform and Control Act (IRCA) **EO-13**

Equal Pay Act (EPA) **EO-13**

Americans with Disabilities Act (ADA) **EO-14**

Civil Rights Act **EO-18**

EEOC Employer Information Report (Form EEO-1) **EO-19**

**Age Discrimination in Employment Act (ADEA) and
 Older Workers Benefits Protection Act (OWBPA)** **EO-20**

Pregnancy Discrimination Act **EO-21**

Genetic Information Nondiscrimination Act (GINA) **EO-21**

Family and Medical Leave Act (FMLA) **EO-22**

**Uniformed Services Employment and
 Reemployment Rights Act (USERRA)** **EO-27**

Rehabilitation Act of 1973 **EO-28**

**Vietnam-Era Veterans' Readjustment
Assistance Act (VEVRAA)** **EO-28**

EQUAL OPPORTUNITY ADMINISTRATION **EO-30**

SEXUAL HARASSMENT **EO-31**

INTRODUCTION

All employers, regardless of size, should be aware of state and federal laws regarding equal opportunity. Different laws and regulations apply, depending on the size and type of business.

PENNSYLVANIA LEGAL OBLIGATIONS



Pennsylvania Human Relations Act (PHRA)—prohibits employment practices that discriminate against applicants, employees, and independent contractors based on race, color, familial status, ancestry, sex, national origin, religious creed, age (40 years of age and older), and non-job-related disabilities. The Act covers all public and private-sector employers with 4 or more employees including labor unions and employment agencies.

The PHRA prohibits employers from harassing or retaliating against a person who files a discrimination charge or participates in an investigation or hearing. The PHRA is enforced by the Pennsylvania Human Relations Commission (PHRC).



Pennsylvania Equal Pay Law—prohibits discrimination in the rate of pay because of the employee's gender. Employers may not pay unequal wages to male and female employees for doing the same or substantially similar work that requires equal skill, effort, and responsibility, and is performed under similar working conditions. The law applies to all employers.

The Pennsylvania Equal Pay Law is enforced by the Pennsylvania Secretary of Labor and Industry.



Pennsylvania Crime Victims Act—prohibits discrimination against an employee who attends court because she is a victim of crime, a witness to a crime, or is a family member of a victim. The employer may not terminate the employee, deprive the individual of her seniority position or benefits, nor threaten or coerce the employee for attending court. The Act applies to all employers.

PENNSYLVANIA HUMAN RELATIONS ACT



The Pennsylvania Human Relations Act (PHRA) prohibits employment practices that discriminate against applicants, employees, and independent contractors based on race, color, ancestry, national origin, sex, religious creed, age (40 years of age and older), non-job-related handicap or disability, use of a guide or support animal due to blindness, deafness, or physical handicap, or because the user is a handler or trainer of support or guide animals. The Act covers all public and private-sector employers with 4 or more employees including labor unions and employment agencies.

The Pennsylvania Human Relations Commission enforces the Pennsylvania Human Relations Act (PHRA). The Commission can issue, receive, investigate, settle and dismiss discrimination complaints. The Commission also has the authority to hold hearings, subpoena witnesses, and bring lawsuits in state court. Complaints under the PHRA must be filed within 180 days of the alleged discriminatory practice.

Posting Requirements: All covered employers must **post** a summary of the Act in a prominent location in the workplace. Additional posting requirements may apply to certain employers under the Fair Housing, Fair Lending, Public Accommodations, and Educational provisions of the Act. More information on posting requirements is provided in the **Legal Obligations** chapter.

ARE THERE PROHIBITIONS FOR EMPLOYERS UNDER THE PHRA?

Generally, the Act prohibits employers from taking any of the following actions against an employee or applicant if the action is based on any of the previously-mentioned, protected characteristics:

- Refusal to hire or employ a person.
- Barring or discharging a person from employment.
- Discriminating against a person in compensation or in terms, conditions or privileges of employment.
- Harassing, discharging or otherwise discriminating against a person because the person has filed a complaint under the Act, or testified in any investigation.
- Failure to take all reasonable steps to prevent discrimination and harassment from occurring in the workplace.

In addition, employers may **not**:

- Favor applicants or employees with high school diplomas over others who possess general education development certificates.
- Discriminate against a person based on the individual's Sabbath observance (public-sector employers).
- Impose penalties or take disciplinary actions against healthcare employees or applicants based on their refusal or willingness to perform or participate in abortions or sterilizations.

**WHICH EMPLOYEES
ARE NOT COVERED
BY THE PHRA?**

The employment provisions of the PHRA do not apply to:

- agriculture or domestic service employees;
- any worker who resides in the personal residence of the employer as part of his or her employment; or
- anyone employed by his or her parents, spouse or child.

**DOES THE HUMAN RELATIONS
ACT PROHIBIT HARASSMENT?**

Yes. The PHRA prohibits harassment, including sexual harassment, against employees, contract employees (independent contractors) and job applicants. Sexual harassment can be any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature. Harassment is also prohibited based on race, color, ancestry, national origin, religious creed, age (40 years of age and older), non-job related disabilities, and any of the previously mentioned characteristics. Employers must take all reasonable steps to prevent harassment in the workplace.

**DOES THE ACT PROVIDE
REQUIREMENTS FOR
PREGNANCY?**

Under the Pennsylvania Human Relations Act (PHRA), it is illegal for an employer to discriminate against or harass an individual on the basis of sex. This includes pregnancy, childbirth, or other related conditions. Employers must provide reasonable accommodation for an employee who is temporarily disabled due to a pregnancy-related condition.

In addition, an employee who is affected by a pregnancy-related disability must be treated under the same terms and conditions as other employees with temporary disabilities are treated. For example, if the employer provides paid sick leave for temporary disabilities, paid sick leave must also be provided to an employee with a pregnancy-related disability. Upon return to work, the employee must be reinstated to the same position and in the same manner that other temporarily disabled workers are reinstated.

Mandatory maternity leave policies which force the employee to leave work or return to work at a specified time is a violation of the Pennsylvania Human Relations Act. The employee's healthcare provider makes the determination as to the period of time the employee is disabled by pregnancy. However, the employer may require a doctor's certification that attests to the duration of the disability, so long as one is required for all other employees with temporary disabilities.

The prohibition against discrimination with respect to pregnancy-related disabilities applies regardless of the employee's marital status. Additionally, if the employer has an employment policy which allows leave of absence for childrearing and child care, such leave must be equally applicable to both male and female employees.



Refer to the federal “PREGNANCY DISCRIMINATION ACT” and the “FAMILY MEDICAL LEAVE ACT” section later in this chapter.

WHAT DO THE DISABILITY DISCRIMINATION PROHIBITIONS INCLUDE?

The Pennsylvania Human Relations Act (PHRA) prohibits employment practices that discriminate against applicants, employees, and independent contractors based on non-job related handicap or disability, use of a guide or support animal due to blindness, deafness, or physical handicap, or because the user is a handler or trainer of support or guide animals.

The PHRA defines a “non-job related handicap or disability” as any handicap or disability that does not substantially interfere with the ability to perform the essential functions of the employment that a handicapped person applies for. “Handicap” is defined as a physical or mental impairment, or the perception of such a characteristic, which substantially limits one or more of a person's major life activities.

Employers must reasonably accommodate the known disabilities of otherwise qualified applicants, unless doing so would impose an undue hardship on the business. Accommodations may include alterations of the work-site, modifications of work schedules or leave policies, acquisition of equipment, job restructuring, providing readers or interpreters and other similar actions.



The Americans with Disabilities Act (ADA) also has several requirements in this area. Refer to that section later in this chapter and in the **Staffing** chapter for more information.

Under the PHRA, current illegal use of drugs or alcohol is not considered a disability. However, alcoholism is considered a disability under the federal Americans with Disabilities Act (ADA). Reasonable accommodations for such individuals may include time off for rehabilitation.

WHAT DO THE RELIGIOUS DISCRIMINATION PROHIBITIONS REQUIRE?

Employers are required to make reasonable accommodations for their employees' religious needs, unless to do so would impose an undue hardship on the business. Accommodations may include allowing time off and flexible scheduling for religious holidays and practices and Sabbath observances.

NOTE: Public-sector employers are prohibited from discriminating against employees or applicants because of the day they observe as Sabbath or other religious holidays. This requirement does not apply to public health or safety jobs where the person must be available for duty whenever needed.

ARE THERE ANY EXCEPTIONS TO THE PENNSYLVANIA HUMAN RELATIONS ACT?

Pennsylvania law permits an employer to make an employment decision based on normally prohibited factors such as age or sex if such a requirement constitutes a Bona Fide Occupational Qualification (BFOQ). A BFOQ is a characteristic that is absolutely essential to perform the job, and is reasonably necessary to the normal operation of business. However, state law interprets the BFOQ exception narrowly. To determine whether the BFOQ is appropriate, employers may request an advisory ruling from the Pennsylvania Human Relations Commission.



Refer to the **DISCRIMINATION CHARGES** section later in this chapter for information on discrimination complaints and response procedures.