

Memorandum



CITY OF DALLAS

DATE June 13, 2014

TO Members of the Budget, Finance & Audit Committee: Jerry R. Allen (Chair), Jennifer S. Gates (Vice Chair), Tennell Atkins, Sheffie Kadane, Philip T. Kingston

SUBJECT Amendments to Dallas City Code Section 34-35: Non-Discrimination in City Employment Practices

The Monday, June 16th Budget, Finance and Audit Committee agenda will include a briefing on Amendments to Dallas City Code Section 34-35: Non-Discrimination in City Employment Practices.

Please let me know if you need additional information.


John Rogers
Assistant City Attorney

Attachment

c: Honorable Mayor and Members of City Council
A.C. Gonzalez, City Manager
Warren M.S. Ernst, City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Ryan S. Evans, Interim First Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Forest E. Turner, Assistant City Manager
Joey Zapata, Assistant City Manager
Charles M. Cato, Interim Assistant City Manager
Theresa O'Donnell, Interim Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Shawn Williams, Interim Public Information Officer
Elsa Cantu, Assistant to the City Manager

DALLAS CITY CODE §34-35 (City of Dallas Fair Employment Practices)

compared to

DALLAS CITY CODE §46-6 (Unlawful Employment Practices Relating to Sexual Orientation)

	Section 34-35	Section 46-6
Employees	Applies to city employees.	Applies to all employees in Dallas.
Employer	City of Dallas.	1. Any employer who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.
Exempt employers	None.	1. Bona fide private membership club that is tax exempt. 2. Religious organizations. 3. Federal government. 4. Texas government. 5. Political subdivisions.
Prohibited acts	1. Fail or refuse to hire. 2. Discharge. 3. Otherwise discriminate. 4. Limit, segregate, or classify employees or applicants. 5. Deprive a person of employment opportunities. 6. Otherwise adversely affect a person's status as an employee.	1. Fail or refuse to hire. 2. Discharge. 3. Otherwise discriminate. 4. Limit, segregate, or classify employees or applicants. 5. Deprive a person of employment opportunities. 6. Otherwise adversely affect a person's status as an employee.
Employment conditions	1. Compensation. 2. Terms. 3. Conditions. 4. Privileges of employment.	1. Compensation. 2. Terms. 3. Conditions. 4. Privileges of employment.
Employment agencies	<i>Not applicable because the city of Dallas is not an employment agency.</i>	1. Violation to fail or refuse to refer person for employment. 2. Violation to otherwise discriminate because of sexual orientation. 3. Violation to classify or refer for employment on the

		basis of sexual orientation.
Labor organizations	<i>Not applicable because the city of Dallas is not a labor organization.</i>	<ol style="list-style-type: none"> 1. Violation to exclude or expel from membership. 2. Violation to otherwise discriminate. 3. Violation to fail or refuse to refer for employment. 4. Violation to limit, segregate, or classify. 5. Violation to otherwise adversely affect person's status as an employee or applicant. 6. Violation to cause an employer to discriminate.
Training programs	<i>Covered by 34-35(a).</i>	Violation to discriminate in admission or employment in any apprenticeship or training program.
Notices and ads	<i>Added as Subsection (c) and (d) of the draft ordinance.</i>	<ol style="list-style-type: none"> 1. Violation for employer to print an ad that indicates any preference, limitation, specification, or discrimination. 2. Violation for employment agency to print an ad that indicates any preference, limitation, specification, or discrimination. 3. Violation for labor-management committee that controls apprenticeships or training programs to print an ad that indicates any preference, limitation, specification, or discrimination. 4. Not a violation if sexual orientation is a bona fide occupational qualification.
Affect on benefits	Section does not extend employee benefits including leave, medical, or pension to any person who is ineligible for the benefits.	Does not require the provision of benefits for the benefit of the person's domestic partner.

ORDINANCE NO. _____

An ordinance amending Section 34-35, “Fair Employment Practices,” of Chapter 34, “Personnel Rules,” of the Dallas City Code; prohibiting discrimination in notices or advertisements relating to employment, apprenticeships, or training; providing for preferences, limitations, or specifications based on bona fide occupational qualifications; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 34-35, “Fair Employment Practices,” of Article V, “Rules of Conduct,” of Chapter 34, “Personnel Rules,” of the Dallas City Code is amended to read as follows:

“SEC. 34-35. FAIR EMPLOYMENT PRACTICES.

(a) City management may not discharge an individual, fail or refuse to hire an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of the individual’s race, color, age, religion, sex, marital status, sexual orientation, national origin, disability, political opinions[;] or affiliations. Nothing in this subsection extends any employee benefits, including but not limited to paid or unpaid leave, medical benefits, or pension benefits, to any individual who is ineligible for those benefits under any other provision of this chapter, the city’s master health plan, the employees’ retirement fund program, or the police and fire pension system, or under any other city ordinance or resolution or state or federal law.

(b) City management may not limit, segregate, or classify employees or applicants for employment in a way that would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect an employee’s status because of the individual’s race, color, age, religion, sex, marital status, sexual orientation, national origin, disability, political opinions, or affiliations.

(c) City management may not print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the city that indicates any preference, limitation, or specification based on the individual characteristics listed in Subsection (a).

(d) Nothing in this section prohibits a preference, limitation, or specification based on the individual characteristics listed in Subsection (a) if the preference, limitation, or specification is a bona fide occupational qualification for employment.”

SECTION 2. That Chapter 34 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 3. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 4. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

WARREN M.S. ERNST, City Attorney

By _____
Assistant City Attorney

Passed _____