



County of Frederick

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TO: Human Resources Committee and Board of Supervisors
FROM: Michael J. Marciano
DATE: August 5, 2020
SUBJECT: HR Committee Agenda

The HR Committee will meet in the First Floor Boardroom at 107 North Kent Street on **Friday, August 14, 2020** at 9:00 a.m.

The HR Committee will address the County's response to code revisions recently passed by the legislature and signed by the governor. The agenda for the meeting is as follows:

1. Human Resource Policy Recommended Revisions

- a. 5.1: Equal Opportunity Employer and Open Competition
- b. 8.2: Holidays
- c. 15.7: Non-Retaliation/Reporting of Illegal Activity
- d. 20: Non-Discrimination/Non-Harassment

V. RECRUITMENT, SELECTION AND EMPLOYMENT

5.1 Equal Opportunity Employer and Open Competition~~Open Competition~~

All positions covered by these policies shall be open to all persons who possess the requirements for the positions as indicated in the official class specifications. The recruitment objective is to obtain well qualified applicants for all vacancies with selection based on the best qualified person available at the salary offered for the particular position.

It is the policy of Frederick County to comply with all federal and state laws providing for nondiscrimination in employment regarding qualified individuals with disabilities. Frederick County will not discriminate against qualified individuals, including those who are pregnant and/or have pregnancy related medical conditions, in regard to recruiting, hiring, promotion, termination, layoff, recall, transfer, compensation, training or other terms, conditions and privileges of employment.

Frederick County will provide reasonable accommodation for qualified individuals in accordance with state and federal law. Please see Section XX for more information.

Frederick County further provides equal employment opportunities to all applicants for employment and prohibits discrimination and harassment of any type with regard any trait or characteristic protected by federal, state or local laws. This policy applies to all terms and conditions of employment, including recruiting, hiring, promotion, termination, layoff, recall, transfer, compensation, training or other terms, conditions and privileges of employment. For a list of classes currently protected by state and federal laws, please see the addendum to Section XX.

5.2 Original Employment

An individual beginning employment with the County for the first time shall, except as described below, usually be placed at the first step of the pay range established for the class in which he/she is employed and that employment date should be defined as his date of hire. Based on a new employee's prior experience, proficiency, and other relevant criteria in the same or related capacity, placement may be accelerated within the assigned range upon approval of the County Administrator within current budget restraints. Appointments may be made below the minimum for a person who lacks the desired qualifications of the position; such persons are considered Trainees until such time as they acquire the minimum qualifications, at which time they are advanced to the normal entrance salary of the position.

5.3 Reemployment

When an individual is re-employed after a separation of thirty (30) or more calendar days, a new date of hire shall be established for computation of all merit increases and other salary adjustments. A returning employee who is re-employed will, except as described below, be placed at the lowest step of the position's approved pay range. Based on the returning employee's prior proficiency and experience in the same or related capacity, an acceleration of up to and including the fourth step of the assigned range may be made upon recommendation by the Department Head and approval of the County Administrator. All time earned in previous employment shall not be counted toward the probationary period, annual leave, service awards, or any other longevity based program or benefit. Rather, only that time earned following actual re-employment shall be counted.

5.4 Reinstatement

An individual returning to the employ of the County within thirty (30) or less calendar days of separation, shall return to duty in the same position and class subsequent to the approval of the Department Head and the County Administrator. The appropriate pay step within the approved range of the class for all reinstated employees shall be determined by the County Administrator. Hire dates for all reinstated employees will remain the same as that associated with prior employment. All time earned previous to reinstatement shall be counted toward the probationary period, annual leave, service award, or any other longevity based program or benefit. Additionally, accrued paid leave will be utilized to cover the actual time missed prior to reinstatement. Should paid leave not be available, leave without pay will be utilized to cover the actual time missed prior to reinstatement.

5.5 Temporary Employment

Persons may be employed to temporary positions without commitment as to tenure. Temporary employees may be part-time or full time, not eligible for benefits, and subject to re-evaluation by Department Head.

5.6 Temporary Appointments

Persons may be appointed to temporary positions without commitment as to tenure. Temporary appointments are for full time, benefit eligible positions and subject to re-evaluation by Department Head. Temporary appointments are also eligible for a salary increase with the approval of the Department Head and County Administrator.

5.7 Reclassification

When such a position cannot accurately be described or compensated by assignment to an existing class or position, the County Administrator shall establish a new class or position, based upon written documentation submitted by the Department Head, with appropriate range and title, subject to approval by the Board of Supervisors. A reclassification is the assignment of the employee's regular and continuing duties to a descriptive and commensurate class or position. Reclassification does not adjust the employee's hire date.

5.8 Promotion

Based upon recommendation by the Department Head, employees may be considered for promotion and their salary may be adjusted. The County Administrator shall have the final authority to approve such promotions and any corresponding salary adjustments. The effective date of all promotions will be the first day of the month in which the promotion takes place. Employees who are promoted and are eligible for a merit evaluation may receive the scheduled merit increase.

5.9 Transfer Between Departments

When an employee makes a transfer between departments, no change of status or hire date occurs.

5.10 Appointing Authorities

The appointing authority is the person or group of persons having authority to make appointments under the laws of the State and the County. Each Constitutional Officer is the appointing authority for his department. The County Administrator approves appointments for all other positions covered by these policies; additionally, the Board of Supervisors appoints the County Administrator.

Updated/Approved: 02/13/2013

Chapter 39. Virginia Human Rights Act.

§ 2.2-3900. Short title; declaration of policy.

A. This chapter shall be known and cited as the Virginia Human Rights Act.

B. It is the policy of the Commonwealth to:

1. Safeguard all individuals within the Commonwealth from unlawful discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, status as a veteran, or disability in places of public accommodation, including educational institutions and in real estate transactions;
2. Safeguard all individuals within the Commonwealth from unlawful discrimination in employment because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, disability, or status as a veteran;
3. Preserve the public safety, health, and general welfare;
4. Further the interests, rights, and privileges of individuals within the Commonwealth; and
5. Protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

1987, c. 581, §§ 2.1-714, 2.1-715; 1997, c. 404; 2001, c. 844; 2020, cc. 1137, 1140.

§ 2.2-3901. Definitions.

A. The terms "because of sex or gender" or "on the basis of sex or gender" or terms of similar import when used in reference to discrimination in the Code and acts of the General Assembly include because of or on the basis of pregnancy, childbirth, or related medical conditions, including lactation. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all purposes as persons not so affected but similar in their abilities or disabilities.

B. The term "gender identity," when used in reference to discrimination in the Code and acts of the General Assembly, means the gender-related identity, appearance, or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

C. The term "sexual orientation," when used in reference to discrimination in the Code and acts of the General Assembly, means a person's actual or perceived heterosexuality, bisexuality, or homosexuality.

D. The terms "because of race" or "on the basis of race" or terms of similar import when used in reference to discrimination in the Code and acts of the General Assembly include because of or on the basis of traits historically associated with race, including hair texture, hair type, and protective hairstyles such as braids, locks, and twists.

E. For purposes of this chapter, "lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

1987, c. 581, § 2.1-716; 1991, c. 457; 1997, c. 404; 2001, c. 844; 2005, c. 839; 2020, cc. 107, 152, 1137, 1138, 1139, 1140.

§ 2.2-3902. Construction of chapter; other programs to aid persons with disabilities, minors, and the elderly.

The provisions of this chapter shall be construed liberally for the accomplishment of its policies.

Conduct that violates any Virginia or federal statute or regulation governing discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, or national origin is an unlawful discriminatory practice under this chapter.

Nothing in this chapter shall prohibit or alter any program, service, facility, school, or privilege that is afforded, oriented, or restricted to a person because of disability or age from continuing to habilitate, rehabilitate, or accommodate that person.

In addition, nothing in this chapter shall be construed to affect any governmental program, law or activity differentiating between persons on the basis of age over the age of 18 years (i) where the differentiation is reasonably necessary to normal operation or the activity is based upon reasonable factors other than age or (ii) where the program, law or activity constitutes a legitimate exercise of powers of the Commonwealth for the general health, safety and welfare of the population at large.

Complaints filed with the Division of Human Rights of the Department of Law (the Division) in accordance with § 2.2-520 alleging unlawful discriminatory practice under a Virginia statute that is enforced by a Virginia agency shall be referred to that agency. The Division may investigate complaints alleging an unlawful discriminatory practice under a federal statute or regulation and attempt to resolve it through conciliation. Unsolved complaints shall thereafter be referred to the federal agency with jurisdiction over the complaint. Upon such referral, the Division shall have no further jurisdiction over the complaint. The Division shall have no jurisdiction over any complaint filed under a local ordinance adopted pursuant to § 15.2-965.

1987, c. 581, § 2.1-717; 1991, c. 457; 1997, c. 404; 2000, c. 933; 2001, c. 844; 2012, cc. 803, 835; 2020, cc. 1137, 1140.

§ 2.2-3903. Repealed.

Repealed by Acts 2020, c. 1140, cl. 2.

§ 2.2-3904. Nondiscrimination in places of public accommodation; definitions.

A. As used in this section, unless the context requires a different meaning:

"Age" means being an individual who is at least 18 years of age.

"Place of public accommodation" means all places or businesses offering or holding out to the general public goods, services, privileges, facilities, advantages, or accommodations.

B. It is an unlawful discriminatory practice for any person, including the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, to refuse, withhold from, or deny any individual, or to attempt to refuse, withhold from, or deny any individual, directly or indirectly, any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation, or to segregate or discriminate against any such person in the use thereof, or to publish, circulate, issue, display, post, or mail, either directly or indirectly, any communication, notice, or advertisement to the

effect that any of the accommodations, advantages, facilities, privileges, or services of any such place shall be refused, withheld from, or denied to any individual on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, sexual orientation, gender identity, marital status, disability, or status as a veteran.

C. The provisions of this section shall not apply to a private club, a place of accommodation owned by or operated on behalf of a religious corporation, association, or society that is not in fact open to the public, or any other establishment that is not in fact open to the public.

D. The provisions of this section shall not prohibit (i) discrimination against individuals who are less than 18 years of age or (ii) the provision of special benefits, incentives, discounts, or promotions by public or private programs to assist persons who are 50 years of age or older.

E. The provisions of this section shall not supersede or interfere with any state law or local ordinance that prohibits a person under the age of 21 from entering a place of public accommodation.

2020, c. 1140.

§ 2.2-3905. Nondiscrimination in employment; definitions; exceptions.

A. As used in this section:

"Age" means being an individual who is at least 40 years of age.

"Employee" means an individual employed by an employer.

"Employer" means a person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person. However, (i) for purposes of unlawful discharge under subdivision B 1 on the basis of race, color, religion, national origin, status as a veteran, sex, sexual orientation, gender identity, marital status, pregnancy, or childbirth or related medical conditions including lactation, "employer" means any employer employing more than five persons and (ii) for purposes of unlawful discharge under subdivision B 1 on the basis of age, "employer" means any employer employing more than five but fewer than 20 persons.

"Employment agency" means any person, or an agent of such person, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer.

"Joint apprenticeship committee" means the same as that term is defined in § 40.1-120.

"Labor organization" means an organization engaged in an industry, or an agent of such organization, that exists for the purpose, in whole or in part, of dealing with employers on behalf of employees concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment. "Labor organization" includes employee representation committees, groups, or associations in which employees participate.

"Lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

B. It is an unlawful employment practice for:

1. An employer to:

a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to such individual's compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, or national origin; or

b. Limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, or national origin.

2. An employment agency to:

a. Fail or refuse to refer for employment, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin; or

b. Classify or refer for employment any individual on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin.

3. A labor organization to:

a. Exclude or expel from its membership, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin;

b. Limit, segregate, or classify its membership or applicants for membership, or classify or fail to or refuse to refer for employment any individual, in any way that would deprive or tend to deprive such individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect an individual's status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin; or

c. Cause or attempt to cause an employer to discriminate against an individual in violation of subdivisions a or b.

4. An employer, labor organization, or joint apprenticeship committee to discriminate against any individual in any program to provide apprenticeship or other training program on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin.

5. An employer, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of employment-related tests on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin.

6. Except as otherwise provided in this chapter, an employer to use race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin as a motivating factor for any employment practice, even though other factors also motivate the practice.

7. (i) An employer to discriminate against any employees or applicants for employment, (ii) an employment agency or a joint apprenticeship committee controlling an apprenticeship or other training program to discriminate against any individual, or (iii) a labor organization to discriminate against any member thereof or applicant for membership because such individual has opposed any practice made an unlawful employment practice by this chapter or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

8. An employer, labor organization, employment agency, or joint apprenticeship committee controlling an apprenticeship or other training program to print or publish, or cause to be printed or published, any notice or advertisement relating to (i) employment by such an employer, (ii) membership in or any classification or referral for employment by such a labor organization, (iii) any classification or referral for employment by such an employment agency, or (iv) admission to, or employment in, any program established to provide apprenticeship or other training by such a joint apprenticeship committee that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, age, or national origin when religion, sex, age, or national origin is a bona fide occupational qualification for employment.

C. Notwithstanding any other provision of this chapter, it is not an unlawful employment practice:

1. For (i) an employer to hire and employ employees; (ii) an employment agency to classify, or refer for employment, any individual; (iii) a labor organization to classify its membership or to classify or refer for employment any individual; or (iv) an employer, labor organization, or joint apprenticeship committee to admit or employ any individual in any apprenticeship or other training program on the basis of such individual's religion, sex, or age in those certain instances where religion, sex, or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular employer, employment agency, labor organization, or joint apprenticeship committee;

2. For an elementary or secondary school or institution of higher education to hire and employ employees of a particular religion if such elementary or secondary school or institution of higher education is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society or if the curriculum of such elementary or secondary school or institution of higher education is directed toward the propagation of a particular religion;

3. For an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment, pursuant to a bona fide seniority or merit system, or a system that measures earnings by quantity or quality of production, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate

because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin;

4. For an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or an action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin;

5. For an employer to provide reasonable accommodations related to pregnancy, childbirth or related medical conditions, and lactation, when such accommodations are requested by the employee; or

6. For an employer to condition employment or premises access based upon citizenship where the employer is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute or regulation of the federal government or any executive order of the President of the United States.

D. Nothing in this chapter shall be construed to require any employer, employment agency, labor organization, or joint apprenticeship committee to grant preferential treatment to any individual or to any group because of such individual's or group's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin on account of an imbalance that may exist with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, status as a veteran, or national origin in any community.

E. The provisions of this section shall not apply to the employment of individuals of a particular religion by a religious corporation, association, educational institution, or society to perform work associated with its activities.

2020, c. [1140](#).

§ 2.2-3906. Civil action by Attorney General.

A. Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this chapter, or that any person or group of persons has been denied any of the rights granted by this chapter and such denial raises an issue of general public importance, the Attorney General may commence a civil action in the appropriate circuit court for appropriate relief.

B. In such civil action, the court may:

1. Award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this chapter, as is necessary

to assure the full enjoyment of the rights granted by this chapter.

2. Assess a civil penalty against the respondent (i) in an amount not exceeding \$50,000 for a first violation and (ii) in an amount not exceeding \$100,000 for any subsequent violation. Such civil penalties are payable to the Literary Fund.

3. Award a prevailing plaintiff reasonable attorney fees and costs.

C. The court or jury may award such other relief to the aggrieved person as the court deems appropriate, including compensatory damages and punitive damages.

D. Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection A that involves an alleged discriminatory practice pursuant to this chapter with respect to which such person is an aggrieved person. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under § 2.2-3908.

2020, c. 1140.

§ 2.2-3907. Procedures for a charge of unlawful discrimination; notice; investigation; report; conciliation; notice of the right to file a civil action; temporary relief.

A. Any person claiming to be aggrieved by an unlawful discriminatory practice may file a complaint in writing under oath or affirmation with the Division of Human Rights of the Department of Law (the Division). The Division itself or the Attorney General may in a like manner file such a complaint. The complaint shall be in such detail as to substantially apprise any party properly concerned as to the time, place, and facts surrounding the alleged unlawful discrimination.

B. Upon perfection of a complaint filed pursuant to subsection A, the Division shall timely serve a charge on the respondent and provide all parties with a notice informing the parties of the complainant's rights, including the right to commence a civil action, and the dates within which the complainant may exercise such rights. In the notice, the Division shall notify the complainant that the charge of unlawful discrimination will be dismissed with prejudice and with no right to further proceed if a written complaint is not timely filed with the appropriate general district or circuit court.

C. The complainant and respondent may agree to voluntarily submit the charge to mediation without waiving any rights that are otherwise available to either party pursuant to this chapter and without incurring any obligation to accept the result of the mediation process. Nothing occurring in mediation shall be disclosed by the Division or admissible in evidence in any subsequent proceeding unless the complainant and the respondent agree in writing that such disclosure be made.

D. Once a charge has been issued, the Division shall conduct an investigation sufficient to determine whether there is reasonable cause to believe the alleged discrimination occurred. Such charge shall be the subject of a report made by the Division. The report shall be a confidential document subject to review by the Attorney General, authorized Division employees, and the parties. The review shall state whether there is reasonable cause to believe the alleged unlawful discrimination has been committed.

E. If the report on a charge of discrimination concludes that there is no reasonable cause to

believe the alleged unlawful discrimination has been committed, the charge shall be dismissed and the complainant shall be given notice of his right to commence a civil action.

F. If the report on a charge of discrimination concludes that there is reasonable cause to believe the alleged unlawful discrimination has been committed, the complainant and respondent shall be notified of such determination and the Division shall immediately endeavor to eliminate any alleged unlawful discriminatory practice by informal methods such as conference, conciliation, and persuasion. When the Division determines that further endeavor to settle a complaint by conference, conciliation, and persuasion is unworkable and should be bypassed, the Division shall issue a notice that the case has been closed and the complainant shall be given notice of his right to commence a civil action.

G. At any time after a notice of charge of discrimination is issued, the Division or complainant may petition the appropriate court for temporary relief, pending final determination of the proceedings under this section, including an order or judgment restraining the respondent from doing or causing any act that would render ineffectual an order that a court may enter with respect to the complainant. Whether it is brought by the Division or by the complainant, the petition shall contain a certification by the Division that the particular matter presents exceptional circumstances in which irreparable injury will result from unlawful discrimination in the absence of temporary relief.

H. Upon receipt of a written request from the complainant, the Division shall promptly issue a notice of the right to file a civil action to the complainant after (i) 180 days have passed from the date the complaint was filed or (ii) the Division determines that it will be unable to complete its investigation within 180 days from the date the complaint was filed.

2020, c. [1140](#).

§ 2.2-3908. Civil actions by private parties.

A. An aggrieved person who has been provided a notice of his right to file a civil action pursuant to [§ 2.2-3907](#) may commence a timely civil action in an appropriate general district or circuit court having jurisdiction over the person who allegedly unlawfully discriminated against such person in violation of this chapter.

B. If the court or jury finds that unlawful discrimination has occurred, the court or jury may award to the plaintiff, as the prevailing party, compensatory and punitive damages and the court may award reasonable attorney fees and costs and may grant as relief any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice, or order such affirmative action as may be appropriate.

C. Upon timely application, the Attorney General may intervene in such civil action if the Attorney General certifies that the case is of general public importance. Upon intervention, the Attorney General may obtain such relief as would be available to a private party under subsection B.

2020, c. [1140](#).

§ 2.2-3909. Causes of action for failure to provide reasonable accommodation for known limitations related to pregnancy, childbirth, or related medical conditions.

A. As used in this section:

"Employer" means any person, or agent of such person, employing five or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

"Lactation" means lactation as defined in § 2.2-3905.

"Reasonable accommodation" includes more frequent or longer bathroom breaks, breaks to express breast milk, access to a private location other than a bathroom for the expression of breast milk, acquisition or modification of equipment or access to or modification of employee seating, a temporary transfer to a less strenuous or hazardous position, assistance with manual labor, job restructuring, a modified work schedule, light duty assignments, and leave to recover from childbirth.

"Related medical conditions" includes lactation.

B. No employer shall:

1. Refuse to make reasonable accommodation to the known limitations of a person related to pregnancy, childbirth, or related medical conditions, unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer.

a. In determining whether an accommodation would constitute an undue hardship on the employer, the following shall be considered:

(1) Hardship on the conduct of the employer's business, considering the nature of the employer's operation, including composition and structure of the employer's workforce;

(2) The size of the facility where employment occurs; and

(3) The nature and cost of the accommodations needed.

b. The fact that the employer provides or would be required to provide a similar accommodation to other classes of employees shall create a rebuttable presumption that the accommodation does not impose an undue hardship on the employer.

2. Take adverse action against an employee who requests or uses a reasonable accommodation pursuant to this section. As used in this subdivision, "adverse action" includes failure to reinstate any such employee to her previous position or an equivalent position with equivalent pay, seniority, and other benefits when her need for a reasonable accommodation ceases.

3. Deny employment or promotion opportunities to an otherwise qualified applicant or employee because such employer will be required to make reasonable accommodation to the known limitations of such applicant or employee related to pregnancy, childbirth, or related medical conditions.

4. Require an employee to take leave if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of such employee.

C. Each employer shall engage in a timely, good faith interactive process with an employee who has requested an accommodation pursuant to this section to determine if the requested accommodation is reasonable and, if such accommodation is determined not to be reasonable, discuss alternative accommodations that may be provided.

D. An employer shall post in a conspicuous location and include in any employee handbook information concerning an employee's rights to reasonable accommodation for known limitations related to pregnancy, childbirth, or related medical conditions. Such information shall also be directly provided to (i) new employees upon commencement of their employment and (ii) any employee within 10 days of such employee's providing notice to the employer that she is pregnant.

E. An employee or applicant who has been denied any of the rights afforded under subsection B may bring an action in a general district or circuit court having jurisdiction over the employer that allegedly denied such rights. Any such action shall be brought within two years from the date of the unlawful denial of rights, or, if the employee or applicant has filed a complaint with the Division of Human Rights of the Department of Law or a local human rights or human relations agency or commission within two years of the unlawful denial of rights, such action shall be brought within 90 days from the date that the Division or a local human rights or human relations agency or commission has rendered a final disposition on the complaint.

If the court or jury finds that an unlawful denial of rights afforded under subsection B has occurred, the court or jury may award to the plaintiff, as the prevailing party, compensatory damages, back pay, and other equitable relief. The court may also award reasonable attorney fees and costs and may grant as relief any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice, or order such affirmative action as may be appropriate.

F. The provisions of this section regarding the provision of reasonable accommodation for known limitations related to pregnancy, childbirth, and related medical conditions shall not be construed to affect any other provision of law relating to discrimination on the basis of sex or pregnancy.

2020, cc. [1138](#), [1139](#), 2.2-3904.



Title VII of the Civil Rights Act of 1964

EDITOR'S NOTE: The following is the text of Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352) (Title VII), as amended, as it appears in volume 42 of the United States Code, beginning at section 2000e. Title VII prohibits employment discrimination based on race, color, religion, sex and national origin. The Civil Rights Act of 1991 (Pub. L. 102-166) (CRA) and the Lily Ledbetter Fair Pay Act of 2009 (Pub. L. 111-2) amend several sections of Title VII. In addition, section 102 of the CRA (which is printed elsewhere in this publication) amends the Revised Statutes by adding a new section following section 1977 (42 U.S.C. 1981), to provide for the recovery of compensatory and punitive damages in cases of intentional violations of Title VII, the Americans with Disabilities Act of 1990, and section 501 of the Rehabilitation Act of 1973. Cross references to Title VII as enacted appear in italics following each section heading. Editor's notes also appear in italics.

An Act

To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1964".

* * *

DEFINITIONS

SEC. 2000e. [Section 701]

For the purposes of this subchapter-

(a) The term "person" includes one or more individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 [*originally, bankruptcy*], or receivers.

(b) The term "employer" means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of Title 5 [*United States Code*]), or

(2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of Title 26 [*the Internal Revenue Code of 1986*], except that during the first year after March 24, 1972 [*the date of enactment of the Equal Employment Opportunity Act of 1972*], persons having fewer than twenty-five employees (and their agents) shall not be considered employers.

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) twenty-five or more during the first year after March 24, 1972 [*the date of enactment of the Equal Employment Opportunity Act of 1972*], or (B) fifteen or more thereafter, and such labor organization-

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended [*29 U.S.C. 151 et seq.*], or the Railway Labor Act, as amended [*45 U.S.C. 151 et seq.*];

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by an employer, except that the term "employee" shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency or political subdivision. With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959 [29 U.S.C. 401 *et seq.*], and further includes any governmental industry, business, or activity.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act [43 U.S.C. 1331 *et seq.*].

(j) The term "religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(k) The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 2000e-2(h) of this title *[section 703(h)]* shall be interpreted to permit otherwise. This subsection shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion: Provided, That nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.

(l) The term "complaining party" means the Commission, the Attorney General, or a person who may bring an action or proceeding under this subchapter.

(m) The term "demonstrates" means meets the burdens of production and persuasion.

(n) The term "respondent" means an employer, employment agency, labor organization, joint labor - management committee controlling apprenticeship or other training or retraining program, including an on-the-job training program, or Federal entity subject to section 2000e-16 of this title.

APPLICABILITY TO FOREIGN AND RELIGIOUS EMPLOYMENT

SEC. 2000e-1. *[Section 702]*

(a) Inapplicability of subchapter to certain aliens and employees of religious entities

This subchapter shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(b) Compliance with statute as violative of foreign law

It shall not be unlawful under section 2000e-2 or 2000e-3 of this title [section 703 or 704] for an employer (or a corporation controlled by an employer), labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to take any action otherwise prohibited by such section, with respect to an employee in a workplace in a foreign country if compliance with such section would cause such employer (or such corporation), such organization, such agency, or such committee to violate the law of the foreign country in which such workplace is located.

(c) Control of corporation incorporated in foreign country

(1) If an employer controls a corporation whose place of incorporation is a foreign country, any practice prohibited by section 2000e-2 or 2000e-3 of this title [section 703 or 704] engaged in by such corporation shall be presumed to be engaged in by such employer.

(2) Sections 2000e-2 and 2000e-3 of this title [sections 703 and 704] shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

(3) For purposes of this subsection, the determination of whether an employer controls a corporation shall be based on-

(A) the interrelation of operations;

(B) the common management;

(C) the centralized control of labor relations; and

(D) the common ownership or financial control, of the employer and the corporation.

UNLAWFUL EMPLOYMENT PRACTICES

SEC. 2000e-2. [Section 703]

(a) Employer practices

It shall be an unlawful employment practice for an employer -

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) Employment agency practices

It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) Labor organization practices

It shall be an unlawful employment practice for a labor organization-

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) Training programs

It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Businesses or enterprises with personnel qualified on basis of religion, sex, or national origin; educational institutions with personnel of particular religion

Notwithstanding any other provision of this subchapter, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify

or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(f) Members of Communist Party or Communist-action or Communist-front organizations

As used in this subchapter, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950 [50 U.S.C. 781 et seq.].

(g) National security

Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if-

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

(h) Seniority or merit system; quantity or quality of production; ability tests; compensation based on sex and authorized by minimum wage provisions

Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin. It shall not be an unlawful employment practice under this subchapter for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 206(d) of Title 29 [*section 6(d) of the Labor Standards Act of 1938, as amended*].

(i) Businesses or enterprises extending preferential treatment to Indians

Nothing contained in this subchapter shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

(j) Preferential treatment not to be granted on account of existing number or percentage imbalance

Nothing contained in this subchapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

(k) Burden of proof in disparate impact cases

(1) (A) An unlawful employment practice based on disparate impact is established under this subchapter only if-

- (i) a complaining party demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national

origin and the respondent fails to demonstrate that the challenged practice is job related for the position in question and consistent with business necessity; or

(ii) the complaining party makes the demonstration described in subparagraph (C) with respect to an alternative employment practice and the respondent refuses to adopt such alternative employment practice.

(B) (i) With respect to demonstrating that a particular employment practice causes a disparate impact as described in subparagraph (A)(i), the complaining party shall demonstrate that each particular challenged employment practice causes a disparate impact, except that if the complaining party can demonstrate to the court that the elements of a respondent's decisionmaking process are not capable of separation for analysis, the decisionmaking process may be analyzed as one employment practice.

(ii) If the respondent demonstrates that a specific employment practice does not cause the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

(C) The demonstration referred to by subparagraph (A)(ii) shall be in accordance with the law as it existed on June 4, 1989, with respect to the concept of "alternative employment practice".

(2) A demonstration that an employment practice is required by business necessity may not be used as a defense against a claim of intentional discrimination under this subchapter.

(3) Notwithstanding any other provision of this subchapter, a rule barring the employment of an individual who currently and knowingly uses or possesses a controlled substance, as defined in schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act [21 U.S.C. 801 et seq.] or any other provision of Federal law, shall be considered an unlawful employment practice under this subchapter only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin.

(I) Prohibition of discriminatory use of test scores

It shall be an unlawful employment practice for a respondent, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of race, color, religion, sex, or national origin.

(m) Impermissible consideration of race, color, religion, sex, or national origin in employment practices

Except as otherwise provided in this subchapter, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice.

(n) Resolution of challenges to employment practices implementing litigated or consent judgments or orders

(1) (A) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order that resolves a claim of employment discrimination under the Constitution or Federal civil rights laws may not be challenged under the circumstances described in subparagraph (B).

(B) A practice described in subparagraph (A) may not be challenged in a claim under the Constitution or Federal civil rights laws-

(i) by a person who, prior to the entry of the judgment or order described in subparagraph (A), had-

(I) actual notice of the proposed judgment or order sufficient to apprise such person that such judgment or order might adversely affect the interests and legal rights of such person and that an opportunity was available to present objections to such judgment or order by a future date certain; and

(II) a reasonable opportunity to present objections to such judgment or order; or

(ii) by a person whose interests were adequately represented by another person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change in law or fact.

(2) Nothing in this subsection shall be construed to-

(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which the parties intervened;

(B) apply to the rights of parties to the action in which a litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in

such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

(D) authorize or permit the denial to any person of the due process of law required by the Constitution.

(3) Any action not precluded under this subsection that challenges an employment consent judgment or order described in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of Title 28 [*United States Code*].

OTHER UNLAWFUL EMPLOYMENT PRACTICES

SEC. 2000e-3. [*Section 704*]

(a) Discrimination for making charges, testifying, assisting, or participating in enforcement proceedings

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on—the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

(b) Printing or publication of notices or advertisements indicating prohibited preference, limitation, specification, or discrimination; occupational qualification exception

It shall be an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification

VIII. WORK HOURS, HOLIDAYS, LEAVE

8.1 Hours of Work

Generally, office hours are from 8:00am to 5:00pm. Individual work schedules are set at the Department Head's discretion based upon business requirements.

8.2 Holidays

The County shall observe federal and state holidays and other such holidays as may be prescribed by the Board of Supervisors. When a holiday falls on a Saturday, it shall be observed on the preceding Friday; when the holiday falls on a Sunday, it shall be observed on the following Monday. All full-time employees of the County shall be entitled to holiday benefits.

Current holidays observed by the County are:

~~Lee Jackson Day~~

Martin Luther King's Day

Presidents' Day

Apple Blossom Friday

Memorial Day

Fourth of July

Labor Day

Columbus Day

~~Election Day~~

Veterans Day

Wednesday before Thanksgiving, noon closing

Thanksgiving Day

Day after Thanksgiving

Christmas Eve Day

Christmas Day

New Year's Day.

Personnel, who are not called upon to work during a holiday, will be paid for the holiday at straight time. If personnel are required to be on duty during a holiday because of the nature of their position, they shall be paid for the holiday plus their hours worked.

Holiday pay shall be granted based on the scheduled work day of the employee. If an employee is regularly scheduled to work an 8-, 10- or 12-hour day, he/she will receive 8 hours of holiday pay. Firefighters scheduled to work a 24-hour shift will receive 10 hours of holiday pay.

§ 2.2-3300. Legal holidays

It is the policy of the Commonwealth to fix and set aside certain days in the calendar year as legal holidays for the people of Virginia. In each year, the following days are designated as legal holidays:

January 1 — New Year's Day.

The third Monday in January — Martin Luther King, Jr., Day to honor Martin Luther King, Jr., (1929-1968), defender of causes.

The third Monday in February — George Washington Day to honor George Washington (1732-1799), the first President of the United States.

The last Monday in May — Memorial Day to honor all persons who made the supreme sacrifice in giving their lives in defense of Virginia and the United States in the following wars and engagements and otherwise: Indian Uprising (1622), French and Indian Wars (1754-1763), Revolutionary War (1775-1783), War of 1812 (1812-1815), Mexican War (1846-1848), War Between the States (1861-1865), Spanish-American War (1898), World War I (1917-1918), World War II (1941-1945), Korean War (1950-1953), Vietnam War (1965-1973), Operation Desert Shield-Desert Storm (1990-1991), Global War on Terrorism (2000-), Operation Enduring Freedom (2001-), and Operation Iraqi Freedom (2003-). On this day all flags, national, state, and local, shall be flown at half — staff or mast to honor and acknowledge respect for those who made the supreme sacrifice.

July 4 — Independence Day to honor the signing of the Declaration of Independence.

The first Monday in September — Labor Day to honor all people who work in Virginia.

The second Monday in October — Columbus Day and Yorktown Victory Day to honor Christopher Columbus (1451-1506), a discoverer of the Americas, and the final victory at Yorktown on October 19, 1781, in the Revolutionary War.

The Tuesday following the first Monday in November — Election Day for the right of citizens of a free society to exercise the right to vote.

November 11 — Veterans Day to honor all persons who served in the Armed Forces of Virginia and the United States in the following wars and engagements and otherwise: Indian Uprising (1622), French and Indian Wars (1754-1763), Revolutionary War (1775-1783), War of 1812 (1812-1815), Mexican War (1846-1848), War Between the States (1861-1865), Spanish American War (1898), World War I (1917-1918), World War II (1941-1945), Korean War (1950-1953), Vietnam War (1965-1973), Operation Desert Shield-Desert Storm (1990-1991), Global War on Terrorism (2000-), Operation Enduring Freedom (2001-), and Operation Iraqi Freedom (2003-).

The fourth Thursday in November and the Friday next following — Thanksgiving Day to honor and give thanks in each person's own manner for the blessings bestowed upon the people of Virginia and honoring the first Thanksgiving in 1619.

December 25 — Christmas Day.

Whenever any of such days falls on Saturday, the Friday next preceding such day, or whenever any of such days falls on Sunday, the Monday next following such day, and any day so appointed by the Governor of the Commonwealth or the President of the United States, shall be a legal holiday as to the transaction of all business.

Code 1950, § 2-19; 1954, c. 328; 1958, c. 167; 1966, c. 677, § 2.1-21; 1970, c. 682; 1972, c. 114; 1973, c. 421; 1978, c. 7; 1982, c. 325; 1984, c. 671; 1989, c. 190; 1992, c. 622; 1993, cc. 177, 872; 2000, cc. [392](#), [454](#); 2001, c. [844](#); 2010, c. [860](#); 2020, cc. [417](#), [418](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

XV. Ethics

It is the policy of Frederick County to adhere to the highest standard of ethics and to educate its employees in those principles. It is also the policy of Frederick County to ensure that all of its employees follow the Ethics Policy and to subject those employees who disregard it to strict disciplinary action.

15.1 Political Activity

The restrictions of this section are designed to protect every employee's right to vote and to keep this right free from interference, solicitation or dictation by any fellow employee, supervisor or officer. Additionally, this policy does not affect the right of an employee to hold political membership or office, serve as a political party officer, support a political party, express political opinions, and/or attend political meetings.

Employees may participate in political activities provided that they do not a.) engage in any type of political activity while on-duty and/or in County uniform, b.) do not use County resources or equipment; or c.) engage in political activity on the premises of their employment with the County.

No employee shall use the prestige, influence, or authority of his position for the purpose of interfering with or affecting the result of an election or nomination for office.

15.2 Conflict of Interest

No employee shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties in the public interest or would tend to impair his independence of judgment or action in the performance of his official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business or political association.

Specific conflicts of interest are enumerated below for the guidance of employees:

Disclosure of Confidential Information

No employee shall, without proper authorization, disclose confidential information concerning the property, government, or affairs of the County which would provide information to advance the financial or other special interest of himself or others.

Representing Private Interests Before County Agencies or Courts

No employee whose salary is paid in whole or in part by the County shall appear in behalf of private interests before any agency of the County. He shall not represent private interests in any action or proceeding against the interest of the County in any litigation to which the County is a party.

Other Conflicts of Interest

No employee shall violate the provisions of Section 2.2-3100 et. seq. of the Code of Virginia, as amended (The Virginia Conflict of Interest Act).

15.3 Outside and/or Incompatible Employment

No employee shall engage in any other employment or in any private business or in the conduct of a profession during the hours he is employed to work for the County or outside such hours to an extent that is likely to effect his efficiency as an employee of the County or that is likely to be in violation of the Virginia Conflict of Interest Act. No employee shall engage in any outside activity, either with or without remuneration, which would bring discredit or otherwise cast unfavorable light on the County or any Department of the County. Employees may take occasional part-time jobs elsewhere if in the opinion of the Department Head there is no conflict with working hours or conflict with interest of the County.

Additionally, no employee shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties.

15.4 Nepotism

No administrator or any other person in a supervisory position shall have under his direct supervision any employee whose relationship is of the first or second degree, either by blood or marriage. In the event of a promotion which brings about the conditions thus described, the employee of lower rank shall be transferred to another position for which he or she is qualified when a vacancy occurs.

Relationships of the first or second degree shall mean father, mother, brother, sister, spouse, son, daughter, son-in-law or daughter-in-law, sister-in-law or brother-in-law, father-in-law, mother-in-law, aunts, uncles, nieces, nephews, and first cousins.

15.5 Timekeeping

Frederick County employees shall record all time worked accurately and honestly. Frederick County employees shall not knowingly falsify any charges whatsoever for any reason whatsoever.

15.6 Acceptance of Gifts and Gratuities

An employee shall not accept or solicit gifts, gratuities, money or loans from organizations, business concerns, or individuals with whom the employee, on behalf of the county, has an official relationship. These limitations do not apply to the acceptance of items of negligible value when such acceptance promotes legitimate county goals and is received during the performance of official county business. It is particularly important, however, that inspectors and employees who have administrative or operating authority to approve or disapprove or otherwise affect a procurement transaction guard against relationships which might create the impression of or be construed as evidence of favoritism, coercion, unfair advantage, or collusion.

15.7 Non-Retaliation/Reporting of Illegal Activity

Frederick County does not retaliate against or otherwise penalize employees who report behavior that violates any state or federal law or regulation, who refuse to engage in behavior that violates such regulations, or who cooperate with any investigation of such behavior.

Specifically, Frederick County will not retaliate against or penalize employees who:

- In good faith report violations of state or federal laws or regulations to a supervisor or any government body or law enforcement official;
- Is requested by a law enforcement official or governmental body to participate in a hearing, investigation, or inquiry into legal violations by the County or its officials;
- Refuses to engage in a criminal act that would subject him/her to criminal liability;
- Refuses an order to perform an action that violates a state or federal law, provided that the employee states that is the reason for the refusal; and
- Provides information to or testifies before any government body or law enforcement official conducting a hearing, investigation, or inquiry into any violation of state or federal laws or regulations alleged against the County or its officials.

This policy does not authorize an employee to disclose information that is otherwise protected by law or legal privilege, permit an employee to make statements or disclosures knowing that they are false or that they are in reckless disregard of the truth, or permit disclosures that would violate federal or state law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by common law.

For the purposes of this policy, retaliation includes, but is not limited to discipline, penalties, threats, and/or discrimination regarding an employee's compensation, employment terms and conditions, location, or privileges.

§ 40.1-27.3. Retaliatory action against employee prohibited

A. An employer shall not discharge, discipline, threaten, discriminate against, or penalize an employee, or take other retaliatory action regarding an employee's compensation, terms, conditions, location, or privileges of employment, because the employee:

1. Or a person acting on behalf of the employee in good faith reports a violation of any federal or state law or regulation to a supervisor or to any governmental body or law-enforcement official;
2. Is requested by a governmental body or law-enforcement official to participate in an investigation, hearing, or inquiry;
3. Refuses to engage in a criminal act that would subject the employee to criminal liability;
4. Refuses an employer's order to perform an action that violates any federal or state law or regulation and the employee informs the employer that the order is being refused for that reason; or
5. Provides information to or testifies before any governmental body or law-enforcement official conducting an investigation, hearing, or inquiry into any alleged violation by the employer of federal or state law or regulation.

B. This section does not:

1. Authorize an employee to make a disclosure of data otherwise protected by law or any legal privilege;
2. Permit an employee to make statements or disclosures knowing that they are false or that they are in reckless disregard of the truth; or
3. Permit disclosures that would violate federal or state law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by common law.

C. A person who alleges a violation of this section may bring a civil action in a court of competent jurisdiction within one year of the employer's prohibited retaliatory action. The court may order as a remedy to the employee (i) an injunction to restrain continued violation of this section, (ii) the reinstatement of the employee to the same position held before the retaliatory action or to an equivalent position, and (iii) compensation for lost wages, benefits, and other remuneration, together with interest thereon, as well as reasonable attorney fees and costs.

2020, c. 1136.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 2.2-3011. Discrimination and retaliatory actions against whistle blowers prohibited; good faith required; remedies

A. No employer may discharge, threaten, or otherwise discriminate or retaliate against a whistle blower whether acting on his own or through a person acting on his behalf or under his direction.

B. No employer may discharge, threaten, or otherwise discriminate or retaliate against a whistle blower, in whole or in part, because the whistle blower is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry by an appropriate authority or in a court action.

C. To be protected by the provisions of this chapter, an employee who discloses information about suspected wrongdoing or abuse shall do so in good faith and upon a reasonable belief that the information is accurate. Disclosures that are reckless or the employee knew or should have known were false, confidential by law, or malicious shall not be deemed good faith reports and shall not be protected.

D. In addition to the remedies provided in § 2.2-3012, any whistle blower may bring a civil action for violation of this section in the circuit court of the jurisdiction where the whistle blower is employed. In a proceeding commenced against any employer under this section, the court, if it finds that a violation was willfully and knowingly made, may impose upon such employer that is a party to the action, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500 nor more than \$2,500, which amount shall be paid into the Fraud and Abuse Whistle Blower Reward Fund. The court may also order appropriate remedies, including (i) reinstatement to the same position or, if the position is filled, to an equivalent position; (ii) back pay; (iii) full reinstatement of fringe benefits and seniority rights; or (iv) any combination of these remedies. The whistle blower may be entitled to recover reasonable attorney fees and costs. No action brought under this subsection shall be brought more than three years after the date the unlawful discharge, discrimination, or retaliation occurs. Any whistle blower proceeding under this subsection shall not be required to exhaust existing internal procedures or other administrative remedies.

E. Nothing in this chapter shall prohibit an employer from disciplining or discharging a whistle blower for his misconduct or any violation of criminal law.

F. No court shall have jurisdiction over an action brought under § 8.01-216.5 based on information discovered by a present or former employee of the Commonwealth during the course of his employment unless that employee first, in good faith, has exhausted existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels and unless the Commonwealth failed to act on the information provided within a reasonable period of time.

2009, c. 340;2014, cc. 335, 403.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose

provisions have expired.

XX. NON-DISCRIMINATION/NON-HARASSMENT

Frederick County is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. Frederick County prohibits discrimination, including harassment, on any illegal basis. The types of prohibited discrimination and/or harassment can be subject to change under the law. The addendum to this policy identifies the current forms of prohibited discrimination and harassment. The Human Resources Department will update the addendum as necessary consistent with changes in the law. Any employee found to have engaged in prohibited discrimination or harassment will be subject to discipline, up to and including termination.

Reasonable Accommodation Under the American with Disabilities Act (ADA)

Frederick County prohibits discrimination or harassment based upon an employee's disability, or his/her being regarded as having a disability, and provides reasonable accommodations as required by the ADA and Virginia law.

Employees with disabilities may make requests for reasonable accommodations to the Director of Human Resources. Upon doing so, we may ask you for your input or the type of accommodation you believe may be necessary or the functional limitations caused by your disability. It is your responsibility to cooperate with management and engage in this interactive process. The relevant management, identified as having a need to know, will determine the feasibility of the requested accommodation in light of American with Disabilities Act and any Virginia guidelines. We will inform you of our decision on the accommodation request or on how to make the accommodation. Also, when appropriate, we may need your permission to obtain additional information from your physician or other medical or rehabilitation professionals.

Discrimination on the Basis of Pregnancy, Childbirth, and Related Medical Conditions

Frederick County prohibits discrimination on the basis of pregnancy, childbirth, and pregnancy-related medical conditions, to include lactation. This prohibition extends to all areas of employment, including hiring, firing, promotion, compensation, and benefits. Prohibited discrimination includes, but is not limited to:

- Refusing to hire an employee on the basis of pregnancy, childbirth, or related medical conditions;
- Denying a promotion to an employee on the basis of pregnancy, childbirth or related medical conditions because the employer would have to make reasonable accommodations for those conditions;
- Failing to provide reasonable accommodations to employees who are pregnant, have given birth, or have related medical conditions, to include lactation;
- Taking adverse action against an employee who requests or uses a reasonable accommodation related to pregnancy, childbirth or related medical conditions; and
- Requiring an employee to take leave for a pregnancy, childbirth, or related medical conditions when another reasonable accommodation is available to the employee.

It is further Frederick County's policy to offer reasonable accommodations to employees on the basis of pregnancy, childbirth, and related medical conditions. Such accommodations include, but are not limited to:

- more frequent or longer bathroom breaks;
- breaks to express breast milk;
- access to a private location other than a bathroom for the expression of breast milk;
- acquisition or modification of equipment or access to or modification of employee seating;
- a temporary transfer to a less strenuous or hazardous position;
- assistance with manual labor; and
- job restructuring, a modified work schedule, light duty assignments, and leave to recover from childbirth.

Harassment

For purposes of this policy, harassment includes verbal or physical conduct that denigrates or shows hostility toward an individual or conduct that creates an intimidating, hostile, or offensive working environment for an individual because of the individual's protected class. Such conduct may include, but is not necessarily limited to, slurs, epithets, threats, derogatory comments or visual depictions, unwelcome jokes and teasing, stereotyping, insulting or obscene comments or gestures, display or circulation in the workplace of written or graphic material that denigrates or shows hostility toward the individual or group, or other verbal or physical actions relating to an individual's protected class.

Because there is often confusion related to the meaning of sexual harassment, it deserves additional clarification. Sexual harassment includes any unwelcome sexual conduct (including sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature) when (1) submission to the conduct is an explicit or implicit term or condition of employment, (2) submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual, or (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile, or offensive working environment.

Sexual harassment can take many forms. The following is a partial list of the types of behavior that could constitute sexual harassment:

- Unwanted or unwelcome physical contact or conduct of any kind, including patting, pinching, brushing up against, hugging, cornering, kissing, fondling, or any other similar physical contact;
- Verbal abuse of a sexual nature, including sexual flirtations, advances, propositions, sexual innuendoes, or sexually suggestive, insulting, or graphic comments, noises, or sounds;
- Sexually explicit, suggestive, or offensive jokes;
- Demeaning, insulting, intimidating, or sexually suggestive comments about an individual's dress, body, appearance, or personal life;
- The display or distribution in the workplace of demeaning, insulting, intimidating, or sexually suggestive objects or pictures, including nude photographs, drawings, or magazine pictures; and
- Demeaning, insulting, intimidating, or sexually suggestive written, recorded, or electronically transmitted messages.

To violate the law, harassment must be serious in nature, be repeated, and/or have an impact on employment. This policy, however, not only prohibits unlawful harassment, but also offensive conduct that is contrary to Frederick County's professional expectations for its employees. Thus, Frederick County may take action to address offensive behavior or statements based on a person's protected class even if such action(s) standing alone would not rise to the level of unlawful harassment.

Reporting Obligations

Any employee who feels he or she has been subjected to or has witnessed any kind of **discrimination or** harassing behavior as described in this policy should immediately notify his or her supervisor or Department Head. In addition, if for any reason an employee is not comfortable with reporting harassment to his or her supervisor or Department Head, including but not limited to instances in which the supervisor or Department Head is engaging in or allowing the harassment, an employee may always instead opt to notify the Director of Human Resources. A supervisor who becomes aware of any harassment, or who receives allegations of harassment from any employee, must immediately advise the Director of Human Resources.

Investigation

All complaints will be investigated in a timely manner and confidentiality will be maintained to the extent permitted by the circumstances consistent with the need to investigate and address the issue. Employees

must cooperate fully and truthfully in any investigation relating to this policy. Depending on the results of the investigation, Frederick County may take corrective action, including such discipline as is appropriate, up to and including immediate termination of the employee.

Retaliation Prohibited

Frederick County forbids retaliation against any employee for making a good faith complaint or cooperating fully and truthfully in an investigation under this policy. Any employee who is found to have engaged in retaliation in violation of this policy will be subject to discipline, up to and including termination. If an employee believes he or she has been retaliated against in violation of this policy, the employee must report such violation in the same way other violations of this policy are reported.

Individuals and Conduct Covered

This policy prohibits harassment, discrimination, and retaliation whether engaged in by, or directed at, employees, contractors, clients, vendors, or others an employee may come into contact with while working or representing the County. Conduct prohibited by this policy is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events.

Updated/Approved: 01/08/2020

ADDENDUM REGARDING NON-DISCRIMINATION/NON-HARASSMENT

Issued by Human Resources Department, July 2020

In keeping with Frederick County's commitment to a work environment in which all individuals are treated with respect and dignity, discrimination and/or harassment on the following bases is prohibited:

- Race, to include discrimination on the basis of traits historically associated with race, including hair texture, hair type, and protective hairstyles such as braids, locks, and twists
- color
- religion
- sex
- national origin
- pregnancy, childbirth, medical conditions related to pregnancy or childbirth
- age
- marital status
- disability
- military service
- veteran status
- gender identity
- sexual orientation
- genetic information (such as information that could be used to determine an employee's risk for disease).

See Chapter 39 of Title 2.2 of the Code of Virginia and Title VII of Civil Rights Act of 1964, included earlier in these materials.