HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL 32(2024)

A BILL FOR AN ORDINANCE

RELATING TO NONDISCRIMINATION POLICY.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to make revision to the City's nondiscrimination policy applicable to employment and the provision of services.

SECTION 2. Article 11 of the Revised Ordinances of Honolulu 2021 ("ROH §1-11"), is amended to read as follows:

"ARTICLE 11: NONDISCRIMINATION POLICY

§ 1-11.1 Definitions

§ 1-11.2 Nondiscrimination in city [~~City~~] employment practices and in the provision [~~Provision~~] of city services

§ 1-11.3 Local adoption of the principles of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

§ 1-11.1 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Discriminatory Practices. [~~Practices that discriminate on the basis of race, sex, sexual orientation, age, religion, color, ancestry, handicapped status, marital status, or arrest and court record.~~] Retaliating against applicants or employees for opposing discrimination or participating in an investigation or proceeding that alleges discrimination.

Discriminatory Practices in Employment. Practices that discriminate on the basis of a classification protected by any federal, state or municipal law, including but not limited to laws that prohibit discrimination based on an individual's: age, ancestry, arrest and or court record, citizenship, color, credit history or credit report, disability, domestic or sexual violence victim status, gender identity or expression, genetic information or refusal to submit to a genetic test, income assignment for child support, marital status, military or veteran status, national guard or reserve participation, national origin, politics, pregnancy status, limitations related to

pregnancy, childbirth or related medical conditions, race or ethnicity, religion, reproductive health decision, sex, sexual orientation, or transgender status, or because the employee is breastfeeding/expressing breast milk at work.

Discriminatory Practices in the Provision of City Programs and Services. means practices that discriminate on the basis of a classification protected under a federal, state or municipal law associated with the applicable City program or service.

Nonability-Based Criteria. Criteria that is not substantially related to the ability of an individual to perform competently the duties of a position.

§ 1-11.2 Nondiscrimination in city [~~City~~] employment practices and in the provision [~~--Provision~~] of city services.

The City and County of Honolulu shall refrain from discriminatory practices in city employment, including any practice that discriminates on the basis of nonability-based criteria. Further, the City and County of Honolulu shall refrain from discriminatory practices in the provision of city services.

§ 1-11.3 Local adoption of the principles of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

(a) *Findings and purpose*. The City and County of Honolulu finds and declares as follows.

(1) The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), an international human rights treaty, provides a universal definition of discrimination against women and brings attention to a whole range of issues concerning women's human rights. Countries that ratify CEDAW are mandated to condemn all forms of discrimination against women and girls and to ensure equality for women and girls in the civil, political, economic, social, and cultural arenas. The United Nations General Assembly adopted CEDAW in 1979 and President Carter signed the treaty on behalf of the United States in 1980, but the United States Senate has not yet ratified CEDAW.

(2) Since 1995, state and local jurisdictions have stepped up and passed resolutions in support of CEDAW. Some have implemented

ordinances establishing CEDAW principles as law. In 2014, municipalities across the nation began signing onto the Cities for CEDAW Initiative, pledging to step up where the federal government has failed and implement the principles of CEDAW at the local level.

(3) There is a continued need for the City of and County of Honolulu to protect the human rights of women and girls by addressing discrimination, including violence, against them and to implement, locally, the principles of CEDAW. Adherence to the principles of CEDAW on the local level will especially promote equal access to and equity in health care, employment, economic development, and educational opportunities for women and girls and will also address the continuing and critical problems of violence against women and girls. There is a need to analyze the operations of city departments, policies, and programs to identify discrimination in but not limited to employment practices, budget allocation, and the provision of direct and indirect services and, if identified, to remedy that discrimination. In addition, there is a need to work toward implementing the principles of CEDAW in the private sector.

(4) There is a need to strengthen effective national and local mechanisms, institutions, and procedures and to provide adequate resources, commitment, and authority to:

(A) Advise on the impact of all government policies on women and girls;

(B) Monitor the situation of women comprehensively in recognition of the interconnectedness of discrimination based on gender, race, and other social criteria; and

(C) Help formulate new policies and effectively carry out strategies and measures to eliminate discrimination.

(b) *Definitions*. For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Discrimination Against Women. Includes but is not be limited to any distinction, exclusion, or restriction made on the basis of sex that has the effect or purpose of impairing or nullifying the recognition, enjoyment, or

exercise by women, irrespective of their marital status and on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion, and other deprivations of liberty by family, community, or government.

Gender. The way society constructs the difference between women and men, focusing on their different roles, responsibilities, opportunities, and needs, rather than their biological differences.

Gender Analysis. An examination of the cultural, economic, social, civil, legal, and political relations between women and men within a certain entity, recognizing that women and men have different social roles, responsibilities, opportunities, and needs and that these differences, which permeate our society, affect how decisions and policy are made.

Human Rights. The rights every individual possesses that are intended to improve the conditions in society that protect each person's dignity and well-being and the humanity of all people.

Nontraditional Jobs. Jobs that have not traditionally been filled by women.

Racial Discrimination. Any distinction, exclusion, restriction, or preference based on race, color, descent, or national or ethnic origin that has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life.

(c) *Local principles of CEDAW.* It shall be the goal of the city to implement the principles underlying CEDAW by addressing discrimination against women and girls in areas including economic development, violence against women and girls, and health care. In implementing CEDAW, the city recognizes the connection between racial discrimination, as articulated in the International Convention on the Elimination of All Forms of Racial Discrimination, and discrimination against women. The city shall ensure

that the city does not discriminate against women in areas including employment practices, allocation of funding, and delivery of direct and indirect services. The city shall conduct gender analyses, to determine what, if any, city practices and policies should change to implement the principles of CEDAW.

(1) *Economic development.*

(A) The city shall take all appropriate measures to eliminate discrimination against women and girls in the city in employment and other economic opportunities, including but not limited to ensuring:

(i) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment and the right to receive access to and vocational training for nontraditional jobs;

(ii) The right to promotion, job security, and all benefits and conditions of service, regardless of parental status, particularly encouraging the appointment of women to decision making posts and to city revenue generating and managing commissions and departments;

(iii) The right to equal remuneration, including benefits and to equal pay in respect to work of equal value; and

(iv) The right to the protection of health and safety in working conditions, including supporting efforts not to purchase sweatshop goods, regular inspection of work premises, and protection from violent acts at the workplace.

(B) The city shall encourage and, where possible, fund the provisions of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities, paid family leave, family-friendly policies, and work-life balance.

(C) The city shall encourage the use of public education and all other available means to urge financial institutions to facilitate women's access to bank accounts, loans, mortgages, and other forms of financial services.

(2) *Violence against women and girls.*

(A) The city shall take and diligently pursue all appropriate measures to prevent and redress sexual and domestic violence against women and girls, including but not limited to:

(i) Police enforcement of criminal penalties and civil remedies, when appropriate;

(ii) Providing appropriate protective and support services for survivors, including counseling and rehabilitation programs;

(iii) Providing gender-sensitive training of city employees regarding violence against women and girls, where appropriate; and

(iv) Providing rehabilitation programs for perpetrators of violence against women or girls, where appropriate.

The city shall not discriminate on the basis of race, ethnicity, culture, language, or sexual orientation, when providing the above supportive services.

(B) It shall be the goal of the city to take all necessary measures to protect women and girls from sexual harassment in their places of employment, school, public transportation, and any other places where they may be subject to harassment. Such protection must include streamlined and rapid investigation of complaints.

(C) Prostitutes are especially vulnerable to violence because their legal status tends to marginalize them. It shall be the policy of the city that the Honolulu police department diligently investigate violent attacks against prostitutes and take efforts to establish the level of coercion involved in the prostitution, in particular

where there is evidence of trafficking in women and girls. It shall be the goal of the city to develop and fund projects to help prostitutes who have been subject to violence and to prevent such acts.

(D) The city shall ensure that all public works projects include measures, such as adequate lighting, to protect the safety of women and girls.

(E) It shall be the goal of the city to fund public information and education programs to change traditional attitudes concerning the roles and status of women and men.

(3) *Health care.*

(A) It shall be the goal of the city to take all appropriate measures to eliminate discrimination against women and girls in the field of health care to ensure, on a basis of equity, information about and access to adequate health care facilities and services, according to the needs of all communities, regardless of race, ethnicity, culture, language, and sexual orientation, including information, counseling, and services in family planning.

(B) It shall be the goal of the city to ensure that women and girls receive appropriate services in connection with prenatal care, delivery, and the post-natal period, granting free services where possible, as well as adequate nutrition during pregnancy and lactation.

In undertaking the enforcement of this article, the city is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury."

SECTION 3. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL 32 (2024)

A BILL FOR AN ORDINANCE

SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:

Tommy Waterhouse (br)

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DATE OF INTRODUCTION: _____

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MAY 9 2024

Honolulu, Hawai'i

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Councilmembers

APPROVED AS TO FORM AND LEGALITY:

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Deputy Corporation Counsel

APPROVED this _____day of _____, 20 _____.

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RICK BLANGIARDI, Mayor
City and County of Honolulu

Report Title:

Nondiscrimination Policy; Discriminatory Practices in Employment; Department of Human Resources.

Description:

Updates the City's policy prohibiting discrimination in the City's employment practices and the provision of City services to align with current federal and state nondiscrimination statutes.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.