Title 8 of the Administrative Code of the City of New York

Chapter 1

Commission on Human Rights

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§ 8-101 Policy. In the City of New York, with its great cosmopolitan population, there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of groups prejudiced against one another and antagonistic to each other because of their actual or perceived differences, including those based on race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, partnership status, caregiver

status, any lawful source of income, status as a victim of domestic violence or status as a victim of sex offenses or stalking, lawful occupation, whether children are, may be or would be residing with a person or conviction or arrest record. The council hereby finds and declares that prejudice, intolerance, bigotry, and discrimination and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the institutions and foundation of a free democratic state. A city agency is hereby created with power to eliminate and prevent discrimination from playing any role in actions relating to employment, public accommodations and housing and other real estate, and to take other actions against prejudice, intolerance, bigotry, discrimination and bias-related violence or harassment as herein provided; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

§ 8-102 Definitions. When used in this chapter:

1. The term "person" includes one or more, natural persons, proprietorships partnerships, associations, group associations, organizations, governmental bodies or agencies, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

2. The term "employment agency" includes any person undertaking to procure employees or opportunities to work.

3. The term "labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms and conditions of employment, or of other mutual aid or protection in connection with employment.

4. The term "unlawful discriminatory practice" includes only those practices specified in sections 8-107 and 8-107.1 of this chapter.

5. For purposes of subdivisions one, two, three, eleven-a, twenty-two, subparagraph one of paragraph a of subdivision twenty-one, and paragraph e of subdivision twenty-one of section 8-107 of this chapter, the term "employer" does not include any employer with fewer than four persons in his or her employ. For purposes of this subdivision, natural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers shall be counted as persons in the employ of such employer.

6. The term "commission" unless a different meaning clearly appears from the text, means the City Commission on Human Rights created by this chapter.

7. The term "national origin" shall, for the purposes of this chapter, include "ancestry."

8. The term "educational institution" includes kindergartens, primary and secondary schools, academies, colleges, universities, professional schools, extension courses, and all other educational facilities.

9. The term "place or provider of public accommodation" shall include providers, whether licensed or unlicensed, of goods, services, facilities, accommodations, advantages or privileges of any kind, and places, whether licensed or unlicensed, where goods, services, facilities, accommodations, advantages or privileges of any kind are extended, offered, sold or otherwise made available. Such

term shall not include any club, which proves that it is in its nature distinctly private. A club shall not be considered in its nature distinctly private if it has more than four hundred members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of non-members for the furtherance of trade or business. For the purposes of this section a corporation incorporated under the benevolent orders law or described in the benevolent orders law but formed under any other law of this state, or a religious corporation incorporated under the education law or the religious corporations law shall be deemed to be in its nature distinctly private. No club which sponsors or conducts any amateur athletic contest or sparring exhibition and advertises or bills such contest or exhibition as a New York state championship contest or uses the words "New York State" in its announcements shall be deemed a private exhibition within the meaning of this section.

10. The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings. Except as otherwise specifically provided, such term shall include a publicly assisted housing accommodation.

11. The term "publicly-assisted housing accommodations" shall include:
(a) Publicly-owned or operated housing accommodations.
(b) Housing accommodations operated by housing companies under the supervision of the state commissioner of housing and community renewal, or the department of housing preservation and development.
(c) Housing accommodations constructed after July first, nineteen hundred fifty, and housing accommodations sold after July first, nineteen hundred ninety-one:
(1) Which are exempt in whole or in part from taxes levied by the state or any of its political subdivisions,
(2) Which are constructed on land sold below cost by the state or any of its political subdivisions or any agency thereof, pursuant to the federal housing act of nineteen hundred forty-nine,
(3) Which are constructed in whole or in part on property acquired or assembled by the state or any of its political subdivisions or any agency thereof through the power of condemnation or otherwise for the purpose of such construction, or
(4) For the acquisition, construction, repair or maintenance for which the state or any of its political subdivisions or any agency thereof supplies funds or other financial assistance.
(d) Housing accommodations, the acquisition, construction, rehabilitation, repair or maintenance of which is, after July first, nineteen hundred fifty-five, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof.

12. The term "family," as used in subparagraph four of paragraph (a) of subdivision five of section 8-107 of this chapter, means either a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers. A “boarder," "roomer" or “lodger” residing with a family means a person living within the household who pays consideration for such residence and does not occupy such space within the household as an incident of employment therein.

13. The term "commercial space" means any space in a building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property; and any space which is used or occupied, or is intended, arranged or designed to be used or occupied as a business or professional unit or office in any building, structure or portion thereof.

14. The term "real estate broker" means any person who, for another and for a fee, commission or other valuable consideration, lists for sale, sells, at auction or otherwise, exchanges, buys or rents, or offers or attempts to negotiate a sale at auction, or otherwise, exchange, purchase or rental of an estate or interest in real estate or collects or offers or attempts to collect rent for the use of real estate, or negotiates, or offers or attempts to negotiate, a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate. In the sale of lots pursuant to the provisions of article nine-a of the real property law, the term “real estate broker" shall also include any person employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange of any such lot or parcel of real estate.

15. The term "real estate salesperson" means a person employed by or authorized by a licensed real estate broker to list for sale, sell or offer for sale at auction or otherwise to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate or to negotiate a loan on real estate or to lease or rent or offer to lease, rent or place for rent any real estate, or who collects or offers or attempts to collect rents for the use of real estate for or on behalf of such real estate broker.

16. (a) The term "disability" means any physical, medical, mental or psychological impairment, or a history or record of such impairment.
(b) The term "physical, medical, mental, or psychological impairment" means:
(1) An impairment of any system of the body; including, but not limited to: the neurological system; the musculoskeletal system; the special sense organs and respiratory organs, including, but not limited to, speech organs; the cardiovascular system; the reproductive system; the digestive and genito-urinary systems; the hemic and lymphatic systems; the immunological systems; the skin; and the endocrine system; or
(2) A mental or psychological impairment.
(c) In the case of alcoholism, drug addiction or other substance abuse, the term "disability" shall only apply to a person who (1) is recovering or has recovered and (2) currently is free of such abuse, and shall not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

17. The term "covered entity" means a person required to comply with any provision of section 8-107 of this chapter.

18. The term "reasonable accommodation" means such accommodation that can be made that shall not cause undue hardship in the conduct of the covered entity's business. The covered entity shall have the burden of proving undue hardship. In making a determination of undue hardship with respect to claims filed under subdivisions one (or) two, or twenty-two of section 8-107 or section 8-107.1 of this chapter, the factors which may be considered include but shall not be limited to:

(a) The nature and cost of the accommodation;
(b) The overall financial resources of the facility or the faculties involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;
(c) The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees, the number, type, and location of its facilities; and
(d) The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

In making a determination of undue hardship with respect to claims for reasonable accommodation to an employee's or prospective employee's religious observance filed under subdivision three of section 8-107 of this chapter, the definition of "undue hardship" set forth in paragraph b of such subdivision shall apply.

19. The term "occupation" means any lawful vocation, trade, profession or field of specialization.

20. The term "sexual orientation" means heterosexuality, homosexuality, or bisexuality.

21. The term "alienage or citizenship status" means:
(a) The citizenship of any person, or
(b) The immigration status of any person who is not a citizen or national of the United States.

22. The term "hate crime" means a crime that manifests evidence of prejudice based on race, religion, ethnicity, disability, sexual orientation, national origin, age, gender, or alienage or citizenship status.

23. The term “gender” shall include actual or perceived sex and shall also include a person’s gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.

24. The term “partnership status” means the status of being in a domestic partnership, as defined by § 3-240(a) of the Administrative Code of the City of New York.

25. The term "lawful source of income" shall include income derived from social security, or any form of federal, state or local public assistance or housing assistance including section 8 vouchers.

26. The term “cyberbullying” means willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices that is intended to frighten, harass, cause harm to, extort, or otherwise target another.

27. The terms "unemployed" or "unemployment" shall mean not having a job, being available for work, and seeking employment.

28. The term "intern" shall mean an individual who performs work for an employer for the purpose of training if:
(a) the individual works for a fixed period of time at the end of which there is no expectation of employment;
(b) the individual performing the work is not entitled to wages for the work performed; and
(c) the work performed: (i) supplements training given in an educational environment that may enhance the employability of the intern; (ii) provides experience for the benefit of the individual performing the work; (iii) does not displace regular employees; and (iv) is performed under the close supervision of existing staff.
(d) For purposes of subdivisions 1, 3, 15, and 17 of section 8-107, and section 8-107.1 of this title, an "intern" is considered to be a "person" as defined in subdivision 1 of this section.

29. The term "consumer credit history" means an individual's credit worthiness, credit standing, credit capacity, or payment history, as indicated by: (a) a consumer credit report; (b) credit score; or (c) information an employer obtains directly from the individual regarding (1) details about credit accounts, including the individual's number of credit accounts, late or missed payments, charged-off debts, items in collections, credit limit, prior credit report inquiries, or (2) bankruptcies, judgments or liens. A consumer credit report shall include any written or other communication of any information by a consumer reporting agency that bears on a consumer's creditworthiness, credit standing, credit capacity or credit history.

30. (a) The term “caregiver” means a person who provides direct and ongoing care for a minor child or a care recipient.
(b) The term “care recipient” means a person with a disability who: (i) is a covered relative, or a person who resides in the caregiver’s household; and (ii) relies on the caregiver for medical care or to meet the needs of daily living.
(c) The term “covered relative” means a caregiver’s child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of the caregiver’s spouse or domestic partner, or any other individual in a familial relationship with the caregiver as designated by the rules of the Commission.
(d) The term “grandchild” means a child of a caregiver’s child.
(e) The term “grandparent” means a parent of a caregiver’s parent.
(f) The term “parent” means a biological, foster, step- or adoptive parent, or a legal guardian of a caregiver, or a person who stood in loco parentis when the caregiver was a minor child.
(g) The term “sibling” means a caregiver’s brother or sister, including half-siblings, step-siblings and siblings related through adoption.
(h) The term “spouse” means a person to whom a caregiver is legally married under the laws of the state of New York.
(i) The term “child” means a biological, adopted or foster child, a legal ward, or a child of a caregiver standing in loco parentis.
(j) The term “minor child” means a child under the age of 18.

31. The term "domestic partner" means any person who has a registered domestic partnership pursuant to section 3-240 of the code, a domestic partnership registered in accordance with executive order number 123, dated August 7, 1989, or a domestic partnership registered in accordance with executive order number 48, dated January 7, 1993.

§ 8-103 Commission on human rights. There is hereby created a Commission on Human Rights. It shall consist of fifteen members, to be appointed by the mayor, one of whom shall be designated by the mayor as its chairperson and shall serve as such at the pleasure of the mayor. The chairperson shall devote his or her entire time to the chairperson's duties and shall not engage in

any other occupation, profession or employment. Members other than the chairperson shall serve without compensation. Of the fifteen members first appointed, five shall be appointed for one year, five for two years and five for three years; thereafter all appointments to the commission shall be for a term of three years. In the event of the death or resignation of any member, his or her successor shall be appointed to serve for the term for which such member had been appointed.

§ 8-104 Functions. The functions of the commission shall be:
(1) To foster mutual understanding and respect among all persons in the City of New York;
(2) To encourage equality of treatment for, and prevent discrimination against, any group or its members;
(3) To cooperate with governmental and non-governmental agencies and organizations having like or kindred functions; and
(4) To make such investigations and studies in the field of human relations as in the judgment of the commission will aid in effectuating its general purposes.

§ 8-105 Powers and duties.

The powers and duties of the commission shall be:

(1) To work together with federal, state and city agencies in developing courses of instruction, for presentation to city employees and in public and private schools, public libraries, museums and other suitable places, on techniques for achieving harmonious inter-group relations within the City of New York, on types of bias-related harassment and repeated hostile behavior including conduct or verbal threats, taunting, intimidation, abuse, and cyberbullying, and to engage in other anti-discrimination activities.

(2) To enlist the cooperation of various groups, and organizations in mediation efforts, programs and campaigns devoted to eliminating group prejudice, intolerance, hate crimes bigotry and discrimination.

(3) To study the problems of prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby in all or any fields of human relationship.

(4) (a) To receive, investigate and pass upon complaints and to initiate its own investigations of:
(i) Group tensions, prejudice, intolerance, bigotry and disorder occasioned thereby.
(ii) Discrimination against any person or group of persons, provided, however, that with respect to discrimination alleged to be committed by city officials or city agencies; such investigation shall be commenced after consultation with the mayor. Upon its own motion, to make, sign and file complaints alleging violations of this chapter.
(b) In the event that any investigation undertaken pursuant to paragraph (a) of this subdivision discloses information that any person or group of persons may be engaged in a pattern or practice that results in the denial to any person or group of persons the full enjoyment of any right secured by this chapter, in addition to making, signing and filing a complaint upon its own motion pursuant to paragraph (a) of this subdivision, to refer such information to the Corporation
Counsel for the purpose of commencing a civil action pursuant to chapter four of this title.

(5) (a) To issue subpoenas in the manner provided for in a Civil Practice Law and Rules compelling the attendance of witnesses and requiring the production of any evidence relating to any matter under investigation or any question before the commission, and to take proof with respect thereto;
(b) To hold hearings, administer oaths and take testimony of any person under oath; and
(c) In accordance with applicable law, to require the production of any names of persons necessary for the investigation of any institution, club or other place or provider of accommodation.

(6) In accordance with the provisions of subdivision b of section 8-114 of this chapter, to require any person or persons who are the subject of an investigation by the commission to preserve such records as are in the possession of such person or persons and to continue to make and keep the type of records that have been made and kept by such person or persons in the ordinary course of business within the previous year, which records are relevant to the determination whether such person or persons have committed unlawful discriminatory practices with respect to activities in the city.

(7) To issue publications and reports of investigations and research designed to promote good will and minimize or eliminate prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby.

(8) To appoint such employees and agents as it deems to be necessary to carry out its functions, powers and duties and to assign to such persons any of such functions, powers and duties; provided, however, that the commission shall not delegate its power to adopt rules, and, provided further, that the commission's power to order that records be preserved or made and kept pursuant to subdivision b of section 8-114 of this chapter and the commission’s power to determine that a respondent has engaged in an unlawful discriminatory practice and to issue an order for such relief as is necessary and proper shall be delegated only to members of the commission. The expenses for the carrying on of the commission's activities shall be paid out of the funds in the city treasury. The commission's appointment and assignment powers as set forth in this subdivision may be exercised by the Chairperson of the Commission.

(9) To recommend to the mayor and to the council, legislation to aid in carrying out the purposes of this chapter.

(10) To submit an annual report by March 1 to the mayor and the council, which shall be published in the City Record. Such annual report shall include information for the calendar year that is the subject of the report regarding:
(i) inquiries received by the commission from the public; provided that such information for calendar years 2009 and 2010 must only be included in the annual report submitted by March 1, 2012,
(ii) complaints filed with the commission, and
(iii) education and outreach efforts made by the commission.

(a) The information regarding inquiries received by the commission from the public shall include, but not be limited to:
(i) the total number of inquiries;
(ii) the number of inquiries made by limited English proficient persons disaggregated by language;
(iii) the subject matter of inquiries disaggregated by the alleged category of unlawful discriminatory practice as set forth by sections 8-107 and 8-107.1(2) of this chapter and the protected class of

person, and
(iv) the number of inquiries resolved by pre-complaint intervention.

(b) The information regarding complaints filed with the commission shall include, but not be limited to, the number of complaints filed with the commission and shall be disaggregated by:
(i) the category of unlawful discriminatory practice, as set forth by sections 8-107 and 8-107.1(2) of this chapter, alleged;
(ii) the basis of the alleged discriminatory practice based on protected class of the complainant;
(iii) whether the complaint was resolved by mediation and conciliation, as set forth in section 8-115 of this chapter; a determination of no probable cause, as set forth in section 8-116 of this chapter; or a hearing, as set forth by section 8-119 of this chapter;
(iv) the number of days the complaint was outstanding at the time such resolution occurred; and
(v) whether a fine, penalty, or cash award was imposed and, if so, the dollar amount of such fine, penalty or cash award.

(c) The information regarding the commission's education and outreach efforts as required by sections 8-105(1) and 8-105(2) of this chapter shall include, but not be limited to:
(i) the types of outreach initiated;
(ii) the number of people with whom the commission made contact as a result of outreach;
(iii) the number of limited English proficient persons served; and
(iv) the languages in which such outreach was conducted.

(11) To adopt rules to carry out the provisions of this chapter and the policies and procedures of the commission in connection therewith.

§ 8-106 Relations with city departments and agencies. So far as practicable and subject to the approval of the mayor, the services of all other city departments and agencies shall be made available by their respective heads to the commission for the carrying out of the functions herein stated. The head of any department or agency shall furnish information in the possession of such department or agency when the commission so requests. The corporation counsel, upon request of the chairperson of the commission, may assign counsel to assist the commission in the conduct of its investigatory or prosecutorial functions.

§ 8-107 Unlawful discriminatory practices.
1. Employment. It shall be an unlawful discriminatory practice:
(a) For an employer or an employee or agent thereof, because of the actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, caregiver status, sexual orientation or alienage or citizenship status of any person, to refuse to hire or employ or to bar or to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment.
(b) For an employment agency or an employee or agent thereof to discriminate against any person because of such person's actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, caregiver status, sexual orientation or alienage or citizenship status in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants for its services to an employer or employers.
(c) For a labor organization or an employee or agent thereof, because of the actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, caregiver

status, sexual orientation or alienage or citizenship status of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer.
(d) For any employer, labor organization or employment agency or an employee or agent thereof to declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, race, creed, color, national origin, gender, disability, marital status, partnership status, caregiver status, sexual orientation or alienage or citizenship status, or any intent to make any such limitation, specification or discrimination.
(e) The provisions of this subdivision and subdivision two of this section:
(i) As they apply to employee benefit plans, shall not be construed to preclude an employer from observing the provisions of any plan covered by the federal employment retirement income security act of nineteen hundred seventy-four that is in compliance with applicable federal discrimination laws where the application of the provisions of such subdivisions to such plan would be preempted by such act;
(ii) Shall not preclude the varying of insurance coverage according to an employee's age;
(iii) Shall not be construed to affect any retirement policy or system that is permitted pursuant to paragraph (e) and (f) of subdivision three-a of section two hundred ninety-six of the executive law;
(iv) Shall not be construed to affect the retirement policy or system of an employer where such policy or system is not a subterfuge to evade the purposes of this chapter.
(f) The provisions of this subdivision shall not govern the employment by an employer of his or her parents, spouse, or children; provided, however, that such family members shall be counted as persons employed by an employer for the purposes of subdivision five of section 8-102 of this chapter.

2. Apprentice training programs. It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs or an employee or agent thereof:
(a) To select persons for an apprentice-training program registered with the State of New York on any basis other than their qualifications, as determined by objective criteria which permit review.
(b) To deny to or withhold from any person because of his or her actual or perceived race, creed, color, national origin, gender, age, disability, marital status, partnership status, sexual orientation or alienage or citizenship status the right to be admitted to or participate in a guidance program, an apprentice training program, on-the-job training program, or other occupational training or retraining program.
(c) To discriminate against any person in his or her pursuit of such program or to discriminate against such a person in the terms, conditions or privileges of such program because of actual or perceived race, creed, color, national origin, gender, age, disability, marital status, partnership status, sexual orientation or alienage or citizenship status.
(d) To declare print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for such program or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, gender, age, disability, marital status, partnership status, sexual orientation or alienage or citizenship status, or any intent to make any such limitation, specification or discrimination.

3. Employment; religious observance. (a) It shall be an unlawful discriminatory practice for an employer or an employee or agent thereof to impose upon a person as a condition of obtaining or retaining employment any terms or conditions, compliance with which would require such person to violate, or forego a practice of, his or her creed or religion, including but not limited to the observance of any particular day or days or any portion thereof as a Sabbath or holy day or the observance of any religious custom or usage, and the employer shall make reasonable accommodation to the religious needs of such person. Without in any way limiting the foregoing, no person shall be required to remain at his or her place of employment during any day or days or portion thereof that, as a requirement of such persons religion he or she observes as a Sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his or her place of employment and his or her home, provided, however, that any such absence from work shall, wherever practicable in the judgment of the employer, be made up by an equivalent amount of time at some other mutually convenient time.
(b) "Reasonable accommodation", as used in this subdivision, shall mean such accommodation to an employee's or prospective employee's religious observance or practice as shall not cause undue hardship in the conduct of the employer's business. The employer shall have the burden of proof to show such hardship.

"Undue hardship" as used in this subdivision shall mean an accommodation requiring significant expense or difficulty (including a significant interference with the safe or efficient operation of the workplace or a violation of a bona fide seniority system). Factors to be considered in determining whether the accommodation constitutes an undue economic hardship shall include, but not be limited to:
(i) the identifiable cost of the accommodation, including the costs of loss of productivity and of retaining or hiring employees or transferring employees from one facility to another, in relation to the size and operating cost of the employer;

(ii) the number of individuals who will need the particular accommodation to a sincerely held religious observance or practice; and

(iii) for an employer with multiple facilities, the degree to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive.

Provided, however, an accommodation shall be considered to constitute an undue hardship, for purposes of this subdivision, if it will result in the inability of an employee who is seeking a religious accommodation to perform the essential functions of the position in which he or she is employed.

4. Public accommodations. (a) It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation because of the actual or perceived race, creed, color, national origin, age, gender, disability, marital status, partnership status, sexual orientation or alienage or citizenship status of any person directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, or, directly or indirectly, to make any declaration, publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place or provider shall be refused, withheld from or denied to any person on

account of race, creed, color, national origin, age, gender, disability, marital status, partnership status, sexual orientation or alienage or citizenship status or that the patronage or custom of any person belonging to, purporting to be, or perceived to be, of any particular race, creed, color, national origin, age, gender, disability, marital status, partnership status, sexual orientation or alienage or citizenship status is unwelcome, objectionable or not acceptable, desired or solicited.
(b) Notwithstanding the foregoing, the provisions of this subdivision shall not apply, with respect to age or gender, to places or providers of public accommodation where the commission grants an exemption based on bona fide considerations of public policy.
(c) The provisions of this subdivision relating to discrimination on the basis of gender shall not prohibit any educational institution subject to this subdivision from making gender distinctions which would be permitted (i) for educational institutions which are subject to section thirty-two hundred one-a of the education law or any rules or regulations promulgated by the state commissioner of education relating to gender or (ii) under sections 86.32, 86.33 and 86.34 of title forty-five of the code of federal regulations for educational institutions covered thereunder.
(d) Nothing in this subdivision shall be construed to preclude an educational institution—other than a publicly operated educational institution— which establishes or maintains a policy of educating persons of one gender exclusively from limiting admissions to students of that gender.
(e) The provisions of this subdivision relating to disparate impact shall not apply to the use of standardized tests as defined by section three hundred forty of the education law by an educational institution subject to this subdivision provided that such test is used in the manner and for the purpose prescribed by the test agency which designed the test.
(f) The provisions of this subdivision as they relate to unlawful discriminatory practices by educational institutions shall not apply to matters that are strictly educational or pedagogic in nature.

5. Housing accommodations, land, commercial space and lending practices.
(a) Housing accommodations. It shall be an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease or approve the sale, rental or lease of a housing accommodation, constructed or to be constructed, or an interest therein, or any agency or employee thereof:
(1) To refuse to sell, rent, lease approve the sale, rental or lease or otherwise deny to or withhold from any person or group of persons such a housing accommodation or an interest therein because of the actual or perceived race, creed, color, national origin, gender, age, disability, sexual orientation, marital status, partnership status, or alienage or citizenship status of such person or persons, or because of any lawful source of income of such person, or because children are, may be or would be residing with such person or persons.
(2) To discriminate against any person because of such person's actual or perceived race, creed, color, national origin, gender, age, disability, sexual orientation, marital status, partnership status, or alienage or citizenship status, or because of any lawful source of income of such person, or because children are, may be or would be residing with such person, in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or an interest therein or in the furnishing of facilities or services in connection therewith.
(3) To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such a housing accommodation or an interest therein or to make any record or inquiry in conjunction with the prospective purchase, rental or lease of such a housing accommodation or an interest therein which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, gender, age, disability, sexual orientation, marital status,

partnership status, or alienage or citizenship status, or because of any lawful source of income of such person, or whether children are, may be, or would be residing with a person, or any intent to make such limitation, specification or discrimination.
(4) The provisions of this paragraph (a) shall not apply:
(1) To the rental of a housing accommodation, other than a publicly-assisted housing accommodation, in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or a member of the owner's family reside in one of such housing accommodations, and if the available housing accommodation has not been publicly advertised, listed, or otherwise offered to the general public; or
(2) To the rental of a room or rooms in a housing accommodation, other than a publicly-assisted housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner or members of the owner's family reside in such housing accommodation.
(b) Land and commercial space. It shall be an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, or lease, or approve the sale, rental or lease of land or commercial space or an interest therein, or any agency or employee thereof:
(1) To refuse to sell, rent, lease, approve the sale, rental or lease or otherwise deny or to withhold from any person or group of persons land or commercial space or an interest therein because of the actual or perceived race, creed, color, national origin, gender, age, disability, sexual orientation, marital status, partnership status, or alienage or citizenship status of such person or persons, or because children are, may be or would be residing with such person or persons.
(2) To discriminate against any person because of actual or perceived race, creed, color, national origin, gender, age, disability, sexual orientation, marital status, partnership status, or alienage or citizenship status, or because children are, may be or would be residing with such person, in the terms, conditions or privileges of the sale, rental or lease of any such land or commercial space or an interest therein or in the furnishing of facilities or services in connection therewith.
(3) To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such land or commercial space or an interest therein or to make any record or inquiry in connection with the prospective purchase, rental or lease of such land or commercial space or an interest therein which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, gender, age, disability, sexual orientation, marital status, partnership status, or alienage or citizenship status, or whether children are, may be or would be residing with such person, or any intent to make any such limitation, specification or discrimination.
(c) Real estate brokers. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof:
(1) To refuse to sell, rent or lease any housing accommodation, land or commercial space or an interest therein to any person or group of persons or to refuse to negotiate for the sale, rental or lease, of any housing accommodation, land or commercial space or an interest therein to any person or group of persons because of the actual or perceived race, creed, color, national origin, gender, age, disability, sexual orientation, marital status, partnership status, or alienage or citizenship status of such person or persons, or because of any lawful source of income of such person, or because children are, may be or would be residing with such person or persons, or to represent that any housing accommodation, land or commercial space or an interest therein is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise to deny or withhold any housing accommodation, land or commercial space or an interest therein or any facilities of any housing accommodation, land or commercial space or an interest therein from any person or group

of persons because of the actual or perceived race, creed, color, national gender, age, disability, sexual orientation, marital status, partnership status, or alienage or citizenship status of such person or persons, or because of any lawful source of income of such person, or because children are, may be or would be residing with such person or persons.
(2) To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of any housing accommodation, land or commercial space or an interest therein or to make any record or inquiry in connection with the prospective purchase, rental or lease of any housing accommodation, land or commercial space or an interest therein which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, gender, age, disability, sexual orientation, marital status, partnership status, or alienage or citizenship status, or any lawful source of income, or to whether children are, may be or would be residing with a person, or any intent to make such limitation, specification or discrimination.
(3) To induce or attempt to induce any person to sell or rent any housing accommodation, land or commercial space or an interest therein by representations, explicit or implicit, regarding the entry or prospective entry into the neighborhood or area of a person or persons of any race, creed, color, gender, age, disability, sexual orientation, marital status, partnership status, national origin, alienage or citizenship status, or a person or persons with any lawful source of income, or a person or persons with whom children are, may be or would be residing.
(d) Lending practices. It shall be an unlawful discriminatory practice for any person, bank, trust company, private banker, savings bank, industrial bank, savings and loan association, credit union, investment company, mortgage company, insurance company, or other financial institution or lender, doing business in the city and if incorporated regardless of whether incorporated under the laws of the state of New York, the United States or any other jurisdiction, or any officer, agent or employee thereof to whom application is made for a loan, mortgage or other form of financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, land or commercial space or an interest therein:
(1) To discriminate against such applicant or applicants because of the actual or perceived race, creed, color, national origin, gender, disability, sexual orientation, age, marital status, partnership status, or alienage or citizenship status of such applicant or applicants or of any member, stockholder, director, officer or employee of such applicant or applicants, or of the occupants or tenants or prospective occupants or tenants of such housing accommodation, land or commercial space, or because children are, may be or would be residing with such applicant, or other person in the granting, withholding, extending or renewing, or in the fixing of rates, terms or conditions of any such financial assistance or in the appraisal of any housing accommodation, land or commercial space or an interest therein.
(2) To use any form of application for a loan, mortgage, or other form of financial assistance, or to make any record or inquiry in connection with applications for such financial assistance, or in connection with the appraisal of any housing accommodation, land or commercial space or an interest therein, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, gender, disability, sexual orientation, age, marital status or alienage or citizenship status, or whether children are, may be, or would be residing with a person.
(e) Real estate services. It shall be an unlawful discriminatory practice to deny a person access to, or membership in or participation in, a multiple listing service, real estate brokers' organization, or other service because of the actual or perceived race, creed, color, national origin, gender, disability, sexual orientation, age, marital status, partnership status, or alienage or citizenship status of such person or because children are, may be or would be residing with such person.
f) Real estate related transactions. It shall be an unlawful discriminatory practice for any person

whose business includes the appraisal of housing accommodations, land or commercial space or interest therein or an employee or agent thereof to discriminate in making available or in the terms or conditions of such appraisal on the basis of the actual or perceived race, creed, color, national origin, gender, disability, sexual orientation, age, marital status, partnership status, or alienage or citizenship status of any person or because children are, may be or would be residing with such person.

(g) Applicability; persons under eighteen years of age. The provisions of this subdivision, as they relate to unlawful discriminatory practices in housing accommodations, land and commercial space or an interest therein and lending practices on the basis of age, shall not apply to unemancipated persons under the age of eighteen years.

(h) Applicability; discrimination against persons with children. The provisions of this subdivision with respect to discrimination against persons with whom children are, may be or would be residing shall not apply to housing for older persons as defined in paragraphs two and three of subdivision (b) of section thirty-six hundred seven of title forty-two of the United States code and any regulations promulgated thereunder.

(i) Applicability; senior citizen housing. The provisions of this subdivision with respect to discrimination on the basis of age shall not apply to the restriction of the sale, rental or lease of any housing accommodation, land or commercial space or an interest therein exclusively to persons fifty-five years of age or older. This paragraph shall not be construed to permit discrimination against such persons fifty-five years of age or older on the basis of whether children are, may be or would be residing in such housing accommodation or land or an interest therein unless such discrimination is otherwise permitted pursuant to paragraph (h) of this subdivision.

(j) Applicability; dormitory residence operated by educational institution. The provisions of this subdivision relating to discrimination on the basis of gender in housing accommodations shall not prohibit any educational institution from making gender distinctions in dormitory residences which would be permitted under sections 86.32 and 86.33 of title forty-five of the code of federal regulations for educational institutions covered thereunder.

(k) Applicability; dormitory-type housing accommodations. The provisions of this subdivision which prohibit distinctions on the basis of gender and whether children are, may be or would be residing with a person shall not apply to dormitory-type housing accommodations including, but not limited, to shelters for the homeless where such distinctions are intended to recognize generally accepted values of personal modesty and privacy or to protect the health, safety or welfare of families with children.

(l) Exemption for special needs of particular age group in publicly assisted housing accommodations. Nothing in this subdivision shall restrict the consideration of age in the rental of publicly-assisted housing accommodations if the State Division of Human Rights grants an exemption pursuant to section two hundred ninety-six of the executive law based on bona fide considerations of public policy for the purpose of providing for the special needs of a particular age group without the intent of prejudicing other age groups; provided however that this paragraph shall not be construed to permit discrimination on the basis of whether children are, may be or would be residing in such housing accommodations unless such discrimination is otherwise permitted pursuant to paragraph (h) of this section.

(m) Applicability; use of criteria or qualifications in publicly assisted housing accommodations. The provisions of this subdivision shall not be construed to prohibit the use of criteria or qualifications of eligibility for the sale, rental, leasing or occupancy of publicly-assisted housing accommodations where such criteria or qualifications are required to comply with federal or state law, or are necessary to obtain the benefits of a federal or state program, or to prohibit the use of statements, advertisements, publications, applications or inquiries to the extent that they state such criteria or

qualifications or request information necessary to determine or verify the eligibility of an applicant, tenant, purchaser, lessee or occupant.
(n) Discrimination on the basis of occupation prohibited in housing accommodations. Where a housing accommodation or an interest therein is sought or occupied exclusively for residential purposes, the provisions of this subdivision shall be construed to prohibit discrimination in the sale, rental, or leasing of such housing accommodation or interest therein and in the terms, conditions and privileges of the sale, rental or leasing of such housing accommodation or interest therein and in the furnishing of faculties or services in connection therewith, on account of a person's occupation.
(o) Applicability; lawful source of income. The provisions of this subdivision, as they relate to unlawful discriminatory practices on the basis of lawful source of income, shall not apply to housing accommodations that contain a total of five or fewer housing units, provided, however:
(i) the provisions of this subdivision shall apply to tenants subject to rent control laws who reside in housing accommodations that contain a total of five or fewer units at the time of the enactment of this local law; and provided, however
(ii) the provisions of this subdivision shall apply to all housing accommodations, regardless of the number of units contained in each, of any person who has the rights to sell, rent or lease or approve the sale, rental or lease of at least one housing accommodation within New York City that contains six or more housing units, constructed or to be constructed, or an interest therein.

6. Aiding and abetting. It shall be an unlawful discriminatory practice for any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter, or to attempt to do so.

7. Retaliation. It shall be an unlawful discriminatory practice for any person engaged in any activity to which this chapter applies to retaliate or discriminate in any manner against any person because such person has (i) opposed any practice forbidden under this chapter, (ii) filed a complaint, testified or assisted in any proceeding under this chapter, (iii) commenced a civil action alleging the commission of an act which would be an unlawful discriminatory practice under this chapter, (iv) assisted the commission or the corporation counsel in an investigation commenced pursuant to this title, or (v) provided any information to the commission pursuant to the terms of a conciliation agreement made pursuant to section 8-115 of this chapter. The retaliation or discrimination complained of under this subdivision need not result in an ultimate action with respect to employment, housing or a public accommodation or in a materially adverse change in the terms and conditions of employment, housing, or a public accommodation, provided, however, that the retaliatory or discriminatory act or acts complained of must be reasonably likely to deter a person from engaging in protected activity.

8. Violation of conciliation agreement. It shall be an unlawful discriminatory practice for any party to a conciliation agreement made pursuant to section 8-115 of this chapter to violate the terms of such agreement.

9. Licenses, registrations and permits. (a) It shall be an unlawful discriminatory practice:

(1) Except as otherwise provided in paragraph (c) of this subdivision, for an agency authorized to issue a license, registration or permit or an employee thereof to discriminate against an applicant for a license, registration or permit because of the actual or perceived race, creed, color, national origin,

age, gender, marital status, partnership status, disability, sexual orientation or alienage or citizenship status of such applicant.

(2) Except as otherwise provided in paragraph (c) of this subdivision, for an agency authorized to issue a license, registration or permit or an employee thereof to declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for a license, registration or permit or to make any inquiry in connection with any such application, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, age, gender, marital status, partnership status, disability, sexual orientation or alienage or citizenship status, or any intent to make any such limitation, specification or discrimination.

(3) For any person to deny any license, registration or permit to any applicant, or act adversely upon any holder of a license, registration or permit by reason of his or her having been convicted of one or more criminal offenses, or by reason of a finding of a lack of "good moral character" which is based on his or her having been convicted of one or more criminal offenses, when such denial or adverse action is in violation of the provisions of article twenty-three-a of the correction law.

(4) For any person to deny any license, registration or permit to any applicant, or act adversely upon any holder of a license, registration or permit by reason of his or her having been arrested or accused of committing a crime when such denial or adverse action is in violation of subdivision 16 of section 296 of article 15 of the New York state executive law.

(5) For any person to make any inquiry, in writing or otherwise, regarding any arrest or criminal accusation of an applicant for any license, registration or permit when such inquiry is in violation of subdivision 16 of section 296 of article 15 of the New York state executive law.

(b) (1) Except as otherwise provided in this paragraph, it shall be an unlawful discriminatory practice for an agency to request or use for licensing, registration or permitting purposes information contained in the consumer credit history of an applicant, licensee, registrant or permittee for licensing or permitting purposes.

(2) Subparagraph (1) of this paragraph shall not apply to an agency required by state or federal law or regulations to use an individual's consumer credit history for licensing, registration or permitting purposes.

(3) Subparagraph (1) of this paragraph shall not be construed to affect the ability of an agency to consider an applicant’s, licensee’s, registrant’s or permittee’s failure to pay any tax, fine, penalty, or fee for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction, or any tax for which a government agency has issued a warrant, or a lien or levy on property.

(4) Nothing in this paragraph shall preclude a licensing agency from requesting, receiving, or using consumer credit history information obtained pursuant to a lawful subpoena, court order or law enforcement investigation.

(c) The prohibition of this subdivision relating to inquiries, denials or other adverse action related to a person's record of arrests or convictions shall not apply to licensing activities in relation to the regulation of explosives, pistols, handguns, rifles, shotguns, or other firearms and deadly weapons. Nothing contained in this subdivision shall be construed to bar an agency authorized to issue a license, registration or permit from using age, disability, criminal conviction or arrest record as a criterion for determining eligibility or continuing fitness for a license, registration or permit when specifically required to do so by any other provision of law.

(d)(1) Except as otherwise provided in this paragraph, it shall be an unlawful discriminatory practice for an agency to request or use for licensing or permitting purposes information contained in the consumer credit history of an applicant, licensee or permittee for licensing or permitting purposes.

(2) Subparagraph (1) of this paragraph shall not apply to an agency required by state or federal law or regulations to use an individual's consumer credit history for licensing or permitting purposes.

(3) Subparagraph (1) of this paragraph shall not be construed to affect the ability of an agency to consider an applicant's, licensee's, registrant's or permittee's failure to pay any tax, fine, penalty, or fee for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction, or any tax for which a government agency has issued a warrant, or a lien or levy on property.

(4) Nothing in this paragraph shall preclude a licensing agency from requesting, receiving, or using consumer credit history information obtained pursuant to a lawful subpoena, court order or law enforcement investigation.

(e) The provisions of this subdivision shall be enforceable against public agencies and employees thereof by a proceeding brought pursuant to article 78 of the civil practice law and rules.

10. Criminal conviction; employment. (a) It shall be an unlawful discriminatory practice for any employer, employment agency or agent thereof to deny employment to any person or take adverse action against any employee by reason of such person or employee having been convicted of one or more criminal offenses, or by reason of a finding of a lack of "good moral character" which is based on such person or employee having been convicted of one or more criminal offenses, when such denial or adverse action is in violation of the provisions of article twenty-three-a of the correction law.

(b) For purposes of this subdivision, "employment" shall not include membership in any law enforcement agency.

(c) Pursuant to section seven hundred fifty-five of the correction law, the provisions of this subdivision shall be enforceable against public agencies by a proceeding brought pursuant to article seventy-eight of the Civil Practice Law and Rules, and the provisions of this subdivision shall be enforceable against private employers by the commission through the administrative procedure provided for in this chapter or as provided in chapter five of this title. For purposes of this paragraph only, the terms "public agency" and "private employer" shall have the meaning given such terms in section seven hundred fifty of the correction law.

11. Arrest record; employment. It shall be an unlawful discriminatory practice, unless specifically required or permitted by any other law, for any person to:

(a) deny employment to any applicant or act adversely upon any employee by reason of an arrest or criminal accusation of such applicant or employee when such denial or adverse action is in violation of subdivision 16 of section 296 of article 15 of the New York state executive law; or

(b) make any inquiry in writing or otherwise, regarding any arrest or criminal accusation of an applicant or employee when such inquiry is in violation of subdivision 16 of section 296 of article 15 of the New York state executive law.

11-a. Arrest and conviction records; employer inquiries. (a) In addition to the restrictions in subdivision 11 of this section, it shall be an unlawful discriminatory practice for any employer, employment agency or agent thereof to:

(1) Declare, print or circulate or cause to be declared, printed or circulated any solicitation, advertisement or publication, which expresses, directly or indirectly, any limitation, or specification in employment based on a person's arrest or criminal conviction; or

(2) Make any inquiry or statement related to the pending arrest or criminal conviction record of any person who is in the process of applying for employment with such employer or agent thereof until after such employer or agent thereof has extended a conditional offer of employment to the applicant. For purposes of this subdivision, with respect to an applicant for temporary employment at a temporary help firm as such term is defined by subdivision five of section 916 of article 31 of the New York labor law, an offer to be placed in the temporary help firm's general candidate pool shall constitute a conditional offer of employment. For purposes of this subdivision, "any inquiry" means any question communicated to an applicant in writing or otherwise, or any searches of publicly available records or consumer reports that are conducted for the purpose of obtaining an applicant's criminal background information. For purposes of this subdivision, "any statement" means a statement communicated in writing or otherwise to the applicant for purposes of obtaining an applicant's criminal background information regarding: (i) an arrest record; (ii) a conviction record; or (iii) a criminal background check.

(b) After extending an applicant a conditional offer of employment, an employer, employment agency or agent thereof may inquire about the applicant's arrest or conviction record if before taking any adverse employment action based on such inquiry, the employer, employment agency or agent thereof:

(i) provides a written copy of the inquiry to the applicant in a manner to be determined by the commission;

(ii) performs an analysis of the applicant under article twenty-three-a of the correction law and provides a written copy of such analysis to the applicant in a manner to be determined by the commission, which shall include but not be limited to supporting documents that formed the basis for an adverse action based on such analysis and the employer's or employment agency's reasons for taking any adverse action against such applicant; and

(iii) after giving the applicant the inquiry and analysis in writing pursuant to subparagraphs (i) and (ii) of this paragraph, allows the applicant a reasonable time to respond, which shall be no less than three business days and during this time, holds the position open for the applicant.

(c) Nothing in this subdivision shall prevent an employer, employment agency or agent thereof from taking adverse action against any employee or denying employment to any applicant for reasons other than such employee or applicant's arrest or criminal conviction record.

(d) An applicant shall not be required to respond to any inquiry or statement that violates paragraph (a) of this subdivision and any refusal to respond to such inquiry or statement shall not disqualify an applicant from the prospective employment.

(e) This subdivision shall not apply to any actions taken by an employer or agent thereof pursuant to any state, federal or local law that requires criminal background checks for employment purposes or bars employment based on criminal history. For purposes of this paragraph federal law shall include rules or regulations promulgated by a self-regulatory organization as defined in section 3(a)(26) of the securities exchange act of 1934, as amended.

(f) This subdivision shall not apply to any actions taken by an employer or agent thereof with regard to an applicant for employment:

(1) as a police officer or peace officer, as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law, respectively, or at a law enforcement agency as that term is used in article 23-a of the correction law, including but not limited to the police department, the fire department, the department of correction, the department of investigation, the department of probation, the division of youth and family services, the business integrity commission, and the district attorneys' offices; or

(2) listed in the determinations of personnel published as a commissioner's calendar item and listed on the website of the department of citywide administrative services upon a determination by the commissioner of citywide administrative services that the position involves law enforcement, is susceptible to bribery or other corruption, or entails the provision of services to or safeguarding of persons who, because of age, disability, infirmity or other condition, are vulnerable to abuse. If the department takes adverse action against any applicant based on the applicant's arrest or criminal conviction record, it shall provide a written copy of such analysis performed under article twenty-three a of the correction law to the applicant in a form and manner to be determined by the department.

(g) The provisions of this subdivision shall be enforceable against public agencies by a proceeding brought pursuant to article seventy-eight of the Civil Practice Law and Rules, and the provisions of this subdivision shall be enforceable against private employers by the commission through the administrative procedure provided for in this chapter or as provided in chapter five of this title. For purposes of this paragraph only, the terms "public agency" and "private employer" shall have the meaning given such terms in section seven hundred fifty of the correction law.

11-b. Arrest record; credit application. For purposes of issuing credit, it shall be an unlawful discriminatory practice, unless specifically required or permitted by any other law, to:

(a) deny or act adversely upon any person seeking credit by reason of an arrest or criminal accusation of such person when such denial or adverse action is in violation of subdivision 16 of section 296 of article 15 of the New York state executive law; or

(b) make any inquiry in writing or otherwise, regarding any arrest or criminal accusation of a person seeking credit when such inquiry is in violation of subdivision 16 of section 296 of article 15 of the New York state executive law.

12. Religious principles. Nothing contained in this section shall be construed to bar any religious or denominational institution or organization or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization from limiting employment or sales or rental of housing accommodations or admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

13. Employer liability for discriminatory conduct by employee, agent or independent contractor.
(a) An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of any provision of this section other than subdivisions one and two of this section.
(b) An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of subdivision one or two of this section only where:
(1) The employee or agent exercised managerial or supervisory responsibility; or
(2) The employer knew of the employee's or agent's discriminatory conduct, and acquiesced in such conduct or failed to take immediate and appropriate corrective action; an employer shall be deemed to have knowledge of an employee's or agent's discriminatory conduct where that conduct was known by another employee or agent who exercised managerial or supervisory responsibility; or
(3) The employer should have known of the employee's or agent’s discriminatory conduct and failed to exercise reasonable diligence to prevent such discriminatory conduct.
(c) An employer shall be liable for an unlawful discriminatory practice committed by a person employed as an independent contractor, other than an agent of such employer, to carry out work in furtherance of the employer's business enterprise only where such discriminatory conduct was committed in the course of such employment and the employer had actual knowledge of and acquiesced in such conduct.
(d) Where liability of an employer has been established pursuant to this section and is based solely on the conduct of an employee, agent, or independent contractor, the employer shall be permitted to plead and prove that prior to the discriminatory conduct for which it was found liable it had:
(1) Established and complied with policies, programs and procedures for the prevention and detection of unlawful discriminatory practices by employees, agents and persons employed as independent contractors, including but not limited to:
(i) A meaningful and responsive procedure for investigating complaints of discriminatory practices by employees, agents and persons employed as independent contractors and for taking appropriate action against those persons who are found to have engaged in such practices;
(ii) A firm policy against such practices which is effectively communicated to employees, agents and persons employed as independent contractors;
(iii) A program to educate employees and agents about unlawful discriminatory practices under local, state and federal law; and

(iv) Procedures for the supervision of employees and agents and for the oversight of persons employed as independent contractors specifically directed at the prevention and detection of such practices; and
(2) A record of no, or relatively few, prior incidents of discriminatory conduct by such employee, agent or person employed as an independent contractor or other employees, agents or persons employed as independent contractors.
(e) The demonstration of any or all of the factors listed above in addition to any other relevant factors shall be considered in mitigation of the amount of civil penalties to be imposed by the commission pursuant to this chapter or in mitigation of civil penalties or punitive damages which may be imposed pursuant to chapter four or five of this title and shall be among the factors considered in determining an employer's liability under subparagraph three of paragraph (b) of this subdivision.
(f) The commission may establish by rule policies, programs and procedures which may be implemented by employers for the prevention and detection of unlawful discriminatory practices by employees, agents and persons employed as independent contractors. Notwithstanding any other provision of the law to the contrary, an employer found to be liable for an unlawful discriminatory practice based solely on the conduct of an employee, agent or person employed as an independent contractor who pleads and proves that such policies, programs and procedures had been implemented and complied with at the time of the unlawful conduct shall not be liable for any civil penalties which may be imposed pursuant to this chapter or any civil penalties or punitive damages which may be imposed pursuant to chapter four or five of this title for such unlawful discriminatory practice.

14. Applicability; alienage or citizenship status. Notwithstanding any other provision of this section, it shall not be an unlawful discriminatory practice for any person to discriminate on the ground of alienage or citizenship status, or to make any inquiry as to a person's alienage or citizenship status, or to give preference to a person who is a citizen or a national of the United States over an equally qualified person who is an alien, when such discrimination is required or when such preference is expressly permitted by any law or regulation of the United States, the State of New York or the City of New York, and when such law or regulation does not provide that state or local law may be more protective of aliens; provided, however, that this provision shall not prohibit inquiries or determinations based on alienage or citizenship status when such actions are necessary to obtain the benefits of a federal program. An applicant for a license or permit issued by the City of New York may be required to be authorized to work in the United States whenever by law or regulation there is a limit on the number of such licenses or permits which may be issued.

15. Applicability; persons with disabilities.
(a) Requirement to make reasonable accommodation to the needs of persons with disabilities. Except as provided in paragraph (b), any person prohibited by the provisions of this section from discriminating on the basis of disability shall make reasonable accommodation to enable a person with a disability to satisfy the essential requisites of a job or enjoy the right or rights in question provided that the disability is known or should have been known by the covered entity.
(b) Affirmative defense in disability cases. In any case where the need for reasonable accommodation is placed in issue, it shall be an affirmative defense that the person aggrieved by the alleged discriminatory practice could not, with reasonable accommodation, satisfy the essential requisites of the job or enjoy the right or rights in question.
(c) Use of drugs or alcohol. Nothing contained in this chapter shall be construed to prohibit a covered entity from (i) prohibiting the illegal use of drugs or the use of alcohol at the workplace or on

duty impairment from the illegal use of drugs or the use of alcohol, or (ii) conducting drug testing which is otherwise lawful.

16. Repealed.

17. Disparate impact.
(a) An unlawful discriminatory practice based upon disparate impact is established when:
(1) The Commission or a person who may bring an action under chapter four or five of this title demonstrates that a policy or practice of a covered entity or a group of policies or practices of a covered entity results in a disparate impact to the detriment of any group protected by the provisions of this chapter; and
(2) The covered entity fails to plead and prove as an affirmative defense that each such policy or practice bears a significant relationship to a significant business objective of the covered entity or does not contribute to the disparate impact; provided, however, that if the commission or such person who may bring an action demonstrates that a group of policies or practices results in a disparate impact, the commission or such person shall not be required to demonstrate which specific policies or practices within the group results in such disparate impact; provided further, that a policy or practice or group of policies or practices demonstrated to result in a disparate impact shall be unlawful where the commission or such person who may bring an action produces substantial evidence that an alternative policy or practice with less disparate impact is available to the covered entity and the covered entity fails to prove that such alternative policy or practice would not serve the covered entity as well. "Significant business objective" shall include, but not be limited to, successful performance of the job.
(b) The mere existence of a statistical imbalance between a covered entity's challenged demographic composition and the general population is not alone sufficient to establish a prima facie case of disparate impact violation unless the general population is shown to be the relevant pool for comparison, the imbalance is shown to be statistically significant and there is an identifiable policy or practice or group of policies or practices that allegedly causes the imbalance. (c) Nothing contained in this subdivision shall be construed to mandate or endorse the use of quotas, provided, however, that nothing contained in this subdivision shall be construed to limit the scope of the commission’s authority pursuant to sections 8-115 and 8-120 of this chapter or to affect court-ordered remedies or settlements that are otherwise in accordance with law.

18. Unlawful boycott or blacklist. It shall be unlawful discriminatory practice (i) for any person to discriminate against, boycott or blacklist or to refuse to buy from, sell to or trade with, any person, because of such person’s actual or perceived race, creed, color, national origin, gender, disability, age, marital status, partnership status, sexual orientation or alienage or citizenship status or of such person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers or customers, or (ii) for any person willfully to do any act or refrain from doing any act which enables any such person to take such action. This subdivision shall not apply to:
(a) Boycotts connected with labor disputes;
(b) Boycotts to protest unlawful discriminatory practices; or
(c) Any form of expression that is protected by the First Amendment.

19. Interference with protected rights. It shall be an unlawful discriminatory practice for any person to coerce, intimidate, threaten or interfere with, or attempt to coerce, intimidate, threaten or interfere

with, any person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected pursuant to this section.

20. Relationship or association. The provisions of this section set forth as unlawful discriminatory practices shall be construed to prohibit such discrimination against a person because of the actual or perceived race, creed, color, national origin, disability, age, sexual orientation or alienage or citizenship status of a person with whom such person has a known relationship or association.

21. Employment; an individual's unemployment.

a. Prohibition of discrimination based on an individual's unemployment.

(1) Except as provided in paragraphs b and c of this subdivision, an employer, employment agency, or agent thereof shall not base an employment decision with regard to hiring, compensation or the terms, conditions or privileges of employment on an applicant's unemployment.

(2) Unless otherwise permitted by city, state or federal law, no employer, employment agency, or agent thereof shall publish, in print or in any other medium, an advertisement for any job vacancy in this city that contains one or more of the following:

(a) Any provision stating or indicating that being currently employed is a requirement or qualification for the job;

(b) Any provision stating or indicating that an employer, employment agency, or agent thereof will not consider individuals for employment based on their unemployment.

b. Effect of subdivision.

(1) Paragraph a of this subdivision shall not be construed to prohibit an employer, employment agency, or agent thereof from

(a) considering an applicant's unemployment, where there is a substantially job-related reason for doing so; or

(b) inquiring into the circumstances surrounding an applicant's separation from prior employment.

(2) Nothing set forth in this subdivision shall be construed as prohibiting an employer, employment agency, or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from considering any substantially job-related qualifications, including but not limited to: a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.

(3) Nothing set forth in this subdivision shall be construed as prohibiting an employer, employment agency, or agent thereof from publishing, in print or in any other medium, an advertisement for any job vacancy in this city that contains any provision setting forth any substantially job-related

qualifications, including but not limited to: a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.

(4)(a)Nothing set forth in this subdivision shall be construed as prohibiting an employer, employment agency, or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from determining that only applicants who are currently employed by the employer will be considered for employment or given priority for employment or with respect to compensation or terms, conditions or privileges of employment. In addition, nothing set forth in this subdivision shall prevent an employer from setting compensation or terms or conditions of employment for a person based on that person's actual amount of experience.

(b) For the purposes of this subparagraph, all persons whose salary or wages are paid from the city treasury, and all persons who are employed by public agencies or entities headed by officers or boards including one or more individuals appointed or recommended by officials of the city of New York, shall be deemed to have the same employer.

c. Applicability of subdivision.

(1) This subdivision shall not apply to:

(a) actions taken by the New York city department of citywide administrative services in furtherance of its responsibility for city personnel matters pursuant to chapter thirty-five of the charter or as a municipal civil service commission administering the civil service law and other applicable laws, or by the mayor in furtherance of the mayor's duties relating to city personnel matters pursuant to chapter thirty-five of the charter, including, but not limited to, the administration of competitive examinations, the establishment and administration of eligible lists, and the establishment and implementation of minimum qualifications for appointment to positions;

(b) actions taken by officers or employees of other public agencies or entities charged with performing functions comparable to those performed by the department of citywide administrative services or the mayor as described in paragraph one of this subdivision;

(c) agency appointments to competitive positions from eligible lists pursuant to subsection one of section sixty-one of the state civil service law; or

(d) the exercise of any right of an employer or employee pursuant to a collective bargaining agreement.

(2) This subdivision shall apply to individual hiring decisions made by an agency or entity with respect to positions for which appointments are not required to be made from an eligible list resulting from a competitive examination.

d. Public education campaign. The commission shall develop courses of instruction and conduct ongoing public education efforts as necessary to inform employers, employment agencies, and job applicants about their rights and responsibilities under this subdivision.

e. Disparate impact. An unlawful discriminatory practice based on disparate impact under this subdivision is established when:

(1) the commission or a person who may bring an action under chapter four or five of this title demonstrates that a policy or practice of an employer, employment agency, or agent thereof, or a group of policies or practices of such an entity results in a disparate impact to the detriment of any group protected by the provisions of this subdivision; and

(2) such entity fails to plead and prove as an affirmative defense that each such policy or practice has as its basis a substantially job-related qualification or does not contribute to the disparate impact; provided, however, that if the commission or such person who may bring an action demonstrates that a group of policies or practices results in a disparate impact, the commission or such person shall not be required to demonstrate which specific policies or practices within the group results in such disparate impact; provided further, that a policy or practice or group of policies or practices demonstrated to result in a disparate impact shall be unlawful where the commission or such person who may bring an action produces substantial evidence that an alternative policy or practice with less disparate impact is available to such entity and such entity fails to prove that such alternative policy or practice would not serve such entity as well. A "substantially job-related qualification" shall include, but not be limited to, a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.

22. Employment; Pregnancy, childbirth, or a related medical condition.

(a) It shall be an unlawful discriminatory practice for an employer to refuse to provide a reasonable accommodation, as defined in subdivision eighteen of section 8-102 of this chapter, to the needs of an employee for her pregnancy, childbirth, or related medical condition that will allow the employee to perform the essential requisites of the job, provided that such employee's pregnancy, childbirth, or related medical condition is known or should have been known by the employer. In any case pursuant to this subdivision where the need for reasonable accommodation is placed in issue, it shall be an affirmative defense that the person aggrieved by the alleged discriminatory practice could not, with reasonable accommodation, satisfy the essential requisites of the job.

(b) Notice of rights. (i) An employer shall provide written notice in a form and manner to be determined by the commission of the right to be free from discrimination in relation to pregnancy, childbirth, and related medical conditions pursuant to this subdivision to: (1) new employees at the commencement of employment; and (2) existing employees within one hundred twenty days after the effective date of the local law that added this subdivision. Such notice may also be conspicuously posted at an employer's place of business in an area accessible to employees. (ii) The commission shall develop courses of instruction and conduct ongoing public education efforts as necessary to inform employers, employees, employment agencies, and job applicants about their rights and responsibilities under this subdivision.

(c) This subdivision shall not be construed to affect any other provision of law relating to sex discrimination or pregnancy, or in any way to diminish the coverage of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth under any other provision of this section.

23. The provisions of this chapter relating to employees shall apply to interns.

24. Employment; consumer credit history. (a) Except as provided in this subdivision, it shall be an unlawful discriminatory practice for an employer, labor organization, employment agency, or agent thereof to request or to use for employment purposes the consumer credit history of an applicant for employment or employee, or otherwise discriminate against an applicant or employee with regard to hiring, compensation, or the terms, conditions or privileges of employment based on the consumer credit history of the applicant or employee.

(b) Paragraph (a) of this subdivision shall not apply to:

1. an employer, or agent thereof, that is required by state or federal law or regulations or by a self-regulatory organization as defined in section 3(a)(26) of the securities exchange act of 1934, as amended to use an individual's consumer credit history for employment purposes;
2. persons applying for positions as or employed:
    A. as police officers or peace officers, as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law, respectively, or in a position with a law enforcement or investigative function at the department of investigation;
    B. in a position that is subject to background investigation by the department of investigation, provided, however, that the appointing agency may not use consumer credit history information for employment purposes unless the position is an appointed position in which a high degree of public trust, as defined by the commission in rules, has been reposed.
    C. in a position in which an employee is required to be bonded under City, state or federal law;
    D. in a position in which an employee is required to possess security clearance under federal law or the law of any state
    E. in a non-clerical position having regular access to trade secrets, intelligence information or national security information;
    F. in a position: (i) having signatory authority over third party funds or assets valued at $10,000 or more; or (ii) that involves a fiduciary responsibility to the employer with the authority to enter financial agreements valued at $10,000 or more on behalf of the employer.
    G. in a position with regular duties that allow the employee to modify digital security systems established to prevent the unauthorized use of the employer's or client's networks or databases.

(c) Paragraph (a) of this subdivision shall not be construed to affect the obligations of persons required by section 12-110 of this code or by mayoral executive order relating to disclosures by city employees to the conflicts of interest board to report information regarding their creditors or debts, or the use of such information by government agencies for the purposes for which such information is collected.

(d) As used in this subdivision:

1. The term "intelligence information" means records and data compiled for the purpose of criminal investigation or counterterrorism, including records and data relating to the order

or security of a correctional facility, reports of informants, investigators or other persons, or from any type of surveillance associated with an identifiable individual, or investigation or analysis of potential terrorist threats.

2. The term "national security information" means any knowledge relating to the national defense or foreign relations of the United States, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States government and is defined as such by the United States government and its agencies and departments.
3. The term "trade secrets" means information that: (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; and (c) can reasonably be said to be the end product of significant innovation. The term "trade secrets" does not include general proprietary company information such as handbooks and policies. The term "regular access to trade secrets" does not include access to or the use of client, customer or mailing lists.

(e) Nothing in this subdivision shall preclude an employer from requesting or receiving consumer credit history information pursuant to a lawful subpoena, court order or law enforcement investigation.

§ 8-107.1 Victims of Domestic Violence, Sex Offenses or Stalking

1. Definitions. Whenever used in this chapter, the following terms shall have the following meanings:
a. “Acts or threats of violence” shall include, but not be limited to acts, which would constitute violations of the penal law.
b. “Victim of domestic violence” shall mean a person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.
c. “Victim of sex offenses or stalking” shall mean a victim of acts which would constitute violations of article 130 of the penal law, or a victim of acts which would constitute violations of sections 120.45, 120.50, 120.55, or 120.60 of the penal law.
d. Practices “based on,” “because of,” “on account of,” “as to,” ‘on the basis of,” or “motivated by” an individual’s “status as a victim of domestic violence,” or “status as a victim of sex offenses or stalking” include, but are not limited to, those based solely upon the actions of a person who has perpetrated acts or threats of violence against the individual.

2. Unlawful discriminatory practices. It shall be an unlawful discriminatory practice for an employer, or an agent thereof, to refuse to hire or employ or to bar or to discharge from employment, or to discriminate against an individual in compensation or other terms, conditions, or privileges of employment because of the actual or perceived status of said individual as a victim of domestic violence, or as a victim of sex offenses or stalking.

3. Applicability; actual or perceived victims of domestic violence, sex offenses or stalking.
a. Requirement to make a reasonable accommodation to the needs of victims of domestic violence,

sex offenses or stalking. Except as provided in paragraph (c), any person prohibited by this section 8-107.1 from discriminating on the basis of actual or perceived status as a victim of domestic violence or a victim of sex offenses or stalking shall make a reasonable accommodation to enable a person who is a victim of domestic violence, or a victim of sex offenses or stalking to satisfy the essential requisites of a job provided that the status of a victim of domestic violence or a victim of sex offenses or stalking is known or should have been known by the covered entity.
b. Documentation of status. Any person required by paragraph (a) to make a reasonable accommodation may require a person requesting the reasonable accommodation pursuant to paragraph (a) to provide certification that the person is a victim of domestic violence, sex offenses or stalking. The person requesting the reasonable accommodation pursuant to paragraph (a) shall provide a copy of such certification to the covered entity within a reasonable period after the request is made. A person may satisfy the certification requirement of this paragraph by providing documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider, from whom the individual seeking a reasonable accommodation or that individual's family or household member has sought assistance in addressing domestic violence, sex offenses or stalking and the effects of the violence or stalking; a police or court record; or other corroborating evidence. All information provided to the covered entity pursuant to this paragraph, including a statement of the person requesting a reasonable accommodation or any other documentation, record, or corroborating evidence, and the fact that the individual has requested or obtained a reasonable accommodation pursuant to this section, shall be retained in the strictest confidence by the covered entity, except to the extent that disclosure is requested or consented to in writing by the person requesting the reasonable accommodation; or otherwise required by applicable federal, state or local law.
c. Affirmative defense in domestic violence, sex offenses or stalking cases. In any case where the need for a reasonable accommodation is placed in issue, it shall be an affirmative defense that the person aggrieved by the alleged discriminatory practice could not, with a reasonable accommodation, satisfy the essential requisites of the job or enjoy the right or rights in question.

§ 8-108 [Reserved].

§ 8-109 Complaint.
(a) Any person aggrieved by an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title may, by himself or herself or such person's attorney, make, sign and file with the commission a verified complaint in writing which shall: (i) state the name of the person alleged to have committed the unlawful discriminatory practice complained of, and the address of such person if known; (ii) set forth the particulars of the alleged unlawful discriminatory practice; and (iii) contain such other information as may be required by the commission. The commission shall acknowledge the filing of the complaint and advise the complainant of the time limits set forth in this chapter.
(b) Any employer whose employee or agent refuses or threatens to refuse to cooperate with the provisions of this chapter may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.
(c) Commission-initiated complaints. The commission may itself make, sign and file a verified complaint alleging that a person has committed an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title.
(d) The commission shall serve a copy of the complaint upon the respondent and all persons it deems to be necessary parties and shall advise the respondent of his or her procedural rights and

obligations as set forth herein.
(e) The commission shall not have jurisdiction over any complaint that has been filed more than one year after the alleged unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title occurred.
(f) The commission shall not have jurisdiction to entertain a complaint if:
(i) The complainant has previously initiated a civil action in a court of competent jurisdiction alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter, unless such civil action has been dismissed without prejudice or withdrawn without prejudice; or
(ii) The complainant has previously filed and has an action or proceeding before any administrative agency under any other law of the state alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter; or
(iii) The complainant has previously filed a complaint with the State Division of Human Rights alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter and a final determination has been made thereon.
(g) In relation to complaints filed on or after September first, nineteen hundred ninety one, the commission shall commence proceedings with respect to the complaint, complete a thorough investigation of the allegations of the complaint and make a final disposition of the complaint promptly and within the time periods to be prescribed by rule of the commission. If the commission is unable to comply with the time periods specified for completing its investigation and for final disposition of the complaint, it shall notify the complainant, respondent, and any necessary party in writing of the reasons for not doing so.
(h) Any complaint filed pursuant to this section may be amended pursuant to procedures prescribed by rule of the commission by filing such amended complaint with the commission and serving a copy thereof upon all parties to the proceeding.
(i) Whenever a complaint is filed pursuant to paragraph (d) of subdivision five of section 8-107 of this chapter, no member of the commission nor any member of the commission staff shall make public in any manner whatsoever the name of any borrower or identify by a specific description the collateral for any loan to such borrower except when ordered to do so by a court of competent jurisdiction or where express permission has been first obtained in writing from the lender and the borrower to such publication; provided, however, that the name of any borrower and a specific description of the collateral for any loan to such borrower may, if otherwise relevant, be introduced in evidence in any hearing before the commission or any review by a court of competent jurisdiction of any order or decision by the commission.

§ 8-110 Reserved.

§ 8-111 Answer.
(a) Within thirty days after a copy of the complaint is served upon the respondent by the commission, the respondent shall file a written, verified answer thereto with the commission, and the commission shall cause a copy of such answer to be served upon the complainant and any necessary party.
(b) The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge or information sufficient to form a belief, in

which case the respondent shall so state, and such statement shall operate as a denial.
(c) Any allegation in the complaint not specifically denied or explained shall be deemed admitted and shall be so found by the commission unless good cause to the contrary is shown.
(d) All affirmative defenses shall be stated separately in the answer.
(e) Upon request of the respondent and for good cause shown, the period within which an answer is required to be filed may be extended in accordance with the rules of the commission.
(f) Any necessary party may file with the commission a written, verified answer to the complaint, and the commission shall cause a copy of such answer to be served upon the complainant, respondent and any other necessary party.
(g) Any answer filed pursuant to this section may be amended pursuant to procedures prescribed by rule of the commission by filing such amended answer with the commission and serving a copy thereof upon the complainant and any necessary party to the proceeding.

§ 8-112 Withdrawal of complaints.
(a) A complaint filed pursuant to section 8-109 of this chapter may be withdrawn by the complainant in accordance with rules of the commission at any time prior to the service of a notice that the complaint has been referred to an administrative law judge. Such a withdrawal shall be in writing and signed by the complainant.
(b) A complaint may be withdrawn after the service of such notice at the discretion of the commission.
(c) Unless such complaint is withdrawn pursuant to a conciliation agreement, the withdrawal of a complaint shall be without prejudice:
(i) To the continued prosecution of the complaint by the commission in accordance with rules of the commission;
(ii) To the initiation of a complaint by the commission based in whole or in part upon the same facts; or
(iii) To the commencement of a civil action by the corporation counsel based upon the same facts pursuant to chapter four of this title.

§ 8-113 Dismissal of complaint.
a. The Commission may, in its discretion, dismiss a complaint for administrative convenience at any time prior to the taking of testimony at a hearing. Administrative convenience shall include, but not be limited to, the following circumstances:
(1) Commission personnel have been unable to locate the complainant after diligent efforts to do so;
(2) The complainant has repeatedly failed to appear at mutually agreed upon appointments with commission personnel or is unwilling to meet with commission personnel, provide requested documentation, or to attend a hearing;
(3) The complainant has repeatedly engaged in conduct which is disruptive to the orderly functioning of the commission;
(4) The complainant is unwilling to accept a reasonable proposed conciliation agreement;
(5) Prosecution of the complaint will not serve the public interest; and
(6) The complainant requests such dismissal, one hundred eighty days have elapsed since the filing of the complaint with the commission and the commission finds (a) that the complaint has not been actively investigated, and (b) that the respondent will not be unduly prejudiced thereby.
b. The commission shall dismiss a complaint for administrative convenience at any time prior to the filing of an answer by the respondent, if the complainant requests such dismissal, unless the commission has conducted an investigation of the complaint or has engaged the parties in

conciliation after the filing of the complaint.
c. In accordance with the rules of the commission, the commission shall dismiss a complaint if the complaint is not within the jurisdiction of the commission.
d. If after investigation the commission determines that probable cause does not exist to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title, the commission shall dismiss the complaint as to such respondent.
e. The commission shall promptly serve notice upon the complainant, respondent and any necessary party of any dismissal pursuant to this section.
f. The complainant or respondent may, within thirty days of such service, and in accordance with the rules of the commission, apply to the chairperson for review of any dismissal pursuant to this section. Upon such application, the chairperson shall review such action and issue an order affirming, reversing or modifying such determination or remanding the matter for further investigation and action. A copy of such order shall be served upon the complainant, respondent and any necessary party.

§ 8-114 Investigations and investigative record keeping.
(a) The commission may at any time issue subpoenas requiring attendance and giving of testimony by witnesses and the production of books, papers, documents and other evidence relating to any matter under investigation or any question before the commission. The issuance of such subpoenas shall be governed by the Civil Practice Law and Rules.
(b) Where the commission has initiated its own investigation or has conducted an investigation in connection with the filing of a complaint pursuant to this chapter, the commission may demand that any person or persons who are the subject of such investigation (i) preserve those records in the possession of such person or persons which are relevant to the determination of whether such person or persons have committed unlawful discriminatory practices with respect to activities in the city, and (ii) continue to make and keep the type of records made and kept by such person or persons in the ordinary course of business within the year preceding such demand which are relevant to the determination of whether such person or persons have committed unlawful discriminatory practices with respect to activities in the city. A demand made pursuant to this subdivision shall be effective immediately upon its service on the subject of an investigation and shall remain in effect until the termination of all proceedings relating to any complaint filed pursuant to this chapter or civil action commenced pursuant to chapter four of this title or if no complaint or civil action is filed or commenced shall expire two years after the date of such service. The commission's demand shall require that such records be made available for inspection by the commission and/or be filed with the commission.
(c) Any person upon whom a demand has been made pursuant to subdivision (b) of this section may, pursuant to procedures established by rule of the commission, assert an objection to such demand. Unless the commission orders otherwise, the assertion of an objection shall not stay compliance with the demand. The commission shall make a determination on an objection to a demand within thirty days after such an objection is filed with the commission, unless the party filing the objection consents to an extension of time.
(d) Upon the expiration of the time set pursuant to such rules for making an objection to such demand, or upon a determination that an objection to the demand shall not be sustained, the Commission shall order compliance with the demand.
(e) Upon a determination that an objection to a demand shall be sustained, the commission shall order that the demand be vacated or modified.

(f) A proceeding may be brought on behalf of the commission in any court of competent jurisdiction seeking an order to compel compliance with an order issued pursuant to subdivision (d) of this section.

§ 8-115 Mediation and conciliation.
(a) If in the judgment of the commission circumstances so warrant, it may at any time after the filing of a complaint endeavor to resolve the complaint by any method of dispute resolution prescribed by rule of the commission including, but not limited to, mediation and conciliation.
(b) The terms of any conciliation agreement may contain such provisions as may be agreed upon by the commission, the complainant and the respondent, including a provision for the entry in court of a consent decree embodying the terms of the conciliation agreement.
(c) The members of the commission and its staff shall not publicly disclose what transpired in the course of mediation and conciliation efforts.
(d) If a conciliation agreement is entered into, the commission shall embody such agreement in an order and serve a copy of such order upon all parties to the conciliation agreement. Violation of such an order may cause the imposition of civil penalties under section 8-124 of this chapter. Every conciliation agreement shall be made public unless the complainant and respondent agree otherwise and the commission determines that disclosure is not required to further the purposes of this chapter.

§ 8-116 Determination of probable cause. (a) Except in connection with commission-initiated complaints which shall not require a determination of probable cause, where the commission determines that probable cause exists to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title, the commission shall issue a written notice to complainant and respondent so stating. A determination of probable cause is not a final order of the commission and shall not be administratively or judicially reviewed.
(b) If there is a determination of probable cause pursuant to subdivision (a) of this section in relation to a complaint alleging discrimination in housing accommodations, land or commercial space or an interest therein, or if a commission-initiated complaint relating to discrimination in housing accommodations, land or commercial space or an interest therein has been filed, and the property owner or the owner's duly authorized agent will not agree voluntarily to withhold from the market the subject housing accommodations, land or commercial space or an interest therein for a period of ten days from the date of such request the commission may cause to be posted for a period of ten days from the date of such request, in a conspicuous place on the land or on the door of such housing accommodations or commercial space, a notice stating that such accommodations, land or commercial space are the subject of a complaint before the commission and that prospective transferees will take such accommodations, land or commercial space at their peril. Any destruction, defacement, alteration or removal of such notice by the owner or the owner's agents or employees shall be a misdemeanor punishable on conviction thereof by a fine of not more than one thousand dollars or by imprisonment for not more than one year or both.
(c) If a determination is made pursuant to subdivision (a) of this section that probable cause exists, or if a commission-initiated complaint has been filed, the commission shall refer the complaint to an administrative law judge and shall serve a notice upon the complainant, respondent and any necessary party that the complaint has been so referred.

§ 8-117 Rules of Procedure. The commission shall adopt rules providing for hearing and pre-hearing procedure. These rules shall include rules providing that the commission, by its prosecutorial bureau, shall be a party to all complaints and that a complainant shall be a party if the complainant has intervened in the manner set forth in the rules of the commission. These rules shall also include rules governing discovery, motion practice and the issuance of subpoenas. Wherever necessary, the commission shall issue orders compelling discovery. In accordance with the commission's discovery rules, any party from whom discovery is sought may assert an objection to such discovery based upon a claim of privilege or other defense and the commission shall rule upon such objection.

§ 8-118 Noncompliance with discovery order or order relating to records. Whenever a party fails to comply with an order of the commission pursuant to section 8-117 of this chapter compelling discovery or an order pursuant to section 8-114 of this chapter relating to records the commission may, on its own motion or at the request of any party, and, after notice and opportunity for all parties to be heard in opposition or support, make such orders or take such action as may be just for the purpose of permitting the resolution of relevant issues or disposition of the complaint without unnecessary delay, including but not limited to:
(a) An order that the matter concerning which the order compelling discovery or relating to records was issued be established adversely to the claim of the non-complying party;
(b) An order prohibiting the non-complying party from introducing evidence or testimony, cross-examining witnesses or otherwise supporting or opposing designated claims or defenses;
(c) An order striking out pleadings or parts thereof;
(d) An order that the non-complying party may not be heard to object to the introduction and use of secondary evidence to show what the withheld testimony, documents, other evidence or required records would have shown; and
(e) An inference that the material or testimony withheld or records not preserved, made, kept, produced or made available for inspection because such material, testimony or records would prove to be unfavorable to the non-complying party and use such inference to establish facts in support of a final determination pursuant to section 8-120 of this chapter.

§ 8-119 Hearing.
(a) A hearing on the complaint shall be held before an administrative law judge designated by the commission. The place of any such hearing shall be the office of the commission or such other place as may be designated by the commission. Notice of the date, time and place of such hearing shall be served upon the complainant, respondent and any necessary party.
(b) The case in support of the complaint shall be presented before the commission by the commission's prosecutorial bureau. The complainant may present additional testimony and cross-examine witnesses, in person or by counsel, if the complainant shall have intervened pursuant to rules established by the commission.
(c) The administrative law judge may, in his or her discretion, permit any person who has a substantial interest in the complaint to intervene as a party and may require the joinder of necessary parties.
(d) Evidence relating to endeavors at mediation or conciliation by, between or among the commission, the complainant and the respondent shall not be admissible.
(e) If the respondent has failed to answer the complaint within the time period prescribed in section 8-111 of this chapter, the administrative law judge may enter a default and the hearing shall proceed to determine the evidence in support of the complaint. Upon application, the administrative law judge may, for good cause shown, open a default in answering, upon equitable terms and conditions,

including the taking of an oral answer.
(f) Except as otherwise provided in section 8-118 of this chapter, the commission by its prosecutorial bureau, a respondent who has filed an answer or whose default in answering has been set aside for good cause shown, a necessary party, and a complainant or other person who has intervened pursuant to the rules of the commission, may appear at such hearing in person or otherwise, with or without counsel, cross-examine witnesses, present testimony and offer evidence.
(g) The commission shall not be bound by the strict rules of evidence prevailing in courts of the State of New York. The testimony taken at the hearing shall be under oath and shall be transcribed.

§ 8-120 Decision and order.
a. If, upon all the evidence at the hearing, and upon the findings of fact, conclusions of law and relief recommended by an administrative law judge, the commission shall find that a respondent has engaged in any unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title, the commission shall state its findings of fact and conclusions of law and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice or acts of discriminatory harassment or violence. Such order shall require the respondent to take such affirmative action as, in the judgment of the commission, will effectuate the purposes of this chapter including, but not limited to:
(1) hiring, reinstatement or upgrading of employees;
(2) the award of back pay and front pay;
(3) admission to membership in any respondent labor organization;
(4) admission to or participation in a program, apprentice training program, on-the-job training program or other occupational training or retraining program;
(5) the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges;
(6) evaluating applications for membership in a club that is not distinctly private without discrimination based on race, creed, color, age, national origin, disability, marital status, partnership status, gender, sexual orientation or alienage or citizenship status;
(7) selling, renting or leasing, or approving the sale, rental or lease of housing accommodations, land or commercial space or an interest therein, or the provision of credit with respect thereto, without unlawful discrimination;
(8) payment of compensatory damages to the person aggrieved by such practice; and
(9) submission of reports with respect to the manner of compliance; and
(10) payment of the complainant's reasonable attorney's fees, expert fees and other costs. The commission may consider matter-specific factors when determining the complainant's attorney's fee award, including, but not limited to:
(i) novelty or difficulty of the issues presented;
(ii) skill and experience of the complainant's attorney; and
(iii) the hourly rate charged by attorneys of similar skill and experience litigating similar cases in New York county.

b. If, upon all the evidence at the hearing, and upon the findings of fact and conclusions of law recommended by the administrative law judge, the commission shall find that a respondent has not engaged in any such unlawful discriminatory practice or an act of discriminatory harassment or

violence as set forth in chapter six of this title, the commission shall state its findings of fact and conclusions of law and shall issue and cause to be served on the complainant, respondent, and any necessary party and on any complainant who has not intervened an order dismissing the complaint as to such respondent.

§ 8-121 Reopening of proceeding by commission. The commission may reopen any proceeding, or vacate or modify any order or determination of the commission, whenever justice so requires, in accordance with the rules of the commission.

§ 8-122 Injunction and temporary restraining order. At any time after the filing of a complaint alleging an unlawful discriminatory practice under this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title, if the commission has reason to believe that the respondent or other person acting in concert with respondent is doing or procuring to be done any act or acts, tending to render ineffectual relief that could be ordered by the commission after a hearing as provided by section 8-120 of this chapter, a special proceeding may be commenced in accordance with article sixty-three of the Civil Practice Law and Rules on behalf of the commission in the supreme court for an order to show cause why the respondent and such other persons who are believed to be acting in concert with respondent should not be enjoined from doing or procuring to be done such acts. The special proceeding may be commenced in any county within the City of New York where the alleged unlawful discriminatory practice was committed, or where the commission maintains its principal office for the transaction of business, or where any respondent resides or maintains an office for the transaction of business, or where any person aggrieved by the unlawful discriminatory practice or act of discriminatory harassment or violence resides, or, if the complaint alleges an unlawful discriminatory practice under paragraphs (a), (b) or (c) of subdivision five of section 8-107 of this chapter, where the housing accommodation, land or commercial space specified in the complaint is located. The order to show cause may contain a temporary restraining order and shall be served in the manner provided therein. On the return date of the order to show cause, and after affording the commission, the person aggrieved and the respondent and any person alleged to be acting in concert with the respondent an opportunity to be heard, the court may grant appropriate injunctive relief upon such terms and conditions as the court deems proper.

§ 8-123 Judicial review.
(a) Any complainant, respondent or other person aggrieved by a final order of the commission issued pursuant to section 8-120 or section 8-126 of this chapter or an order of the chairperson issued pursuant to subdivision f of section 8-113 of this chapter affirming the dismissal of a complaint may obtain judicial review thereof in a proceeding as provided in this section.
(b) Such proceeding shall be brought in the Supreme Court of the state within any county within the City of New York wherein the unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title which is the subject of the commission's order occurs or wherein any person required in the order to cease and desist from an unlawful discriminatory practice or an act of discriminatory harassment or violence or to take other affirmative action resides or transacts business.
(c) Such proceeding shall be initiated by the filing of a petition in such court, together with a written transcript of the record upon the hearing, before the commission, and the issuance and service of a notice of motion returnable before such court. Thereupon the court shall have jurisdiction of the

proceeding and of the questions determined therein, and shall have power to grant such relief as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript an order annulling, confirming or modifying the order of the commission in whole or in part. No objection that has not been urged before the commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.
(d) Any party may move the court to remit the case to the commission in the interests of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon, provided such party shows reasonable grounds for the failure to adduce such evidence before the commission.
(e) The findings of the commission as to the facts shall be conclusive if supported by substantial evidence on the record considered as a whole.
(f) All such proceedings shall be heard and determined by the court and by any appellate court as expeditiously as possible and with lawful precedence over other matters. The jurisdiction of the Supreme Court shall be exclusive and its judgment and order shall be final, subject to review by the appellate division of the Supreme Court and the court of appeals in the same manner and with the same effect as provided for appeals from a judgment in a special proceeding.
(g) The commission's copy of the testimony shall be available at all reasonable times to all parties for examination without cost and for the purposes of judicial review of the order of the commission. The appeal shall be heard on the record without requirement of printing.
(h) A proceeding under this section must be instituted within thirty days after the service of the order of the commission.

§ 8-124 Civil penalties for violating commission orders. Any person who fails to comply with an order issued by the commission pursuant to section 8-115 or section 8-120 of this chapter shall be liable for a civil penalty of not more than fifty thousand dollars and an additional civil penalty of not more than one hundred dollars per day for each day that the violation continues.

§ 8-125 Enforcement.
(a) Any action or proceeding that may be appropriate or necessary for the enforcement of any order issued by the commission pursuant to this chapter, including actions to secure permanent injunctions enjoining any acts or practices which constitute a violation of any such order, mandating compliance with the provisions of any such order, imposing penalties pursuant to section 8-124 of this chapter, or for such other relief as may be appropriate, may be initiated in any court of competent jurisdiction on behalf of the commission. In any such action or proceeding, application may be made for a temporary restraining order or preliminary injunction, enforcing and restraining all persons from violating any provisions of any such order, or for such other relief as may be just and proper, until hearing and determination of such action or proceeding and the entry of final judgment or order thereon. The court to which such application is made may make any or all of the orders specified, as may be required in such application, with or without notice, and may make such other or further orders or directions as may be necessary to render the same effectual.
(b) In any action or proceeding brought pursuant to subdivision (a) of this section, no person shall be entitled to contest the terms of the order sought to be enforced unless that person has timely commenced a proceeding for review of the order pursuant to section 8-123 of this chapter.

§ 8-126 Civil penalties imposed by commission for unlawful discriminatory practices. a. Except as otherwise provided in subdivision thirteen of section 8-107 of this chapter, in addition to

any of the remedies and penalties set forth in subdivision (a) of section 8-120 of this chapter, where the commission finds that a person has engaged in an unlawful discriminatory practice, the commission may, to vindicate the public interest, impose a civil penalty of not more than one hundred and twenty-five thousand dollars. Where the commission finds that an unlawful discriminatory practice was the result of the respondent's willful, wanton or malicious act, the commission may, to vindicate the public interest, impose a civil penalty of not more than two hundred and fifty thousand dollars.
b. A respondent that is found liable for an unlawful discriminatory practice or act of discriminatory harassment or violence, as set forth in chapter six of this title, may, in relation to the determination of the appropriate amount of civil penalties to be imposed pursuant to subdivision a of this section, plead and prove any relevant mitigating factor.
c. In addition to any other penalties or sanctions which may be imposed pursuant to any other law, any person who knowingly makes a material false statement in any proceeding conducted, or document or record filed with the commission, or record required to be preserved or made and kept and subject to inspection by the commission pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars.
d. An action or proceeding may be commenced in any court of competent jurisdiction on behalf of the Commission for the recovery of the civil penalties provided for in this section.

§ 8-127 Disposition of civil penalties. (a) Any civil penalties recovered pursuant to this chapter shall be paid into the general fund of the city.
(b) Notwithstanding the foregoing provision, where an action or proceeding is commenced against a city agency for the enforcement of a final order issued by the commission pursuant to section 8-120 of the code after a finding that such agency has engaged in an unlawful discriminatory practice and in such action or proceeding civil penalties are sought for violation of such order, any civil penalties which are imposed by the court against such agency shall be budgeted in a separate account. Such account shall be used solely to support city agencies' anti-bias education programs, activities sponsored by city agencies that are designed to eradicate discrimination or to fund remedial programs that are necessary to address the city's liability for discriminatory acts or practices. Funds in such account shall not be used to support or benefit the commission. The disposition of such funds shall be under the direction of the mayor.

§ 8-128 Institution of actions or proceedings. Where any of the provisions of this chapter authorize an application to be made, or an action or proceeding to be commenced on behalf of the commission in a court, such application may be made or such action or proceeding may be instituted only by the corporation counsel, such attorneys employed by the commission as are designated by the corporation counsel or other persons designated by the corporation counsel.

§ 8-129 Criminal penalties. In addition to any other penalties or sanctions which may be imposed pursuant to this chapter or any other law, any person who shall willfully resist, prevent, impede or interfere with the commission or any of its members or representatives in the performance of any duty under this chapter, or shall willfully violate an order of the commission issued pursuant to section 8-115 or section 8-120 of this chapter, shall be guilty of a misdemeanor and be punishable by imprisonment for not more than one year, or by a fine of not more than ten thousand dollars, or by both; but the procedure for the review of the order shall not be deemed to be such willful conduct.

§ 8-130 Construction. a. The provisions of this title shall be construed liberally for the accomplishment of the uniquely broad and remedial purposes thereof, regardless of whether federal or New York state civil and human rights laws, including those laws with provisions worded comparably to provisions of this title, have been so construed.

b. Exceptions to and exemptions from the provisions of this title shall be construed narrowly in order to maximize deterrence of discriminatory conduct.

c. Cases that have correctly understood and analyzed the liberal construction requirement of subdivision a of this section and that have developed legal doctrines accordingly that reflect the broad and remedial purposes of this title include Albunio v. City of New York, 16 N.Y.3d 472 (2011), Bennett v. Health Management Systems, Inc., 92 A.D.3d 29 (1st Dep't 2011), and the majority opinion in Williams v. New York City Housing Authority, 61 A.D. 3d 62 (1st Dep't 2009).

§ 8-131 Applicability. The provisions of this chapter which make acts of discriminatory harassment or violence as set forth in chapter six of this title subject to the jurisdiction of the commission shall not apply to acts committed by members of the police department in the course of performing their official duties as police officers whether the police officer is on or off duty.