

600.020. EQUAL OPPORTUNITY

A. Nondiscrimination Generally

1. An employer commits an unlawful employment practice if because of race, color, disability, religion, sex, national origin, age (applies to individuals 40 years of age or older), or genetic information the employer:
 - a. Fails or refuses to hire an individual;
 - b. Discharges an individual;
 - c. Discriminates in any other manner against an individual in connection with compensation or the terms, conditions, or privileges of employment; or
 - d. Limits, segregates, or classifies an employee, or applicant for employment, in a manner that would deprive, or tend to deprive, an individual of any employment opportunity; or adversely affect the status of an employee.

[Tex. Labor Code §§21.051, 21.101, 21.108, 21.402](#); 42 U.S.C.A §2000e-2(a) (Title VII); 20 U.S.C.A. §1681 (Title IX); 29 U.S.C.A §§ 623.631 (Age Discrimination in Employment); 42 U.S.C.A 12111 et seq. (Americans with Disabilities Act).

2. Pregnancy

- a. The prohibition on discrimination on the basis of sex includes discrimination on the basis of pregnancy, childbirth, or related medical conditions.

[Tex. Labor Code §21.106](#).

3. Sexual Harassment

- a. Harassment on the basis of sex is a violation of Title VII.
- b. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - i. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - ii. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - iii. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

- c. With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer knows, or should have known of the conduct, unless it can show that it took immediate an appropriate corrective action.

[29 C.F.R §1604.11.](#)

4. Bona Fide Occupational Qualification

- a. If disability, religion, sex, national origin, or age is a bona fide occupation qualification reasonably necessary to normal operations, performing any of the following practices on any of the aforementioned bases is not an unlawful employment practice:
 - i. An employer hiring and employing an employee;
 - ii. An employer controlling an apprenticeship, on-the-job training, or other training or retraining program admitting or employing an individual in its program.

[Tex. Labor Code §21.119; 42 U.S.C. 2000e-2\(e\); 29 U.S.C. 623\(f\).](#)

5. Job Postings

- a. An employer commits an unlawful employment practice if the employer prints or publishes a notice or advertisement relating to employment that:
 - i. Indicates a preference, limitation, specification, or discrimination based on race, color, disability, religion, sex, national origin, or age; and
 - ii. Concerns an employee's status, employment, training or retraining program.
- b. This section does not apply if disability, religion, sex, national origin, or age is a bona fide occupational qualification.

[Tex. Labor Code §21.059; 42 U.S.C. 2000e-3\(b\).](#)

6. Notices

- a. Equal Employment Opportunity Notice
An employer is required to post, in conspicuous places on its premises, notices describing the federal laws prohibiting job discrimination based on race, color nation origin, religion, age, equal pay, disability and genetic information. The U.S. Equal Employment Opportunity Commission has developed a model poster located at the following link: <http://www1.eeoc.gov/employers/poster.cfm>

[42 U.S.C. 2000e-10; 29 U.S.C. 627.](#)

- b. Section 504 of the Rehabilitation Act of 1973
A charter holder/school that employs 15 or more employees shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of disability.
 - i. The notice shall state:
 - (1) That the charter holder/school does not discriminate in employment in its programs and activities; and
 - (2) The identity of the employee designated as the 504 Coordinator.
 - ii. Methods of notification may include:
 - (1) Posting notices;
 - (2) Publication in newspapers and magazines;
 - (3) Placement of notices in school publications; and
 - (4) Distribution of memoranda or other written communications.
 - iii. If a school publishes or uses recruitment materials, it shall include in those materials a statement of the policy described in Subsection (b).

[34 C.F.R. §104.8.](#)

B. Nondiscrimination Based on Religion

The prohibition against discrimination on the basis of religion includes discrimination on the basis of any aspect of religious observance, practice, or belief, unless an employer demonstrates that the employer is unable to reasonably accommodate the religious observance or practice of an employee or applicant without undue hardship to the school’s business.

[Tex. Labor Code §21.108; 42 U.S.C. §2000e\(j\).](#)

C. Nondiscrimination Based on Disability

1. General Rule

An employer shall not discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

[Tex. Labor Code §21.051; 42 U.S.C §12112\(a\).](#)

2. Definition of Disability

The term ‘disability’ means, with respect to an individual:

- a. a physical or mental impairment that substantially limits one or more major life activities of such individual;
- b. a record of such an impairment; or
- c. being regarded as having such an impairment.

[42 U.S.C. § 12102.](#)

3. Reasonable Accommodation

Discrimination includes not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the school.

[42 U.S.C §12112\(b\)\(5\)\(A\).](#)

4. Posting Notices

Every employer shall post notices in an accessible format to applicants, employees, and members of the public, describing the applicable provisions of the Americans with Disabilities Act. The model notice posted at <http://www1.eeoc.gov/employers/poster.cfm> will satisfy this requirement.

[42 U.S.C. §12115; 28 C.F.R. §35.106.](#)

D. Nondiscrimination Based on Age

1. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

[42 U.S.C.A §6102.](#)

E. Coordinator

1. Section 504 of the Rehabilitation Act of 1973 (“Section 504”)
A charter holder that receives federal financial assistance, and that employs 15 or more persons, shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging conduct prohibited by Section 504. The charter holder shall designate one person to coordinate compliance with this requirement.

[34 C.F.R. 104.7.](#)

2. American with Disabilities Act (“ADA”)
A charter holder that employs 50 or more persons shall adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints alleging conduct prohibited by the ADA. The charter holder shall designate an employee to coordinate compliance with this requirement.

[28 C.F.R. 35.107.](#)

3. Title IX of the Education Amendments of 1972 (“Title IX”) Title IX requires that each charter holder, receiving federal financial assistance, designate at least one employee that will coordinate investigations of complaints alleging violations of Title IX. The charter holder must notify all of its students and employees of the name, office address, and telephone number of the designated employee. Charter holders must also adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging violations of Title IX.

[34 C.F.R. §106.8.](#)

4. Age Discrimination Act of 1975
Each recipient of federal funds shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the Age Discrimination Act of 1975 and corresponding regulations, including investigation of any complaints that the recipient receives alleging any actions that are prohibited by the Act and the regulations.

A recipient shall also notify its beneficiaries, in a continuing manner, of information regarding the provisions of the Act and these regulations. The notification must identify the responsible employee by name or title, address, and telephone number.

A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Act or the corresponding regulations.

[34 C.F.R. §110.25](#)

TCSA Note: For grievance/complaint procedures see Module 300: General School Operations.

F. Nondiscrimination Based on Military Service

1. An employer shall not deny initial employment, reemployment, retention in employment promotion, or any benefits of employment on the basis of membership in a uniformed service, performance in a uniformed service, application for uniformed service, or obligation to a uniformed service.
2. An employer shall not take adverse employment action or discriminate against any person who takes action to enforce protections afforded by the Uniformed Services Employment and Reemployment Rights Act of 1994.
3. An employer may not terminate the employment of an employee who is a member of the state military forces of this state or any other state because the employee is ordered to authorized training or duty by a proper authority. The employee is entitled

to return to the same employment held when ordered to training or duty and may not be subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence. The employee, as soon as practicable after release from duty, must give written or actual notice of intent to return to employment.

38 U.S.C. §4311; [Tex. Gov't Code §431.006](#).