



## Legislation Details (With Text)

|                        |   |                     |          |                    |   |
|------------------------|---|---------------------|----------|--------------------|---|
| <b>File #:</b>         | Int 1012-2015   | <b>Version:</b>     | A        | <b>Name:</b>       | Making improvements to clarify and strengthen the human rights law. |
| <b>Type:</b>           | Introduction  | <b>Status:</b>      | Enacted  | <b>In control:</b> | Committee on Civil Rights   |
| <b>On agenda:</b>      | 12/7/2015   |                     |          |                    |   |
| <b>Enactment date:</b> | 1/19/2018   | <b>Enactment #:</b> | 2018/063 |                    |   |
| <b>Title:</b>          | A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to making improvements to clarify and strengthen the human rights law, and to repeal and replace section 8-102 of the administrative code of the city of New York, relating to definitions of terms in the human rights law, and to repeal sections 8-103, 8-104, 8-105 and 8-106 of the administrative code of the city of New York, relating to the functions, powers and duties of the commission on human rights and its relations with city departments and agencies   |                     |          |                    |   |
| <b>Sponsors:</b>       | Melissa Mark-Viverito, Margaret S. Chin, Corey D. Johnson, Peter A. Koo, Karen Koslowitz, Brad S. Lander, Donovan J. Richards, Deborah L. Rose, Helen K. Rosenthal, Ydanis A. Rodriguez, Ben Kallos, Carlos Menchaca  |                     |          |                    |   |
| <b>Indexes:</b>        | Report Required   |                     |          |                    |   |
| <b>Attachments:</b>    | 1. Summary of Int. No. 1012-A, 2. Summary of Int. No. 1012, 3. Int. No. 1012, 4. December 7, 2015 - Stated Meeting Agenda with Links to Files, 5. Committee Report 12/9/15, 6. Hearing Testimony 12/9/15, 7. Hearing Transcript 12/9/15, 8. Proposed Int. No. 1012-A - 12/12/17, 9. Committee Report 12/18/17, 10. Hearing Transcript 12/18/17, 11. December 19, 2017 - Stated Meeting Agenda with Links to Files, 12. Hearing Transcript - Stated Meeting 12-19-17, 13. Int. No. 1012-A (FINAL), 14. Fiscal Impact Statement, 15. Legislative Documents - Letter to the Mayor, 16. Local Law 63, 17. Minutes of the Stated Meeting - December 19, 2017 |                     |          |                    |   |

| Date       | Ver. | Action By                 | Action                      | Result |
|------------|------|---------------------------|-----------------------------|--------|
| 12/7/2015  | *    | City Council              | Introduced by Council       |        |
| 12/7/2015  | *    | City Council              | Referred to Comm by Council |        |
| 12/9/2015  | *    | Committee on Civil Rights | Laid Over by Committee      |        |
| 12/9/2015  | *    | Committee on Civil Rights | Hearing Held by Committee   |        |
| 12/18/2017 | *    | Committee on Civil Rights | Hearing Held by Committee   |        |
| 12/18/2017 | *    | Committee on Civil Rights | Amendment Proposed by Comm  |        |
| 12/18/2017 | *    | Committee on Civil Rights | Amended by Committee        |        |
| 12/18/2017 | A    | Committee on Civil Rights | Approved by Committee       | Pass   |
| 12/19/2017 | A    | City Council              | Approved by Council         | Pass   |
| 12/19/2017 | A    | City Council              | Sent to Mayor by Council    |        |
| 1/8/2018   | A    | Mayor                     | Hearing Scheduled by Mayor  |        |
| 1/19/2018  | A    | Administration            | City Charter Rule Adopted   |        |
| 1/22/2018  | A    | City Council              | Returned Unsigned by Mayor  |        |

Int. No. 1012-A

By The Speaker (Council Member Mark-Viverito) and Council Members Chin, Johnson, Koo, Koslowitz, Lander, Richards, Rose, Rosenthal, Rodriguez, Kallos and Menchaca

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to making improvements to clarify and strengthen the human rights law, and to repeal and replace section 8-102 of the administrative code of the city of New York, relating to definitions of terms in the human rights law, and to repeal sections 8-103, 8-104, 8-105 and 8-106 of the administrative code of the city of New York, relating to the functions, powers and duties of the commission on human rights and its relations with city departments and agencies

Be it enacted by the Council as follows:

Section 1. Paragraph 8 of subdivision e of section 905 of the New York city charter, as added by a vote of the electors on November 6, 2001, is amended to read as follows:

8. [to] Annual reporting. To submit [an annual] a report by September 30, 2018 and September 30 of each year thereafter to the mayor and the speaker of the council [which shall be published in City Record; and]. Such report shall be published in the City Record and shall include information for the previous fiscal year regarding: (i) inquiries received by the commission from the public; (ii) investigations initiated by the commission; (iii) complaints filed with the commission; and (iv) education and outreach efforts made by the commission.

§ 2. Sections 900, 901, 902, 903, 904, 905 and 906 of the New York city charter, as added by a vote of the electors on November 6, 2001 and paragraph 8 of subdivision e of section 905 as amended by section one of this local law, are amended to read as follows:

§ 900. Declaration of intent. It is [hereby declared as] the public policy of the city [of New York] to promote equal opportunity and freedom from unlawful discrimination through the provisions of the city's human rights law[, chapter 1 of title 8 of the administrative code of the city of New York].

§ 901. Executive orders. The mayor may issue such executive orders as [he or she] the mayor deems appropriate to provide for city agencies and contractors to act in accordance with the policy set forth in this chapter.

§ 902. Commission on human rights. a. The New York city commission on human rights is hereby established and continued.

b. The commission [shall have the] has general jurisdiction and power to eliminate and prevent unlawful discrimination by enforcing the provisions of [the New York city human rights law, and shall have general jurisdiction and power for such purposes] chapter 1 of title 8 of the administrative code and also has the powers conferred upon such commission by such title and all other applicable laws in furtherance of the elimination and prevention of such unlawful discrimination. [It] The commission may, in addition, take such other actions as may be provided by law against prejudice, intolerance, bigotry and unlawful discrimination and has the powers and duties conferred by this chapter and any other law in furtherance of such purposes. Nothing in this chapter shall be construed to limit the powers of the corporation counsel pursuant to applicable law.

§ 903. Commission membership; chairperson; appointment; vacancy. The commission shall consist of [fifteen] 15 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] the chairperson's 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 for a term of three years. In the event of the death or resignation of any member, [his or her] such member's successor shall be appointed to serve for the unexpired portion of the term for which such member had been appointed.

§ 904. Functions. The functions of the commission [shall be] are:

- a. [to] To foster mutual understanding and respect among all persons in the city [of New York];
- b. [to] To encourage equality of treatment for, and prevent discrimination against, any group or its members;
- c. [to] To cooperate with governmental and non-governmental agencies and organizations having like or kindred functions; and
- d. [to] 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.

§ 905. Powers and duties. The powers and duties of the commission shall be exercised in a manner

consistent with this chapter, title 8 of the administrative code and all other applicable laws and include but are not limited to the following:

a. [to] Public education and other activities. 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] intergroup relations within the city [of New York,] and 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. For the purposes of this subdivision, 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;

b. [to] Cooperation with groups and organizations. 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. For the purposes of this subdivision, 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;

c. [to] Studies. To study the problems of prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby in all or any fields of human relationship;

d. [(1) to] Investigations and complaints; referral. 1. To receive, investigate and pass upon complaints and to initiate its own investigation of: (i) [group-tensions] group tensions, prejudice, intolerance, bigotry and disorder occasioned thereby, and (ii) unlawful discrimination against any person or group of persons, [provided, however,] except 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[.];

2. Upon its own motion, to make, sign and file administrative complaints alleging violations of the city’s human rights law; and

[ (2) in] 3. In the event that any [such] investigation undertaken pursuant to paragraph 1 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 of the full enjoyment of any right secured by the human rights law, in addition to making, signing and filing [a] an administrative complaint upon its own motion pursuant to paragraph [a] 2 of this subdivision, to refer such information to the corporation counsel for the purpose of commencing a civil action pursuant to chapter [four] 4 of title [eight] 8 of the administrative code;

e. Hearings and production of evidence; order to preserve records. 1. [to] To issue subpoenas in the manner provided for in the 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;

2. [to] To hold hearings, administer oaths and take testimony of any person under oath; [and

3. In accordance with applicable law, to] 3. To require the production of any names of persons necessary for the investigation of any institution, club or other place or provider of accommodation[.

4. In accordance with applicable law, to]; and

4. To require, in accordance with the provisions of subdivision b of section 8-114 of the administrative code, 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 or other acts made unlawful by chapter 1 or chapter 6 of title 8 of the administrative code with respect to activities in the city;

[5. to] f. Publications and reports. To issue publications and reports of investigation and research designed to promote good will and minimize or eliminate prejudice, intolerance, bigotry, discrimination and

disorder occasioned thereby;

[6. to] g. Appointments and assignments; expenses. To appoint such employees and agents as it deems to be necessary to carry out its functions, powers and duties[: provided, however,] and to assign to such persons any of such functions, powers and duties, except that the commission shall not delegate its power to adopt rules [.] and [provided further,] also except that the commission's power to order that records be preserved or made and kept pursuant to subdivision b of section 8-114 of the administrative code 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;

[7. to] h. Recommendations. To recommend to the mayor and to the council legislation to aid in carrying out the purposes of this chapter;

[8.] i. Annual reporting. To submit a report by September 30, 2018 and September 30 of each year thereafter to the mayor and the speaker of the council. Such report shall be published in the City Record and shall include information for the previous fiscal year regarding: (i) inquiries received by the commission from the public; (ii) investigations initiated by the commission; (iii) complaints filed with the commission; and (iv) education and outreach efforts made by the commission.

1. 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 section 8-107 of the administrative code and the protected class of person; and (iv) the number of inquiries resolved by pre-complaint intervention.

2. The information regarding investigations initiated by the commission shall include, but not be limited

to: (i) the total number of investigations initiated by the commission disaggregated by the category of unlawful discriminatory practice as set forth by section 8-107 of the administrative code and the protected class at issue; (ii) the total number of commission-initiated complaints filed pursuant to section 8-109 of the administrative code after an investigation finding that a person or group of persons may be engaged in a pattern or practice of discrimination; (iii) the total number of investigations referred to the corporation counsel for the purpose of commencing a civil action pursuant to chapter 4 of title 8 of the administrative code; and (iv) the total number of publications and reports of investigations designed to promote good will and minimize or eliminate prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby.

3. 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 section 8-107 of the administrative code, 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 the administrative code; a determination of no probable cause, as set forth in section 8-116 of the administrative code; or a hearing, as set forth by section 8-119 of the administrative code; (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.

4. The information regarding the commission's education and outreach efforts as required by subdivisions a and b of this section 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; and

[9. to] j. Rules. To adopt rules to carry out the [provisions of] powers and duties delegated to the commission by this chapter, title 8 of the administrative code or any other law, and the policies and procedures of the commission in connection therewith.

§ 906. 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 [head] heads to the commission for the carrying out of the functions [herein] stated in this chapter. 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, may assign counsel to assist the commission in the conduct of its investigative or prosecutorial functions.

§ 3. Section 8-102 of the administrative code of the city of New York is REPEALED and a new section 8-102 is added to read as follows:

§ 8-102 Definitions. Except as otherwise expressly provided, when used in this chapter, the following terms have the following meanings:

Acts or threats of violence. The term “acts or threats of violence” includes, but is not limited to, acts, which would constitute violations of the penal law.

Alienage or citizenship status. The term “alienage or citizenship status” means:

1. The citizenship of any person, or
2. The immigration status of any person who is not a citizen or national of the United States.

Caregiver. The term “caregiver” means a person who provides direct and ongoing care for a minor child or a care recipient. As used in this definition:

1. Care recipient. 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.

2. Covered relative. 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.

3. Grandchild. The term “grandchild” means a child of a caregiver’s child.

4. Grandparent. The term “grandparent” means a parent of a caregiver’s parent.

5. Parent. 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.

6. Sibling. The term “sibling” means a caregiver’s brother or sister, including half-siblings, step-siblings and siblings related through adoption.

7. Spouse. The term “spouse” means a person to whom a caregiver is legally married under the laws of the state of New York.

8. Child. The term “child” means a biological, adopted or foster child, a legal ward or a child of a caregiver standing in loco parentis.

9. Minor child. The term “minor child” means a child under the age of 18.

Commercial space. 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.

Commission. The term “commission,” unless a different meaning clearly appears from the text, means the city commission on human rights.

Consumer credit history. The term “consumer credit history” means an individual’s credit worthiness, credit standing, credit capacity, or payment history, as indicated by: (i) a consumer credit report; (ii) credit score; or (iii) 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.

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

Disability. The term "disability" means any physical, medical, mental or psychological impairment, or a history or record of such impairment. As used in this definition:

1. Physical, medical, mental, or psychological impairment. The term "physical, medical, mental, or psychological impairment" means:

(a) 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

(b) A mental or psychological impairment.

2. In the case of alcoholism, drug addiction or other substance abuse, the term "disability" only applies to a person who (i) is recovering or has recovered and (ii) currently is free of such abuse, and does 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.

Domestic partner. The term "domestic partner" means any person who has a registered domestic partnership pursuant to section 3-240, 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.

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

Employer. For purposes of subdivisions 1, 2, 3, 11-a, and 22, subparagraph 1 of paragraph a of

subdivision 21, and paragraph e of subdivision 21 of section 8-107, the term “employer” does not include any employer with fewer than four persons in the employ of such employer. For purposes of this definition, 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.

Employment agency. The term “employment agency” includes any person undertaking to procure employees or opportunities to work.

Family. The term “family,” as used in subparagraph (4) of paragraph a of subdivision 5 of section 8-107, 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. As used in this definition, a “boarder,” “roomer” or “lodger” residing with a family means a person living within the household who pays a consideration for such residence and does not occupy such space within the household as an incident of employment therein.

Gender. The term “gender” includes actual or perceived sex, gender identity and gender expression, including a person’s actual or perceived gender-related self-image, appearance, behavior, expression or other gender-related characteristic, regardless of the sex assigned to that person at birth.

Housing accommodation. The term “housing accommodation” includes any building, structure or portion thereof that 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 includes a publicly-assisted housing accommodation.

Intelligence information. 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.

Intern. 1. The term “intern” means an individual who performs work for an employer on a temporary basis whose work:

(a) Provides training or supplements training given in an educational environment such that the employability of the individual performing the work may be enhanced;

(b) Provides experience for the benefit of the individual performing the work; and

(c) Is performed under the close supervision of existing staff.

2. The term includes such individuals without regard to whether the employer pays them a salary or wage.

Labor organization. The term “labor organization” includes any organization that 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.

Lawful source of income. The term “lawful source of income” includes income derived from social security, or any form of federal, state or local public assistance or housing assistance including section 8 vouchers.

National origin. The term “national origin” includes “ancestry.”

National security information. 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, is 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.

Occupation. The term “occupation” means any lawful vocation, trade, profession or field of specialization.

Partnership status. The term “partnership status” means the status of being in a domestic partnership, as defined by subdivision a of section 3-240.

Person. 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.

Person aggrieved. 1. The term “person aggrieved,” except as used in section 8-123, includes a person whose right created, granted or protected by this chapter is violated by a covered entity directly or through conduct of the covered entity to which the person’s agent or employee is subjected while the agent or employee was acting, or as a result of the agent or employee having acted, within the scope of the agency or employment relationship. For purposes of this definition, an agent or employee’s protected status is imputed to that person’s principal or employer when the agent or employee acts within the scope of the agency or employment relationship. It is irrelevant whether or not the covered entity knows of the agency or employment relationship.

2. A person is aggrieved even if that person’s only injury is the deprivation of a right granted or protected by this chapter.

3. This definition does not limit or exclude any other basis for a cause of action.

Place or provider of public accommodation. The term “place or provider of public accommodation” includes 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 does not include any club which proves that it is in its nature distinctly private. A club is not in its nature distinctly private if it has more than 400 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 definition, 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 corporation law is deemed to be in its nature distinctly private. No club that 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 is a private exhibition within the meaning of this definition.

Publicly-assisted housing accommodations. The term “publicly-assisted housing accommodations” includes:

1. Publicly-owned or operated housing accommodations;
2. 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;
3. Housing accommodations constructed after July 1, 1950, and housing accommodations sold after July 1, 1991:
  - (a) That are exempt in whole or in part from taxes levied by the state or any of its political subdivisions;
  - (b) That 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 1949;
  - (c) That 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
  - (d) 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; and
4. Housing accommodations, the acquisition, construction, rehabilitation, repair or maintenance of which is, after July 1, 1955, 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.

Real estate broker. 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 incumbrance 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.

Real estate salesperson. 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.

Reasonable accommodation. 1. The term “reasonable accommodation” means such accommodation that can be made that does not cause undue hardship in the conduct of the covered entity’s business. The covered entity has the burden of proving undue hardship. In making a determination of undue hardship with respect to claims filed under subdivisions 1, 2, 22 or 27 of section 8-107, the factors which may be considered include but are not limited to:

(a) The nature and cost of the accommodation;

(b) The overall financial resources of the facility or the facilities 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.

2. 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 3 of section 8-107, the definition of "undue hardship" set forth in paragraph b of such subdivision applies.

Sexual orientation. The term "sexual orientation" means an individual's actual or perceived romantic, physical or sexual attraction to other persons, or lack thereof, on the basis of gender. A continuum of sexual orientation exists and includes, but is not limited to, heterosexuality, homosexuality, bisexuality, asexuality and pansexuality.

Trade secrets. The term "trade secrets" means information that (i) 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; (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; and (iii) 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.

Unemployed or unemployment. The term "unemployed" or "unemployment" means not having a job, being available for work, and seeking employment.

Uniformed service. The term "uniformed service" means:

1. Current or prior service in:

(a) The United States army, navy, air force, marine corps, coast guard, commissioned corps of the national oceanic and atmospheric administration, commissioned corps of the United States public health services, army national guard or air national guard;

(b) The organized militia of the state of New York, as described in section 2 of the military law, or the organized militia of any other state, territory or possession of the United States; or

(c) Any other service designated as part of the “uniformed services” pursuant to subsection (16) of section 4303 of title 38 of the United States code;

2. Membership in any reserve component of the United States army, navy, air force, marine corps, or coast guard; or

3. Being listed on the state reserve list or the state retired list as described in section 2 of the military law or comparable status for any other state, territory or possession of the United States.

Unlawful discriminatory practice. The term “unlawful discriminatory practice” includes only those practices specified in section 8-107.

Victim of domestic violence. The term “victim of domestic violence” means 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 cohabiting with or has cohabited 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 by a person who is or has continually or at regular intervals lived in the same household as the victim.

Victim of sex offenses or stalking. The term “victim of sex offenses or stalking” means a victim of acts that would constitute violations of article 130 of the penal law or a victim of acts that would constitute violations of sections 120.45, 120.50, 120.55, or 120.60 of the penal law.

§ 4. Sections 8-103, 8-104, 8-105 and 8-106 of the administrative code of the city of New York are REPEALED.

§ 5. Paragraphs (e) and (f) of subdivision 1 of section 8-107 of the administrative code of the city of New York, paragraph (e) of such subdivision as amended by local law number 39 for the year 1991 and paragraph (f) of such subdivision as amended by local law number 27 for the year 1998, are amended to read as

follows:

(e) The provisions of this subdivision and subdivision [two] 2 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] 1974 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 coverages according to an employee's age; (iii) shall not be construed to affect any retirement policy or system that is permitted pursuant to [paragraph] paragraphs (e) and (f) of subdivision [three-a] 3-a of section [two hundred ninety-six] 296 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] the employer's parents, spouse, domestic partner, or children; provided, however, that such family members shall be counted as persons employed by an employer for the purposes of [subdivision five of] the definition of employer set forth in section 8-102 [of this chapter].

§ 6. Paragraphs (b), (c) and (d) of subdivision 2 of section 8-107 of the administrative code of the city of New York, as amended by local law number 119 for the year 2017, are amended to read as follows:

(b) To deny to or withhold from any person because of [his or her] such person's actual or perceived race, creed, color, national origin, gender, age, disability, marital status, partnership status, sexual orientation, uniformed service, [or] alienage or citizenship status or status as a victim of domestic violence or as a victim of sex offenses or stalking 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, or to represent that such program is not available when in fact it is available.

(c) To discriminate against any person in [his or her] such person's 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, uniformed service, [or] alienage or citizenship status or status as a victim of domestic violence or as a victim of sex offenses or stalking.

(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, uniformed service, [or] alienage or citizenship status or status as a victim of domestic violence or as a victim of sex offenses or stalking, or any intent to make any such limitation, specification or discrimination.

§ 7. Subdivision 3 of section 8-107 of the administrative code of the city of New York, as amended by local law number 54 for the year 2011, is amended to read as follows:

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] such person's 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] such person's place of employment during any day or days or portion thereof that, as a requirement of such person's religion, [he or she] such person observes as a sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between [his or her] such person's place of employment and [his or her] such person's 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] 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] The number of individuals who will need the particular accommodation to a sincerely held religious observance or practice; and

(iii) [for] 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] the employee is employed.

§ 8. Paragraphs c and e of subdivision 4 of section 8-107 of the administrative code of the city of New York, paragraph c of such subdivision as amended by local law number 39 for the year 1991 and paragraph e of such subdivision as amended by local law number 34 for the year 2016, are amended to read as follows:

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] 3201-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] 45 of the code of federal regulations for educational institutions covered thereunder.

e. The provisions of this section relating to disparate impact shall not apply to the use of standardized tests as defined by section [three hundred forty] 340 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.

§ 9. Paragraphs (g), (h), (i), (j) and (l) of subdivision 5 of section 8-107 of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, are amended to read as follows:

(g) Applicability; persons under [eighteen] 18 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] 18 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] 2 and [three] 3 of subdivision (b) of section [thirty-six hundred seven] 3607 of title [forty-two] 42 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] 55 years of age or older. This paragraph shall not be construed to permit discrimination against such persons [fifty-five] 55 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] 45 of the code of federal regulations for educational institutions covered thereunder.

(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] 296 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] subdivision.

§ 10. Subparagraphs (3), (4) and (5) of paragraph (a) and subparagraph (1) of paragraph (d) of subdivision 9 of section 8-107 of the administrative code of the city of New York, subparagraphs (3), (4) and (5) of paragraph (a) of such subdivision as amended by local law number 63 for the year 2015 and subparagraph (1) of paragraph (d) of such subdivision as added by local law number 37 for the year 2015, are amended to read as follows:

(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] such applicant or holder 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] such applicant or holder 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] 23-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] such applicant or holder 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.

(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].

§ 11. Paragraphs (a) and (c) of subdivision 10 of section 8-107 of the administrative code of the city of New York, as amended by local law number 63 for the year 2015, are amended to read as follows:

(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] 23-a of the correction law.

(c) Pursuant to section [seven hundred fifty-five] 755 of the correction law, the provisions of this subdivision shall be enforceable against public agencies by a proceeding brought pursuant to article [seventy-eight] 78 of the [Civil Practice Law and Rules] 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] 5 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] 750 of the correction law.

§ 12. Subdivision 11 of section 8-107 of the administrative code of the city of New York, as amended by local law number 63 for the year 2015, is amended to read as follows:

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] 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] 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.

§ 13. Subdivision 11-a of section 8-107 of the administrative code of the city of New York, as amended by local law number 40 for the year 2016, is amended to read as follows:

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;

(2) Because of any person’s arrest or criminal conviction, represent that any employment or position is not available, when in fact it is available to such person; or

(3) 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] 5 of section 916 of article 31 of the 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, and "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~~] Provides a written copy of the inquiry to the applicant in a manner to be determined by the commission;

(ii) [~~performs~~] Performs an analysis of the applicant under article [twenty-three-a] 23-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~~] 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] As a police officer or peace officer, as those terms are defined in subdivisions [thirty-three] 33 and [thirty-four] 34 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] 23-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] 78 of the [Civil Practice Law and Rules] 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] 5 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] 750 of the correction law.

§ 14. Paragraphs a, b, e and f of subdivision 13 of section 8-107 of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, are amended to read as follows:

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] 1 and [two] 2 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] 1 or [two] 2 of this section only where:

(1) [the] The employee or agent exercised managerial or supervisory responsibility; or

(2) [the] 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] 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.

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] 4 or [five] 5 of this title and shall be among the factors considered in determining an employer’s liability

under subparagraph [three] 3 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 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] 4 or [five] 5 of this title for such unlawful discriminatory practices.

§ 15. Subdivision 14 of section 8-107 of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, is amended to read as follows:

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 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.

§ 16. Paragraph (a) of subdivision 15 of section 8-107 of the administrative code of the city of New

York, as amended by local law number 39 for the year 1991, is amended to read as follows:

(a) Requirement to make reasonable accommodation to the needs of persons with disabilities. Except as provided in paragraph (b), it is an unlawful discriminatory practice for any person prohibited by the provisions of this section from discriminating on the basis of disability [shall make] not to provide a 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.

§ 17. Paragraph a of subdivision 17 of section 8-107 of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, is amended to read as follows:

17. Disparate impact. a. An unlawful discriminatory practice based upon disparate impact is established when:

(1) [the] The commission or a person who may bring an action under chapter [four] 4 or [five] 5 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] 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.

§ 18. Subdivision 19 of section 8-107 of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, is amended to read as follows:

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] such person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected pursuant to this section.

§ 19. Paragraphs b, c and e of subdivision 21 of section 8-107 of the administrative code of the city of New York, as added by local law number 14 for the year 2013, are amended to read as follows:

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] 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] 35 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] 35 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] 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] 1 of this subdivision;

(c) [agency] Agency appointments to competitive positions from eligible lists pursuant to subsection [one] 1 of section [sixty-one] 61 of the [state] civil service law; or

(d) [the] 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.

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] 4 or [five] 5 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.

§ 20. Subdivision 22 of section 8-107 of the administrative code of the city of New York, as added by local law number 78 for the year 2013, is amended to read as follows:

[(22)] 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] the employee's 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 on the basis of gender, 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.

§ 21. Subdivision 24 of section 8-107 of the administrative code of the city of New York, as added by local law number 37 for the year 2015, is amended to read as follows:

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] 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] Persons applying for positions as or employed:

(A) [as] As police officers or peace officers, as those terms are defined in subdivisions [thirty-three] 33 and [thirty-four] 34 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] 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] In a position in which an employee is required to be bonded under [City] city, state or federal law;

(D) [in] In a position in which an employee is required to possess security clearance under federal law or the law of any state;

(E) [in] In a non-clerical position having regular access to trade secrets, intelligence information or national security information;

(F) [in] 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[.]; or

(G) [in] 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) (d) Nothing in this subdivision [shall preclude] precludes an employer from requesting or receiving consumer credit history information pursuant to a lawful subpoena, court order or law enforcement

investigation.

§ 22. Section 8-107.1 of chapter 1 of title 8 of the administrative code of the city of New York, as amended by local law number 40 for the year 2016, is re-designated as a new subdivision 27 of section 8-107 of the administrative code of the city of New York and amended to read as follows:

[§ 8-107.1] 27. Victims of [Domestic Violence, Sex offenses or Stalking] domestic violence, sex offenses or stalking. [a. Definitions. Whenever used in this chapter the following terms have the following meanings:

“Acts or threats of violence” includes, but is not limited to, acts, which would constitute violations of the penal law.

“Victim of domestic violence” means 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 cohabiting with or has cohabited 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.

“Victim of sex offenses or stalking” means 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.

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.

b. Unlawful discriminatory practices] a. Employment. [1. (a)] It shall be an unlawful discriminatory practice for an employer, or an agent thereof, because of any individual’s actual or perceived status as a victim of domestic violence, or as a victim of sex offenses or stalking:

- (1) To represent that any employment or position is not available when in fact it is available;
- (2) To refuse to hire or employ or to bar or to discharge from employment; or
- (3) To discriminate against an individual in compensation or other terms, conditions, or privileges of employment.

[(b)] b. Requirement to make reasonable accommodation to the needs of victims of domestic violence, sex offenses or stalking. Except as provided in [subparagraph (d)] paragraph d, it is an unlawful discriminatory practice for any person prohibited by paragraph [1] a 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] not to provide 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 as a victim of domestic violence or a victim of sex offenses or stalking is known or should have been known by the covered entity.

[(c)] c. Documentation of status. Any person required by [subparagraph (b)] paragraph b to make reasonable accommodation may require a person requesting reasonable accommodation pursuant to [subparagraph (b)] such paragraph to provide certification that the person is a victim of domestic violence, sex offenses or stalking. The person requesting reasonable accommodation pursuant to [subparagraph (b)] such paragraph 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] subdivision, 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.

[(d)] d. Affirmative defense in domestic violence, sex offenses or stalking 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.

[2. (a)] e. 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 agent or employee thereof, because of any individual's actual or perceived status as a victim of domestic violence, or as a victim of sex offenses or stalking:

(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, or to discriminate 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 because of an actual or perceived status of said individual as a victim of domestic violence, or as a victim of sex offenses or stalking; or

(2) To represent that such housing accommodation or an interest therein is not available when in fact it is available.

[(b)] f. The provisions of [this] paragraph [2] e 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 members 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.

g. For the purposes of this subdivision, 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.

§ 23. Section 8-109 of the administrative code of the city of New York, as amended by local law number 85 for the year 2005, is amended to read as follows:

§ 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] 6 of this title [may, by himself or herself], or such person's attorney, may 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 or act of discriminatory harassment or violence complained of, and the address of such person if known; (ii) set forth the particulars of the alleged unlawful discriminatory practice or act of discriminatory harassment or violence; 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] 6 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] the respondent's 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 act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title occurred.

(f) The commission shall not have jurisdiction to entertain a complaint if:

(i) [the] 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] 6 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] 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] 6 of this title with respect to the same grievance which is the subject of the complaint under this chapter; or

(iii) [the] 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] 6 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] 1, [nineteen hundred ninety-one] 1991, 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] 5 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.

§ 24. Subdivision a of section 8-111 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

a. Within [thirty] 30 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.

§ 25. Subdivision c of section 8-112 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

c. Unless such complaint is withdrawn pursuant to a conciliation agreement, the withdrawal of a complaint shall be without prejudice:

[(i) to] 1. To the continued prosecution of the complaint by the commission in accordance with rules of the commission;

[(ii) to] 2. To the initiation of a complaint by the commission based in whole or in part upon the same facts; or

[(iii) to] 3. To the commencement of a civil action by the corporation counsel based upon the same facts pursuant to chapter [four] 4 of this title.

§ 26. Subdivisions a, d and f of section 8-113 of the administrative code of the city of New York, subdivisions a and f of such section as added by local law number 39 for the year 1991 and subdivision d of such section as amended by local law number 11 for the year 1993, are amended to read as follows:

§ 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] 1. Commission personnel have been unable to locate the complainant after diligent efforts to do so;

[(2) the] 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] 3. The complainant has repeatedly engaged in conduct which is disruptive to the orderly functioning of the commission;

[(4) the] 4. The complainant is unwilling to accept a reasonable proposed conciliation agreement;

[(5) prosecution] 5. Prosecution of the complaint will not serve the public interest; and

[(6) the] 6. The complainant requests such dismissal, [one hundred eighty] 180 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.

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] 6 of this title, the commission shall dismiss the complaint as to such respondent.

f. The complainant or respondent may, within [thirty] 30 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.

§ 27. Subdivisions b and c of section 8-114 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, are amended to read as follows:

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 or other acts made unlawful by this chapter or chapter 6 of this title 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 or other acts made unlawful by this chapter or chapter 6 of this title 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] 4 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, or both.

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] 30 days after such an objection is filed with the commission, unless the party filing the objection consents to an extension of time.

§ 28. Subdivisions a and b of section 8-116 of the administrative code of the city of New York, subdivision a of such section as amended by local law number 11 for the year 1993 and subdivision b of such section as added by local law number 39 for the year 1991, are amended to read as follows:

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] 6 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 reviewable.

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] 10 days from the date of such request the commission may cause to be posted for a period of [ten] 10 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] \$1,000 or by imprisonment for not more than one year or both.

§ 29. Subdivision c of section 8-119 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

c. The administrative law judge may, in [his or her] the administrative law judge's 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.

§ 30. Section 8-120 of the administrative code of the city of New York, as amended by local law number 36 for the year 2016, is amended to read as follows:

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 any act of discriminatory harassment or violence as set forth in chapter [six] 6 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] the complainant, respondent, any necessary party and any complainant who has not intervened 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 or chapter 6 of this title, as applicable, including, but not limited to:

[(1) hiring] 1. Hiring, reinstatement or upgrading of employees;

[(2) the] 2. The award of back pay and front pay;

[(3) admission] 3. Admission to membership in any respondent labor organization;

[(4) admission] 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] 5. The extension of full, equal and unsegregated accommodations, advantages, facilities and privileges;

[(6) evaluating] 6. Evaluating applications for membership in a club that is not distinctly private, without unlawful discrimination [based on race, creed, color, age, national origin, disability, marital status, partnership status, gender, sexual orientation or alienage or citizenship status];

[(7) selling] 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] 8. Payment of compensatory damages to the person aggrieved by such practice or act;

[(9) submission] 9. Submission of reports with respect to the manner of compliance; and

[(10) payment] 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] Novelty or difficulty of the issues presented;

(ii) [skill] Skill and experience of the complainant's attorney; and

(iii) [the] 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 act of discriminatory harassment or violence as set forth in chapter [six] 6 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.

§ 31. Section 8-122 of the administrative code of the city of New York, as amended by local law number

11 for the year 1993, is amended to read as follows:

§ 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] 6 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] 63 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 or act of discriminatory harassment or violence 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] 5 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.

§ 32. Subdivisions b and h of section 8-123 of the administrative code of the city of New York, subdivision b of such section as amended by local law number 11 for the year 1993 and subdivision h of such section as amended by local law number 39 for the year 1991, are amended to read as follows:

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] 6 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 act of discriminatory harassment or violence or to take other affirmative action resides or transacts business.

h. A proceeding under this section must be instituted within [thirty] 30 days after the service of the order of the commission.

§ 33. Section 8-124 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

§ 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] \$50,000 and an additional civil penalty of not more than [one hundred dollars] \$100 per day for each day that the violation continues.

§ 34. Section 8-126 of the administrative code of the city of New York, subdivision a of such section as amended by local law number 85 for the year 2005 and subdivisions b, c, and d of such section as amended by local law number 11 for the year 1993, is amended to read as follows:

§ 8-126 Civil penalties imposed by commission for unlawful discriminatory practices or acts of discriminatory harassment or violence. a. Except as otherwise provided in subdivision [thirteen] 13 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] \$125,000. Where the commission finds that an unlawful discriminatory practice was the result of the respondent's willful, wanton or malicious act or where the commission finds that an act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title has occurred, the commission

may, to vindicate the public interest, impose a civil penalty of not more than [two hundred and fifty thousand dollars] \$250,000.

b. A respondent that is found liable for an unlawful discriminatory practice or an act of discriminatory harassment or violence, as set forth in chapter [six] 6 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] \$10,000.

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.

§ 35. Section 8-129 of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, is amended to read as follows:

§ 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 [wilfully] 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 [wilfully] 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] \$10,000, or by both; but the procedure for the review of the order shall not be deemed to be such [wilful] willful conduct.

§ 36. Section 8-131 of the administrative code of the city of New York, as added by local law number 11 for the year 1993, is amended to read as follows:

§ 8-131 Applicability. The provisions of this chapter which make acts of discriminatory harassment or violence as set forth in chapter [six] 6 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.

§ 37. Section 8-302 of the administrative code of the city of New York is amended to read as follows:

§ 8-302 Removal of disability or disqualification. Notwithstanding any provision of this code to the contrary, no person shall be denied any license, right, benefit or privilege extended by this code, or suffer any other disability or disqualification thereunder, or be denied the right of employment by the city [of New York], solely because of any arrest, apprehension, detention, indictment or other accusation, arraignment, trial, conviction or any other aspect of conviction or adjudication of a crime had under the jurisdiction of the courts of any state or of the United States, which is founded on an act or acts arising out of any peaceful demonstration or other peaceful activity, the object of which is to resist discriminatory treatment in any place of public accommodation as defined by section [forty] 40 of the civil rights law, or to achieve equal rights for all persons regardless of race, creed, color or national origin.

§ 38. Subdivision a of section 8-402 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

a. Whenever there is reasonable cause to believe that a person or group of persons is engaged in a pattern or practice that results in the denial to any person of the full enjoyment of any right secured by chapter [one] 1 of this title, a civil action on behalf of the commission or the city may be commenced in a court of competent jurisdiction, by filing a complaint setting forth facts pertaining to such pattern or practice and requesting such relief as may be deemed necessary to insure the full enjoyment of the rights described in such chapter, including, but not limited to, injunctive relief, damages, including punitive damages, and such other types of relief as are specified in subdivision a of section 8-120 [of this title]. Nothing in this section shall be construed to prohibit (i) an aggrieved person from filing a complaint pursuant to section 8-109 [of chapter one

of this title] or from commencing a civil action pursuant to chapter [five] 5 of this title based upon the same facts pertaining to such a pattern or practice as are alleged in the civil action, or (ii) the commission from filing a commission-initiated complaint pursuant to section 8-109 [of chapter one of this title] alleging a pattern or practice of discrimination, provided that a civil action pursuant to this section shall not have previously been commenced.

§ 39. Section 8-403 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

§ 8-403 Investigation. The corporation counsel may initiate any investigation to ascertain such facts as may be necessary for the commencement of a civil action pursuant to section 8-402 [of this chapter], and in connection therewith shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, to administer oaths and to examine such persons as are deemed necessary.

§ 40. Section 8-404 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

§ 8-404 Civil penalty. In any civil action commenced pursuant to section 8-402 [of this chapter], the trier of fact may, to vindicate the public interest, impose upon any person who is found to have engaged in a pattern or practice that results in the denial to any person of the full enjoyment of any right secured by chapter [one] 1 of this title a civil penalty of not more than [two hundred fifty thousand dollars] \$250,000. In relation to determining the appropriate amount of civil penalties to be imposed pursuant to this section a liable party may plead and prove any relevant mitigating factor. Any civil penalties so recovered pursuant to this chapter shall be paid into the general fund of the city. Nothing in this section shall be construed to preclude the city from recovering damages, including punitive damages, and other relief pursuant to section 8-402 [of this chapter] in addition to civil penalties.

§ 41. Subdivisions b and d of section 8-502 of the administrative code of the city of New York, subdivision b of such section as amended by local law number 85 for the year 2005 and subdivision d of such

section as amended by local law number 11 for the year 1993, are amended to read as follows:

b. Notwithstanding any inconsistent provision of subdivision a of this section, where a complaint filed with the city commission on human rights or the state division on human rights is dismissed by the city commission on human rights pursuant to subdivisions a, b or c of section 8-113 [of chapter one of this title], or by the state division of human rights pursuant to subdivision [nine] 9 of section [two hundred ninety-seven] 297 of the executive law either for administrative convenience or on the grounds that such person's election of an administrative remedy is annulled, an aggrieved person shall maintain all rights to commence a civil action pursuant to this chapter as if no such complaint had been filed.

d. A civil action commenced under this section must be commenced within three years after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title occurred. Upon the filing of a complaint with the city commission on human rights or the state division of human rights and during the pendency of such complaint and any court proceeding for review of the dismissal of such complaint, such three-year limitations period shall be tolled.

§ 42. Section 8-602 of the administrative code of the city of New York, as amended by local law number 85 for the year 2005, is amended to read as follows:

§ 8-602 Civil action to enjoin discriminatory harassment or violence; equitable remedies. a. Whenever a person interferes by threats, intimidation or coercion or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any person of rights secured by the constitution or laws of the United States, the constitution or laws of this state, or local law of the city and such interference or attempted interference is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, whether children are, may or would be residing with such victim, marital status, partnership status, disability, or alienage or citizenship status as defined in chapter [one] 1 of this title, the corporation counsel, at the request of the city commission on human rights or on [his or her] the corporation counsel's own initiative, may bring a civil action on behalf of the city for injunctive and other appropriate

equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

b. An action pursuant to subdivision a of this section may be brought in any court of competent jurisdiction.

c. Violation of an order issued pursuant to subdivision a of this section may be punished by a proceeding for contempt brought pursuant to article [nineteen] 19 of the judiciary law and, in addition to any relief thereunder, a civil penalty may be imposed not exceeding [ten thousand dollars] \$10,000 for each day that the violation continues.

§ 43. Section 8-603 of the administrative code of the city of New York, as amended by local law number 85 for the year 2005, is amended to read as follows:

§ 8-603 Discriminatory harassment; civil penalties. a. No person shall by force or threat of force, knowingly injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to [him or her] such other person by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city when such injury, intimidation, interference, oppression or threat is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, partnership status, disability or alienage or citizenship status, as defined in chapter [one] 1 of this title.

b. No person shall knowingly deface, damage or destroy the real or personal property of any person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city when such defacement, damage or destruction of real or personal property is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, partnership status, or whether children are, may be, or would be residing with such victim, disability or alienage or citizenship status, as defined in chapter [one] 1 of this title.

c. Any person who violates subdivision a or b of this section shall be liable for a civil penalty of not

more than [one hundred thousand dollars] \$100,000 for each violation, which may be recovered by the corporation counsel in an action or proceeding in any court of competent jurisdiction.

§ 44. Section 8-702 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

§ 8-702 Definitions. [When] As used in this chapter, the following terms have the following meanings:

[(1) The term “discriminatory boycott or blacklist” means any act that is an unlawful discriminatory practice under subdivision eighteen of section 8-107 of chapter one of this title.

[(2)] Commission. The term “commission” means the [New York] city commission on human rights.

[(3)] Council. The term “council” means the council of the city of New York.

Discriminatory boycott or blacklist. The term “discriminatory boycott or blacklist” means any act that is an unlawful discriminatory practice under subdivision 18 of section 8-107.

§ 45. Section 8-703 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

§ 8-703 Investigative reporting requirements. The following requirements shall apply to all complaints alleging that a discriminatory boycott or blacklist is occurring:

(1) The commission shall begin an investigation within [twenty-four] 24 hours of the filing of a complaint which alleges that a discriminatory boycott or blacklist is occurring.

(2) Within three days after initiating such an investigation, the commission shall file a written report with the mayor. The report shall state:

(a) [the] The allegations contained in the complaint;

(b) [whether] Whether the commission has reason to believe a discriminatory boycott or blacklist is taking place; and

(c) [steps] Steps the commission has taken to resolve the dispute.

(3) If it is stated within the report described in subdivision [two] 2 of this section that the commission

has reason to believe that a discriminatory boycott or blacklist has taken place, within [thirty] 30 days after filing such report, the commission shall file a second report with the mayor and the council. This second report shall contain:

(a) [a] A brief description of the allegations contained in the complaint;

(b) [a] A determination of whether probable cause exists to believe a discriminatory boycott or blacklist is taking place;

(c) [a] A recitation of the facts that form the basis of the commission's determination of probable cause; and

(d) [if] If the boycott or blacklist is continuing at the date of the report, a description of all actions the commission or other city agency has taken or will undertake to resolve the dispute.

(4) If a finding of probable cause is not contained in the report required by subdivision [three] 3 of this section and the boycott or blacklist continues for more than [twenty] 20 days subsequent to the report's release, then, upon demand of the mayor or council, the commission shall update such report. Report updates shall detail:

(a) [whether] Whether or not the commission presently has probable cause to believe a discriminatory boycott or blacklist is taking place; and

(b) [all] All new activity the commission or other city agency has taken or will undertake to resolve the dispute.

(5) If the commission determines that the disclosure of any information in a report required by this section may interfere with or compromise a pending investigation or efforts to resolve the dispute by mediation or conciliation, it shall file the report without such information and state in the report the reasons for omitting such information.

§ 46. Chapter 8 of title 8 of the administrative code of the city of New York, as amended by local law number 24 for the year 2009, is re-designated as a new chapter 10 of title 10 of the administrative code of the

city of New York and amended to read as follows:

[CHAPTER 8]CHAPTER 10

PREVENTION OF INTERFERENCE WITH REPRODUCTIVE HEALTH SERVICES

[§ 8-801]§ 10-1001 Short title. This [local law]chapter shall be known and may be cited as the “access to reproductive health care facilities [act.]”law”.

[§ 8-802]§ 10-1002 Definitions. [For the purposes of]As used in this chapter, the following terms have the following meanings: [a. “Reproductive health care facility” shall mean any building, structure or place, or any portion thereof, at which licensed, certified, or otherwise legally authorized persons provide health care services or health care counseling relating to the human reproductive system.]

[b. “Person” shall mean]Person. The term “person” means an individual, corporation, not-for-profit organization, partnership, association, group or any other entity.

[c. “Premises of a reproductive health care facility” shall mean]Premises of a reproductive health care facility. The term “premises of a reproductive health care facility” means the driveway, entrance, entryway, or exit of a reproductive health care facility and the building in which such facility is located and any parking lot in which the facility has an ownership or leasehold interest.

Reproductive health care facility. The term “reproductive health care facility” means any building, structure or place, or any portion thereof, at which licensed, certified or otherwise legally authorized persons provide health care services or health care counseling relating to the human reproductive system.

[§ 8-803.]§ 10-1003 Prohibition of activities to prevent access to reproductive health care facilities. a. Unlawful conduct. It [shall be]is unlawful for any person:

[(1) to]1. To knowingly physically obstruct or block another person from entering into or exiting from the premises of a reproductive health care facility by physically striking, shoving, restraining, grabbing, or otherwise subjecting a person to unwanted physical contact, or attempting to do the same;

[(2) to]2. To knowingly obstruct or block the premises of a reproductive health care facility, so as to

impede access to or from the facility, or to attempt to do the same;

[(3) to]3. To follow and harass another person within 15 feet of the premises of a reproductive health care facility;

[(4) to]4. To engage in a course of conduct or repeatedly commit acts within 15 feet of the premises of a reproductive health care facility when such behavior places another person in reasonable fear of physical harm, or to attempt to do the same;

[(5) to]5. To physically damage a reproductive health care facility so as to interfere with its operation, or to attempt to do the same; or

[(6) to]6. To knowingly interfere with the operation of a reproductive health care facility, or to attempt to do the same, by activities [including]that include, but are not limited to, interfering with, or attempting to interfere with (i) medical procedures being performed at such facility or (ii) the delivery of goods to such facility.

b. Violations. Any person who [shall violate]violates any provision of subdivision a of this section [shall be]is guilty of a misdemeanor punishable by a fine not to exceed [one thousand dollars]\$1,000 or imprisonment not to exceed six months, or both, for a first conviction under this section. For a second and each subsequent conviction under this section, the penalty shall be a fine not to exceed [five thousand dollars]\$5,000 or imprisonment not to exceed one year, or both.

[§ 8-804]§ 10-1004 Civil cause of action. Where there has been a violation of subdivision a of section [8-803]10-1003, any person whose ability to access a reproductive health care facility has been interfered with, and any owner or operator of a reproductive health care facility or owner of a building in which such a facility is located, may bring a civil action in any court of competent jurisdiction for any or all of the following relief:

[1. injunctive]a. Injunctive relief;

[2. treble]b. Treble the amount of actual damages suffered as a result of such violation, including, where applicable, damages for pain and suffering and emotional distress, or damages in the amount of [five thousand

dollars]\$5,000, whichever is greater; and

[3. attorneys']c. Attorney's fees and costs.

[§ 8-805.]§ 10-1005 Civil action by city [of New York ]to enjoin interference with access to reproductive health care facilities. The corporation counsel may bring a civil action on behalf of the city in any court of competent jurisdiction for injunctive and other appropriate equitable relief in order to prevent or cure a violation of subdivision a of section [8-803]10-1003.

[§ 8-806]§ 10-1006 Joint and several liability. If it is found, in any action brought pursuant to the provisions of this chapter, that two or more of the named defendants acted in concert pursuant to a common plan or design to violate any provision of subdivision a of section [8-803]10-1003, such defendants shall be held jointly and severally liable for any fines or penalties imposed or any damages awarded.

[§ 8-807]§ 10-1007 Construction. a. [No provision of this chapter shall be construed or interpreted so as to]This chapter does not limit the right of any person or entity to seek other available criminal penalties or civil remedies. The penalties and remedies provided under this chapter [shall be]are cumulative and are not exclusive.

b. [No provision of this chapter shall be construed or interpreted so as to]This chapter does not prohibit expression protected by the [First Amendment]first amendment of the [Constitution]constitution of the United States or section [eight]8 of article [one]1 of the [Constitution]constitution of the [State]state of New York.

c. [No provision of this chapter shall be construed or interpreted so as to]This chapter does not limit the lawful exercise of any authority vested in the owner or operator of [the]a reproductive health care facility, the owner of the premises in which such a facility is located, or a law enforcement officer of [New York City]the city, the state of New York [ State] or the United States acting within the scope of [his or her] such person's official duties.

§ 47. Chapter 9 of title 8 of the administrative code of the city of New York, as added by local law number 73 for the year 2000, is re-designated as a new chapter 11 of title 10 of the administrative code of the

city of New York and amended to read as follows:

[CHAPTER 9]CHAPTER 11

ACTIONS BY VICTIMS OF GENDER-MOTIVATED VIOLENCE

[§ 8-901]§ 10-1101 Short [Title]title. This [local law]chapter shall be known and may be cited as the “Victims of Gender-Motivated Violence Protection [Act.]”Law”.

[§ 8-902]§ 10-1102 Declaration of [Legislative Findings and Intent]legislative findings and intent. Gender-motivated violence inflicts serious physical, psychological, emotional and economic harm on its victims. Congressional findings have documented that gender-motivated violence is widespread throughout the United States, representing the leading cause of injuries to women ages 15 to 44. Further statistics have shown that three out of four women will be the victim of a violent crime sometime during their lives, and as many as [four million]4,000,000 women a year are victims of domestic violence. Senate hearings, various task forces and the United States [Department]department of [Justice]justice have concluded that victims of gender-motivated violence frequently face a climate of condescension, indifference and hostility in the court system and have documented the legal system’s hostility towards sexual assault and domestic violence claims. Recognizing this widespread problem, [Congress]congress in 1994 provided victims of gender-motivated violence with a cause of action in federal court through the [Violence Against Women Act]violence against women act (VAWA) ([42 USC § 13981] section 13981 of title 42 of the United States code). In a May 15, 2000, decision, the United States [Supreme Court]supreme court held that the [Constitution]constitution provided no basis for a federal cause of action by victims of gender-motivated violence against [their]perpetrators of offenses committed against them either under the[ Commerce Clause or the Equal Protection Clause of the Fourteenth Amendment] commerce clause or the equal protection clause of the fourteenth amendment. In so ruling, the [Court]court held that it could “think of no better example of the police power, which the Founders denied the National Government and reposed in the States, than the suppression of violent crime and vindication of its victims.”

In light of the void left by the [Supreme Court's]supreme court's decision, this [Council]council finds that victims of gender-motivated violence should have a private right of action against [their] perpetrators of offenses committed against them under the [Administrative Code]administrative code. This private right of action aims to resolve the difficulty that victims face in seeking court remedies by providing an officially sanctioned and legitimate cause of action for seeking redress for injuries resulting from gender-motivated violence.

[§ 8-903]§ 10-1103 Definitions. [For purposes of]As used in this chapter, the following terms have the following meanings:

[a. "Crime of violence"]Crime of violence. The term "crime of violence" means an act or series of acts that would constitute a misdemeanor or felony against the person as defined in state or federal law or that would constitute a misdemeanor or felony against property as defined in state or federal law if the conduct presents a serious risk of physical injury to another, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction.

[b. "Crime of violence motivated by gender"]Crime of violence motivated by gender. The term "crime of violence motivated by gender" means a crime of violence committed because of gender or on the basis of gender, and due, at least in part, to an animus based on the victim's gender.

[§ 8-904]§ 10-1104 Civil [Cause of Action]cause of action. Except as otherwise provided by law, any person claiming to be injured by an individual who commits a crime of violence motivated by gender [as defined in section 8-903 of this chapter, shall have ]has a cause of action against such individual in any court of competent jurisdiction for any or all of the following relief:

[1. compensatory]a. Compensatory and punitive damages;

[2. Injunctive]b. Injunctive and declaratory relief;

[3. attorneys']c. Attorney's fees and costs; and

[4. such]d. Such other relief as a court may deem appropriate.

[§ 8-905]§ 10-1105 Limitations. a. A civil action under this chapter [must]shall be commenced within seven years after the alleged crime of violence motivated by gender [as defined in section 8-903 of this chapter ]occurred. If, however, due to injury or disability resulting from an act or acts giving rise to a cause of action under this chapter, or due to infancy as defined in the civil procedure law and rules, a person entitled to commence an action under this chapter is unable to do so at the time such cause of action accrues, then the time within which the action must be commenced shall be extended to seven years after the inability to commence the action ceases.

b. Except as otherwise permitted by law, nothing in this chapter entitles a person to a cause of action for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by preponderance of the evidence, to be a crime of violence motivated by gender[ as defined in section 8-903].

c. Nothing in this section requires a prior criminal complaint, prosecution or conviction to establish the elements of a cause of action under this chapter.

[§ 8-906]§ 10-1106 Burden of [Proof]proof. Conviction of a crime arising out of the same transaction, occurrence or event giving rise to a cause of action under this chapter [shall be considered]is conclusive proof of the underlying facts of that crime for purposes of an action brought under this chapter. That such crime was a crime of violence motivated by gender must be proved by a preponderance of the evidence.

[§ 8-907]§ 10-1107 Severability. If any section, subsection, sentence, clause, phrase or other portion of this [local law]chapter is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§ 48. Chapter 10 of title 8 of the administrative code of the city of New York, as added by local law number 73 for the year 2003, is re-designated as a new subchapter 1 of chapter 1 of title 21 of the administrative code of the city of New York and amended to read as follows:

[CHAPTER 10]SUBCHAPTER 1

EQUAL ACCESS TO HUMAN SERVICES

[§ 8-1001]§ 21-189 Short title. This chapter shall be known and may be cited as the “Equal Access to Human Services [Act]Law of 2003[.]”.

[§ 8-1002]§ 21-190 Definitions. For purposes of this chapter, the following terms have the following meanings:

[a. “Agency”]Agency. The term “agency” means the human resources administration/department of social services, including any part, subdivision, field office or satellite facility thereof.[b. Agency office. “Agency office” means a job center, food stamp office, medical assistance program office, or other part, subdivision, field office or satellite facility of the agency or agency contractor office that performs a covered function.]

[c. “Agency”]Agency contractor. The term “agency contractor” means any contractor that enters into a covered contract with the agency.

Agency office. The term “agency office” means a job center, food stamp office, medical assistance program office or other part, subdivision, field office or satellite facility of the agency or agency contractor office that performs a covered function.

[d. “Agency”]Agency personnel. The term “agency personnel” means bilingual personnel or interpreter personnel who are employees of the agency.

[e. “Bilingual”]Bilingual personnel. The term “bilingual personnel” means agency, agency contractor, or other contractor employees, not including work experience program participants, who provide language assistance services in addition to other duties.

[f. “Contract”]Contract. The term “contract” means any written agreement, purchase order or instrument whereby the city is committed to expend or does expend funds in return for work, labor or services.

[g. “Contractor”]Contractor. The term “contractor” means any individual, sole proprietorship,

partnership, joint venture or corporation or other form of doing business that enters into a contract.

[h. “Covered]Covered contract. The term “covered contract” means a contract between the agency and a contractor to perform a covered function.

[i. “Covered]Covered function. The term “covered function” means any of the following functions:

1. Benefits or services offered or provided at agency offices;
2. Benefits or services provided by agency contractors to provide employment services in connection with participation of individuals engaged in activities required by sections 335 through 336-c of the social services law;

3. Home care services; and

4. Determinations regarding eligibility for subsidized child care.

[j. “Covered]Covered language. The term “covered language” means Arabic, Chinese, Haitian Creole, Korean, Russian or Spanish.

[k. “Document”]Document. The term “document” means the following forms and notices developed by the agency:

[i.]1. Application forms and corresponding instructional materials;

[ii.]2. Notices that require a response from the participant;

[iii.]3. Notices that concern the denial, termination, reduction, increase or issuance of a benefit or service;

[iv.]4. Notices regarding the rights of participants to a conference and fair hearing; and

[v.]5. Notices describing regulation changes that affect benefits.

[l. “Interpretation”]Interpretation services. The term interpretation services” means oral, contemporaneous interpretation of oral communications.

[m. “Interpreter”]Interpreter personnel. The term “interpreter personnel” means agency, agency contractor, or other contractor employees, not including work experience program participants, whose sole

responsibility is to provide language assistance services.

[n. “Language]Language assistance services. The term “language assistance services” means interpretation services [and/or]or translation services provided by bilingual personnel or interpreter personnel to a limited English proficient individual in [his/her]such individual’s primary language to ensure [their]such individual’s ability to communicate effectively with agency or agency contractor personnel.

[o.]Limited English proficient individual. The term “[Limited English proficient individual]limited English proficient individual” means an individual who identifies as being, or is evidently, unable to communicate meaningfully with agency or agency contractor personnel because English is not [his/her]such individual’s primary language.

[p.]Other covered agency. The term “[Other covered agency]other covered agency” means the administration for children’s services[;], the department of homeless services[;], the department of health and mental hygiene[;], and all functions served by the agency that are not covered functions, including any part, subdivision, field office or satellite facility thereof.

[q. “Primary]Primary language. The term “primary language” means the language in which a limited English proficient individual chooses to communicate with others.

[r. “Translation]Translation services. The term “translation services” means oral explanation or written translation of documents.

[§ 8-1003]§ 21-191 Language assistance services. a. The agency and all agency contractors shall provide free language assistance services as required by this chapter to limited English proficient individuals.

b. When a limited English proficient individual seeks or receives benefits or services from an agency office or agency contractor, the agency office or agency contractor shall provide prompt language assistance services in all interactions with that individual, whether the interaction is by telephone or in person. The agency office or agency contractor shall meet its obligation to provide prompt language assistance services for purposes of this subdivision by ensuring that limited English proficient individuals do not have to wait

unreasonably longer to receive assistance than individuals who do not require language assistance services.

c. Where an application or form requires completion in English by a limited English proficient individual for submission to a state or federal authority, the agency or agency contractor shall provide oral translation of such application or form as well as certification by the limited English proficient individual that the form was translated and completed by an interpreter.

d. The agency shall make all reasonable efforts to provide language assistance services in person by bilingual personnel.

[§ 8-1004]§ 21-192 Translation of documents. The agency shall translate all documents into every covered language as of [the first day of the sixtieth month after the effective date of the local law that added this chapter]February 1, 2008.

[§ 8-1005]§ 21-193 Notices. a. Upon initial contact, whether by telephone or in person, with an individual seeking benefits [and/or]or services offered by the agency or an agency contractor, the agency or agency contractor shall determine the primary language of such individual. If it is determined that such individual's primary language is not English, the agency or agency contractor shall inform the individual in [his/her]such individual's primary language of the right to free language assistance services.

b. The agency shall provide in all application and recertification packages an [8 1/2 x]eight and one-half inch by 11 inch or larger notice advising participants that free language assistance services are available at its offices and where to go if they would like an interpreter. This notice shall appear in all covered languages.

c. The agency and each agency contractor shall post conspicuous signs in every covered language at all agency offices and agency contractor offices informing limited English proficient individuals of the availability of free language assistance services.

d. Other covered agencies. Upon initial contact, whether by telephone or in person, with an individual seeking benefits [and/or] or services offered by another covered agency, the other covered agency shall determine the primary language of such individual. If it is determined that such individual's primary language

is not English, the other covered agency shall inform the individual in [his/her] such individual's primary language of available language assistance services.

[§ 8-1006]§ 21-194 Screening and training. The agency and each agency contractor shall screen bilingual personnel and interpreter personnel for their ability to provide language assistance services. The agency and each agency contractor shall provide annual training for bilingual personnel and interpreter personnel and ensure that they are providing appropriate language assistance services.

[§ 8-1007]§ 21-195 Recordkeeping. a. Agency and agency contractors. No later than [the first day of the sixtieth month after the effective date of the local law that added this chapter]February 1, 2008, the agency and each agency contractor shall maintain records of the primary language of every individual who seeks or receives benefits or services from the agency or agency contractor. At a minimum, the agency and each agency contractor shall maintain specific records of the following:

1. The number of limited English proficient individuals served, disaggregated by agency, agency contractor or contractor, agency office, type of language assistance required and primary language;
2. The number of bilingual personnel and the number of interpreter personnel employed by the agency, disaggregated by language translated or interpreted by such personnel;
3. Whether primary language determinations are recorded properly; and
4. Whether documents are translated accurately and disseminated properly.

b. Other covered agencies. No later than [the first day of the sixtieth month after the effective date of the local law that added this chapter]February 1, 2008, every other covered agency shall maintain records of the primary language of every individual who seeks or receives ongoing benefits or services. At a minimum, the other covered agency shall maintain specific records of the following:

1. The number of limited English proficient individuals served, disaggregated by type of language assistance required and primary language;
2. The number of bilingual personnel and the number of interpreter personnel employed by the other

covered agency, disaggregated by language translated by such personnel;

3. Whether primary language determinations are recorded properly; and
4. Whether documents are translated accurately and disseminated properly.

[§ 8-1008]§ 21-196 Implementation. a. Agency. The agency shall phase in language assistance services for covered functions as follows:

1. As of [the first day of the twenty-fourth month after the effective date of the local law that added this chapter]February 1, 2005, no less than 20[%] percent of covered functions provided by agency offices[.];

2. As of [the first day of the forty-eighth month after the effective date of the local law that added this chapter]February 1, 2007, no less than 40[%] percent of covered functions provided by agency offices[.]; and

3. As of [the first day of the sixtieth month after the effective date of the local law that added this chapter]February 1, 2008, 100[%] percent of covered functions provided by agency offices.

b. [Contractors]Agency contractors.

1. In all covered contracts entered into or renewed after January 1, 2005, the contractor shall certify that it shall make available language assistance services and maintain and provide access to records as required by this chapter.

2. Every covered contract must contain a provision in which the contractor acknowledges that the following responsibilities constitute material terms of the contract:

- (a) [to]To provide language assistance services as required by this chapter;

- (b) [to]To comply with the recordkeeping requirements set forth in this chapter;

- (c) [to]To provide the city access to its records for the purpose of audits or investigations to ascertain compliance with the provisions of this section, to the extent permitted by law; and

- (d) [to]To provide evidence to the city that the contractor is in compliance with the provisions of this section, upon request.

3. If an agency contractor enters into a subcontract agreement to provide any benefits or services under

a covered contract, that subcontract will be considered a covered contract for purposes of this section and the provisions of this section will bind the subcontractor. Each contractor is required to include the contract provision set forth in paragraph 2 of this subdivision in any such subcontract agreement.

c. Implementation plans. [Within eight months of the effective date of the local law that added this chapter]On or before October 1, 2003, the agency and each other covered agency shall develop an implementation plan that describes how and when the agency or other covered agency will meet the requirements imposed by this chapter. The agency and each other covered agency shall publish a copy of its implementation plan.

d. Implementation updates and annual reports. No later than 90 days after the end of each calendar year after the publication of the implementation plan and before implementation is complete, the agency and each other covered agency shall publish an implementation update. The implementation update shall describe steps taken over the prior year to implement the requirements of this chapter and shall describe any changes in the agency or other covered agency's plan for implementing the remaining requirements of the local law that added this chapter before the date set forth in subdivision a of this section. The implementation update for every year after 2004 shall include a report on the number of limited English proficient people served, disaggregated by language and by agency office or other covered agency office. Not later than 90 days after the end of each calendar year beginning with 2008, the agency and each other covered agency shall publish an annual report on language assistance services. At a minimum, this annual report of the agency, each agency contractor and each other covered agency shall set forth the information required to be maintained by this chapter.

[§ 8-1009]§ 21-197 Rules. The agency and each other covered agency shall promulgate such rules as are necessary for the purposes of implementing and carrying out the provisions of this chapter.

[§ 8-1010]§ 21-198 Miscellaneous. a. Nothing in this chapter precludes the agency or an agency contractor from providing language assistance services beyond those required by this chapter.

b. Nothing in this chapter precludes a limited English proficient individual from having an adult

volunteer, relative, spouse or domestic partner accompany [him/her] such limited English proficient individual to provide language assistance services with the agency office or agency contractor, provided that the agency office or agency contractor informs a limited English proficient individual of the availability of free language assistance services and the agency remains responsible for ensuring effective communication.

c. This chapter does not apply to any contract with an agency contractor entered into or renewed [prior to] before January 1, 2005.

[§ 8-1011]§ 21-199 Severability. If any section, subsection, sentence, clause, phrase or other portion of this [local law] chapter is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this [law] chapter, which shall continue in full force and effect.

§ 49. Chapter 11 of title 8 of the administrative code of the city of New York is re-designated as a new chapter 19 of title 21-A of the administrative code of the city of New York and is amended to read as follows:

[CHAPTER 11] CHAPTER 19

REPORTS ON DISCIPLINE AND CERTAIN EMERGENCY TRANSPORTS OF STUDENTS

[§8-1101. Definitions; confidentiality requirements. a.]§ 21-982 Definitions. For purposes of this chapter, the following terms [shall] have the following meanings:

Chancellor. The term “chancellor” means the chancellor of the city school district of the city [of New York], or the chancellor’s designee.

Data. The term “data” means final versions of statistical or factual information in alphanumeric form that can be digitally transmitted or processed.

Department contact. The term “department contact” means an incident that occurs within a New York city public school, on school grounds, during school-related events or while taking public school transportation, for which the New York city police department is contacted.

EMS transports. The term “EMS transports” means transports performed by emergency medical services, whether provided by the fire department or another authorized ambulance service, in which a student is taken from a New York city public school to a hospital.

Homeless status. The term “homeless status” means the circumstance in which a student lacks a fixed, regular and adequate nighttime residence, as determined in accordance with applicable chancellor’s regulations.

Teacher removal. The term “teacher removal” means the removal from class, including at least one class period and for up to four complete school days, of a student in kindergarten through grade twelve whose conduct is substantially disruptive of the educational process or substantially interferes with a teacher’s authority over the classroom, with notice and an opportunity to be heard pursuant to applicable chancellor’s regulations.

[b.]§ 21-983 Confidentiality requirements. No information that is otherwise required to be reported pursuant to this chapter shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information, including but not limited to restrictions with respect to personally identifiable information in education records set forth in [20 U.S.C. § 1232g] section 1232g of title 20 of the United States code, or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If (i) the total number of students or incidents within a non-disaggregated category contains from one through five students or incidents, (ii) the total number of students or incidents within a disaggregated category, or reported pursuant to paragraph four of subdivision a of section [8-1102 of this chapter]21-984, contains from zero through five students or incidents; or (iii) the total number of students or incidents within a category, whether or not disaggregated, contains an amount that would allow another category, whether or not disaggregated, that contains from one through five students or incidents to be deduced, then the number of students or incidents shall be replaced with a symbol or shall be subject to some other form of data suppression.

[§8-1102.]§ 21-984 Annual report on student discipline. The chancellor shall submit to the city council

and post to the [department of education's]department's website by October [31st]31 of each year an annual report, based on data from the preceding school year, on the discipline of students.

a. The data in this report shall be disaggregated by school and shall show the following:

1. The number of teacher removals, which shall additionally be disaggregated by infraction code and number of days removed;

2. The number of principal's suspensions, which shall additionally be disaggregated by infraction code and length of suspension;

3. The number of superintendent's suspensions, which shall additionally be disaggregated by infraction code and length of suspension;

4. The number of students subjected more than once to a teacher removal, principal's suspension, superintendent's suspension, or any combination thereof;

5. The number of students subjected to an expulsion; and

6. The number of incidents involving department contacts that also resulted in the suspension of the students who were the subjects of the department contacts.

b. The data provided pursuant to subdivision a shall be disaggregated by race/ethnicity, gender, grade, year of birth, whether the individual is receiving special education services, whether the individual is an English language learner and homeless status. The report shall include school district and citywide total numbers for each disaggregated category.

c. The report shall also include:

1. The citywide total number of transfers that were initiated during the superintendent's suspension process or during the period of any resulting superintendent's suspension, disaggregated by involuntary and voluntary transfers; and

2. The annual citywide percentage change in suspensions, disaggregated by school district.

[§8-1103.]§ 21-985 Biannual citywide report on suspensions. The chancellor shall submit to the council

and post to the [department of education's]department's website by October [31st]31 and March [31st]31 of each year a report on the discipline of students citywide, based on data from the first six months of the current calendar year and the second six months of the preceding calendar year respectively. Such report shall include the number of suspensions citywide for each month, disaggregated by superintendent's and principal's suspensions.

[§8-1104.]§ 21-986 Citywide report on emergency medical services student transports.

a. The chancellor shall submit to the council and post to the [department of education's]department's website by October [31<sup>st</sup>]31 and March [31<sup>st</sup>]31 of each year a citywide report on the total number of EMS transports and the number of EMS transports performed because of a student's psychological/emotional condition. The October report shall include EMS transports from the first six months of the current calendar year and the March report shall include EMS transports from the second six months of the preceding calendar year. Each report shall be disaggregated by school district and by month.

b. The chancellor shall submit to the council and post to the [department of education's]department's website by October [31<sup>st</sup>]31 of each year a citywide report on EMS transports during the twelve-month period ending on June [30<sup>th</sup>]30 of the same year. Each report shall be disaggregated by school and by race/ethnicity, year of birth and whether the individual is receiving special education services.

§ 50. Subdivision j of section 20-556 of the administrative code of the city of New York, as added by local law number 80 for the year 2016, is amended to read as follows:

j. No ticket seller shall use equipment, stands, vehicles, racks, or displays in connection with vending in a public space except: (1) as necessary to accommodate a disability, as that term is defined [by subdivision 16 of] in section 8-102; or (2) equipment that is at all times carried on the person of the ticket seller.

§ 51. Section 20-921 of the administrative code of the city of New York, as amended by local law number 199 for the year 2017, is amended to read as follows:

§ 20-921 Confidentiality and nondisclosure. a. An employer may not require the disclosure of details

relating to an employee's or his or her family member's medical condition or require the disclosure of details relating to an employee's or his or her family member's status as a victim of family offenses, sexual offenses, stalking, or human trafficking as a condition of providing safe/sick time under this chapter. Health information about an employee or an employee's family member, and information concerning an employee's or his or her family member's status or perceived status as a victim of family offenses, sexual offenses, stalking or human trafficking obtained solely for the purposes of utilizing safe/sick time pursuant to this chapter, shall be treated as confidential and shall not be disclosed except by the affected employee, with the written permission of the affected employee or as required by law. Provided, however, that nothing in this section shall preclude an employer from considering information provided in connection with a request for safe time in connection with a request for reasonable accommodation pursuant to [section 8-107.1 of the administrative code] subdivision 27 of section 8-107.

§ 52. This local law takes effect 270 days after it becomes law, except that section one of this local law takes effect immediately.

ML; JJ; MN  
LS #2678  
12/11/17 4:26 p.m.