

363A.03 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of this chapter, the words defined in this section have the meanings ascribed to them.

Subd. 2. **Age.** The prohibition against unfair employment or education practices based on age prohibits using a person's age as a basis for a decision if the person is over the age of majority except for section 363A.13 which shall be deemed to protect any individual over the age of 25 years.

Subd. 3. **Board.** "Board" means the state Board of Human Rights.

Subd. 4. **Business.** The term "business" includes any partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver, but excludes the state and its departments, agencies, and political subdivisions.

Subd. 5. **Charging party.** "Charging party" means a person filing a charge with the commissioner or the commissioner's designated agent pursuant to section 363A.28, subdivision 1.

Subd. 6. **Closed case file.** "Closed case file" means a file containing human rights investigative data in which an order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, and the time for any reconsideration of or appeal from the order or decision has expired.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of human rights.

Subd. 8. **Complainant.** "Complainant" means the commissioner of human rights after issuing a complaint pursuant to sections 363A.06, subdivision 3, paragraph (8), and 363A.28, subdivisions 1 to 9.

Subd. 9. **Confidential, private, and public data on individuals and protected nonpublic data not on individuals.** "Confidential," "private," "public data on individuals," "protected nonpublic data not on individuals," and any other terms concerning the availability of human rights investigative data have the meanings given them by section 13.02 of the Minnesota Government Data Practices Act.

Subd. 10. **Demand responsive system.** "Demand responsive system" means a system of providing public transportation that is not a fixed route system.

Subd. 11. **Department.** "Department" means the Department of Human Rights.

Subd. 12. **Disability.** "Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

Subd. 13. **Discriminate.** The term "discriminate" includes segregate or separate and, for purposes of discrimination based on sex, it includes sexual harassment.

Subd. 14. **Educational institution.** "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system and a business, nursing, professional, secretarial, technical, vocational school, and includes an agent of an educational institution.

Subd. 15. **Employee.** "Employee" means an individual who is employed by an employer and who resides or works in this state. Employee includes a commission salesperson, as defined in section 181.145, who resides or works in this state.

Subd. 16. **Employer.** "Employer" means a person who has one or more employees.

Subd. 17. **Employment agency.** "Employment agency" means a person or persons who, or an agency which regularly undertakes, with or without compensation, to procure employees or opportunities for employment.

Subd. 18. **Familial status.** "Familial status" means the condition of one or more minors being domiciled with (1) their parent or parents or the minor's legal guardian or (2) the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian. The protections afforded against discrimination on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.

Subd. 19. **Fixed route system.** "Fixed route system" means a system of providing public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

Subd. 20. **Historic or antiquated rail passenger car.** "Historic or antiquated rail passenger car" means a rail passenger car:

- (1) that is at least 30 years old at the time of its use for transporting individuals;
- (2) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; or
- (3) that has consequential association with events or persons significant to the past or embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past or to represent a time period that has passed.

Subd. 21. **Human rights investigative data.** "Human rights investigative data" means written documents issued or gathered by the department for the purpose of investigating and prosecuting alleged or suspected discrimination.

Subd. 22. **Labor organization.** "Labor organization" means any organization that exists wholly or partly for one or more of the following purposes:

- (1) collective bargaining;
- (2) dealing with employers concerning grievances, terms or conditions of employment; or
- (3) mutual aid or protection of employees.

Subd. 23. **Local commission.** "Local commission" means an agency of a city, county, or group of counties created pursuant to law, resolution of a county board, city charter, or municipal ordinance for the purpose of dealing with discrimination on the basis of race, color, creed, religion, national origin, sex, age, disability, marital status, status with regard to public assistance, sexual orientation, or familial status.

Subd. 24. **Marital status.** "Marital status" means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

Subd. 25. **National origin.** "National origin" means the place of birth of an individual or of any of the individual's lineal ancestors.

Subd. 26. **Open case file.** "Open case file" means a file containing human rights investigative data in which no order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, or a file in which an order or other decision has been issued but the time for any reconsideration or appeal of the order or decision has either not yet expired or the reconsideration or appeal is then pending.

Subd. 27. **Operates.** "Operates," when used with respect to a demand responsive or fixed route system, includes the operation of the system by a person under a contractual or other arrangement or relationship with a public or private entity.

Subd. 28. **Over-the-road bus.** "Over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

Subd. 29. **Party in interest.** "Party in interest" means the complainant, respondent, commissioner or board member.

Subd. 30. **Person.** "Person" includes partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, receiver, and the state and its departments, agencies, and political subdivisions.

Subd. 31. **Physical access.** "Physical access" means (1) the absence of physical obstacles that limit a disabled person's opportunity for full and equal use of or benefit from goods, services, and privileges; or, when necessary, (2) the use of methods to overcome the discriminatory effect of physical obstacles. The methods may include redesign of equipment, assignment of aides, or use of alternate accessible locations.

Subd. 32. **Private entity.** "Private entity" means an entity other than a public service.

Subd. 33. **Program access.** "Program access" means (1) the use of auxiliary aids or services to ensure full and equal use of or benefit from goods, services, and privileges; and (2) the absence of criteria or methods of administration that directly, indirectly, or through contractual or other arrangements, have the effect of subjecting qualified disabled persons to discrimination on the basis of disability, or have the effect of defeating or impairing the accomplishment of the objectives of the program.

Subd. 34. **Place of public accommodation.** "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

Subd. 35. **Public service.** "Public service" means any public facility, department, agency, board or commission, owned, operated or managed by or on behalf of the state of Minnesota, or any subdivision thereof, including any county, city, town, township, or independent district in the state.

Subd. 36. **Qualified disabled person.** "Qualified disabled person" means:

(1) with respect to employment, a disabled person who, with reasonable accommodation, can perform the essential functions required of all applicants for the job in question; and

(2) with respect to public services, a person with a disability who, with or without reasonable modifications to rules, policies, or practices, removal of architectural, communications, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for receipt of services and for participation in programs and activities provided by the public service.

For the purposes of this subdivision, "disability" excludes any condition resulting from alcohol or drug abuse which prevents a person from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others.

If a respondent contends that the person is not a qualified disabled person, the burden is on the respondent to prove that it was reasonable to conclude the disabled person, with reasonable accommodation, could not have met the requirements of the job or that the selected person was demonstrably better able to perform the job.

Subd. 37. **Rail passenger car.** "Rail passenger car" means, with respect to intercity or commuter rail transportation, single- and bi-level coach cars, dining cars, sleeping cars, lounge cars, restroom cars, and food service cars.

Subd. 38. **Real estate broker or salesperson.** "Real estate broker or salesperson" means, respectively, a real estate broker as defined by section 82.55, subdivision 19, and a real estate salesperson as defined by section 82.55, subdivision 20.

Subd. 39. **Real property.** "Real property" includes real estate, lands, tenements, and hereditaments, corporeal and incorporeal.

Subd. 40. **Religious or denominational educational institution.** "Religious or denominational educational institution" means an educational institution which is operated, supervised, controlled or sustained primarily by a religious or denominational organization, or one which is stated by the parent church body to be and is, in fact, officially related to that church by being represented on the board of the institution, and by providing substantial financial assistance and which has certified, in writing, to the board that it is a religious or denominational educational institution.

Subd. 41. **Respondent.** "Respondent" means a person against whom a complaint has been filed or issued.

Subd. 42. **Sex.** "Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

Subd. 43. **Sexual harassment.** "Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

(1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education, or housing;

(2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or

(3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

Subd. 44. **Sexual orientation.** "Sexual orientation" means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a

self-image or identity not traditionally associated with one's biological maleness or femaleness. "Sexual orientation" does not include a physical or sexual attachment to children by an adult.

Subd. 45. **Specified public transportation.** "Specified public transportation" means transportation by bus, rail, or any other conveyance other than aircraft that provides the general public with general or special service, including charter service, on a regular and continuing basis.

Subd. 46. **Station.** "Station" means property located next to a right-of-way on which intercity and commuter transportation is operated, which is used by the general public and is related to the provision of the transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, drinking fountains, public telephones, and, if a public service providing rail transportation owns the property, concessions areas to the extent that the public service exercises control over the selection, design, construction, or alteration of the property. Station does not include flag stops.

Subd. 47. **Status with regard to public assistance.** "Status with regard to public assistance" means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

Subd. 48. **Unfair discriminatory practice.** "Unfair discriminatory practice" means any act described in sections 363A.08 to 363A.19 and 363A.28, subdivision 10.

Subd. 49. **Vehicle.** "Vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or railroad car.

History: 1955 c 516 s 3; 1961 c 428 s 1-3; 1967 c 897 s 1-9; 1969 c 975 s 1,2; 1973 c 123 art 5 s 7; 1973 c 729 s 1; 1976 c 2 s 130; 1977 c 351 s 1; 1977 c 408 s 1; 1980 c 531 s 1,2; 1982 c 492 s 1; 1982 c 619 s 2,3; 1983 c 276 s 1-4; 1985 c 13 s 320-324; 1986 c 444; 1987 c 23 s 1; 1987 c 282 s 2; 1988 c 660 s 1; 1989 c 144 art 2 s 8; 1989 c 280 s 1-3; 1989 c 329 art 9 s 26; 1989 c 335 art 1 s 243; 1989 c 356 s 18; 1990 c 567 s 1,10; 1992 c 527 s 1-10; 1993 c 22 s 1,2; 1993 c 277 s 1-4; 1994 c 465 art 3 s 20; 2001 c 194 s 1; 2004 c 203 art 2 s 61