

Unlawful Treatment Based on Personal Appearance, Political Affiliation and Matriculation

- OHR Enforcement Guidance 17-03 -



Date: September 18, 2017

Subject

DC Human Rights Act – Personal Appearance, Political Affiliation and Matriculation

Purpose

This enforcement guidance provides an explanation of what each of the less understood protected traits in the DCHRA means.

I. Personal Appearance

A. What does “personal appearance” mean and in what context is this protected trait covered?

Meaning: **PERSONAL APPEARANCE** means a person’s outward appearance, regardless of sex, which includes an individual’s bodily condition (including deformities) or characteristics, manner or style of dress, and manner or style of personal grooming, including hair style and beards. See D.C. Code § 2-1401.02(22).

Note that if an individual feels they have been discriminated against based on their manner or style of dress or personal grooming which is contrary to their assigned sex, they may also allege gender identity or expression discrimination.

An individual’s bodily conditions or characteristics, style or manner of dress, or personal grooming are not protected when such conditions and characteristics present danger to the health, welfare or safety of any individual.

Coverage: **PERSONAL APPEARANCE** is a protected trait in the DC Human Rights Act and is applicable to all four areas of OHR’s enforcement: (1) employment, (2) public accommodations, (3) housing, and (4) educational institutions.

B. How is this protection applied?

The Human Rights Act provides that a person may not be discriminated against based on the individual’s actual or perceived “personal appearance,” which means employers, for example, may not refuse to hire someone because the individual wears a head scarf, or has dreadlocks. However, an employer or a place of public accommodation can establish requirements for cleanliness, uniforms or other standards so long as the established standard is for a reasonable business purpose and applied uniformly to everyone.

Note that maintaining health and safety of all individuals serves as reasonable business purposes.

EXAMPLES

EX. 1 (EMPLOYMENT): Michael has a beard and applies for a job as a receptionist of a business office. The announcement required applicants to have 3-5 years of experience. Michael possesses 5-6 years of experience as a front desk receptionist, but is looking for a new job because he is moving and wants to live closer to work. The business employer cannot refuse to hire or consider Michael, a qualified applicant, because of his beard. However, once hired, in most cases, the business employer may require that Michael adheres to the company's established grooming standards along with all other employees, unless Michael has religious reason for his beard.

EX. 2 (PUBLIC ACCOMMODATIONS): Sally goes to Pasta Pasta, a downtown restaurant usually frequented by business men and professionals. Sally is wearing jeans and a tank top, which exposes 3 large colorful tattoos of butterflies and flowers on her arm. She also has a piercing on her nose, tongue, and eyebrow. Pasta Pasta may not refuse to serve Sally because of her tattoos and piercing, but if Pasta Pasta is a restaurant that requires business casual attire, it may ask Sally to adhere to this requirement so long as it uniformly applies this standard to all patrons and does not later admit Joe, who walks in with khaki shorts and a t-shirt.

II. Political Affiliation

A. What does “political affiliation” mean and in what context is this protected trait covered?

Meaning: **POLITICAL AFFILIATION** means the state of belonging to or endorsing a political party. See D.C. Code § 2-1401.02(25). Political party, in turn, means a national political party, a State political party, or an affiliated organization that is regulated by the District.¹ A political party is not a special interest group that may have a political message.

Examples of a political party include:

- The Republican Party
- The Democratic Party
- The Green Party
- The Libertarian Party
- The Constitution Party

Coverage: **POLITICAL AFFILIATION** is a protected trait in the DC Human Rights Act and is applicable to all four areas of OHR's enforcement: (1) employment, (2) public accommodations, (3) housing, and (4) educational institutions.

B. How is this protected trait applied?

The Human Rights Act provides that a person may not be discriminated against based on the individual's actual or perceived “political affiliation,” which means employers, for example, may not terminate or refuse to promote someone because of the individual's affiliation, membership or endorsement of the Green Party.

¹ While the D.C. Human Rights Act itself does not define the term political party, OHR has adopted the “ordinary” meaning of this word as recognized by the District of Columbia Court of Appeals in *Blodgett v. University Club*, 930 A.2d 210, 221-22 (D.C. 2007) and D.C. Code § 1-1171.01 (10).

EXAMPLE

Ex. 1 (PUBLIC ACCOMMODATIONS): Ginger calls Hotel Blue in Washington, DC for her upcoming Green Party convention. Ginger tells the hotel that she needs to reserve two rooms for her and her colleague who are attending the Green Party convention down the street. If there is availability, Hotel Blue cannot refuse Ginger’s reservation request because Ginger is or perceived to be a member of the Green Party. However, if Ginger is a known white supremacist who has tweeted and made known to the hotel that she intends to “wipe out” all who are not white, the hotel does not engage in political affiliation discrimination by refusing her accommodation.

III. Matriculation

A. What does “matriculation” mean and in what context is this protected trait covered?

Meaning: **MATRICULATION** means the condition of being enrolled in a college, university, an adult education program, or a secondary education program. See D.C. Code § 2-1401.02(18). Secondary education programs include business, nursing, professional, secretarial, technical, and vocational schools.

Coverage: **MATRICULATION** is a trait protected in three areas: (1) Employment, (2) Public Accommodations, and (3) Housing.

B. How is this protected applied?

The Human Rights Act provides that a person may not be discriminated against based on the individual’s actual or perceived “matriculation,” which means an employer, for example, may not terminate an employee because the individual enrolled in a weekend vocational program.

EXAMPLES OF DISCRIMINATION & NON-DISCRIMINATION:

Ex. 1 (EMPLOYMENT): Steven is a supervisor at Acme, a communications company in Washington, DC. His tour of duty is 9am to 6pm. One day, Steven decided that he wanted to further his education, and he enrolled in a course on management with the University of the District of Columbia (UDC). Steven then asks his unit manager, Paul, if he could work an 8am – 5pm tour of duty on Thursdays to attend his class at UDC. While Acme does not have to accommodate Steven’s request to change his work hours due to the class schedule, Acme may not fire Steven because he enrolled in a class and made the request to change his tour of duty.

Ex. 2 (HOUSING): Conditions imposed by the board of zoning adjustment on a university’s campus plan, requiring that the university provide more beds for students, does not constitute discrimination in housing based on matriculation.