

## **Chapter 18 HUMAN RELATIONS**

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### **ARTICLE I. IN GENERAL**

#### **18-1 Declaration of policy.**

It is declared to be among the civil rights of the people of the City of Phoenix, Arizona, to be free from discrimination in public accommodations and employment, and for it to be contrary to the policy of the City and unlawful to discriminate against any person because of race, color, religion, sex, national origin, age, genetic information, or marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY in places of public accommodation and employment and it is contrary to the policy of the City of Phoenix and is unlawful for employers doing business with the City of Phoenix that are vendors, suppliers or contractors and employ more than thirty-five persons to discriminate against any person because of sexual orientation OR GENDER IDENTITY OR EXPRESSION.

#### **18-2 Administrative provisions.**

*A. Powers and duties of Phoenix Commission on Human Relations and Equal Opportunity Department.*

1. There is created the Phoenix Commission on Human Relations. The Commission shall be composed of not less than nine nor more than 17 members appointed by the Mayor and City Council. Each member shall serve a term of three years with one-third of the terms expiring on June 30 of each year.

2. The Mayor and City Council shall appoint a Chairperson for the Commission. The Chairperson shall appoint a Vice-Chairperson. The Vice-Chairperson shall act as

Chairperson in the absence or disability of the Chairperson, or in the event of a vacancy in that office.

3. A majority of the serving members shall constitute a quorum except that if the chairman appoints a committee of the Commission, a majority of the members of the committee shall constitute a quorum of the committee. The concurrence of a majority of the members when in session as a Commission shall constitute an act of the Commission.

4. All recommendations of the Commission shall be filed with the Equal Opportunity Department and upon such filing shall be deemed public records of the City.

5. The Phoenix Commission on Human Relations shall:

a. Make periodic surveys of the existence and effect of discrimination in the City of Phoenix because of race, color, religion, sex, national origin, marital status, ~~and~~ sexual orientation, AND GENDER IDENTITY OR EXPRESSION in public accommodations and employment.

b. Foster positive intergroup relations and the elimination of discrimination based on race, color, religion, sex, national origin, marital status, ~~and~~ sexual orientation, AND GENDER IDENTITY OR EXPRESSION.

c. Publish the results of such studies, investigations and research as, in its judgment, will tend to promote good will and the elimination of discrimination.

d. Counsel and provide such information to persons subject to the provisions of this chapter as may be reasonably necessary to further comply with the provisions of this chapter.

e. Plan, coordinate and conduct information, education and awareness programs.

f. Plan, coordinate and conduct programs to eliminate discrimination and racism.

g. Establish committees appointed by the Chairman of the Commission from its membership and the community at large to assist the Commission in the execution of its duties.

h. At least once a year, report on its activities to the City Council.

6. The authority and responsibility for administering this chapter rests with the Director of the Equal Opportunity Department.

a. The Equal Opportunity Director may delegate his or her functions, duties and powers as they pertain to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business or matter under this chapter.

b. The Equal Opportunity Director shall administer programs and activities relating to discrimination in public accommodations and employment in such a manner as to further the purposes of this article.

7. In exercising the authority granted under this chapter the Equal Opportunity Director may:

a. Make studies with respect to the nature and extent of discriminatory practices in Phoenix.

b. Publish and disseminate reports, recommendations and information derived from such studies.

c. Cooperate with and render technical assistance to federal, State, local and other public or private agencies, organizations and institutions which formulate or carry out programs to prevent or eliminate discriminatory practices.

d. After notice and hearing, adopt, amend or rescind procedural rules and regulations to carry out the provisions of this chapter.

e. Conduct fact-finding conferences to aid any investigations or inquiry.

f. Issue administrative subpoenas to any person, on his or her own initiative or upon application of any party to a proceeding, ordering the attendance and testimony of witnesses or requiring the production for examination of documents relating to any matter pursuant to this chapter.

g. Subject to the provisions and restrictions of this chapter, cooperate with and enter into agreements with the United States Equal Employment Opportunity Commission, United States Department of Housing and Urban Development and agencies of the United States or the State of Arizona interested in practices governed by this chapter, accept funds from such agencies and carry out and perform the covenants and conditions of any written agreement with such agencies not inconsistent with the provisions of this article.

B. *Powers and duties of the City Attorney.* The City Attorney is empowered to take all necessary action in the appropriate court to secure the production of all records, documents, or other evidence necessary to assist the Equal Opportunity Department in carrying out the provisions of this article.

### 18-3 Definitions.

In this article CHAPTER, unless the context otherwise requires:

*Age* means individuals who are 40 years of age or older.

*Complainant* means a person, including the Equal Opportunity Department, who files a complaint under this article.

*Commission* means the Phoenix Commission on Human Relations.

*Department* means the City of Phoenix Equal Opportunity Department.

**DISABLED INDIVIDUAL** MEANS FOR THE PURPOSE OF THIS CHAPTER AS APPLICABLE TO EMPLOYERS OR EMPLOYMENT PRACTICES, A DISABLED INDIVIDUAL IS A PERSON WITH A PHYSICAL IMPAIRMENT WHO, WITH REASONABLE ACCOMMODATIONS, IS CAPABLE OF PERFORMING THE ESSENTIAL FUNCTIONS OF THE PARTICULAR JOB IN QUESTION WITHIN THE NORMAL OPERATION OF THE EMPLOYER'S BUSINESS IN TERMS OF PHYSICAL REQUIREMENTS, EDUCATION, SKILL AND EXPERIENCE.

**DISABILITY** MEANS WITH RESPECT TO AN INDIVIDUAL, EXCEPT ANY IMPAIRMENT CAUSED BY CURRENT USE OF ILLEGAL DRUGS, ANY OF THE FOLLOWING: A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES OF THE INDIVIDUAL, A RECORD OF SUCH PHYSICAL OR MENTAL IMPAIRMENT, OR BEING REGARDED AS HAVING SUCH PHYSICAL OR MENTAL IMPAIRMENT. DISABILITY AND DISABILITY DISCRIMINATION SHALL BE INTERPRETED IN A MANNER CONSISTENT WITH THE AMERICANS WITH DISABILITIES ACT OF 1990 (AS AMENDED), THE FEDERAL REGULATIONS PROMULGATED THEREUNDER, AND JUDICIAL DECISIONS CONSTRUING THEM.

*Discriminate or discrimination* means to make, directly or indirectly, any distinction with respect to any person or persons based on race, color, religion, sex, national origin, age, genetic information, marital status, or sexual orientation, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

*Employee* means any individual employed for pay to perform services for an employer covered by this article and whose activities are controlled and directed by the employer for whom the services are being performed.

*Employer* means a person DOING BUSINESS WITHIN THE CITY OF PHOENIX who has one or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such person but, for purposes of this article, the term does not include:

- a. The United States or any department or agency thereof, a corporation wholly owned by the government of the United States, or an Indian tribe.
- b. The State of Arizona or any department or agency thereof, the City of Phoenix or any political subdivision of the State, including any community college district or high school or common school district.
- c. A bona fide private membership club (other than a labor organization) which is exempt from taxation under the Internal Revenue Code of 1986.

*Employment agency* means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for individuals opportunities to work for an employer and includes the employees of an employer charged with that responsibility.

*Financial institution* means any person or organization engaged in the business of lending money or guaranteeing loans.

**GENDER MEANS THE SOCIALLY CONSTRUCTED ROLES, BEHAVIORS, CHARACTERISTICS, OR ATTRIBUTES ASSOCIATED WITH MASCULINITY OR FEMININITY.**

**GENDER IDENTITY OR EXPRESSION MEANS AN INDIVIDUAL'S SELF-IDENTIFICATION AS MALE, FEMALE, OR SOMETHING IN BETWEEN, AND SHALL INCLUDE THE INDIVIDUAL'S APPEARANCE, MANNERISMS, OR OTHER CHARACTERISTICS ONLY INsofar AS THEY RELATE TO GENDER, WITH OR WITHOUT REGARD TO THE INDIVIDUAL'S DESIGNATED SEX AT BIRTH.**

*Genetic information* means information about an individual's genetic tests or the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual or a member of an individual's family. Genetic information does not include information that an individual currently has a disease or disorder. It does not include information about the sex or age of an individual or the individual's family members. Genetic information also does not include tests for alcohol or drug use.

*Genetic test* means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes. It does not include an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes, or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

*Labor organization* means any person, group of persons or organizations which is constituted for the purpose, either in whole or in part, of collective bargaining, dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or any other terms or conditions of employment; any person, group of persons or organizations participating in the hiring or referring for hire of any person, receiving applications for apprenticeship, participating in or conducting an apprenticeship program; and any conference, general committee, joint or system board or joint council so engaged which is subordinate to a national or international labor organization.

*Marital status* means unmarried, married, separated, widowed or divorced.

*National origin* pertains to the country or nation of origin of an individual or any of his or her forebears and also includes characteristics generally identified with persons so originating.

*Person* means an individual or group of one or more individuals such as but not limited to labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy or receivers, and any other commercial entity as well as an individual of flesh and blood. The term "persons," when applied to any of the foregoing, includes members, representatives, officers and directors, agents, owners, lessees, operators, proprietors, managers, superintendents, and employees.

*Places of accommodation* means all public places of entertainment, amusement or recreation, all public places where food or beverages are sold, public places operated for the lodging of transients or for the benefit, use or accommodation of those seeking health or recreation and all establishments offering their services, facilities or goods to or soliciting patronage from the members of the general public. Any dwelling, any private club or any place which is in its nature distinctly private is not a place of public accommodation.

**REASONABLE ACCOMMODATION MEANS AN ACCOMMODATION WHICH DOES NOT: (1) UNDULY DISRUPT OR INTERFERE WITH THE EMPLOYER'S NORMAL OPERATIONS; (2) THREATEN THE HEALTH OR SAFETY OF THE DISABLED INDIVIDUAL OR OTHERS; (3) CONTRADICT THE BUSINESS NECESSITY OF THE EMPLOYER; (4) IMPOSE UNDUE HARDSHIP ON THE EMPLOYER BASED ON THE SIZE OF THE EMPLOYEES BUSINESS, THE TYPE OF BUSINESS, FINANCIAL RESOURCES OF THE EMPLOYER AND THE ESTIMATED COST AND EXPENSE OF THE ACCOMMODATION.**

*Religion* means all aspects of religious observance and practice as well as belief.

*Respondent* means the person accused of a violation in a complaint filed under this article.

~~Sex shall include, but is not limited to,~~ MEANS BIOLOGICAL OR ANATOMICAL SEX AS MALE OR FEMALES AS DESIGNATED AT BIRTH AND SHALL BE INTERPRETED BROADLY TO INCLUDE all distinctions based on gender, pregnancy, childbirth or related medical conditions.

~~Sexual orientation means actual or perceived human male or female heterosexual, homosexual or bisexual orientation. The sexual orientation described herein must be between consenting adults.~~ AN ENDURING PATTERN OF EMOTIONAL, ROMANTIC, OR SEXUAL ATTRACTIONS TO MEN, WOMEN, OR BOTH SEXES AS WELL AS THE GENDERS THAT ACCOMPANY THEM AND SHALL INCLUDE DISCRIMINATION BASED UPON THE IDENTIFICATION, PERCEPTION, OR STATUS OF AN INDIVIDUAL'S SAME-SEX, OPPOSITE-SEX, OR BISEXUAL ORIENTATION.

#### **18-4 Prohibited acts.**

##### *A. Discrimination in employment.*

1. Nothing contained in this article shall be interpreted to require that the less qualified be preferred over the better qualified because of race, color, religion, sex, national origin, age, genetic information, marital status, ~~or~~ sexual orientation, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

2. It is an unlawful employment practice for an employer:

a. To fail or refuse to hire or to discharge or otherwise to discriminate against any individual with respect to compensation, terms, conditions or privileges of employment because of such individual's race, color, religion, sex, national origin, age, genetic information, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

b. To limit, segregate or classify employees or applicants for employment in any way that would deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee because of such individual's race, color, religion, sex, national origin, age, genetic information, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

c. To coerce, intimidate, threaten or interfere with any person in the exercise of or enjoyment of any right granted or protected by this article, or on account of his or her having exercised or enjoyed, or having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this article.

d. To discriminate against any individual because of such individual's race, color, religion, sex, national origin, age, genetic information, ~~or~~ marital status,

SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY in admission to or employment in any apprenticeship or other training or retraining programs, including on-the-job training programs.

3. It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment or otherwise to discriminate against any individual because of such individual's race, color, religion, sex, national origin, age, genetic information, or marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

4. It is an unlawful employment practice for a labor organization:

a. To exclude or to expel from its membership or otherwise to discriminate against any individual because of such individual's race, color, religion, sex, national origin, age, genetic information, or marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

b. To limit, segregate or classify its membership or applicants for membership or to fail or refuse to refer for employment or otherwise discriminate against or adversely affect an individual's status as an employee or as an applicant for employment because of such individual's race, color, religion, sex, national origin, age, genetic information, or marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

c. To cause, or attempt to cause, an employer to discriminate against an individual in violation of this section.

d. To coerce, intimidate, threaten or interfere with any person in the exercise of or enjoyment of, or having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this article.

e. To discriminate against any individual because of such individual's race, color, religion, sex, national origin, age, genetic information, or marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY in admission to or employment in any apprenticeship or other training or retraining programs, including on-the-job training programs.

5. In addition to the provisions contained in section 18-4(a)(1) through section 18-4(a)(4), it is an unlawful employment practice for employers that are vendors, suppliers, or contractors doing business with the City of Phoenix which employ more than thirty-five persons:

a. To fail or refuse to hire or to discharge or otherwise to discriminate against any individual with respect to compensation, terms, conditions of privileges of



employment because of such individual's sexual orientation OR GENDER IDENTITY OR EXPRESSION.

b. To limit, segregate or classify employees or applicants for employment in any way that would deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee because of such individual's sexual orientation OR GENDER IDENTITY OR EXPRESSION.

c. To coerce, intimidate, threaten or interfere with any person in the exercise of or enjoyment of any right granted or protected by this article, or on account of his or her having exercised or enjoyed, or having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this article.

d. To discriminate against any individual because of such individual's sexual orientation OR GENDER IDENTITY OR EXPRESSION in admission to or employment in any apprenticeship or other training or retraining programs, including on-the-job training programs.

6. WITH RESPECT TO EMPLOYMENT, DISABILITY DISCRIMINATION INCLUDES:

- I. FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS;
- II. FAILURE TO PROVIDE A REASONABLE ACCOMMODATION; OR
- III. UTILIZING QUALIFICATIONS, STANDARDS, OR OTHER SELECTION CRITERIA THAT SCREEN OUT DISABLED INDIVIDUALS UNLESS THE CRITERIA ARE JOB RELATED AND CONSISTENT WITH BUSINESS NECESSITY.

6 7. It is an unlawful practice for any person to aid, abet, incite, compel or coerce any employer to commit an act prohibited under this article.

7 8. *Exemptions.* Notwithstanding any other provisions of this chapter, it is not an unlawful employment practice:

- a. For an employer to hire and employ employees; for an employment agency to classify or refer for employment any individual; for a labor organization to classify its membership or classify or refer for employment any individual; or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining program to admit or employ any individual in any such program, on the basis of the individual's race, color, religion, sex, national origin, age, marital status, or sexual orientation, GENDER IDENTITY OR EXPRESSION, OR DISABILITY, in those certain instances when race, color, religion, sex, national origin, age, marital status, or sexual orientation, GENDER IDENTITY OR EXPRESSION,

OR DISABILITY is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

b. For a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university or other educational institution or institution of learning is in whole or in substantial part owned, supported, controlled or managed by a particular religion or religious corporation, association or society, or if the curriculum of such school, college, university or other educational institution of learning is directed toward the propagation of a particular religion as long as the position in question is one whose purpose is to further the propagation of that religion.

c. For an employer to apply different standards of compensation or different terms, conditions or privileges of employment pursuant to a bona fide seniority system, merit system, or any other system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, national origin, age, genetic information, marital status, ~~or~~ sexual orientation, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

d. For an employer to use marital status as a factor in determining eligibility for participation in employee benefit programs.

§ 9. *Religious exemptions.* Notwithstanding any other provision of this chapter, the prohibitions concerning marital status or sexual orientation, shall not apply to bona fide religious organizations. The provisions of this chapter prohibiting discrimination on the basis of marital status or sexual orientation shall not be construed to prohibit or prevent any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from giving preference to persons of the same religion or denomination or from taking any action with respect to matters of employment which is calculated by the organization to promote the religious principles for which it is established or maintained.

B. *Discrimination in public accommodations.*

1. Discrimination in places of public accommodation against any person because of race, color, religion, sex, national origin, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY is contrary to the policy of the City of Phoenix and shall be deemed unlawful.

2. No person shall, directly or indirectly, refuse, withhold from, or deny to any person, or aid in or incite such refusal, denial or withholding of accommodations, advantages, facilities or privileges thereof because of race, color, religion, sex, national

origin, or marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY nor shall distinction be made with respect to any person based on race, color, religion, sex, national origin, or marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY in connection with the price or quality of any item, goods or services offered by or at any place of public accommodation.

3. It is unlawful for any owner, operator, lessee, manager, agent or employee of any place of public accommodation to directly or indirectly display, circulate, publicize or mail any advertisement, notice or communication which states or implies that any facility or service shall be refused or restricted because of race, color, religion, sex, national origin, or marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY or that any person, because of race, color, religion, sex, national origin, or marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY would be unwelcome, objectionable, unacceptable, undesirable or not solicited.

4. *Exemptions.*

A. Notwithstanding any other provision of this chapter, the prohibitions concerning marital status OR SEXUAL ORIENTATION shall not apply to bona fide religious organizations. The provisions of this section prohibiting discrimination on the basis of marital status shall not be construed to prohibit or prevent any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from taking any action which is calculated by the organization to promote the religious principles for which it is established or maintained.

B. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, THE PROHIBITIONS CONCERNING DISABILITY SHALL NOT REQUIRE MODIFICATIONS:

- I. THAT WOULD CREATE AN UNDUE BURDEN OR ARE OTHERWISE NOT EASILY ACCOMPLISHED AND ABLE TO BE CARRIED OUT WITHOUT SIGNIFICANT DIFFICULTY OR EXPENSE;
- II. THAT WOULD FUNDAMENTALLY ALTER THE NATURE OF THE GOODS OR SERVICES PROVIDED BY THE PUBLIC ACCOMMODATION; OR
- III. THAT WOULD POSE A DIRECT THREAT TO THE HEALTH OR SAFETY OF OTHERS THAT CANNOT BE MITIGATED BY THE APPROPRIATE MODIFICATIONS IN THE PUBLIC ACCOMMODATION'S POLICIES OR PROCEDURES.

**18-5 Filing of complaint; initiation of action; notice to parties; findings; mediation or conciliation; subpoena power; conciliation agreements; jurisdiction.**

A. *Filing of complaint.* Any person claiming to be aggrieved by an alleged violation of this article shall file a complaint with the Equal Opportunity Department within one hundred eighty days after the occurrence of the alleged unlawful discriminatory practice. A complaint is deemed filed upon receipt by the Equal Opportunity Department from or on behalf of a person claiming to be aggrieved or, if filed by a member of the Equal Opportunity Department, when executed by such member upon oath or affirmation. A complaint shall be filed upon oath or affirmation and shall contain such information, including the date, place and circumstances of the alleged unlawful practice, and be in such form as the Equal Opportunity Department requires. ~~During such hours as the office of the Equal Opportunity Department is not open, a person claiming to be aggrieved by violation of this article may report such complaint to the Phoenix Police Department or its members and the Phoenix Police Department shall forward a report of such complaint to the Phoenix Equal Opportunity Department.~~

B. *Initiation of action.* The Equal Opportunity Department may initiate action under this chapter when it believes a violation has occurred.

C. *Notice to parties.* Whenever a complaint is filed by or on behalf of a person claiming to be aggrieved or by a member of the Equal Opportunity Department, referred to as the complainant, alleging that a person has engaged in a practice unlawful by this article, the Department shall serve a copy of the complaint on such person alleged to have committed the unlawful practice, referred to as the respondent, within ten days and shall make an investigation of the complaint and/or attempt resolution of the complaint through the process of persuasion, conciliation or mediation. The Equal Opportunity Department shall report the results of its investigation and its findings no later than two hundred forty days after the complaint is filed with the Equal Opportunity Department.

D. *Findings.*

1. *No cause findings.* If the Equal Opportunity Department determines that reasonable cause does not exist to believe that a violation of this article has occurred, the Department shall notify the parties of its decision by a copy of the determination and shall enter an order indicating the absence of reasonable cause and dismissing the complaint. The complainant shall thereafter have the right to request that the City Attorney file a criminal complaint.

2. *Cause findings.* If the Equal Opportunity Department determines that reasonable cause exists to believe that a discriminatory practice has occurred, it shall enter an order containing its findings of fact and shall endeavor to eliminate the alleged unlawful practice by informal methods of conference, conciliation and persuasion. Any party to such informal proceeding may be represented by counsel.

E. *Mediation or conciliation.* At any time, during the course of the investigation, the Department may engage in efforts to resolve the charge through persuasion, mediation or conciliation in accordance with procedures to be established by the Department. If the Department determines after preliminary investigation not to proceed or if the matter is resolved by mediation or conciliation, an order will be entered dismissing the charge.

F. *Subpoena power.* If a person fails to permit access to or the examination of witnesses or the access to or duplication of records or evidence relating to a violation of this chapter, the Department may issue a subpoena requiring compliance.

G. *Conciliation agreements.* All conciliation agreements shall provide that the complainant waives, releases and covenants not to sue the respondent or claim against the respondent in any forum with respect to the matters which were alleged as filed with the Department, subject to performance by the respondent of the promises and representations contained in the conciliation agreement. The complainant or the respondent may prepare a conciliation agreement which the Department shall submit to the other party and which, if accepted by the other party, may be accepted by the Department.

H. *Jurisdiction.* The Department shall have the authority to defer any complaint filed under this article to any enforcement body having appropriate jurisdiction.

#### **18-6 Refusal to cooperate; failure to conciliate.**

If within thirty days after the Department has made a determination that reasonable cause exists to believe that a violation of this article has occurred, the Department has not accepted a conciliation agreement to which the charging party and the respondent are parties, the Department may refer the case to the City Attorney for criminal prosecution.

#### **18-7 Penalties.**

A. *Criminal sanctions.* Upon conviction of each violation of any provisions of this article not otherwise provided for, the person so convicted shall be guilty of a Class 1 misdemeanor.

B. *Sole and exclusive remedies.* It is the intent of this article that the remedies described herein shall constitute the sole and exclusive remedies for violations under this article and no additional cause of legal action is deemed created hereby.

#### **18-8 Conciliation agreement violations.**

If the Equal Opportunity Department and a person accused of a violation of this chapter shall reach agreement and execute a conciliation agreement, and such person shall then violate any terms and conditions of said conciliation agreement, it shall be as if such agreement had never been executed. In such event, the Equal Opportunity

Department may issue a finding based on the evidence received and refer the case to the Phoenix City Attorney. The Phoenix City Attorney may file criminal charges as are proper under the City Code, and further may take such other civil or criminal action as may be permitted under the Arizona Revised Statutes.

### **18-9 Construction of ordinance.**

The provisions of this ordinance shall be construed for the accomplishment of the purposes hereof. Nothing herein shall be construed to limit civil rights granted or afforded by the laws of the United States government or of the State of Arizona.

#### **18-9.01 Effect of state and federal laws.**

Nothing in this ordinance shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the United States or the State of Arizona. Any remedies provided by this ordinance shall be cumulative with any other remedies provided by the State or federal law.

Nothing in this ordinance shall be deemed to prohibit any act which is required or to permit any act which is prohibited by the laws of the United States or the State of Arizona.

#### **18-9.02 Severability.**

If any provision or section of this chapter shall be held to be invalid by a court of competent jurisdiction, then such provision or section shall be considered separately and apart from the remaining provisions or sections, which shall remain in full force and effect.