

[Administrative Code - Transferring Data Collection Oversight Duties from the City Administrator to the Human Rights Commission]

**Ordinance amending the Administrative Code to transfer responsibilities for oversight of the collection of sexual orientation and gender identity data from the City Administrator to the Human Rights Commission and removing obsolete reporting requirements.**

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
**Additions to Codes** are in *single-underline italics Times New Roman font*.  
**Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.  
**Board amendment additions** are in double-underlined Arial font.  
**Board amendment deletions** are in ~~strikethrough Arial font~~.  
**Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Chapter 104 of the Administrative Code is hereby amended by revising Sections 104.6 through 104.8, to read as follows:

**SEC. 104.6. WAIVERS AND EXCLUSIONS.**

(a) The provisions of Chapter 104 shall not apply to the extent that they are incompatible with any professionally reasonable clinical judgment that is based on articulable facts of clinical significance.

(b) A Covered Department, with the approval of the ~~City Administrator~~Human Rights Commission, may waive the requirements of this Chapter 104 in full or in part if the Covered Department determines that strict application of the requirements would not be feasible, would create an undue hardship, or that there are similar circumstances that warrant granting of the waiver. The Covered Department's decision to grant a waiver shall be in writing and shall be

1 delivered to the Clerk of the Board of Supervisors. But, unless the entirety of Chapter 104 is  
2 waived, there can be no waiver of Sections 104.3(c) and 104.4.

3 (c) Some or all of the provisions of this Chapter 104 shall not apply where the  
4 Covered Department makes a written finding that the application or inclusion of such  
5 provisions would violate or be inconsistent with the terms or conditions of a grant, subvention,  
6 or contract with an agency of the State of California or the United States or the instructions of  
7 an authorized representative of any such agency with respect to any such grant, subvention,  
8 or contract.

#### 10 **SEC. 104.7. RULES AND REGULATIONS.**

11 The ~~City Administrator~~Human Rights Commission may adopt rules, regulations, or  
12 guidelines for the implementation of this Chapter 104.

#### 14 **SEC. 104.8. MONITORING AND REPORTING.**

15 (a) The ~~City Administrator~~Human Rights Commission shall monitor the City's compliance  
16 with this Chapter 104.

17 (b) ~~By no later than July 1, 2017, each Covered Department shall submit to the City~~  
18 ~~Administrator a Compliance Plan that includes the following information, and any other information~~  
19 ~~the City Administrator deems relevant to assessing implementation of and compliance with this~~  
20 ~~Chapter:~~

21 ~~— (1) a description of the Covered Department's efforts to update its electronic data storage~~  
22 ~~systems (i.e., databases) so that they are capable of securely storing Sexual Orientation and Gender~~  
23 ~~Identity data;~~

1           —~~(2) a description of the Covered Department's efforts to revise any forms used to collect~~  
2 ~~demographic information so that they are capable of collecting Sexual Orientation and Gender Identity~~  
3 ~~data; and~~

4           —~~(3) a description of the Covered Department's efforts and plans to instruct staff,~~  
5 ~~Contractors, and Grantees in the requirements of this Chapter 104.~~

6           ~~(c)~~ By July 15, 2018, and each July 15 thereafter, of each year, each Covered  
7 Department shall ~~annually~~ submit to the ~~City Administrator~~ Human Rights Commission a Report  
8 that:

9           (1) analyzes the data collected under this Chapter 104 by the Covered  
10 Department, its Contractors, and Grantees;

11           (2) identifies any Direct Services programs operated by the Covered Department,  
12 its Contractors, or Grantees, where the data demonstrate that LGBT individuals are  
13 underrepresented or underserved; and

14           (3) describes the steps the Covered Department and its Contractors and Grantees  
15 will take to make the programs identified in subsection 104.8(~~eb~~)(2) more accessible to LGBT  
16 individuals who are eligible for those services.

17  
18           Section 2. Effective Date. This ordinance shall become effective 30 days after  
19 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
20 ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the Board  
21 of Supervisors overrides the Mayor's veto of the ordinance.

22  
23           Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
24 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
25 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

APPROVED AS TO FORM:  
DAVID CHIU, City Attorney

By:                     /s/                      
KATE G. KIMBERLIN  
Deputy City Attorney

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