

File No. 220702

Committee Item No. 3

Board Item No. 29

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date Nov. 14, 2022

Board of Supervisors Meeting

Date Nov 29, 2022

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- Memorandum of Understanding (MOU)
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 - Ethics Commission
- Award Letter
- Application
- Form 700
- Information/Vacancies (Boards/Commissions)
- Public Correspondence

OTHER (Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Victor Young

Date Nov 10, 2022

Completed by: _____

Date _____

1 [Administrative Code - Definitions of Prohibited Discrimination in Contracting Ordinances and
 2 Human Rights Commission Ordinance]

3 **Ordinance amending the Administrative Code to revise the definitions of gender**
 4 **identity, sex, and sexual orientation, and add the definition of gender expression, in**
 5 **Chapters 12B and 12C (ordinances prohibiting discrimination in contracting including**
 6 **property contracts); revise the definition of age in Chapters 12A (the Human Rights**
 7 **Commission ordinance) and 12B; and revise the definition of disability in Chapters**
 8 **12A, 12B, and 12C.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 11 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.
 12 **Board amendment additions** are in Arial font.
 13 **Board amendment deletions** are in ~~Arial font~~.
 14 **Asterisks (* * * *)** indicate the omission of unchanged Code
 15 subsections or parts of tables.

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

17 Section 1. Chapter 12A of the Administrative Code is hereby amended by revising
 18 Section 12A.3, to read as follows:

19 **SEC. 12A.3. SCOPE OF ORDINANCE.**

20 This ordinance applies to all discriminatory practices and to resulting intergroup
 21 tensions specifically covered by the provisions of this ordinance that occur within the territorial
 22 limits of or within any agency under the jurisdiction of the City and County of San Francisco
 23 and to the extent permitted by law, to activities outside this City and County which reasonably
 24 affect such practices and tensions within said territorial limits. Nothing in this ordinance,
 25 however, shall be interpreted or applied so as to create any power or duty in conflict with the
 preemptive effect of any federal or State law.

(a) As used in this Chapter 12A, the term:

1 “Age” refers to and shall include any person who has attained the age of 40 years
2 ~~and has not attained the age of 65 years.~~

3 * * *

4 “Disability” is a physical or ~~metat~~ mental impairment which ~~substantially~~ limits one or
5 more major life activities, ~~is~~ and includes being regarded as having such an impairment, or
6 ~~has~~ving a record of such an impairment.

7
8 Section 2. Chapter 12B of the Administrative Code is hereby amended by revising
9 Section 12B.1, to read as follows:

10 **SEC. 12B.1. ALL CONTRACTS AND PROPERTY CONTRACTS TO INCLUDE**
11 **NONDISCRIMINATION PROVISIONS; DEFINITIONS.**

12 * * *

13 (c) Definitions. As used in this Chapter 12B, the following words and phrases shall
14 have the meanings indicated herein:

15 “Age” shall mean the age of any employee or applicant for employment who has
16 attained the age of 40 years ~~and has not attained the age of 65 years.~~ For the purposes of this
17 Chapter, discrimination because of age shall mean dismissal from employment of, or refusal
18 to employ or rehire any person because of ~~his or her~~ their age, if such person has attained the
19 age of 40 years ~~and has not attained the age of 65 years~~, if the person is physically able and
20 mentally competent to perform the services required. Age limitations of apprenticeship
21 programs in which the State or its political subdivisions participate shall not be considered
22 discriminatory within the meaning of this Chapter.

23 * * *

1 “Disability” shall mean a physical or mental impairment which ~~substantially~~ limits one or
2 more major life activities, and includes being regarded as having such an impairment, or having a
3 record of such an impairment.

4 * * *

5 “Gender Expression” shall mean the outward expression of one’s gender identity, which may
6 include, but is not limited to, clothing, hair styles, gestures, makeup, or behavior which may or may not
7 conform to societal expectations typically related to traits associated with a person’s gender identity,
8 sexual orientation, or assigned sex at birth.

9 “Gender identity” shall mean ~~a person’s various individual attributes as they are understood~~
10 ~~to be masculine and/or feminine.~~ how a person self-identifies their gender, or their internal
11 understanding of their gender. A person’s gender identity may or may not correspond with social
12 norms or stereotypes related to the sex they were assigned at birth. There are many terms related to
13 gender with which a person may identify, including but not limited to: agender; androgynous;
14 bigender; cisgender; cisgender man; cisgender woman; gender fluid; gender non-conforming; gender-
15 expansive; genderqueer, non-binary, pangender, Two-Spirit, transgender, trans, transgender man,
16 transgender woman, masculine, and feminine. One’s gender identity may be described through any
17 number of ever-expanding terms or definitions, and one’s gender identity may be subject to change by
18 the individual.

19 * * *

20 “Sex” shall mean ~~the character of being male or female.~~ one’s anatomical, physiological,
21 genetic, or physical attributes, and the variation in these attributes that may or may not indicate male,
22 female, or a different sex such as intersex. These attributes may include but are not limited to both
23 primary and secondary sex characteristics, including internal and external reproductive organs,
24 hormone levels, hormone receptors, chromosomes and genes, all of which may change over time. A
25 person’s sex may or may not align with their gender identity.

1 “Sexual orientation” shall mean ~~the status of being lesbian, gay, bisexual or heterosexual.~~
2 one’s physical, emotional, romantic, or sexual attraction to people of a particular gender or multiple
3 genders, or lack thereof, and is distinct from their gender expression or gender identity. A person’s
4 sexual orientation may be identified by terms including, but not limited to, asexual, bisexual, gay,
5 lesbian, heterosexual, homosexual, pansexual, and queer.

6
7 Section 3. Chapter 12C of the Administrative Code is hereby amended by revising
8 Section 12C.2, to read as follows:

9 **SEC. 12C.2. DEFINITIONS.**

10 As used in this Chapter 12C, the term:

11 * * *

12 “Disability” is a physical or mental impairment which ~~substantially~~ limits one or more
13 major life activities, and includes being regarded as having such an impairment, or having a record
14 of such an impairment.

15 * * *

16 “Gender Expression” shall mean the outward expression of one’s gender identity, which may
17 include, but is not limited to, clothing, hair styles, gestures, make up, or behavior which may or may
18 not conform to societal expectations typically related to traits associated with a person’s gender
19 identity, sexual orientation, or assigned sex at birth.

20 “Gender identity” shall mean ~~a person’s various individual attributes as they are understood~~
21 ~~to be masculine and/or feminine.~~ how a person self-identifies their gender, or their internal
22 understanding of their gender. A person’s gender identity may or may not correspond with social
23 norms or stereotypes related to the sex they were assigned at birth. There are many terms related to
24 gender with which a person may identify, including but not limited to: agender; androgynous;
25 bigender; cisgender; cisgender man; cisgender woman; gender fluid; gender non-conforming; gender-

1 expansive; genderqueer, non-binary, pangender, Two-Spirit, transgender, trans, transgender man,
2 transgender woman, masculine, and feminine. One's gender identity may be described through any
3 number of ever-expanding terms or definitions, and one's gender identity may be subject to change by
4 the individual.

5 * * *

6 "Sex" shall mean ~~the character of being male or female.~~ one's anatomical, physiological,
7 genetic, or physical attributes, and the variation in these attributes that may or may not indicate male,
8 female, or a different sex such as intersex. These attributes may include but are not limited to both
9 primary and secondary sex characteristics, including internal and external reproductive organs,
10 hormone levels, hormone receptors, chromosomes and genes, all of which may change over time. A
11 person's sex may or may not align with their gender identity.

12 "Sexual orientation" shall mean ~~the status of being lesbian, gay, bisexual or heterosexual.~~
13 one's physical, emotional, romantic, or sexual attraction to people of a particular gender or multiple
14 genders, or lack thereof, and is distinct from their gender expression or gender identity. A person's
15 sexual orientation may be identified by terms including, but not limited to, asexual, bisexual, gay,
16 lesbian, heterosexual, homosexual, pansexual, and queer.

17
18 Section 4. 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 ten days of receiving it, or the Board
21 of Supervisors overrides the Mayor's veto of the ordinance.

22
23 Section 5. 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

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

4

5 APPROVED AS TO FORM:
6 DAVID CHIU, City Attorney

7 By: /s/ Zachary Porianda
8 ZACHARY PORIANDA
9 Deputy City Attorney

10 n:\legana\as2022\2200423\01597968.docx

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LEGISLATIVE DIGEST

[Administrative Code - Definitions of Prohibited Discrimination in Contracting Ordinances and Human Rights Commission Ordinance]

Ordinance amending the Administrative Code to revise the definitions of gender identity, sex, and sexual orientation, and add the definition of gender expression, in Chapters 12B and 12C (ordinances prohibiting discrimination in contracting including property contracts); revise the definition of age in Chapters 12A (the Human Rights Commission ordinance) and 12B; and revise the definition of disability in Chapters 12A, 12B, and 12C.

Existing Law

Chapter 12A of the Administrative Code establishes the Human Rights Commission and defines its roles and responsibilities. Chapters 12B and 12C of the Administrative Code prohibit discriminatory practices by City contractors. These Chapters include definitions of protected classifications, including “age,” “disability,” “gender identity,” “sex,” and “sexual orientation.”

Amendments to Current Law

The proposed Ordinance revises the definitions of “gender identity,” “sex,” and “sexual orientation,” and adds the definition of “gender expression,” in Chapters 12B and 12C.

The Ordinance also revises the definition of “age” in Chapters 12A and 12B.

Further, the Ordinance revises the definition of “disability” in Chapters 12A, 12B, and 12C.

Background Information

The definitions of “age” in Chapters 12A and 12B are being amended to eliminate the upper age cap (65), which does not exist in analogous definitions under of “age” under state and federal law.

The current definitions of “disability” in Chapters 12A, 12B, and 12C restrict protection to individuals with an impairment that “substantially limits” a major life activity. These definitions provide narrower protection than the California Fair Employment & Housing Act (FEHA), which does not include the modifier “substantially.” The Ordinance thus revises the definitions of “disability” to remove the modifier “substantially.”

FILE NO. 220702

The existing definitions of “gender identity,” “sex,” and “sexual orientation” in Chapters 12B and 12C are based on a limited understanding of the spectrum of identities, which has evolved since the Chapters were adopted. The Ordinance revises the definitions of those terms and adds and defines the term “gender expression.”

n:\legana\as2022\2200423\01599965.docx

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Sheryl Evans Davis, Director, Human Rights Department
Sailaja Kurella, Director and Purchaser Office of Contract Administration
LeeAnn Pelham, Executive Director, Ethics Commission

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: June 18, 2022

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation:

File No. 220702 Administrative Code - Definitions of Prohibited Discrimination in Contracting Ordinances and Human Rights Commission Ordinance

Ordinance amending the Administrative Code to revise the definitions of gender identity, sex, and sexual orientation, and add the definition of gender expression, in Chapters 12B and 12C (ordinances prohibiting discrimination in contracting including property contracts); revise the definition of age in Chapters 12A (the Human Rights Commission ordinance) and 12B; and revise the definition of disability in Chapters 12A, 12B, and 12C.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

cc: Taraneh Moayed, Office of Contract Administration
Rachel Cukierman, Office of Contract Administration



City and County of San Francisco

Master Report

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 220702 **File Type:** Ordinance **Status:** 30 Day Rule

Enacted: _____ **Effective:** _____

Version: 1 **In Control:** Rules Committee

File Name: Administrative Code - Definitions of Prohibited Discrimination in Contracting Ordinances and Human Rights Commission Ordinance **Date Introduced:** 06/07/2022

Requester: _____ **Cost:** _____ **Final Action:** _____

Comment: _____ **Title:** Ordinance amending the Administrative Code to revise the definitions of gender identity, sex, and sexual orientation, and add the definition of gender expression, in Chapters 12B and 12C (ordinances prohibiting discrimination in contracting including property contracts); revise the definition of age in Chapters 12A (the Human Rights Commission ordinance) and 12B; and revise the definition of disability in Chapters 12A, 12B, and 12C.

Sponsors: Mayor;
Mandelman and
Dorsey

History of Legislative File 220702

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	President	06/07/2022	ASSIGNED UNDER 30 DAY RULE	Rules Committee	07/07/2022	

1 [Administrative Code - Definitions of Prohibited Discrimination in Contracting Ordinances and
 2 Human Rights Commission Ordinance]

3 **Ordinance amending the Administrative Code to revise the definitions of gender**
 4 **identity, sex, and sexual orientation, and add the definition of gender expression, in**
 5 **Chapters 12B and 12C (ordinances prohibiting discrimination in contracting including**
 6 **property contracts); revise the definition of age in Chapters 12A (the Human Rights**
 7 **Commission ordinance) and 12B; and revise the definition of disability in Chapters**
 8 **12A, 12B, and 12C.**

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

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

17 Section 1. Chapter 12A of the Administrative Code is hereby amended by revising
 18 Section 12A.3, to read as follows:

19 **SEC. 12A.3. SCOPE OF ORDINANCE.**

20 This ordinance applies to all discriminatory practices and to resulting intergroup
 21 tensions specifically covered by the provisions of this ordinance that occur within the territorial
 22 limits of or within any agency under the jurisdiction of the City and County of San Francisco
 23 and to the extent permitted by law, to activities outside this City and County which reasonably
 24 affect such practices and tensions within said territorial limits. Nothing in this ordinance,
 25 however, shall be interpreted or applied so as to create any power or duty in conflict with the
 preemptive effect of any federal or State law.

(a) As used in this Chapter 12A, the term:

1 “Age” refers to and shall include any person who has attained the age of 40 years
2 ~~and has not attained the age of 65 years.~~

3 * * *

4 “Disability” is a physical or ~~metat~~ mental impairment which ~~substantially~~ limits one or
5 more major life activities, ~~is~~ and includes being regarded as having such an impairment, or
6 ~~has~~ving a record of such an impairment.

7
8 Section 2. Chapter 12B of the Administrative Code is hereby amended by revising
9 Section 12B.1, to read as follows:

10 **SEC. 12B.1. ALL CONTRACTS AND PROPERTY CONTRACTS TO INCLUDE**
11 **NONDISCRIMINATION PROVISIONS; DEFINITIONS.**

12 * * *

13 (c) Definitions. As used in this Chapter 12B, the following words and phrases shall
14 have the meanings indicated herein:

15 “Age” shall mean the age of any employee or applicant for employment who has
16 attained the age of 40 years ~~and has not attained the age of 65 years.~~ For the purposes of this
17 Chapter, discrimination because of age shall mean dismissal from employment of, or refusal
18 to employ or rehire any person because of ~~his or her~~ their age, if such person has attained the
19 age of 40 years ~~and has not attained the age of 65 years~~, if the person is physically able and
20 mentally competent to perform the services required. Age limitations of apprenticeship
21 programs in which the State or its political subdivisions participate shall not be considered
22 discriminatory within the meaning of this Chapter.

23 * * *

1 “Disability” shall mean a physical or mental impairment which ~~substantially~~ limits one or
2 more major life activities, and includes being regarded as having such an impairment, or having a
3 record of such an impairment.

4 * * *

5 “Gender Expression” shall mean the outward expression of one’s gender identity, which may
6 include, but is not limited to, clothing, hair styles, gestures, makeup, or behavior which may or may not
7 conform to societal expectations typically related to traits associated with a person’s gender identity,
8 sexual orientation, or assigned sex at birth.

9 “Gender identity” shall mean ~~a person’s various individual attributes as they are understood~~
10 ~~to be masculine and/or feminine.~~ how a person self-identifies their gender, or their internal
11 understanding of their gender. A person’s gender identity may or may not correspond with social
12 norms or stereotypes related to the sex they were assigned at birth. There are many terms related to
13 gender with which a person may identify, including but not limited to: agender; androgynous;
14 bigender; cisgender; cisgender man; cisgender woman; gender fluid; gender non-conforming; gender-
15 expansive; genderqueer, non-binary, pangender, Two-Spirit, transgender, trans, transgender man,
16 transgender woman, masculine, and feminine. One’s gender identity may be described through any
17 number of ever-expanding terms or definitions, and one’s gender identity may be subject to change by
18 the individual.

19 * * *

20 “Sex” shall mean ~~the character of being male or female.~~ one’s anatomical, physiological,
21 genetic, or physical attributes, and the variation in these attributes that may or may not indicate male,
22 female, or a different sex such as intersex. These attributes may include but are not limited to both
23 primary and secondary sex characteristics, including internal and external reproductive organs,
24 hormone levels, hormone receptors, chromosomes and genes, all of which may change over time. A
25 person’s sex may or may not align with their gender identity.

1 “Sexual orientation” shall mean ~~the status of being lesbian, gay, bisexual or heterosexual.~~
2 one’s physical, emotional, romantic, or sexual attraction to people of a particular gender or multiple
3 genders, or lack thereof, and is distinct from their gender expression or gender identity. A person’s
4 sexual orientation may be identified by terms including, but not limited to, asexual, bisexual, gay,
5 lesbian, heterosexual, homosexual, pansexual, and queer.

6
7 Section 3. Chapter 12C of the Administrative Code is hereby amended by revising
8 Section 12C.2, to read as follows:

9 **SEC. 12C.2. DEFINITIONS.**

10 As used in this Chapter 12C, the term:

11 * * *

12 “Disability” is a physical or mental impairment which ~~substantially~~ limits one or more
13 major life activities, and includes being regarded as having such an impairment, or having a record
14 of such an impairment.

15 * * *

16 “Gender Expression” shall mean the outward expression of one’s gender identity, which may
17 include, but is not limited to, clothing, hair styles, gestures, make up, or behavior which may or may
18 not conform to societal expectations typically related to traits associated with a person’s gender
19 identity, sexual orientation, or assigned sex at birth.

20 “Gender identity” shall mean ~~a person’s various individual attributes as they are understood~~
21 ~~to be masculine and/or feminine.~~ how a person self-identifies their gender, or their internal
22 understanding of their gender. A person’s gender identity may or may not correspond with social
23 norms or stereotypes related to the sex they were assigned at birth. There are many terms related to
24 gender with which a person may identify, including but not limited to: agender; androgynous;
25 bigender; cisgender; cisgender man; cisgender woman; gender fluid; gender non-conforming; gender-

1 expansive; genderqueer, non-binary, pangender, Two-Spirit, transgender, trans, transgender man,
2 transgender woman, masculine, and feminine. One's gender identity may be described through any
3 number of ever-expanding terms or definitions, and one's gender identity may be subject to change by
4 the individual.

5 * * *

6 "Sex" shall mean ~~the character of being male or female.~~ one's anatomical, physiological,
7 genetic, or physical attributes, and the variation in these attributes that may or may not indicate male,
8 female, or a different sex such as intersex. These attributes may include but are not limited to both
9 primary and secondary sex characteristics, including internal and external reproductive organs,
10 hormone levels, hormone receptors, chromosomes and genes, all of which may change over time. A
11 person's sex may or may not align with their gender identity.

12 "Sexual orientation" shall mean ~~the status of being lesbian, gay, bisexual or heterosexual.~~
13 one's physical, emotional, romantic, or sexual attraction to people of a particular gender or multiple
14 genders, or lack thereof, and is distinct from their gender expression or gender identity. A person's
15 sexual orientation may be identified by terms including, but not limited to, asexual, bisexual, gay,
16 lesbian, heterosexual, homosexual, pansexual, and queer.

17
18 Section 4. 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 ten days of receiving it, or the Board
21 of Supervisors overrides the Mayor's veto of the ordinance.

22
23 Section 5. 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

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

4

5 APPROVED AS TO FORM:
6 DAVID CHIU, City Attorney

7 By: /s/ Zachary Porianda
8 ZACHARY PORIANDA
9 Deputy City Attorney

10 n:\legana\as2022\2200423\01597968.docx

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LEGISLATIVE DIGEST

[Administrative Code - Definitions of Prohibited Discrimination in Contracting Ordinances and Human Rights Commission Ordinance]

Ordinance amending the Administrative Code to revise the definitions of gender identity, sex, and sexual orientation, and add the definition of gender expression, in Chapters 12B and 12C (ordinances prohibiting discrimination in contracting including property contracts); revise the definition of age in Chapters 12A (the Human Rights Commission ordinance) and 12B; and revise the definition of disability in Chapters 12A, 12B, and 12C.

Existing Law

Chapter 12A of the Administrative Code establishes the Human Rights Commission and defines its roles and responsibilities. Chapters 12B and 12C of the Administrative Code prohibit discriminatory practices by City contractors. These Chapters include definitions of protected classifications, including “age,” “disability,” “gender identity,” “sex,” and “sexual orientation.”

Amendments to Current Law

The proposed Ordinance revises the definitions of “gender identity,” “sex,” and “sexual orientation,” and adds the definition of “gender expression,” in Chapters 12B and 12C.

The Ordinance also revises the definition of “age” in Chapters 12A and 12B.

Further, the Ordinance revises the definition of “disability” in Chapters 12A, 12B, and 12C.

Background Information

The definitions of “age” in Chapters 12A and 12B are being amended to eliminate the upper age cap (65), which does not exist in analogous definitions under of “age” under state and federal law.

The current definitions of “disability” in Chapters 12A, 12B, and 12C restrict protection to individuals with an impairment that “substantially limits” a major life activity. These definitions provide narrower protection than the California Fair Employment & Housing Act (FEHA), which does not include the modifier “substantially.” The Ordinance thus revises the definitions of “disability” to remove the modifier “substantially.”

FILE NO. 220702

The existing definitions of “gender identity,” “sex,” and “sexual orientation” in Chapters 12B and 12C are based on a limited understanding of the spectrum of identities, which has evolved since the Chapters were adopted. The Ordinance revises the definitions of those terms and adds and defines the term “gender expression.”

n:\legana\as2022\2200423\01599965.docx

From: [Conine-Nakano, Susanna \(MYR\)](#)
To: [BOS Legislation, \(BOS\)](#); [PORIANDA, ZACHARY \(CAT\)](#)
Cc: [Paulino, Tom \(MYR\)](#); [Ruiz-Cornejo, Victor \(MYR\)](#); [Meyer, Catherine \(HRC\)](#); [Oglander, Matthew \(HRC\)](#); [Diebold, Jude \(HRC\)](#); [Crego, Pau \(ADM\)](#); [DorseyStaff \(BOS\)](#); [Bintliff, Jacob \(BOS\)](#)
Subject: Mayor -- Ordinance -- Definitions of Prohibited Discrimination
Date: Tuesday, June 7, 2022 4:34:15 PM
Attachments: [Mayor -- Ordinance -- Definitions of Prohibited Discrimination.zip](#)

Hello Clerks,

Attached for introduction to the Board of Supervisors is an Ordinance amending the Administrative Code to revise the definitions of gender identity, sex, and sexual orientation, and add the definition of gender expression, in Chapters 12B and 12C (ordinances prohibiting discrimination in contracting including property contracts); revise the definition of age in Chapters 12A (the Human Rights Commission ordinance) and 12B; and revise the definition of disability in Chapters 12A, 12B, and 12C.

[@PORIANDA, ZACHARY \(CAT\)](#), can you please reply-all to confirm your approval? Thanks!

Please note that Supervisors Mandelman and Dorsey are cosponsors of this legislation.

Please let me know if you have any questions.

Best,

Susanna

Susanna Conine-Nakano
Office of Mayor London N. Breed
City & County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 200
San Francisco, CA 94102
415-554-6147

From: [Porianda, Zachary \(CAT\)](#)
To: [Conine-Nakano, Susanna \(MYR\)](#); [BOS Legislation, \(BOS\)](#)
Cc: [Paulino, Tom \(MYR\)](#); [Ruiz-Cornejo, Victor \(MYR\)](#); [Meyer, Catherine \(HRC\)](#); [Oglander, Matthew \(HRC\)](#); [Diebold, Jude \(HRC\)](#); [Crego, Pau \(ADM\)](#); [DorseyStaff \(BOS\)](#); [Bintliff, Jacob \(BOS\)](#)
Subject: RE: Mayor -- Ordinance -- Definitions of Prohibited Discrimination
Date: Tuesday, June 7, 2022 4:35:57 PM

I approve and authorize use of my e-signature.

Thank you,

Zach

Zachary Porianda (he/him/his)
Deputy City Attorney
Office of City Attorney David Chiu
1 Dr. Carlton B. Goodlett Place, Suite 234
San Francisco, CA 94102
phone: (415) 554-4665
www.sfcityattorney.org

The information in this email is confidential and may be protected by the attorney/client privilege and/or the attorney work product doctrine. If you are not the intended recipient of this email or received this email inadvertently, please notify the sender and delete it.

From: Conine-Nakano, Susanna (MYR) <susanna.conine-nakano@sfgov.org>
Sent: Tuesday, June 7, 2022 4:34 PM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>; Porianda, Zachary (CAT) <Zachary.Porianda@sfcityatty.org>
Cc: Paulino, Tom (MYR) <tom.paulino@sfgov.org>; Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>; Meyer, Catherine (HRC) <cathy.mulkeymeyer@sfgov.org>; Oglander, Matthew (HRC) <matthew.oglander@sfgov.org>; Diebold, Jude (HRC) <jude.diebold@sfgov.org>; Crego, Pau (ADM) <pau.crego@sfgov.org>; DorseyStaff (BOS) <DorseyStaff@sfgov.org>; Bintliff, Jacob (BOS) <jacob.bintliff@sfgov.org>
Subject: Mayor -- Ordinance -- Definitions of Prohibited Discrimination

Hello Clerks,

Attached for introduction to the Board of Supervisors is an Ordinance amending the Administrative Code to revise the definitions of gender identity, sex, and sexual orientation, and add the definition of gender expression, in Chapters 12B and 12C (ordinances prohibiting discrimination in contracting including property contracts); revise the definition of age in Chapters 12A (the Human Rights Commission ordinance) and 12B; and revise the definition of disability in Chapters 12A, 12B, and 12C.

[@PORIANDA, ZACHARY \(CAT\)](#), can you please reply-all to confirm your approval? Thanks!

Please note that Supervisors Mandelman and Dorsey are cosponsors of this legislation.

Please let me know if you have any questions.

Best,
Susanna

Susanna Conine-Nakano
Office of Mayor London N. Breed
City & County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 200
San Francisco, CA 94102
415-554-6147

1 [Administrative Code - Definitions of Prohibited Discrimination in Contracting Ordinances and
2 Human Rights Commission Ordinance]

3 **Ordinance amending the Administrative Code to revise the definitions of gender**
4 **identity, sex, and sexual orientation, and add the definition of gender expression, in**
5 **Chapters 12B and 12C (ordinances prohibiting discrimination in contracting including**
6 **property contracts); revise the definition of age in Chapters 12A (the Human Rights**
7 **Commission ordinance) and 12B; and revise the definition of disability in Chapters**
8 **12A, 12B, and 12C.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.
12 **Board amendment additions** are in Arial font.
13 **Board amendment deletions** are in ~~Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

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

17 Section 1. Chapter 12A of the Administrative Code is hereby amended by revising
18 Section 12A.3, to read as follows:

19 **SEC. 12A.3. SCOPE OF ORDINANCE.**

20 This ordinance applies to all discriminatory practices and to resulting intergroup
21 tensions specifically covered by the provisions of this ordinance that occur within the territorial
22 limits of or within any agency under the jurisdiction of the City and County of San Francisco
23 and to the extent permitted by law, to activities outside this City and County which reasonably
24 affect such practices and tensions within said territorial limits. Nothing in this ordinance,
25 however, shall be interpreted or applied so as to create any power or duty in conflict with the
preemptive effect of any federal or State law.

(a) As used in this Chapter 12A, the term:

1 “Age” refers to and shall include any person who has attained the age of 40 years
2 ~~and has not attained the age of 65 years.~~

3 * * *

4 “Disability” is a physical or ~~metat~~ mental impairment which ~~substantially~~ limits one or
5 more major life activities, ~~is~~ and includes being regarded as having such an impairment, or
6 ~~has~~ving a record of such an impairment.

7
8 Section 2. Chapter 12B of the Administrative Code is hereby amended by revising
9 Section 12B.1, to read as follows:

10 **SEC. 12B.1. ALL CONTRACTS AND PROPERTY CONTRACTS TO INCLUDE**
11 **NONDISCRIMINATION PROVISIONS; DEFINITIONS.**

12 * * *

13 (c) Definitions. As used in this Chapter 12B, the following words and phrases shall
14 have the meanings indicated herein:

15 “Age” shall mean the age of any employee or applicant for employment who has
16 attained the age of 40 years ~~and has not attained the age of 65 years.~~ For the purposes of this
17 Chapter, discrimination because of age shall mean dismissal from employment of, or refusal
18 to employ or rehire any person because of ~~his or her~~ their age, if such person has attained the
19 age of 40 years ~~and has not attained the age of 65 years~~, if the person is physically able and
20 mentally competent to perform the services required. Age limitations of apprenticeship
21 programs in which the State or its political subdivisions participate shall not be considered
22 discriminatory within the meaning of this Chapter.

23 * * *

1 “Disability” shall mean a physical or mental impairment which ~~substantially~~ limits one or
2 more major life activities, and includes being regarded as having such an impairment, or having a
3 record of such an impairment.

4 * * *

5 “Gender Expression” shall mean the outward expression of one’s gender identity, which may
6 include, but is not limited to, clothing, hair styles, gestures, makeup, or behavior which may or may not
7 conform to societal expectations typically related to traits associated with a person’s gender identity,
8 sexual orientation, or assigned sex at birth.

9 “Gender identity” shall mean ~~a person’s various individual attributes as they are understood~~
10 ~~to be masculine and/or feminine.~~ how a person self-identifies their gender, or their internal
11 understanding of their gender. A person’s gender identity may or may not correspond with social
12 norms or stereotypes related to the sex they were assigned at birth. There are many terms related to
13 gender with which a person may identify, including but not limited to: agender; androgynous;
14 bigender; cisgender; cisgender man; cisgender woman; gender fluid; gender non-conforming; gender-
15 expansive; genderqueer, non-binary, pangender, Two-Spirit, transgender, trans, transgender man,
16 transgender woman, masculine, and feminine. One’s gender identity may be described through any
17 number of ever-expanding terms or definitions, and one’s gender identity may be subject to change by
18 the individual.

19 * * *

20 “Sex” shall mean ~~the character of being male or female.~~ one’s anatomical, physiological,
21 genetic, or physical attributes, and the variation in these attributes that may or may not indicate male,
22 female, or a different sex such as intersex. These attributes may include but are not limited to both
23 primary and secondary sex characteristics, including internal and external reproductive organs,
24 hormone levels, hormone receptors, chromosomes and genes, all of which may change over time. A
25 person’s sex may or may not align with their gender identity.

1 “Sexual orientation” shall mean ~~the status of being lesbian, gay, bisexual or heterosexual.~~
2 one’s physical, emotional, romantic, or sexual attraction to people of a particular gender or multiple
3 genders, or lack thereof, and is distinct from their gender expression or gender identity. A person’s
4 sexual orientation may be identified by terms including, but not limited to, asexual, bisexual, gay,
5 lesbian, heterosexual, homosexual, pansexual, and queer.

6
7 Section 3. Chapter 12C of the Administrative Code is hereby amended by revising
8 Section 12C.2, to read as follows:

9 **SEC. 12C.2. DEFINITIONS.**

10 As used in this Chapter 12C, the term:

11 * * *

12 “Disability” is a physical or mental impairment which ~~substantially~~ limits one or more
13 major life activities, and includes being regarded as having such an impairment, or having a record
14 of such an impairment.

15 * * *

16 “Gender Expression” shall mean the outward expression of one’s gender identity, which may
17 include, but is not limited to, clothing, hair styles, gestures, make up, or behavior which may or may
18 not conform to societal expectations typically related to traits associated with a person’s gender
19 identity, sexual orientation, or assigned sex at birth.

20 “Gender identity” shall mean ~~a person’s various individual attributes as they are understood~~
21 ~~to be masculine and/or feminine.~~ how a person self-identifies their gender, or their internal
22 understanding of their gender. A person’s gender identity may or may not correspond with social
23 norms or stereotypes related to the sex they were assigned at birth. There are many terms related to
24 gender with which a person may identify, including but not limited to: agender; androgynous;
25 bigender; cisgender; cisgender man; cisgender woman; gender fluid; gender non-conforming; gender-

1 expansive; genderqueer, non-binary, pangender, Two-Spirit, transgender, trans, transgender man,
2 transgender woman, masculine, and feminine. One's gender identity may be described through any
3 number of ever-expanding terms or definitions, and one's gender identity may be subject to change by
4 the individual.

5 * * *

6 "Sex" shall mean ~~the character of being male or female.~~ one's anatomical, physiological,
7 genetic, or physical attributes, and the variation in these attributes that may or may not indicate male,
8 female, or a different sex such as intersex. These attributes may include but are not limited to both
9 primary and secondary sex characteristics, including internal and external reproductive organs,
10 hormone levels, hormone receptors, chromosomes and genes, all of which may change over time. A
11 person's sex may or may not align with their gender identity.

12 "Sexual orientation" shall mean ~~the status of being lesbian, gay, bisexual or heterosexual.~~
13 one's physical, emotional, romantic, or sexual attraction to people of a particular gender or multiple
14 genders, or lack thereof, and is distinct from their gender expression or gender identity. A person's
15 sexual orientation may be identified by terms including, but not limited to, asexual, bisexual, gay,
16 lesbian, heterosexual, homosexual, pansexual, and queer.

17
18 Section 4. 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 ten days of receiving it, or the Board
21 of Supervisors overrides the Mayor's veto of the ordinance.

22
23 Section 5. 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

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

4

5 APPROVED AS TO FORM:
6 DAVID CHIU, City Attorney

7 By: /s/ Zachary Porianda
8 ZACHARY PORIANDA
9 Deputy City Attorney

10 n:\legana\as2022\2200423\01597968.docx

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25