

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.”

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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.”

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