

# HAWAI‘I CIVIL RIGHTS COMMISSION - KOMIKINA PONO KIWILO O HAWAI‘I

## LAWS PROTECTING YOUR RIGHTS

... in Employment, Housing, Public Accommodations, and Access to State and State-funded Services

### WHAT IS DISCRIMINATION IN EMPLOYMENT PRACTICES?

Hawai‘i law prohibits unfair or unequal treatment in employment practices and policies when the unfair or unequal treatment is based on a characteristic that is protected by law.

In employment, you have the **right** not to be discriminated against based on your:

- Race
- Sex (including Gender Identity or Gender Expression)
- Pregnancy and Pregnancy-related medical conditions
- Sexual Orientation
- Age
- Religion
- Color
- Ancestry
- Disability
- Domestic Violence or Sexual Violence Victim Status
- Marital Status
- Arrest and Court Record
- Reproductive Health Decision
- Breastfeeding
- Credit History
- National Guard Participation

**It’s the law: Hawai‘i Revised Statutes Chapter 378, Part I\*** applies to employers, employment agencies, and labor organizations.

#### Examples of possible illegal discrimination:

- You are denied a job or a job promotion because of your race or ancestry.
- Your supervisor subjects you to unwelcome sexual advances. (*Sex-based discrimination*)
- A company advertises a job opening for “college students,” or “recent college graduates.” (*Age-based discrimination*)
- You are pregnant and your employer denies you leave from work that your doctor recommended. (*Pregnancy-based discrimination*)
- You are fired from your job because you complained about an employer’s discriminatory practices. (*Retaliation*)

### WHAT IS DISCRIMINATION IN REAL PROPERTY TRANSACTIONS (HOUSING)?

Hawai‘i law prohibits unequal treatment in real property and residential transactions when the unequal treatment is based on a characteristic that is protected by law.

In real property transactions, you have the **right** not to be discriminated against based on your:

- Race
- Sex (including Gender Identity or Gender Expression)
- Sexual Orientation
- Color
- Religion
- Marital Status
- Familial Status
- Ancestry
- Disability
- Age
- HIV Status

**It’s the law: Hawai‘i Revised Statutes Chapter 515\*** applies to property owners, real estate brokers, salespersons, or any other person engaged in a real estate transaction.

#### Examples of possible illegal discrimination:

- A condominium’s by-laws prohibit children from using the swimming pool. (*Familial Status-based discrimination*)
- A landlord wants to raise or increase rent because you have children. (*Familial Status-based discrimination*)
- A landlord refuses to let you modify your apartment (at your expense) to accommodate your disability.
- Due to a disability, you have an assistance animal but the landlord refuses to rent to you because of the apartment’s “no pets” rule.

### WHAT IS DISCRIMINATION IN PUBLIC ACCOMMODATIONS?

Under Hawai‘i law, it is illegal to deny a person access or treat a person unequally in public accommodations when the unequal treatment is based on a characteristic that is protected by law.

You have the **right** not to be discriminated against based on your:

- Race
- Color
- Ancestry
- Sex (including Gender Identity and Expression)
- Religion
- Sexual Orientation
- Disability

**It’s the law: Hawai‘i Revised Statutes Chapter 489\*** applies to places such as business, recreation, entertainment, or transportation facilities whose goods/services are offered/sold/made available to the general public as customers, clients, or visitors.

#### Examples of possible illegal discrimination:

- A restaurant refuses to serve you because of the color of your skin. (*Color-based discrimination*)
- A taxi cab driver denies you service because you are traveling with an assistance animal. (*Disability-based discrimination*)
- A store or restaurant gives discounts to people of the opposite sex, but you still have to pay full price. (*Sex-based discrimination*)
- You protest when a health club refuses to let someone in because of his/her ancestry, and you are also told to leave. (*Retaliation*)

\*Visit <http://labor.hawaii.gov/hcrc> for full-text versions of the Hawai‘i anti-discrimination laws

## ***WHAT IS DISCRIMINATION IN ACCESS TO STATE SERVICES & STATE-FUNDED SERVICES?***

You have the **right** not to be discriminated against based on your Disability.

### Example of illegal discrimination:

- You are told your child can't participate in a state-funded after school program because of your child's mental or physical disability.

**It's the law:** Hawai'i Revised Statutes Chapter 368-1.5\* applies to state programs and activities, and programs that receive state funds, but do not receive federal funds.

## ***WHAT CAN YOU DO IF YOU BELIEVE YOU ARE A VICTIM OF DISCRIMINATION?***

**If you believe you are a victim of illegal discrimination, you can file a complaint, at no cost, with the Hawai'i Civil Rights Commission (HCRC).** During this process, you should be prepared to:

- present specific dates and facts about the alleged discrimination;
- identify any documents (emails, applications, paycheck stubs, etc.) that can prove charges in the complaint;
- identify any witnesses that can confirm the charges in the complaint; and
- keep the HCRC updated if you change your phone number or address.

## ***HOW A COMPLAINT IS PROCESSED:***

### **FILING A COMPLAINT**

Complaints of discrimination must be filed within 180 days after the discriminatory practice has occurred. The first step is to fill out a Pre-Complaint questionnaire available at the HCRC's office or online. After you return the questionnaire, someone from the HCRC will contact you to schedule an intake interview and, if appropriate, may help you file a complaint.

### **INVESTIGATION/DETERMINATION**

After a complaint is accepted, the HCRC conducts a neutral investigation to collect relevant information from all sides. Where appropriate, the HCRC encourages parties to resolve complaints through mediation or pre-determination settlements.

After the investigation is complete, a Determination is issued, finding either (1) no cause, or (2) reasonable cause that discrimination has occurred. If no cause is determined, the case is closed and a Right-to-Sue letter is issued to the Complainant. If reasonable cause is determined, the HCRC enforcement staff attempts to conciliate or settle the complaint.

### **ADMINISTRATIVE HEARING**

If conciliation is unsuccessful after a reasonable cause determination, the HCRC holds an administrative hearing on the complaint, and an HCRC enforcement attorney presents the case in support of the complaint before an impartial HCRC hearings examiner. The hearings examiner issues a proposed decision based on the evidence. The proposed decision is reviewed by the HCRC Board, which then accepts, rejects, or modifies the decision, issues a final order, and awards remedies, if appropriate. This decision is legally binding. Either party has the right to file an appeal with the Circuit Court within 30 days.

### **FILING A LAWSUIT IN CIRCUIT COURT**

A Notice of Right to Sue is issued when a complaint is dismissed, or upon request of a complainant. A civil action may be filed in Circuit Court within 90 days of receipt of a Notice of Right to Sue. In fair housing cases and in cases of sexual harassment in employment, a lawsuit can be filed directly in Circuit Court within two years of the alleged discriminatory act.

## ***FURTHER INFORMATION & CONTACT INFO:***

The State Legislature established the Hawai'i Civil Rights Commission (HCRC) to enforce the state's anti-discrimination laws contained in Hawai'i Revised Statutes Chapters 368, 378 (part I), 489, and 515. For more information on these and other aspects of discrimination, contact the HCRC.

For persons who need language assistance or a sign language interpreter, an interpreter will be provided by the HCRC at no cost.

**Hawai'i Civil Rights Commission**  
**830 Punchbowl Street, Room 411**  
**Honolulu, HI 96813**  
Phone: (808) 586-8636  
TTY: (808) 586-8692  
FAX: (808) 586-8655

For more information on the HCRC and full-text versions of the state's anti-discrimination laws, find us online at:

<http://labor.hawaii.gov/hcrc>

Or email us at: [DLIR.HCRC.INFOR@hawaii.gov](mailto:DLIR.HCRC.INFOR@hawaii.gov)

\*This flyer is a general summary of Hawai'i's anti-discrimination laws and does not have the force or effect of administrative rules or Hawai'i laws. If there are any inconsistencies, the rules and Hawai'i law will control. For more specific information about the administrative process and the state's anti-discrimination laws, Hawai'i Revised Statutes (HRS) and the Hawai'i Administrative Rules (HAR) are available in any public library, from the HCRC, or online at <http://labor.hawaii.gov/hcrc>.

**Printed: July, 2019**