



HIV/AIDS AND DISCRIMINATION IN THE WORKPLACE

Chicago's Human Rights Ordinance prohibits discrimination in hiring, discharge, discipline, compensation, or any other term or condition of employment because an employee or job applicant is HIV-positive or has AIDS.

- The Human Rights Ordinance applies to *all* employers and workplaces in Chicago, of any size and with very few exceptions. The ordinance prohibits employment discrimination based on a number of protected categories, including actual or perceived disability.
- For example, it is a violation to deny employment or treat a qualified person differently for reasons unrelated to the person's ability to perform the essential functions of a job. Improper reasons include the expense of fringe benefits and the preferences of co-workers, clients, or customers.
- An employer may be required to provide reasonable accommodations to a qualified employee with HIV/AIDS, to the extent possible without undue hardship.
- Exceptions are possible but must be proved with objective evidence. For example, there is no violation if employing a person with HIV/AIDS (or any disability) is *demonstrably* hazardous to the health or safety of that person or others, or if such employment would result in behavior or production below acceptable standards applied to all other employees. However, actions cannot be based on assumptions or stereotypes about people with HIV/AIDS.

Violations of the Human Rights Ordinance are punishable by—

- Fines up to \$1,000 per incident, paid to the City.
- Damages and attorney fees, paid to the complaining party.
- An injunction ordering specific actions to eliminate discriminatory practices.

A person who experiences discrimination prohibited by the Human Rights Ordinance may file a complaint at the Commission on Human Relations. The Commission investigates and rules on each complaint through a neutral process which gives complainants and respondents the opportunity to present evidence and legal arguments to support their positions.

Other local, state and federal laws also offer protections against discrimination for individuals with HIV or AIDS. Organizations in Chicago which provide information and legal assistance regarding such discrimination include—

AIDS Legal Council of Chicago

180 North Michigan Avenue, Suite 2110, Chicago, IL 60601
(312) 427-8990, www.aidslegal.com

Lambda Legal, Midwest Regional Office

105 W. Adams, 26th Floor, Chicago 60603
(312) 663-4413, www.lambdalegal.org/mro

See the reverse side of this publication for applicable ordinances and regulations. *This publication is for general information only and does not constitute legal advice. Each case must be decided on its own facts and the applicable law. More information about Chicago's ordinances prohibiting discrimination is available through the Commission's website and contact information shown at the top of this page.*

SELECTED PROVISIONS OF CHICAGO ORDINANCES AND REGULATIONS ABOUT DISABILITY DISCRIMINATION IN EMPLOYMENT

Booklets containing the full text of Chicago's ordinances and regulations prohibiting discrimination are available from the Commission on Human Relations on request or on the Commission's website at www.cityofchicago.org/humanrelations.

Chicago Municipal Code (Human Rights Ordinance)

Section 2-160-030. Unlawful discriminatory activities designated. No person shall directly or indirectly discriminate against any individual in hiring, classification, grading, discharge, discipline, compensation or other term or condition of employment because of the individual's race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income. No employment agency shall directly or indirectly discriminate against any individual in classification, processing, referral or recommendation for employment because of the individual's race, color, sex, gender identity, race, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, or source of income.

Regulations of the Commission on Human Relations (on Disability Discrimination in Employment)

CCHR Reg. 365.110. Discriminatory Acts. Pursuant to Section 2-160-030 of the HRO, no person shall discriminate directly or indirectly against any qualified individual in hiring, classification, grading, discharge, discipline, compensation or other term or condition of employment based on that individual's disability. Violations of the HRO under this regulation include, but are not limited to:

- (a) rejecting a qualified individual for a reason unrelated to that individual's ability to perform, including, without limitation, the preference of co-workers, clients and customers; the expense of providing fringe benefits, including insurance; and potential claims for workers compensation;
- (b) rejecting a qualified individual because of that individual's inability to perform tasks or to engage in activities which are only incidental to the job in question;
- (c) denying employment due to the need to make reasonable accommodations or not making reasonable accommodations for the known disability of a qualified individual, unless the employer can show that such accommodations will impose an undue hardship;
- (d) limiting, segregating, or classifying a job applicant or employee because of his or her disability in a way that adversely affects the opportunities or status of such applicant or employee;
- (e) participating in a contractual or other relationship with an employment agency, labor organization, or organization providing fringe benefits or training and apprenticeship programs, which has the effect of discriminating against qualified individuals;
- (f) utilizing standards, criteria or methods of administration which have the effect of discriminating on the basis of disability;
- (g) using employment tests or other selection criteria that discriminate against persons with disabilities, unless the employer shows that the test or other criteria is related to the essential functions of the particular position and is necessary for the operation of the entity in question; and
- (h) failing to select and administer tests concerning employment in such a way as to ensure that the test results accurately reflect the skills or aptitude of the person with a disability that the test purports to measure and not the impaired sensory, manual or speaking skills of the applicant.

CCHR Reg. 365.120. Danger to Health and Safety. Rejecting a person with a disability is not a violation of the HRO if the employer can show with objective evidence that employment of the person with the disability in the particular position would be demonstrably hazardous to the health or safety of that person or others, or that such employment would result in behavior or production below acceptable standards applied to all other employees.

CCHR Reg. 365.160. Employment Inquiries and Examinations. An employer may not require an employee to submit to a medical examination, and may not make inquiries of an employee as to whether such employee has a disability or about the nature and severity of the disability unless such examination or inquiry is shown to be directly related to the employee's ability to perform the essential functions of the particular job, or unless the inquiries are made in an effort to determine the type and extent of the reasonable accommodation necessary once the employee has notified the employer of the need for reasonable accommodations.