

Department of Regulatory Agencies

Civil Rights Commission

State of Colorado Civil Rights Commission Rules and Regulations

3 CCR 708-1

Sexual Orientation Discrimination Rules

Rule 81.1 – Statement of Purpose

The guidelines in this section have been adopted to contribute to the implementation of nondiscriminatory personnel policies of employers, unions, and employment agencies with respect to the sexual orientation of their employees, members, and job applicants as required by Parts 3 and 4 of Article 34 of Title 24, C.R.S. These guidelines have also been adopted to contribute to the implementation of nondiscriminatory business and institutional policies affecting housing, with respect to the sexual orientation of any person, as required by Part 5 of Article 34 of Title 24, C.R.S., and nondiscriminatory policies of places of public accommodation, with respect to the sexual orientation of any person, as required by Part 6 of Article 34 of Title 24, C.R.S.

The guidelines in this part are designed to serve as a workable set of standards for employers, unions, employment agencies, owners, lessees, proprietors, managers, employees, places of public accommodation, agents, or any other persons engaged in employment, housing or public accommodations, in determining whether their policies concerning sexual orientation conform with the basic purpose of the elimination of discrimination in employment, housing, and public accommodations, as defined by the Colorado Anti-Discrimination Act, Parts 3 to 7 of Article 34 of Title 24, C.R.S., hereinafter referred to as “the Act.” Section 24-34-305(1)(a), C.R.S., entitled “Powers and Duties of Commission,” authorizes the Commission to “adopt, publish, amend and rescind” regulations consistent with and for the enforcement of the Act.

Rule 81.2 – Sexual Orientation

- (A) The term “sexual orientation” as defined in §24-34-401(7.5), C.R.S. means a person’s orientation toward heterosexuality, homosexuality, bisexuality, or transgender status or an employer’s perception thereof.
- (B) The term “transgender status” is an umbrella term that describes an individual whose gender identity or gender expression is different from that traditionally associated with that individual’s assigned sex at birth.

Rule 81.3 - Separate Lines of Progression and Seniority Systems

It is an unlawful employment practice to classify any job according to sexual orientation or to maintain separate lines of progression or separate seniority lists based on sexual

orientation where this would adversely affect any employee.

Rule 81.5 - Pre-Employment Inquiries

Any pre-employment inquiry in connection with prospective employment that expresses directly or indirectly any limitation, specification or discrimination as to sexual orientation shall be unlawful.

Rule 81.7 - Discriminatory Wages

The employer's wages and wage schedules must not be related to or based on the sexual orientation of the employees.

Rule 81.10 - Job Opportunities Advertising

It is a violation of the Colorado Employment Practices Act, as re-enacted, for a help wanted advertisement to indicate a preference, limitation, specification, or discrimination based on sexual orientation unless sexual orientation is a bona fide occupational qualification for the particular job involved. The placement of an advertisement in columns classified by publishers on the basis of sexual orientation will be considered as an expression of preference, limitation, specification, or discrimination based on sexual orientation.

Rule 81.12 - Dress Code

If an employer has a reasonable gender-specific dress code, employers should permit employees to comply with the dress code provisions in an appropriate manner that is consistent with their gender identity. If a dress code is enforced it must be applied consistently to all employees.

Rule 81.11- Gender Segregated Facilities

(A) Nothing in the act prohibits segregation of facilities on the basis of gender.

(B) All covered entities shall allow the use of gender segregated facilities that are consistent with their gender identity. Gender segregated facilities include but are not limited to, restrooms, locker rooms, dressing rooms and dormitories.

© In gender segregated facilities where undressing in the presence of others occurs, covered entities shall make responsible accommodations to allow access consistent with the individuals gender identity.