

Colorado Anti-Discrimination Act

The state recently amended the Colorado Anti-Discrimination Act (CADA) by passing the Sexual Orientation Employment Discrimination Act (SOEDA). CADA now prohibits discrimination based on a person's sexual orientation, religion, disability, race, creed, color, sex, age, national origin or ancestry.

The statute makes it illegal for Colorado employers "to refuse to hire, to discharge, to promote or demote, to harass during the course of employment, or to discriminate in matters of compensation against" any member of the protected classes listed above.

CADA is Colorado's version of the federal Civil Rights Act, Age Discrimination in Employment Act and the ADA all rolled into one. But unlike the federal anti-discrimination laws, which cover only employers with 15 or more employees, Colorado's civil rights statute covers *all* employers regardless of size.

Ban on sexual-orientation bias

The SOEDA defines sexual orientation as "a person's orientation toward heterosexuality, homosexuality, bisexuality, or transgender status or an employer's perception thereof."

The law places new restrictions on employers. Under the SOEDA, employers:

- May not make pre-employment inquiries into an applicant's sexual preference.
- May not have separate lines of progression or seniority systems for employees of different sexual orientation.
- May not express a preference for a particular sexual orientation in job advertisements.
- Must allow each employee to dress according to the gender the employee identifies with, even if the employer has a gender-specific dress code.

Investigating complaints

Employees alleging discrimination under CADA may file complaints with the Colorado Civil Rights Division (CCRD), which will then attempt to mediate the dispute. If the parties choose not to participate or mediation is unsuccessful, the division will investigate the claim.

The CCRD will determine whether there's probable cause to believe a violation has occurred. If it finds no probable cause, the employee may appeal to the Colorado Civil Rights Commission.

If the CCRD does find probable cause, it will attempt to conciliate the dispute. If conciliation fails, the division's director will issue a dismissal notice along with a "right to sue" letter. The employee then has the option of suing in district court. In some cases, the Civil Rights Commission will order the case to go before an administrative law judge.

State law requires the CCRD to complete its investigation in 270 days. But anytime after 180 days, the employee may request a "right to sue" letter, which the division must provide.

Tip: Although legal representation isn't necessary during the investigation stage, it's advisable for employers to

consult an attorney.

For further information on the civil rights statute, go to www.dora.state.co.us/civil-rights.