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District of Columbia Official Code 2001 Edition [Currentness](#)

Division I. Government of District.

Title 2. Government Administration. ([Refs & Annos](#))

Chapter 14. Human Rights. ([Refs & Annos](#))

Unit A. Human Rights Law.

▣ [Subchapter II. Prohibited Acts of Discrimination.](#) ([Refs & Annos](#))

▣ [Part E. Educational Institutions.](#)

→ **§ 2-1402.41. Prohibitions.**

It is an unlawful discriminatory practice, subject to the exemptions in [§ 2-1401.03\(b\)](#), for an educational institution:

(1) To deny, restrict, or to abridge or condition the use of, or access to, any of its facilities, services, programs, or benefits of any program or activity to any person otherwise qualified, wholly or partially, for a discriminatory reason, based upon the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, political affiliation, source of income, or disability of any individual; or

(2) To make or use a written or oral inquiry, or form of application for admission, that elicits or attempts to elicit information, or to make or keep a record, concerning the race, color, religion, or national origin of an applicant for admission, except as permitted by regulations of the Office.

(3) Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization or closely associated with the tenets of a religious organization to deny, restrict, abridge, or condition --

(A) the use of any fund, service, facility, or benefit; or

(B) the granting of any endorsement, approval, or recognition,

to any person or persons that are organized for, or engaged in, promoting, encouraging, or condoning any homosexual act, lifestyle, orientation, or belief.

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CREDIT(S)

(Dec. 13, 1977, D.C. Law 2-38, title II, § 241, 24 DCR 6038; Nov. 21, 1989, 103 Stat. 1284, [Pub. L. 101-168](#), § 141(b); [June 28, 1994, D.C. Law 10-129](#), § 2(f), 41 DCR 2583; [Apr. 20, 1999, D.C. Law 12-242](#), § 2(g), 46 DCR 952; [Oct. 1, 2002, D.C. Law 14-189](#), § 2(e), 49 DCR 6524; [Mar. 8, 2006, D.C. Law 16-58](#), § 2(f), 53 DCR 14.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-2520.

1973 Ed., § 6-2251.

Effect of Amendments

D.C. Law 14-189, in par. (1), substituted “facilities, services, programs, or benefits of any program or activity” for “facilities and services” and substituted “actual or perceived: race” for “race”.

D.C. Law 16-58, in par. (1), substituted “sexual orientation, gender identity or expression,” for “sexual orientation,”.

Legislative History of Laws

For legislative history of D.C. Law 2-38, see Historical and Statutory Notes following § 2-1401.01.

For legislative history of D.C. Law 10-129, see Historical and Statutory Notes following § 2-1401.01.

For legislative history of D.C. Law 12-242, see Historical and Statutory Notes following § 2-1401.01.

For Law 14-189, see notes following § 2-1401.02.

For Law 16-58, see notes following § 2-1401.01.

LAW REVIEW AND JOURNAL COMMENTARIES

The Fearful [Symmetry of Gay Rights, Religious Freedom, and Racial Equality](#). Walter J. Walsh, 40 *How.L.J.* 513 (1997).

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The Future Of District Of Columbia Home Rule, [39 Catholic University Law Review](#) 311, 373.

LIBRARY REFERENCES

Key Numbers

[Civil Rights1059](#).

Westlaw Topic No. [78](#).

ALR Library

[Validity, Construction, And Application Of State Enactment, Order, Or Regulation Expressly Prohibiting Sexual Orientation Discrimination](#), [82 A.L.R. 5th](#) 1.

Treatises and Practice Aids

[309 Practising Law Institute Litigation and Administrative Practice: Litigation](#) 81.

Other References

[65 West's Education Law Reporter](#) 669.

[24 West's Education Law Reporter](#) 1.

UNITED STATES SUPREME COURT

Discrimination in primary and secondary education,

Busing.

Dual court system, busing, see [Crawford v. Board of Educ. of City of Los Angeles](#), [U.S.Cal.1982](#), [102 S.Ct. 3211](#), [458 U.S. 527](#), [73 L.Ed.2d 948](#).

Transportation of students to and from school as part of desegregation plan, see [Bustop, Inc. v. Board of Ed. of City of Los Angeles](#), [U.S.Cal.1978](#), [99 S.Ct. 40](#), [439 U.S. 1380](#), [58 L.Ed.2d 88](#).

Damages.

Private damages action against school boards under Title IX, student on student sexual harassment, see [Davis Next Friend LaShonda D. v. Monroe County Bd. of Educ.](#), [1999](#), [119 S.Ct. 1661](#), [526 U.S. 629](#), [143 L.Ed.2d 839](#), on remand [206 F.3d 1377](#).

Racial discrimination.

Layoffs, school employees, preferential protection because of race, see [Wygant v. Jackson Bd. of Educ.](#), [U.S.Mich.1986](#), [106 S.Ct. 1842](#), [476 U.S. 267](#), [90 L.Ed.2d 260](#), rehearing denied [106 S.Ct. 3320](#), [478 U.S. 1014](#), [92 L.Ed.2d 728](#).

Private schools, racial discrimination, see [Runyon v. McCrary](#), [U.S.Va.1976](#), [96 S.Ct. 2586](#), [427 U.S. 160](#), [49 L.Ed.2d 415](#).

School desegregation.

Annual readjustment of attendance zones, see [Pasadena City Bd. of Ed. v. Spangler](#), [U.S.Cal.1976](#), [96 S.Ct. 2697](#), [427 U.S. 424](#), [49 L.Ed.2d 599](#), on remand [549 F.2d 733](#).

Desegregation decree, dissolution, unitary status finding, good faith, see [Board of Educ. of Oklahoma City Public Schools, Independent School Dist. No. 89, Oklahoma County, Okl. v. Dowell](#),

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U.S.Okla.1991, 111 S.Ct. 630, 498 U.S. 237, 112 L.Ed.2d 715, on remand 778 F.Supp. 1144.

Geographic assignments, impermissible racial classification, see [Washington v. Seattle School Dist. No. 1](#), U.S.Wash.1982, 102 S.Ct. 3187, 458 U.S. 457, 73 L.Ed.2d 896.

Sex discrimination.

Administrative jurisdiction over sex discrimination complaints against religious schools, see [Ohio Civil Rights Com'n v. Dayton Christian Schools, Inc.](#), U.S.Ohio1986, 106 S.Ct. 2718, 477 U.S. 619, 91 L.Ed.2d 512, on remand 802 F.2d 457.

Girl athletes in school athletic programs, see [O'Connor v. Board of Ed. of School Dist. 23](#), U.S.Ill.1980, 101 S.Ct. 72, 449 U.S. 1301, 66 L.Ed.2d 179.

Sexual harassment.

Student on student sexual harassment, seventh amendment right to jury trial, private damages action against school boards under Title IX, see [Davis Next Friend LaShonda D. v. Monroe County Bd. of Educ.](#), 1999, 119 S.Ct. 1661, 526 U.S. 629, 143 L.Ed.2d 839, on remand 206 F.3d 1377.

Discrimination in university or college education,

Racial discrimination.

Civil rights liability, race-conscious university admissions policy, cognizable injury, rejection of plaintiff under race-neutral policy, equal protection, see [Texas v. Lesage](#), U.S.Tex.1999, 120 S.Ct. 467, 528 U.S. 18, 164 A.L.R. Fed. 785, 145 L.Ed.2d 347.

Prior de jure segregation, race neutral policies, see [U.S. v. Fordice](#) (U.S.Miss. 1992) 112 S.Ct. 2727, 505 U.S. 717, 120 L.Ed.2d 575, on remand 970 F.2d 1378.

Special admissions programs of colleges, see [Regents of University of California v. Bakke](#), U.S.Cal.1978, 98 S.Ct. 2733, 438 U.S. 265, 57 L.Ed.2d 750.

Sex discrimination.

Single-sex state sponsored military colleges, exceedingly persuasive justification, see [U.S. v. Virginia](#), 1996, 116 S.Ct. 2264, 518 U.S. 515, 135 L.Ed.2d 735, on remand 96 F.3d 114.

Racial discrimination,

Geographic assignments, impermissible racial classification, see [Washington v. Seattle School Dist. No. 1](#), U.S.Wash.1982, 102 S.Ct. 3187, 458 U.S. 457, 73 L.Ed.2d 896.

Layoffs, school employees, preferential protection because of race, see [Wygant v. Jackson Bd. of Educ.](#), U.S.Mich.1986, 106 S.Ct. 1842, 476 U.S. 267, 90 L.Ed.2d 260, rehearing denied 106 S.Ct. 3320, 478 U.S. 1014, 92 L.Ed.2d 728.

School desegregation,

In general.

Annual readjustment of attendance zones, see [Pasadena City Bd. of Ed. v. Spangler](#), U.S.Cal.1976, 96 S.Ct. 2697, 427 U.S. 424, 49 L.Ed.2d 599, on remand 549 F.2d 733.

Desegregation decree, dissolution, unitary status finding, good faith, see [Board of Educ. of Oklahoma City Public Schools, Independent School Dist. No. 89, Oklahoma County, Okl. v. Dowell](#), U.S.Okla.1991, 111 S.Ct. 630, 498 U.S. 237, 112 L.Ed.2d 715, on remand 778 F.Supp. 1144.

Busing.

Dual court system, busing, see [Crawford v. Board of Educ. of City of Los Angeles](#), U.S.Cal.1982, 102 S.Ct. 3211, 458 U.S. 527, 73 L.Ed.2d 948.

Transportation of students to and from school as part of desegregation plan, see [Bustop, Inc. v. Board of Ed. of City of Los Angeles](#), U.S.Cal.1978, 99 S.Ct. 40, 439 U.S. 1380, 58 L.Ed.2d 88.

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Girl athletes in school athletic programs, see [O'Connor v. Board of Ed. of School Dist. 23](#), U.S.Ill.1980, 101 S.Ct. 72, 449 U.S. 1301, 66 L.Ed.2d 179.

Sex discrimination in education, coach's complaint of unequal funding, equipment, and facilities, termination of coaching duties, retaliation, private cause of action, see [Jackson v. Birmingham Bd. of Educ.](#), 2005, 125 S.Ct. 1497, 544 U.S. 167, 161 L.Ed.2d 361, on remand 416 F.3d 1280.

Damages.

Sex discrimination against students, implied private right of action, remedies, monetary damages, see [Franklin v. Gwinnett County Public Schools](#), 1992, 112 S.Ct. 1028, 503 U.S. 60, 117 L.Ed.2d 208, on remand 969 F.2d 1022

Sexual harassment,

Damages.

Student on student sexual harassment, seventh amendment right to jury trial, private damages action against school boards under Title IX, see [Davis Next Friend LaShonda D. v. Monroe County Bd. of Educ.](#), 1999, 119 S.Ct. 1661, 526 U.S. 629, 143 L.Ed.2d 839, on remand 206 F.3d 1377.

Sexual orientation,

State constitutional amendment prohibiting legislative, executive, or judicial antidiscrimination measures protecting homosexuals, equal protection, see [Romer v. Evans](#), 1996, 116 S.Ct. 1620, 517 U.S. 620, 134 L.Ed.2d 855.

NOTES OF DECISIONS

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[1. In general](#)

There is nothing in the Human Rights Act that suggests that court's deference to academic institution is precluded from consideration in a case under the Act, nor is academic deference inconsistent with the policies underlying the Act. [Jung v. George Washington University](#), 2005, 875 A.2d 95, opinion amended on rehearing 883 A.2d 104. [Civil Rights 1060](#)

District of Columbia had compelling interest in eradicating discrimination on basis of sexual orientation. (Per

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Mack, J., with two Judges concurring separately and two Judges concurring in result.) [D.C.Code 1981, § 1-2520. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 1987, 536 A.2d 1. Civil Rights 1012](#)

Private religious university could not deny tangible benefits and services, such as mailbox, use of university facilities, or computer labelling service, to homosexual student groups, under provisions of Human Rights Act. [D.C.Code 1981, § 1-2520; U.S.C.A. Const.Amend. 1. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 1987, 536 A.2d 1. Civil Rights 1068](#)

District of Columbia Council's belief, that District had compelling interest in eradicating discrimination on basis of sexual orientation, while not to be lightly disregarded, did not per se establish that such compelling government interest existed; determination of that issue was question of law for courts. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) [D.C.Code 1981, § 1-2520. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 1987, 536 A.2d 1. Civil Rights 1750](#)

Voluntary membership organization whose primary function was to render community service and instill sense of service to community in members and associate members was not "educational institution" under statute prohibiting sex discrimination by educational institutions. [D.C.Code 1978 Supp. §§ 6-2202\(h\), 6-2251. U. S. Jaycees v. Bloomfield, 1981, 434 A.2d 1379. Civil Rights 1067\(5\)](#)

2. Discriminatory animus

Consistent with considering whether the circumstances surrounding the determination of a student's grade evinced a racial motivation or other discriminatory animus, in whole or in part, the fact finder in Human Rights Act case could be instructed, in an appropriate case, that academic deference can be accorded the school's grade given, and if it is determined that an unlawful discriminatory animus motivated the action, the plaintiff would be entitled to prevail despite any academic deference accorded. [Jung v. George Washington University, 2005, 875 A.2d 95, opinion amended on rehearing 883 A.2d 104. Civil Rights 1070](#)

3. Disparate impact

Student who alleged that university deviated from honor code and sanctioning guidelines by suspending him for semester for plagiarism failed to sufficiently allege disparate treatment on basis of national origin, as required to state claim for discrimination under federal statute prohibiting discrimination against participant in program receiving federal financial assistance and District of Columbia Human Rights Act (DCHRA); honor code defined plagiarism and established hearing procedures, honor council conducted hearing in accordance with code, and university dean exercised discretion to greatest extent possible under sanctioning guidelines to reduce term of student's suspension in consideration of his family situation. [Chandamuri v. Georgetown University, 2003, 274 F.Supp.2d 71. Civil Rights 1062](#)

Student who alleged that university's suspension of him for one semester for plagiarism was unjustly harsh punishment failed to allege he was subjected to disparate treatment due to his national origin of Indian descent, as

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required to state claim of discrimination under federal statute prohibiting discrimination against participant in program receiving federal financial assistance and District of Columbia Human Rights Act (DCHRA); allegation was legal conclusion based on comment by provost office employee, who was not member of honor council that imposed suspension, that severity of punishment surprised her, and allegation lacked factual support and did not create basis for inference of discrimination. [Chandamuri v. Georgetown University, 2003, 274 F.Supp.2d 71. Civil Rights 1395\(2\); Civil Rights 1741](#)

Human Rights Act not only forbade discrimination against protected groups, such as sexual orientation, but also forbade practices which had disparate impact upon protected classes, unless that practice had nondiscriminatory justification. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) [D.C.Code 1981, § 1-2520. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 1987, 536 A.2d 1. Civil Rights 1012; Civil Rights 1033\(1\)](#)

4. Free exercise of religion

Human Rights Act's requirement, that private religious university not discriminate on basis of sexual orientation, was least restrictive alternative in support of District of Columbia's compelling government interest in eradicating such discrimination, especially since tailored applications and exemptions to law would defeat its ultimate purpose; thus, Catholic university was not allowed to deny benefits and assert free exercise clause defense. (Per Mack, J., with four Judges concurring separately.) [D.C.Code 1981, § 1-2520; U.S.C.A. Const.Amend. 1. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 1987, 536 A.2d 1. Civil Rights 1005; Constitutional Law 1371](#)

Private Catholic university, despite its presence as secular learning institution, met requirements to assert free exercise of religion defense against District of Columbia civil rights statute, forbidding discrimination on basis of sexual orientation; university could have both secular and sectarian characteristics. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) [D.C.Code 1981, § 1-2520. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 1987, 536 A.2d 1. Civil Rights 1729; Constitutional Law 1371](#)

Human Rights Act's requirement that Catholic university provide mailbox, mailing services and other services to homosexual student groups constituted burden upon university's free exercise of religion, where university had consistently refused to furnish those benefits based upon its Catholic religious teachings. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) [D.C.Code 1981, § 1-2520; U.S.C.A. Const.Amend. 1. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 1987, 536 A.2d 1. Civil Rights 1005; Constitutional Law 1371](#)

Human Rights Act's requirement, that private religious university provide tangible services to homosexual student groups, without granting group "endorsement" implicit in university's official recognition, was slight burden upon university's free exercise of religion which was overridden by District of Columbia's compelling interest in eradicating discrimination on basis of sexual orientation; thus, university could not deny tangible benefits to homosexual student groups on the basis of free exercise of religion defense. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) [D.C.Code 1981, § 1-2520; U.S.C.A.](#)

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[Const.Amend. 1. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 1987, 536 A.2d 1. Civil Rights 1005; Constitutional Law 1371](#)

5. Endorsement and recognition

Private religious university's "university recognition" student group status contained implicit "endorsement" of that group; thus, university could not be compelled under Human Rights Act to grant recognition status to homosexual student groups. [D.C.Code 1981, § 1-2520; U.S.C.A. Const.Amend. 1. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 1987, 536 A.2d 1. Civil Rights 1068](#)

"Endorsement" implicit in private religious university's official "university recognition" status for student groups was not "facilities and services" within meaning of Human Rights Act; thus, university could not be compelled to grant homosexual student groups that status. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) [D.C.Code 1981, § 1-2520; U.S.C.A. Const.Amend. 1. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 1987, 536 A.2d 1. Civil Rights 1068](#)

Private religious university's denial of official "university recognition" to homosexual student group, which had made no statements as to propriety of homosexual conduct, but merely endeavored to provide homosexuals with information and community services, demonstrated that university was denying such status not on basis that stated objectives of group violated its religious creed, but by sexual orientation of its members; thus, while university could not be compelled to "recognize" group under Human Rights Act, it could not deny incidental tangible benefits which accompanied such recognition. (Per Mack, J., with two Judges concurring separately and two Judges concurring in result.) [D.C.Code 1981, § 1-2520. Gay Rights Coalition of Georgetown University Law Center v. Georgetown University, 1987, 536 A.2d 1. Civil Rights 1068](#)

5.5. Personal liability

Disabled student and her parent could maintain claims against superintendent of District of Columbia Public Schools (DCPS) and current and former DCPS officials in their personal capacities under District of Columbia Human Rights Act (DCHRA). [Alston v. District of Columbia, 2008, 561 F.Supp.2d 29. Civil Rights 1736](#)

6. Pleadings

In order to avoid dismissal of student's claim of national origin discrimination under federal statute prohibiting discrimination against participant in program receiving federal financial assistance and the District of Columbia Human Rights Act (DCHRA), student was not required to set forth prima facie elements of discrimination; complaint merely had to give university fair notice of what student's claim was and the grounds upon which it rested, while no consideration would be given to inferences drawn by student that were unsupported by facts or to legal conclusions cast in form of factual allegations. [Chandamuri v. Georgetown University, 2003, 274 F.Supp.2d 71. Civil Rights 1395\(2\); Civil Rights 1741](#)

7. Evidence

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University professor's generalized comments about Korean students were of the type suggesting biased attitude based on students' ethnicity or national origin, but absent evidence of link between professor's statements and the decisional process leading to Korean student's failure of comprehensive exam, student failed to meet his burden of establishing direct evidence of discrimination sufficient to support the requested direct evidence/burden-shifting instruction in student's Human Rights Act action against university for terminating his candidacy for a Doctor of Philosophy Degree (Ph.D.). [Jung v. George Washington University, 2005, 875 A.2d 95](#), opinion amended on rehearing [883 A.2d 104](#). [Civil Rights 1745](#)

Although Korean graduate student sought to admit white male student's exam which received a "bare pass" grade in order to compare it to student's written exam which was taken several months later and received a failing grade, other student's written essay exam was not admissible in Human Rights Act action brought by student against university for terminating his candidacy for a Doctor of Philosophy Degree (Ph.D.); lay jury was not in position to analyze and compare the two exams, this was an area for academic deference, and student's performance on exam given in one semester could not be fairly analyzed against another student's performance on exam in another semester. [Jung v. George Washington University, 2005, 875 A.2d 95](#), opinion amended on rehearing [883 A.2d 104](#). [Civil Rights 1745](#)

Professor who had never given a comprehensive doctoral examination, put together questions for it, or graded it was not qualified to testify about the relative merit of graduate student's doctoral examination when compared with the other students, and thus, professor was not qualified to testify as an expert in Human Rights Act action brought by student against university for terminating student's candidacy for a Doctor of Philosophy Degree (Ph.D.). [Jung v. George Washington University, 2005, 875 A.2d 95](#), opinion amended on rehearing [883 A.2d 104](#). [Evidence 536](#)

Australian professor, who had tutored graduate student, did not have sufficient knowledge and experience to testify on whether student met university's standards for performance on the comprehensive examination or whether student's performance on the examination was equal or superior to that of two other students, and thus, professor was not qualified to testify as an expert in Human Rights Act action brought by student against university for terminating student's candidacy for a Doctor of Philosophy Degree (Ph.D.); professor had never given examination at doctoral level or formulated questions for such an examination, and his post-graduate educational and teaching experiences were in Canada and Australia. [Jung v. George Washington University, 2005, 875 A.2d 95](#), opinion amended on rehearing [883 A.2d 104](#). [Evidence 536](#)

8. Review

Actions for review of findings of state administrator with respect to appropriate education for handicapped student is more analogous to appeal from administrative agency than to cause of action is not otherwise specially prescribed, so that the 30-day limitation period for seeking review of administrative agency action under District of Columbia law is applicable to an action for review of District's decision with respect to appropriate education. Education of the Handicapped Act, § 615(e)(2), as amended, [20 U.S.C.A. § 1415\(e\)\(2\)](#); [D.C.Code 1981, § 12-301\(8\)](#); [D.C.Court of Appeals Rule 15\(a\)](#). [Spiegler v. District of Columbia, C.A.D.C.1989, 866 F.2d 461, 107 A.L.R. Fed. 743, 275 U.S.App.D.C. 260. Schools 155.5\(2.1\)](#)

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