

CHAPTER 8
DISCRIMINATION IN EMPLOYMENT

[Prior to 1/13/88, see Civil Rights 240—Chs 2, 3, 5, 6]

Chapter rescission date pursuant to Iowa Code section 17A.7: 9/25/29

161—8.1(216) Definitions.

“Has a record of such an impairment” means having a history of, or being misclassified as having, a mental or physical impairment that substantially limits a major life activity.

“Major life activities” includes but is not limited to caring for oneself, manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

“Physical or mental impairment” includes:

1. Physiological disorders or conditions, cosmetic disfigurements, or anatomical loss affecting any of the following systems: neurological; musculoskeletal; special sense organs; respiratory and speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic or lymphatic; skin; and endocrine; or
2. Mental or psychological disorders such as intellectual disabilities, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

“Regarded as having an impairment” means:

1. The perception of having an impairment that substantially limits major life activities; or
2. Having an impairment that substantially limits major life activities because of others’ attitudes toward the impairment.

“Substantially disabled” means having a physical or mental impairment that substantially limits a major life activity, having a record of such impairment, or being regarded as having an impairment.

[ARC 8199C, IAB 8/21/24, effective 9/25/24]

161—8.2(216) Bona fide occupational qualifications.

8.2(1) An employer, employment agency, or labor organization may take action otherwise prohibited under commission rules where the protected basis is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business.

8.2(2) Bona fide occupational qualifications are narrow in scope and do not include convenience or an employer’s preferences.

8.2(3) An employer or employment agency’s following of federal or state statutes or regulations establishing employment standards is not illegal discrimination when the standards are bona fide occupational qualifications.

8.2(4) A bona fide occupational qualification will also be recognized where there exist special, individual occupational circumstances such as acting or modeling.

8.2(5) Bona fide occupational qualifications do not include assumptions about a protected basis, comparative characteristics of a protected basis, and stereotypes based on a protected basis.

8.2(6) No publication shall advertise employment opportunities containing any indication of a preference, limitation, or restriction based upon age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability, unless there is a bona fide occupational qualification.

[ARC 8199C, IAB 8/21/24, effective 9/25/24]

161—8.3(216) Preemployment inquiries.

8.3(1) Preemployment inquiries into an applicant’s membership in a protected class are not prohibited so far as necessary to determine an applicant’s bona fide occupational qualification for the position. The burden to show the existence of a bona fide occupational qualification shall be on the employer, employment agency, or labor organization.

8.3(2) This rule does not prohibit inquiry:

- a. As to whether a job applicant is over 18 years of age, or
- b. For postemployment inquiries regarding age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability for legitimate recordkeeping purposes.

8.3(3) An employment interviewer shall not ask about a disability unless the inquiry is made in good faith for a nondiscriminatory purpose.

[ARC 8199C, IAB 8/21/24, effective 9/25/24]

161—8.4 to 8.10 Reserved.

161—8.11(216) Reasonable accommodations—assessment and placement.

8.11(1) Employers shall accommodate the known physical or mental limitations of qualified disabled applicants or employees, unless doing so would result in an undue hardship. Employers cannot deny employment opportunities to qualified disabled employees or applicants due to their need for reasonable accommodation.

8.11(2) Reasonable accommodation may include:

a. Making facilities readily accessible to individuals with disabilities; and
b. Job restructuring, modified work schedules, acquisition or modification of equipment or devices, readers or interpreters, or similar actions.

8.11(3) In determining whether an accommodation would impose an undue hardship on an employer, factors to be considered may include:

a. The size of the employer, including the number of employees, number and type of facilities, and budget;
b. The nature of the employer's operation, including the composition and structure of its workforce; and
c. The nature and cost of the accommodation.

[ARC 8199C, IAB 8/21/24, effective 9/25/24]

161—8.12(216) Physical examinations.

8.12(1) If examinations or assessments are required, they should be designed to determine whether an applicant:

a. Has the ability to perform the duties of the position.
b. Is qualified to do the work without adverse consequences such as creating a danger to the life or health of others.
c. Is professionally competent or has the necessary skills or ability to become professionally competent to perform the duties of the job.

8.12(2) Physical standards for employment must be reasonable and based on complete, factual information about job duties, working conditions, hazards, and essential physical requirements.

[ARC 8199C, IAB 8/21/24, effective 9/25/24]

161—8.13(216) Disability arising during employment. When an individual becomes disabled during employment, the employer shall provide reasonable accommodations pursuant to rule 161—8.11(216).

[ARC 8199C, IAB 8/21/24, effective 9/25/24]

161—8.14 to 8.24 Reserved.

161—8.25(216) Retirement plans and benefit systems.

8.25(1) An employer shall not be required to:

a. Hire back an employee following retirement; or
b. Hire an applicant for employment whose age is the retirement age under the employer's retirement plan or benefit system provided that the plan or system is not a mere subterfuge for the purpose of evading the provisions of the Iowa civil rights Act of 1965.

8.25(2) Retirement plans shall not require involuntary retirement of a person under the age of 70 because of the person's age, except where otherwise provided in state law.

8.25(3) Mandatory retirement based on age will not be applied to members of the Iowa public employees' retirement system.

8.25(4) Employer contributions to insurance, pension, and other programs are not a violation of the Act if those contributions are the same for each employee or if the resulting benefits are equal.

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These rules are intended to implement Iowa Code chapter 216.

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