

Introduced by: Mr. Weiner
Date of introduction: April 24, 2018

ORDINANCE 18-038

**TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 26 (“HUMAN RESOURCES”),
TO INCLUDE ADDITIONAL ANTI-DISCRIMINATION PROTECTIONS
RECOGNIZED UNDER FEDERAL AND DELAWARE STATE LAW**

WHEREAS, the Executive Branch and New Castle County Council agree that it is in the County’s best interest to foster an inclusive and diverse workforce; and

WHEREAS, New Castle County is an equal opportunity employer; and

WHEREAS, Federal and State anti-discrimination laws and regulations have evolved to add legal protections to additional classes of individuals; and

WHEREAS, the Chief Human Resources Officer recommends the inclusion of additional Federal and State protected classes to the non-discrimination clauses in Chapter 26 (“Human Resources”) of the *New Castle County Code*; and

WHEREAS, at its meetings on December 7, 2017, and April 5, 2018, the Human Resources Advisory Board recommended amending the Merit System code provisions to be consistent with Federal and State anti-discrimination protections.

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. *New Castle County Code* Chapter 26 (“Human Resources”), Article 1 (“In General”), Sec. 26.01.001 (“General purpose”), is hereby amended by the addition of the underlined text as set forth below.

26.01.001. General purpose.

The general purpose of this Chapter is to establish in and for the County a system of human resources administration which is based upon merit principles and methods involving the employment, promotion, removal, discipline and welfare of employees of the County....

- E. Ensuring fair treatment of applicants and employees in all aspects of human resource administration without regard to political affiliation, race, color, national origin, gender, ~~religious creed,~~ religion, creed, age, mental or physical disability, marital status, sexual orientation, genetic information, gender identity or expression, pregnancy, veteran status, or other nonmerit factors and with proper regard for their privacy and constitutional rights as citizens; and

...

Section 2. *New Castle County Code* Chapter 26 (“Human Resources”), Article 1 (“General purpose”), Sec. 26.01.010 (“Appeals by employees to Human Resources Advisory

Board”), is hereby amended by the addition of the material that is underlined and the deletion of the material that is bracketed and stricken, as set forth below.

26.01.010. Appeals by employees to Human Resources Advisory Board.

...If the Board finds that the disciplinary action was taken for any nonmerit reasons, including considerations of political affiliation, race, color, national origin, gender, ~~[religious creed]~~religion, creed, age, mental or physical disability, marital status, sexual orientation, genetic information, gender identity or expression, pregnancy, or veteran status, except where specific age, or mental or physical ability ~~[requirements]~~ constitute a bona fide occupational qualification necessary to proper and efficient administration...

Section 3. *New Castle County Code* Chapter 26 (“Human Resources”), Article 1 (“General Purpose”), Sec. 26.01.018 (“Prohibitions and penalties”), is hereby amended by the addition of the material that is underlined and by the deletion of the material that is bracketed and stricken, as set forth below.

26.01.018. Prohibitions and penalties.

A. The following prohibitions shall be applicable under this Chapter:

1. No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any County position or appointed County administrative office because of race, color, national origin, gender, age, mental or physical disability, political or religious opinions or affiliations, marital status, sexual orientation, genetic information, gender identity or expression, pregnancy, veteran status, or other nonmerit factors, except where specific age, ~~[gender,]~~or mental or physical ability ~~[requirements]~~ constitutes a bona fide occupational qualification necessary to proper and efficient administration....

Section 4. *New Castle County Code* Chapter 26 (“Human Resources”), Article 1 (“General Purpose”), Sec. 26.01.021 (“Workforce diversity and equal employment opportunity”), is hereby amended by the addition of the material that is underlined and by the deletion of the material that is bracketed and stricken, as set forth below.

26.01.021. Workforce diversity and equal employment opportunity.

- A. It shall be the policy of the County that all personnel activities will be conducted in a manner as to ensure equal opportunity for all and ensure that the workforce is representative of the community which it serves. Such activities will be based solely on individual merit and fitness of applicants and employees related to the specific jobs and without regard to race, color, religion, creed, gender, age, national origin, mental or physical disability, political affiliation, marital status, sexual orientation, genetic information, gender identity or expression, pregnancy, veteran status, or other nonmerit factors, except in those cases where specific age, or mental or physical ability ~~[requirements]~~ constitutes a bona fide occupational qualification necessary to proper and efficient administration....

Section 5. *New Castle County Code* Chapter 26 (“Human Resources”), Article 3 (“Merit System”), Sec. 26.03.1101 (“Complaints and grievances”), is hereby amended by the addition of the material that is underlined, as set forth below.

26.03.1101. Complaints and grievances.

Employees should have a reasonable opportunity to be heard on their legitimate grievances. To this end, the following grievance procedure is established:

A. Matters subject to grievances shall be limited as follows:...

3. For classified employees and persons seeking employment with the County, to matters involving alleged discrimination on the basis of political affiliation, race, color, national origin, gender, ~~[religious-creed]~~religion, creed, age, mental or physical disability, marital status, sexual orientation, genetic information, gender identity or expression, pregnancy, veteran status, and other nonmerit factors...

Section 6. This ordinance shall become effective upon passage by the County Council and approval by the County Executive or as otherwise set forth in 9 *Del. C.* § 1156.

Adopted by County Council of
New Castle County on

President of County Council
of New Castle County

Approved on:

County Executive
New Castle County

SYNOPSIS: This ordinance amends Chapter 26 (“Human Resources”) of the *New Castle County Code* to include additional federal and state protected classes in the non-discrimination clauses of the chapter governing human resources administration.

FISCAL NOTE: There is no discernable fiscal impact.