

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 4112-5-05

**Rule Type:** Amendment

**Rule Title/Tagline:** Sex discrimination.

**Agency Name:** Ohio Civil Rights Commission

**Division:**

**Address:** 30 East Broad Street Fifth floor Columbus OH 43215

**Contact:** Stephanie Demers **Phone:** 614-466-6255

**Email:** stephanie.demers@civ.ohio.gov

#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 1/18/2019
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 4112.04
5. **What statute(s) does the rule implement or amplify?** 4112.04; 4112.05
6. **What are the reasons for proposing the rule?**

Five-year review cycle
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

The rule outlines various forms of discrimination on the basis of sex in employment. The agency is seeking to add "in employment" to the title to clarify the applicability. The agency also seeks to make the following amendments:  
â€ Add the words "in employment" in the tagline to clarify the rule pertains to sex discrimination in the employment context.

â€ Correct grammatical issues in paragraph (B)(2) by deleting one or [refusal to hire, promote, or recall or deny] and replacing the word "such" with "the" and adding a comma after which in paragraph (B)(3).

â€ Eliminate paragraph (G)(2) entirely and the first sentence in (G)(6) [now (5)]. The Ohio Supreme Court struck provisions of this rule requiring employers to provide maternity leave to females if no leave is offered for other reasons as inconsistent with the statute in the case of *McFee v. Nursing Care Mgt. of Am., Inc.* (2010), 126 Ohio St.3d 183, 2010-Ohio-2744.

â€ Change "work place" to one word, "workplace."

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

Not applicable.

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

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Not applicable.

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Not applicable.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

**III. Common Sense Initiative (CSI) Questions**

15. Was this rule filed with the Common Sense Initiative Office? No

16. Does this rule have an adverse impact on business? No

- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No
- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No

**Rule Summary and Fiscal Analysis**  
**(Part A – General Questions)**

**4112-5-05**  
Rule Number

**Existing – Five-year review (Amended)**  
TYPE of rule filing

Rule Title/Tag Line

**Sex discrimination (Adding in employment).**

**Ohio Civil Rights Commission**  
Agency Name

**Stephanie Bostos Demers**  
Contact

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**RULE SUMMARY**

1. Is this a five-year rule review?

**Yes.**

a. If so, what is the rule's five-year review date?

**01/19/2019**

2. Is this rule the result of recent legislation?

**No.**

a. If so, what is the bill number, General Assembly and Sponsor?

Bill Number:

General Assembly:

Sponsor:

3. What statute is this rule being promulgated under?

**Section 4112.04 of the Revised Code.**

4. What statute (s) grant the rule writing authority?

**Section 119.03 of the Revised Code.**

5. What statute(s) does the rule implement or amplify?

**Sections 4112.04 and 4112.05 of the Revised Code.**

6. What are the reasons for proposing (i.e., why are you filing,) the rule?

**Five-year review.**

7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

**The rule outlines various forms of discrimination on the basis of sex in employment. The agency is seeking to add "in employment" to the title to clarify the applicability. The agency also seeks to make the following amendments:**

- Add the words "in employment" in the tagline to clarify the rule pertains to sex discrimination in the employment context.
- Correct grammatical issues in paragraph (B)(2) by deleting one or [refusal to hire, promote, or recall or deny] and replacing the word "such" with "the" and adding a comma after which in paragraph (B)(3).
- Eliminate paragraph (G)(2) entirely and the first sentence in (G)(6) [now (5)]. The Ohio Supreme Court struck provisions of this rule requiring employers to provide maternity leave to females if no leave is offered for other reasons as inconsistent with the statute in the case of *McFee v. Nursing Care Mgt. of Am., Inc.* (2010), 126 Ohio St.3d 183, 2010-Ohio-2744.
- Change "work place" to one word, "workplace."

8. Does the rule incorporate material by reference?

**Yes. Chapter 4112 of the revised code; section 4112-3-15 of the administrative code.**

9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.

**Not applicable.**

10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed rule.

**Not applicable.**

### **Fiscal Analysis**

11. Estimate the total amount by which *this proposed rule* would **increase/decrease** either **revenues/expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

**Not applicable.**

12. What are the estimated costs of compliance of all persons and/or organizations directly affected by the rule?

**None.**

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).

**No.**

14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA, Part C).

**No.**

**Common Sense Initiative (CSI) Questions**

15. Was this rule filed with the Common-Sense Initiative Office?

**Not applicable.**

16. Does this rule have an adverse impact on business?

**No.**

- a. Does this rule require a license, permit or any other prior authorization to engage in or operate a line of business?
- b. Does this rule impose a criminal penalty, a civil penalty or another sanction, or create a cause of action for failure to comply with its terms?
- c. Does this rule require specific expenditures or the report of information as a condition of compliance?

**No.**