

DISCRIMINATION AGAINST SURVIVORS:

An Overview of
Anti-Discrimination
Agencies and Laws



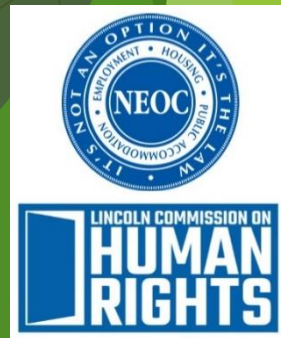
What are the NEOC and LCHR?

NEOC is an administrative agency of the State

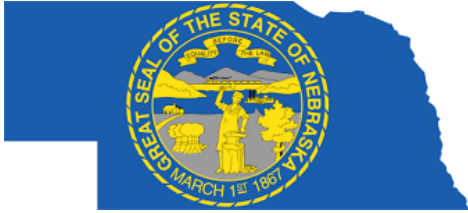
LCHR is an administrative division of the City of Lincoln

Both:

- ▶ Receive, investigate, and render formal determinations on charges filed
- ▶ Conciliate charges of unlawful discrimination
- ▶ Provide information and assistance in matters of civil rights laws and compliance



Nebraska Equal Opportunity Commission (NEOC)



301 Centennial Mall, So., 5th Floor
Lincoln, NE 68509
(402) 471-2388
neoc.ne.gov

The mission of the Nebraska Equal Opportunity Commission (NEOC) is to eliminate discrimination in Nebraska.

The NEOC receives, investigates and passes upon charges of unlawful discrimination occurring anywhere within the State of Nebraska in the areas of employment, housing, and public accommodation.

- NEOC can assist in filing discrimination complaints as a neutral agency
- NEOC does not represent either party
- Once the investigation is complete, NEOC's ED and Commissioners review the evidence and make a determination in the case
- NEOC enforces state anti-discrimination ordinances under the Nebraska Fair Employment Practice Act, Age Discrimination in Employment Act, Nebraska Fair Housing Act, Providing Equal Enjoyment of Public Accommodations, and Equal Pay Act of Nebraska.



Lincoln Commission on Human Rights (LCHR)



555 S. 10th St., Ste. 304,
Lincoln, NE 68508
(402) 441-7625
humanrights.lincoln.ne.gov

The mission of Lincoln Commission on Human Rights (LCHR) is to eliminate and prevent all forms of illegal discrimination, to assure and foster equal opportunity for all citizens of the City, and to act in all matters within its jurisdiction.

LCHR investigates allegations of discrimination in the areas of housing, employment, and public accommodations.

- LCHR can assist in filing discrimination complaints as a neutral agency
- LCHR does not represent either party
- Once the investigation is complete, LCHR's Commissioners review the evidence and make a determination in the case
- LCHR enforces local anti-discrimination ordinances under Title 11 of the Lincoln Municipal Code



Working Relationships

The NEOC and LCHR have established working relationships with each other, as well as with two federal agencies to render determinations on employment and housing cases...

- U.S. Equal Employment Opportunity Commission (EEOC)
- U.S. Department of Housing and Urban Development (HUD)



Illegal Discrimination

Showing prejudice in
treatment of others based on
their “protected class”



Protected classes under the Fair Housing Act

Race

Color

Sex

Religion

National Origin

Disability

Family Status

Retaliation



Protected classes under the Fair Employment Practices Act

Race

Color

Religion

Sex

National Origin

Marital Status

Pregnancy

Retaliation

Whistleblower Retaliation

Disability



Types Discrimination

- ▶ **Disparate Treatment**

- ▶ Treating someone different based on a protected class

- ▶ **Disparate Impact**

- ▶ Neutral policy that has an adverse impact on a protected class

- ▶ **Harassment**

- ▶ Quid pro quo
 - ▶ Hostile Work Environment

- ▶ **Reasonable Accommodation**

- ▶ Religion
 - ▶ Disability
 - ▶ Interactive Process



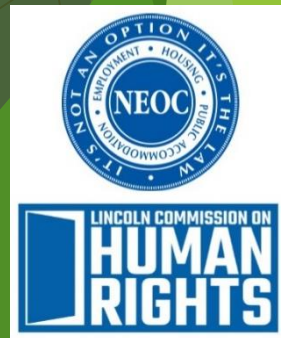
Illegal Discriminatory Sex/Sexual Harassment

- ▶ Domestic violence, sexual assault, and other forms of gender-based violence deprive women of their fundamental ability to live with dignity, and survivors often face discrimination in housing, employment, and in other matters because of the abuse they have experienced
- ▶ Because the overwhelming majority of domestic violence survivors are women, they are protected by local, state and federal prohibitions against sex discrimination
- ▶ Policies and practices that target or otherwise discriminate against women because of their status as domestic violence survivors are likely unlawful.
- ▶ Examples of potential discriminatory acts include:
 - ▶ Landlords choosing to evict survivors based on noise or property damage caused by the abuser, even when the abuser did not live in the home.
 - ▶ Cities or police departments pressuring landlords to evict tenants whenever criminal activity, including domestic violence, occurs at a property.
 - ▶ Employers firing victims because they needed to take time off to go to court to get an order of protection.



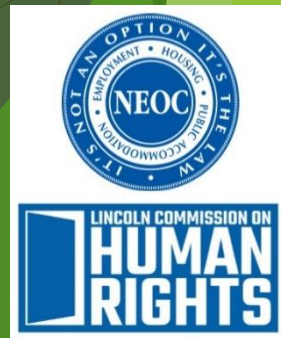
Illegal Discrimination based on Sex as a Protected Class

- ▶ Unwelcome conduct targeting or because of a person's protected class (sex).
- ▶ Housing: May be done by the landlord, or may be by another tenant or employee (maintenance person) or contractor (pop machine filler, snow plow operator, etc.).
- ▶ Employment: May be done by a coworker, manager, vendor
- ▶ Can be a demand for sex in exchange for a favor
- ▶ Can be other unwelcome conduct that makes a person feel uncomfortable in their home or workplace



Discriminatory Harassment

**When unwelcome conduct is
based on the person's
protected class membership**

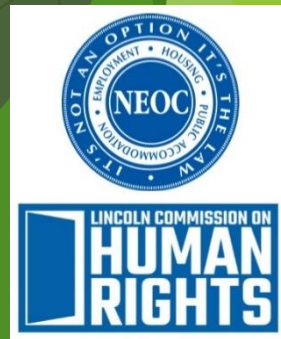


Discriminatory Harassment

The unwelcome conduct can be

- Verbal
- Physical
- Visual, or

any combination of these



Discriminatory Harassment

- ▶ Discussing sexual activities
- ▶ Telling off-color jokes
- ▶ Unnecessary touching



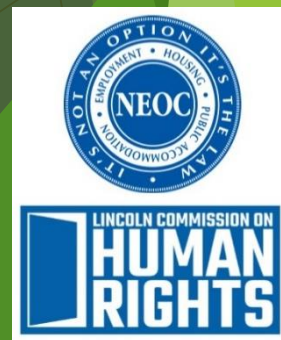
Discriminatory Harassment

- ▶ Commenting on physical attributes
- ▶ Using sexual slurs (bitch, whore, slut)
- ▶ Displaying suggestive pictures
- ▶ Using demeaning terms



Discriminatory Harassment

- ▶ Using indecent gestures
- ▶ Sabotaging work or services provided
- ▶ Engaging in hostile physical conduct

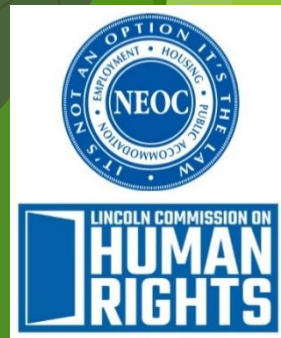


“Quid Pro Quo”



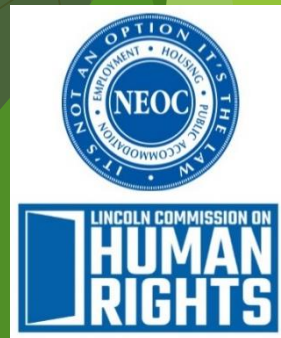
Committed by
someone who
has the
authority or
power to
control or
make
decisions

The harasser impacts tangible terms and conditions of the environment in the rules, that creates a disparate treatment or impact on some person or group and not others outside of the group



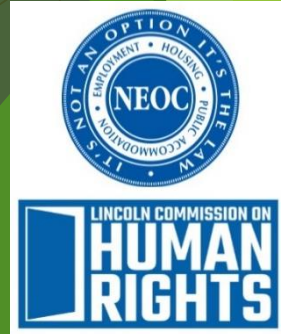
Quid Pro Quo continued:

- ▶ Landlord or Employer (housing provider) either
 - ▶ A) conditions a benefit OR
 - ▶ B) conditions a detriment
- ▶ “If you go on a date with me, I’ll give you a reduced rent/raise.”
- ▶ “If you have sex with me, I won’t evict you for noise violations/won’t discipline you for being late.”
- ▶ “If you sleep with me I’ll rent you this apartment/promote you. Otherwise I’ll rent/give it to somebody else.”

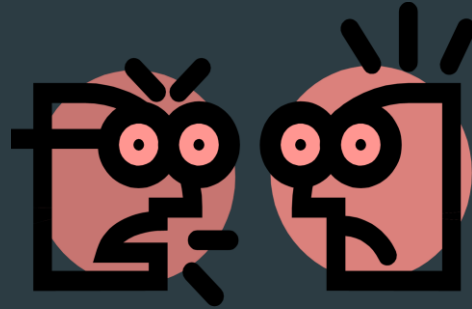


Quid Pro Quo continued:

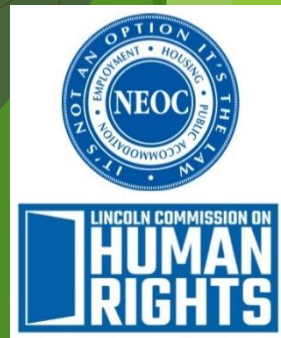
- ▶ Important to note that it does not matter if the tenant or employee agrees to do the thing or not. If the conduct was unwelcome, but the tenant/employee gives in for fear of losing a benefit, housing, or job, it is still illegal harassment.
- ▶ Tenant/employee agrees to have sex with landlord/supervisor because she is afraid of being kicked out/losing her job.
- ▶ Tenant agrees to go on a date with landlord because she just lost her job and really needs a discounted rent.
- ▶ Tenant/employee refuses to have sex with landlord/supervisor, and is evicted/fired.



Hostile Environment



An abusive living or working environment created or condoned by a landlord/employer, employee, tenant, or other site/work contact

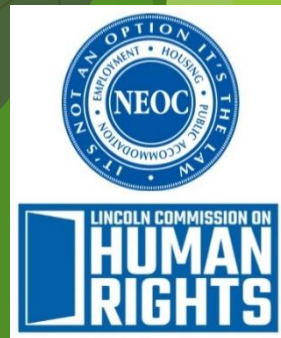


Hostile Environment

The conduct must be sufficiently
severe or pervasive
to be actionable under the law

Severe means egregious one time

Pervasive means occurring frequently



Hostile Environment

The victim and the harasser
do not
have to be of a
different protected
class membership

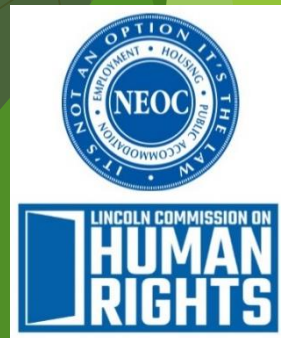


Hostile Environment

The perpetrator and victim may be a

Tenant, Agent, Vendor,
Contractor/Employee/Guest

*or any other contact on site in housing
or encountered as part of your job*



Housing: Eviction of Victims

- ▶ Zero-tolerance crime clauses/policies
 - ▶ Violence of a household member, guest, or other person under victim's "control."
- ▶ Nuisance clauses/policies
 - ▶ Repeated calls to police for domestic violence incidents because of allegations of disturbance to other tenants
- ▶ Damage
 - ▶ Property damage caused by abusers
- ▶ = Double Victimization



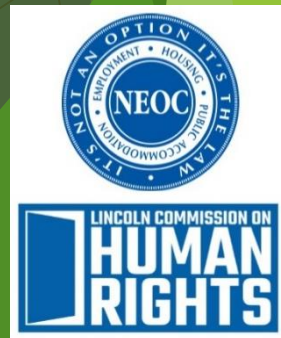
Current Actions

► Disparate Impact Claims

- Women are overwhelmingly victims of domestic violence
- Workplace policies or rental lease terms may disproportionately impact women as victims of domestic violence

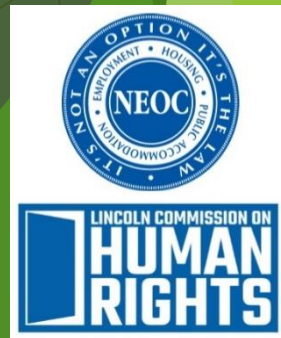
► Legislation

- LB395 - Sen. M. Hansen - Change landlord's power of possession provisions in cases of domestic violence
- Add as protected status in housing and employment



Current Actions

- ▶ Housing
 - ▶ Nuisance ordinances
 - ▶ Crime free leases
 - ▶ Lease modifications for victims of domestic violence
- ▶ Employment
 - ▶ Protected status
 - ▶ Flexibility in work schedule to accommodate need to
 - ▶ Recover
 - ▶ Access services
 - ▶ Address housing concerns
 - ▶ Navigate criminal justice system



Questions?

Contact:



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