

<b>CHARGE OF DISCRIMINATION</b>		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
Idaho Human Rights Commission _____ and EEOC			
_____ <i>State or local Agency, if any</i>			
NAME (Indicate Mr., Ms., Mrs.) Jaclyn Perez		HOME TELEPHONE (Include Area Code) c/o Richard Eppink 208-371-9752	
STREET ADDRESS c/o Richard Eppink, ACLU of Idaho, PO Box 1897, Boise, Idaho 83701		DATE OF BIRTH 1991	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME City of Boise	NUMBER OF EMPLOYEES, MEMBERS about 1,700	TELEPHONE (Include Area Code) 208-608-7950	
STREET ADDRESS P.O. Box 500, Boise, Idaho 83701-0500		COUNTY Ada	
NAME Boise Public Library		TELEPHONE NUMBER (Include Area Code) 208-972-8200	
STREET ADDRESS 715 S. Capitol Boulevard, Boise, Idaho 83702		COUNTY Ada	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div> <input type="checkbox"/> RACE    <input type="checkbox"/> COLOR    <input checked="" type="checkbox"/> SEX    <input type="checkbox"/> RELIGION    <input type="checkbox"/> NATIONAL ORIGIN  <input checked="" type="checkbox"/> RETALIATION    <input type="checkbox"/> AGE    <input type="checkbox"/> DISABILITY    <input type="checkbox"/> OTHER (Specify)             </div> <div style="text-align: right;">               DATE DISCRIMINATION TOOK PLACE                June 17, 2019  <input checked="" type="checkbox"/> CONTINUING ACTION             </div> </div>			
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <div style="height: 150px; vertical-align: top; padding-top: 20px;">             Attached.             <div style="text-align: center; margin-top: 50px;"> <div style="font-size: 2em; color: blue; font-weight: bold; margin-bottom: 5px;">RECEIVED</div> <div style="color: red; font-weight: bold; margin-bottom: 5px;">MAR 31 2020</div> <div style="color: blue; font-weight: bold; margin-bottom: 5px;">IDAHO HUMAN RIGHTS COMMISSION</div> </div> </div>			
I want this charge filed with both the EEOC and the State or local Agency, if any I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
Date <u>3/31/2020</u> Charging Party (Signature)		SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)	

**PRIVACY ACT STATEMENT:** Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

1. **FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (11/09).
2. **AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
3. **PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
4. **ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
5. **WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

#### **NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW**

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

#### **NOTICE OF NON-RETALIATION REQUIREMENTS**

Please **notify** EEOC or the state or local agency where you filed your charge **if retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.

## ***Jaclyn Perez v. City of Boise: Charge of Discrimination Particulars***

### **I. Complainant's Statement of Harm**

- a. I am a current employee of the City of Boise, in the Boise Public Library. I have worked at the Boise Public Library since May 25, 2016. Throughout my employment, my title has been Library Assistant, except for roughly the first month I was employed there, when my title was Page.
- b. The City of Boise has about 1,700 employees, according to the City's website.
- c. Pride Month, celebrated throughout June each year, recognizes the impact that people marginalized and discriminated against because of their gender identity or sexual orientation have had on history locally, nationally, and internationally. The President of the United States first officially proclaimed Pride Month in 1999, and the current President has recognized and celebrated it as well. Pride buttons were made available for free to the public at the Hillcrest Library during Pride Month in 2019.
- d. *Sex* is a term that includes gender, gender expression, gender identity, and sexual orientation within its meaning. *Gender* refers to cultural expectations specific to the sexes. *Sex stereotypes* refers to an employer's application of stereotypes related to sex to restrict, disparage, or discriminate on the basis of an employee's gender

expression, gender identity, or sexual orientation. *LGBTQ* is an acronym for Lesbian, Gay, Bisexual, Transgender, and Queer, referring to groups of people known not to conform with sex stereotypes and who have gender identities, gender expressions, and sexual orientations for which they have been both historically and are currently discriminated against and marginalized.

- e. Though I was assigned female sex at birth, I have not conformed to sex stereotypes for several years. Beginning during 2017, that has been increasingly apparent while I am at work at the Library.
- f. Beginning in 2017 and continuously since then, I have asked people, including coworkers and managers at the Library, to use gender neutral pronouns (they/them/their) when referring to me. Some coworkers, including managers, still fail to use those pronouns when referring to me.
- g. I have been dressing androgynously, including while at work at the Library, for about a year, and beginning before June 2019.
- h. I have been shaving my head for past couple years. I very rarely wear makeup at work at the Library or elsewhere.
- i. On June 5, 2019, with no Boise Public Library social media policy in place for Facebook marketing, I posted information about a teen event scheduled at the Hillcrest Branch of the Library during Pride Month

(“Makeup is Such a Drag”). I posted it on the Boise Bench Dwellers Facebook page from my personal Facebook account.

- j. The Library at the time had no process for sharing events on social media like I did, yet made it clear to program creation employees, including me, that attendance numbers at Library events should be higher.
- k. In posting information about the event, I did not state or imply that I worked for the Library or the City.
- l. After I posted the event, I asked one of the admins of the Boise Bench Dwellers group if people who posted discriminatory comments in the group about the event were breaking the group’s rules. (A Facebook group admin is a person on Facebook who can remove posts or members from a Facebook group.) The Boise Bench Dwellers admin told me that the discriminatory comments were against the group’s rules and that the people who posted them in response to the teen even I shared had been removed from the group.
- m. Because of my conduct in taking these actions without conforming to sex stereotypes, my direct supervisor sent me a memo on June 17, 2019. In the memo, she told me that my commentary about the teen event from my personal Facebook account was inappropriate.

- n. The City has acknowledged that its Social Media Administration Regulation would normally not apply because I sent the posts from my personal account.
- o. On June 19, 2019, while working at the Hillcrest Branch of Library, a library patron approached me at the front desk and tossed Pride Flag pin buttons onto the desk, calling them a “vice.” The Library made those button pins available during Pride Month. The patron said to me that he did not want his kids exposed to them.
- p. I told this patron that “I’m sorry that you feel that way. As a member of the LGBTQ community myself I am sorry that you feel that way.”
- q. The same patron came back to the Hillcrest Branch the next day and sat staring at me in a sinister way for 10 to 15 minutes before I went to a back room because I feared for my own safety.
- r. Because I clearly and expressly identified myself as non-conforming to sex stereotypes and a member of the LGBTQ community to the patron, the Library removed the Pride Flag button pins from the Hillcrest Branch.
- s. The Library’s Director tried to fire me because of it too.
- t. If I had conformed to sex stereotypes in interacting with the patron, the Library’s Director would not have tried to fire me.
- u. On June 24, 2019, my supervisor handed me a “Notice of Intent to Discipline,” dated June 21, 2019. A copy was put in my personnel file.

- v. On about July 16, 2019, my direct supervisor handed me a “Written Warning.” The warning letter referred to both my Facebook post about the teen event and the time I told a patron that I was sorry he did not want his kids to see Pride Flag pins.
- w. The warning letter said it was inappropriate for me to “make known” to a library patron that I am a member of the LGBTQ community. The letter warned that I must “refrain from engaging in conduct that is the same or similar” immediately. If I failed to abide, the letter said, I could be disciplined further, including by termination.
- x. The warning letter went into my personnel file.
- y. After getting the written warning letter, on about July 19, 2019, I submitted an internal Equal Employment Opportunity (EEO) complaint with the City of Boise about this discrimination against me. I then appealed the City’s Investigation Conclusions and Findings about my complaint, but the City affirmed the written warning letter against me.
- z. The City’s failure to take action on my complaint is discrimination because of my sex and my failure to conform to sex stereotypes, as well as retaliation against me for opposing unlawful discrimination.
- aa. The City’s actions against me in my employment are also discrimination against me because of my sex and my failure to conform

to sex stereotypes, as well as retaliation against me for opposing unlawful discrimination.

bb. This discrimination and retaliation against me is ongoing.

cc. To continue working at the Library and for the City of Boise, I have to hide and suppress identity and conform to sex stereotypes.

dd. The written warning letter remains in my personnel file with the City.

ee. I fear for my job, my financial security, and my health insurance and well-being.

ff. The City's actions against me, as well as its failure to take action to prevent discrimination and ensure a workplace that does not enforce sex stereotypes, have made my workplace feel hostile, that I am not safe there, and that those in positions above me at the Library will not protect employees and patrons in groups historically marginalized and discriminated against. I feel that being in the closet—conforming to sex stereotypes—is required if I want to keep my job.

gg. My whole life has been consumed by the stress caused by the City's discrimination and retaliation against me, for many months now. I feel the effects of the City's discrimination and retaliation, and the hostile environment perpetuated by the City's failure to act, daily. I have been in counseling because of this ongoing discrimination and retaliation. My physical, mental, and emotional health and well-being continue to suffer because of the City's discrimination and retaliation against me.



## **II. Respondents' Reason for Adverse Action**

- a. The City contended that the written warning letter and other actions against me were the result of conduct that was contrary to “Library policies and employee expectations.”
- b. In particular, the City contended that a social media post that can be reasonably interpreted to express the opinions of the City, without a disclaimer, is prohibited by the City’s Social Media Personal Use Regulation, and that speech that can be perceived as an opinion of the City containing speech that the City deems rude or disrespectful violates the City’s Standards of Conduct.
- c. The City also contended that the Library’s Customer Service Statement says “Customer Service is the highest priority of every Library employee” and that the American Library Association’s Code of Ethics calls for “accurate, unbiased, and courteous responses” to library users. The City contended that making my identity known to a library patron was “contrary to the Library’s policy of providing neutral and courteous assistance.”

## **III. Complainant’s Statement of Discrimination**

- a. I was discriminated against on the basis of my sex and gender for my non-conforming conduct in violation of Title VII of the Civil Rights Act of 1964 and the Idaho Human Rights Act.

- b. I was also retaliated against because I opposed unlawful discrimination, in violation of Title VII of the Civil Rights Act of 1964 and the Idaho Human Rights Act.

Dated: March 31, 2020.