

# Types of Employment Discrimination

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**You have  
rights; get  
help today!**

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## **Employment Discrimination**

In the United States, it is against the law for any employer, or agent of the employer, to discriminate against any employee or potential employee based on factors such as age, race, pregnancy, religion, and disability. Some States have even adopted employment discrimination legislation to protect employees from discrimination based on sexual orientation.

According to federal law, no employer can base his or her decision to hire or fire, promote, transfer, retirement, etc. based on the aforementioned factors.

While discrimination of these sorts is a terrible practice, it still sometimes rears its ugly head. Fortunately, federal laws, such as the Age Discrimination in Employment Act, the Equal Pay Act, and the Civil Rights Act of 1991 protect employees from unlawful treatment and termination

A federal agency is responsible for enforcing the federal laws that make employment discrimination illegal, as well as maintaining all of the regulations, practices, and policies involving employment discrimination.

In addition to this federal protection, many States have their own laws designed to protect employees from various forms of discrimination. For example, New York has the Human Rights Law, which covers all employers with more than four employees, and California has FEHA (the Fair Employment and Housing Act). FEHA covers employers with five or more employees. Both of these State laws are more favorable to the employee than the federal law, as the federal law only takes into consideration employers with fifteen or more employees.

If you believe that your job rights have been violated you have the right to file a charge of discrimination. <http://www.employment-discrimination.org/> to get help now. You may deserve compensation.

## **Racial or Nationality Discrimination**

Title VII of the Civil Rights Act of 1964 prohibits unfair treatment of employees based on such factors as their race, ethnicity, and national origin. The law applies to all racial groups. This means that employers can't treat an individual differently because of such factors as skin color, facial features, or hair texture.

If a company employs fifteen or more people, they must abide by the rules laid out in Title VII. An employer may not:

- Determine whether or not to hire someone based on their race or ethnicity
- Harass an employee due to their race or ethnicity
- Isolate an employee or employees based on their race or ethnicity
- Increase or decrease an employee's pay based on their race or ethnicity
- Demote or promote an employee based on their race or ethnicity
- Punish an employee who reports racial discrimination

Discriminating against an employee because of a medical condition (such as sickle cell anemia) inherent in their race is also against the law. Only when a medical condition would inhibit performance of the job duties can an employer consider a person ineligible for a job.

If you believe that you have been subjected to racial discrimination in the workplace and you believe that your job rights have been violated you have the right to file a charge of discrimination.

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## **Age Discrimination**

The Age Discrimination in Employment Act of 1967 (the ADEA) protects employees who are over 40 years old from discrimination because of their age. The ADEA prohibits employers from hiring, firing, promoting, or demoting employees based on their age.

The ADEA applies to federal, state, and local governments, as well as all employers with more than twenty employees. This includes employment agencies and unions.

However, the ADEA does **not** protect certain groups of employees. This includes those hired by independent contractors and elected officials. There are also other exceptions to the ADEA when it is an integral part of the job. For example, an employer can hire a child or young person to play a part in a movie, television show, commercial, etc. if that is what the role requires.

An amendment to the ADEA, the Older Workers Benefit Protection Act (the OWBPA) protects workers from employers taking away benefits and retirement except under certain circumstances. The OWBPA also disallows employers forcing older workers into early retirement. An exception to this is the mandatory retirement ages of airline pilot and bus drivers due to safety reasons.

If you believe that you have been subjected to age discrimination in the workplace and you believe that your job rights have been violated you have the right to file a charge of discrimination.

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## **Gender or Sex Discrimination**

Sex based or gender discrimination occurs when an employer treats an employee or employees unfairly based on their gender. Title VII of the Civil Rights Act of 1967 prohibits this practice, and applies to all employers, including labor unions and employment agencies that have fifteen or more employees. Title VII also prohibits sexual harassment of any kind, as this could result in the creation of a hostile work environment.

An employer may not:

- Hire or fire based on gender
- Determine salaries based on gender
- Promote or demote based on gender
- Segregate based on gender

- Reward employees based on gender
- Punish an employee who reports sexual discrimination

The only time an employer may discriminate based on gender is when sex is a “bona fide occupational qualification” (BFOQ). The burden of proof, however, always lies with the employer in these cases.

An excellent example of this in action is the case of *Mitchell v. Michigan Department of Corrections*. The court held that the female gender was a BFOQ for correctional officer and residential housing unit officer at a women’s prison since necessary to exclude males in these areas.

If you believe that you are a victim of gender discrimination in the workplace and you believe that your job rights have been violated you have the right to file a charge of discrimination.

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### **Reverse Discrimination**

A new form of discrimination now seems to exist in the workplace. Reverse discrimination is a term that describes laws and policies that favor certain minority groups, whether racial or sexual, over another group historically seen as more dominant, such as white males. In these cases, employers do not take into account the actual qualifications of a potential employee, only the race or sex.

This results in the overlooking of qualified applicants that apply for certain positions, promotions, and even higher education due to their race, which Title VII of the Civil Rights Act prohibits. According to Title VII, it is unlawful to discriminate against an employee because of ethnicity, religion, sex, or race. This includes non-minorities.

Many believe that “Affirmative Action” is a form of reverse discrimination, as it gives preferential treatment to individuals based on their race. This is a form of racial discrimination, and according to the law, affected employees, regardless of their race or gender, need protection from unfair treatment.

Although it is not common, reports indicate that non-minorities file at least 20% of the discrimination complaints.

If you truly believe that you are a victim of reverse discrimination in the workplace and you believe that your job rights have been violated you have the right to file a charge of discrimination.

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### **Economics or Equal Pay Discrimination**

Passed in 1963, the Equal Pay Act (EPA) prohibits wage differences between men and women who are performing the same job for the same number of years. Even if the jobs are different, the law sees them as equal as long as they require the same effort, responsibility, and skill.

Other laws protect employees from equal pay discrimination as well. These laws include the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, and Title VII of the Civil Rights Act of 1964. The difference between these acts and the EPA is that two employees do not necessarily have to hold the same job.

This amendment to the Fair Labor Standards Act also encompasses other fringe benefits employees may receive, such as bonuses, employee discounts, medical and dental benefits and retirement plans. The only time it is legal to have a pay disparity in a job is if the salary is based on seniority, quality, and quantity of work. The employer must be able to prove this should a lawsuit arise.

If you believe that you are a victim of equal pay discrimination in the workplace and you believe that your job rights have been violated you have the right to file a charge of discrimination. <http://www.employment-discrimination.org/> to get help now. You may deserve compensation.

## **Disability Discrimination**

Title I of the Americans with Disabilities Act of 1990 states that private employers, state and local governments, labor unions, and employment agencies may not discriminate against someone because of a disability. The ADA covers employers with fifteen or more employees.

These employers may not:

- Hire or fire a person based on their disability
- Ask persons in an interview about the existence, nature, or severity of a disability
- Promote a person based on their disability
- Demote a person based on their disability
- Pay a person a different salary based on their disability
- Withhold training from a person with a disability
- Retaliate against an employee who files a claim of disability discrimination

The employee must still be capable of performing the necessary aspects of his or her job, with or without accommodations provided by the employer, as long as it doesn't provide an "undue hardship" to the employer. These accommodations may include things such as making the work facility accessible to those with disabilities, modifying work schedules, and providing access to modified equipment.

If you believe that you are a victim of disability discrimination in the workplace and you believe that your job rights have been violated you have the right to file a charge of discrimination. <http://www.employment-discrimination.org/> to get help now. You may deserve compensation.

## **Religious Discrimination**

Employers may not discriminate against any employee because of his or her religious practices or beliefs. This includes harassment, unfair or special treatment, and accommodating the religious practices of employees.

The First Amendment of the Constitution disallows religious discrimination by the government, while Title

VII of the Civil Rights Act of 1964 prohibits private employers (who employ fifteen or more people) from discriminating against religion.

Under Title VII, employers may not:

- Hire or fire a person based on their religious beliefs – the only exception to this rule is a bona fide occupational qualification
- Force employees to take part in any religious event or activity, such as Christmas present exchanges or prayer
- Disallow employees from taking part in their own religious holidays or ceremonies outside of the workplace unless it would create an undue hardship for the employer
- Harass, or tolerate the harassment of an employee by other employees, due to their religious beliefs
- Punish an employee who files a claim of religious discrimination

If you believe that you are a victim of religious discrimination in the workplace and you believe that your job rights have been violated you have the right to file a charge of discrimination.

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### **Pregnancy Discrimination**

In 1978 there was an amendment to Title VII of the Civil Rights Act of 1964. This amendment, called the Pregnancy Discrimination Act, prohibits employers with fifteen or more employees from discriminating against pregnancy, childbirth, and medical conditions related to pregnancy. Employers must treat pregnancy like any other medical condition.

An employer may not:

- Hire or Fire an employee based on pregnancy
- Disallow maternity leave
- Hire someone to replace an employee who is on maternity leave. The employee's position must be available when she returns
- Limit pregnancy related benefits and health insurance to married employees

In 1993, the Family and Medical Leave Act (FMLA) added more protections to the Pregnancy Discrimination Act. The FMLA applies only to employers with fifty or more employees. The FLMA states that employees may take off up to twelve weeks during a twelve-month period to give birth, adopt, or care for a sick child or other family member. This leave is unpaid; however, the employee is entitled to return to their job (or an equal job) when they return.

If you believe that you are a victim of pregnancy discrimination in the workplace and you believe that your job rights have been violated you have the right to file a charge of discrimination.

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## **Institutional Discrimination**

Any organization, such as a government or structured social group, which encourages or promotes discrimination, is guilty of institutional discrimination. Discrimination can take any form, including race, gender, disability, and sexual orientation.

The history of the United States is rife with examples of institutional discrimination:

- For many years, the government had laws that segregated black people from white people in every facet of life – voting, employment, education, and even access to public facilities for example.
- After the attack on Pearl Harbor, the government placed Japanese people on the West Coast in internment camps
- Redistribution of voting districts
- Banning women from certain roles in the military

Of course, the government is not the only institution guilty of institutional discrimination. The private sector is just as guilty:

- Red lining, which is when banks can sometimes make it more difficult to get mortgage loans for people who live in certain areas
- Steering, which is the practice of real estate professionals guiding minorities to neighborhoods filled with predominately minorities

Because this type of discrimination is, seemingly, a part of the structure of these organizations, it is often difficult to root out. Often, people working for these organizations are unaware they are even guilty of discrimination because on the surface, the practices may actually seem fair or normal.

## **Housing Discrimination**

Illegal housing practices can affect people of all races, religions, and nationality. Disabled people, people with children, and women may also find themselves facing housing discrimination at some point in their lives.

Though these practices are unfair and against the law, they still occur. They can include:

- Having a “No Children” policy
- Disallowing canine assistants such as guide dogs

- Evicting tenants of a certain race
- Not renting to interracial couples

Fortunately, the Fair Housing Act prohibits unfair housing practices. The FHA covers not only renting, but also mortgage lending. No one can discriminate based on race, color, national origin, religion, sex, or handicap. It also makes it illegal to threaten or harass anyone who exercises their rights under the FHA.

A number of other laws serve to protect the individual in search of housing, including Section 109 of Title I of the Housing and Community Development Act of 1974 and Title II of the American's with Disabilities Act of 1990.

These law and others do a reasonably good job of protecting the rights of citizens, but there are still many reported cases of housing discrimination. If a person feels that he or she is the victim of some form of housing discrimination, they should contact their State or local fair housing agency.

### **Appearance Discrimination**

Discrimination against a person because of their weight, body art, their style of dress, and even their hairstyle is a far too common practice in the American workplace. Companies who engage in such discriminatory practices as hiring and promoting based on appearance are now beginning to face more lawsuits than ever. A person's appearance can influence not only the hiring process, but wages, promotions and sometimes benefits as well.

This type of discrimination not only refers to unfair treatment of the overweight and those with tattoos, but to people deemed "too attractive" or "too ugly" to be taken seriously in their job. Sometimes women who are too feminine are denied jobs that employers feel are to "tough," while some women who are not considered attractive are passed over for prettier women in jobs that involve customer or client interaction.

While there are currently no federal laws on the books that specifically protect employees suffering appearance discrimination, not all hope is lost. Many lawyers will represent these individuals based in part on the results of some recent court cases.

- Waitresses sued a casino that forced them to undergo weekly weigh-ins
- A chain store was sued over their policy of no facial jewelry (except earrings) by an employee on the grounds of religious beliefs

As more and more of these appearance-based cases go to court, it is likely that the future will see protective legislation.

### **Discrimination Lawyer**

Federal law protects all employees when it comes to different forms of discrimination. When an employee suffers from any sort of employment discrimination, whether it is because of age, race, pregnancy, sexual orientation, or some other form of discrimination, he or she may wish to hire a lawyer who is an expert in these sorts of cases.

When hiring an attorney, the employee should document the discriminatory event in as much detail as possible as shortly after the event as possible, as this will assist the attorney in determining the strength of the case and what, if anything, the employee is likely to recover.

A well-versed discrimination lawyer knows the federal and state laws and what the employee can hope to recover, as well as the results of current, similar cases. Sometimes the federal and state laws differ. In California, for example, an employee fired for reasons of discrimination may sue to recover the following:

- Lost wages
- Lost benefits
- Future lost wages – this applies only until employee finds another job
- Future lost benefits – like future lost wages, this applies only until the employee finds another job with benefits
- General damages
- Punitive damages
- Attorney fees

Employees should do their research, making sure they find not only a qualified attorney, but also one that they can afford. If you believe that your job rights have been violated you have the right to file a charge of discrimination. <http://www.employment-discrimination.org/> to get help now. You may deserve compensation.

### **Discrimination Lawsuit**

Employees can file discrimination lawsuits against their employer for a variety of reasons, including discrimination based on race, religion, age, gender, and sexual orientation.

When an employee decides to file a private discrimination lawsuit against their employer, he or she will want to hire a qualified attorney to represent them. The attorney should be well acquainted with discrimination cases and have a commanding knowledge of both the federal and State laws that apply to the employee's case.

With a proper attorney, a victim of employment discrimination can hope to recover:

- Lost wages
- Lost benefits
- Punitive damages

Court fees and attorney's costs

If you believe that your job rights have been violated you have the right to file a charge of discrimination. <http://www.employment-discrimination.org/> to get help now.