

GUIDE TO
Employee Discrimination

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Guide to Employee Discrimination

You Don't Have to Tolerate Discrimination in the Workplace

Fair treatment for all individuals has been a long-fought battle throughout history. Americans have stood up against discrimination in all forms for the basic right of fair treatment no matter how a person may look, act or love. Many laws have been passed against discrimination, and our country has come a long way in the past 100 years.

Despite these leaps forward, discrimination is still an issue.

Discrimination in the workplace remains something many Americans face daily. While there are discrimination laws in place to protect workers against workplace harassment and workplace discrimination, individuals may not be aware of their rights. Plus, these laws won't stop an offender in most cases.

Even if you are aware of your rights, dealing with discrimination at work can be tricky since laws vary by state and you may be afraid that by speaking up, you could put your job in jeopardy.

Work to Make Yourself Aware of Workplace Discrimination

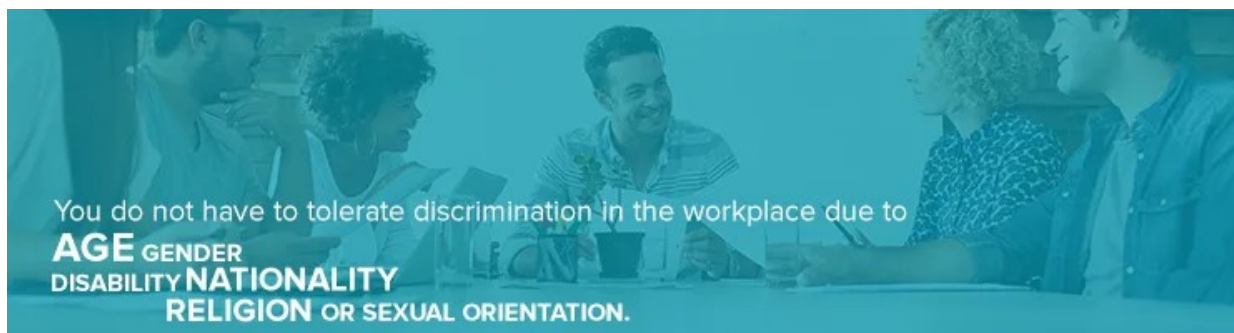
A good first step in protecting yourself against job discrimination is to be aware of the laws and your rights as an employee. You can follow these two key steps:

1. Stay educated and informed so you know how to recognize discrimination immediately before it becomes more damaging.
2. Keep your eyes open, and if you feel like you are in a hostile work environment, know when to seek help.

Since knowing the laws alone won't completely protect you from workplace discrimination, you also need to know when to contact a lawyer to help you with your situation. An experienced employment lawyer will have the background and knowledge to help determine if you are being discriminated against and the next steps you should take.

This guide was written with you in mind so you can easily inform yourself of the current discrimination laws and learn what your rights are. You will also learn about:

- The different types of discrimination at work
- What each type of discrimination looks like
- How to seek legal guidance for your situation



You do not have to tolerate discrimination in the workplace due to age, gender, disability, nationality, religion or sexual orientation. Every employee deserves to be able to go to work and feel safe in addition to being treated like everyone else in the job search process. No one, no matter their position, has a right to treat you negatively or cause you harm.

How to Fight Back Against Job Discrimination

When you finish our guide, we hope that you will be able to recognize if you're being discriminated against at work and have the confidence to reach out for help if you need it.

If you think you've experienced discrimination, report the situation to the necessary administration and authority figures so they can take action against the offender. You may need to contact an experienced employment lawyer to advise you on your legal rights and options to file a discrimination case.

Chapter 1: Discrimination Is Against the Law

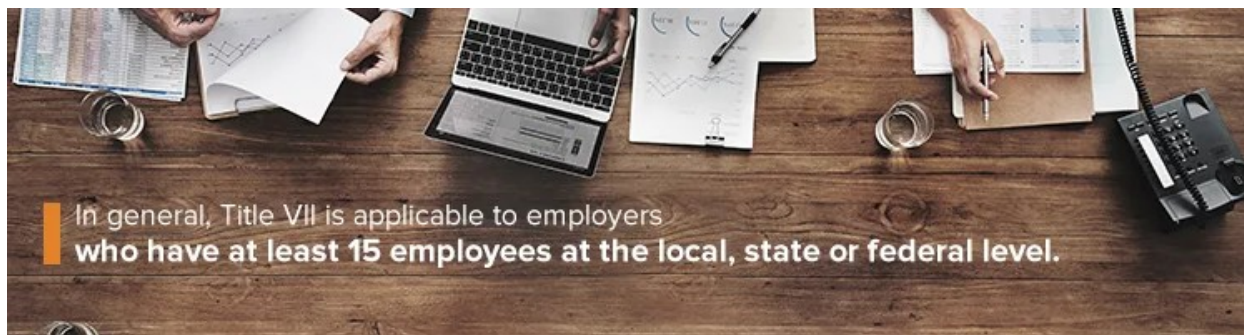
You do not have to tolerate discrimination at work. Unfortunately, discrimination comes in many forms, some more obvious and others more subtle. Either way, if you deal with any type of discrimination, you should contact your company's HR department or a local attorney.

Fortunately, there are many laws that protect employees at work. Some of the most relevant laws are covered in the following paragraphs and may provide you protection when you need it the most.

Title VII of the Civil Rights Act of 1964

The Civil Rights act of 1964 contains a section called Title VII. It is often thought of as a protection against racial discrimination, but it prohibits all aspects of discrimination. Title VII made it illegal for employers to discriminate against employees based on sex, color, national origin, race and religion. In general, Title VII is applicable to employers who have at least 15 employees at the local, state or federal level.

Title VII protects any individual whose employer meets the above criteria. The protections cover every aspect from the recruiting process before you have the job to the work environment once you are hired. Title VII makes it illegal for anyone to harass you or create a hostile environment.



It protects you against discrimination in the form of different patterns of compensation, benefits and other terms and conditions of employment. Title VII also makes it illegal for an employer to retaliate if you file an EEOC complaint against them.

In Pennsylvania, the Pennsylvania Human Relations Act (PHRA) is applicable to employers who have at least four employees, and provides many of the same protections as Title VII, as well as many of the federal statutes referenced below.

Equal Pay Act

The Equal Pay Act became a law in 1963 and was created to require paying men and women the same compensation for the same work in the same workplace. The Equal Pay Act was a big

step against gender discrimination, but there are still cases when men make more than women for the same work.

The act notes a number of different factors to determine if a job is the same or substantially equal, including:

- Skill
- Effort
- Responsibility
- Working conditions

Job titles don't have to be identical for the jobs to be considered the same. It is illegal for employers to pay different wages to men and women who are performing the same job on basis of skill, responsibility and effort under working conditions that are similar and within the same company, even if they do not share the same title.

Keep in mind that differences in pay are allowed if there are grounds not based on gender. These may include a variety of factors, such as production levels, quality of work, merit or seniority.

It's important to note that if unequal pay does occur and is reported, the employer can't simply lower one of the employee's wages to match the other. Instead, the employee who is making less must get a raise to make the same as the other employee.

Pregnancy Discrimination Act

The Pregnancy Discrimination Act (PDA) was added to Title VII of the Civil Rights Act of 1964 to protect one aspect of sexuality discrimination. It states women can't be discriminated against based on pregnancy or childbirth. This law applies to:

- Hiring pregnant women
- Working conditions
- Maternity and pregnancy leave
- Benefits



A job applicant can't be denied work just because she is pregnant. As long as she can perform the required duties, she should be treated like any other applicant. A pregnant woman can't be forced to take maternity leave, and a company cannot specify a certain amount of required maternity leave the employee must take before coming back to work.

A pregnant employee must be offered the same insurance benefits as any other employee. If she is unable to perform her job because of her pregnancy, she must be treated as an employee with a temporary disability and qualifies for reasonable accommodations from the employer so she is able to continue working.

An employee who is on maternity leave can't be fired just because she's not at work. Additionally, an employer can't fire an employee who just had a baby just because the company is concerned about her ability to focus on the job with no proof that her work has been affected after she returned to work.

The Age Discrimination in Employment Act

The Age Discrimination in Employment Act, or ADEA, protects job seekers and employees who are 40 years of age or older from discrimination due to age. These discrimination laws apply to:

- Hiring
- Firing
- Promoting
- Compensating
- Specifying the terms and conditions of employment

The ADEA doesn't protect younger employees under age 40 from age discrimination based on their age, but there may be protections at the state level depending on where you live.

Americans With Disabilities Act

The Americans with Disabilities Act (ADA) was made into a law in 1990. Title I of the act concerns employment and disability discrimination in the workplace. The ADA protects people with disabilities so they have the same opportunities and benefits as individuals without disabilities. It also states that employers have to provide reasonable accommodations to employees or applicants who would otherwise be able to do the job if it wasn't for their disability.



Employers with 15 or more employees must comply with the ADA, and Title I of the act goes into detail about what is considered a disability and what reasonable accommodations are for an employee. The individual or their family can discuss the disability and the needed accommodations with the employer.

Equal Employment Opportunity Commission (EEOC)

The Equal Employment Opportunity Commission (EEOC) enforces all of the above federal laws that make it illegal to discriminate against an applicant or an employee. The majority of employers who have at least 15 employees are responsible for complying with discrimination laws.

The EEOC investigates charges of discrimination and then rules on the findings. The EEOC usually tries to settle the issue but will file a lawsuit against the employer when necessary. The Equal Employment Opportunity Commission also works to prevent discrimination by educating employers and employees and providing outreach and assistance when necessary.

If an employee feels they've been discriminated against, they may decide to file an EEOC complaint form, which will require the EEOC to look into the case and make a decision based on what they find. You don't have to hire a lawyer to file an EEOC claim, but your claim may be more successful and easier to deal with if you have legal protection and knowledge on your side.

Keep in Mind: There Are Exceptions Regarding Employment Discrimination

There are some exceptions to the laws stated above. These exceptions state that in some cases, it is legal to discriminate against employees or applicants on the basis of sex, religion or national origin.

One of these is the bona fide occupational qualification (BFOQ). The BFOQ says it's okay to ignore age discrimination laws if the qualifications of the job are necessary to the normal operations of the business. For example:

- Applicants over 50 may not be hired as police officers because of the demanding physical requirements for officers
- An employee over age 60 who is in a top executive position requiring stressful and important decision making may be required to retire after a certain age under the BFOQ.

There are also certain religious exemptions as well. The law recognizes that in some cases, religion plays a critical part in employment and job-related decisions, and in these cases, employers can discriminate based on religion, gender identity or even sexual orientation. Houses of worship and religious schools have complete exemption, while other religious organizations may have the ability to apply certain religious requirements to their employees.

Chapter 2: Identify Gender Discrimination

Gender discrimination in the workplace can take on many different forms during the hiring process and once you are on the job.

In most cases, gender discrimination is usually thought of happening against women, but it isn't limited to just women. Men can experience it as well.

Examples of Gender Discrimination

There are a number of forms of gender discrimination. Here are a few of the more common areas of concern we see in our law practice:

- **Unequal Pay and Benefits:** The law states males and females who are doing basically the same job, requiring the same level of responsibility, duties and skill, and working for the same company should be paid the same. However, the wage gap between genders is still a problem even today. Data from 2015 shows female workers made 80 cents for every dollar men made, creating a wage gap of 20 percent.



- **Interview Questions:** Employers are prohibited from asking questions during an interview that involve the personal life of the applicant or stereotypes based on:
 - Race
 - Gender
 - Marital status
 - Age
 - Religion
- **Addressing Employees:** Employers must speak to male and female employees in the same manner. For example, the employer shouldn't call a female "honey" or "sugar" or any other pet name. The employer should treat employees the same and not talk down to any employee based on the gender.
- **Glass Ceiling:** The glass ceiling refers to the metaphorical barrier successful women face when trying to climb the career ladder. The glass ceiling occurs when a woman tries and fails to advance from a mid-level position to a senior-level position that is usually held by men. It is considered discrimination against women in the workplace to deny a promotion because of gender. Employers must take reasonable steps to eliminate the glass ceiling in their company and not limit how far female employees can advance.
- **Positional Stereotypes:** Gender stereotypes support the mistaken idea that females and males are only fit for certain positions and duties. For example, more women hold jobs as a secretary or administrative assistant than any other position in the United States. A male who applies for a secretarial job with adequate credentials may have a harder time getting the

position than a female applicant with the same skillset, based on biases either stated or unstated. On that same note, a female may be less likely to get an executive position because men stereotypically are seen as displaying characteristics more fit for leadership.

- **Equal Rules and Policies:** Females and males cannot be treated differently based on gender in terms of employment contracts, benefits and policies in the workplace. For instance, an employer may expect a man to stay and work overtime but not a woman, because females are seen as mothers who should be home with their children. This discriminates against both the male and female employee.
- **Dress Code:** Employers can specify a reasonable dress code for their employees. It may state males have to wear ties and females should wear skirts or dresses, for example. In the past, courts have upheld such policies. However, in California, employers can't deny an employee the right to wear pants because of their gender or gender identity. Uniforms are fine, but females can't be required to wear a sexually revealing uniform unless their male coworkers are required to as well.

Another Type of Gender Discrimination: Sexual Harassment

Sexual harassment is illegal in the workplace. Sexual harassment is considered anything that can be seen as offensive or sexual based on gender. Harassment laws can be a bit vague, but teasing isn't generally considered harassment. Teasing, comments or advancements can cross the line into harassment if they create or contribute to an offensive or hostile work environment.

The sexual harassment law protects both male and females because either gender may be sexually harassed. It's important to note someone of either gender can be the harasser, and same-sex harassment is also a possibility. Sexual harassment can occur between employees or between an employer and an employee.

In some cases, there is more than one victim. If sexual harassment occurs in the workplace between one individual and another, other co-workers who are in the same environment may feel uncomfortable, offended or threatened by the harasser's behavior even if they aren't the direct target of the harassment itself.

Examples of Sexual Harassment

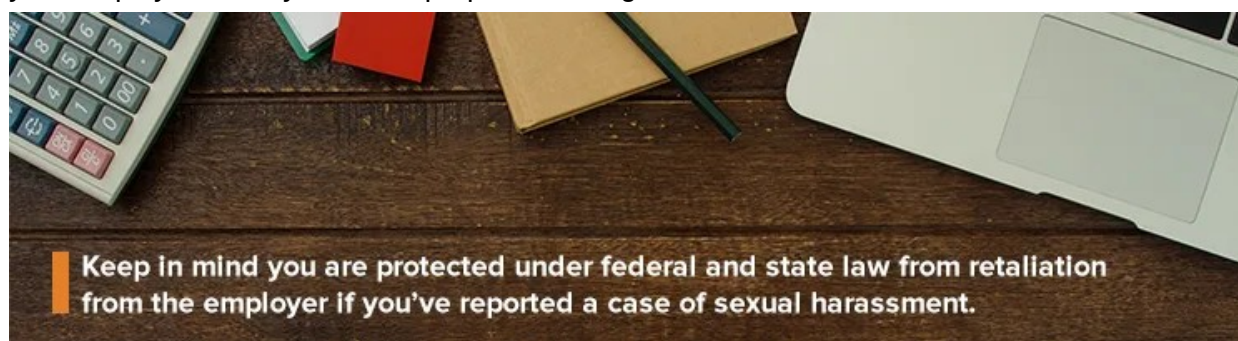
Some examples of sexual harassment include but aren't limited to:

- Sexual or gender-based innuendos or comments
- Intrusive questions
- Threats or bribes of a sexual nature
- Unwanted touching
- Rating attractiveness
- Intrusive questions
- Threats or bribes of a sexual nature
- Unwanted touching
- Rating attractiveness
- Spreading sexual rumors
- Crude or sexual jokes
- Stalking
- Sexual assault, including failed attempts
- Name calling based on gender
- Ogling or unwanted staring at body parts
- Pattern of making unwanted advances or asking someone out

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What Should You Do If You Are Sexually Harassed at Work?

If you are a victim of sexual harassment at work, you may feel embarrassed or ashamed, but you shouldn't because you've done nothing wrong. It's important to report the harassment to your employer so they can take proper action against the harasser.



Keep in mind you are protected under federal and state law from retaliation from the employer if you've reported harassment. Once you've notified your employer, you may want to look in your employee handbook and see what the company policy is regarding what you should do next.

If your boss is the harasser, it isn't advisable to notify them of their own actions. You don't want a confrontation. In this case, you may need to contact the EEOC to help you with your situation.

Chapter 3: What Is Racial Discrimination in the Workplace?

Racial discrimination in the workplace remains a very real problem despite the progress that has been made in the past few decades. Racial discrimination laws are in place to protect employees from discrimination due to their race or color, but these laws don't prevent it from happening all the time. Racism in the workplace can be based on facial features, hair texture, skin color or other characteristics associated with race.

Racial discrimination at work is any activity that involves treating an individual differently because of their race or the race of their spouse. Furthermore, racial discrimination doesn't always occur between two individuals of different races.

Examples of Racial Discrimination

This is not an exhaustive list, but some examples of racial discrimination include:

- Racist jokes
- Threats made based on race
- Stereotyping
- Denial of promotions based on race
- Distinctions based on race: A company refuses to hire drivers based on their race because they buy into a stereotype that certain races are bad drivers.
- Harassment based on race
- Segregating employees to certain jobs because of their race: For example, white employees may be put in customer service or sales positions where they are more likely to be seen or heard, while Latino employees may be put in positions that require more manual labor and involve less speaking.

Proving Racial Discrimination

There have been many racial discrimination cases, but unfortunately, racial discrimination can be difficult to prove. In order to prove your case, you must show you were treated negatively at work because of your race. This may be done by direct or indirect evidence.



Direct Evidence of Racial Discrimination in the Workplace

Direct evidence can be difficult to acquire, but in some cases, an employee will have direct proof they have been discriminated against. This may include emails, company memos or witnesses who have heard or seen the discrimination occur.

Indirect Evidence: Prima Facie Case of Discrimination

Prima facie means "at first glance." Prima facie has four different parts when it comes to race discrimination lawsuits:

- You are protected under discrimination laws
- You are qualified for the job you are applying for or you are performing your job sufficiently
- You were denied the job, promotion or benefit or faced a demotion or termination based on race
- The person who received the job, promotion or benefit was a different race or the company continued to look for applicants after denying you the job

For example, if you were denied a promotion because of your race, you would need to prove you were qualified for the promotion and the person who received the promotion was of a different race and not more qualified than you are.

You or your lawyer would present the evidence. The employer would present counter-evidence to show their decision was not based on race. Then the burden of proof falls back in the employee's or applicant's lap. In this example, you could show your employer had never promoted anyone of your race or the person who was promoted was less qualified than you.

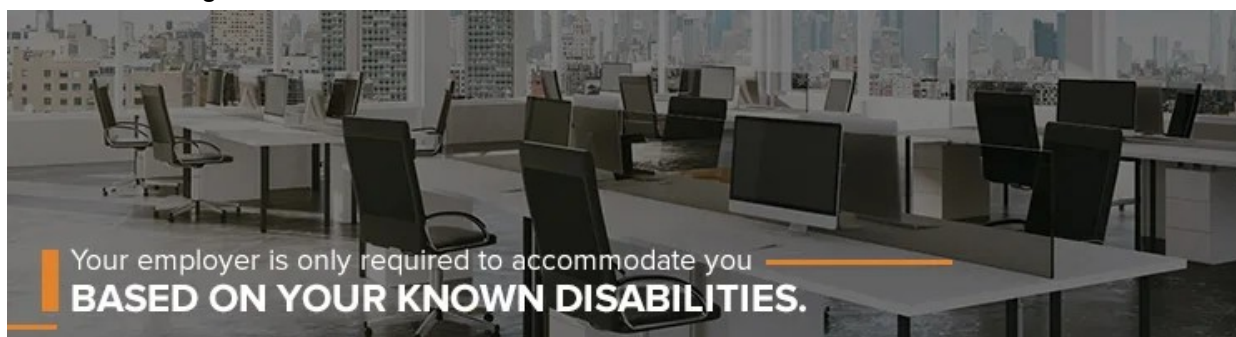
Chapter 4: Disability Discrimination at Work

Disability discrimination in the workplace occurs when an employer treats an individual negatively because they have a disability or have a history of disability. Disability discrimination can only occur within employers or at entities that are covered by the Rehabilitation Act or the Americans with Disabilities Act . Otherwise, there may be state protections, but not federal ones.

What Is Considered a Disability?

To be protected by the law, you must have a physical or mental disability that hinders your normal activity. You're also protected if you have a history of a disability or if your employer believes you have a disability but you actually don't. You must have documentation supporting that your disability is major and restricts your:

- Seeing
- Hearing
- Speaking
- Breathing
- Walking
- Self-care
- Working
- Performing tasks
- Learning



Your employer is only required to accommodate you based on your known disabilities, so if you don't inform the company of your impairment and your accommodation needs and it doesn't make necessary adjustments, it isn't actually discriminating against you.

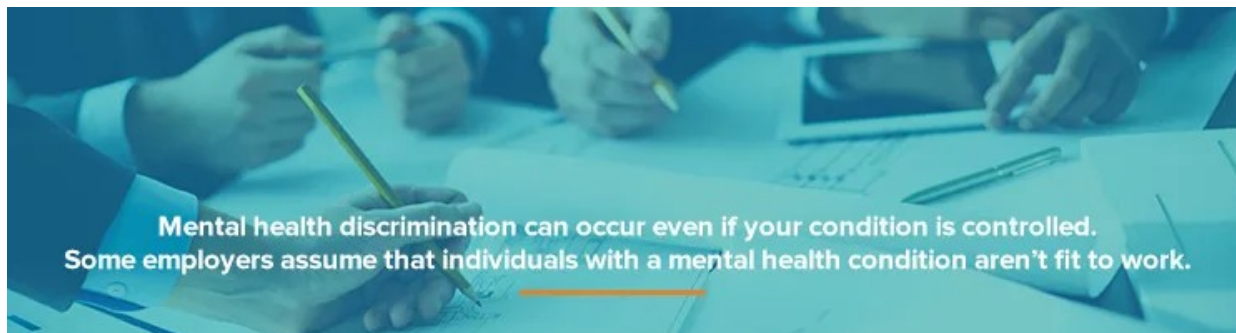
In some cases, you may be treated as disabled due to your medical history or your employer's perceptions of you. An example of this is if you work for a company and are diagnosed with cancer. You stay employed during your battle with cancer and successfully go into remission. Now your employer denies you a promotion because of fear your cancer may come back and cause you to miss work in the future.

Mental health discrimination also isn't easy to spot. Such health issues are typically kept private out of fear of adverse reactions and attitudes. When an issue is acknowledged or made public, it can be stigmatized and the employee's fears confirmed.

It's illegal for employers to ask you medical or mental health questions unless one of the following situations arise:

- You request reasonable accommodations.

- You accept an offer but haven't started yet, and all similar employees are asked the same questions.
- You are asked as part of affirmative action measurements, but can decline to respond.
- You are unable to do your job and there is objective evidence to prove you could post a safety risk.



Mental health discrimination can occur even if your condition is controlled. Some employers assume that individuals with a mental health condition aren't fit to work. Employers could hesitate to hire someone taking antipsychotic medications or dismiss an employee after finding out about their mental illness.

All of these actions are forms of illegal discrimination, but unfortunately that fact doesn't prevent it from happening.

The Difference Between Essential and Non-Essential Job Functions

Even though you may have a disability, you must be otherwise qualified to perform the duties of your job with or without accommodations. This applies to essential job functions, and an employer can't deny you a job because you can't perform other non-essential duties.

What Are Examples of Disability Discrimination?

Disability discrimination can occur directly or indirectly and can happen at any point from the application process to when you're actively working a job. It's important to be able to recognize the types of discrimination and what they may look like to help you realize if it's happening to you or not. Here are a few different forms of discrimination we've run across in our cases.

- **Direct Discrimination:** An employee with a known disability is treated negatively for no reason other than their disability. For example, an employee with a minor mental health problem is kept away from customers, even though they have great people and conversational skills. This is considered direct discrimination because it was intentional action by the employer in reaction to the employee's disability. The action was discriminatory based on a stigma and stereotype of mental health issues, and is against the law.
- **Indirect Discrimination:** An employer unintentionally discriminates against an employee with a disability because they are unaware of the disability. For example, an employer sends a company memo that includes pertinent job information for the week, but doesn't hold a meeting to discuss it. This makes it difficult for an employee -- with an undisclosed learning disability that reduces their reading comprehension -- to understand the information. By not holding a meeting, the employer may have prevented the employee from meeting requirements that week. The employer didn't provide reasonable accommodations for this employee because they were unaware of the disability, so therefore there is no illegal discrimination in this case. The employee has a

responsibility to notify their employer of any disabilities so reasonable accommodations may be made.

- **Job Interview Questions:** An employer may ask you if you can perform the job duties with your disability and can ask for an explanation of why and how you're capable. However, an employer may not ask you specific medical questions about your disability or ask you if you have a disability.
- **Medical or Physical Exam:** An employer can't require you to take a medical or physical exam before giving you a job unless all applicants have to take the same exam.
- **Denial of Health Insurance:** Your employer may not deny you access to the same health insurance as all other employees just because you have a disability and may have more expensive medical care needs. The same coverage must be offered to all employees.

Reasonable Accommodations Requirements

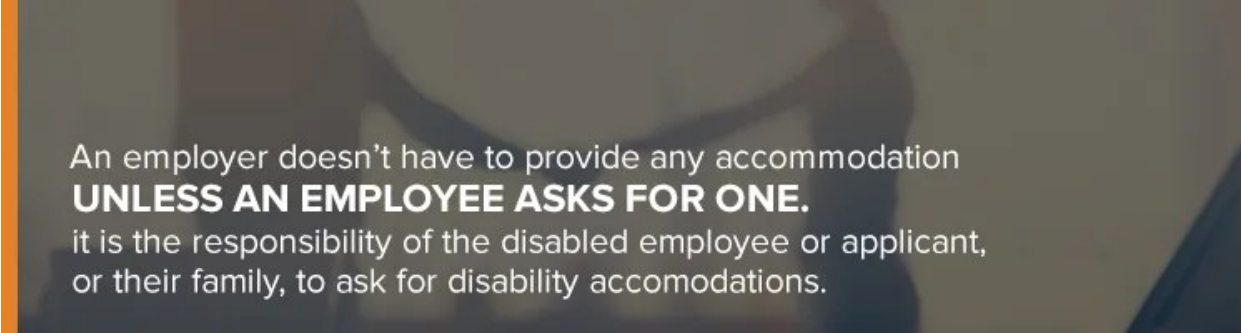
Your employer is required to provide what's considered reasonable accommodations to you in order to help you perform your job duties. An accommodation is considered any change in the work environment or the process to help a disabled person perform the job or even apply to one.

Reasonable accommodations will vary from employee to employee and job to job, but some examples include:

- Modifying work schedules, job reassignment or job restructuring
- Modifying existing facilities to make them accessible to employees with disabilities
- Modifying existing or purchasing new equipment, devices, policies, training materials or examinations
- Providing an interpreter or a qualified reader

A few real-world examples include a deaf applicant needing an interpreter for sign language during an interview, a blind employee needing essential job reading material in braille, or an employee who can't stand for long periods of time due to their disability being offered a chair to rest when needed.

An employer doesn't have to provide accommodations if doing so would cause a significant expense or difficulty. Everything from the nature of the accommodation to the cost to the nature of the business to past accommodation expenses are considered when determining an undue hardship. Employers can't simply say an accommodation is too expensive, however, because there are vocational rehabilitation funds and tax deductions/credit that may help offset the cost.



An employer doesn't have to provide any accommodation
UNLESS AN EMPLOYEE ASKS FOR ONE.
 it is the responsibility of the disabled employee or applicant,
 or their family, to ask for disability accommodations.

Furthermore, an employer doesn't have to provide any accommodation unless an employee asks for one. It is the responsibility of the disabled employee or applicant, or their family, to let the employer know of the disability and the need for accommodation.

Chapter 5: LGBTQ Discrimination at Work

In 2020, the Supreme Court found that discrimination against LGBTQ workers was illegal, citing the Civil Rights Act of 1964. The landmark decision offered previously unavailable protections to those who had been fired or discriminated against within the workplace for their gender identity or sexual orientation. "It is impossible to discriminate against a person for being homosexual or transgender without discriminating...based on sex," wrote Justice Neil Gorsuch in the majority opinion.

The decision came at a point when more than half of the states failed to offer such protections. Discrimination based on sexual orientation or gender identity is now outlawed in the workplace, following years of activism by LGBTQ groups to reach such a decision. Many legal analysts hailed the decision as a game-changer, noting that it sets precedents for protections of LGBTQ individuals in other areas as well.

The decision noted that while those in Congress who passed the law in 1964 did not expressly say it covered the rights of gay or transgender individuals, the intent of the law extended to other groups that might face discrimination. The decision made it clear that the act, which barred discrimination based on race, color, religion, sex or national origin, was meant to protect those facing discrimination for their sex, such as a transgender woman who was fired after coming out at her workplace.

The Trump administration had sided with the employers in the three cases the Supreme Court considered in its ruling. The majority opinion noted that while LGBTQ rights were not a focus of the law in 1964, subsequent legal decisions have expanded the law to include more expansive protections. "The limits of the drafters' imagination supply no reason to ignore the law's demands," wrote Gorsuch. Among the dissenting opinions, the justices said that the matter should be left to states or decided by Congress.

What is LGBTQ Discrimination in the Workplace?

Discrimination against LGBTQ individuals occurs because of their sexual orientation or gender identity. Like other forms of discrimination, it can involve a workplace where people are made to feel uncomfortable simply because of who they are. Examples of LGBTQ discrimination include:

- Discrimination in job interviews
- Unwelcome or hostile workplace environment
- Denying a promotion due to sexual preferences or gender identity
- Firing due to sexual orientation or gender identity
- Verbal or physical abuse because of gender identity or sexual orientation

LGBTQ discrimination, or sexuality discrimination, usually looks a lot like gender discrimination. Except instead of being discriminated against because of your gender, you're discriminated against because of how you dress, your sexual identity or your sexual orientation.

Are There Protections Against LGBTQ Discrimination in the Workplace?

Yes. Until 2020, protections were piecemeal, given in individual states but not extended through legislation or judicial rulings. The Equal Employment Opportunity Commission had established that Title VII of the Civil Rights Act offered protections for LGBTQ individuals. However, the Trump administration pursued policies that removed protections for transgender individuals -- changes that were blunted by the Supreme Court ruling.

Are Federal Employees Protected From Sexual Orientation or Gender Identity Discrimination?

Yes. Even before the Supreme Court ruling, actions taken in 1998 and 2014 by Presidents Clinton and Obama instituted protections for federal employees based on sexual orientation and, later, gender identity. Those protections covered about 20% of the U.S. workforce, also including individuals working on federal contracts but not directly for the federal government. The Supreme Court ruling extends protections to those in other public and private industries.

State Legislation Against LGBTQ Discrimination

You can see where each state stands on non-discrimination laws for the LGBTQ population with this map. Twenty-two states and Washington, D.C., protect against discrimination based on gender identity and sexual orientation.

Pennsylvania offers no state legislation against LGBTQ discrimination. However, more than two dozen municipalities have passed LGBTQ ordinances that offer protection. Carlisle, for instance, approved an ordinance at the end of 2016 that ensures equal protection in employment and housing, no matter one's sexual orientation or gender identity.

The Supreme Court ruling offers protections to workers in states that do not have any protections for LGBTQ workers.

Chapter 6: How to Identify Age Discrimination in the Workplace

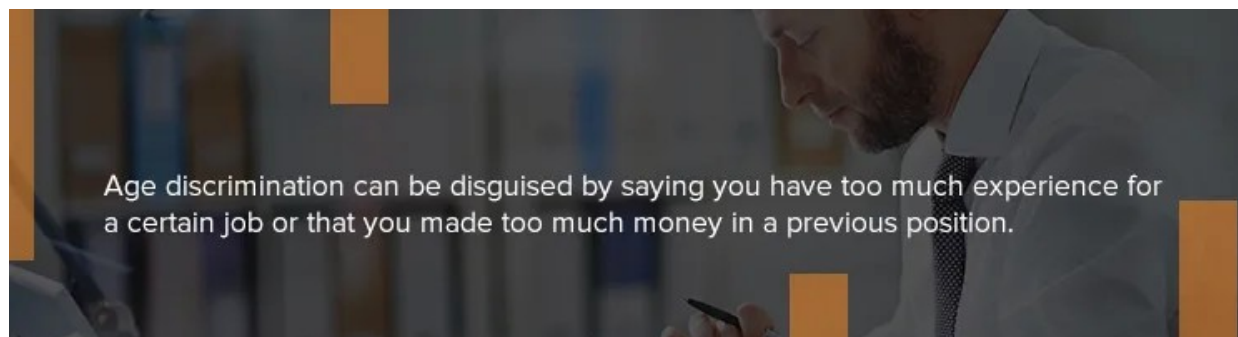
Age discrimination in the workplace can happen to the young or the old. However, federal law only protects older workers. You may be discriminated against or harassed for being too old or too young, but it's important to know what the current law says and how to recognize discrimination to determine if you have a case.

Examples of Age Discrimination in the Workplace

Age discrimination includes harassment as well as any other instances during the application process or once you're an employee in which you are treated differently because of your age. For instance, employers are barred from running job notices or advertisements with age limitations, specifications or preferences. Some other examples of age discrimination on the job include:

- Not getting a job because you look too old or too young
- Laying off primarily older workers
- Being on the receiving end of age-specific remarks before being fired or denied a promotion
- Being on the receiving end of age-related jokes or discriminatory insults
- Being forced to retire due to age

There are some exceptions to the above list. For example, you may be forced to retire once you reach age 65 in some occupations as long as you will receive a pension of \$44,000 or more each year.



Sometimes, age discrimination isn't as obvious. It can be disguised by saying you have too much experience for a certain job or that you made too much money in a previous position. Another expression that may actually be age discrimination is firing someone due to "performance issues" when they've worked at a company for years and there was no noticeable change in performance.

If you feel you are being discriminated against because of your age before you are fired, you should keep notes of what happened and when. Contact a lawyer before you lose your job. These measures, taken before firing, can assist with your case.

Proving you weren't hired due to age discrimination is also difficult, but it can be done. In 2015, the EEOC sued the Pennsylvania Office of Open Records for age discrimination. The lawsuit states that the potential employer told an interviewing employee, Joseph Bednarik, they were concerned he wouldn't have a long tenure with the agency because he had already been working for the Commonwealth of Pennsylvania for 17 years and could be nearing retirement.

The ruling on this case, and others like it, could provide more legal pathways for employees to bring their cases forward. Your lawyer will know more about the laws in your state and which career fields have exemptions. Give them a call to determine if your employer may have broken the law or not.

Are There Protections Against Age Discrimination?

Current federal age discrimination laws only protect individuals who are 40 years of age or older. Some states have passed laws to protect younger workers, too.

Employers have to comply with the Age Discrimination in Employment Act (ADEA) if they have 20 or more regular employees. However, some states may have laws that require less than 20 employees in order to file a case at the state or local court level. For example, Pennsylvania only requires an employer to have 4 employees to be liable under the ADEA so employees can file a discrimination claim. The ADEA protects job applicants as well as employees.

Chapter 7: What Is Wrongful Termination?

Wrongful termination is just as it sounds, being fired for nothing related to your actual job or performance. In many cases, wrongful termination occurs due to discrimination or harassment in the workplace. Federal law makes it illegal to fire an employee based on discrimination. There are also many state laws that provide employees with protection against wrongful termination as a result of discrimination.

Examples of Wrongful Termination Based on Discrimination

If you were fired because of your age, race, gender, religion, sexual orientation or in retaliation because of reporting discrimination, you may be protected under wrongful termination laws.

Here are some examples of wrongful termination based on discrimination:

- Fired because you're pregnant
- Fired while on maternity leave
- Fired due to the insurance burden of fertility treatments
- Fired due to a disability
- Fired because of your race, color or national origin
- Fired because of your sexual orientation or gender identity
- Fired due to your religion
- Fired in retaliation for reporting discrimination or complaining

Almost all 50 states have an at-will doctrine of employment. This doctrine states that an employer can fire you at any time and for any reason that is legal under the law, without legal consequences. Firing an employee solely based on discrimination is not considered part of the at-will doctrine.

Proving Your Wrongful Termination Case

If you feel like you were fired due to discrimination, you have to be able to prove it. The first step is gathering evidence to support your claim. In order to do that, you should follow these steps and consider talking with wrongful termination lawyers to help you determine which actions to avoid during the process.

- **Ask Why You Were Fired:** Calmly ask your employer to give you the reasons why you were let go from your job. If you're able, ask them to provide a written notice of termination or at least take notes during your conversation.
- **Request Your File:** You should ask for your entire personnel file and make copies of the documents within it. Note your employers are not legally obligated to give you your file, so you may have to have a lawyer subpoena it after you've filed your lawsuit.
- **Start a Journal:** Write down all of the details surrounding your termination as soon as possible so you don't forget anything important. You should include: Positive experiences, if any, that happened prior to your firing, with dates and names when possible. Other employees whose performance was similar to yours but weren't fired. The names and contact information of any co-workers who may be witnesses in your future case.
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- The names and contact information of any co-workers who may be witnesses in your future case.
- **Determine the Legality of Your Firing:** If you or your lawyer conclude you were fired due to discrimination, you should file an EEOC complaint form. You should make copies of your application to the EEOC and anything you receive from them. Especially important is your "right to sue" letter.
- **Review At-Will Employment Policies:** Each state has their own policies, so you need to be aware of the policies and laws in your state. Also, have copies of any of the company's employment termination policy to reference in your case.
- **Search for a New Job:** It's not legally required for you to look for a job while you file your claims, but it will be better if you do. Looking for a job does two things: You could find a job that you enjoy and thrive in. Actively looking for a job also demonstrates your desire to work and your work ethic - judges and juries may see this action as positive evidence in your favor when deciding whether or not you are eligible for lost wages.

Contact an Attorney With Your Discrimination Concerns

While it's true employment discrimination laws can be tricky, that doesn't mean you should suffer in silence when you've been discriminated against. Remember, you have certain rights and protections under the law, and you don't have to deal with a work environment that is hostile or uncomfortable. Try your best to react calmly to the situation and remain non-confrontational while you try to compose yourself.

If you remain in the job and are still facing discrimination, take thorough notes while you work with a lawyer to build your case. Remember, you don't necessarily have to leave your job just because you are being discriminated against, though it's okay if you decide that's the best decision for you.

Get the Assistance You Need With Your Discrimination Case

If you've been fired or denied a job because of discrimination, don't give up. Reach out to a discrimination lawyer to help you determine if you have a case you can pursue while you look for other employment and try to move on with your life.

Don't assume all employers and workplaces will be the same. Eventually, you will find good people and a good place to work. Keep putting your best foot forward. Keep in mind if your case does go to court, a juror could look more favorably upon if you've actively looked for employment to replace your lost wages.

Remember, in some cases, it may not be easy for you to recognize discrimination. That's why it's good to have a guide like this to reference to help figure out whether or not you're being discriminated against. If you have the feeling you are, you should contact a lawyer to determine if you have a case.

Most lawyers offer a free consultation to help you determine the next steps you should take in your discrimination complaint. Depending on your location and your circumstances, you may be able to file multiple lawsuits if you've been discriminated against.

If you're in Harrisburg, Lancaster, Reading, York, or anywhere else in Pennsylvania, call Weisberg Cummings, P.C., at 717-238-5707 to discuss your case with an experienced attorney. For your convenience, you can also send us a message online.