

What laws protect employees from discrimination in the workplace?

There are a variety of Federal, State, and local laws that prohibit discrimination in the workplace. There are Federal and State laws that prohibit employment discrimination based on race, gender, sexual harassment, sexual orientation, color, ethnicity, ancestry, national origin, age, religion, disability, prior arrests or convictions, and genetic predisposition or carrier, military and marital status. Certain local laws prohibit discrimination based on gender identity or expression, partnership status or status as a victim of domestic violence or of sex offenses or stalking. Under the anti-discrimination laws, it is illegal for an employer to refuse to hire, fail to promote, discharge, pay less, or otherwise treat an employee differently in the terms and conditions of employment because of an employee's race, gender, etc. There also are laws that require certain employers to grant certain types of medical and family leaves.

All the laws that prohibit discrimination also prohibit retaliating against an employee who has made a good faith complaint about discrimination or who participates or assists in any investigation or lawsuit alleging discrimination. Retaliation occurs when an employee suffers an adverse employment action, such as a demotion, discharge, or significant change in work assignment, or when an employer takes other action that might discourage a reasonable worker from opposing a discriminatory practice or making or supporting a charge of discrimination.

What damages are available for employment discrimination?

There are a wide variety of remedies available to an employee if the employee can establish discrimination. An employee can be awarded the wages lost as a result of the discrimination, which is called "backpay," the value of any lost benefits, such as health insurance and pension, compensatory damages, for pain and suffering, and punitive damages, if the employer's conduct was willful or reckless. An employee also can receive attorneys' fees and costs and lost interest. The types of damages available will vary on a case-by-case basis and each employee will not necessarily receive all

types of damages in each case. Further, an employee can seek structural changes in an employer's personnel policies and procedures.

The damages available for discrimination also are available to an employee who suffers from retaliation.

What New York State laws protect employees from discrimination?

The New York State Human Rights Law makes it illegal for employers of 4 or more employees to discriminate on the basis of age, race, creed, color, national origin, sex, sexual orientation, disability, prior arrests and convictions or marital, genetic predisposition or carrier, and military status in the terms, conditions, and privileges of employment. The Human Rights Law also prohibits sexual harassment and racial harassment in the workplace. In addition, the Human Rights Law forbids an employer from discriminating against an employee because he or she observes the Sabbath or other religious holidays. Further, the Human Rights Law prohibits discrimination by employment agencies, labor unions, and apprenticeship training programs.

The New York Civil Rights Law § 40-c provides that no individual within the jurisdiction of New York State shall be discriminated against in his or her civil rights because of race, creed, color, national origin, sex, sexual orientation, marital status, or disability. The opportunity to obtain employment without discrimination is a civil right that warrants this law's protection.

What is the procedure for filing a Human Rights Law Claim?

An individual can either file a charge of discrimination with the New York State Division of Human Rights ("State Division") OR file a complaint directly in state court. The State Division will investigate the charge and if it determines that the charge has merit, it will hold a hearing before an administrative law judge who can award damages. An individual has three (3) years from the date of the last discriminatory act to file a complaint in state court and one (1) year from the date of the last discriminatory act to file a charge of discrimination with the State Division. However, any separate acts that occurred earlier than the last act may not be

covered. There is no fee for filing a charge with the State Division.

What federal laws protect employees from discrimination?

Title VII of the Civil Rights Act of 1964 is a federal law that prohibits employment discrimination on account of race, color, religion, sex, and national origin. This law makes it illegal for employers of 15 or more employees to discriminate in hiring or firing, wages, fringe benefits, training, promotion, and terms and conditions of employment. Title VII also prohibits sexual harassment and racial harassment in the workplace. In addition, Title VII prohibits discrimination by labor unions and employment agencies.

There are other federal laws that prohibit discrimination on the basis of an employee's age (over 40 years old), medical or family leave, disability, and on the basis of race, ethnicity, ancestry and national origin in the making of contracts, which includes employment.

What is the procedure for filing a Title VII claim?

Before suing in federal court for employment discrimination under Title VII, an individual must first file a charge of discrimination with the U.S. Equal Employment Opportunity Commission ("EEOC"). The charge must be filed within 300 days of the last discriminatory act; however, any separate acts that occurred earlier than the last act might not be covered. The EEOC cannot award damages but it will investigate a charge and can issue administrative findings.

If the EEOC believes that an employer is engaged in a pattern or practice of discrimination, the EEOC may bring a federal court case for both injunctive relief (seeking to halt or change the employer's policies or procedures) and money damages for the complainant(s). The EEOC also can hold mediation and can try to settle cases.

What is the procedure for filing a claim with the New York State Attorney General?

You can file a complaint with the Civil Rights Bureau of the Office of the Attorney General by completing a complaint form available from the

Bureau, or by contacting the Bureau if you are unable to file or need help with a written complaint. The Bureau does not proceed with cases alleging discrimination against only an individual, nor does it process cases against New York state agencies. Instead, the Bureau investigates and prosecutes cases alleging a pattern, practice, or policy of discrimination that affects many people. The State Division and the EEOC take individual civil rights complaints and complaints against State and other government agencies.

Making a complaint with the Attorney General does not satisfy any of the filing deadlines or administrative prerequisites of the employment laws. In addition to making a complaint with the Attorney General, you will also have to file a charge of discrimination with the EEOC, the State Division or the New York City Commission on Human Rights, as described in this brochure, or a separate tort lawsuit in court.

What can an employee do if he or she feels discriminated against?

If an employee feels that he or she is a victim of discrimination, the employee has a number of options. These options include filing an internal complaint with the employer; filing a complaint with the New York State Attorney General's Office; filing a charge of discrimination with the EEOC, the State Division of Human Rights, or a local human rights agency, or filing a court complaint in federal or State court. Each of these options has different deadlines and ramifications. An employee should be certain to look into each option prior to acting and it is best to consult with an attorney before proceeding.

How does an employee choose whether to file in court or with an agency?

This decision is dependent on the outcome sought, the time period that has passed, and whether there is a requirement that a complaint be filed first with an administrative agency before being filed in court. Filing a complaint with the Attorney General's Office does not affect any of the filing deadlines under Title VII, the Human Rights Law, or other employment laws. It is best for an

employee to consult with an attorney to determine the best option.

Contact Information:

Office of the Attorney General:

Civil Rights Bureau
120 Broadway
New York, NY 10271
(212) 416-8250
(800) 771-7755 (hotline)
(800) 788-9898 (hearing impaired)

NY State Division of Human Rights:

Albany:
Empire State Plaza
Corning Tower, 25th Floor
P.O. Box 2049
Albany, NY 12220
(518) 474-2705

New York City:
State Office Building
20 Exchange Place, 2nd Floor
New York, NY 10005
(212) 480-2522
(other regional offices available)

New York District Office of the EEOC:

33 Whitehall Street
New York, NY 10004
(212) 336-3620 or
(800) 669-4000

EMPLOYMENT DISCRIMINATION LAWS

Frequently Asked Questions About Legal Protections and Procedures



STATE OF NEW YORK
OFFICE OF ATTORNEY GENERAL
ERIC T. SCHNEIDERMAN
