

Anti-Discrimination Laws in USA & Warning from Constitutional Law Group

Extent of Protection

It is illegal and unlawful under U.S. federal law to discriminate against an employee, either intentionally or through a disparate impact, on account of his or her race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. It is also unlawful and illegal to harass an employee on account of these protected characteristics or to retaliate against an employee because he or she complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. Most employers with at least 15 employees are covered by this body of federal law, as are most labor unions and employment agencies.

Protections against Harassment

The prohibitions on discrimination include harassment, which is unwelcome conduct, based on one of these protected characteristics, that a “reasonable person” would consider “intimidating, hostile, or abusive”. It is also illegal to harass individuals in retaliation for engaging in protected conduct, such as filing a discrimination charge or participating in an investigation of alleged discriminatory conduct. In general, the person engaging in harassing conduct does not need to be the victim’s supervisor and can be any agent of the employer, a co-worker, or a non-employee. However, the employer will only be liable for harassment by a non-supervisory employee or non-employee if it has control over the harasser and it knew, or should have known, about the harassment and failed to take prompt and appropriate corrective action.

Employer’s Obligation to Provide Reasonable Accommodations

The failure to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity, are included in the definition of “discrimination”. Undue hardship means that the accommodation would be too difficult or too expensive to provide, in light of an employer’s size, financial resources, and the needs of the business. If more than one accommodation is effective, the employer may choose which one to provide and need not provide the accommodation requested by the employee. Furthermore, employers must

accommodate an employee's reasonable request for modification of dress and uniform policies on sincerely held religious beliefs unless there is an undue hardship.

Remedies

U.S. employees who believe they have been unfairly discriminated against may seek redress in various federal, state and local administrative agencies, and the U.S. federal and state courts. If the court finds that a termination was the result of unlawful discrimination, the employee may be entitled to reinstatement (rarely granted), monetary damages and attorneys' fees. Monetary damages include compensation for wages and benefits lost as a result of the unlawful termination, and, in some cases, for emotional or physical distress suffered as a result of the employer's unlawful actions. In cases involving an egregious violation of the law, the employer may be liable for punitive damages. Federal law imposes caps on compensatory and punitive damages; many states do not.