

KNOW YOUR RIGHTS: Employment

T L D E F

Transgender Legal Defense & Education Fund

Practical information about how to recognize and respond to gender-based discrimination in the workplace

What Is Employment Discrimination?

Employment discrimination occurs when employers or co-workers single someone out for unfavorable treatment because of that person's gender identity or expression.

Here are some examples of employment discrimination:

REFUSING TO HIRE OR FIRING

Refusing to hire or firing transgender employees because of their gender identity or expression is a form of employment discrimination. This includes refusing to hire someone or firing someone for taking hormones, undergoing sex reassignment surgery, changing name or sex, having a diagnosis of Gender Identity Disorder, or not conforming to traditional gender norms.

DRESS CODES, NAMES, AND PRONOUNS

If employers or co-workers refuse to refer to employees by their preferred name or pronoun, this may be evidence of illegal discrimination. Additionally, while dress codes generally are legal, it may be discrimination for an employer to force you to comply with the dress code for your birth sex, rather than with the dress code that matches your gender identity.

CREATING A HOSTILE WORK ENVIRONMENT

Persistent or severe workplace harassment because of an employee's gender identity or expression can lead to what is known as a "hostile work environment." If the environment is sufficiently hostile, it may be discriminatory. The harassment may involve threats, verbal or physical intimidation, remarks intended to humiliate an employee in front of co-workers or customers, or derogatory comments related to an employee's gender identity or expression.

SEXUAL HARASSMENT

Sexual harassment is a form of workplace discrimination. It may take two forms: hostile work environment sexual harassment and quid pro quo sexual harassment.

Hostile Work Environment Sexual Harassment

A hostile work environment may be created through sexual harassment. This can include inappropriate comments about your body and appearance, unwanted sexual advances or physical contact, spreading rumors about your sexuality among your co-workers, or repeated invasive personal questions of a sexual nature.

Quid Pro Quo Sexual Harassment

Quid pro quo sexual harassment occurs when a supervisor threatens to demote or fire an employee for rejecting sexual advances. It may also involve offering job-related benefits in exchange for sex.

What Can You Do About Employment Discrimination?

If you have been refused employment, fired, or harassed at your workplace, there are steps you can take to enforce your rights:

KEEP RECORDS

Keep notes regarding the dates, times, parties, and places involved in any incident of discrimination. Keep copies of any memos, emails, faxes, telephone messages, or anything else that supports your discrimination claim. This information will help you prepare a thorough and detailed complaint if that becomes necessary. Also keep copies of any official complaint you make and any other forms or documents you submit as part of the complaint. If your records are clear and accurate, your complaint may have more credibility with judges, mediators, and other government officials in charge of enforcing discrimination laws.

SEEK ASSISTANCE FROM YOUR UNION

If you are a union member, report the discrimination to your union. It may be able to file a grievance on your behalf if your employment rights have been violated.

FILE A COMPLAINT WITH YOUR EMPLOYER

If your workplace has an employee handbook, check the handbook to see if your employer has a procedure for filing a discrimination complaint. If it does, follow that procedure. This may involve initiating a formal grievance or meeting with your human resources department. Be prepared to provide information about the people, places, dates and times relevant to your complaint.

FILE A GOVERNMENT COMPLAINT

If state, local, or federal discrimination law where you live protects transgender people from employment discrimination, you should pursue all remedies that are available to you. Find out which state or local agency is in charge of enforcing employment discrimination laws and find out how to enforce your rights under the law. If the law allows you to file a discrimination complaint with a particular agency, do so. You also may be able to file a complaint with the United States Equal Employment Opportunity Commission. Be as specific as possible regarding dates, times, parties, and places involved in any incident of discrimination.

SEEK LEGAL HELP

Transgender Legal Defense & Education Fund is committed to helping you understand and enforce your legal rights. If you believe you have been subject to discrimination because of your gender identity or expression, contact us. For more information, visit us on the web at transgenderlegal.org or call us at 646.862.9396.

OUR MISSION

Transgender Legal Defense & Education Fund is committed to ending discrimination based upon gender identity and expression and to achieving equality for transgender people through public education, test-case litigation, direct legal services, community organizing and public policy efforts.

CONTACT US

Transgender Legal Defense & Education Fund, Inc.
26 Bowery, Suite 3
New York, New York 10013
T: 646.862.9396
F: 515.581.0991
E: info@transgenderlegal.org
www.transgenderlegal.org