

KNOW YOUR RIGHTS

Employment Discrimination



What is Employment Discrimination?

Employment discrimination is when an employer treats an employee or job applicant unfairly or less favorably because of their protected class.

What are the Protected Categories?

- Race, including race-based hair discrimination
- Color
- Religion
- Sex
- National Origin or Ancestry
- Disability
- Sexual Orientation
- Marital Status
- Gender Identity
- Age

Who is Protected from Employment Discrimination?

- Applicants, employees, contractors, and former employees are protected from employment discrimination.
- Applicants, employees, and former employees are also protected from retaliation for filing a charge or complaint of discrimination, participating in a discrimination investigation lawsuit, or opposing discrimination.

Who must Comply with the Law?

While these laws generally apply to most employers, there are some employers who are exempt from following the rules. For example:

- Employers with less than 15 employees do not have to follow certain rules, but: employers with at least one employee must provide equal pay for equal work to male and female employees and cannot harass employees
- Employers with at least four employees cannot discriminate based on national origin
- Religious institutions do not have to follow some rules for employees who play a leadership or teaching role in the institution

What Parts of Employment are Covered Under the Law?

- Hiring and Firing
- Compensation, assignment, or classification of an employee
- Pay or retirement plans
- Transfer or promotion
- Disability leave
- Union Memberships
- Job advertisements
- Recruitment and Testing
- Use of company facilities
- Training and apprenticeship programs
- Fringe benefits
- Internships

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When does Employment Discrimination Occur?

Employment discrimination can occur during a job application or interview process, once someone is actively employed, or after an employee has been terminated or voluntarily left a job.



What does Discrimination Look Like?

- ! You are asked inappropriate and uncomfortable questions during a job interview related to one of the protected categories
- ! Despite being qualified and receiving positive performance evaluations, you are overlooked for a promotion or advancement opportunity
- ! A coworker who has the same position title and years of experience as you receives a higher rate of compensation
- ! The company employing you maintains an employment policy or policies that disproportionately affects applicants or employees of a protected class
- ! An employer or agent of said employer takes unjust disciplinary actions against employees that would not apply to an employee of a different class
- ! Offensive jokes, slurs, name-calling, ridicule, epithets, threats, intimidation, or other forms of harassment are directed at you based on your protected class

Sexual Harassment in the Workplace

My employer is making repeated comments about my appearance and has suggested taking me out on a date, despite my discomfort. Is this against the law?



- Yes, sexual harassment in the workplace is considered a form of sex discrimination and is against the law. Sexual harassment protections apply even if there is only one employee and employer, and there is no exception for employers with less than 15 employees.
- Additionally, The Pregnancy Act of 1978 protects against discrimination on the basis of pregnancy, childbirth, or related medical conditions

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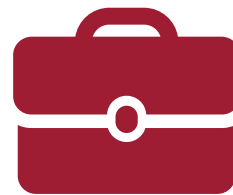
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Discrimination Against Returning People with Records

In some cases, the refusal to hire someone because they have been arrested or convicted of a crime may be unlawful discrimination.

If an employer's practice denies employment to people of one race more often than others it may violate civil rights laws. A ban on hiring a person with an arrest or conviction will more often exclude Persons of Color because of disparities in the criminal justice system. This is sometimes called "disparate impact." An employer's practice may violate the law even if the employer did not intend to discriminate.

Can an Employer Refuse to Hire Someone?

An employer may refuse to hire someone who has been arrested or convicted if there is a legitimate business reason to do so. Legitimate business reasons may include whether the arrest or conviction relates to the qualification for the job, the age of the conviction, or other individual circumstances.

Can an Employer Ask About a Conviction on a Job Application?



Usually, no. Under Maryland law, employers with 15 or more employees cannot ask about an applicant's conviction record before the first in-person interview. Except for:

- Jobs that care for minors or vulnerable adults
- Jobs that require inquiries under other state or federal law

Signs Discrimination May be Taking Place:

- A job posting says "no felons."
- The job application asks about convictions
- An employer ends a job interview immediately upon learning of a conviction
- Employers require a background check before offering an interview
- There is no process available to explain individual circumstances



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What is Employment Discrimination Based on Disability?



In Maryland, it is illegal to discriminate against a person with a disability in the workplace. This includes refusing to hire, firing, demoting, or denying promotions or training because of a disability, a history of disability, or a belief that someone has a disability. The law also protects workers who are associated with a person who has a disability. Discrimination can also include harassment or failing to provide reasonable accommodations.

Who must Comply with the Law?

- Private employers with 15 or more employees
- State and local governments
- Labor organizations



Reasonable Accommodations in the Workplace

A reasonable accommodation is a change to the work environment, job duties, schedule, or hiring process that helps a qualified person with a disability apply for a job, perform essential job functions, or access benefits of employment.

Examples of Discrimination

- Refusing a flexible schedule for a worker who needs medical treatment
- Refusing to provide assistive technology such as screen-reading software
- Refusing to interview a qualified applicant after learning they have a disability

How to Request an Accommodation

When: A reasonable accommodation request can be made at any point during the hiring process or while employed.

Who: The request can be made by the employee with a disability or by someone else on their behalf.

How: The request can be made verbally or in writing. A written request is recommended.

Examples of Reasonable Accommodations:

- Allowing a part-time or modified work schedule
- Providing accessible parking to an employee
- Changing their “no animals” policy in order to permit an employee’s service animal
- Purchasing software or other equipment to make the computer screen accessible to an employee with low vision
- Giving feedback in writing, rather than verbally

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