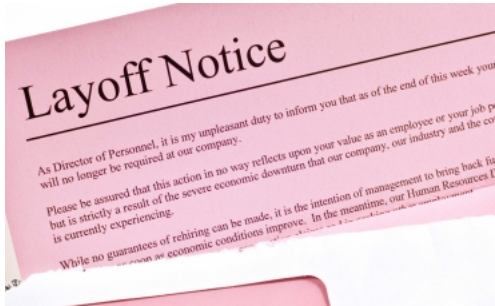





Know Your Rights (/Know-Your-Rights) | Employment (General)



Workplace discrimination against transgender people is against the law.

This resource outlines the rights and procedures transgender employees have to address discrimination. While we still desperately need a national law that explicitly prohibits discrimination based on gender identity and sexual orientation, existing laws provide real protection in many situations. While NCTE does not provide legal services, we encourage any employee who cannot resolve workplace issues through their employer's internal human resources procedures to seek legal counsel. We also encourage workers to share their experiences with NCTE to aid our advocacy efforts on behalf of all transgender employees.

 Download: Employment Discrimination and Transgender People
(https://transequality.org/sites/default/files/docs/kyr/EmploymentKnowYourRights_July2014.pdf)

What Are My Employment Rights?

Federal courts across the country and the U.S. Equal Employment Opportunity Commission (EEOC) have concluded that discrimination because a person is transgender or gender non-conforming constitutes illegal sex discrimination. Many states and localities also expressly prohibit job discrimination based on gender identity and/or expression.

You have the right not to be fired or refused a job or promotion because you are transgender. This is true even if your state and locality have not passed laws explicitly prohibiting gender identity discrimination.

You have the right to be treated with respect and not be harassed. Sex-based harassment is unlawful when it is severe or widespread and an employer does not take steps to stop it. Sex based harassment can include:

- Jokes or derogatory comments about transgender people
- Repeated and intentional use of the wrong name or pronouns
- Invasive, disrespectful personal questions may constitute harassment

You have the right to safe and adequate access to restrooms and other facilities consistent with your gender identity. According to several federal courts and the EEOC, denying access to facilities consistent with your gender identity can constitute discrimination. Employers cannot demand medical or legal documentation of your gender as a condition of restroom access, or limit you to using a specific restroom separate from other employees. Agencies also cannot require you to use facilities that are unsanitary, potentially unsafe, or located at an unreasonable distance from your work station.

Trans people are protected, no matter what the Trump Administration says. In October 2017, Attorney General Jeff Sessions issued a memo stating the U.S. Justice Department would no longer stand up for transgender people in court. This memo does not change the law, and it ignores nearly two decades of court rulings (<http://www.transequality.org/federal-case-law-on-transgender-people-and-discrimination>), as well as the position of the EEOC. While the Trump Administration's actions may cause confusion and encourage employers to discriminate, trans people are still protected at work.

What Can I Do About Employment Discrimination?

Try to resolve it within your company

Many problems can be resolved internally, either by talking with the person who is causing a problem, or by using your company's internal complaint process. Sometimes, a manager or coworker just needs to understand your point of view; they may not have met a transgender person before. Other times, a direct supervisor may be biased, but management will back you up. Sharing copies of the federal government guidance on trans workplace issues and relevant EEOC decisions (see below), although not binding on all employers, may help persuade management or HR.

Find out about your company's equal employment opportunity (EEO) procedures, and whether your company's EEO policy expressly covers gender identity. Even if it doesn't, you can still file an internal complaint. These can often be resolved in days or weeks. Another possibility is having an attorney or legal organization approach your employers on your behalf to fix the problem. However, you are not required to use your company's internal process before filing a complaint with federal, state, or local officials.

File a charge of sex discrimination with the U.S. Equal Employment Opportunity Commission (EEOC)

The main reason to file a charge of discrimination is to make ongoing discrimination stop. When the discrimination is not ongoing, filing a charge may help stop the same thing from happening to others, and sometimes can result in monetary remedies. Charges can also lead employers to change policies, discipline staff, or institute training.

A charge of discrimination must be filed with the EEOC or your state civil rights agency before going to court. Most charges are resolved without going to court. Generally a charge must be filed within 180 days of a discriminatory action, although there are some exceptions. (Note: Federal government employees generally need to file a complaint within 45 days.)

We recommend filing a charge in person at a regional EEOC field office. If you cannot do this, a charge may be filed by mail in the form of a letter that includes the following:

- Your name, address, and telephone number
- The name, address and telephone number of the employer
- The number of employees employed there (if known)
- A short description of the events you believe were discriminatory
- When the events took place
- Why you believe you were discriminated against (e.g., because of your sex)
- Your signature

Charges cannot be filed online or by phone. The EEOC has an information hotline (1-800- 669-4000) and an online assessment tool to help you determine how and where to file. For details on filing charges, visit EEOC's website: <http://eeoc.gov/employees/howtofile.cfm> (<http://eeoc.gov/employees/howtofile.cfm>). The law protects you against any threats or retaliation by your employer for filing a charge.

The EEOC will generally either ask you and your employer to take part in mediation. If the case is not sent to mediation or mediation doesn't resolve the case, the EEOC will investigate the charge. Then, the EEOC agency will either find a violation of the law and try to reach a settlement between you and your employer, or will issue a "Right-to-Sue" letter permitting you to file a lawsuit in federal court.

File a lawsuit

You must file an EEOC charge and receive a Right-to-Sue letter before you can file a federal lawsuit. You can request a Right-to-Sue letter immediately when you file your charge, but unless you have a lawyer it is not usually better to let the agency try to resolve the charge first. You must file a lawsuit within 90 days from the day you receive the EEOC's Right-to-Sue letter.

To file a lawsuit based on state or local law, you do not need to go through the EEOC process first. Sometimes, however, you may need to go to your state civil rights agency first.

This type of lawsuit is complex and you will generally need to hire a lawyer to help you. Deadlines are very important, so you should begin looking for a lawyer early in the process.

If your employer contracts with the federal government, you should file a complaint directly with the Office of Federal Contract Compliance Programs (<http://www.dol.gov/ofccp/regs/compliance/pdf/pdfstart.htm>) (<http://www.dol.gov/ofccp/regs/compliance/pdf/pdfstart.htm>).

File a complaint with a state or local civil or human rights agency

State and local human rights agencies are responsible for enforcing state and local laws prohibiting bias based on sex or gender identity or expression. The Department of Justice keeps a list of contact information for state human rights agencies here: <http://www.justice.gov/crt/legalinfo/stateandlocal.php> (<http://www.justice.gov/crt/legalinfo/stateandlocal.php>).

Human rights agencies may have different procedures, and contacting the office for your area is the best way to learn more about who to contact and how to file a complaint.

Who Else Can Help Me?

Resolving a case of workplace discrimination can be a complicated process. Don't hesitate to seek help from a lawyer or your union representative (or both). While NCTE does not provide legal services or referrals, there are many other groups that may give you referrals or maintain lists of local employment lawyers. You can try your local legal aid or legal services organization, or national or regional organizations such as Lambda Legal, the National Center for Lesbian Rights, the ACLU, the Transgender Law Center, and others listed on NCTE's website ([/additional-help](#)). The National Employment Lawyers Association also maintains an online directory of employment lawyers.

How Else Can I Help?

Share your story. If you are facing discrimination, consider sharing your story with NCTE so we can use it in advocacy efforts to change policy, improve education, and reduce future discrimination. If you successfully resolve issues in your workplace, and especially if any of the material here helped, we want to hear from you as well.

What Laws Protect Me?

The following laws and policies offer protection for transgender people in employment:

- **Title VII of the Civil Rights Act of 1964** prohibits sex discrimination in employment. Numerous federal courts and the Equal Employment Opportunity Commission have agreed that discrimination because an employee or job applicant is transgender or gender non-conforming constitutes sex discrimination. Title VII applies to any employer with at least 15 employees. This means that complaints of anti-transgender job discrimination anywhere in the country can be filed with the EEOC.
- **State and local laws in many jurisdictions** also explicitly prohibit discrimination based on gender identity or expression. As of July 2015, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, Nevada, Oregon, Rhode Island, Vermont, Washington State, Utah, and Puerto Rico and over 200 cities and counties have such explicit laws. These laws are enforced by state and local civil or human rights agencies.

- **State or local government employees are protected by state constitutions and laws prohibiting discrimination on the basis of sex in employment.** Additionally, executive orders in Delaware, Indiana, Kansas, Kentucky, Maryland, Michigan, New York, Pennsylvania, and Virginia explicitly prohibit gender identity discrimination in state employment.
- **Federal civilian employees have additional protections and different procedures for complaints.** The federal government has issued guidelines for transgender workers. Please refer to NCTE's resource, "Transgender Federal Employees: Your Workplace Rights" (/sites/default/files/docs/kyr/FederalEmployees_Feb2012.pdf) for more information.
- **Executive Order 13672** (updating Executive Order 11246) prohibits anti-LGBT discrimination by federal contractors. If you work for a company that contracts with the federal government, you are protected.

Additional Resources

U.S. Equal Employment Opportunity Commission Brochure on LGBT Discrimination:

http://www.eeoc.gov/eeoc/publications/brochure-gender_stereotyping.cfm (http://www.eeoc.gov/eeoc/publications/brochure-gender_stereotyping.cfm)

How to File a Charge with the EEOC:

<http://eeoc.gov/employees/howtofile.cfm> (<http://eeoc.gov/employees/howtofile.cfm>)

EEOC Federal Sector LGBT Cases:

http://www.eeoc.gov/federal/reports/lgbt_cases.cfm (http://www.eeoc.gov/federal/reports/lgbt_cases.cfm)

EEOC Assessment System:

<https://egov.eeoc.gov/eas> (<https://egov.eeoc.gov/eas>)

Links to State and Local Human Rights Agencies:

<http://www.justice.gov/crt/legalinfo/stateandlocal.php> (<http://www.justice.gov/crt/legalinfo/stateandlocal.php>)

Links to Legal Services Organizations:

<http://www.lsc.gov/map/index.php> (<http://www.lsc.gov/map/index.php>)

National Employment Lawyers Association:

<http://www.nela.org> (<http://www.nela.org>)

How to file a complaint with the Office of Federal Contract Compliance Programs (OFFCP):

<http://www.dol.gov/ofccp/regs/compliance/pdf/pdfstart.htm> (<http://www.dol.gov/ofccp/regs/compliance/pdf/pdfstart.htm>)

OPM Guidance on the Employment of Transgender People in the Federal Workplace:

<http://www.opm.gov/diversity/Transgender/Guidance.asp> (<http://www.opm.gov/diversity/Transgender/Guidance.asp>)

Pride at Work (LGBT @ AFL-CIO):

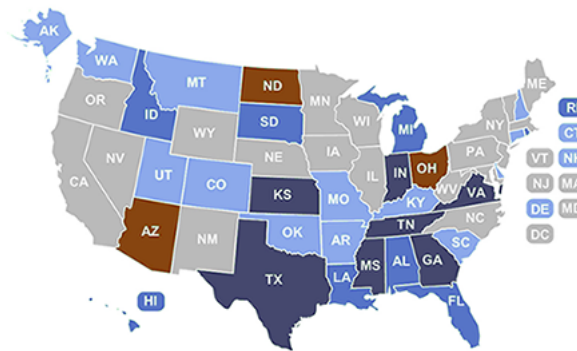
<http://www.prideatwork.org> (<http://www.prideatwork.org>)

Issue Maps

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