

What are my rights at work?

2020 has become an important year for workplace protection both federally and in Washington. Some of these updates include:

- The U.S. Supreme Court ruled that federal law protects LGBTQ+ workers from employer discrimination.

This means that LGBTQ+ folks throughout the country are legally protected from being fired, harassed, or otherwise discriminated against based on their identity. While states like Washington have long protected us through state laws, this ruling is a great step forward for other states that do not have those protections.

- In Washington, the definition of race discrimination now includes characteristics associated with race including hair texture and hairstyle.

This means that you can wear your hair in afros, braids, locks, twists, or other styles at work and be protected by law. And no, your coworkers cannot ask to touch your hair.

- In Washington, discrimination on the basis of citizenship and/or immigration status is now explicitly prohibited.

This means that treating immigrants or non-U.S. citizens differently because a coworker, supervisor, or employer holds anti-immigrant bias is illegal. It does not change other state or federal laws requiring citizenship documentation or other permit to work.

What are workplace “protections”?

“Protections” generally mean that employers are not allowed to harass or discriminate against employees and job seekers based on a “protected” identity. Commonly known “protected” identities include race, disability, religion, and national origin. Now in Washington, protections also include citizenship and immigration status, and traits associated with race, such as hair or attire. And nationally, LGBTQ+ people are protected against discrimination under a federal law called Title VII.

Discrimination generally means different treatment that was motivated by bias against one or more protected identities. *For example:* if an employer pays women of color less than other similarly qualified workers, systematically fails to promote qualified women of color, or punishes women of color more harshly than other workers, then they are probably discriminating against women of color. The same could be true for transgender workers, workers of a certain race, workers with disabilities, or workers in other protected groups.

Harassment is slightly different. It means severe or pervasive offensive conduct. Common examples include unwanted touching (sexual harassment), verbal abuse or slurs related to protected groups, or violent threats.

What specific protections do I have as an LGBTQ+ person?

Under current Washington law, LGBTQ+ discrimination and harassment might include the examples mentioned above (failure to promote, pay discrimination, unevenly harsh punishment, sexual harassment, verbal abuse, and violent threats).

There are also some types of discrimination and harassment that are specific to LGBTQ+ people. Under the Washington Law Against Discrimination, some of examples include:

- Requiring someone to use a restroom inconsistent with their gender expression or gender identity
- Intentionally misgendering someone
- “out”-ing someone
- Asking unwanted personal questions about their sexual orientation or gender identity

What to do if you are being discriminated against or harassed at work:

Educating yourself, paying attention, and connecting with resources can help. Private employment attorneys may be willing to take your case. Government agencies and nonprofits may also be able to help.

How to Advocate for Yourself

- When encountering harassment or discrimination, try to remain calm (even though it’s hard, and unfair). Use very clear language expressing your objections, like “I don’t like that,” “I don’t think that’s funny,” or “I feel uncomfortable.”
- If you have a coworker or supervisor that is affirming of your sexual orientation or gender identity, or if your workplace has an LGBTQ+ affinity group, you may want to ask them for help.
- Keep a journal of discriminatory or harassing things. Include what happened, who you told, and what the result was. It will probably not feel good, but it will help you by giving you a place to keep information until you decide what you want to do. Keep your journal private.
- Review a copy of your workplace policy handbook, and look for your employer’s procedures for reporting discrimination. If you don’t have a copy of your handbook, request one from Human Resources or a supervisor. Even if you do not believe the procedures will be followed, or you don’t agree with them, it’s still important that you use the process your employer has laid out.
- Write an email to your Human Resources representative, union officers, or supervisor, or report the discrimination using your employer’s process. Make sure you clearly explain the issues you are having. Include dates, times, what was said, and who else was present. Make sure you focus on how the discrimination or harassment is harming your ability to do your job, and clearly explain how it is related to your sexual orientation or gender identity; do not assume your employer will get there on their own.
- If the discrimination or harassment continues, or if you begin to experience retaliation after you make your report, continue to document in your journal, and continue to report to human resources or a supervisor.
- At **any** point in this process, reach out to QLaw Foundation or another legal resource for help.

Government Resources

- Washington Human Rights Commission Complaint Portal: <https://www.hum.wa.gov/file-complaint>
- Equal Opportunity Employment Commission’s Complaint Filing Portal: <https://www.eeoc.gov/how-file-charge-employment-discrimination>

Non-Profit Resources

- QLaw Foundation’s LGBTQ+ Legal Clinic: <https://www.qlawfoundation.org/lgbtq-legal-clinic.html>

- Lavender Rights Project: <https://www.lavenderrightsproject.org/contact>
- Ingersoll Gender Center: <https://ingersollgendercenter.org/resources/support-request-form/>

Educational Resources

- Washington Law Help Articles on Employment Discrimination: <https://www.washingtonlawhelp.org/issues/employment-farm-worker-rights/discrimination>
- Washington Human Rights Commission's Guide to Sexual Orientation and Gender Identity Discrimination and WLAD: <https://www.hum.wa.gov/sites/default/files/public/publications/Updated%20SO%20GI%20Guide.pdf>
- Washington Administrative Code on Sexual Orientation and Gender Identity under WLAD: <https://app.leg.wa.gov/wac/default.aspx?cite=162-32>
- Washington Law Against Discrimination: <https://apps.leg.wa.gov/rcw/default.aspx?cite=49.60>

Are you experiencing discrimination or harassment? To schedule an appointment at one of our legal clinics, visit this link: <https://www qlawfoundation.org/lgbtq-legal-clinic.html>

The information contained in this document is not legal advice. If you have questions about the rights outlined in this resource or have specific legal questions and would like to consult with a lawyer about your situation, please make an appointment at QLaw Foundation's free LGBTQ+ Legal Clinic at www.qlawfoundation.org or by calling 206-235-7235.