Addressing Discrimination In The Work Place

By: The Student Legal Lounge

** By connecting with us, you acknowledge we are not attorneys. Speaking to us does not form an attorney-client relationship. Any information we provide is for education and to assist in your understanding. Any legal decisions you make are yours alone. **
The Goal for this talk

- Defining Discrimination Vocabulary
- Discrimination Statistics
- What Discrimination and Harrasment Can Looks Like
- Legal Rights and Protections in Place by the Fed Government
- Steps you can take to address it in your own Workplace
- HSU and Local Resources
- Two Guest Speakers
What is Workplace Discrimination?

To discriminate against someone means to treat that person differently, or less favorably, for some reason.

Discrimination in employment occurs when an employee is treated unfavorably because of gender, sexuality, race, religion, pregnancy and maternity or disability.

It can be Direct or Indirect.
The Stats and Facts on Discrimination

32.4% related to sex (ex. Men vs. Women)
33% related to race
33.4% related to disability
21.4% related to age
9.6% related to national origin

Retaliation complaints were a big factor in complaints, 53.8% of complaints involved retaliation

Recorded in 2019, EEOC

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“It is **ILLEGAL** to discriminate against an employee, either intentionally or through a disparate impact, on account of his or her race, color, religion, sex (including pregnancy, sexual orientation and gender identity), national origin, age (40 or older), disability or genetic information.”

- [L&E Global](https://www.lenglobal.com), Anti-Discrimination Laws in USA
What is Workplace Harassment?

Harassment is a form of employment discrimination and is illegal under both Federal and California law.

In order for behavior to rise to the level of illegality, the conduct and/or policies must create a hostile work environment that any other reasonable person could not tolerate.

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Types of Microaggressions

Microassaults: When a person intentionally behaves in a discriminatory way while not intending to be offensive.

Microinsults: Comment or action that is unintentionally discriminatory.

Microinvalidations: When a person’s comment invalidates or undermines the experiences of a certain group of people.
Forms of Microaggressions

**Verbal:** A comment or question that is hurtful or stigmatizing to a certain marginalized group of people.

**Behavioral:** When someone behaves in a way that is hurtful or discriminatory to a certain group of people.

**Environmental:** When subtle discrimination occurs within society.

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What can Discrimination Look Like?

Not Providing Certain Retail Information.

Terminating or refusing to hire, promote, or any other term / condition of employment.

Refusing entry / service in a restaurant or other public establishment.
Federal Protections

**Title 7**: Provides Federal Protection from Sexual Orientation discrimination as of June 2020

**The Pregnancy Discrimination Act (Amendment to Title VII)**: expands protections of “sex” to include pregnancy, childbirth and/or a medical condition related to pregnancy or childbirth
Federal Protections

Title I & Title V of the Americans with Disabilities Act (ADA): makes it illegal to discriminate against a qualified person with a disability from employment or during employment in the private sector and in the state and local government.

Employers must make reasonable accommodations for workers with disabilities.

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More Federal Protections

The **Equal Pay Act** is a labor law that prohibits gender-based wage discrimination in the United States passed in 1963.

**Age Discrimination in Employment Act (ADEA)** forbids age discrimination against people who are age 40 or older.

**Title II of the Genetic Information Nondiscrimination Act (GINA):** prohibits employment discrimination based on genetic information about an applicant, employee, or former employee.
State Protections

**Fair Employment and Housing Act (FEHA):** Makes it illegal for employers of 5 or more employees to discriminate against job applicants and employees because of a protected category or retaliate against them because they have asserted their rights.

Also prohibits harassment based on a protected category against an employee, an applicant, an unpaid intern or volunteer, or a contractor.

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Doing Your Part to Be Aware
How Forms of Discrimination Are Commonly Seen

Racism
Sexism
Ableism
Ageism
Homophobia

Religious based discrimination, etc.

Unfair actions of making unjustified distinctions based on a perceived person or group’s identity.
Why Discrimination Is Not Always Seen

Be critical: Despite a circumstance being normalized or difficult to approach does not make it any less discriminatory.

Be wary of language used in a broad manner when used to describe a group or person.

Be aware of patterns of inclusivity and exclusivity regarding a group of people. Familiarize yourself with your own assumptions and those of your close friends and family. Try to remove baseless expectations and strive to lead by example.

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Barriers To Speaking up

- Lack of Awareness
- Power dynamics (boss/worker, student/faculty, or religious hierarchy, etc.)
- Physical and gender based intimidation is also a common issue
- Fear of ruining a close relationship be it with friends or family
How Can Discrimination be Addressed in the Workplace?
What Can You Do to Protect Yourself

Know Your Rights!

Under California law it is illegal for employers of 5 or more employees to discriminate against someone based on the categories mentioned before, along with the following categories: gender, gender identity, sexual orientation, marital status, or military/veteran status.
Under Federal and California state law employees are protected against retaliation for going forward with a claim regarding discrimination in the workplace.
Steps You Can Take to Protect Yourself

1. **Review** your company's anti-discriminatory policy and federal and state laws.

2. **Make a record of the offensive actions and keep anything left for you.** Notes should include: date, approximate time, location, parties involved, witnesses, and details of the improper conduct or speech.

3. **Bring awareness to the fact.** Make your employer/manager aware that you feel you are being discriminated against or harassed.

4. **Make an internal complaint.** Follow the company’s written procedures, complaint policy, of how to make a complaint or ask someone in the HR department on how to file a complaint of harassment or discrimination.

Continues →
5. **Get outside help to protect your rights.** If you are being discriminated against and your employer is unresponsive or has retaliated against you:

   - File a discrimination claim with the *Equal Employment Opportunity Commission* (EEOC) or with the California *Department of Fair Employment and Housing* (DFEH) or
   - The two agencies have a “work-sharing agreement,” they cooperate with each other to process claims
   - Generally, if your workplace has 15 or more employees you can file with either EEOC or DFEH, if it has between 5 and 14 employees it would fall under DFEH

Continues →
- Contact an attorney and take it to court (file a lawsuit)
  - Generally before filing a lawsuit against an employer in California, an employee must first file a complaint with DFEH to obtain a Right-to-Sue notice
  - If an employee would prefer to bypass DFEH or EEOC’s investigation process, they can obtain an Immediate Right-to-Sue notice

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Resource For You

Resources You Might Already Have

○ Human Resources Department
○ Complaints
○ Manager or Senior Employee
○ Fellow Employees
○ Any Interior Conflict Resolving Entities

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HSU Resources

**HSU Title IX & Discrimination, Harassment, & Retaliation Prevention**
https://titleix.humboldt.edu/

**HSU Office of Student Rights & Responsibilities**
https://studentrights.humboldt.edu/

**HSU Human Resources & Academic Personnel Services**
https://hraps.humboldt.edu/equal-opportunity-compliance
State and Federal Resources

○ California Department of Fair Employment and Housing
  ■ https://www.dfeh.ca.gov/employment/

○ US Equal Employment Opportunity Commission
  ■ https://www.eeoc.gov/
Local Resources Trauma Related Services

Arcata Chamber of Commerce (referrals)

https://www.arcatachamber.com/

Humboldt County Department of Health & Human Services

https://humboldtgov.org/192/Health-Human-Services

Campus Advocate Team (CAT)

https://titleix.humboldt.edu/hsu-cat

HSU Counseling and Psychological Services, and mental health needs

https://counseling.humboldt.edu/counseling-psychological-services-new

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Emergency Services

Call 911 or Your Local Emergency Department or
HSU University Police Department (UPD)
Humboldt County Sheriff’s Office (HCSO)
Arcata Police Department (APD)
Eureka Police Department (EPD)
Guest Speaker: Nicki Viso

Title IX and DHR Prevention Program Analyst

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(707) 826-5542
Guest Speaker: David Hickcox

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Interim AVP - HSU Human Resources

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Resources:

https://titleix.humboldt.edu/
https://studentrights.humboldt.edu/
https://hraps.humboldt.edu/equal-opportunity-compliance
https://www.dfeh.ca.gov/employment/
https://www.eeoc.gov/
https://www.arcatachamber.com/
https://humboldtgov.org/192/Health-Human-Services
https://titleix.humboldt.edu/hsu-cat
https://counseling.humboldt.edu/counseling-psychological-services-new
https://www.yeremianlaw.com/employment/constitutes-workplace-harassment-california/
https://www.worklawyers.com/discrimination-law-california/
https://titleix.humboldt.edu/people/david-hickcox