Discrimination in the Workplace

What you need to know about your rights and protections as an employee

Student Legal Lounge
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for all your legal inquiries!

California law protects individuals from illegal discrimination by employers based on the following:

- **Race, color**
- **Ancestry, national origin**
- **Religion, creed**
- **Age (over 40)**
- **Disability, mental and physical**
- **Sex, gender (including pregnancy, childbirth, breastfeeding or related medical conditions)**
- **Sexual orientation**
- **Gender identity, gender expression**
- **Medical condition**
- **Genetic information**
- **Marital status**
- **Military and veteran status**

California State Laws

It is preferable to file a claim under state law as it allows a year after the discriminatory incident to file an administrative charge.

What is the Fair Employment and Housing Act?

- Prohibits harassment based on a protected category against an employee, an applicant, an unpaid intern or volunteer, or a contractor. Harassment is prohibited in all workplaces, even those with fewer than five employees.
- Applies to public and private employers, labor organizations and employment agencies.
- It is illegal for employers of five 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 under the law.

Forms of Discrimination

While harassment is bias (on the basis of sex, race, religion, etc.) that is expressed through interpersonal relations in the workplace, discrimination is such bias expressed through official employment actions.

Workplace harassment
occurs when someone in the workplace mistreats another person based on their protected category, in a way that falls outside the job description of the person committing the harassment.

- "quid pro quo" (Latin for "this in exchange for that") - a situation where the employee's supervisor has conditioned job benefits on the employee's accepting the supervisor's sexual advances or conduct

Employment discrimination
when someone in the workplace treats employees differently on the basis of prohibited categories while performing acts that ARE part of the job description of the person committing discrimination.

How do I file a discrimination claim in California?

- To begin with, it is recommended that you report the incident to someone (human resources, etc.) at your employer.
- The first step in filing a complaint with California Department of Fair Employment and Housing is to fill out an intake form (online, mail, or by phone). The submission of this form initiates an intake interview with a department representative to determine whether a formal complaint will be accepted for investigation.
- An alternative is to instead file your own lawsuit for employment discrimination in court by obtaining a Right-To-Sue notice.

Resources:

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

California Labor & Employment Law: https://calaborlaw.com/discrimination-laws-in-california/

Workplace Fairness: https://www.workplacefairness.org

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