

# What You Can Do

When you are deciding what to do, remember that every situation is different. However, you should always report the sex discrimination you believe you are experiencing to your employer. You then have the option to use your employer's internal complaint system, file a grievance with your union, file a complaint with the appropriate federal and state agency, or go to court.

It is important to talk with a lawyer or legal services organization like Equal Rights Advocates to discuss your choices. They can help you to understand your choices, weigh their benefits and risks, and recognize the strengths and weaknesses of your case.

## WHAT TO DO IF YOU THINK YOUR RIGHTS HAVE BEEN VIOLATED:

### ■ WRITE DOWN WHAT HAPPENED!

As soon as you experience discrimination, start writing it down. Write down dates, places, times, and possible witnesses to what happened. If possible, ask your co-workers to write down what they saw or heard, especially if the same thing is happening to them. Remember that others may (and probably will) read this written record at some point. It is a good idea to keep the record at home or in some other safe place. Do not keep the record at work.

■ **START A PAPER TRAIL.** When you report the discrimination to your employer, do it in writing. Describe the problem and how you want it fixed. This creates a written record of when you complained and what happened in response to it. Keep copies of everything you send and receive from your employer.

### ■ REVIEW YOUR PERSONNEL FILE.

Most states allow employees to review some or all of their personnel files. In California, you have the right to inspect your personnel file insofar as it relates to your performance or any grievance in which you are involved.

■ **USE THE GRIEVANCE PROCEDURE AT WORK.** Many employers and schools have policies for dealing with sex discrimination complaints. You may be able to resolve the problem through this process. Find out your employer's policies by looking in your employee manual or at the personnel policies. You may wish to ask a supervisor, manager, or human resources officer to help you. It is important to follow your employer's procedures.

■ **INVOLVE YOUR UNION.** If you belong to a union, you may want to file a formal complaint through the union and try to get a shop steward or other union official to help you work through the grievance process. Get a copy of your union's grievance policy and see if it discusses the problems you are experiencing. It is important to remember that if you use your union's grievance procedure, you must still file a complaint with a government agency if you want to file a lawsuit in federal or state court.

■ **FILE A DISCRIMINATION COMPLAINT WITH A GOVERNMENT AGENCY.** If you want to file a lawsuit in federal or state court, you must first file a formal complaint

of discrimination with the federal Equal Employment Opportunity Commission (EEOC) and your state's fair employment agency (if your state has one). In California, the state fair employment agency is the Department of Fair Employment and Housing (DFEH). If you are a federal employee, follow federal guidelines on how to file a discrimination complaint. You can obtain these guidelines from the Equal Employment Opportunity Commission at (800) 669-4000.

### ■ DO NOT MISS DEADLINES FOR FILING WITH THE EEOC OR OTHER GOVERNMENT AGENCY!

Do not delay in filing a complaint with your employer! If you start to feel that your employer's process for dealing with the discrimination may not help you, don't wait to file a formal complaint. This is very important! You cannot bring a lawsuit against your employer unless you have first filed a complaint of discrimination with the EEOC or your state fair employment agency.

In California, you have **300 days** from an act of sexual harassment to file a complaint with the EEOC and **1 year** to file a complaint with the DFEH. The deadlines vary from state to state but you must first file a complaint with the EEOC and your state fair employment agency (if your state has one) before you will be allowed to file a lawsuit in court. Under federal law in other states, you may have only 180 days to file a formal complaint. These deadlines apply even if you have filed an internal complaint with your employer or union. Be sure to check with a community legal organization or an attorney to find out about specific filing requirements and deadlines.

■ **FILE A LAWSUIT.** After you file a complaint with the EEOC or your state's fair employment agency, you can also consider filing a lawsuit. You can sue for money damages, to get your job back, and you can also ask the court to make your employer change its practices to prevent future discrimination from occurring.

## Equal Rights Advocates Can Help:

ERA provides a toll-free multi-lingual Advice and Counseling Line (1-800-839-4372), where you can receive advice and information about your legal rights. All calls are confidential.

## Resources:

### NATIONAL U.S. Equal Employment Opportunity Commission (EEOC)

*(The federal agency that enforces workplace anti-discrimination laws)*  
(800) 669-4000: Toll-free phone number that automatically connects you to your local EEOC office.  
[www.eeoc.gov](http://www.eeoc.gov)

For state and local offices, check the U.S. government pages of the telephone book..

### U.S. Department of Education Office of Civil Rights (OCR)

*(The federal agency that enforces school anti-discrimination laws)*  
(800) 421-3481  
[www.ed.gov/offices/OCR](http://www.ed.gov/offices/OCR)

For state and local offices, check the U.S. government pages of the telephone book..

### CALIFORNIA California Department of Fair Employment and Housing (DFEH)

*(The state agency that enforces the state workplace anti-discrimination laws.)*  
(800) 884-1684: Within California  
(916) 227-0551: Outside California  
[www.dfeh.ca.gov](http://www.dfeh.ca.gov)

For all other states, check the state government pages of the telephone book for your local agencies.

Equal Rights Advocates  
1663 Mission Street, Suite 250  
San Francisco, CA, 94103  
Phone: (415) 621-0672  
Fax: (415) 621-6744  
[www.equalrights.org](http://www.equalrights.org)

Advice and Counseling:  
(415) 621-0505  
1-800-839-4ERA (4372)

Equal Rights Advocates' mission is to protect and secure equal rights and economic opportunities for women and girls through litigation and advocacy.

# SEX discrimination

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Equal Rights Advocates

KNOW YOUR RIGHTS SERIES  
■ Sexual Harassment  
Sexual Harassment in Schools  
Sex Discrimination  
Family and Medical Leave  
& Pregnancy Discrimination

# What is Sex Discrimination?

When you are treated differently because of your sex and when the different treatment negatively affects the “terms or conditions of employment”, it is illegal. “Terms or conditions of employment” include position, pay, title, being hired or fired from a job, and advancement and training opportunities.

Students can also be the victims of sex discrimination if teachers or other students discriminate against them because of their sex.

## Examples of Sex Discrimination

These examples of sex discrimination are to help you decide if you are being discriminated against because of your sex.

### HIRING

You apply for a job as an executive consultant. Although you have experience and excellent qualifications, you are not hired because some of the company’s long-time clients are more comfortable dealing with men.

### FIRING

You were told that you were laid off due to company cutbacks and reorganization. However, men in the same job and with less seniority kept their jobs..

### PROMOTION

You have worked as a sales clerk at a retail store for ten years but you have been repeatedly denied the opportunity to advance. Men with less experience, including men that you trained and/or supervised, receive the promotions instead.

### JOB CLASSIFICATION

You work at a company that has an eight-tier job classification system. Your responsibilities have increased over time, but your job classification and pay has remained the same. Your male colleagues have their job classification and pay adjusted to reflect their increased responsibilities.

### BENEFITS

You are required to use your sick and vacation leave to take time off for your pregnancy because your employer doesn’t provide long-term disability leave for pregnancy, but does cover other health conditions. A male co-worker was on leave for six months because he had a heart attack and he was able to use the long-term disability plan.

### PAY

You work your way up from the position of cook’s helper to chef. Now another chef has been hired. You both have similar training and work experience but you find out that he is being paid more than you.

### SEXUAL HARASSMENT

Your boss is the vice-president of the company. He repeatedly makes unwelcome comments about your body and routinely puts his arm around your waist when discussing work-related matters. You tell him his behavior makes you uncomfortable and ask him to stop. He says, “Maybe you are too uptight for this job. I probably should never have hired you.” You now are afraid of losing your job if you don’t “loosen up.”

## Sex Discrimination is Against the Law

### FEDERAL LAW

The federal law prohibiting sexual discrimination in the workplace is Title VII of the 1964 Civil Rights Act. Title VII applies to private employers, state and local government employers, labor organizations, employment agencies, and joint employer-union apprenticeship programs with 15 or more employees.

The federal law protecting students from sex discrimination is Title IX of the Education Amendments of 1972. The law applies to academic, extra-curricular, research, occupational training, and other educational programs from pre-school through graduate school that receive, or benefit from, federal financial funding. There are some educational institutions that are not covered by Title IX, even if they do receive federal funding, including some religious organizations, military training schools; and university fraternities and sororities.

### CALIFORNIA STATE LAW

The California Fair Employment and Housing Act (FEHA) prohibits sexual discrimination in employment. FEHA applies to private and public employers, employment agencies, labor organizations, state licensing boards, and state and local governments that have 5 or more employees (but only 1 employee is required if the complaint involves sexual harassment).

### OTHER STATE LAWS

Like California, most states have a law that makes sex discrimination illegal. You can get more information by consulting a lawyer who practices in your state. If you need help finding an attorney, Equal Rights Advocates can refer you to a local attorney.

## Retaliation

Not only is sex discrimination against the law, but so is retaliating (taking revenge) against someone for reporting sex discrimination or for participating in an investigation of sex discrimination. Examples of retaliation include being fired or demoted, receiving a pay cut, being made to take an unpaid leave of absence, or being reassigned to an undesirable job. If your employer retaliates against you for reporting sex discrimination or for participating in an investigation of sex discrimination, you should follow the steps suggested in the “What You Can Do” section.