

# 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 you because of your 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 are told that you are laid off due to company cutbacks and reorganization. However, men in the same job and with less seniority keep their jobs.

### Promotion

You work as a sales clerk at a retail store for ten years but 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 stagnant. 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. He has 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."

### 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 forced 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.

# Sex discrimination is against the law

### Federal Law

The federal law prohibiting sex 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 sex discrimination in employment. FEHA applies to private 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. Equal Rights Advocates can refer you to a local attorney.

# 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/or state agency, and/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, their benefits and risks, as well as 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.** It is your right to see your personnel file. If you work for a private employer in certain states, including California, you have the right to request and receive copies of everything in your file that you have signed.
- **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. To find out your employer's policies, look in your employee manual/personnel policies and/or speak to a human resources officer. 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. 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/or your state's fair employment agency (in California, this is the Department of Fair Employment and Housing). (See "Resources" section for contact information.) If you are a federal employee, follow federal guidelines on how to lodge a discrimination complaint. You can obtain these guidelines from the Federal Labor Relations Authority at (202) 482-6600.

■ **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.

Under federal law in California, you have 300 days from an act of discrimination to file a complaint. Under federal law in other states, you may have only 180 days to file a complaint. It is important to check with the EEOC or a legal organization to find out the time limits. Call Equal Rights Advocates or a lawyer to find out what you need to do and when.

Under California law, you have one year from an act of discrimination to file a complaint for discrimination. The deadlines under other states' laws differ. Call Equal Rights Advocates or a lawyer to find out what to do and when.

■ **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 Hotline (1-800-839-4372), where you can receive advice and information on your legal rights. All calls are confidential.

## Resources:

**NATIONAL**  
**U.S. Equal Employment Opportunity Commission (EEOC)**  
*(The federal agency that enforces federal workplace anti-discrimination laws)*  
**(800) 669-4000:** Toll-free phone number that automatically connects you to your local EEOC office.  
**(415) 356-5100: San Francisco, CA local office**  
**(510) 637-3230: Oakland, CA local office**  
**www.eeoc.gov**

*All other states, check the U.S. government pages of the telephone book for your local offices.*

**U.S. Department of Education Office of Civil Rights (OCR)**  
*(The federal agency that enforces federal school anti-discrimination laws)*  
**(800) 421-3481**  
**(415) 556-4275: San Francisco, CA local office**  
**www.ed.gov/offices/OCR**

*All other states, check the U.S. government pages of the telephone book for your local offices.*

**CALIFORNIA**  
**California Department of Fair Employment and Housing (DFEH)**  
*(The state agency that enforces state workplace anti-discrimination laws.)*  
**(800) 884-1684: Within California**  
**(916) 227-0551: Outside California**  
**www.dfeh.ca.gov**

*All other states, check the state government pages of the telephone book for your local offices.*

Equal Rights Advocates  
 1663 Mission Street, Suite 250  
 San Francisco, CA, 94103  
 Phone: (415) 621-0672  
 Fax: (415) 621-6744  
 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.

DESIGN BY ZESTOP

# SEX discrimination

produced by

