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What is Employment Discrimination in New York State?

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What is Employment Discrimination in New York State?

- Employment discrimination is when an employer treats an employee or a job applicant differently because of their membership in a protected class. Under New York State Human Rights Law it is illegal for an employer to discriminate because of any of the following reasons:
 - Race
 - Creed
 - Color
 - National origin
 - Sexual orientation
 - Military status
 - Sex*
 - Age
 - Marital status
 - Domestic violence victim status
 - Disability
 - Pregnancy-related condition
 - Predisposing genetic characteristics
 - Prior arrest or conviction record
 - Familial status
 - Retaliation for opposing unlawful discriminatory practices

- *Gender identity, transgender status, and gender dysphoria are covered as sex discrimination and may be covered as disability discrimination
- Identifying discrimination
 - Employment discrimination can take many different forms. Some are more obvious, such as refusing to hire someone because of their sex. Other times it can be less obvious, such as office policies that are not applied to everyone equally.
- If you think that an action by an employer was discriminatory, you may want to ask for more information in writing about how the decision was made.

What Can I Do About Employment Discrimination?

- You may be able to file a complaint with human resources, the New York State Division of Human Rights, or the United States Equal Employment Opportunity Commission. Where you can file a complaint may depend on what you believe to be the cause of the discrimination and the size and nature of your employer.

Human Resources Complaints

- The employer may have an internal complaint procedure or a human resources office. You may want to start with addressing your concerns through these channels because it can be faster than submitting an external complaint.

New York State Division of Human Rights Complaints

- The New York State Division of Human Rights is a state agency responsible for investigating complaints of discrimination and enforcing the New York State Human Rights Law. You may file a complaint with this agency if you believe your employer has discriminated against you due to the reasons previously listed in this brochure. To find the Division office in your area you can call, toll-free at: 1-888-392-3644

United States Equal Employment Opportunity Commission Complaints

- The United States Equal Employment Opportunity Commission (EEOC) is a federal agency that investigates claims of discrimination and enforces the federal laws that prohibit it. The EEOC plays a similar role to the New York State Division of Human Rights, however the EEOC can only investigate claims

related to discrimination based on the following reasons:

- Race
- Color
- Sex
- Religion
- National Origin
- Disability (perceived or actual)
- Age*

*Claims of age discrimination are limited to people age 40 and above. People 40 and above may also file an unequal pay claim.

To contact the EEOC with questions or for assistance, you can call 1-800-669-4000

Do I need An Attorney?

- If you are submitting your complaint through human resources or a government agency, it is not necessary to have an attorney but you may obtain one. An attorney may be able to help you draft your complaint or represent you. If you are considering an attorney, you should speak to them BEFORE you submit your complaint. This is because what you say in your complaint can affect the rest of your claim.

What else Should I know?

Here are a few other things that could help you in case you believe you have been discriminated against:

Deadlines

- There may be a deadline to submit your complaint. The deadline will depend on the

agency you are submitting your complaint to and accusations in your complaint. You should

identify whether or not there is a deadline on your claim as soon as the discrimination takes place.

Documentation

- Keep copies of any documents relating to the discrimination. You may also want to keep a log to keep track of events if it is an ongoing issue.

Conversations

- If you believe you have been discriminated against, it is natural to want to talk about it with your friends and coworkers. However, you should be careful about what you share as a complaint should go through official channels. When speaking to co-workers remember there is usually no confidentiality protecting those conversations. Conversations with your co-worker regarding your claim may be damaging to your claim or may even lead to a hostile work environment.

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- Due to Criminal Record
- Denial or Ineligibility for Licensure,
- Clearances, or Contracts Due to Criminal Record
- Disqualification from Higher Education Due to Criminal Record
- Rap Sheet Corrections
- Certificates of Rehabilitation

This article provides general information about this subject. Laws affecting this subject may have changed since this article was written. For specific legal advice about a problem you are having, get the advice of a lawyer. Receiving this information does not make you a client of our office.

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