



# Legal Protections for LGBTQ Employees

This is not legal advice. It gives you general information only.

There are federal, state, and local laws that protect LGBTQ workers from discrimination including harassment. This fact sheet talks about **federal** law protections for LGBTQ workers. In June 2020 the U.S. Supreme Court made it clear in a case called *Bostock v. Clayton County* federal laws protect LGBTQ workers from discrimination.

*For these protections to apply your employer must have 15 or more employees. Depending on your state or city, you may also have other protections.*



If you are facing LGBTQ-related discrimination in the workplace, the [Legal Network for Gender Equity/TIME'S UP Legal Defense Fund](#) can help connect you to attorneys. Attorneys in our Network will have a first meeting with you for free to discuss your situation. [Learn more here.](#)

## 1. What sorts of LGBTQ-related discrimination at work violate the law?

- » Being treated worse than other employees or applicants because of your sex, sexual orientation, transgender status, or gender identity or because what the employer thinks your sex, sexual orientation, transgender status or gender identity is. This could include:
  - Not being hired because you are transgender.
  - Being fired because you are in a same-sex relationship.
  - Being paid less or given worse shifts, or not being promoted, because your employer thinks you are a lesbian.
- » Being harassed based on your sex, sexual orientation, transgender status, or gender identity. This includes unwelcome behavior or offensive comments by a supervisor, co-workers, or customers. Sexual harassment can happen to people of any gender and the harasser can be any gender. Some examples include:
  - Asking you out repeatedly or making comments about your body.
  - Showing or sending you unwanted sexually explicit photos, emails, or text messages.
  - Deliberately using the wrong name, pronoun or form of address (Ms., Mr.).
  - Asking personal questions about a person's body, gender identity or expression, or gender transition.
  - Causing distress to a person by disclosing or threatening to disclose a person's sexual orientation or gender identity when the person has not made that information public.
  - Grabbing, groping or other kinds of sexual assault.

## 2. Is what happened to me enough for a case against my employer?

- » It depends. To win a case, you would need to prove that the employer took a negative action against you because of your LGBTQ status, and one way to do this is to show that people who are not LGBTQ were treated better. For sexual harassment claims, whether the employer is responsible depends on how severe or frequent the harassment is and the role of the person who is doing the harassment – for example if it is a co-worker, a supervisor, or the owner.

## 3. I am dealing with harassment at work. What should I do?

- » First, know it is not your fault. Workplace discrimination, including harassment, is very common. It happens to lots of people, in all kinds of workplaces and jobs.
- » Here are some steps to consider:
  - If you believe you can do so safely, tell the harasser you want the behavior to stop.
  - Read your employer’s policy and see where it says you should report the harassment. Follow it if you feel you can do so safely.
  - If your employer does not have a policy or you do not feel safe following it, report it to a supervisor, if you can.
  - Talk to a trusted friend or co-worker.
  - Make and keep in a safe place detailed notes about what happened. Keep copies of any harassing messages or other evidence of harassment.
  - Contact the Equal Employment Opportunity Commission (EEOC). This is the federal agency that is the first step if you want to make a legal complaint.
  - Contact the [Legal Network for Gender Equity/TIME’S UP Legal Defense Fund](#). We can help connect you to an attorney to talk to about your situation and discuss your legal options.

## 4. What is retaliation?

- » Retaliation is when an employer treats you worse because you reported discrimination or supported someone else’s complaint. Some things that may be retaliation:
  - Being given fewer shifts or your hours getting cut.
  - Being given less responsibility at work or taken off projects, especially if you start being paid less.
  - Suddenly being disciplined for something that was not a problem before.
  - Being fired

The same federal laws that make discrimination illegal also make it illegal to retaliate against you for reporting discrimination or supporting others who report it.

## 5. I am scared to report discrimination to my employer. What should I do?

- » Coming forward to report discrimination is a difficult thing to do. Employees are often afraid to talk to their employer about harassment or other forms of discrimination because they are worried about retaliation. Here are a few options:
  - Report without giving your name perhaps through a call-in number, if that’s an option.
  - Seek support from your union, if you belong to one.
  - Get help from organizations that support workers’ rights in your industry or location.
  - Connect with a trusted co-worker, family member, or friend for support and advice.
- » In some situations, the law says that you can’t win a discrimination case unless you let your employer know about what happened, so that the employer has a chance to fix it. So, if you don’t report the situation to your employer, it can hurt your legal case, if you later choose to bring one.

## 6. I reported the discrimination to my employer, and nothing happened. Now what should I do?

- » Here are some options you can consider:
  - Discuss your situation with an attorney in a free consultation through the Legal Network for Gender Equity.
  - Ask your employer for an update on your complaint.
  - Connect with your coworkers about what is happening to you and seek support from them.

## 7. Do I need a lawyer?

- You do not have to have a lawyer to report what happened to your employer or to the [EEOC](#), but it can be helpful to have one.
- [The Legal Network for Gender Equity/TIME’S UP Legal Defense Fund](#) can help connect you to an attorney to talk to about your situation and discuss your legal options.

## 8. Do all LGBTQ employees have these legal protections against discrimination?

- » This federal law protects employees who work for employers with 15 or more employees. It does not protect workers who are not “employees” but are instead independent contractors. Some employers may claim that their religion gives them a license to discriminate in violation of these

protections. Some state laws may protect these types of employees. In these situations, it may be especially important to talk with an attorney for legal advice, including to get advice about state and local protections that may apply.

## 9. How long do I have to start the legal process?

- The [EEOC](#) is a federal government agency. If you want to bring a federal legal claim in court, you first must go to the EEOC and file a charge. EEOC's website has information about this process.
- In some cases, you must file a complaint with the EEOC within 180 days from the incident.
- If your complaint is also covered by state or local employment laws, you may have 300 days to report to the EEOC. State and city laws may also have longer time frames.
- EEOC's website has information about what [timelines](#) apply in each state.
- If you are about to miss your EEOC deadline, it is important to contact the EEOC and file a charge right away, even if you do not have an attorney. If you still have time, it is helpful to have an attorney help you to prepare the charge.