

COMMON FORMS OF EMPLOYMENT DISCRIMINATION IN FLORIDA

Most People Are Aware that Discrimination in the Workplace Is Illegal; However, There are a Number of Misconceptions Surrounding the Topic of Workplace Discrimination in the United States



Richard Celler

Most people are aware that discrimination in the workplace is illegal; however, there are a number of misconceptions surrounding the topic of workplace discrimination in the United States. For example, it is illegal to discriminate in the



workplace *only if* the discrimination is based on a characteristic or trait that is covered by a federal or state law. For a worker to have an actionable case based on employment discrimination the employee must first be able to prove that the employer's actions were, indeed, discriminatory and then must be able to prove that the discrimination was based on one of these listed characteristics or traits.

Because every situation is unique, only an experienced Florida employment attorney can evaluate the specific facts and circumstances of a case and provide

an opinion as to whether the employer's actions amount to unlawful discrimination; however, a better understanding of some common forms of employment discrimination may be helpful in the meantime.

UNDERSTANDING THE LAW – FEDERAL VS. STATE

In the United States we operate under a federalist form of government, meaning we have a powerful centralized government (the federal government) and a number of smaller local governments (the individual state governments). The U.S. Constitution provides the framework for all laws which means that no law can violate the Constitution. Both the federal government and the individual state governments, however, have the power to enact laws. At the federal level, protection from employment discrimination is found in a number of places, including, but not limited to:

- Title VII of the Civil Rights Act of 1964 (Title VII)
- The Age Discrimination in Employment Act of 1967 (ADEA)
- The Equal Pay Act of 1963 (EPA)
- Title I of the Americans with Disabilities Act of 1990 (ADA)
- The Genetic Information Nondiscrimination Act of 2008 (GINA)

At the State level, the Florida Civil Rights Act is where legal protection from discrimination in the workplace can be found.

COMMON FORMS OF DISCRIMINATION IN THE WORKPLACE

Like most acts of discrimination, employment discrimination can be overt or subtle. Most employees, however, *know* when they have been discriminated against by an employer. Although discrimination in the workplace can take various forms, the most common forms include:

- **Bias in hiring or firing** –if the decision to hire or fire an employee is based on a protected characteristics or trait, it may qualify as employment discrimination. For example, if you are fired because of your race, religion, or because of your age (if you are over 40), you may have an actionable case based on employment discrimination.
- **Bias in promotion or job assignment** –the decision to promote an employee or the assignment of job tasks cannot be made based on protected characteristics or traits. For instance, if you are passed over for a promotion solely based on your gender or the fact that you have a disability it may be workplace discrimination.
- **Retaliation** –asserting your right not to be discriminated against could cause an employer to retaliate. Retaliation for filing a claim or for complaining about discriminatory practices to an employer is also illegal.
- **Harassment** –harassment is defined as “unwelcome conduct based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.” Harassment is illegal if you are required to endure the conduct in order to keep your job OR the conduct rises to the level that any reasonable person would consider hostile, abusive or intimidating.

WHAT TO DO IF YOU BELIEVE YOU HAVE BEEN THE VICTIM OF EMPLOYMENT DISCRIMINATION



As a victim of employment discrimination you are likely going through a range of emotions from confusion to anger to fear. Individuals suffer through workplace discrimination far too often because they fear losing their source of income. The important thing to remember, however, is that the various federal and state anti-discrimination laws exist to protect you; however, you must assert your rights in order to benefit from them.

The damages available to a victim of employment discrimination depend on the law under which the lawsuit is filed. Before filing a lawsuit you may be required to file a claim with the Equal Employment Opportunity Commission, or EEOC; however, you are **not** required to depend solely on the EEOC to resolve your

dispute. In fact, the results of an EEOC investigation *may have no impact at all* on a subsequent lawsuit based on the same claims.

If you believe you are the victim of employment discrimination in the State of Florida, contact an experienced employment law attorney right away to discuss your legal options and decide how best to proceed with your claim.

U.S. Equal Employment Opportunity Commission, [Discrimination by Type](#)
NOLO, [Preventing Employment Discrimination FAQ](#)
Cornell University Law School, [Employment Discrimination: An Overview](#)

About the Author



Richard Celler

Richard Celler is the Managing Partner of Richard Celler Legal, P.A., a/k/a the Florida Overtime Lawyer. He created this firm after having served as the Founding Member and Managing Partner of one of the largest employee/plaintiff side employment law divisions in the United States.

In November 2013, Mr. Celler left big firm life with the idea of reopening his own litigation firm with an emphasis on something most big firms cannot provide – a lower volume of cases, and more focus on the needs and attention of every single client.

Mr. Celler's practice focuses on all areas of the employment context from discrimination, harassment, and retaliation under the Florida Civil Rights Act, Title VII, the Family Medical Leave Act, and other employment related statutes. Additionally, Mr. Celler represents individuals in whistleblower and wage and hour litigation (overtime, minimum wage, commissions, final paychecks).

Many firms charge clients for an initial consultation to discuss their claims. Mr. Celler does not. You can call him or email him to discuss your case for free. If he elects to represent you, your case will be handled on a contingency basis, which means that he only gets paid, if you get paid. We encourage you to look at the remainder of our website for information on your rights and benefits in the workplace – www.floridaovertimelawyer.com.

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