

# EMPLOYMENT DISCRIMINATION in FLORIDA

## When Is It Illegal?

*“If you believe you have been the victim of illegal employment discrimination you should consult with an experienced Florida employment law attorney to find out what legal options you may have; however, all employees should have a basic understanding of what constitutes illegal employment discrimination so that they can recognize it should it happen to them.”*



**Richard Celler**



Like most people, you may have read the title and thought to yourself “Discrimination is *a*lways illegal in the workplace, right?” Also like most people, you may be shocked to find out that discrimination in the workplace is not always illegal. In fact, your employer can legally discriminate against you in a wide variety of ways without facing any consequences.

If you believe you have been the victim of illegal employment discrimination you should consult with an experienced Florida employment law attorney to find out what legal options you may have; however, all employees should have a basic understanding of what constitutes illegal employment discrimination so that they can recognize it should it happen to them.

## FEDERAL VS. STATE LAWS

The United States operates under a federalist form of government. What that means is that we have a strong central government, the federal government, as well as numerous smaller governments, the state governments. Both the federal and state governments can make laws that protect workers in the U.S.

Consequently, if you are the victim of employment discrimination you may have the right to file a claim in federal court, in a Florida state court, or in both. It is important, therefore, to know what is prohibited under both federal law and the laws of the State of Florida.





## ISN'T ALL DISCRIMINATION ILLEGAL?



No. Contrary to what most people believe, discrimination in general is not illegal in the United States. First, anti-discrimination laws at both the federal and state levels are aimed at specific situations. Specifically, most anti-discrimination laws focus on discrimination in housing, public

accommodations, and employment. Second, not all acts of discrimination are illegal. For example, your employer could decide that she is only going to hire people who show up to the job interview wearing a blue shirt. Although her actions discriminate against everyone not wearing a blue shirt, her actions are not illegal.

Likewise, your employer could decide to fire everyone whose birthday is in June. Again, that decision discriminates against everyone born in June; however, the law does not prohibit that type of discrimination.

## WHY ISN'T ALL DISCRIMINATION ILLEGAL?

It helps to understand the goal and purpose of anti-discrimination laws when trying to learn what they prohibit. The law must strike a balance between the concepts of individualism and protectionism. In other words, the law cannot protect everyone from all harm because doing so takes away free choice, something that was a founding principle of America. Therefore, the anti-discrimination laws were enacted to protect historically vulnerable groups and characteristics.



Minority groups, for example, were heavily discriminated against prior to the Civil Rights movement and, therefore, needed the protection of the law to prevent continued discrimination. People born in June, on the other hand, do not have a history of being discriminated against nor are they members of a vulnerable class of people so the law does not protect them from discrimination.

## WHAT OR WHO *DOES* THE LAW PROHIBIT?

The law prohibits discrimination in employment when that discrimination is based on an individual's membership in a protected class or group or when that discrimination is based on protected traits or characteristics.

At the federal level, there are a number of laws that protect against specific types of discrimination, including, but not limited to, the following:

- **Title VII of the Civil Rights Act of 1964 (Title VII)** – makes it illegal to discriminate against someone on the basis of *race, color, religion, national origin, or sex*.
- **Pregnancy Discrimination Act (PDA)**– make it illegal to discriminate against a woman because of *pregnancy, childbirth, or a medical condition related to pregnancy or childbirth*.
- **Equal Pay Act of 1963 (EPA)** – makes it illegal to pay *different wages to men and women* if they perform equal work in the same workplace.
- **Age Discrimination in Employment Act of 1967 (ADEA)** – protects people who are 40 or older from discrimination because of *age*.
- **Americans with Disabilities Act (ADA)** – makes it illegal to discriminate against a qualified person with a *disability* in the private sector and in state and local governments.

In the State of Florida, the Florida Civil Rights Act, or FCRA, provides protection to certain protected classes of workers as well as to workers who possess certain traits or characteristics, including:

- Race
- Color
- Religion
- Sex
- National origin
- Age
- Handicap
- Marital status

Therefore, if your employer makes an employment decision based on any of the covered traits/characteristics or classes it is illegal. For instance, if your employer fires you because you are Hispanic your employer has violated Title VII and the FCRA. Likewise, if a prospective employer refused to hire you because you are 52 years old, the employer has violated both the ADEA and the FCRA.

## WHAT CONSTITUTES DISCRIMINATION?

Both the federal and state definition of “discrimination in employment” are fairly broad. Most federal laws prohibiting employment discrimination make it illegal to discriminate “in any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.”

The Florida Civil Rights Act makes it an unlawful employment practice for an employer:

- To discharge or to fail or refuse to hire any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment *because of such individual's race, color, religion, sex, national origin, age, handicap, or marital status.*
- “To limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities, or adversely affect any individual’s status as an employee *on the basis of race, color, religion, sex, national origin, age, handicap, or marital status.*”

If you believe you have suffered employment discrimination it is imperative that you consult with an experienced Florida employment law attorney right away to ensure that your right to file a claim against the employer is protected.





## REFERENCES

Equal Opportunity Employment Commission, [Discrimination by Type](#)  
Florida Statutes, [Florida Civil Rights Act](#)

## 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](http://www.floridaovertimelawyer.com).

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