

# Employment Discrimination

Employment discrimination means that an individual experiences an adverse employment action due to their protected class. Discrimination includes unequal treatment based on:

- Race
- Color
- National Origin
- Religion
- Sex
- Sexual Orientation
- Gender Identity
- Age (40+ years)
- Disability
- Marital Status
- Receipt of Public Assistance
- Familial Status
- Participation in lawful activity off the employer's premises during non-working hours that is not in direct conflict with the essential business-related interests of the employer

## Examples of Employment Discrimination

- A job ad specifies that only applicants of a particular race, ethnicity, age, etc. will be considered.
- An applicant is asked disability-related questions in an interview.
- An employer refuses to hire a qualified applicant because of that individual's disability or other protected personal characteristic.
- An employee with a disability is subjected to a layoff or termination and is replaced by an employee without a disability.

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- An employee is sexually harassed, receives unwelcome attention or advances of a sexual nature, or is pressured to submit to sexual conduct in exchange for favorable employment decisions.
- The employer refuses to provide reasonable accommodations to an employee with a disability that will help the employee perform the job's essential functions.
- An employee with a disability is paid less than other employees doing similar work based on the rationale that employees with disabilities are not as productive.
- An employee is subjected to inappropriate jokes or comments about their protected personal characteristic that causes stress.
- An employer refuses to allow an employee with a disability to have a support person at meetings with their supervisor or employer.
- Conduct of others creates a work environment for an individual that a reasonable person would consider hostile, intimidating, or offensive and this interferes with work performance.

## Disability Discrimination in Employment

- To have a valid claim of disability discrimination an individual must:
  - Have a disability, be associated with someone who has a disability, or be regarded as having a disability.
  - Be qualified for the job.
  - Experience an adverse employment action.

## Disability

Under the ADA, disability means that a person has a physical or mental impairment that substantially limits a major life activity.



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## Associated With Someone Who Has a Disability

An example of being associated with someone who has a disability is an employer not hiring a person who has a child with a disability based on a belief that the person would need to take time off from work to care for the child.

## Regarded as Having a Disability

Being regarded as having a disability occurs when an individual does not have a disability, but the employer believes the individual has a disability and treats them as if they have a disability.

## Adverse Employment Actions

Adverse employment actions are unlawful or unequal treatment to a person because of a protected personal characteristic within all stages of employment including advertising, hiring, onboarding, promotion, compensation, or termination.

## Employment Discrimination Laws

State and federal laws prohibit discrimination in employment settings, rules, policies, and practices.

These include the:

- [North Dakota Human Rights Act](#)
- [Americans with Disabilities Act \(ADA\)](#)
- [Civil Rights Act](#)
- [Age Discrimination in Employment Act](#)
- [Genetic Information Nondiscrimination Act](#)
- [Equal Pay Act](#)

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