

LGBTQ+ Worker Rights Under Discrimination Law in Texas



Information for workers in Texas

Note: this information is not legal advice. For free, confidential advice and information, contact Texas RioGrande Legal Aid at 888-988-9996.

Is it illegal to discriminate against LGBTQ workers in Texas? Yes, if the employer has at least 15 employees. Everywhere in the United States, including everywhere in Texas, it's illegal for an employer with 15 or more employees to discriminate against an employee because of the employee's gender identity or sexual orientation.

What if my employer has fewer than 15 employees? If you were harassed, you could have a claim under Texas law against your employer, regardless of size. For more information, go [here](#). Otherwise, in Texas, there's no statewide law that applies to smaller employers that discriminate against LGBTQ workers. [Austin](#), [Dallas](#), [Fort Worth](#), and [Plano](#) have local ordinances banning discrimination against LGBTQ people in employment and other areas, but they only cover employers with 15 or more employees. [San Antonio](#)'s ordinance only covers employees of city contractors. If the discrimination happened in another state, you may have additional rights; consult with a lawyer in that state.

What kinds of discrimination can be illegal? Here are some examples:

- **failing to hire** LGBTQ workers;
- firing someone because they **began their transition process** or **came out at work**;
- **repeated or severe harassment** by misgendering, anti-LGBTQ name-calling and slurs, and gender stereotyping about what men or women can or should do or be;
- denying an employee **access to the restroom** that fits their gender identity;
- refusing to allow an employee to **wear clothing** that fits their gender identity;
- discriminating in **promotions, pay, work assignments**, and other work conditions.
- *Other types of discrimination can be illegal. You can talk to a lawyer about your situation.*

Can I be asked about my gender identity or sexual orientation in a job interview? No, interviewers shouldn't ask you these kinds of questions. This is evidence of discrimination.

What if my employer says it has to treat me differently because of coworker or customer bias against LGBTQ people? That's not a valid excuse. Discrimination is still discrimination, even if your employer says it's because of coworkers or customers.

What if I work for a religious employer? These anti-discrimination laws apply to religious employers. The law has some exceptions for religious employers (for example, for some ministers and teachers who work for religious employers), but most job positions are generally covered by the law. Talk to a lawyer.

Are other kinds of workplace discrimination illegal in Texas? Yes. For example, discrimination is illegal if it is because of race, color, sex, age, mental or physical disability, national origin, religion, genetic information, and citizenship. In Texas, except for race discrimination and sexual harassment, discrimination laws don't apply to all employers, so it's best to check with an attorney.

If I've been discriminated against or harassed because of my sexual orientation or gender identity, what can I do to protect my rights?

- ✓ **If you feel comfortable and safe, tell the person to STOP.** Bring a witness.
- ✓ **Document the discrimination or harassment.** Keep a journal where you write down the “who, what, when, where” of any incidents and who witnessed them. Keep any documents related to the discrimination or harassment (like texts, photos, and communications between you and the employer or coworkers). Tell a coworker or friend you trust what’s going on. This will all put you in a better position if you pursue a claim later.
- ✓ **Report any harassment to your employer.** Follow your employer’s anti-harassment policy to report any harassment as soon as possible. If there’s no policy, report to your supervisor or (if your supervisor is the harasser) someone higher up. Report in writing if you can (though that’s not required). If you complain in person, try to bring a witness.
- ✓ If your employer doesn’t act quickly to stop the discrimination or harassment, the next step is to **file an outside written complaint with a government agency.** There are deadlines to file complaints; for most workers in Texas, your earliest deadline is **180 days** from the discrimination. You can file a complaint with the [Equal Employment Opportunity Commission \(EEOC\)](#) (800-669-4000) or with the [Texas Workforce Commission Civil Rights Division \(TWC\)](#) (888-452-4778). Federal employees must follow different procedures and must take action within **45 days** (see [this EEOC info for federal employees](#)). *Note: everyone’s case is different, and if you decide to take this step you can contact an attorney for advice on your deadlines.* Once the EEOC or TWC has finished investigating your complaint, you will have a short deadline to file your case in court if you decide to do so.

What if my coworker is harassed or discriminated against? Respect your coworker’s privacy and decisions. Be available and help identify support. Be a witness. Help report any harassment (but only if you have permission from your coworker).

What if my employer retaliates against me for complaining about harassment or discrimination against myself or my coworker? It’s illegal for your employer to retaliate against you (by firing you, disciplining you, making threats, or harming you in other ways) for complaining about discrimination. If your employer does this, you can file a claim with the EEOC or TWC and may have the right to get your job back or get payment for the harm you suffered.

Do these rights apply to undocumented LGBTQ+ workers? Yes. People have the right to be free from discrimination, regardless of their immigration status.

Can I be discriminated against because of my gender identity or sexual orientation in other parts of my life? On June 15, 2020, the United States Supreme Court decided that discrimination against LGBTQ workers is “sex discrimination” under federal employment law. This will probably mean that it is illegal to discriminate against LGBTQ people in many other areas covered by federal law, like: housing, education, access to healthcare and credit, jury service, etc.

Where can I get more legal help?

- **Texas:** [Texas RioGrande Legal Aid](#) (free legal services: 888-988-9996); [Lambda Legal](#) (national LGBTQ legal non-profit with Texas office: 214-219-8585); [Texas Employment Lawyers Association](#) (private employment lawyers representing workers).
- **National:** [ACLU LGBT Rights Project](#); [National Center for Lesbian Rights](#)