

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](#)

Additional Resources

- [North Dakota Department of Labor and Human Rights](#)
- [Job Accommodation Network](#)
- [Equal Employment Opportunity Commission \(EEOC\)](#)



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