

Employment Discrimination

What you need to know!

Utah Antidiscrimination & Labor Division (UALD)



What is employment discrimination?

Employment discrimination is when an employer takes action against an employee because of that individual's race, color, sex, national origin, disability, age (over 40), religion, gender identity or sexual orientation.



How do I know when discrimination has occurred?

An employee may feel that he/she has been treated unfairly by their employer. Personal conflicts, disagreements over management style or personality differences, favoritism towards an employer's friend or family member are all examples of unfair treatment, but DO NOT necessarily constitute unlawful discrimination.

Discrimination occurs when someone is treated differently or singled out because of their race, color, sex (which includes pregnancy and sexual harassment), national origin, disability, age (over 40), religion, gender identity or sexual orientation. These are called the "protected classes".

If you have been treated differently or harassed because of any of these reasons when looking for work or at your place of employment, you may have a charge of discrimination. Contact us for more information.

Understanding unfair vs. discriminatory treatment

Generally, unless there are statements directly indicating a decision was made because of a discriminatory reason, the Division will look at how other people are treated compared to you.

Remember, you have to be able to provide specific information and/or examples of how you think your treatment has been different than that of other employees in a similar situation than you.

Example: *If a person is fired for having too many absences and he or she alleges gender discrimination, the Division would look at whether other employees have had a similar number of absences and whether male and female employees are treated the same.*

Things to know before filing a complaint

Your employer must have at least 15 employees — less for certain cases of National Origin, Citizenship Discrimination or Equal Pay. (*20 employees in age discrimination cases.*) You must also file your charge of employment discrimination within 180 days of the alleged discriminatory act.

If more than 180 days have passed since the last date of harm, but less than 300 days, your charge will be sent to the Equal Employment Opportunity Commission (EEOC) for its investigation.

How to file a complaint with our office

1. Obtain an Employment Discrimination Questionnaire
 - a. From our office at 160 East 300 South, 3rd Floor, Salt Lake City, Utah 84114 or
 - b. Go to www.tinyurl.com/empintake and print a copy.
 - c. If you are claiming discrimination based on a disability, you will also need to complete a Disability/ADA Questionnaire available from our office or on the internet at <http://tinyurl.com/ualdada1>
2. Fill out the forms. Be specific. Provide examples when needed.
3. Provide copies of any relevant information such as:
 - ▶ **Termination notices**
 - ▶ **Letters of discipline**
 - ▶ **Paycheck stubs**
 - ▶ **Documents supporting your request for a reasonable accommodation if you are claiming disability discrimination**
 - ▶ **Information about witnesses**
 - ▶ **Any other information that you may feel will support your case**

What happens after submitting your questionnaire to us?

1. The questionnaire will be reviewed.
2. Once the formal charge has been signed, your charge will be issued and a case number assigned.
3. The case will be forwarded to the EEOC for dual filing under applicable federal laws, but UALD will investigate the case.
4. If it meets our filing requirements, the formal charge will also be created and sent to you to be signed before a public notary. We provide this service free of charge in our office. Bring PHOTO ID.
5. Within 10 days, you and the employer (Respondent) will receive a copy of the charge by mail. This information packet will also include information about our voluntary mediation program.

Understanding Mediation

Mediation is a voluntary opportunity to resolve and settle (mediate) your charge of discrimination. The purpose is to bring you and the employer together and see if the differences can be resolved with the assistance of an experienced mediator.

- ▶ The Mediation is NOT a hearing. A decision about your case will not be made by the mediator.
- ▶ If the parties reach an agreement, the Division will prepare a negotiated settlement and the case will be closed upon fulfillment of the terms agreed to by both parties. This is a free service provided by the Labor Commission.

What happens if I am fired or otherwise harassed because of my complaint?

It is illegal for an employer to retaliate against an employee because he or she has opposed any type of discriminatory treatment or because he or she has filed a charge of discrimination, testified, assisted or participated in any proceeding, investigation, or hearing alleging discriminatory treatment protected by the law. This protection applies not only to the complaining employee, but to all other employees who might participate in the investigation process. This protection applies regardless of the validity of the complaining employee's charge. If this happens, you may file a separate charge of retaliation.



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