

KNOW YOUR RIGHTS

Sexual Orientation and Gender Identity Discrimination

OFCCP Protects You Against Discrimination Based on Sexual Orientation and Gender Identity

The Office of Federal Contract Compliance Programs (OFCCP) enforces Executive Order 11246, as amended, which prohibits federal contractors and subcontractors from discriminating against employees and job applicants based on their sexual orientation or gender identity.

1. How does OFCCP define sexual orientation and gender identity?

“Sexual orientation” refers to an individual’s physical, romantic, and/or emotional attraction to people of the same and/or opposite gender. Examples of sexual orientations include straight (or heterosexual), lesbian, gay, and bisexual.

The term “gender identity” refers to one’s internal sense of one’s own gender. It may or may not correspond to the sex assigned to a person at birth, and may or may not be made visible to others.

2. What is discrimination based on sexual orientation and gender identity?

Employment discrimination generally exists where an employer treats you, as an employee or job applicant, less favorably because of your sexual orientation or gender identity. Discrimination may also exist where an employer’s seemingly fair policies or procedures have a significant negative impact on employees or job applicants because of their sexual orientation or gender identity.

3. What are my rights?

You have the right to work in an environment free of discrimination, including harassment, based on your sexual orientation or gender identity. You cannot be harassed, demoted, terminated, paid less, denied employment, or otherwise treated

less favorably because of your sexual orientation or gender identity. Among other things, contractors CANNOT:

- Ask employees or job applicants for any information or identification that they do not ask for from all other employees or job applicants, including medical information related to their gender identity;
- Refuse employees and job applicants the ability to use restrooms consistent with their gender identity;
- Harass employees and job applicants because of their sexual orientation or gender identity;
- Deny lawfully married same-sex spouses the same benefits they provide to opposite-sex spouses; or
- Deny same-sex partners in civil unions or domestic partnerships the same benefits they provide to heterosexual partners in such relationships.

4. Who does OFCCP protect?

OFCCP protects the rights of employees and job applicants of companies doing business with the Federal Government. This includes employees at banks, information technology firms, meat packing plants, retail stores, manufacturing plants, accounting firms, and construction companies, among others.

5. What do I do if I believe my employer discriminated against me because of my sexual orientation or gender identity?

You can file a complaint with OFCCP if you think you have been discriminated against at work or when applying for work. You do not need to know with certainty that your employer is a federal contractor or subcontractor in order to file a complaint.



6. How do I file a complaint with OFCCP?

You may file a discrimination complaint by:

- Completing and submitting a form online through OFCCP's Web site;
- Completing a form in person at an OFCCP office; or
- Mailing, e-mailing, or faxing a completed form to the OFCCP regional office that covers the location where the alleged discrimination occurred.

The form is available online at <http://www.dol.gov/ofccp/regs/compliance/pdf/pdfstart.htm> and in paper format at all OFCCP offices. To find the office nearest you, visit the online listing of OFCCP offices at <http://www.dol.gov/ofccp/contacts/ofnation2.htm>.

You must remember to sign your completed complaint form. If you fail to do so, OFCCP will still take your complaint but an OFCCP investigator will ask you to sign the form during a follow-up interview. Complaints alleging discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin must be filed within 180 days from the date of the alleged discrimination, unless the time for filing is extended for good cause. The same 180-day time frame applies to complaints alleging discrimination for discussing, disclosing, or inquiring about pay.

7. Can my employer fire, demote, or treat me less favorably because I filed a complaint?

No. It is illegal for your employer to retaliate against you for filing a complaint or participating in an investigation. OFCCP's regulations protect you from harassment, intimidation, threats, coercion, or retaliation for asserting your rights.

8. Can I file a discrimination complaint with both OFCCP and the Equal Employment Opportunity Commission (EEOC)?

Yes, if you file with both OFCCP and EEOC, your complaint will be investigated by the appropriate agency. In some instances, OFCCP and EEOC may decide to work together to investigate your complaint.

OFCCP generally keeps complaints filed against federal contractors that allege discrimination based on a person's sexual orientation or gender identity. OFCCP also generally keeps complaints filed against federal contractors where there appears to be a pattern of discrimination that affects a group of employees or applicants, and those that allege discrimination based on disability or protected veteran status. Generally, OFCCP keeps complaints filed against federal contractors that allege discrimination based on someone asking about, discussing, or disclosing pay.

9. What will happen if there is a finding that I was a victim of employment discrimination?

You may be entitled to a remedy that places you in the position you would have been in if the discrimination had never happened. You may be entitled to be hired, promoted, reinstated, or reassigned. You may also be entitled to receive back pay, front pay, a pay raise or some combination of these remedies. In addition, if OFCCP finds that the federal contractor or subcontractor discriminated, OFCCP could seek to have the company debarred or removed from consideration for future federal contracts or have the company's current contracts or contract modifications cancelled.

For more information:

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Please note that this fact sheet provides general information. It is not intended to substitute for the actual law and regulations regarding the program described herein.

