



Massachusetts Commission Against Discrimination

Preventing & Addressing Workplace Discrimination



Protected Categories

Discrimination claims are related to a protected category. You may be a member of the group (majority and minority groups), perceived as a member of the group, or associated with a member of the group:

- Age (40 years+)
- Criminal records (inquiries only)
- Disability
- Pregnancy
- Religion
- Sex
- Gender identity/expression
- Sexual orientation
- Military personnel
- Veteran Status
- Genetic information
- Ancestry
- National origin
- Race (Including the CROWN Act - Natural & Protective Hairstyles)
- Color

Common Forms of Discrimination

- Disparate Treatment – Unequal treatment based on membership in a protected category.
- Harassment – Words, conduct, or actions that denigrate, show hostility to, or exhibit aversion towards a person or group on the basis of membership in a protected class.
 - Discriminatory Harassment – Unwelcome, severe or pervasive, and related to a protected category
 - Hostile Work Environment – Verbal or physical conduct that unreasonably interferes with an individual's work performance by creating an intimidating, hostile, or offensive work environment based on their membership in a protected category.
 - Sexual Harassment – Unwelcome, severe or pervasive, and sexual in nature
 - Hostile Work Environment – Sexual advances, requests for sexual favors, or other verbal or physical conduct that unreasonably interferes with an individual's work performance by creating an intimidating, hostile, or sexually offensive work environment.
 - Quid Pro Quo – When a submission to or rejection of sexual advances, requests for sexual favors, or other sexual conduct is explicitly or implicitly a basis for employment decisions, or a term or condition of employment.
- Failure to Accommodate Employees or Job Applicants:
 - Disability – A physical, mental, or developmental impairment which substantially limits one or more major life activities; a record of impairment; or a perceived impairment.
 - Religion – A sincerely held religious belief where there is a legitimate conflict between work and religious requirements.
 - Pregnancy – Pregnancy or pregnancy-related conditions, including but not limited to lactation or the need to express breast milk for a nursing child.
 - The Interactive Process is Important – Dialogue exploring potential reasonable accommodations which would allow an employee to perform the essential functions of their position.

Massachusetts Commission Against Discrimination

Common Forms of Discrimination Continued

- Disparate Impact – A rule or policy that appears neutral, but negatively impacts groups.
- Retaliation – An adverse action by the employer as a result of the employee engaging in a protected activity, i.e., complaining about discrimination.

Employees' and Supervisors' Responsibilities:

- Monitor your own behavior
- Monitor the environment and counsel anyone who behaves inappropriately
- Report potential policy violations or accommodation needs immediately
- Recognize a possible need for an accommodation
- Know when to get assistance with an interactive process
- Implement agreed-upon accommodations
- Prevent retaliation

A Supervisor has the Duty to React and/or Report When:

A report or complaint is made, even if:

- The reporter is reluctant
- The complaint is verbal
- It appears trivial or false
- Remedial action is immediately taken
- The reporter was not specifically offended or targeted

A report or complaint is not made, but:

- Someone in a position of authority knows about it
- Conduct is so pervasive, any person in authority has constructive knowledge ("should know")

Web Resources

MCAD: <http://www.mass.gov/mcad>

Mass. Attorney General: <http://www.ago.state.ma.us/>

EEOC: <https://www.eeoc.gov/>

Department of Family and Medical Leave: <https://www.mass.gov/paid-family-and-medical-leave-information-for-massachusetts-employers>