

# 50 STATE SURVEY



## Alabama

### Protected Categories

Any person employing 20 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, including any agent of that person, shall not discriminate on the basis of age (40+). Race, sex, and political or religious opinions or affiliations are protected for state and municipal employees. Limited disability protection is offered for state employees. Sexual orientation is protected for employees of some state departments.

### State Sexual Harassment Definition

There is no independent cause of action for sexual harassment in the State of Alabama. Claims for sexual harassment are to be brought under common law tort theories. Machen v. Childersburg Bancorporation, Inc., 761 So. 2d 981, 983 (Ala. 1999).

### Who May Be Liable

Alabama has no state law cause of action for workplace discrimination or harassment other than age discrimination pursuant to the Alabama Age Discrimination in Employment Act. The Alabama ADEA is patterned after the federal ADEA, which does not provide for individual liability. Ala. Code § 25-1-29. However, employees can sue supervisors for related torts, such as assault, battery, invasion of privacy, and intentional infliction of emotional distress. Supervisors can be personally liable for such common law torts.

### State Training & Education Requirements

Alabama has no specific training and education requirements.

### Enforcement

Alabama has no state agency that enforces anti-discrimination laws; see the local EEOC office(s).

### Citation

Ala. Code §§ 25-1-20 et seq.; 25-1-21; 25-1-22; 11-43A-45; 21-7-8.

# Alabama

# Alaska

## Protected Categories

**Alaska Human Rights Act** protects race, color, religion, sex, national origin, physical or mental disability, age, marital status, changes in marital status, pregnancy, or parenthood. Veterans are given preference in state employment and members of the National Guard and Naval Militia are protected. The Human Rights Act does not cover some social clubs or fraternal, charitable, educational, or religious associations.

Sexual orientation is protected for state employees.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

A “person” who can be held liable includes an individual as well as an employer. Alaska Stat. 18.80.300(13).

## State Training & Education Requirements

Alaska has no specific training and education requirements, though state agencies are instructed to provide harassment training to supervisors and managers.

## Enforcement

Alaska State Commission for Human Rights

## Citation

Alaska Stat. §§18.80.200; 18.80.220; 18.80.300(10); §47.30.865; 01.10.060; 23.10.037; 26.05.340; 29.25.080; 39.20.500; 39.25.159.

Admin. Order No. 195 (2002).

Admin. Order No. 195.

# Alaska

## Arizona

### Protected Categories

**Civil Rights Act** protects color, race, religion, sex (including pregnancy, childbirth, and related medical conditions), age (40+), national origin, disability, and genetic test results. Applies to employers with 15 or more employees in each of 20 or more calendar weeks in the current or preceding year.

Sexual orientation is protected for state employees.

Employers may not discriminate against members of the National Guard or persons being treated by government mental health agencies. Nor may employers discriminate on the basis of use or non-use of tobacco products.

Employers may not discriminate against medical marijuana cardholders (patient, designated caregiver) unless a failure to do so would cause employer to lose a monetary or licensing related benefit under federal law or regulations.

### State Sexual Harassment Definition

Same as Federal. However, employers with only one employee can be held liable for sexual harassment.

### Who May Be Liable

Employer

### State Training & Education Requirements

Arizona has no specific training and education requirements.

### Enforcement

**Office of the Attorney General, Civil Rights Division (CRD)**

### Citation

Ariz. Rev. Stat. Ann. §§ 23-341; 41-1401 et seq.; 41-1463; 26-167; 36-506; 36-601.01.

Exec. Order 2003-22.

# Arizona

# Arkansas

## Protected Categories

**Civil Rights Act** protects national origin (including ancestry and natural, protective, or cultural hairstyles), race, religion, gender (pregnancy, childbirth, or related medical conditions), sensory, mental, or physical disability, and genetic information.

Applies to employers with nine or more employees in Arkansas for 20 or more calendar weeks in the current or preceding calendar year.

State employers are prohibited from discriminating based on age (40 and over).

Employers with five or more employees may not discriminate based on military service.

It is unlawful for an employer to discriminate against an applicant or employee in hiring, termination, or any term or condition of employment, or otherwise penalize an applicant or employee, based on the applicant's or employee's past or present status as a qualifying patient or designated caregiver.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer

## State Training & Education Requirements

Arkansas has no specific training and education requirements.

## Enforcement

Arkansas has no state agency that enforces anti-discrimination laws.

## Citation

Ark. Code Ann. §§ 16-123-102 and 107; 11-5-403; 12-62-801 – 12-62-808; 21-3-202; 21-3-203.

# Arkansas

## California

### Protected Categories

**Fair Employment and Housing Act** prohibits discrimination and harassment of employees, applicants, and contractors based on race, religious creed (including religious dress and grooming practices), creed, sex (gender, gender identity, gender expression, transgender status, pregnancy, childbirth, breastfeeding or conditions related to breastfeeding, and medical conditions related to pregnancy and childbirth), color, national origin (including language use restrictions and whether an individual has a driver's license), ancestry, physical disability (including HIV/AIDS and the requirement to accommodate disabilities), mental disability, political orientation, genetic information (including an individual's genetic tests, a family member's genetic tests, a family member's diseases or disorders, an individual's or family member's receipt of, or request for, genetic services, and participation by an individual or their family member in clinical research that includes genetic services), medical conditions (including genetic characteristics and cancer), marital status, sexual orientation (including heterosexuality, homosexuality, or bisexuality), or age (40+ for all employers and any age for state civil service).

Individuals are protected regardless of immigration status. Employers also must provide training to minors between the ages of 14 and 17, and new businesses have 6 months to provide the training.

Applies to employers with five or more employees.

Discrimination against victims of crimes or domestic violence (for employers with 25 or more employees) or on the basis of arrests not leading to conviction or expunged convictions or on the basis of height or weight (unless based on job qualifications) or based on veteran or military status, or for the use of a foreign language in the workplace (unless based on business necessity) is prohibited.

### State Sexual Harassment Definition

California's definition of sexual harassment is similar to federal law and covers conduct like:

- Unwanted sexual advances
- Offering employment benefits in exchange for sexual favors
- Making or threatening reprisals after a negative response to sexual advances
- Visual conduct: leering, making sexual gestures, displaying of suggestive objects or pictures, cartoon or posters
- Verbal conduct: making or using derogatory comments, epithets, slurs, and jokes; verbal sexual advances or propositions; verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations
- Written conduct involving suggestive, obscene, or propositioning communications
- Physical conduct: touching, assault, impeding or blocking movements

An employer is strictly liable for the harassing acts of its supervisory employees. Cal. Gov't Code Sec. 12940(j)

### Who May Be Liable

Supervisors and employees cannot be held personally liable for employment retaliation. They can, however, be held personally liable for harassment. Supervisors and individuals can also be held personally liable for intentional torts such as assault and battery, false imprisonment, intentional infliction of emotional distress, and invasion of privacy.

## California (continued)

### State Training & Education Requirements

California requires employers with 5 or more employees, and all public employers, to provide non-harassment training, as explained below.

An employer having 5 or more employees, and all public employers, shall provide two hours of sexual harassment training and education to each supervisory employee in California once every two years, and one hour of sexual harassment training and education to each non-supervisory employee in California. New supervisors and nonsupervisory employees must receive training within their first six months of employment or assuming a supervisory position. Seasonal employees must receive training within the sooner of (a) 30 days or (b) 100 hours worked.

The training must include:

- information regarding federal and California laws prohibit sexual harassment, including definitions, examples, and the potential employer and individual liability
- strategies for preventing harassment, discrimination, and retaliation
- supervisors' obligation to report unlawful conduct
- limitations on confidentiality during the complaint process
- resources for victims of unlawful sexual harassment and reporting mechanisms
- appropriate remedial measures for correct harassing behavior
- steps to take if a supervisor is personally accused of harassment
- the employer's anti-harassment policy
- information on gender identity, gender expression, and sexual orientation harassment
- the definition of abusive conduct in the workplace and how to prevent it

### Enforcement

#### Fair Employment and Housing Commission

### Citation

Cal. Gov't Code §§ 12900-12996, 12940, 12941, 12945, 12950.1, 19700.

Cal. Gov't Code § 12951.

Cal. Lab. Code §§ 230, 230.1, 1101, 1102, 1102.1, 1171.5., 1503, 1506.

Executive Order B-54-79.

Cal. Mil. & Vet. Code § 394.

## Colorado

### Protected Categories

**Anti-Discrimination Act** protects color, creed, sex (including pregnancy, childbirth, and related medical conditions), race, national origin, ancestry, disability (mental disorder), age (over 40), religion, marital status, including civil union status and marriage to a co-worker if employer has 25 or more employees, sexual orientation (actual or perceived orientation toward heterosexuality, homosexuality, bisexuality, or transgender status), gender identity or expression, and lawful activities off employer premises during non-work hours.

Employers may not discriminate against a person based on military service.

### State Sexual Harassment Definition

“Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Harassment by persons subject to the Colorado Anti-Discrimination Act or by their subordinates is a violation of the Colorado Anti-Discrimination Act when, for example, (1) submission to such conduct is made either explicitly or implicitly a requirement of employment, housing, public accommodations or advertising, or, (2) the individual’s response to such conduct is used as the basis for decisions which deny to such individual rights protected by the Colorado Anti-Discrimination Act.”

Harass means to create a hostile work environment based upon an individual’s protected class status, such as sex.

### Who May Be Liable

Employer

Religious organizations are exempt.

### State Training & Education Requirements

Colorado encourages, but does not specifically require, education regarding non-harassment.

The Colorado Discrimination Rules indicate that employers are encouraged to take all steps necessary to prevent workplace harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment and developing methods to sensitize all concerned. See 3 Colo. Code Regs. § 708-1, Rule 80.11(C), 85.0(F).

### Enforcement

**Colorado Civil Rights Division**

### Citation

Colo. Rev. Stat. Ann. §§ 24-34-301; 24-34-401; 24-34-402; 24-34-402.5; 28-3-506



## Connecticut

### Protected Categories

**Fair Employment Practices Act** prohibits discrimination and retaliation of employees, applicants, and contractors based on race, color, religious creed, age, sex (including pregnancy, childbearing capacity, sterility, fertility, and related medical conditions), marital status, national origin, ancestry, present or past history of mental disability, intellectual disability, learning disability, physical disability, pregnancy, parental status, genetic information, sexual orientation (actual or perceived), gender identity or expression, past arrests or convictions that were erased, and civil union status.

Discrimination based on military service is also prohibited.

State agencies are additionally prohibited from discriminating based on criminal record.

Applies to employers with 3 or more employees. Companies with fewer than 3 employees must train supervisors.

Connecticut law specifically prohibits any employer who use interns from discriminating against or harassing an intern based on race, color, religious creed, age, sex, gender identity or expression, sexual orientation, marital status, national origin, ancestry, or present or past history of mental, intellectual, learning, or physical disabilities, including, but not limited to, blindness.

Effective March 10, 2021, discrimination based on hairstyle or textures historically associated with race (i.e. natural, protective, or cultural hairstyle) is prohibited. It does not eliminate the employer's ability to enforce dress code and grooming policies.

Effective October 1, 2022, the Connecticut Fair Employment Practices Act (CFEPA) will be further expanded in coverage to apply to all employers with one or more employees whereas currently it applies to employers with three or more employees.

Effective October 1, 2022, victims of domestic violence will be added as a protected class.

### State Sexual Harassment Definition

Sexual harassment is defined under the under the CFEPA as any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when either:

- Submission to that conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- Submission to or rejection of that conduct by an individual is used as the basis for employment decisions affecting an individual.
- That conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

### Who May Be Liable

Supervisors are not individually liable for discrimination and harassment under Connecticut's Fair Employment Practices Act. See *Perodeau v. City of Hartford*, 259 Conn. 729, 792 A.2d 752 (2002). However, a supervisor could be held liable for aiding and abetting an employer's discrimination or harassment. *Farrar v. Town of Stratford*, 537 F.Supp.2d 332 (D. Conn. 2008).

### State Training & Education Requirements

Connecticut law requires state agencies to provide three hours of diversity training to all supervisory and non-supervisory employees and to all new supervisory employees within six months of the assumption of a position with a state agency. The diversity training must include information on state and federal discrimination laws as well as hate crimes directed at protected classes. Conn. Gen. Stat. § 46a-54(16)(A).

The Connecticut Fair Employment Practices Act (CFEPA) requires all employers with 3 or more employees to provide sexual harassment training to all employees. The mandated training is to be provided in the first six months of becoming a supervisor. Conn. Gen. Stat. Ann. § 46a-54(15)(B). As long as the employees are given an opportunity "to ask questions and

## Connecticut (continued)

obtain answers in a reasonably prompt manner;” online training can satisfy the training requirement. 5/19/03 Opinion Letter.

Employers are required to provide supplemental training every 10 years.

The mandated training and education is to be conducted in a classroom-like setting, “using clear and understandable language and in a format that allows participants to ask questions and receive answers. Audio, video and other teaching aides may be utilized to increase comprehension or to otherwise enhance the training process.”

1. The content of the training must include the following:

- A. Describing the federal and state statutory provisions prohibiting sexual harassment in the workplace with which the employer is required to comply, including, but not limited to, the Connecticut discriminatory employment practices statute (section 46a-60 of the Connecticut General Statutes) and “Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. section 2000e, and following sections);

### State Training & Education Requirements (continued)

- B. Defining sexual harassment as explicitly set forth in subdivision (8) of subsection (a) of section 46a-60 of the Connecticut General Statutes and as distinguished from other forms of illegal harassment prohibited by subsection (a) of section 46a-60 of the Connecticut General Statutes and section 3 of Public Act 91-58;
  - C. Discussing the types of conduct that may constitute sexual harassment under the law, including the fact that the harasser or the victim of harassment may be either a man or a woman and that harassment can occur involving persons of the same or opposite sex;
  - D. Describing the remedies available in sexual harassment cases, including, but not limited to, cease and desist orders; hiring, promotion or reinstatement; compensatory damages and back pay;
  - E. Advising employees that individuals who commit acts of sexual harassment may be subject to both civil and criminal penalties; and
  - F. Discussing strategies to prevent sexual harassment in the workplace.
2. While not exclusive, the training may also include, but is not limited to, the following elements:
- A. Informing training participants that all complaints of sexual harassment must be taken seriously, and that once a complaint is made, supervisory employees should report it immediately to officials designated by the employer, and that the contents of the complaint are personal and confidential and are not to be disclosed except to those persons with a need to know;
  - B. Conducting experiential exercises such as role playing, coed group discussions and behavior modeling to facilitate understanding of what constitutes sexual harassment and how to prevent it;
  - C. Teaching the importance of interpersonal skills such as listening and bringing participants to understand what a person who is sexually harassed may be experiencing;
  - D. Advising employees of the importance of preventive strategies to avoid the negative effects sexual harassment has upon both the victim and the overall productivity of the workplace due to interpersonal conflicts, poor performance, absenteeism, turnover and grievances;
  - E. Explaining the benefits of learning about and eliminating sexual harassment which include a more positive work environment with greater productivity and potentially lower exposure to liability, in that employers—and supervisors personally—have been held liable when it is shown that they knew or should have known of the harassment;
  - F. Explaining the employer’s policy against sexual harassment, including a description of the procedures available for reporting instances of sexual harassment and the types of disciplinary actions which can and will be taken

## Connecticut (continued)

against persons who have been found to have engaged in sexual harassment; and

G. Discussing the perceptual and communication differences among all persons and, in this context, the concepts of “reasonable woman” and “reasonable man” developed in federal sexual harassment cases.

3. While not required, Connecticut encourages an employer having 3 or more employees to provide an upgrade of legal interpretations and related developments concerning sexual harassment to supervisory personnel once every three years.

### Enforcement

**Connecticut Commission on Human Rights and Opportunities**

### Citation

Conn. Gen. Stat. Ann. §§ 46a-51; 46a-60; 46a-61; 46A-80, 46a-81c; 46b-3800; 31-40s; 52-571aa.



# Connecticut

## Delaware

### Protected Categories

Delaware protects race, color, religion, sex (including pregnancy), national origin, disability, genetic information, age (over 40 but mandatory retirement at 65 is okay in some circumstances), marital status, and sexual orientation (heterosexuality, homosexuality, or bisexuality), gender identity, volunteer emergency responder status, status as a victim of domestic violence, sexual offenses, or stalking, reproductive decisions, and family responsibilities. Effective April 13, 2022, discrimination based on hairstyle or textures historically associated with race (i.e. natural, protective, or cultural hairstyle) is prohibited.

Applies to employers with four or more employees.

Sexual orientation and gender identity is protected for state employees. Discrimination based on National Guard membership is prohibited.

### State Sexual Harassment Definition

Conduct including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to the conduct is either explicitly or implicitly made a term or condition of the employee's employment.
- Submission to or rejection of the conduct is used as the basis for employment decisions affecting the employee.
- The conduct has the purpose or effect of either unreasonably interfering with the employee's work performance or creating an intimidating, hostile, or offensive working environment.

### Who May Be Liable

Employer

### State Training & Education Requirements

Effective January 1, 2019, employers with 50 or more employees within the state must provide employees with interactive training and education on the prevention of sexual harassment and additional interactive training for all supervisors. All employees who are employed continuously for six months must receive the training within a year of commencement of employment or becoming a supervisor. Training must be conducted every two years, and it should cover the definition and illegality of sexual harassment; examples of sexual harassment; the remedies and complaint process available, including how to contact the state Department of Labor; the prohibition on retaliation; and for supervisors, the responsibilities supervisors have regarding preventing and correcting harassment and retaliation.

The State of Delaware's Office of Discrimination's website indicates, "Prevention is the best tool to eliminate sexual harassment in the workplace. Employers are encouraged to take steps necessary to prevent sexual harassment from occurring. They should clearly communicate to employees that sexual harassment will not be tolerated. They can do so by providing sexual harassment training to their employees and by establishing an effective complaint or grievance process and taking immediate and appropriate action when an employee complains."

### Enforcement

Delaware Department of Labor

Office of Anti-Discrimination

### Citation

19 Del. Code §§ 710 et seq.; 711, 724.

State Employee Merit Rule 2.0.

Exec. Order No. 8.

<http://dia.delawareworks.com/discrimination/sexualharassment.php>

## District of Columbia

### Protected Categories

The District of Columbia Human Rights Act (DCHRA) prohibits discrimination against people who live, visit, or work in DC on the basis of age (18+), race, color, religion, national origin, sex (including pregnancy, childbirth, reproductive health decisions, breastfeeding, and related medical conditions), marital status, personal appearance (including style of dress and personal grooming), sexual orientation, gender identity or expression, family responsibilities (including being the subject of proceedings for child support payments), genetic information, disability, matriculation (such as attending a university or vocational school), political affiliation, status as a victim or family member of a victim of domestic violence, a sexual offense, or stalking, or creditworthiness, credit standing, credit capacity, or credit history.

The DCHRA applies to all DC employers.

DC also prohibits discrimination based on tobacco use and unemployment status.

### Local Sexual Harassment Definition

Similar to Federal. Employers are strictly liable for sexual harassment if it is perpetrated by a senior-level employee.

### Who May Be Liable

Employers and supervisors

### State Training & Education Requirements

There is no general requirement that employers provide sexual harassment training. However, under the Tipped Wage Workers Fairness Amendment Act, employers with tipped employees are required to provide such training. The law requires the following:

- New hires must receive training within the first 90 days after hire, unless the employee participated in training within the prior two years.
- Employees who were hired before the law became effective on October 30, 2020, have two years from the effective date to attend training.
- Managers, owners, and business operators must attend training at least every two years.
- Employees, owners, and business operators may complete the training in person or online. Managers must attend in-person training.
- Employers must submit a certification of completion to the OHR for each employee and must do so no later than 30 business days after the training was completed.
- The OHR is required to provide a sexual harassment training course that meets the requirements or a certified list of providers who provide suitable training.

### Enforcement

District of Columbia Office of Human Rights (OHR)

# Florida

## Protected Categories

**Civil Rights Act** protects race, color, religion, sex, pregnancy, national origin (including ancestry), age, handicap, and marital status. Covers employers with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year.

Discrimination based on National Guard membership, genetic test results, HIV/AIDS status, and sickle-cell traits is prohibited.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employers

## State Training & Education Requirements

Florida requires supervisory employees in state positions to undergo state-provided training within 30 days of the employee's hire date.

## Enforcement

Florida Commission on Human Relations

## Citation

Fla. Stat. Ann. §§ 760.01 et seq.; 760.10; 760.50; 448.075; 250.482; 760.40; 760.50.

Fla. Admin. Code Ann. r. 60L-33.007.

# Florida

## Georgia

### Protected Categories

**Fair Employment Practices Act** prohibits discrimination by state employers on the basis of age (40-70), religion, race, color, national origin, sex, and disability.

Applies to employers with 15 or more employees.

Georgia prohibits sex discrimination with respect to wages and age discrimination for all employers. Employers with 15 or more employees may not discriminate based on disability.

Discrimination against persons based on age (over 40 but under 70) and military service is prohibited for all employers.

### State Sexual Harassment Definition

Same as Federal

### Who May Be Liable

Employer

### State Training & Education Requirements

Georgia has no specific training and education requirements.

### Enforcement

Georgia Commission on Equal Opportunity

### Citation

O.C.G.A. §§ 45-19-3, 34-5-3, 34-1-2, 45-19-1 et seq.; 38-2-279; 38-2-280.



# Georgia

# Hawaii

## Protected Categories

**Fair Employment Practices Law** protects color, race, sex or pregnancy, religion, ancestry, age, disability and association with an individual with a known disability (including genetics), gender identity or expression, sexual orientation, marital status (including civil union status), breast feeding, paying child support, credit history, arrest and court records, domestic/sexual violence victim status, reproductive health decision, and employees who take military leave are afforded some limited protections.

## State Sexual Harassment Definition

Any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or visual forms of harassment of a sexual nature when either:

- Submission to that conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- Submission to or rejection of that conduct by an individual is used as the basis for employment decisions affecting that individual.
- That conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a working environment that is intimidating, hostile, or offensive.

## Who May Be Liable

Supervisors cannot be held liable pursuant to *Lales v. Wholesale Motors Co.*, 328 P.3d 341, 352-53 (Haw. 2014).

## State Training & Education Requirements

Hawaii encourages, but does not specifically require, non-harassment training.

The Hawaii Administrative Rules state that "prevention is the best tool for the elimination of sexual harassment. Employers should affirmatively raise the subject, express strong disapproval, develop appropriate sanctions, inform employees of their right to raise and how to raise the issue of sexual harassment, and take any other steps necessary to prevent sexual harassment from occurring." The Hawaii Civil Rights Commission indicates that such programs should include training of supervisory personnel about their specific responsibilities and training of all employees about the sexual harassment policy and grievance procedures. See Haw. Admin. Rules § 12-46-109(g).

## Enforcement

**Hawaii Civil Rights Commission**

## Citation

Haw. Rev. Stat. Ann. §§ 378-1, 378-2, 378-3, *Ross v. Stouffer Hotel Co.*, 879 P.2d 1037 (1994) (marriage to a coworker); *Acquero v. Hilton Hawaiian Village LLC*, 91 P.3d 505 (Haw. 2004)(expansion of sexual harassment definition).



# Idaho

## Protected Categories

**Human Rights Act / Civil Rights Act** protects color, race, religion, creed, age (40+), sex (including pregnancy, childbirth, or related medical condition), national origin, association with a disabled person, and disability.

Human Rights Act applies to employers with five or more employees.

Discrimination based on genetic test/information is also prohibited.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer

## State Training & Education Requirements

Idaho has no specific training and education requirements.

## Enforcement

**Idaho Human Rights Commission**

## Citation

Idaho Code §§ 18-7301 et seq.; 67-5901 et seq.; 39-8303; Idaho Admin. Code § 45.01.010-18.

# Idaho

## Illinois

### Protected Categories

**Illinois Human Rights Act** protects actual or perceived color, race, religion, sex (including pregnancy, childbirth, and related conditions), citizenship status, sexual orientation (gender-related identity and actual or perceived hetero-, homo-, or bisexuality and gender-related identity), marital status (including civil union status), national origin, ancestry, age (40+), physical or mental disability, order of protection status, and military status (or National Guard or reserves member status) or unfavorable discharge from military service, arrest record, expunged or sealed convictions. Discrimination based on credit history is also prohibited. Effective January 1, 2022, discrimination based on disability shall include discrimination against an individual because of the individual's association with a person with a disability.

Illinois also prohibits discrimination based on speaking a native language in communications unrelated to work or for lawful use of lawful products off of work premises.

Applies to any Illinois employer with at least one employee working 20 or more weeks within the calendar year of or preceding the violation.

### State Sexual Harassment Definition

The IHRA defines sexual harassment as any of the following:

- Unwelcome sexual advances
- Requests for sexual favors
- Any conduct of a sexual nature when:
  - submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment;
  - submission to or rejection of the conduct is the basis for employment decisions affecting an individual;
  - the conduct substantially interferes with an individual's work performance; or
  - the conduct creates an intimidating, hostile, or offensive working environment.

### Who May Be Liable

Supervisors and employees may be held personally liable for sexual harassment.

### State Training & Education Requirements

All employers with employees working in Illinois are required to provide training, except for employers subject to Section 5-10.5 of the State Officials and Employees Ethics Act.

The required training must cover:

- an explanation of sexual harassment
- examples of conduct that constitutes unlawful sexual harassment
- a summary of federal and State statutory provisions concerning harassment based on sex, sexual harassment, and all remedies available to victims of sexual harassment or harassment based on sex
- a summary of employees' rights and available remedies and forums to adjudicate complaints
- a summary of responsibilities of employees in the prevention, investigation, and adjudication of sexual harassment

Each state officer, member, and employee must undergo sexual harassment training on an annual basis. Persons filling vacancies in elective positions that require training must receive it within 30 days after commencement of employment in the new position.

## Illinois (continued)

In Illinois, licensed professionals with continuing education requirements that are overseen by the Illinois Department of Financial and Professional Responsibility (IDFPR) must engage in a minimum of 1 hour of sexual harassment prevention training.

In Chicago, all employees must engage in 1 hour of sexual harassment prevention and 1 hour of bystander training. Anyone who supervises or manages employees must participate in a minimum of 2 hours of sexual harassment training annually.

### Enforcement

**Illinois Department of Human Rights (IDHR)**

### Citation

775 Ill. Comp. Stat. Ann. 5/1-101 et seq. § 5/2-102 et seq.; § 55/5; 280 Ill. Comp. Stat. Ann 70/1 et seq.; 56 Ill Adm. Code § 5210.110.

820 Ill. Comp. Stat. Ann. 55/1 et seq.

# Indiana

## Protected Categories

**Civil Rights Law** protects religion, race, color, sex, disability, national origin, and ancestry. It also prohibits refusing to employ an applicant based on veteran status or membership in the National Guard or reserves. This applies to all employers with six or more employees.

Separately, all employers with 15 or more employees for each working day for at least 20 weeks in the current or previous calendar year are prohibited from discrimination against individuals with disabilities.

Employers are also prohibited from discriminating based on age, use of tobacco products outside of employment, and a person's moral beliefs on abortion. Sexual orientation is protect for public employees.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer

## State Training & Education Requirements

Indiana has no specific training and education requirements for public or private employers. Members of the general assembly must undergo sexual harassment prevention training annually.

## Enforcement

State of Indiana Civil Rights Commission

## Citation

Ind. Code Ann. §§ 22-9-1-1 et seq., and 22-9-2-1, et seq.; 22-9-5-6, 22-9-5-19, 16-34-1-6; 22-5-4-1.

# Indiana

## Iowa

**Protected Categories**

**Civil Rights Act** protects race, color, creed, national origin, religion, sex, age (18+ or adult status), pregnancy, childbirth and related medical conditions, gender identity (regardless of a person’s assigned sex at birth), physical or mental disability (including AIDS and positive HIV test), genetic testing, and sexual orientation (actual or perceived heterosexuality, homosexuality, or bisexuality).

The Civil Right Act covers employers with four or more employees. Discrimination by any individual against members of the civil air patrol, National Guard, or organized reserves is prohibited.

Effective March 23, 2022, discrimination based on religion shall include a broader definition of anti-Semitism. According to the definition, anti-Semitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of anti-Semitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.

**State Sexual Harassment Definition**

Iowa defines sexual harassment as “persistent, repetitive, or highly egregious conduct directed at a specific individual or group of individuals that a reasonable person would interpret as intentional harassment of a sexual nature, taking into consideration the full context in which the conduct occurs, which conduct threatens to impair the ability of a person to perform the duties of employment, or otherwise function normally within an institution responsible for the person’s care, rehabilitation, education, or training. The state prohibition against sexual harassment applies to all state employees.”

**Who May Be Liable**

Employer and supervisor

**State Training & Education Requirements**

Iowa requires all public employers to provide affirmative action, diversity, and sexual harassment training to supervisors and managers.

Executive Order No. 44 (1982) also indicates that “all state agencies shall make affirmative action training available for administrative and supervisory personnel” working in human resources.

**Enforcement**

**Iowa Civil Rights Commission**

**Citation**

Iowa Code §§ 216.2; 216.6; 216.11; 729.6; 19B.12; 29A.43.

# Kansas

## Protected Categories

**Acts Against Discrimination** protects race, religion, color, sex (including pregnancy, childbirth, and related medical conditions, married women and unmarried women with children), genetic testing, disability (including mental disorders), and national origin or ancestry. Kansas law also prohibits discrimination based on age (40+) and military status.

Applies to employers with four or more employees.

State employers may not impose height requirements for positions, except for law enforcement, firemen, and security officers.

Discrimination against military personnel by any individual is prohibited.

Employers are prohibited from discriminating against employees who are the victim of domestic violence or sexual assault.

Political orientation, sexual orientation, and gender identity are protected for state employees.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer and supervisor

## State Training & Education Requirements

Kansas requires public employers to “[p]rovide training that sensitizes managers, supervisors and employees on the subject of sexual harassment.”

## Enforcement

**Kansas Human Rights Commission (KHRC)**

## Citation

Kan. Stat. Ann. §§ 44-1009; 44-1110; 44-1126; 75-2941; 44-1131; 44-1132; 73-201; 73-203.

Kan. Adm. Regs. § 21-32-6.

Kan. Stat. Ann. § 65-6002.

Exec. Order 07-24.

Exec. Order 03-13.

# Kentucky

## Protected Categories

**Kentucky Civil Rights Act** protects color, race, national origin, religion, sex (including pregnancy, childbirth, or related medical conditions), age (40+), mental and physical disability (HIV/AIDS), and smoker/non-smoker status.

Applies to employers with eight or more employees.

Disability and pregnancy protection only applies to employers with 15 or more employees.

Sexual and political orientation are protected for public employees.

Sexual preference and gender identity are also protected for state employees.

Discrimination against National Guard members (or members in an active militia) by any individual is prohibited.

Employers may not discriminate against employees for refusing to work on the Sabbath.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer

## State Training & Education Requirements

Kentucky has no specific training and education requirements.

## Enforcement

**Kentucky Commission on Human Rights**

## Citation

Ky. Rev. Stat. Ann. §§ 18A.140; 207.130; 207.135; 344.010; 344.030; 344.040; 344.050; 344.060; 344.090; 436.165; 38.460; 436.165.

Exec. Order 2003-533.

Exec. Order 2008-473.

# Kentucky

## Louisiana

### Protected Categories

**Employment Discrimination Law** protects religion, sex, disability, age (40+), race, color, sickle-cell trait, pregnancy (employers with 25 or more employees for 20 calendar weeks), national origin, genetic information (including preventative cancer screening), childbirth, and related medical conditions. Effective August 1, 2022, discrimination based on hairstyle or textures historically associated with race (i.e. natural, protective, or cultural hairstyle) is prohibited. The law does not address potential conflicts between an applicant's or employee's protected hairstyle and an employer's bona fide safety rules or measures.

Applies to employers with 20 or more employees.

Discrimination against individuals based on military status and tobacco use is prohibited.

Sexual orientation is protected for state employees.

### State Sexual Harassment Definition

Same as Federal

### Who May Be Liable

Employers. Generally, Louisiana's anti-discrimination laws do not allow individual liability for supervisors.

### State Training & Education Requirements

Louisiana has no specific training and education requirements.

### Enforcement

**Louisiana Commission on Human Rights**

### Citation

La. Rev. Stat. Ann. §§ 23:301, 23:312, 23:323, 23:332, 23:342, 23:352, 23:368, 23:966, 29:404.

Exec. Order 2004-54.



## Maine

### Protected Categories

**The Maine Human Rights Act** prohibits discrimination and retaliation of employees, applicants, and contractors based on race, color, sex, pregnancy, sexual orientation (which includes gender expression), physical or mental disability, religion, age, ancestry, gender identity, national origin, previous assertion of a claim or right under the workers' compensation law, or previous action under the Maine Whistleblower Protection Act.

Effective July 19, 2022, race discrimination in employment will include discrimination on the basis of traits associated with race, including hair texture, Afro hairstyles, and "protective hairstyles," such as braids, twists, and locks.

Marital status and political orientation are protected for public employees.

Employees, other than retail or wholesale, may not be discriminated against for observing the Sabbath.

Discrimination against National Guard or military reserve members or victims of domestic abuse or on the basis of genetic testing is prohibited. The state also prohibits adverse employment actions based on use of marijuana and marijuana products outside of the workplace. State law prohibits adverse actions by employers against employees for declining to attend or participate in employer-sponsored meetings where the employer expresses its opinion on political or religious matters, including matters related to labor organizations, or for declining to receive communications from the employer on such matters. The legislations also prohibits retaliation for reporting violations of the law in good faith.

### State Sexual Harassment Definition

Same as Federal

### Who May Be Liable

Employer

### State Training & Education Requirements

Maine requires all employers to provide non-harassment training for employees, with special requirements for supervisory employees, as explained below.

In workplaces with 15 or more employees, employers shall conduct an education and training program for all new employees within one year of commencement of employment that includes, at a minimum, the following information: the illegality of sexual harassment; the definition of sexual harassment under state and federal laws and federal regulations, including the Maine Human Rights Act and the Civil Rights Act of 1964, 42 United States Code, Title VII, Sections 2000e to 2000e-17; a description of sexual harassment, utilizing examples; the internal complaint process available to the employee; the legal recourse and complaint process available through the commission; directions on how to contact the commission; and the protection against retaliation as provided under Title 5, section 4553, subsection 10, paragraph D.

Employers shall conduct additional training for supervisory and managerial employees within one year of commencement of employment that includes, at a minimum, the specific responsibilities of supervisory and managerial employees and methods that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.

Education and training programs conducted under this subsection by the state, a county, or a municipality for its public safety personnel, including, but not limited to, law enforcement personnel, corrections personnel, and firefighters, may be used to meet training and education requirements mandated by any other law, rule, or other official requirement.

See ME Rev. Stat. Ann. Tit. 26 § 807(3).

### Enforcement

**The Maine Human Rights Commission**

### Citation

Me. Rev. Stat. Ann. 5 §§ 4551 et seq., 4572; 7051; 26 § 597; Me. Rev. Stat. Ann. 5 §§ 19201, 19204-B, 19301, 19302 (genetic information).  
tit. 26 § 850; tit. 37B § 342.

## Maryland

### Protected Categories

**Fair Employment Practices Act** protects color, religion, race, sex (including pregnancy, childbirth, and related conditions), national origin, age, ancestry, participation in Maryland Defense Force or Civil Air Patrol, marital status, military status, sexual orientation, gender identity, genetic information (including refusal to make available the result of a genetic test), disability (including mental disorders unrelated to the job), genetic testing, and Sabbath observance.

Employers are also prohibited from discriminating against employees based on information learned from participation in a group healthcare plan.

Applies to employers with 15 or more employees.

Gender identity, expression, and political affiliation are protected for state employees.

### State Sexual Harassment Definition

Effective October 1, 2022, the definition of sexual harassment will be expanded. It will be defined as conduct “that consists of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature.” Such conduct need not be severe or pervasive in these three situations:

- Submission to the conduct is made a term or condition of an individual’s employment, whether explicitly or implicitly.
- Submission to or rejection of the conduct is used as the basis for employment decisions about the individual.
- Based on the totality of the circumstances, the conduct unreasonably creates a working environment that a reasonable person would perceive to be abusive or hostile.

### Who May Be Liable

Employer

### State Training & Education Requirements

Maryland encourages, but does not specifically require, non-harassment training for private employers.

The Maryland Commission on Human Relations has indicated that, in deciding a sexual harassment case, it will favorably consider the preventative steps, including training and education, the employer has taken. Maryland requires each state employee to complete two hours of in-person or virtual, interactive training within 6 months of employment and every 2 years thereafter.

### Enforcement

**Maryland Commission on Civil Rights**

### Citation

Md. Code Ann., Lab. & Empl. §§ 3-701, 3-704 § 20-601 et seq.

Exec. Order 01.01.2007.16.

Maryland

## Massachusetts

### Protected Categories

**Massachusetts' Fair Employment Practices Act** protects race, color, religious creed, national origin, age (40+), ancestry, sex (pregnancy, childbirth, lactation or the need to express breast milk, related medical conditions, and maternity leave), sexual orientation (includes transgender and gender identity), military or veteran status, genetic information, handicap, mental illness, and arrest records (for misdemeanors, certain first offenses, and arrests not leading to conviction). Employers may not require HIV/AIDS testing as a condition of employment.

Effective October 24, 2022, the definition of race is expanded to provide that protections against discrimination include traits historically associated with race, including but not limited to, hair texture, hair type, hair length, and protective hairstyles.

Applies to employers with six or more employees, though smaller employers are likely covered by the Massachusetts Equal Rights Act.

Discrimination against veterans and members of the National Guard or Reserves is also prohibited.

### State Sexual Harassment Definition

Generally the same as Federal law, but employers are strictly liable for the harassment of supervisors.

### Who May Be Liable

Supervisors and employers may be held individually liable for discrimination and harassment under the Fair Employment Practices Act, M.G.L.ch. 151B, §1, et seq.

### State Training & Education Requirements

Massachusetts encourages, but does not specifically require, non-harassment training for employees and supervisors.

Within one year of hiring or promotion, Massachusetts' Fair Employment Practices Act encourages employers to conduct a harassment and discrimination training program for all new employees, supervisors, and managers. Supervisors and managers should receive additional sexual harassment training on their responsibilities for preventing sexual harassment and responding to sexual harassment complaints.

### Enforcement

**Massachusetts Commission Against Discrimination (MCAD)**

### Citation

Mass. Gen. Laws 151B, §§ 3A, 4; 149 § 24A, 105D.

Code of Mass. Regs., 804-3-302.

See *Lie v. Sky Publishing Corp.*, 15 Mass. L. Repr. 412 (Mass Super. 2002).

# Michigan

## Protected Categories

**Elliott Larsen Civil Rights Act** protects race (including hair texture and hair styles, such as braids, locks, and twists), color, national origin, religion, height, weight, sex, disability, age, familial or marital status, childbirth and related conditions except non-therapeutic abortions, genetic testing, and pregnancy.

In July 2022, the Michigan Supreme Court extended state's anti-discrimination law to sexual orientation. Specifically, Michigan's Elliott-Larsen Civil Rights Act (ELCRA), MCL 37.2101 et seq., prohibition of sex-based discrimination also prohibits discrimination based on sexual orientation.

Employers are also prohibited from discriminating based on a misdemeanor arrest, detention, or disposition that did not result in a conviction.

Sexual orientation and gender identity and expression are protected for state employees.

Discrimination against members of the military is prohibited.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer and supervisor

## State Training & Education Requirements

Michigan offers training regarding its disability laws, as explained below.

According to Michigan's disability laws, "The department of civil rights shall offer education and training programs to employers, labor organizations, and employment agencies to assist employers, labor organizations, and employment agencies in understanding the requirements" under Michigan's disability law.

See Mich. Comp. Laws. Ann., § 37.1212.

## Enforcement

**Michigan Department of Civil Rights (MDCR)**

## Citation

Mich. Comp. Laws §§ 37.1202, 37.2201, 37.2202 et seq.; 37.2205a, 37.2701; 35.401 et seq.  
Exec. Orders 2003-24; 2007-24; 2008-22.

# Michigan

# Minnesota

## Protected Categories

**Human Rights Act** protects sex (pregnancy, childbirth, and related conditions), marital and familial status, status with regard to public assistance, race, age (25+), color, creed, religion, ancestry, national origin, membership or activity in a local commission, disability, genetic testing, gender identity and sexual orientation (actual, perceived, or transgender).

Public employers may not base hiring decisions solely or in part on a prior conviction of a crime or crimes, unless the crime or crimes for which convicted directly relate to the employment position.

Discrimination based on the lawful use of lawful products outside of work and discrimination against military personnel are prohibited.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer

## State Training & Education Requirements

Minnesota has no specific training and education requirements.

## Enforcement

**Minnesota Department of Human Rights (MDHR)**

## Citation

Minn. Stat. Ann. §§ 363A.01 et seq., 364.03, 364.04.

Minn. Stat. Ann § 181.81.

Minn. Stat. Ann. § 181.974.

Minn. Stat. Ann. § 181.938; 192.34.

# Minnesota

# Mississippi

## Protected Categories

Mississippi protects color, religion, race, sex, national origin, age, political orientation, or handicap.

\*\*Applies only to public employment.

Corporations may be subject to fines for interfering with employees' social, civil, or political rights.

Discrimination against employees for tobacco use in accordance with company policy and based on military service are prohibited.

Effective July 1, 2022, the Mississippi Equal Pay for Equal Work Act will prohibit an employer from paying an employee a wage less than the rate at which an employee of the opposite sex is paid for equal work on a job that requires equal skill, education, effort, and responsibility, under similar working conditions.

## State Sexual Harassment Definition

There is no state law. Only federal law is applicable.

## Who May Be Liable

Employer

## State Training & Education Requirements

Mississippi has no specific training and education requirements.

## Enforcement

Mississippi has no state agency that enforces antidiscrimination laws; see the local EEOC office(s).

## Citation

Miss. Code Ann. §§ 25-9-149, 43-6-15, 25-9-103; 33-1-15; 43-6-15; 71-7-33.

# Mississippi

# Missouri

## Protected Categories

**Missouri Human Rights Act** protects color, religion, national origin, sex (including pregnancy, stereotyping,), race, ancestry, age (40-70), HIV/AIDS testing, rehabilitated drug users, and disability. Also protected are gender identity and gender expression pursuant to *Lamley v. Missouri Comm'n on Human Rights*, 570 S.W.3d 16 (Mo. 2019).

All employers are prohibited from discriminating based on genetic information or test results.

Applies to employers with 6 or more employees.

Employers are also prohibited from discriminating based on an employee's political beliefs, lawful use of alcohol or tobacco outside of work (without business justification), militia or military service, or refusal to participate in an abortion.

## State Sexual Harassment Definition

Same as Federal, but courts apply strict liability for harassment by a supervisor. *Keefer v. Universal Forest Prod.*, 73 F.Supp.2d 1053, 1057 n. 4 (W.D. Miss 1999).

## Who May Be Liable

Employer and supervisor (for genetic information discrimination)

## State Training & Education Requirements

Missouri has no specific training and education requirements.

## Enforcement

**Missouri Commission on Human Rights (MCHR)**

## Citation

Rev. Statutes of Missouri §§ 213.055, 191.665; 375.1306; 41.730; 130.028; 188.105; 213.010; 290.145.

## Montana

### Protected Categories

**Human Rights Act** protects religion (including observance, practice, or belief), color, sex (pregnancy), physical or mental disability, race, creed, age, national origin, and marital status.

Effective January 1, 2022, an employer is prohibited from discriminating against an employee for legal use of marijuana during non-working hours.

Effective May 7, 2021, vaccine status is a protected category under the Montana Human Rights Act.

Sexual orientation and political orientation are also protected for state employees.

Discrimination based on lawful use of lawful products outside of work, genetic traits, and militia membership are also prohibited.

### State Sexual Harassment Definition

Same as Federal

### Who May Be Liable

Employer and supervisor

### State Training & Education Requirements

The Department of Administration is obligated to conduct harassment training for state employees.

### Enforcement

The Montana Department of Labor and Industry.

The Human Rights Bureau of the Department receives and investigates complaints of discrimination.

The Hearings Bureau of the Department conducts hearings in discrimination cases.

The Montana Human Rights Commission hears appeals of decisions by the hearings examiner and decisions of the Human Rights Bureau to dismiss cases.

### Citation

Montana Code Ann. §§ 49-2-101, 49-2-303(1)(a), 49-2-308-311, 49-4-101; 10-1-1005; 33-18-903; 39-2-314 .

Mont. Const. art. II, § 4.

Mont. Admin. Rules Title 2, Ch. 21, Sub. Ch. 40, §§2.21.4001-2.21.4014.

Exec. Order No. 7-82.



# Nebraska

## Protected Categories

**Nebraska Fair Employment Practices Act** protects sex (pregnancy, childbirth, and related medical conditions), disability (including mental disorders), race, color, national origin, religion, age (40), and marital status.

Effective September 2021, it shall be unlawful for an employer to discriminate based on hairstyle or textures historically associated with race (i.e. natural, protective, or cultural hairstyle).

Applies to employers with 15 or more employees except age protection which applies to employers with 20 or more employees.

Discrimination based on HIV/AIDS status, genetic information/testing, development disabilities, or military service are prohibited.

Political orientation is protected for public employees.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer

## State Training & Education Requirements

Nebraska has no specific training and education requirements.

## Enforcement

**Nebraska Equal Opportunity Commission (NEOC)**

## Citation

Neb. Rev. Stat. §§ 20-160; 20-168(1), 48-1101, 48-1104, 48-236, 48-215; 48-236; 55-61; 55-165.

Neb. Admin. R. & Regs. 1-8.

# Nevada

## Protected Categories

**Fair Employment Practices Law** protects sex, sexual orientation (actual/perceived), pregnancy, age, genetic information, disability, race, color, religion, gender identity or expression, religious creed, national origin, and discrimination based on employee's consumer credit report or other credit information.

Effective October 1, 2021, Nevada amended its anti-discrimination laws to define discrimination on the basis of race as including discrimination on the basis of traits associated with race, such as hair texture and protective hairstyles. Notwithstanding these protections, employers may enforce health and safety requirements set forth in federal and state law.

Political orientation is also protected for public employees.

Applies to employers with 15 or more employees.

Discrimination based on National Guard service, domestic partnership status, or for the lawful use of lawful products outside of work are also prohibited.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer

## State Training & Education Requirements

Nevada requires state employers to train employees on non-harassment, but it only encourages private employers to do so.

The Nevada Equal Rights Commission's web site encourages employers to take steps to prevent sexual harassment.

Nevada requires all state employees to take a certified class on sexual harassment within six months of their appointment, and to attend a refresher course every two years thereafter. If necessary, employees may be required to retake all or part of each class to be sure they have assimilated the training. See Nev. Admin. Code ch. 284, s. 496.

## Enforcement

**Nevada Equal Rights Commission (NERC)**

## Citation

Nev. Rev. Stat. §§ 281.370, 613.040, 613.310, 613.320, 613.330, 613.333, 613.335, 613.340, 613.345, 122A.200; 412.1395.

## New Hampshire

### Protected Categories

**Law Against Discrimination** protects race, religious creed, color, marital status, physical or mental disability, age, sex (pregnancy), sexual orientation, gender identity, and national origin.

Applies to employers with six or more employees.

Discrimination based on tobacco use during non-working hours; status as a victim of domestic violence, harassment, sexual harassment, or stalking; genetic testing; or National Guard or militia membership is prohibited. State agencies and contractors are prohibited from discriminating based on gender identity or expression.

### State Sexual Harassment Definition

Generally same as Federal, but the state imposes strict liability for sexual harassment of owners, managers, partners, and corporate officers.

### Who May Be Liable

Employer. Supervisors can be held liable for aiding and abetting a discriminatory practice and for retaliation.

### State Training & Education Requirements

New Hampshire requires state employers to provide education and training to employees, as explained below.

Each state department or agency shall conduct periodic training to inform employees of the state's policy prohibiting sexual harassment and retaliation and the complaint and investigation procedure set forth herein. Such training shall include the following components:

- A. For all employees: As part of general orientation, each recently hired employee shall be provided a copy of NH's policy and during their first year of employment shall attend a training session regarding NH's policy.
- B. For all supervisory employees: All supervisory personnel shall annually participate in a training session on sexual harassment and other forms of discrimination which includes information about the types of conduct which will not be tolerated in the workplace.

Executive Order 2006-9

### Enforcement

**New Hampshire Commission for Human Rights**

### Citation

N.H. Rev. Stat. §§ 275:37; 354:A-2, 354:A-6; 354:A-7; 141-H:3; 110-B:65; 110-C:1; 275:37.

## New Jersey

### Protected Categories

**Law Against Discrimination (LAD)** protects nationality, ancestry, age (18-70), sex (pregnancy), race (including race of affiliates of employee), creed, color, national origin, civil union status, marital status, familial status, domestic partnership status, affectional or sexual orientation, disability (HIV/AIDS), use of a service dog, status as a medical marijuana patient, gender identity or expression, atypical hereditary cellular or blood trait, and military service.

Discrimination based on genetic information or lawful tobacco use, without good cause, is also prohibited.

Effective August 2021, employers cannot penalize a job applicant or employee because of that person's use or disuse of recreational cannabis. However, employers do not need to tolerate nor permit recreational or medical marijuana use in the workplace.

Effective October 5, 2021, New Jersey expanded protections based on age to prohibit private-sector employers from discriminating against employees over the age of 70.

### State Sexual Harassment Definition

Same as Federal

### Who May Be Liable

Employer and supervisor

### State Training & Education Requirements

New Jersey courts expect that supervisory employees will receive non-harassment training, as explained below.

In Gaines v. Bellino, 801 A.2d 322 (N.J. 2002), the New Jersey Supreme Court discussed what steps employers should take to prevent sexual harassment in the workplace, which includes, among other things, implementing effective complaint procedures and training supervisors. In its decision, the Court noted the importance of making such training available to all employees.

Following Gaines, it would likely be determined that training is now required for all employers. State employees must take a sexual harassment training class within 6 months of hire and every two years thereafter.

### Enforcement

**New Jersey Division on Civil Rights (DCR)**

### Citation

N.J. Stat. §§ 10:3-1, 10:5-12, 10:5-43 et seq.; 34:6B-1.

Bergen Commercial Bank v. Sister, 157 N.J. 188 (1999).

Andersen v. Exxon Corp., 89 N.J. 483 (1982).

## New Mexico

### Protected Categories

**New Mexico Human Rights Act of 1969** protects color, national origin, ancestry, religion, race, sex (pregnancy and breastfeeding), age, physical or mental handicap, and serious medical condition. The Human Rights Act covers employers with four or more employees.

Effective July 1, 2021, it shall be unlawful for an employer to discriminate based on hairstyle or textures historically associated with race (i.e. natural, protective, or cultural hairstyle).

Discrimination based on genetic testing, HIV testing, status as a medical marijuana patient, National Guard membership, or use of tobacco in compliance with workplace policies is also prohibited.

Employers with 15 or more employees must protect against sexual orientation or gender identity discrimination.

Employers with 50 or more employees must protect spousal affiliation.

Public employers cannot base hiring decisions on arrests not leading to conviction and misdemeanors not involving moral turpitude and political orientation.

### State Sexual Harassment Definition

Same as Federal

### Who May Be Liable

Employer and supervisor

### State Training & Education Requirements

New Mexico requires that school personnel receive regular non-harassment training and/or education, as explained below.

New Mexico's state code provisions dealing with primary and secondary education includes a section on Standards of Professional Conduct requiring all licensed school personnel to be educated at least once a year about sexual harassment by "attending periodic training" or "reviewing sexual harassment literature." See N.M.A.C. 6.60.9.9 (C)(11). Members of the New Mexico legislature must receive four hours of training on its harassment policy every two years.

### Enforcement

**New Mexico Human Rights Bureau**

### Citation

N.M. Stat. §§ 28-1-7; 24-21-4; 28-10A-1; 20-4-3; 50-11-3.

N.M. Admin Code 9.1.1.7(HH).

Exec. Order 85-15.

## New York

### Protected Categories

**New York State Human Rights Law** protects race, creed, color, national origin (including ancestry), age (18+), sex (includes transgender), gender identity, pregnancy, disability, genetic predisposition or carrier status (including sickle-cell trait, Tay-Sachs syndrome, carriers of Cooley's anemia, and AIDS diagnosis), actual or perceived sexual orientation, reproductive health decision making, marital and familial status, and domestic violence victim status.

Effective March 31, 2021, employees are protected from disciplinary action or discrimination for their lawful use of cannabis during legal recreational activities and use before or after work hours (including paid and unpaid breaks and meals) off employer premises and without use of employee equipment or property. An employer can, however, take action (including discipline) against an employee when the employee is impaired by cannabis use.

Applies to employers with four or more employees under "New York State Human Rights Law."

Political orientation, arrest and conviction record, and gender identity and expression are protected for state employees. Discrimination based on an employee's legal political or recreational activities, military service, use of a service dog, display of American flag on an employee's person or workstation, or legal use of consumable products outside of work is prohibited. State law prohibits adverse actions by employers against employees for declining to attend or participate in employer-sponsored meetings where the employer expresses its opinion on political or religious matters, including matters related to labor organizations, or for declining to receive communications from the employer on such matters. The legislation also prohibits retaliation for reporting violations of the law in good faith.

In New York City, height and weight are also protected classes.

### State Sexual Harassment Definition

Generally similar to Federal law, but conduct does not have to be severe or pervasive.

### Who May Be Liable

Employer and supervisor

### State Training & Education Requirements

All New York employers must provide all employees with sexual harassment training by October 1, 2019, and annually thereafter. The training must cover an explanation of sexual harassment consistent with guidance issued by the New York Division of Human Rights; examples of conduct that would constitute unlawful sexual harassment; information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment; and information concerning employees' rights of redress and all available forums for adjudicating complaints.

State agencies are required to conduct harassment training to "instruct and sensitize all employees."

New York City has a separate training requirement. All employers with 15 or more employees or independent contractors must provide employees (and independent contractors who have worked for the company for at least 80 hours and 90 days in the year) with annual sexual harassment training. The training should cover the federal, state, and local prohibition on sexual harassment; examples of sexual harassment; government and company complaint procedures; information on the prohibition on retaliation; information concerning bystander intervention; and information regarding supervisors' duty to prevent sexual harassment and retaliation.

## New York (continued)

### Enforcement

**New York Division of Human Rights (DHR)**

**New York City Commission on Human Rights**

### Citation

NY Exec Laws §§ 291, 292, 296; N.Y. Civil Rights Laws §§40-c, 42-44; 47-b; NY Labor Laws § 201-d; Executive Order 6, 19, 28, 33. Fletcher v. Kidder, Peabody & Co., 619 N.E.2d 998 (N.Y. 1993).

Exec. Law § 296 (10).

N.Y. Civil Rights Law § 48, 48-A.

N.Y. Civ. Serv. Law § 107.

N.Y. Military Law § 252.

N.Y. Civ. Serv. Law § 50.

Exec. Order No. 19.

New York

## North Carolina

### Protected Categories

North Carolina protects sex, race, color, national origin, religion, age (40+), disability/handicap.

Applies to state employers with 15 or more employees. North Carolina also protects sickle-cell or hemoglobin C trait, genetic testing and information, HIV/AIDS status or testing, creed, political affiliation, military personnel (including National Guard members), victims of domestic violence, and lawful use of lawful products during non-working hours (for employers with three or more employees).

(City of Charlotte): Effective January 1, 2022, the definition of protected class is amended to include gender identity, gender expression, sexual orientation, and natural hairstyle.

(Wake County): Effective February 1, 2022, the definition of protected class is amended to include gender identity, gender expression, sexual orientation, and natural hairstyle.

### State Sexual Harassment Definition

“An employee only has a private right of action for sexual harassment under North Carolina law if the employee was terminated for refusing a supervisor’s sexual advances.” McLean v. Patten Communities, Inc., 332 F.3d 714, 715 (4th Cir. 2003). Otherwise, federal law applies.

### Who May Be Liable

Employer

### State Training & Education Requirements

North Carolina strongly encourages state agencies to provide non-harassment training, as explained below.

All state agencies must develop a “plan on unlawful workplace harassment.” The agencies should include “utilization of training and other methods” in their plans to train state employees.

25 N.C.A.C. 1J.1101.

Each state agency and department must enroll supervisors and managers, within one year of appointment, in the state-operated Equal Employment Opportunity Institute.

### Enforcement

**North Carolina Human Relations Commission**

### Citation

N.C. Gen. Stat. §§ 95-28.1, 95-28.1A, 130A-148, 143-422.2, 126-13; 126-16; 126-16.1; 95-28.2.



## North Dakota

### Protected Categories

**North Dakota Human Rights Act** protects age (40+), mental or physical disability, status with regard to marriage or public assistance, race, color, religion, sex (including pregnancy, pregnancy-related disabilities, and childbirth), participation in lawful activities during non-work hours off the employer's premises, which is not in direct conflict with the essential business-related interests of the employer, and national origin (includes ancestry).

### State Sexual Harassment Definition

Same as Federal

### Who May Be Liable

Employer and likely supervisors (North Dakota law prohibits aiding or abetting discrimination, but the courts have not ruled on whether this creates a private right of action. See Kongelf v. Sears Holding Corp., No. 4:09-cv-038, 2010 WL 1977833, at \*5 (D.N.D. April 7, 2010).)

### State Training & Education Requirements

North Dakota has no specific training and education requirements.

### Enforcement

**North Dakota Department of Labor-Human Rights Division**

### Citation

N.D. Cent. Code § 14-02.4 et seq.

North Dakota

# Ohio

## Protected Categories

**Fair Employment Practices Act** protects color, religion, ancestry, sex (pregnancy and related conditions and sex stereotyping), military status, national origin, race, disability (including HIV/AIDS status), and age (40+).

Applies to employers with four or more employees.

Sexual orientation and gender identity is protected for state employees.

Discrimination against state employees based on military status and genetic information is also prohibited.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer and supervisor

## State Training & Education Requirements

Ohio encourages, but does not specifically require, non-harassment training.

The Ohio Administrative Code states that “prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Chapter 4112 of the Revised Code, and developing methods to sensitize all concerned.” Ohio Adm. Code 4112-5-05(J)(6).

## Enforcement

**Ohio Civil Rights Commission (OCRC)**

## Citation

Ohio Rev. Code §§ 4112.01; 4112.02; 4112.14; 125.111; 153.59.

See also Ohio Adm. Code 4112-5-05.

Exec. Order 2007-10S.

Exec. Order 2011-05k.

# Oklahoma

## Protected Categories

**Anti-Discrimination Act** protects age (40+), race, color, religion, sex (pregnancy, childbirth, or related medical conditions), genetic information, disability, ancestry, and national origin.

Political opinions or affiliations of public employees are also protected.

Discrimination based upon tobacco use during non-working hours, AIDS test results, military status, or wage garnishment is prohibited.

Effective May 20, 2022, Oklahoma employers are prohibited from discriminating against employees or applicants based on their status as a medical marijuana patient licensee unless the employer would lose a monetary or licensing-related benefit under federal law or regulations. Employers can still prohibit the use or possession, or being under the influence, of marijuana at work or during working hours.

## State Sexual Harassment Definition

Generally similar to Federal law, but strict liability for supervisor harassment.

## Who May Be Liable

Employer

## State Training & Education Requirements

Oklahoma has no specific training and education requirements.

## Enforcement

**Oklahoma Office of Civil Rights Enforcement**

## Citation

25 Okla. Stat. §§ 1201, 1301-1308, 1311; 74 Okla. Stat. §§ 840-2.9, 954; 36 Okla. Stat. § 3614.2; Okl. Admin. Code § 335:15-3-9.

Okla. Stat. Ann. tit. 40, § 500; tit. 44, § 208; tit. 63, § 1-502.2.

## Oregon

### Protected Categories

Oregon protects national origin, ancestry, sex, pregnancy, childbirth, pregnancy related conditions, race, color, religion, age (18+), physical or mental disability (employers having six or more employees), sexual orientation (actual, perceived; including gender identity), genetic information, genetic screening, expunged juvenile records, personal associations, marital status, familial status (including domestic partnership status), credit history, military service, enrollment in or completion of a drug rehabilitation program, status as a victim of domestic violence, sexual assault, or stalking, tobacco use during non-working hours, and unemployment status.

Employers must provide reasonable accommodations to employees with AIDS if employee makes employer aware of condition.

Effective January 1, 2022, the definition of race is expanded to include natural hairstyles, hair color, or manner of wearing hair. This amendment does not prohibit enforcing otherwise valid dress codes as long as those dress codes do not have a disparate impact on members of a protected class.

### State Sexual Harassment Definition

Same as Federal

### Who May Be Liable

Employer (and supervisors and employees for aiding and abetting violations)

### State Training & Education Requirements

Oregon encourages, but does not require, non-harassment training.

According to Oregon Department of Labor's website, "The employer should emphasize the importance of its sexual harassment policy through communication and training. Training for staff is essential. Employers should have departmental or unit meetings to explain policies and grievance procedures, so that all employees understand what is prohibited conduct and how to complain about it."

### Enforcement

**Bureau of Labor & Industries (BOLI)**

**Civil Rights Division**

### Citation

Or. Rev. Stat. §§ 174.100, 240.306, 659A.001-659A.990. (specifically §§ 659A.001; 659A.006; 659.009; 659A.029; 659A.030; 659A.122, 659A.124, 659A.290; 659A.106; 659A.112; 659A.142; 659A.303; 659A.309)

Or. Laws, Chapt. 99.

Or. Rev. Stat. § 433.045.

## Pennsylvania

### Protected Categories

**Human Relations Act** protects religious creed, ancestry, age (40+), sex (including pregnancy, sex assigned at birth, sexual orientation, gender identity, gender expression, gender transition, and transgender identity), familial status, willingness or refusal to perform or participate in abortion, national origin, race, color, use of support or guide animal, non-job related handicap or disability (including mental disorders and HIV/AIDS), association with handicapped persons, and persons with GEDs.

Applies to employers with four or more employees.

Sexual orientation and gender identity and expression are protected for state employees and state contractors.

Employers are prohibited from using credit history for hiring decisions or asking job applicants for wage history.

Discrimination against military personnel is prohibited, and employers may only consider past convictions if they are job-related.

### State Sexual Harassment Definition

Generally similar to Federal law, but the courts will look at the totality of the circumstances in judging harassment including the severity of the conduct and context in which it occurred.

### Who May Be Liable

Employer and supervisor

### State Training & Education Requirements

Pennsylvania requires non-harassment training for all state employees, but it only encourages such training for private employers.

Pennsylvania's Human Relations Act provides that "Commonwealth employees will be educated in sexual harassment." The required training can be conducted through orientations sessions, formal training, videos, discussion, written materials, and individual counseling. 4 Pa. Code § 7.595.

The Agency Guidelines on Sexual Harassment provide that "prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII and the Pennsylvania Human Relations Act, and developing methods to sensitize all concerned." See Pa. B. Dec. No. 81-201.

### Enforcement

**Pennsylvania Human Relations Commission (PHRC)**

### Citation

Pa. Const. art. I, § 20, 43 Pa. Cons. Stat. §§951-963, 16 Pa. Const. Stat. § 41.102.

Doe v. William Shapiro, Esquire, P.C., 852 F. Supp. 1246 (E.D. Pa. 1994), implicitly overruled on other grounds by Diep v. Southwark Metal Mfg. Co., CIV. A. 00-6136, 2001 WL 283146 (E.D. Pa. Mar. 19, 2001).

Executive Order 2003-10.

51 Pa. Cons. Stat. § 7309.

Cain v. Hyatt, 734 F.

Supp. 671 (E.D. Pa. 1990).

## Rhode Island

### Protected Categories

**Fair Employment Practices Act** protects ancestral origin, genetic testing, race, color, sex (pregnancy, childbirth, or related medical condition), age (40+), sexual orientation (actual or perceived), gender identity, religion, HIV/AIDS status, tobacco use during non-work time, and union members.

Applies to employers with four or more employees.

Discrimination against military personnel, temporary workers, the homeless, victims of domestic violence, or disability (physical/mental impairment) is also prohibited.

Effective May 25, 2022, employers may not discriminate against employees based solely off of private off-duty use of marijuana unless (1) such use is prohibited by a collective bargaining agreement, or (2) the employer is a federal contractor and is required by the terms of an applicable federal contract or regulation to prohibit the use of marijuana by employees. Additionally, for employees in positions that are “hazardous, dangerous or essential to public welfare and safety,” the employer can prohibit use or consumption of marijuana by employees for twenty-four hours prior to their shift.

Effective January 1, 2023, Rhode Island’s equal pay law will extend from protecting sex alone to also prohibiting wage differentials based on race, color, religion, sexual orientation, gender, gender identity or expression, disability, age, and country of ancestral origin for “comparable work.”

### State Sexual Harassment Definition

Same as Federal

For employers with 50 or more employees, sexual harassment is specifically defined to include quid pro quo and hostile work environment harassment.

### Who May Be Liable

Employer and supervisor

### State Training & Education Requirements

Rhode Island encourages, but does not specifically require, non-harassment training for employers with 50 or more employees.

Employers are encouraged to conduct training for all employees under the state’s Sexual Harassment, Education, and Training Law. Training is to be conducted within the first year of employment, and supervisors are to receive training in addition to that provided to regular employees. See R.I. Gen. Laws ch. §§ 28-51-2(c), 28-51-3. The training should address the following topics:

- i. A statement that sexual harassment in the workplace is unlawful;
- ii. A statement that it is unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of a complaint for sexual harassment;
- iii. A description and examples of sexual harassment;
- iv. A statement of the range of consequences for employees who are found to have committed sexual harassment;
- v. A description of the process for filing internal complaints about sexual harassment and the work addresses and telephone numbers of the person or persons to whom complaints should be made; and
- vi. The identity of the appropriate state and federal employment discrimination enforcement agencies, and directions as to how to contact these agencies.

## Rhode Island (continued)

For supervisory and managerial employees, the training should also address the specific responsibilities and the methods these employees should use in addressing sexual harassment complaints.

See R.I. Gen. Laws ch. §§ 28-51-2(b); 28-51-2(c).

### Enforcement

**Rhode Island Commission for Human Rights**

### Citation

R.I. Gen. Laws, §§ 23-6.3-1; 23-20.10-14(a); 28-5-1; 28-5-3; 28-5-5; 28-5-6; 28-5-7; 28-6.71.

R.I. Gen. Laws, §§ 12-28-10; 28-6.10-1; 30-12-10.

## South Carolina

### Protected Categories

South Carolina protects religion, color, sex (pregnancy, childbirth, and related medical conditions), race, age (40+), national origin (includes ancestry), and disability.

Applies to employers with 15 or more employees.

Discrimination based on tobacco use outside of work and political opinions or activities is prohibited.

Employers are prohibited from discriminating against employees for union activity.

Effective, April 25, 2022, private employers cannot discriminate against independent contractors or other non-employees who provide goods or services to the employer based on vaccination status.

### State Sexual Harassment Definition

Same as Federal

### Who May Be Liable

Employer

### State Training & Education Requirements

South Carolina has no specific training and education requirements.

### Enforcement

South Carolina Human Affairs Commission

### Citation

S.C. Code Ann. §§ 1-13-10; 1-13-20; 1-13-30; 1-13-80; 41-1-85.

South Carolina



## South Dakota

### Protected Categories

South Dakota protects color, creed, religion, sex (pregnancy), race, national origin, ancestry, disability (physical/mental impairment), and age (40+; statute mentions state employment only).

Political affiliation for public employees is protected.

Discrimination by state employers for lack of foreign language skills, unless required for the position, is prohibited.

Discrimination based on genetic information and tobacco use while off work is also prohibited.

### State Sexual Harassment Definition

Same as Federal

### Who May Be Liable

Employer and supervisor

### State Training & Education Requirements

South Dakota has no specific training and education requirements.

### Enforcement

South Dakota Division of Human Rights

### Citation

S.D. Cod. Laws, §§ 3-7-25, 20-13-1; 20-13-10.

S.D. Cod. Laws, §§ 3-6A-15; 1-27-24; 60-2-20; 60-4-11.

# South Dakota

# Tennessee

## Protected Categories

**Human Rights Act** protects disability, age (40+) race, color, religion, creed, sex, national origin, and volunteer rescue squad workers.

Applies to employers with eight or more employees.

Discrimination against smokers or for use of a service animal is also prohibited.

Effective November 12, 2021, employers cannot discriminate against employees or applicants based upon vaccination status.

Effective July 1, 2022, the definition of race is expanded to include natural hairstyles, hair color, or manner of wearing hair. The Tennessee CROWN Act does not apply to a public safety employee if it would prevent the employee from performing essential functions of the job; or to a policy that an employer must adopt to adhere to common industry safety standards, to maintain reasonable safety measures, or to comply with federal or state laws, rules, or regulations relative to health or safety. The law also does not create a private right of action. Instead, employees may file a complaint with the Commissioner of Labor and Workforce Development

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employers

## State Training & Education Requirements

Tennessee expects state employees to receive non-harassment training and education.

Tennessee's Department of Personnel is to "assist each department and entity of state government in the planning and conduct of training workshops to prevent sexual harassment from occurring. The department is also directed to design an orientation session with appropriate materials, which shall be made available to the departments for distribution to each new employee." See. Tenn. Code § 4-3-1703(4).

## Enforcement

**Tennessee Human Rights Commission (THRC)**

## Citation

Tenn. Code, §§ 4-21-101, 4-21-301, 4-21-401, 4-21-407; 39-17-309.

Tenn. Code §§ 8-50-103; 8-50-104; 50-1-304.

## Texas

### Protected Categories

**Texas Commission on Human Rights Act** and Texas Fair Housing Act protects color, disability, religion, age (40+), sex (pregnancy), race, national origin, ancestry, and HIV/AIDS/genetic testing/genetic information.

Applies to employers with 15 or more employees.

Employers cannot require AIDS test unless HIV status relates to bona fide occupational qualification.

Effective January 1, 2022, an employer is prohibited from inquiring about an applicant's criminal history on an initial job application. Ordinance does not apply to employment positions where criminal history must be disclosed by law.

### State Sexual Harassment Definition

Same as Federal

Effective September 1, 2021, the Texas legislature significantly expanded sexual harassment protections for employees. The new laws expand the scope of who may be liable for workplace sexual harassment.

- First, Senate Bill 45 extends liability for workplace sexual harassment to all persons or entities who employ one or more employees.
- Second, the law defined a potentially liable employer to include anyone who "acts directly in the interests of an employer in relation to an employee." This has the potential to expose managers, supervisors, and perhaps even co-workers, independent contractors, vendors, or volunteers to individual liability related to workplace sexual harassment.

### Who May Be Liable

Employer, supervisors, managers, and potentially co-workers

### State Training & Education Requirements

Texas requires non-harassment training for state employees.

Texas requires that employment discrimination and sexual harassment training be conducted for all state agency employees within one month of starting employment. Renewal training must be repeated every two years. See Tex. Lab. Code. § 21.010.

### Enforcement

**Texas Workforce Commission Civil Rights Division**

### Citation

Tex. Labor Code, Ch. 21 (§§21.002, 21.051; 21.101, 21.102, 21.401, 21.402); Ch.81.

Tex. Labor Code Ann. § 21.402. Tex. Health & Safety Code Ann. § 81.102.

# Utah

## Protected Categories

**Utah Antidiscrimination Act** of 1965 protects color, sex, pregnancy (including childbirth and related medical conditions), disability, age (40+), race, religion, national origin (includes ancestry), sexual orientation, and gender identity.

Applies to employers with 15 or more employees.

Political affiliation is protected for some public employees.

Discrimination against Reserve members is also prohibited.

All employers are prohibited from using genetic information for employment purposes.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer and supervisors (for aiding and abetting)

## State Training & Education Requirements

Utah requires non-harassment training for all state employees, with additional requirements for supervisors.

The Utah Department of Human Resource Management Rules require all public employers to conduct harassment prevention training. See Utah Admin. Code § 477-15-6.

The training must occur within 90 days of hire, and refresher training is to be completed at least every three years. Temporary employees and volunteers must also be provided with the necessary information.

The training should cover the types of protected class harassment, retaliation, how to make a complaint (both internally and with the state), and supervisor responsibilities.

Supervisors are to receive more in-depth training than regular employees.

The Department of Human Resource Management and Risk Management must approve all training programs.

## Enforcement

**Labor Commission of Utah**

**Antidiscrimination and Labor Division**

## Citation

Utah Code Ann. §§ 34A-5-101; 34A-5-106; 26-45-103; 39-1-36; 67-19-19.

Utah Code Ann §§67-19-3.1; 17-28-2.6.

## Vermont

### Protected Categories

**Fair Employment Practices Act** protects race, color, age (18+), religion, sex (pregnancy), sexual orientation, gender identity, national origin, ancestry, place of birth, mental or physical disability, HIV status, and crime victim status. (Marital status protected only under public accommodations.)

Sexual orientation, HIV/AIDS status and testing, gender identity, and political affiliation are protected for public employees.

Discrimination based on genetic information and testing or National Guard service is also prohibited.

### State Sexual Harassment Definition

Same as Federal

### Who May Be Liable

Employer and supervisor

### State Training & Education Requirements

Vermont encourages, but does not specifically require, non-harassment training.

Employers and labor organizations in Vermont are encouraged to conduct a sexual harassment education and training program within one year of the employee's commencement of employment. Employers are encouraged to conduct additional training for new supervisory and managerial employees and members within one year of commencement of employment or membership, which should include the specific responsibilities of supervisory and managerial employees and the methods that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints. Employers, labor organizations, and appropriate state agencies are encouraged to cooperate in making this training available.

See 21 Vt. Stat. Ann. §495h(f).

### Enforcement

**Attorney General's Office**

**Civil Rights Unit**

### Citation

Vt. St. Ann. tit. 21, §§ 495, 495a, 495d, 495h.

Vt. St. Ann. tit. 3, Part 1, Ch. 27, Sub. 4, § 961, 1001.

18 Vt. Stat. Ann. §§ 9331 et seq.

21 Vt. St. Ann. §§ 491, 1726.

# Virginia

## Protected Categories

**Human Rights Act** protects national origin, ethnic origin, sex, pregnancy, childbirth or related medical conditions, race, color, religion, age, marital status, disability, sexual orientation, gender identity, and veteran status.

An employee may only bring suit under the Human Rights Act if an employer has more than five employees (more than five but fewer than 20 employees for age discrimination claims).

Discrimination against smokers or based on political affiliation (government employees only), state military personnel, or on the basis of arrest records is also prohibited.

Employers are prohibited from discrimination against an employee or prospective employee solely on the basis of a genetic characteristic or result of a genetic test.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer

## State Training & Education Requirements

Virginia has no specific training and education requirements for private employers. Every legislative branch employee must complete an online training course every two years.

If an employer has contract(s) with the State and employs more than 5 employees, the contractor must provide annual sexual harassment training to their supervisory employees.

## Enforcement

**Office of Attorney General, Division of Human Rights**

## Citation

Va. Code, §§ 2.2-3900; 2.2-3901; 40.1-28.7:1.

Va. Code Ann. §§ 15.1-29.18; 19.2-392.4, 44-93.4.

Exec. Directive 1-10.

# Washington

## Protected Categories

**Washington Law Against Discrimination** protects age (40), marital status, race, creed, color, sex (pregnancy), national origin, use of guide dog or service animal by a disabled person, veteran status, sexual orientation (actual, perceived, or transgender), gender identity, disability, genetic testing or information, HIV/Hepatitis testing, AIDS diagnosis/Hepatitis C infection, military service, using paid time off to care for a family member, victims of domestic violence, sexual assault or stalking, and citizenship or immigration status.

Applies to employers with eight or more employees.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer and supervisor

## State Training & Education Requirements

State agencies must “[c]onduct training and education for all employees in order to prevent and eliminate sexual harassment in the organization.” Wash. Rev. Code section 43.01.135.

Every hotel, motel, retail, or security guard entity, or property services contractor, who employs an employee, must:

- (a) Adopt a sexual harassment policy
- (b) Provide mandatory training to the employer’s managers, supervisors, and employees to:
  - (i) Prevent sexual assault and sexual harassment in the workplace;
  - (ii) Prevent sexual discrimination in the workplace; and
  - (iii) Educate the employer’s workforce regarding protection for employees who report violation of a state or federal law, rule, or regulation.

## Enforcement

**Washington State Human Rights Commission (WSHRC)**

## Citation

Was. Rev. Code §§ 49.60.030; 49.60.040; 49.60.172; 49.60.180; 49.60.190; 49.60.200; 49.60.205; 49.44.180; 49.12.175; 49.12.265; 49.12.287.

Was. Rev. Code §§ 43.01.135; 59.18.570.

## West Virginia

### Protected Categories

**West Virginia Human Rights Act** protects religion, color, national origin, race, ancestry, sex (pregnancy), age (40+), blindness, disability, and familial status. (Familial status protected only in public accommodations.)

Applies to employers with 12 or more employees.

Political affiliation of state employees is protected, except for certain policy-making officials.

Discrimination based on tobacco use outside of work is also prohibited.

### State Sexual Harassment Definition

Same as Federal, but strict liability for supervisor harassment.

### Who May Be Liable

Employer and supervisor

### State Training & Education Requirements

West Virginia has no specific training and education requirements.

### Enforcement

**West Virginia Human Rights Commission**

### Citation

W.Va. Code §§ 5-11-1; 5-11-2, 5-11-3, 5-11-9.

W.Va. Code §§ 21-3-19; 29-6-4.

# West Virginia



## Wisconsin

### Protected Categories

**Wisconsin Fair Employment Act** protects marital status, sex (pregnancy, childbirth, maternity leave, or related medical condition), age (40+), race, creed, color, disability, arrest or conviction record, genetic testing, national origin, ancestry, sexual orientation, military service, HIV status or testing, use/non-use of lawful products off the employer's premises during non-working hours, polygraph testing, declining to attend or participate in religious or political matters, and use of genetic information, height and weight.

Sexual orientation and political affiliation are also protected for state employees.

### State Sexual Harassment Definition

Same as Federal

### Who May Be Liable

Employer

### State Training & Education Requirements

Wisconsin encourages, but does not specifically require, non-harassment training.

The Wisconsin Equal Rights Division website states that employers should “provide training to educate employees on the issue of harassment and periodically remind them of your strong desire to maintain a harassment free workplace.”

### Enforcement

**Wisconsin Equal Rights Division (WERD)**

### Citation

Wis. Stat. Ann. §§ 111.31; 111.32; 111.321; 111.322; 111.325; 111.33; 111.372; 103.15 (see generally §§111.31-111.395).

Wisc. Stat. Ann. §§ 230.01, 230.03, 230.05, 230.18, and 230.19.

Wisconsin Equal Rights Division, Equal Rights Publication, ERD-7334-PWEB (2009), available at [http://dwd.wisconsin.gov/er/discrimination\\_civil\\_rights/publication\\_erd\\_7334\\_pweb1.htm](http://dwd.wisconsin.gov/er/discrimination_civil_rights/publication_erd_7334_pweb1.htm).

# Wyoming

## Protected Categories

**Fair Employment Practices Act** protects sex, race, creed, color, age (40+), national origin, ancestry, disability, pregnancy, military personnel, and use of tobacco products.

Applies to employers with two or more employees.

## State Sexual Harassment Definition

Same as Federal

## Who May Be Liable

Employer

## State Training & Education Requirements

Wyoming has no specific training and education requirements.

## Enforcement

**Wyoming Department of Employment**

**Labor Standards Division (WLSD)**

## Citation

Wyo. Stat. §§ 27-4-302; 27-9-101; 27-9-102; 27-9-105.

# Wyoming