



# Discrimination

Willig, Williams & Davidson is one of a handful of mid-sized firms in the United States that specialize in negotiation and litigation on behalf of employees who have suffered discrimination at work and who do not have the protection of a union. Discrimination comes in many forms and can be based on age, gender, race, pregnancy, national origin, religion, sexual orientation, military status or disability.

Discrimination law is highly specialized and fraught with legal minefields which, if not avoided, can result in employees losing their rights without ever reaching a courthouse door.

Because we as a firm are committed to the representation of workers, we have assembled a premier group of litigation attorneys with the experience, resources and commitment that are necessary to win the fight against all forms of workplace discrimination and harassment.

If you believe you have suffered workplace discrimination, please contact a Willig, Williams & Davidson employment attorney for a consultation.

## **Age Discrimination**

The law prohibits employers from discriminating against employees because of their age. Federal law and the laws of Pennsylvania and New Jersey protect any employee who is 40 years of age or older from discrimination. An employer generally may make employment decisions based on age only if it is reasonably necessary for normal business operations. You may be the victim of age discrimination if you have: been forced to retire early; been demoted or terminated and replaced by a younger, less experienced worker; received benefits or pay which are inferior to those offered to younger peers; or been laid off in a job elimination while other younger and less-experienced peers were retained.

In this age of “restructuring,” “resizing” and “reductions in force,” older workers, who often have the longest tenure with their employers, are increasingly being singled out for layoff. Often these employees are offered severance packages as an inducement to “sign away” their federally protected rights under the Age Discrimination in Employment Act. Many “group lay-off” or severance agreements are completely lawful. However, if an employer fails to follow the strict federal requirements which apply to these types of agreements and which are designed to provide employees with enough information to determine if they are likely victims of age discrimination, employees may be able to pursue a claim of age discrimination. This may be true even if they have signed a severance agreement and accepted severance benefits in exchange for a release. If



you believe you may have suffered age discrimination, please contact a Willig, Williams & Davidson employment lawyer for a consultation.

### **Gender Discrimination**

The law prohibits employers from discriminating against employees because of their sex. Both male and female employees are protected. However, an employer generally may make employment decisions based on gender if it is reasonably necessary for normal business operations. For instance, it would be lawful for a designer of women's apparel to exclusively choose females to model dresses. Employment decisions based on stereotypes of men and women are also illegal. For instance, it can be illegal to refuse to hire a woman for a sales position simply because she refuses to wear make up, jewelry, paint her nails or wears tailored skirts or pants suits rather than dresses. Similarly, it would be illegal to refuse to hire a man for a secretarial position simply because the employer has traditionally sought females for that position. Pregnancy discrimination and sexual harassment are also forms of sex discrimination. It is also unlawful if an employer pays opposite sex employees different wages, provides different benefits for identical jobs, or tends to offer training opportunities, career advancement and/or promotion selectively on the basis of sex. If you believe you may have been the victim of sex discrimination, please contact the Willig, Williams & Davidson employment law lawyers for a consultation.

### **Race Discrimination**

The law prohibits employers from discriminating against employees because of their race. Racial discrimination and harassment can take many forms, both open and hidden. Some of those forms include situations as subtle as the failure or refusal to hire or promote based on skills tests which do not truly measure the likelihood of future job performance; uneven application of discipline policies which result in a higher rate of discipline and discharge for minorities than for their white peers; and subjective performance appraisals which permit racial bias to play a role in the evaluative process, leading to disproportionate rates of minority discharges, layoffs, demotions or lowered compensations relative to white peers. Of course, racial discrimination and harassment can also be as explicit as co-workers using racial slurs, telling racist jokes, and creating or exhibiting racist graffiti in a work setting. If you believe you may have been the victim of racial discrimination, please contact a Willig, Williams & Davidson employment attorney for a consultation.

### **Pregnancy Discrimination**

Pregnancy discrimination is a form of sex discrimination. The law prohibits employers from discriminating against their employees because of pregnancy or conditions resulting from pregnancy. Under the law, employers must treat pregnant employees the same as employees with temporary disabilities, as long as pregnancy does not interfere with the performances of the employees' major job functions. Employers must also provide pregnant employees the same benefits that they provide to temporarily disabled



employees, including time off and reasonable help with performing their duties while on the job. If you believe you may have been the victim of pregnancy discrimination, please contact a Willig, Williams & Davidson employment lawyer for a consultation.

### **National Origin Discrimination**

The law prohibits employers from discriminating against employees because of their national origin. An employer may not base employment decisions on an employee's birthplace, ancestry, culture or accent. These laws may protect you even if you are not a United States citizen, including if you are an undocumented worker. If you believe that you have suffered unequal pay, benefits, career advancement, refusal to hire or termination based on your national origin, you should consult an attorney to determine your rights. If you believe you may have been the victim of national origin discrimination, please contact the Willig, Williams & Davidson employment law lawyers for a consultation.

### **Religious Discrimination**

The law prohibits employers from discriminating against employees because of their religious beliefs. The law also protects those who do not accept any religious tenets or faith. The law requires that employers make reasonable accommodations for the religious practices of their employees. Examples of reasonable accommodations may include changing work hours or break times, providing time off, or transfers to a different job depending on the circumstances. Employers do not have to make accommodations if doing so would be too difficult or costly for the business. Normally, employers may not require employees to follow certain religious beliefs or practices. However, religious organizations may be exempt from these laws depending on the facts. If you believe you may have been the victim of discrimination on the basis of religion, please contact a Willig, Williams & Davidson employment lawyer for a consultation.

### **Sexual Orientation Discrimination**

New Jersey law prohibits employers from discriminating against employees because of their sexual orientation. The Pennsylvania Human Relations Acts does not prohibit sexual orientation discrimination, but does explicitly protect domestic partner rights, including those of same-sex couples, if certain steps are taken to register the domestic partnership. In addition, the City of Philadelphia does provide protections to lesbian, gay, bisexual and transgendered employees. The law also protects employees who are perceived as having a particular sexual orientation, even if they do not. However, some employers are exempt from these laws. For example, religious and certain private organizations, such as the Boy Scouts, may base employment decisions on sexual orientation. If you believe you may have been the victim of discrimination on the basis of sexual preference please contact a Willig, Williams & Davidson employment attorney for a consultation.



### **Military Status Discrimination**

The Uniformed Services Employment and Reemployment Rights Act (USERRA) was enacted to prevent adverse actions against members of the “uniformed services,” including the Army, Navy, Air Force, Marine Corps, Army National Guard, Air National Guard, Public Health Service Commissioned Corps and other persons designated by the President during times of war or national emergency. USERRA seeks to ensure that, upon their return from service, employees will be free from discrimination in their place of employment as well as be able to retain their employment and benefits. If you believe you may have been the victim of discrimination on the basis of your military status please contact a Willig, Williams & Davidson labor and employment law attorney for a consultation.

### **Disability Discrimination**

The law prohibits employers from discriminating against employees because of their disabilities unless the disability prevents the employee from performing the essential functions of the job. Employees may be protected if they have significant physical or mental illnesses or handicaps that have been diagnosed by a doctor. The disability must typically be permanent or long-term. Employees are also protected by law if they have a record of having been disabled or if the employer “perceives” them to be disabled even though they are not. Although employers may be permitted to discriminate on the basis of a disability if it prevents employees from performing the essential functions of his or her job, if a reasonable accommodation would permit the worker to perform the job, that accommodation must be provided unless doing so would be harmful to business operations. A reasonable accommodation can include things like providing a special chair, permitting a dog companion, job restructuring, or allowing flexible hours or other modification of work rules or policies. If you believe you may have been the victim of discrimination on the basis of your disability, or because your employer believed you to be disabled even though you are not, please contact a Willig, Williams & Davidson employment lawyer for a consultation.