

Holding the Line

# **Workplace nondiscrimination protections**

State solutions to the U.S. worker rights crisis

**Report** • By **Stevie Marvin** and **Kyle K. Moore** • September 29, 2025

# What does current federal law say about workplace nondiscrimination protections?

Discrimination in the workplace—either in employment, promotion, job assignments, pay, benefits, discipline, discharge, and layoffs—is illegal in the United States.

**Research shows** that actions taken to reduce discrimination not only improve equity but also support economic growth. Federal law defines workplace discrimination on the basis of a worker’s membership in designated protected classes, with the rationale that disparate treatment violates the law when it would not have happened to an individual “but for” that aspect of their identity. These protected classes are enshrined by legislation and include the following:

- Race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), and national origin (Title VII of the Civil Rights Act of 1964)
- Age (Age Discrimination in Employment Act of 1967)
- Disability (Americans with Disabilities Act of 1990)
- Genetic information (Genetic Information Nondiscrimination Act of 2008)

The extent to which these protected classes can be expanded is subject to legal interpretation. For example, over time, the definition of “sex discrimination” has been amended to explicitly include disparate treatment related to pregnancy and childbirth with the Pregnancy Discrimination Act of 1978, as well as sexual orientation and gender identity following **Supreme Court decisions in 2020**.

In addition to protection from unjust unequal treatment, federal law also protects workers from retaliation for filing discrimination claims or from beginning the process of filing a discrimination claim. These federal laws cover most employees whether they work full time or part time and

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irrespective of citizenship status. Employers with 20 or more employees are required to comply with all nondiscrimination laws at the federal level; employers with less than 20 employees are still subject to many nondiscrimination standards, though standards are less stringent.

The Equal Employment Opportunity Commission (EEOC) is the independent federal agency responsible for investigating claims of employment discrimination at the federal level and for enforcing federal workplace nondiscrimination law. The EEOC does this both by fielding discrimination claims against employers and by requiring annual reports from employers on employment outcomes by protected class characteristics to assess potential patterns of discrimination.

## What are the threats to federal workplace nondiscrimination protections?

Current threats to workplace nondiscrimination protections include:

- **Executive actions constraining EEOC's mission and functions:** Since taking office, Trump has undermined or limited key functions of the EEOC by:
  - Illegally firing two of the three commissioners and the general counsel, leaving the Commission unable to alter policy or vote on rulemaking for several months. In October 2025, the Senate **confirmed Brittany Panuccio** as an EEOC commissioner, establishing a three-person quorum. With a quorum in place, the EEOC will likely rescind their 2024–2028 strategic enforcement plan, guidance on arrest and conviction records, and EEO-1 reporting requirements. Additionally, the agency will likely move forward with **announced plans** to significantly revise its Pregnant Workers' Fairness Rule and Harassment Guidance.
  - Imposing new limits on the collection of data necessary to accurately assess discriminatory impact by shortening annual reporting periods and removing nonbinary gender reporting entirely from forms used to collect demographic data from private employers and federal contractors.
  - Directing the EEOC to focus more on so-called “DEI-motivated race and sex discrimination and anti-American national origin bias and discrimination.”
- **Politicizing the EEOC and constraining independent state and local agencies:** EEOC Chair Andrea Lucas has repeatedly affirmed her commitment to restructuring the EEOC's priorities toward those of the administration, rather than enforcing anti-discrimination law as an independent federal agency. In an effort to impose the administration's agenda on state and local enforcement agencies, Lucas has proposed changes that would weaponize the funding relationship between those agencies and the EEOC. While state and local agencies operate independently, they receive funding from the EEOC in the form of reimbursements for jointly filed cases

they take on behalf of the federal agency. With the exception of a few large states, **such as New York or California**, most states significantly rely on this funding to cover their operational costs. Since serving as acting chair, Lucas has reversed course on the EEOC's enforcement of disparate impact and sex discrimination cases by:

- Withholding funding for state and local Fair Employment Practice Agencies (FEPAs) that choose to take on cases concerning gender identity discrimination.
  - Threatening to decertify state and local FEPAs that draw conclusions on gender identity and disparate impact charges that differ from those of the EEOC.
  - Instructing the agency to close charges that solely concern disparate impact by September 30, 2025, without developing them for litigation or for conciliation.
- **Diminished EEOC enforcement capacity:** The extent to which workers are protected from workplace discrimination at the federal level is dependent on the EEOC's capacity to monitor employment practices, investigate claims of workplace discrimination, and reliably enforce sanctions against employers who violate nondiscrimination law. But for decades, **inadequate funding and staffing has limited the EEOC's capacity** to investigate and resolve charges in a timely manner. Actions of the second Trump administration further exacerbate these problems:
- In March 2025, the Department of Government Efficiency (DOGE) announced plans to close and consolidate EEOC field offices. Once the EEOC reestablishes a quorum, the agency may begin these closures, which threaten the job security of EEOC field staff and further constrain their enforcement capacity.
  - The EEOC plans to break up its data analytics office, signaling that robust data collection and analysis—critical tools for enforcement and assessing charges—will be less of a priority for the agency. Rolling back data collection is a step toward the **Project 2025 prescribed goal of ending EEO-1 data collection**.
- **Executive actions attacking nondiscrimination law:** The Trump administration has prohibited the consideration of **disparate impact liability** in discrimination claims, making it more difficult to hold employers accountable for unfair employment practices and outcomes without being able to prove that employers explicitly intended to discriminate (including efforts to hold companies accountable for **AI-driven algorithmic bias**).

While many threats are coming directly from the federal level, workplace nondiscrimination protections are also under threat in states that have chosen to follow the lead of the White House in passing anti-diversity, equity, and inclusion (DEI) laws. **Many states** have already closed DEI-related offices and initiatives, cut funding to programs, and restricted the use of language and consideration of protected classes in higher education. While these actions do not remove existing workplace nondiscrimination laws, workers in those states could be left without recourse if legislative trends continue and federal nondiscrimination protections continue to deteriorate.

# How can states maintain and strengthen workplace nondiscrimination protections?

States have legal authority to establish their own employment discrimination laws that provide more expansive coverage than federal law. States can provide legal protections for more traits or characteristics, lower the minimum employment threshold required to file a discrimination claim, and extend the window of time employees have to file a claim after the alleged discriminatory incident occurred.

Many states and local governments have Fair Employment Practices Agencies<sup>1</sup> that investigate workplace discrimination claims in accordance with state and local nondiscrimination law, often in concert with field offices of the federal EEOC. FEPAs may have authority to enforce state or local standards for nondiscrimination that exceed those laid out by the federal government. Workers who believe they have been discriminated against can file a claim with the EEOC and/or their state or local FEPA, depending on the standards being violated, the types of relief available to victims, the deadlines for filing charges, or other factors related to the claim. The Trump administration is actively working to undermine the independence of FEPAs by weaponizing their funding arrangement, particularly on enforcement of disparate impact and gender identity discrimination protections. For state agencies that rely on federal funding for a significant share of their operating budget, these changes present serious challenges to their ability to properly maintain and expand enforcement capacity.

## Step I: Update state statutes to lock in current federal protections

Most states have passed state-level employment discrimination laws that codify employment discrimination protections for at least the same protected classes that are federally protected. Today, 24 states and Washington, D.C., have discrimination laws that cover a more expansive range of protected traits than federal law. However, 19 states, including Idaho, Louisiana, and Oklahoma, offer less protection than federal laws. Alabama's employment discrimination law is by far the least comprehensive, as it only protects against age discrimination from 40 years of age.

Other states have enacted certain discrimination laws that only protect public employees. For example, Georgia's discrimination laws have mixed levels of protection based on the sector of employment. Protections for discrimination against race, color, religion, pregnancy, sexual orientation, and gender identity are only extended to public-sector employees. Private-sector employees are provided protections for disability and equal pay discrimination. Similarly, Mississippi's employment discrimination laws only apply to public employees.

States typically have a commission or division dedicated to enforcing state nondiscrimination laws. Alabama, Arkansas, and Mississippi do not have their own state agency and solely rely on the EEOC for anti-discrimination enforcement. Additionally, North Carolina does not have an agency where private employees can file discrimination claims.

As the Trump administration makes it easier for employers to discriminate by weakening the federal EEOC, failure to cover private employers under state law and a lack of state level enforcement capacity will leave even more workers in those states without recourse. States can—and should—act to plug these gaps by, at a minimum:

- Ensuring their state code includes at least all the protected classes covered in federal nondiscrimination law;
- Ensuring state nondiscrimination laws cover all workers (in both public and private sectors) and mirror federal employment minimum thresholds for coverage; and
- Establishing and adequately funding a state commission or division with enforcement authority that, at minimum, mirrors federal policies for filing deadlines.

### Getting started: Key questions for auditing state worker anti-discrimination laws

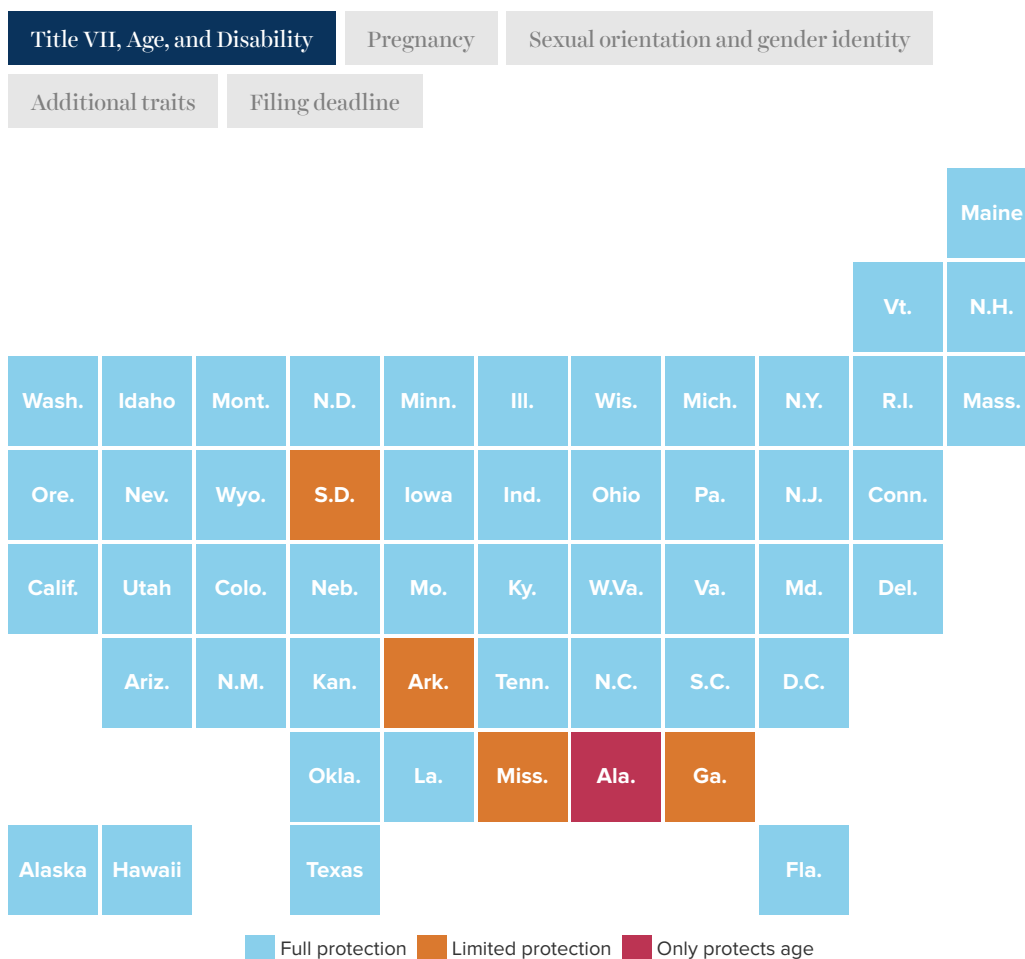
- Is there a state agency that enforces workplace anti-discrimination laws?
- What employers are covered?
- Which workers are covered? Are some sectors or occupations excluded from coverage?
- What is the minimum number of employees an employer must have for the employee to be able to file a discrimination claim?
- What is the deadline for filing a claim?
- What are the definitions for inclusion in protected classes?

## Step II: Include additional protections already implemented in other states

- **Extend protections to additional traits:** Most states have extended protections for marital status, sexual orientation, gender identity, and gender expression. While states may be financially disincentivized to pursue cases concerning gender identity discrimination, there is currently no threat to simply extending legal protections. Some states have also incorporated additional traits such as reproductive health decision-making, medical conditions, status as a victim of domestic violence, housing status, arrest/court/conviction record, and military or veteran status as protected traits (see

Figure A

## State enforcement of employment nondiscrimination



Economic Policy Institute

**Sources:** Information from state fair employment agencies and Justia, "Employment Discrimination Laws: 50-State Survey", last reviewed September 2022.

**Figure A).** Additionally, several states including **New York** and **Oregon** and **D.C.** have lowered the age limit to be considered for age discrimination.

- Codify inclusive definitions for protected traits to fortify employment nondiscrimination protections:** Many states include definitions of protected traits that better encompass the types of discrimination employees may face. For example, since 2019, the **CROWN Act** has been adopted by states across the nation to include hair discrimination as a form of racial discrimination. **More than half of U.S. states have passed the CROWN Act** and eight states have defined race-based discrimination to include discrimination based on traits associated with race in their state code.

## Step III: Modernize nondiscrimination policies by extending and locking in coverage across classes of workers and collecting comprehensive data

- **Extend coverage to contract workers:** Independent contractors are not considered employees, so they may not be inherently covered by employment discrimination laws. As of 2019, [only four states \(Maryland, Minnesota, New York, and Rhode Island\) protect independent contractors from discrimination protection](#), while 24 states and D.C. explicitly exclude them. Extending discrimination protections to independent contractors is important as they have significantly less labor protections than employees. Additionally, states could explicitly enforce anti-discrimination and equal employment opportunity laws for state contract workers to ensure fair employment practices among private employers that conduct business with the state. In a climate with increased hostility against those who are not white, male, heterosexual, and cisgender, it is imperative that the classification of a worker does not dictate the rights they have to protect themselves from discrimination.
- **Emphasize protections for workers regardless of their citizenship and immigration status:** Federal law prohibits discrimination on the basis of national origin, and employees are protected by Equal Employment Opportunity statutes regardless of citizenship or immigration status. Given changing federal treatment of immigrants, states should emphasize and enforce fair treatment regardless of documentation status to ensure workers remain protected. They should also strengthen anti-retaliation [protections](#) and [practices](#).
- **Collect employment and pay data at the state level:** Federally, the EEOC requires employers with more than 100 employees to submit an annual report (the EEO-1 form) providing critical workforce demographic data. With the future of federal data collection at risk, states should seek to collect their own equal employment data, including pay data, to support anti-discrimination enforcement mechanisms. Currently, only three ([California, Illinois, Massachusetts](#)) states require employers to submit this data.

## Additional recommended resources

- [Trump is making it easier for employers to discriminate. This stifles equity and hurts economic growth.](#) (Economic Policy Institute)
- [Trump-led attacks on equity are setting the stage for our next public health crisis](#) (Economic Policy Institute)
- [Trump's assault on independent agencies endangers us all](#) (Economic Policy Institute and The Century Foundation)



*Editor's note: This piece was revised on October 24, 2025, to add an "Additional recommended resources" section and include updates on federal and state policy developments that took place after initial publication*

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1. These agencies are often referred to as commissions on civil rights, human rights, human relations, etc. See a list of agencies here: [University of Minnesota Human Rights Library](#).