



The Path of Resistance: An Employee's Guide to Standing Up to Workplace Discrimination

Discrimination in employment is a pervasive problem and can have devastating effects on employees and job seekers. For the vast majority of people, employment is vital and their sole means of support. Thus, adverse actions by employers that cheat them out of that employment, benefits, or promotions can have permanent and disastrous consequences. Employees are not powerless, however. Maryland, Washington, D.C. and the federal government have enacted laws to protect employees from a wide variety of discriminatory acts by employers.

Of course, just because there are laws does not mean that all employers will follow them. This is why it is vitally important for employees to know their rights and to have access to a strong, qualified attorney who will advocate for their rights against an often better funded and larger opponent.

Part of knowing your rights starts with knowing what forms of discrimination are prohibited under Maryland, Washington, D.C. and federal law. There are the usual suspects of race, color, religion, national origin, and sex. Other less well known laws cover age, marital status, pregnancy, disability, sexual orientation, gender identity and genetic information. The laws cover not only discrimination on the basis of one of these protected classes, but also protect against harassment and retaliation for filing a complaint alleging discrimination or harassment.

Given the large number of protected classes - i.e. characteristics or statuses of individuals that are recognized by law as being protected from discrimination - the scenarios in which discrimination can occur are numerous. It can range from an employer firing an employee for being pregnant to firing someone due to age and replacing them with someone much younger.

Also, adverse actions include more than just firings. It includes detrimental actions in the areas of pay, benefits, opportunities, training, and promotion. It also includes refusing to hire someone based solely on their status as a member of a protected class. Other adverse actions include harassment of someone because of their membership in a protected class and an employer's refusal to address the harassment. When that harassment creates a hostile work environment, it is actionable.

What can you do as an employee or job seeker if you suspect you are the subject of discrimination, harassment, or retaliation? Here are 8 steps that you can take to prepare your case for possible litigation and to help your discrimination attorney get you the best possible outcome.

1) Figure out the why. Do you have a hunch that you weren't hired for a job because your name sounded "ethnic?" Did an interviewer ask when you plan on having children or how long you've been in the workforce? Is your officemate making derogatory remarks everyday to you about your ethnicity? All of these can be signals or signs of discrimination or harassment based on your status as a member of a protected class. The first goal is to try to classify the



discrimination or harassment. Knowing the type of discrimination or harassment involved can make the next steps of documentation and tracking details of the discrimination or harassment that much easier because it allows you to focus and filter the details that you keep track of.

2) Document, document, document. Allegations are just that, allegations. They need evidence behind them to raise them to the level of claims that are actionable. This is why it is incredibly important to document. Document here means to write down as much as possible about the discrimination, harassment, or retaliation as soon after it happens as possible when the details will be most fresh in your mind. It means gathering any documents from your employer that appear to bolster your case, but being careful not to violate company policies regarding document retention or violating laws regarding wiretapping if you are recording conversations.

3) Keep track of details. Another integral part of documenting is keeping track of details. This includes times, dates, names of people involved, locations, and exact details of what occurs. The more information that you have about an instance, the better chance there is that it can be verified or confirmed later on. Keep a notebook as a journal with you so you can jot down any and all instances of harassment or discrimination, particularly if you are noticing a pattern of this behavior.

4) Know your employer's policy. Your employer may have an employee handbook and if it does, it will likely address complaints about discrimination or harassment. You may be able to get some kind of resolution by going through the company's HR department rather than escalating the matter to litigation. This is not always the case and if you are not comfortable going through HR, it is still valuable to know the employer's policy and to have a copy to provide to your attorney so that they can review it for possible further violations of the anti-discrimination laws.

5) Keep track of time. There is a relatively short window for filing complaints with the Equal Employment Opportunity Commission ("EEOC"), the Maryland Commission on Civil Rights ("MCCR") or the D.C. Office of Human Rights ("DCOHR"). Complaints with the EEOC must be filed within 180 days of the alleged discrimination, retaliation, or harassment. This is one of the reasons why it is so vitally important to keep track of the date or dates of discrimination or harassment because they will determine when your window opens and when it closes. Do not delay in filing.

6) Know your rights against retaliation. Retaliation is a related violation of the anti-discrimination laws. Essentially, retaliation means that an employer cannot take additional adverse action against you upon learning that you have filed an EEOC, MCCR or DCOHR complaint. If you filed a complaint for pregnancy discrimination and then your employer fires you, you may have a claim of retaliation.

7) Know the process. To be able to file a lawsuit against an employer for employment discrimination, an employee must go through the EEOC first. The Maryland anti-discrimination law only applies to employers with 15 or more employees. These are relatively obscure details, but are nevertheless vitally important as both act as gatekeepers to relief for employees.



8) Find an experienced and competent attorney. Perhaps the best thing that you can do for yourself in addition to the steps outlined above if you are the victim of discrimination, is to find and retain high-quality, knowledgeable, and above all, competent employment law counsel to represent you at every stage of the process. Jamaal (“Jay”) Stafford, Esq. is such an attorney and can expertly guide you through the sometimes intimidating process to help you get the justice that you deserve.

Attorney Jay Stafford is dedicated to defending equality in the workplace and ensuring that employees have their rights and dignity protected. As an employee, if you think you have a claim for discrimination, harassment, or retaliation, we encourage you to please take action and reach out right away to discuss your circumstances and whether or not you have a viable claim. You do not have to face these challenges alone—call us today at (410) 514-6099 or reach out directly through our website.