

EMPLOYMENT LAW

College students sometimes encounter unfair or discriminatory employment practices while working at a part-time job. This section will provide an overview of law regarding discrimination within the context of employment.

PROTECTED CATEGORIES

Federal and state laws prohibit employers from considering certain types of information regarding employees and job applicants. Because the protections that exist in California are more expansive than federal law, this Handbook will address California regulations.

California law provides that employers cannot discriminate against employees in decisions related to hiring, termination, suspension, promotion, or demotion based on information within the following “protected” categories:

- Age
- Ancestry
- Color
- Disability
- Marital Status
- National Origin
- Race
- Religion
- Sex (Gender)
- Sexual Orientation

Defining Basic Terms

Age

Age discrimination relates to employees 40 years of age or older. While an employee’s age cannot be a factor in making decisions on hiring, termination, suspension, promotion, or demotion, age *can* be a factor in determining the terms and conditions of employment, such as whether an employer will provide an employee with educational assistance. *Esberg v. Union Oil Co.* (Cal. 2002) 47 P.3d 1069.

Ancestry

Ancestry refers to the ethnicity of one’s ancestors.

Color/Race

Color or race refers to one’s ethnicity or ethnic identity.

Disability

Disability refers to physical disabilities or conditions, mental disabilities or conditions, and illnesses including HIV/AIDS. Employers are allowed to make inquiries to determine if a job applicant can perform job-related functions.

Marital Status

Marital status refers to whether an individual is married or single. Employers are permitted to have policies regarding work assignments for employees who are spouses or who are otherwise related.

National Origin

National origin refers to the country in which an individual was born or in which an individual's ancestors were born.

Religion

Religion refers to one's religious preferences and to the religious holidays observed by an employee or job applicant. Employers are permitted to notify employees of work schedules that are required for a position.

Sex (Gender)

Sex refers to sex and gender. Discrimination based on either category is unlawful. Sexual harassment is considered a form of discrimination and is also unlawful.

Sexual Orientation

Sexual orientation refers to one's sexual preference. Employers may not make inquiries in an attempt to determine an individual's sexual orientation. In California, private employers are not permitted to discriminate based on the sexual orientation of an employee or applicant. No such federal law exists. Federal government employers are not permitted to discriminate in their civilian employment practices pursuant to Executive Order 13087 issued May 28, 1998.

GETTING HELP

The following are free resources for students who have questions relating to labor and employment law.

General Legal

Student Legal Services, 858.534.4374 or <http://sls.ucsd.edu>

Employment Discrimination

California Department of Fair Employment and Housing, 800.952.5210;
San Diego District Office, 800.884.1684; or www.dfeh.ca.gov

Fair Housing Council of San Diego, 619.3699.5888 or www.fhcsd.com.

For Sexual Harassment Issues at UCSD

Office of Sexual Harassment Prevention and Policy (OSHPP),
858.534.8298 or <http://oshpp.ucsd.edu/>