

Community Legal Aid

A non-profit law firm serving the legal needs of low-income individuals and families in central northeast Ohio



www.communitylegalaid.org

Employment Discrimination in Ohio

Ohio has an "employment at-will" doctrine. Employers may fire workers at any time, for any reason or for no reason. The limited exceptions are:

- the employee has an employment contract,
- the employee has collective bargaining agreement protection,
- the employee has civil service protection,
- the employer violated state or federal discrimination laws,
- the violation is based on a public policy such as "whistle blowing,"
- the law may require advance notice of factory closings,
- employers are prohibited from retaliating if an employee seeks worker's compensation,
- some city ordinances provide and state employees have protections based on sexual orientation.

State and federal laws protect employees against certain types of discrimination. Employers cannot discriminate based on race, color, religion, sex, military status, national origin, disability, age or ancestry. These are called 'protected classes.'

In a lawsuit, employees must show that:

1. they belong to a 'protected' class;
2. they were fired because they belong to the class;
3. they have the ability to perform the required work.

The employer must show that:

1. an employee was fired for legitimate reasons like poor work or absenteeism;
2. it was not possible to reasonably accommodate a disability; or
3. the employee is a health or safety risk to others.

If your employer raises these defenses, you have the burden of convincing the court that the employer's reasons were mere 'pretext' for the unlawful discrimination. Pretext means an excuse that is not true. An employer may try to say you were terminated for a reason that you can show is false. The judge or jury could then decide that the employer is lying. That means that the

employer probably violated the law. If the employer had followed the law he wouldn't have to lie. The lie is a pretext.

You can complain to the Ohio Civil Rights Commission (OCRC) if you feel that an employer has discriminated against you. An employee must file a complaint within 180 days. Contact the Akron regional office at 330-643-3100 for the specific complaint form.

Often but not always, a lawsuit is filed after an investigation by the OCRC. If you are considering a lawsuit, you should contact an attorney early on. There are many options in discrimination lawsuits based on various laws and different facts. Each discrimination lawsuit is different. A lawyer can help you decide a course of action.

If you do file an OCRC complaint, an OCRC representative will contact the employer to settle the matter. If an agreement between the employer and the employee cannot be reached, the OCRC can order a full investigation. If a full investigation is ordered, the OCRC investigator acts as a neutral fact-finder. The investigator can interview witnesses, review documents and file a report. The report includes a recommendation to OCRC. The OCRC decides whether or not the discrimination might have occurred. Where the OCRC does an investigation and decides discrimination did not occur – called a 'no cause' finding – you will get a letter from OCRC telling you there is 'no cause' to believe discrimination occurred. The complaint is referred back to the OCRC with a recommendation for dismissal. OCRC will then dismiss the complaint. This dismissal can be appealed to a Court of Common Pleas.

If the OCRC finds there is "probable cause" that the employer has discriminated, the OCRC may try to settle the matter. The OCRC may decide to take no action. If so, you can decide whether to file a lawsuit at this point.

OCRC may issue a formal complaint against the employer if no settlement is reached. A formal hearing is held. An OCRC attorney represents the employee indirectly. The OCRC decides if the employer has discriminated. If so, the OCRC can award back pay, future pay, damages and job reinstatement.

A discrimination lawsuit based on state law can be filed at many different points. It can be filed after a determination by the OCRC that it is probable that illegal discrimination occurred. However, a discrimination lawsuit can be filed even if the OCRC found 'no cause' to believe discrimination occurred. If you are considering whether to file a lawsuit, you should consult an attorney experienced in this complicated area of law immediately.

This fact sheet is not intended to provide legal advice. The laws protecting employees may be changing in the near future. The process may be more complicated and the time frames shorter. For this reason, you should seek legal advice before taking any action.

Also see: eeoc.gov and www.crc.ohio.gov

*This article is meant to give you general information and not to give you specific legal advice.
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