

EMPLOYMENT DISCRIMINATION

A GLIMPSE INTO EMPLOYMENT DISCRIMINATION IN VIRGINIA



OUR SURVEY SHOWED THAT:

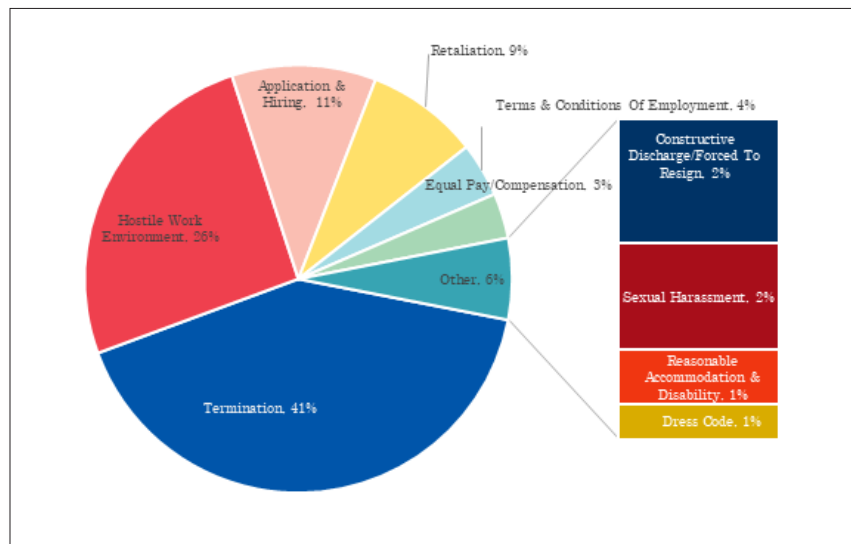
- Among those who reported having been discriminated against, the most common type of discrimination faced was termination, usually following a period of harassment.
- The most prevalent bases for termination were race and medical issues – particularly women reporting having been fired for becoming pregnant.
- We heard from workers in the education, healthcare, and food service industries most often, especially teachers, nurses, and servers.
- Within those industries, race was a dominant basis for, most often, discrimination or termination.

THE BREAKDOWN

Workplace discrimination categorized by type, basis, industry, and sector.

Between 2013 and September 2019, the ACLU of Virginia has received hundreds of intakes from people facing employment discrimination. Our staff recently completed a survey of these intakes – categorizing them by type, basis, industry and sector. We received intakes from all over the Commonwealth from people in a wide range of industries in the private and public sectors.

In this paper, the “type” of discrimination is how the employee is being discriminated against – via harassment, creation of a hostile work environment, the terms and conditions of their employment, termination, retaliation etc. The “basis” of discrimination is why the employee is being discriminated against – on the basis of race, sex, religion, disability, age, or other protected class.



50 States Survey

What are other states doing to protect workers from discrimination and how does Virginia measure up?

We also reviewed how other states enforce their anti-discrimination laws. Forty-seven states and the District of Columbia currently have some state agency or department that receives, investigates, and attempts to mediate discrimination complaints. We looked at what powers these agencies and departments have.

- **Four states, including Virginia, have no meaningful enforcement mechanism**, meaning that if a complaint isn't mediated or settled, the state enforcement authority has no power to order relief or litigate that complaint in court.
- **Thirty-nine state authorities may hold hearings on claims**, and if the hearing finds discrimination occurred, these authorities may order relief.
- **Seventeen state authorities have the power to litigate complaints in court themselves**, or through the state attorney general.
- **Nine state authorities have the power to both hold hearings and order relief**, and to litigate.
- **Twenty-eight states have employee thresholds for private discrimination law suits** for at least some types and bases of discrimination that is lower than Virginia's threshold of six employees under the Virginia Human Rights Act.

Other states are doing far better in providing meaningful protections to employees. Based on our intake review and survey, we recommend the following strategies to strengthen Virginia's anti-discrimination efforts:

- Create an independent state agency that can investigate, settle and litigate claims of discrimination on behalf of employees in Virginia.
- Collect and publish data on discrimination complaints in Virginia annually.
- Expand state protections under the Human Rights Act to include all types of legally recognized discrimination and create explicit retaliation protections.
- Authorize equitable forms of relief like rehiring and internal anti-discrimination policies, permit both punitive and compensatory damages, and increase damages and attorney's fee awards available under the Human Rights Act to encourage private enforcement of anti-discrimination laws.

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