



# What Are Your Rights As an Employee?

## **Q: What kind of qualifications can an employer require job applicants to have?**

**A:** Although generally, employers may establish whatever criteria they want to for hiring employees, it is illegal in most cases for employers to require applicants to be of a certain sex, race, national origin or religion. This is not the case where sex or national origin may be a bona fide occupational qualification for a certain job.

For example, it has been held that in certain circumstances, a hospital may refuse to hire male nurses in its labor and delivery section, or prisons may hire female guards to search female inmates. However, such bona fide occupational qualifications are few and far between.

Even if the application process does not directly discriminate, there still may be illegal indirect discrimination if an employer has job criteria that impact females or minority groups differently than other groups. For example, if job applicants are required to be of a certain weight or height, that requirement may exclude more female than male applicants. If an employer has such hiring criteria, the employer may have to show the criteria are needed, to a greater or lesser degree, depending on the circumstances, to perform the job in question.

## **Q: What is age discrimination?**

**A:** Age discrimination is making employment decisions on the basis of an employee's age. If an applicant or employee is 40 years old or older, the employee is in the protected age group, and it is illegal for an employer to refuse to hire, fire, promote or otherwise discriminate against that employee on the basis of age.

## **Q: What else may constitute illegal employment discrimination?**

**A:** The law provides that if you are adversely affected by any decision relating to your employment, including hiring, promotion, receipt of benefits, request for transfers, discipline or termination, because of your race, color, sex, pregnancy, age (40 and over), national origin, religion, genetic information or mental or physical disability, your employer has illegally discriminated against you.

## **Q: What should I do if I believe I have been discriminated against?**

**A:** Go to your local Equal Employment Opportunity Commission (EEOC) or the Office of Civil Rights Enforcement (OCRE). The OCRE is a division of the Oklahoma Attorney General's Office. You should file your claim within 180 days, if you file with OCRE, or within 300 days, if you file with EEOC, of the alleged discriminatory act.

You will be asked to say why you believe you were discriminated against and how other employees, not members of a protected class, were treated differently by your employer. After the agency investigates your claims, it will issue a determination. Learn more at [www.eeoc.gov](http://www.eeoc.gov).

Or, if your claim is under consideration for more than 180 days and no determination is issued, you may request the right to sue in the federal or state court yourself to prove your claims. In claims other than for age discrimination, claimants may seek compensatory and punitive damages, lost back pay, reinstatement or other like remedies. Age discrimination claimants may not seek compensatory or punitive damages but may be entitled to liquidated damages of up to double the amount of back pay awarded.

## **Q: Is there such a thing as a complaint for sexual harassment?**

**A:** Yes. The laws that prohibit sex discrimination have been construed as making sexual harassment actionable, even if there is no tangible loss of job benefits for the harassed employee.

## **Q: What is the minimum wage?**

**A:** Minimum wage for regular and overtime pay is established by law for employees in businesses engaged in interstate commerce. For example, employees working for businesses that manufacture, sell or handle goods shipped or produced in interstate commerce are covered. Retail or service establishments with a sufficient volume of annual sales or business are covered. In many cases, housekeepers, babysitters, chauffeurs and similar employees are not covered by the minimum wage laws.

Effective Jan. 1, 2010, the minimum wage for covered workers is \$7.25 per hour. The law allows subminimum training wages for up to 90 days for certain employees under the age of 20. There are also overtime wage requirements. Employees must be paid at the rate of at least one and one-half times their regular rate of pay for each hour worked in a workweek in excess of the maximum allowable hours worked in a given type of employment.

Employers may use any of several formulas for calculating overtime pay. If employees work on a piece-rate or salary basis, there are special rules for computing overtime pay.

If you have questions about the minimum wage law, you may contact your area office of the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division or research online at [www.dol.gov](http://www.dol.gov).

### **Q: Can my employer fire me without a good reason?**

**A:** Oklahoma has traditionally recognized the “at-will” doctrine, meaning an employee works and a business employs on an “at-will” basis, and either may cease the employment relationship at any time. However, the ability to terminate an employee “at-will” is limited under some circumstances. For example, an employer cannot terminate an employee in retaliation for the employee’s exercise of rights under Oklahoma’s Workers’ Compensation Law, or base a decision to terminate on an employee’s race, color, sex, pregnancy, age (40 and over), national origin, religion, genetic information or mental or physical disability or in retaliation for reporting the employer’s illegal conduct.

If you have an employment contract, you should refer to your contract to determine for what reasons you may be terminated. If you have a contract stating grounds for termination, your employer is not able to terminate you at will but is required to terminate you only for the reasons stated in your employment contract, or they become liable for damages.

Even if you do not have a signed employment contract, you should refer to your company’s employee manual or handbook to see what it says about the reasons for which you may be fired, grievance procedures or other terms of your employment. Employers may be required to adhere to statements made in such publications.

### **Q: If I am terminated, how do I get unemployment compensation?**

**A:** Oklahoma provides unemployment compensation for qualified employees. If you are terminated, you should go to your local Oklahoma Employment Security Commission office to file a claim for benefits or file online at [www.oesc.ok.gov](http://www.oesc.ok.gov).

If you meet eligibility requirements, such as being available to seek and accept work and having been employed for a certain amount of time at a certain wage, you may qualify for benefits.

However, if you left work voluntarily or were discharged for misconduct connected with your work, you are not eligible to receive benefits for a specified period of time. If the commission makes a finding that you are ineligible for benefits, there are procedures for contesting this finding, including the filing of a written statement with the commission and a hearing before a referee. Ultimately, you may appeal an unfavorable decision to the courts.

### **Q: What difference does it make if I am unionized?**

**A:** If you are a member of a union, your union may have a collective bargaining agreement with your employer. This agreement is similar to a private employment contract, and you should refer to it for the terms of your employment, including wages, hours, working conditions and grounds for termination.

The law protects employees and employers from unfair labor practices with respect to collective employee activity. Under the law, employees have the right to organize, join and assist labor organi-

zations or engage in other concerted activities for the purpose of collective bargaining or other mutual interests. Employees’ rights to refrain from all such activity or to take steps to get rid of the union are also protected by law.

If your company is unionized, employees may pay dues to the union, and the union will represent the employees in employment matters. The union representative is the employee representative for matters covered by the collective bargaining agreement.

### **Q: Am I insured if I am injured on the job?**

**A:** Under Oklahoma’s Workers’ Compensation Law, employers may provide for the payment of benefits in the event an employee is injured on the job. Almost all employees may be covered, no matter what type of job they hold. When employees are injured, they may be entitled to receive weekly payments during the period of their temporary disability until they can return to work. An employee should, within 30 days of suffering an on-the-job injury, notify their employer about the nature and extent of the injury.

Employers have the right to select the treating physician, but they must do so within seven days of receiving notice. If the employer fails to select a physician or it is an emergency medical need, the employee may select their treating physician. Read more about your rights from the Oklahoma Workers’ Compensation Court of Existing Claims at [www.cec.ok.gov](http://www.cec.ok.gov) or by calling 918-581-2392.

Claims must be filed within two years from the date of the injury or within two years from the date the employer last voluntarily paid weekly temporary disability benefits or voluntarily furnished medical treatment. Before filing a claim, you should contact your employer or employer’s insurance company to determine if they will cover the claim voluntarily. Ask your employer to file the appropriate forms with the court if they choose to cover it. If you have any questions whether you are entitled to workers’ compensation benefits, further information may be obtained by contacting the Workers’ Compensation Court at 405-522-8600, 800-522-8210 or online at [www.owcc.state.ok.us](http://www.owcc.state.ok.us).

Employers may opt out of the workers compensation system as long as they provide coverage for the same injuries as the state-operated administrative system and provide benefits to injured workers that are at least as generous. Some employers and employees are exempted in limited circumstances.

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