

**TOOLS FOR  
TRANSGENDER  
PEOPLE  
TO ADDRESS  
DISCRIMINATION**



Transgender Law Center

**As transgender and gender-nonconforming people, we have fought hard for decades to achieve greater visibility, increased opportunities, and legal protections. But we still experience discrimination and violence every day in many areas of life, including when trying to access employment, housing, and businesses and services.**

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Transgender Law Center has put together this guide to help you better understand of some of the legal options our community has to respond to discrimination and harassment. Please note that this guide only provides general information about laws, policies, and resources that may help transgender people respond to discrimination. This information is not individualized legal advice. If you have questions about your specific circumstances, it is best to contact an attorney, if possible.

If you have questions about the information in this resource, please reach out to Transgender Law Center's Legal Information Help desk at [\*\*www.transgenderlawcenter.org/legalinfo\*\*](http://www.transgenderlawcenter.org/legalinfo).

# Know Your Rights Questions & Answers

# WHAT KINDS OF LEGAL PROTECTIONS AGAINST DISCRIMINATION EXIST FOR TRANSGENDER PEOPLE?

In the United States, some legal protections against anti-trans discrimination have been enacted on the federal, state, and local level. On the federal level, there are currently no laws created by Congress that explicitly prohibit discrimination based on gender identity (that is, discrimination based on the fact that someone is transgender). However, a growing number of courts have ruled that certain federal laws that ban sex discrimination prohibit discrimination against trans people.

A critical example of this was the June 2020 Supreme Court ruling that Title VII of the Civil Rights Act of 1964, which bans sex-based employment discrimination, prohibits employment discrimination against transgender people throughout the United States. (See *Bostock v. Clayton County, Georgia*, 590 U.S. \_\_\_\_ (2020).) This court case means that transgender people cannot legally be discriminated against in the workplace. While this decision only explicitly addressed employment discrimination, it will likely lead

to future court rulings that transgender people are covered by federal laws that address discrimination in other areas.

Additionally, some states, cities, and counties have enacted laws prohibiting discrimination in public accommodations, housing, and/or employment based on gender identity or expression. However, not all states, cities and counties have enacted these laws, so protections vary by location. This resource includes information about which states prohibit discrimination and outlines some of your legal rights and options, whether you live in an area covered by state or local protections or not.

# WHAT ARE MY RIGHTS IN STATES THAT PROHIBIT DISCRIMINATION BASED ON GENDER IDENTITY OR EXPRESSION?

Generally, **public accommodation nondiscrimination laws** protect transgender people from discrimination like being unfairly refused service or entry to public places because of their gender identity. Public accommodation laws generally cover all places other than home, work, or school, including retail stores, restaurants, parks, hotels, doctors' offices, and banks.

**Employment nondiscrimination laws** protect transgender people from being unfairly fired, not hired, or otherwise discriminated against in the workplace by private employers because of their gender identity. Transgender people are now protected even in states without explicit protections, if their employer is subject to Title VII (generally speaking, Title VII protections apply to employers with 15 or more employees; for more information about Title VII, see below).

Though transgender people are protected from employment discrimination under federal law,

state employment protections are still very helpful in ensuring those rights are enforced; they can provide helpful continuity despite changes in federal administrations and ability or willingness of federal agencies to enforce laws prohibiting anti-trans discrimination.

**Housing nondiscrimination laws** protect transgender people from being unfairly evicted, denied housing, or refused the ability to rent or buy housing because of their gender identity.

# WHICH STATES HAVE ENACTED LAWS PROTECTING TRANSGENDER PEOPLE FROM DISCRIMINATION AND WHERE CAN I FIND MORE INFORMATION ABOUT THESE LAWS?

## EMPLOYMENT

Twenty-two states, as well as the District of Columbia, Guam, and Puerto Rico, have laws that prohibit employment discrimination based on gender identity in the public and private sectors. In these states and territories, employers that are covered by the nondiscrimination laws cannot fire, refuse to hire, or treat employees differently simply because they are transgender.

The twenty-two states with employment nondiscrimination laws that protect transgender people are: California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Virginia, and Washington.



We've put together a table of state employment nondiscrimination laws that cover trans people, including links to the text of the laws. [\*\*Click here to access it.\*\*](#)

You may also want to refer to the Movement Advancement Project's list of these laws. [\*\*Click here to access it.\*\*](#)

## PUBLIC ACCOMMODATIONS

Twenty-one states and the District of Columbia have laws that prohibit discrimination based on gender identity and expression in public accommodations. A public accommodation is generally defined as any place of business that sells items or provides services of any kind to the public. Typical examples of public accommodations include hotels, restaurants, stores, hospitals, health clinics, parks, gyms, health clubs, public transportation, and social service agencies. Businesses or locations that are covered by public accommodation nondiscrimination laws cannot refuse to sell to or refuse to serve someone simply because they are transgender. Additionally, covered businesses and locations cannot treat people differently or charge them more simply because they are transgender.

The twenty-one states with public accommodation nondiscrimination laws that protect transgender people are: California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New

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## WHICH STATES HAVE ENACTED LAWS PROTECTING TRANSGENDER PEOPLE FROM DISCRIMINATION AND WHERE CAN I FIND MORE INFORMATION ABOUT THESE LAWS?

Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Virginia, and Washington.



We've put together a table of state public accommodation nondiscrimination laws that cover trans people, including links to the text of the laws. **[Click here to access it.](#)**

You may also want to refer to the Movement Advancement Project's list of these laws. **[Click here to access it.](#)**

### HOUSING

Twenty-two states and the District of Columbia have nondiscrimination laws that prohibit discrimination based on gender identity in housing. These laws mean that someone cannot refuse to rent or sell a property to someone simply because they are transgender. Transgender tenants or property buyers also cannot be treated differently than others because they are transgender.

**The twenty-two states with housing nondiscrimination laws that protect transgender people are:** California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Virginia, and Washington.



We've put together a table of state housing nondiscrimination laws that cover trans people, including links to the text of the laws. **[Click here to access it.](#)**

You may also want to refer to the Movement Advancement Project's list of these laws. **[Click here to access it.](#)**

# IF I LIVE IN A STATE WITHOUT STATEWIDE PROTECTIONS, HOW CAN I FIND IF I LIVE IN A PLACE WITH LOCAL (CITY OR COUNTY) PROTECTIONS ON THE BASIS OF GENDER IDENTITY OR EXPRESSION?

Transgender Law Center has put together tables with links to the text of the laws for hundreds of cities and counties that have enacted local protections for transgender people in states where no statewide protections exist. While not every city or county is represented, we have tried to be as exhaustive as possible.

These tables also include links to more information about how to file a complaint with the appropriate city or county agency. [Please follow these links to see if your city or county is covered:](#)

## **Employment**

## **Housing**

## **Public Accommodations**

Additionally, the **Movement Advancement Project** maintains an updated list of cities and counties that have at least some form of local nondiscrimination protection for transgender people. As of August

2020, at least 301 cities and counties had nondiscrimination protections for transgender people in private employment, housing, and public accommodations. As of August 2020, at least 67 additional municipalities had some type of nondiscrimination protection for transgender people.

You may also refer to your city or county's website, or contact local officials, to find out if any local ordinances have been passed. A good place to start is by doing a web search for "[your city or county] human rights department gender identity [employment/housing/public accommodations] nondiscrimination law." Note that the language local governments use is not universal; the agency responsible for enforcing local nondiscrimination laws may be the "human relations commission," the "civil rights department," or just the city manager or county clerk.

# IF MY STATE AND/OR CITY HAS LAWS PROHIBITING DISCRIMINATION, WHERE CAN I FILE A COMPLAINT IF I HAVE BEEN DISCRIMINATED AGAINST?

Generally, individuals should be able to file a nondiscrimination complaint with **the state agency that enforces civil rights laws**.

For example, in California, complaints of discrimination are filed with the **Department of Fair Employment and Housing**.

This agency is charged with protecting the people of California from unlawful discrimination in employment, housing, and public accommodations. If you believe you have experienced discrimination, you may want to refer to our table of information about state-level **employment, housing, and public accommodation** nondiscrimination laws. In the right-hand column, we've included links to pages where you can learn more about the complaint processes and, in some cases, file complaints.

For some local jurisdictions, the city or county **Human Rights Commission** will be where you can file a complaint. For example, Cook County, Illinois, has a process through which individuals can file complaints with the **Commission on Human Rights**. And, in

New York City, individuals file discrimination complaints with the **New York City Commission on Human Rights**. (Note that the language local governments use is not universal; the agency responsible for enforcing local nondiscrimination laws may be the "human relations commission," the "civil rights department," or just the city manager or county clerk.) If you believe you have experienced discrimination, you may want to refer to our table of information about local **employment, housing, and public accommodation** nondiscrimination laws. We've included links to pages where you can learn more about the process and, in some cases, file complaints.

If your city or county has an office of civil or human rights, it may be helpful to contact them for more information about your local laws. If you cannot locate your local office, you may find information about any local civil rights offices by contacting

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## **IF MY STATE AND/OR CITY HAS LAWS PROHIBITING DISCRIMINATION, WHERE CAN I FILE A COMPLAINT IF I HAVE BEEN DISCRIMINATED AGAINST?**

your state civil rights office. Generally, you can find information and complaint forms by doing a web search for “gender identity discrimination complaint” and “[your city/county] human rights commission.”

Note that in some cases there may be limits on how long after an experience of discrimination you may file a complaint. Check with the agency to determine the timing.

# WHAT SHOULD I INCLUDE IN MY COMPLAINT TO MAKE IT AS STRONG AS POSSIBLE?

Be sure to read the instructions for submitting the complaint carefully and answer every question to the best of your ability. In general, the more specifics you can provide, the better: try to include the date, time, location, witnesses, and people involved in any events that were discriminatory or disrespectful. In addition, even if you cannot submit them with your initial complaint, be sure to keep any documents that you receive from the person, business, or organization that is/was engaging in the discrimination. **Telling a clear story and providing relevant information increases the chances that your complaint receives the attention it deserves.**

It is also important to pay attention to any time limits, as many agencies will not allow you to submit a complaint after a certain amount of time has passed, sometimes this is referred to as a statute of limitations. It is worth noting, however, that in cases of ongoing discrimination, the time limit is often counted from the last instance of discriminatory treatment. This is all the more reason to be very clear about the timeline in your complaint.

# WHAT CAN I DO IF I'VE BEEN DISCRIMINATED AGAINST BECAUSE I AM TRANSGENDER, BUT I LIVE IN A PLACE WITHOUT STATE OR LOCAL PROTECTIONS THAT INCLUDE GENDER IDENTITY AND EXPRESSION?

Individuals living in states and cities that lack explicit protections for transgender people may still be able to challenge discrimination through federal law.

## EMPLOYMENT

Federal law prohibits employment discrimination based on gender identity because Title VII of the Civil Rights Act of 1964 prohibits discrimination based on sex. The Equal Employment Opportunity Commission ("EEOC") is the federal agency charged with investigating employment discrimination. The EEOC interprets and enforces Title VII's prohibition of sex discrimination as forbidding any employment discrimination based on gender identity or sexual orientation. In June 2020, the United States Supreme Court agreed with the EEOC's interpretation of Title VII and extended explicit protections for transgender employees throughout the United States. See *Bostock v.*

*Clayton County, Georgia*, 590 U.S. \_\_\_\_ (2020).

These protections apply regardless of any contrary **state or local laws**. Title VII applies to employers with at least fifteen employees, as well as local, state, and federal government employees. Title VII does not apply to uniformed military employees or to certain employees of religious organizations. **To file a complaint** with the EEOC, you can visit your local office (**find your local office**). You can also **access an overview of the EEOC process**).

Note that the EEOC has work-sharing agreements in place with many of the state agencies that enforce state-level employment nondiscrimination laws. According to these agreements, if you file a charge with either EEOC

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## WHAT CAN I DO IF I'VE BEEN DISCRIMINATED AGAINST BECAUSE I AM TRANSGENDER, BUT I LIVE IN A PLACE WITHOUT STATE OR LOCAL PROTECTIONS THAT INCLUDE GENDER IDENTITY AND EXPRESSION?

or a state agency, the charge also will be automatically filed with the other agency. This process, which is known as **dual filing**, helps to protect charging party rights under both federal and state or local law. If you file a charge at a state or local agency, you can let them know if you also want your charge filed with the EEOC.

### **PUBLIC ACCOMMODATIONS**

Public accommodations are generally places other than home, work, or school, including retail stores, restaurants, parks, hotels, doctors' offices, gyms, and banks. Public accommodation discrimination can include treating customers differently, refusing to sell to, or refusing to serve someone simply because they are transgender.

One way to challenge discrimination in public accommodations is to file a complaint claiming that a policy or action violates state law prohibiting sex discrimination in public accommodations. It can be more challenging for transgender people to win when making this kind of argument, because in addition to proving other claims, they have to prove that discrimination based on gender identity amounts to discrimination based on sex. For this reason, it will be important to work with an experienced attorney.

While not always ideal, another strategy for accessing sex-segregated facilities such as bathrooms, locker rooms, and changing rooms that has been successful for some community members is having a conversation with the management to create an access plan that takes your safety into consideration. For example, a person could explain how dangerous and inappropriate it would be for a transgender woman to use the men's facilities and try to negotiate getting a private changing area within the women's locker room or elsewhere.

Another possible way to create change is by advocating with local officials. For instance, you could advocate with local government officials, such as the mayor, about how discriminatory policies are unfair and have a harmful effect on the community.

### **HOUSING**

A federal law called the **Fair Housing Act** (FHA) prohibits many kinds of housing discrimination against people based on sex, race, color, national origin, religion, familial status, or disability, and the Department of Housing and Urban Development (HUD) has issued **guidance** saying that it considers discrimination against transgender people as a form of sex discrimination.

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## WHAT CAN I DO IF I'VE BEEN DISCRIMINATED AGAINST BECAUSE I AM TRANSGENDER, BUT I LIVE IN A PLACE WITHOUT STATE OR LOCAL PROTECTIONS THAT INCLUDE GENDER IDENTITY AND EXPRESSION?

Under the FHA, **it is illegal** for a housing provider to do any of the following because you are transgender or because you are perceived as not conforming to gender stereotypes:

- Refuse to rent or sell you housing;
- Refuse to admit you to a homeless shelter;
- Tell you housing is unavailable when it is available;
- Set different terms, conditions, or privileges for sale or rental of a dwelling;
- Provide different housing services or facilities;
- Deny you a mortgage loan, or impose different terms or conditions on a mortgage loan;
- Deny you property insurance;
- Conduct property appraisals in a discriminatory manner; or
- Harass, coerce, intimidate, or interfere with you exercising your fair housing rights.

The FHA covers most kinds of housing. In some circumstances, the FHA exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without using a broker, and housing operated by organizations and private clubs that limit occupancy to members. More

information about these limits can be found [here](#).

The FHA prohibits both direct and indirect discrimination. For example, a landlord with many apartments cannot refuse to rent to transgender people. That would be direct discrimination or “disparate treatment.” Disparate Treatment—intentionally treating one person or a group of people differently than another because of that person’s/group’s membership in a “protected class” which has negative results for the person or group. Indirect discrimination, also called “disparate impact” under the FHA, results from policies, rules, or activities which unintentionally and indirectly result in a negative impact on members of a protected class. For example, a homeless shelter with a policy that it will only house homeless individuals with a ‘female’ sex designation on their birth certificate could negatively impact transgender women even though the policy itself does not categorically exclude all transgender people from housing. Both ‘disparate treatment’ and ‘disparate impact’ discrimination are prohibited by the FHA.

If you believe you may have experienced such discrimination, you may file a complaint with the U.S.

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Department of Housing and Urban Development (HUD). A complaint generally must be filed with HUD within one year of a discriminatory action to begin the investigative process. If you experience discrimination because you are transgender, make sure to state that you believe you experienced discrimination based on sex. Once you file a report of discrimination, a HUD representative will contact you to discuss your situation and determine whether the agency can undertake a formal investigation. If you do not get a response, you can follow up with the office you initially contacted to ask about the status of your complaint. You can report housing discrimination to HUD by telephone, mail, or online, at no cost. You can report discrimination at no cost by using an online form, or by phone, email, or mail. Online forms are available in English and Spanish; email and mail forms are available in English, Arabic, Cambodian, Chinese, Korean, Russian, Somali, Spanish, and Vietnamese. Further guidance, including contact information and links to all forms, is available at HUD's website page "**How to File a Complaint.**"

The Fair Housing Act also permits you to bring a lawsuit directly in federal court against a housing provider. You do not need to file a complaint with HUD first to do this. However, a lawsuit can be a lengthy and expensive process and it may be difficult to succeed without an attorney. Alternatively, if you file a complaint with HUD and the agency does not find reason to believe discrimination occurred, you can still file a lawsuit in federal court later. A full explanation of the Fair Housing Act complaint process can be found [\*\*here\*\*](#).

# IF A STATE OR FEDERAL AGENCY FINDS THAT I HAVE EXPERIENCED DISCRIMINATION, WHAT CAN IT DO TO ADDRESS THE SITUATION?

Different state and federal agencies have different powers to address discriminatory actions. You should review their websites or contact the agencies for more information about possible outcomes. That said, in broad outline, they may be able to take some or all of the following actions in response to complaints of discrimination:

- ❑ Facilitating a conciliation process, in which the agency reaches a settlement agreement with the person/business/organization that has engaged in discriminatory behavior (the “discriminating party”)
- ❑ Filing a lawsuit on your behalf against the discriminating party
- ❑ Issuing you with a right-to-sue letter, which allows you to bring a lawsuit against the discriminating party
- ❑ Ordering the discriminating party to pay a financial penalty to the government
- ❑ Ordering the discriminating party to change its rules, policies, or practices
- ❑ Ordering the discriminating party to undergo training
- ❑ Ordering the discriminating party to pay for out-of-pocket expenses, attorney’s fees, and/or emotional distress that you have incurred