

# Termination

## State Laws – Prohibitions Against Discrimination

Most states also have their own employment discrimination laws that include or expand the provisions of federal law. For example, most states and municipalities have antidiscrimination laws that provide similar protections to those found under Title VII, the ADA and USERRA. Some extend antidiscrimination coverage to additional protected categories such as sexual orientation, marital status and political affiliation. State and local laws also protect employees from discrimination based on factors such as smoking and criminal history. Most state discrimination laws apply to companies with fewer employees than federal coverage requirements.

This appendix outlines the major requirements of most state employment discrimination laws. It is not intended as a substitute for legal advice, and does not provide legal opinions on any specific facts or circumstances.

State	Employers Covered	Protected Characteristics
Alaska	All employers	Race, color, religion, sex, age, disability, national origin, marital status, changes in marital status or parenthood
Arizona	Employers with 15 or more employees; except for sexual harassment laws, which apply to employers with one or more employees	Race, color, religion, sex, age, disability, national origin or genetic test results
Arkansas	Employers with nine or more employees; except for genetic discrimination laws, which apply to all employers	Race, religion, sex, disability, ancestry or national origin, genetic characteristics
California	Employers with five or more employees	Race, color, national origin, age, disability, gender identity, religion, medical condition, genetic characteristics, marital status, sex, sexual orientation or ancestry

Colorado	All employers; except for the marriage to a coworker laws that apply to employers with 25 or more employees	Race, color, religion, sex, disability, national origin, age, creed, ancestry, marriage to a coworker, sexual orientation, or military status
Connecticut	Employers with three or more employees	Race, color, religious creed, age, sex, marital status, sexual orientation, national origin, ancestry, disability, mental retardation, learning disability, civil union status, status as a parent or potential parent or genetic information
Delaware	Employers with four or more employees; except for disability discrimination laws, which apply to employers with 15 or more employees	Race, marital status, genetic information, color, age, religion, sex, sexual orientation, disability or national origin
District of Columbia	All employers	Race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation or political affiliation
Florida	Employers with 15 or more employees; except for sickle-cell trait discrimination laws, which apply to employers with 10 or more employees	Race, color, religion, sex, national origin, age, disability, sickle-cell trait or marital status
Hawaii	All employers	Race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court records, assignment of income for child support obligations, genetic information, National Guard status or breastfeeding
Idaho	Employers with five or more employees	Race, sex, color, national origin, religion, age, or disability

Illinois	All state and private employers with 15 or more employees; except for genetic information discrimination laws, which apply to all employers	Race, color, religion, sex, national origin, ancestry, age, marital status, disability, military status, sexual orientation, unfavorable discharge from military service or citizenship status, genetic information
Indiana	Employers with six or more employees	Race, color, religion, sex, disability, ancestry or national origin
Iowa	Employers with four or more employees	Race, age, creed, color, sex, sexual orientation, gender identity, national origin, religion, disability
Kansas	Employers with four or more employees	Race, religion, color, sex, disability, national origin, ancestry, age or genetic testing and screening information
Kentucky	Employers with eight or more employees; except for disability discrimination laws, which apply to employers with 15 or more employees, Kentucky National Guard or active militia status discrimination laws, which apply to all employers, and sexual orientation discrimination laws, which apply to state employers	Race, color, religion, sex, disability, national origin, smoking preference, age, Kentucky National Guard or active militia status, or sexual orientation
Louisiana	Employers with 20 or more employees; except for sexual orientation discrimination laws, which apply to state employers	Age, disability, race, color, religion, sex, national origin, sickle cell trait, genetic information, or sexual orientation
Maine	All employers	Age, disability, race, color, religion, sex, sexual orientation, ancestry, genetic information or national origin

Maryland	Employers with 15 or more employees	Race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information (including refusal to take a genetic test or give results to employer) or disability
Massachusetts	Employers with six or more employees	Race, color, religious creed, national origin, sex, sexual orientation, genetic information, military service, age, ancestry or disability
Michigan	All employers	Religion, race, color, national origin, age, sex, height, weight, marital status, disability, genetic information or arrest record
Minnesota	All employers	Race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation or age
Missouri	Employers with six or more employees	Race, color, religion, national origin, sex, ancestry, age or disability
Montana	All employers	Race, creed, religion, color, national origin, age, disability, marital status or sex
Nebraska	Employers with 15 or more employees; except for age discrimination laws, which apply to employers with 20 or more employees	Race, color, religion, sex, disability, national origin, age or marital status
Nevada	Employers with 15 or more employees	Race, color, religion, sex, sexual orientation, age, disability or national origin
New Hampshire	Employers with six or more employees	Age, sex, race, color, marital status, disability, religious creed, national origin or sexual orientation
New Jersey	All employers	Race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information (including refusal to submit to genetic testing or make available

		the results of a genetic test), sex, gender identity or expression, disability or atypical hereditary cellular or blood trait of any individual, liability for military service or nationality
New Mexico	Employers with four or more employees; except for age, sexual orientation and gender identity discrimination laws, which apply to employers with 15 or more employees, and spousal affiliation discrimination laws that apply to employers with 50 or more employees	Race, color, religion, sex, disability, national origin, age, ancestry, sexual orientation, spousal affiliation, or gender identity
New York	Employers with four or more employees	Age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status or prior arrest or conviction record
North Carolina	Employers with 15 or more employees for race, color, religion, sex, disability, national origin and age discrimination laws; the remaining laws apply to all employers	Race, color, religion, sex, disability, national origin, age, genetic information and testing, military status, workers' compensation claim, wage and hour claim, occupational safety and health claim, sickle cell trait or hemoglobin C trait or victim of domestic violence
North Dakota	All employers	Race, color, religion, sex, national origin, age, disability, status with respect to marriage or public assistance or participation in lawful activity off the company's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer
Ohio	Employers with four or more employees	Race, color, religion, sex, military status, national origin, disability, age or ancestry
Oregon	All employers	Race, color, religion, sex, sexual orientation, national origin, marital status,

		expunged juvenile record, disability, genetic information or age
Pennsylvania	Employers with four or more employees	Race, color, religion, ancestry, age, sex, national origin, creed or disability
Rhode Island	Employers with four or more employees	Race, color, religion, ancestral origin, sex, sexual orientation, gender identity or expression, disability or age
South Dakota	All employers	Race, color, creed, religion, sex, ancestry, disability or national origin
Tennessee	Employers with eight or more employees	Race, color, creed, religion, sex, age, disability or national origin
Texas	Employers with 15 or more employees	Race, color, national origin, religion, sex, age, disability, genetic information or refusal to submit to a genetic test
Vermont	All employers	Race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age or disability
Virginia	All employers	Race, color, religion, national origin, sex, age, disability or marital status
Washington	Employers with eight or more employees	Race, color, national origin, sex, creed, disability, age, marital status, HIV, AIDS and Hepatitis C status, sexual orientation, gender identity, use of a service animal by a person with a disability, honorably discharged veteran or military status
West Virginia	Employers with 12 or more employees	Race, religion, color, national origin, ancestry, sex, age, or disability
Wisconsin	All employers	Sex, color, ancestry, disability, marital status, race, creed, age, religion, use or nonuse of lawful products off the company's premises during nonworking hours, arrest or conviction record, honesty testing, national origin, sexual orientation, genetic testing or military service
Wyoming	Employers with two or more	Race, sex, creed, age, color, national origin, ancestry or disability

	employees	
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## State Laws – Final Pay Requirements

State laws generally provide that employers must pay employees final wages on separation from employment within a specified period of time. Frequently, this period is shorter for employees who are discharged than it is for employees who resign. This table describes the time within which wages must be paid when an employee resigns or is discharged.

State	Employee who quits/resigns	Employee who is discharged
Alabama	No state final pay law	No state final pay law
Alaska	Due on next scheduled payday that is at least three days from employee's notice	Due within three working days after the date of discharge
Arizona	Due on next scheduled payday	Due within three working days or next scheduled payday, whichever is earlier
Arkansas	No state final pay law	Due within seven days
California	Due within 72 hours of separation, or immediately if 72 hours notice was given	Due immediately (wages include accrued vacation time)

	(wages include accrued vacation time)	
Colorado	Due on next scheduled payday (wages include accrued vacation time)	Due immediately (wages include accrued vacation time)
Connecticut	Due on next scheduled payday	Due by next business day
Delaware	Due on next scheduled payday	Due on next scheduled payday
District of Columbia	Due on next scheduled payday, or within seven days of separation, whichever is earlier	Due on next working day, unless employee is in charge of money accounts, then within four days
Florida	No state final pay law	No state final pay law
Georgia	No state final pay law	No state final pay law
Hawaii	Due on next scheduled payday, or immediately if employee gives one pay period's notice	Due immediately, or next day if conditions prevent immediate payment
Idaho	Due within 10 working days or on next scheduled payday, whichever is earlier, or within 48 hours of receipt of written employee request (wages include accrued vacation time)	Due within 10 working days or on next scheduled payday, whichever is earlier, or within 48 hours of receipt of written employee request (wages include accrued vacation time)
Illinois	Due immediately if possible, but otherwise no later than next scheduled payday	Due immediately if possible, but otherwise no later than next scheduled payday (wages must include accrued vacation time)

	(wages include accrued vacation time)	
Indiana	Due on next scheduled payday, unless employee's whereabouts unknown, then within 10 days of employee's request for payment (wages include accrued vacation time)	Due on next scheduled payday (wages must include accrued vacation time)
Iowa	Due on next scheduled payday, unless wages are a difference between a credit paid on commission and wages actually earned on commission, then within 30 days	Due on next scheduled payday, unless wages are a difference between a credit paid on commission and wages actually earned on commission, then within 30 days
Kansas	Due on next scheduled payday	Due on next scheduled payday
Kentucky	Due on next scheduled payday or within 14 days, whichever is later	Due on next scheduled payday or within 14 days, whichever is later
Louisiana	Due on next scheduled payday or within 15 days, whichever is earlier (wages include accrued vacation time)	Due on next scheduled payday or within 15 days, whichever is earlier (wages include accrued vacation time)
Maine	Due on next scheduled payday or within 14 days of demand, whichever is earlier (wages include accrued vacation time)	Due on next scheduled payday or within 14 days of demand, whichever is earlier (wages include accrued vacation time)
Maryland	Due on next scheduled payday	Due on next scheduled payday

Massachusetts	Due on next scheduled payday, or if none, then the following Saturday (wages include accrued vacation time)	Due immediately (wages include accrued vacation time)
Michigan	Due on next scheduled payday	Due on next scheduled payday
Minnesota	Due on next scheduled payday, unless payday is within five days, then on following scheduled payday, or 20 days after leaving work, whichever is earlier	Due immediately or within 24 hours of demand
Mississippi	No final pay law	No final pay law
Missouri	No final pay law	Due immediately
Montana	Due on next scheduled payday or within 15 days, whichever is earlier (wages include accrued vacation time)	Due immediately unless employer had written extension policy, then no later than next scheduled payday or 15 days, whichever is earlier (wages include accrued vacation time)
Nebraska	Due on next scheduled payday or within two weeks, whichever is earlier (wages include accrued vacation time)	Due on next scheduled payday or within two weeks, whichever is earlier (wages include accrued vacation time)
Nevada	Due on next scheduled payday or within seven days, whichever is earlier	Due immediately
New	Due on next scheduled	Due within 72 hours

Hampshire	payday unless employee gives one pay period notice, then within 72 hours of separation	
New Jersey	Due on next scheduled payday	Due on next scheduled payday
New Mexico	Due on next scheduled payday	Fixed amount wages are due within five days (task, piece, or commission wages are due within 10 days)
New York	Due on next scheduled payday	Due on next scheduled payday
North Carolina	Due on next scheduled payday, unless paid by commission or bonus, then on next scheduled payday after calculation	Due on next scheduled payday, unless paid by commission or bonus, then on next scheduled payday after calculation
North Dakota	Due on next scheduled payday (wages include accrued vacation time)	Due on next scheduled payday (wages include accrued vacation time)
Ohio	No state final pay law	No state final pay law
Oklahoma	Due on next scheduled payday	Due on next scheduled payday
Oregon	Due within five working days of separation or on next scheduled payday, whichever is earlier, unless 48 hours notice given, then immediately	Due by end of next business day
Pennsylvania	Due on next scheduled payday	Due on next scheduled payday

Puerto Rico	Due on next scheduled payday	Due on next scheduled payday
Rhode Island	Due on next scheduled payday, unless employer is merging, moving, or selling business, then within 24 hours (wages include accrued vacation time after one year of service)	Due on next scheduled payday, unless employer is merging, moving or selling business, then within 24 hours (wages include accrued vacation time after one year of service)
South Carolina	Due within 48 hours or on next scheduled payday, not to exceed 30 days	Due within 48 hours or on next scheduled payday, not to exceed 30 days
South Dakota	Due on next scheduled payday or when employee returns employers' property	Due on next scheduled payday or when employee returns employers' property
Tennessee	Due on next scheduled payday, or within 21 days, whichever is later	Due on next scheduled payday, or within 21 days, whichever is later
Texas	Due on next scheduled payday	Due by the sixth day after discharge
Utah	Due on next scheduled payday, unless wages are determined by commission and require accounting	Due within 24 hours, unless wages are determined by commission and require accounting
Vermont	Due on next scheduled payday, or if there is no scheduled payday then the following Friday	Due within 72 hours

Virginia	Due on next scheduled payday	Due on next scheduled payday
Washington	Due on next scheduled payday	Due on next scheduled payday.
West Virginia	Due on next scheduled payday, unless employee gives one pay period's notice, then immediately	Due within 72 hours
Wisconsin	Due on next scheduled payday or within one month of separation, whichever is earlier (if employee is paid by commission, then whatever system was established)	Due on next scheduled payday or within one month, whichever is earlier (if employee is paid by commission, then whatever system was established)
Wyoming	Due within five working days, unless employee is a sales agent paid by undetermined commission (wages include accrued vacation)	Due within five working days, unless employee is a sales agent paid by undetermined commission (wages include accrued vacation time)

## State Laws – Employee Access to Personnel Records

State laws vary on this issue, and employees/former employees may have a legal right to inspect some or all of the documents contained in their personnel files. If access is not compelled by law, employers have the right to establish their own rules and procedures restricting access.

This appendix summarizes the major requirements of most state laws. It is not intended as a substitute for legal advice, and does not provide legal opinions on any specific facts or circumstances.

## **Alaska**

Employers must allow employees and former employees to review and copy their personnel files. Employers are allowed to charge a reasonable copying fee. This applies to all employers.

## **Arkansas**

Employers must allow employees to review and copy their personnel files. This applies to public employers only.

## **California**

Employers must allow employees and former employees to review their personnel files.

Access to personnel records does not apply to records relating to the investigation of a possible criminal offense; letters of reference or ratings, reports or records that (a) were obtained before the employee's employment, (b) were prepared by identifiable examination committee members, or (c) were obtained in connection with a promotional exam. This applies to all employers.

## **Colorado**

Employers must allow employees to review their personnel files. This applies to public employers only.

## **Connecticut**

Employers must allow employees to review and copy their personnel files. Employers are allowed to charge a reasonable copying fee. This applies to all employers.

Access to personnel records does not apply to stock option or management bonus plan records; medical records; letters of reference or recommendations from third parties including former employers; materials that are used by the employer to plan for future operations; information contained in separately maintained security files; test information, the disclosure of which would invalidate the test; or documents being developed or prepared for use in civil, criminal or grievance procedures.

## **Delaware**

Employers must allow employees to review their personnel files. This applies to all employers.

Access to personnel records does not apply to records of an employee relating to the investigation of a possible criminal offense; letters of reference; documents being developed or prepared for use in civil, criminal or grievance procedures; materials used by the employer to plan for future operations; and information available to an employee under the Fair Credit Reporting Act.

## **District of Columbia**

Employers must allow employees to review their personnel files. This applies to public employers only.

Access to personnel records does not apply to information that has been received on a confidential basis from a person under an agreement that the identity of the source of the information will not be disclosed, unless all data identifying the source of the

information are removed; medical records that, if disclosed, in the opinion of the employee's doctor, would be injurious to the health of the employee; criminal investigation records; suitability inquiries and confidential questionnaires undertaken in accordance with the District's merit system; and test and examination materials that may continue to be used for promotion and selection decisions (a description of the test and general results may be disclosed).

### **Florida**

Employers must allow employees to review and copy their personnel files. This applies to public employers only.

### **Hawaii**

Employers must allow employees to review their personnel files. This applies to public employers only.

Access to personnel records does not apply to information related to criminal investigations; information that would identify a source of information under confidentiality; test scores and examination materials that would affect the test's effectiveness or the examination process; information related to investigations concerning current or pending actions against the employee; and any other information required to be withheld by law.

### **Illinois**

Employers must allow employees to review and copy their personnel files. Employers are allowed to charge a reasonable copying fee. Employers must grant at least two inspection requests in a calendar year when they are made at reasonable intervals. This applies to all employers with five or more employees. Former employees may have access to and copy their file for up to a year after termination.

Access to personnel records does not apply to letters of reference; test documents; staff planning materials; information about a person other than the employee; records subject to a court proceeding; or any records alleging criminal activity.

### **Indiana**

Employers must allow employees and former employees to review their personnel files. This applies to public employers only.

### **Iowa**

All employers must allow employees to review and copy their personnel files. Employers are allowed to charge a reasonable copying fee. Access to personnel records does not apply to employment references written for the employee.

### **Kentucky**

Employers must allow employees to review and copy their personnel files. This applies to public employers only.

### **Maine**

Employers must allow employees and former employees to review and copy their

personnel files. Employers must provide one copy of the entire personnel file at no cost to the employee upon request each calendar year. The cost of copying any other material requested during that calendar year is paid by the person requesting the copy. This applies to all employers.

### **Massachusetts**

Employers must allow employees and former employees to review and copy their personnel files. This applies to all employers.

### **Michigan**

Employers must allow employees and former employees to review and copy their personnel files. Employers are allowed to charge a reasonable copying fee. This applies to all employers.

Access to personnel records does not apply to employee references; materials relating to the employer's staff planning with respect to more than one employee; medical reports and records made or obtained by the employer; information of a personal nature about a person other than the employee; information that is kept separately from other records and that relates to a criminal investigation; records limited to grievance investigations, which are kept separately; records maintained by an educational institution directly related to a student and considered to be education records; and records kept by an executive, administrative or professional employee that are kept in the sole possession of the maker of the record, and are not accessible or shared with other persons.

### **Minnesota**

Employers must allow employees to review their personnel files once every six months.

Employers may not charge for copying. Former employees may obtain a copy of their personnel files free of charge once a year for as long as the records are kept by the employer.

Employers are required to provide written notice to a job applicant upon hiring of the rights and remedies provided in the Minnesota Personnel Records statute. This applies to private employers with 20 or more employees.

Access to personnel records does not apply to written references; information relating to a criminal or civil investigation against an employee; information relating to an investigation of employee conduct for which the employer may be held responsible, unless and until the investigation ends and the employer is notified that no action will be taken by the government, and the employer takes adverse personnel action based on the information contained in the investigation records; education records kept by an educational institution and directly related to a student; results of employer testing; information relating to the employer's salary system and staff planning; written comments or information of a personal nature about someone else if disclosing the information would be an intrusion upon the other person's privacy; written comments or information kept by the employee's supervisor of an executive, administrative or professional employee, so long as the written comments or information are kept in the

sole possession of the person who created the record; privileged information; any portion of a written or transcribed statement by a coworker that concerns the job performance or job-related misconduct of the employee and discloses the identity of the coworker by name or otherwise; and medical reports and records.

### **Nevada**

Employers must allow employees to review and copy their personnel files. Employers must allow former employees to review and copy their personnel files if requested within 60 days of termination. No copies need to be furnished to employees or former employees who were employed for fewer than 60 days. Employers are allowed to charge a reasonable copying fee. This applies to all employers.

Access to personnel records does not apply to confidential reports from previous employers or investigative agencies; or information concerning an investigation, arrest, or a conviction of the employee for a violation of the law.

### **New Hampshire**

Employers must allow employees and former employees to review and copy their personnel files. Employers are allowed to charge a reasonable copying fee. This applies to all employers.

### **North Carolina**

Employers must allow employees and former employees to review their personnel files. This applies to public employers only.

### **North Dakota**

Employers must allow employees to review and copy their personnel files. Employers are allowed to charge a reasonable copying fee. This applies to public employers only.

### **Oregon**

Employers must allow employees and former employees to review and copy their personnel files. Employers are allowed to charge a reasonable copying fee. This applies to all employers.

### **Pennsylvania**

Employers must allow employees to review their personnel files. This applies to all employers.

Access to personnel records does not apply to records relating to the investigation of a possible criminal offense; letters of reference; documents being developed or prepared for use in civil, criminal or grievance procedures; medical records; materials used by the employer to plan future operations; and information available to an employee under the Fair Credit Reporting Act.

### **Rhode Island**

Employers must allow employees to review and copy their personnel files. Employees have the right to examine their personnel files three times annually, provided they give their employer at least seven days' notice. Employers are allowed to charge a

reasonable copying fee. This applies to all employers.

Access to personnel records does not apply to records relating to the investigation of a possible criminal offense or records prepared for use in civil, criminal or grievance proceedings; any letter of reference; recommendations; managerial records kept or used only by the employer; confidential reports from previous employers; and managerial planning records.

### **South Carolina**

Employers must allow employees to review their personnel files. This applies to public employers only.

### **Tennessee**

Employers must allow employees to review their personnel files. This applies to public employers only.

### **Texas**

Employers must allow employees to review their personnel files. This applies to public employers only.

### **Utah**

Employers must allow employees to review and copy their personnel files. Employers are allowed to charge a reasonable copying fee. This applies to public employers only.

### **Vermont**

Employers must allow employees to review their personnel files. This applies to public employers only.

### **Washington**

Employers must allow employees and former employees to review their personnel files. This applies to all employers.

Access to personnel records does not apply to records relating to an investigation of a possible criminal offense, or records relating to an impending lawsuit.

### **Wisconsin**

Employers must allow employees and former employees to review and copy their personnel files. Employers are allowed to charge a reasonable copying fee. This applies to all employers.

Access to personnel records does not apply to records relating to the investigation of a possible criminal offense; letters of reference; any portion of a test document, except for a cumulative test score; materials used by the employer for staff management planning; information of a personal nature about a person other than the employee; and records relevant to any other impending claim between the employer and the employee that may be discovered in a judicial proceeding.

### **Wyoming**

Employers must allow employees to review their personnel files. This applies to public employers only.