

HRMAC Employee Relations Interest Group
Team Dynamics & Emerging Trends in Diversity
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The Modern Legal History of Federal Diversity Protection for Private Employers

- 1932 – Norris-LaGuardia Act (right to unionize)
- 1963 – Equal Pay Act (sex)
- 1964 – Title VII of the Civil Rights Act (race, color, religion, sex, national origin)
- 1967 – Age Discrimination in Employment Act
- 1978 – Sexual Harassment Guidelines
- 1978 – Pregnancy Discrimination Act
- 1986 – Immigration Reform and Control Act (citizenship)
- 1990 – Americans with Disabilities Act
- 1993 – Family and Medical Leave Act (family issues: birth, adoption, foster care, serious health condition)
- 1994 – Uniformed Services Employment and Reemployment Rights Act (veterans)
- 2008 – Genetic Information Nondiscrimination Act

- ??? 2017 – The Equality Act (sexual orientation and gender identity)

Current Federal Law and LGBT Protection Efforts

1989 – Supreme Court – Title VII protects against “sex stereotypes”
1988 – Supreme Court – Title VII protects against same-sex harassment
1990-2016 – Many federal court cases on sex stereotyping

EEOC

- 2012 – EEOC Strategic Enforcement Plan for LGBT individuals – gender stereotyping
- 2012 – Federal government employees (EEOC holds T7 protects gender identity)
- 2015 – Federal government employees (EEOC holds T7 protects sexual orientation regardless of stereotyping)
- 2015 – 1412 Charges filed alleging sexual orientation and/or gender identity/transgender status

Other

- 2014 – Executive Order 13672 (federal contractors, sexual orientation and gender identity protection)
- 2015 – Supreme Court case legalizing same-sex marriage
- 2016 – OFCCP/Final rule on nondiscrimination due to sex
<https://www.dol.gov/ofccp/sexdiscrimination.html>
- 2016 – Military ban on transgender persons lifted
- 2016 – “Disability” under the ADA (gender dysphoria)
- 2016 – 7th Circuit reviews sexual orientation under Title VII

State Law and Local Ordinances

- The Illinois Human Rights Act (race, color, religion, sex, national origin, citizenship status, ancestry, age, order of protection status, marital status, familial status (housing), physical or mental disability, arrest record, military status, sexual orientation, and unfavorable discharge from military service)
 - 2006 – “sexual orientation” was added via amendment, defined as including “gender identity”
- Cook County Human Rights Ordinance (race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, housing status, or gender identity)
- Chicago Human Rights Ordinance (race, sex, religion, color, age, marital status, ancestry, disability, parental status, national origin, sexual orientation, source of income, gender identity, military status, retaliation, credit history, criminal history/record)
- 22 Other states have LGBT-related protections

Transgender Employee Access to Restrooms

- 2015 – OSHA/Guide to Restroom Access for Transgender Employees
<https://www.osha.gov/Publications/OSHA3795.pdf>
 - Use of facilities that correspond with gender identity
 - Options, without requirement of documentation
 - No requirement to use segregated facilities
 - Single-occupancy gender-neutral facilities
 - Multiple-occupant, gender-neutral facilities with lockable, single-occupant stalls
- 2016 – Religious freedom laws
- 2016 – Bathroom use laws
- 2016 – Laws banning reimbursement of state employee travel to “hate states”

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