

CURRENT GLBT EMPLOYMENT PROTECTIONS IN OHIO

| Source of Law or Authority | Who is Protected? | From What? |
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| Equal Protection Clause of the United States Constitution | Public employees. | Employment decisions made for reasons such as sexual orientation, gender identity or expression that lack a <u>rational basis</u> . No <i>respondeat superior</i> liability (no automatic liability for actions of employees taken within scope of employment); Board of Education or other employer must actually take the action, officially adopt it, etc. |
| Title VII of the Civil Rights Act of 1964 | Employees of private employers, state and local governments and educational institutions that employ 15 or more employees. | Discrimination on the basis of sexual orientation or gender identity or expression is not prohibited by Title VII. To be actionable, behavior must relate to the person's sex (gender). Same sex sexual harassment is actionable if it is <u>because of</u> sex, shown by: 1) harasser is acting out of sexual desire; 2) harasser is motivated because of general hostility towards one gender; or 3) the plaintiff has evidence of differences in the way the harasser treats members of each sex. Sex stereotyping, which is discriminating against an employee because he or she does not fit the perceived gender norms for his or her gender, can also be actionable. Nonconforming behaviors must be observable at the workplace. |
| Ohio Revised Code Chapter 4112 | Employees of state, political subdivisions, and private employers that employ 4 or more employees. | Case law generally follows Title VII case law. Ohio case affirms that employees can maintain action for same sex sexual harassment that occurs because of sex. No case has yet affirmed application of sex stereotyping in situation involving sexual orientation or gender identity or expression. |
| Executive Order 2011-05K | Employees of the State of Ohio. | Discrimination on the basis of sexual orientation (not gender identity or expression). |
| Various city and county ordinances | Depends on ordinance. Some protect employees of specific city or county or employees of | Depends on ordinance. The ordinances generally offer some protection from discrimination on the basis of sexual orientation and/or gender identity or expression. Remedies vary, and |

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| | contracting entities, while others protect all employees within the city or county. | include fines, criminal offenses, and employment actions, such as reinstatement. Three ordinances provide civil causes of action. |
| Ohio tort of wrongful discharge in violation of public policy* | Employees covered by a city or county ordinance.* | *There is conflicting case law regarding this cause of action. However, the United States District Court for the Southern District of Ohio found that an employee could maintain an action in Ohio for wrongful discharge in violation of public policy based on the City of Columbus' prohibition of discrimination on the basis of sexual orientation. |
| EEO policy of particular employer | Employees of particular employer. | Protections vary. |
| Collective Bargaining Agreement | Employees covered by terms of agreement. | Protections vary, if applicable. Members with questions regarding collective bargaining agreement protections should contact their OEA Labor Relations Consultant or visit the Members Only portion of the OEA website at https://www.ohea.org/login-and-registration . |

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