

Political Affiliation Discrimination: Know Your Rights

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The employment attorneys at Katz Banks Kumin have observed an increased number of inquiries from individuals in both the public and private sector regarding employment protections based on political affiliation and activity.

The increased interest in this topic comes amid a highly charged political environment and the decision by the Trump Administration to terminate the employment of civil service employees across a wide array of government agencies. Additionally, many employees are unclear about their rights and obligations as their employers are [retreating](#) from commitments to corporate diversity, equity, and inclusion programs in response to the Administration's aggressive efforts to eradicate DEI initiatives.

These actions have left many employees in a state of confusion regarding their rights around these issues. Legal protections for discrimination based on political affiliation vary widely based on state law. Below is a broad overview of employment protections across the United States, but as these can vary even by local jurisdiction.

What is political affiliation discrimination?

Political affiliation discrimination is not uniformly defined across federal and state law. Generally, it refers to discrimination based on individual political beliefs or membership in a political group.

For example, the District of Columbia Human Rights Act [prohibits](#) all employers in the District from refusing to hire, terminating, or otherwise discriminating against any individual with respect to his or her "compensation, terms, conditions, or privileges of employment" based on the individual's political affiliation, which is [defined](#) as "the state of belonging to or endorsing a political party." As described below, other jurisdictions that offer political affiliation protections may use different definitions.

Even in jurisdictions that explicitly prohibit political affiliation discrimination, some actions that may be motivated by a person's political beliefs, such as damaging property or engaging in insurrection or other forms of criminal activity, are unlikely to constitute protected political expression.

What are the federal laws around political affiliation discrimination?

There are currently no federal protections for **private sector employees** from workplace discrimination based solely on political affiliation.

If you are a **federal employee** and you believe that you have been discriminated against because of your political affiliation, you may be entitled to some protections under the Civil Service Reform Act of 1978 (CRSA).

What are the state laws around political affiliation discrimination?

[An analysis](#) of state laws regarding political affiliation discrimination observed that protections between states vary widely, with some states offering no protection, while others offer robust protections of free speech and political affiliation in private employment. In addition to the information below, a useful resource to determine your state laws in this area can be found [here](#).

Which jurisdictions do not have protections against political affiliation discrimination?

- Alabama, Alaska, Arkansas, Florida, Kansas, Maine, Maryland (excluding some counties), Michigan, Mississippi, New Hampshire, New Jersey, North Carolina, Oklahoma, Pennsylvania, South Dakota, Texas, Vermont, Virginia, and Wisconsin currently do not have any specific protections against political affiliation discrimination in private employment.

Which jurisdictions have political affiliation protections?

Various U.S. jurisdictions offer at least some protection for private employees' political affiliation, but the laws vary widely in scope. For example, Louisiana provides some of the most robust protections for employees by prohibiting private employers from adopting policies, or attempting to control, direct, or influence the political affiliations or activities "of any nature or character" of its employees. (La. Stat. Ann. § 23:961). Other states have less restrictive laws, such as Kentucky, which more narrowly tailors its laws towards preventing employers from influencing or retaliating against an individual's voting activity. Local and/or county ordinances may also apply in some instances.

Three of the jurisdictions in which the firm maintains offices – California, New York, and Washington, D.C. – are among those that provide protection for employees against political affiliation discrimination:

- In California, employers are prohibited from "forbidding or preventing employees from engaging or participating in politics or from becoming candidates for public office" and "controlling or directing, or tending to control or direct the political activities or affiliations of employees." [California Labor Code § 1101](#). Additionally, the law also stipulates that "No employer shall coerce or influence or attempt to coerce or influence his employees through or by means of threat of discharge or loss of employment to adopt or follow or refrain from adopting or following any particular course or line of political action or political activity." [California Labor Code § 1102](#)
- In New York, employers and employment agencies may not refuse to hire, employ, license, discharge, or otherwise discriminate against an individual in compensation, promotion, or terms, conditions, privileges of employment because of the individual's political activities outside of working hours, off the employer's premises, and without the use of the employer's equipment or other property. [Y. Lab. Law § 201-d\(1\)\(a\)](#)

- In the District of Columbia, the District of Columbia Human Rights Act [prohibits](#) all employers in the District from refusing to hire, terminating, or otherwise discriminating against any individual with respect to his or her “compensation, terms, conditions, or privileges of employment” based on the individual’s political affiliation. [DCHRA 2-1402.21](#)

In total, the following jurisdictions have at least some political affiliation protections for private employees: Arizona, California, Colorado, Georgia, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Minnesota, Nebraska, Nevada, New York, North Dakota, Ohio, Oregon, South Carolina, Tennessee, Utah, Washington, West Virginia, and Wyoming, as well as Washington D.C.

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