



This article presents general guidelines for Ohio nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Nonprofit Employers: Understanding Ohio's Amended Law Against Employment Discrimination

Tara K. Burke, Esq. and Blythe McGregor, Law Clerk, *Jackson Lewis P.C.*

All Ohio employment discrimination claims filed on or after April 15, 2021 will be subject to the recently enacted Employment Law Uniformity Act (The Act). This Act arguably makes the most significant changes to Ohio anti-discrimination law that we have seen in the past 20 years. The law's prohibition against employment discrimination on the basis of race, color, religion, sex, military status, national origin, disability, age, or ancestry remains the same. For the most part, the changes involve what is required for employees to bring discrimination lawsuits and the defenses that employers can raise.

Many nonprofit employers in Ohio, except for nonprofits with few employees, are covered by both federal laws and Ohio laws prohibiting employment discrimination. Nonprofit employers with four or more employees in Ohio are covered by the Ohio anti-discrimination law. These changes that go into effect in April bring Ohio anti-discrimination law more in line with federal law.

How This Affects Nonprofit Employers

The new Act affects nonprofit employers with four or more employees in Ohio as follows:

- Before filing in court, in most circumstances, an employee must now file a charge with the Ohio Civil Rights Commission (OCRC).
- The Act shortens the statute of limitations for employment discrimination claims from six years to two years. This means an employee now has a much shorter time to file a claim for workplace discrimination.
- Similar to federal procedure, employees must obtain a "right to sue" letter from the OCRC before suing in court. However, before a "right to sue" letter is issued, an employee may seek a court order prohibiting the employer's alleged discriminatory conduct.
- The Act provides an affirmative defense to hostile work environment sexual harassment claims by adopting the affirmative defense created by federal case law. Employers, including nonprofits, may defeat a claim that an employee's supervisor created a hostile work environment by proving both: 1) the employer exercised reasonable care in preventing or promptly correcting harassment in the workplace, and 2) the employee unreasonably failed to take advantage of the employer's complaint procedures or other preventative or corrective opportunities.



- The Act limits personal liability for managers and supervisors. Managers and supervisors may still face liability under other statutes or caselaw, such as when the manager or supervisor acts outside the scope of their employment.
- Finally, the Act streamlines Ohio's age discrimination statutes aligning the process for filing age discrimination claims in Ohio with other forms of discrimination.

The Employment Law Uniformity Act provides advantages to nonprofit employers that prior law did not. As its name implies, the Act makes the procedures for various employment discrimination claims more uniform and brings Ohio employment discrimination procedure in line with federal employment discrimination procedure in many respects. For an employer, this makes the process of litigating an alleged discrimination claim more predictable. The shorter statute of limitations may reduce an employer's burden and costs associated with retaining employee records. Limited liability for individual supervisors and managers may also mean simplified litigation. The affirmative defense provides employers with steps to take to comply with Ohio employment discrimination law and potentially avoid hostile work environment liability.

Next Steps

Nonprofit employers should:

- Review their policies against discrimination, harassment and retaliation;
- Make sure the policies are available to all employees and employees know where to find them;
- Ensure that proper procedures are in place to receive and respond to concerns;
- Train all employees, especially managers and leadership, on these policies and available avenues to raise concerns; and
- Train leadership and human resources to receive and respond to complaints including proper investigation procedures and documentation practices.

Need Legal Advice?

If you are a PBPO client and have questions regarding the content of this article or need legal assistance, please contact us at info@pbpohio.org or (513) 977-0304.

Not a Client? Apply to become a client by submitting a [Request for Legal Assistance online](#), or contact us at info@pbpohio.org.

About the Authors: [Tara Burke](#) is the Knowledge Management Attorney for Jackson Lewis P.C.'s Disability, Leave & Health Management Practice Group. She works with employers to build positive and inclusive workplaces and reduce legal risk through policy development, training, and employment law counseling. Blythe McGregor is a Law Clerk at Jackson Lewis P.C.