

# SAIGE PARTNERS

YOUR FUTURE. YOUR SOLUTION.



## Sexual Orientation & Gender Identity Hiring Discrimination

BY BREANNA LEUZE

It is sad to think that the Woman's Suffrage movement started over 200 years ago and in 1920, women finally earned the right to vote which took them OVER 100 years to get that right. Here we are, almost 2020, and yet, women are still fighting for equal pay, equal jobs and for the discrimination to stop. I will add, that sexual discrimination and or gender identity discrimination is not just related to women. Men, too along with other gender identities are discriminated against every day. When as a society, are we going to make the change and view everyone as equal individuals?

Let us take a deeper dive into what exactly is sexual orientation discrimination and or gender identity discrimination as it relates to hiring and or offers of employment. Last week, I discussed with you, some potential illegal interview questions and I broke down the categories as to what an employer may discriminate and the way an interviewer may ask an illegal interview question. To continue this week I will discuss with you sexual orientation and gender identity as it relates to hiring and illegal interview questions an interviewer and or employer may ask you. It is important to note that this is only applicable to employers with 15+ employees.

To begin, what exactly is sex discrimination and or gender identity discrimination? As defined by the EEOC, sexual discrimination involves treating someone poorly or unfavorably because of that person's sex and or sexual orientation and or gender identity. Discrimination against an individual because of gender identity, inclusive of transgender status or because of sexual orientation is discrimination because of gender and sexual orientation are a protected class under Title VII.

In 2016, there were over 26,934 cases of sexual orientation and or gender identity discrimination reported to the EEOC.

Some examples of sexual orientation and discrimination are:

- Failing to hire an applicant because she is a transgender woman
- Failing to hire an employee because he is planning or has made a gender transition
- Denying an applicant equal access to a common restroom corresponding to the employee's gender identity.
- Denying an employee a promotion or offer of employment because he or she or they are straight or gay.
- Discriminating in terms, conditions, and or privileges of employment such as providing a lower salary to an employee because of sexual orientation, or denying spousal health insurance benefits to a female employee because her legal spouse is a woman while providing spousal health insurance to a male employee whose legal spouse is a woman.
- Discriminating against or harassing an employee because of his or her sexual orientation or gender identity, in combination with another unlawful reason, for example, on the basis of transgender status and race, or sexual orientation and disability.

The discrimination does not stop there. One could be discriminated against by other forms as well including but not limited to, fringe benefits (how much vacation one receives, or bonus etc...), termination decisions, promotions, layoffs, special projects and any condition or term of employment.

You may ask what are some common illegal interview questions as it relates to sexual orientation and or gender identity? Below are some examples.

- Do you need you use the men or ladies bathroom?
- What gender is your spouse?
- What is your sexual orientation?
- Are you in a committed relationship right now with a man or woman?
- Do you live with a man or a woman?
- How many times have you been married?
- Do you participate in any LGBT-Q parades as a participant?
- How does your spouse feel about you potentially working here?
- Do you always wear men's suits?
- Are you a man or a woman? We have a lot of intramural sports that our employees are involved in and we like to keep the players pretty even.
- Should we refer to you as Mr., Mrs., or Miss?
- I think wearing women's clothes would be distracting to the employee's. If offered a position, would you be comfortable wearing regular men's business attire?
- Are you transitioning to another gender?

Your potential response to answer all of these questions is very simple. The question you are asking is not necessary nor does it demonstrate my ability to successfully complete and or fulfill the requirements of this position. This question or any question as it relates to my origin is not indicative of my job performance.

A great resource if you have more questions related to sexual orientation and or gender identity discrimination is to visit [www.eeoc.gov](http://www.eeoc.gov). The site has more information and other resources for you to review. When it comes to interviewing and job searching, research and understand your rights as a potential candidate and potential employee. If someone is asking you these questions now and treating you differently, how would they treat you if you were to be offered a full-time position?

#### Works Cited

History.com Staff. (2009). The Fight for Women's Suffrage. Retrieved January 17, 2018, from <http://www.history.com/topics/womens-history/the-fight-for-womens-suffrage>  
Sex Based Discrimination. (n.d.). Retrieved January 17, 2018, from <https://www.eeoc.gov/laws/types/sex.cfm>