

Study on the Legal Implications of Workplace Discrimination of the Queer Community in US

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Abstract: This essay explores the legal implications of workplace discrimination against the queer community in the United States, reviewing the legal historical regarding the legitimisation of non-binary gender identities and non-heterosexual sexual orientations. It analyses the consequences of evolving legal interpretations of the Supreme Court and the presidential executive order of the Trump administration protect—or fail to protect—queer individuals from systemic bias and unequal treatment. This essay further outlines common forms and causes of workplace discrimination targeting queer employees in the United States. Addressing this inequality, the essay specifies the responsibilities assigned to the government and individual forms to advocate for workplace equality of queer employees despite the conservative political circumstance. Through a critical evaluation of legal frameworks and real-world practices, this essay highlights the urgent need for the implementation of stronger, more inclusive protective measures to restore and advance for workplace equity for the queer community in the United States.

1 INTRODUCTION

The queer community refers to a diverse and inclusive collective of individuals whose sexual orientations, gender identities, and/or gender expressions fall outside of heterosexual and cisgender norms. "Queerness" is generally seen as a form of self-identification to remedy the inadequate representation of narrower LGBT identities, an umbrella term signifying any non-hetero-cis-normative or deviantized gender/sexual identity or experience (Worthen, 2021). The queer community characterises the concepts of sex and gender as non-essentialist, fluid, and non-binary, specifically rejecting binary categories of gender and sexuality (Ruberg & Ruelos, 2020). An individual could use "queerness" to describe their sexual identity, gender identity, perspectives and connections relating to the established LGBT community.

For a long time, queer has been labelled a slur, an empowering identity, a theoretical framework, and a catchall term among its more significant definitions. Originally a pejorative term expressing contempt and disapproval at its designated demography, the term "queer" was later reclaimed by activists and

intellectuals in opposition of all absolute and definitive categorization of sexual identity and attraction (Kunzel, 2018). The term not only challenges the socially normalised heterosexuality and cis-gendered identification but also opposes society's attempt at defining and labelling human gender and attraction; it is confrontational and defiant, significant both politically and in terms of activism (Kunzel, 2018).

Today, the queer community in the US is very much still a marginalised population and seen as the minority. Within the US queer community, the majority would specify their gender identity as being non-binary (Ruberg & Ruelos, 2020). The US queer demography is younger and more highly educated in comparison to other demographics that are categorised by their respective sexual orientation and identity (Ruberg & Ruelos, 2020). Compared to the sexual orientation of homosexuality, queer people are exposed to more discrimination due to a lack of understanding from the public.

Discrimination targeting the queer community's gender identity and sexual attraction experienced by the queer community is common. It could be classified according to its form and the particular setting where it occurs. Queer discrimination can be

verbal harassment, microaggression or physical violence occurring under circumstances of bathroom-seeking, healthcare application, job application, political participation and legal involvement (Nadal et al., 2016). Discrimination in the workplace is one of the most predominant forms of discrimination faced by the queer community.

Queerness has been a cause of discrimination that affects negatively job application processes and claims of equal pay and promotions along an individual's career developmental path. More than half of the queer community have reported experiences of workplace discrimination. More specifically, of the discriminated demography, 13%-56% were fired, 13%-47% were denied employment, 22%-31% were harassed, and 19% were denied a promotion due to their gender identity (Badgett et al., 2007).

There are currently no specific US federal law that prohibits discrimination based on sexual orientation or gender identity, but Title VII of the 1964 Civil Rights Act forbids employers with 15 or more employees from discriminating on the basis of sex (American Civil Liberties Union, 2020). More contemporary court interpretations of Title VII have incorporated the banning of discrimination based on sexual orientation or gender identity. This position is also upheld by the US Supreme Court and the U.S. Equal Employment Opportunity Commission (EEOC) through legal precedents. However, recent executive orders by the U.S. president declare a tightening of governmental recognition of gender identities to the binary male and female as assigned biologically at birth (Trump, 2025). This official denial of non-binary self-identification of gender may reverse previous efforts at correcting queer discrimination and further aggravate workplace hostility towards the queer community.

This essay will focus on workplace discrimination as experienced by the queer community in the US, analysing the manifestation of discriminatory prejudices and stigmatised notions on "queerness" into workplace inequality, and evaluating the measures implemented by the US government against this form of discrimination. This research becomes more significant and pertinent with the recent drastic shifts in society's perception and acceptance of the queer community, as signified by an increase in media representation of queerness and online activism that deepens society's understanding of the queer community.

2 WORKPLACE DISCRIMINATION AGAINST THE QUEER COMMUNITY: REALITY AND CURRENT DEVELOPMENT OF REGULATIONS

2.1 Current Situation and Its Manifestation

Societal devaluation and stigmatisation of the queer identity justifies the dehumanisation of queer employees in the workplace. Homophobic and heterosexual beliefs establish the superiority of heterosexuality and binary gender constructs in comparison to non-heterosexual attraction types and non-binary gender theories, which are recognised as discredited and inferior (Torres - Castro & Morales-Villena, 2025). Such beliefs legitimised the ignorance of basic human rights, dignity and respect of a queer employee. Such fixated impressions of the queer community are reinforced through the use of derogative language and adherence to certain religious ideologies.

Workplace discrimination of the queer community stems from the social construction of binary gender and sexuality classification. Any defiance is in turn seen as a violation of societal moral values and is therefore penalised by economic barriers (Worthen, 2021). The queer community is constantly victimised and pathologised for their nonconformity (Worthen, 2021). Queer people are often unable to comply to gender-specific workplace regulations such as dress codes due to the ambiguity of their gender expression (Mishel, 2016). This will cause significant incomprehension from their colleagues, leaders and clients in workplace exchange, leading to increasing instances of discriminatory misgendering and forced gendering of queer employees.

Workplace discrimination of the queer community starts at the hiring stage, targeting affiliations and self-identifications of queerness in the resume. Consequently, discriminatory employers will refuse to consider such resumes on equal ground with their counterparts conforming to the societal expectations of sexual attraction and gender identity (Mishel, 2016). Multiple studies have shown that of substantively identical resumes, the copy indicating an identification of queerness is less likely to progress to the interview stage (Mishel, 2016). This holds for

both queer men and women, with queer women getting 30% less callbacks if their resume contained a queer indicator, in contrast with the likelihood of receiving callbacks from the submission of the resume that is rid of queer inclinations but otherwise unaltered (Mishel, 2016). The queer community also faced differential treatment in the assignment of earnings. The queer community faces a smaller labour market with the extra constraint of discriminatory employers that refuse to hire them (Torres - Castro & Morales-Villena, 2025). Therefore, the remaining enterprises could exploit this asymmetry between labour supply and demand by lowering wages for queer employees and still receive applications simply because of their willingness to hire.

Stereotypical placement into professional fields based on the queer sexual identity and orientation is a common occurrence. Ironically, women who do not comply with traditional societal expectations of heterosexual attraction or binary self-identification of gender are better able to initiate breakthroughs in conventionally male-dominated industries and receive a higher income than cisgender, heterosexual women because of the stereotypical impression of them being "more masculine" (Black et al., 2003). The advantages of such misconceptions are quickly subverted by the creation of a prejudiced and toxic workplace environment accustomed to misogynistic misgendering and denial of the feminine qualities of those queer women employees (Black et al., 2003). In comparison, queer men experience marginalisation and contempt for their lack of masculinity and are therefore shut off from job opportunities (Black et al., 2003). Queer men taking up the domestic role within homosexual marriages are therefore unable to work (Black et al., 2003). The queer community, in its ability to reverse traditional societal roles and detach qualities of "domesticity", "breadwinner" from assignments via gender faced wide incomprehension from the wide public, leading to marginalisation and a lack of accommodation in their chosen professional field.

2.2 Development of Legal Regulations

There has been a void in specific and targeted federal measures against discrimination based on sexual orientation or gender identity. Proposals to amend the 1964 Civil Rights Act have not been addressed and responded to formally (Eskridge, 2017). Proposed federal protections ensuring workplace equality for

the queer employee have a history of repeated failure, and no proposals have been successfully materialised on the federal level. Historical attempts include the Equality Act of 1974 and the Civil Rights Amendment of 1975 (Eskridge, 2017).

The regulation of workplace discrimination against the queer community also seems to have returned to its starting point. Initially, judicial practice did not recognise the applicability of the relevant provisions of the Civil Rights Act to queer individuals. Legal precedents of *Holloway v. Arthur Andersen and Company* (1977), as well as *Desantis v. Pacific Telephone and Telegraph Company* (1979) have seen the Supreme Court's rigidity in abiding strictly the "traditional sex notion" and defining narrowly the causes of sex discrimination as "on the basis of gender", refusing any judicial extension to include the cause of "sexual preference". Marginal softening of the Supreme Court's stance and attitude slowly proceeded with the legitimisation of same sex harassment in the legal precedent of *Oncale v. Sundowner Offshore Services, Inc.* (1998).

Into the 21st century, a more extended interpretation of Title VII of the Civil Rights Act has been gradually accepted by the legislative authorities including the US Supreme Court and the EEOC. The more contemporary judicial interpretation includes certain categories of non-binary sexual orientation and gender identity in "the protected class.....by sex" as stated in the Act (Civil Rights Act, 1964). The US Supreme Court officially established this understanding in its 2020 ruling of *R.G. & G.R. Harris Funeral Homes Inc. v. Equal Employment Opportunity Commission* (EEOC), whereby the employer is penalised for terminating employment on the basis of transgender or transitioning status of the employee and her refusal to conform to sex-based stereotypes. Below the federal level, 22 states, 3 territories and D.C. areas have explicit state laws forbidding discrimination based on sexual orientation and gender identity (Movement Advancement Project, 2020).

However, an executive presidential order in January 2025 "defines sex as an immutable binary biological classification" and replaces "gender identity" with "gender ideology" to represent "a spectrum of gender separate from one's sex" (Trump, 2025). The executive presidential action has not only imposed restrictions upon occasions where an individual's self-proclaimed gender identity will be recognised in place of their biological sex, but also introduced new vocabulary in defining the queerness

description (Trump, 2025). The additional requirement that the government avoid actions to "promote gender ideology" have created confusion in uncertainty in affirmation and acknowledgement of the queer self-identification, further detaching societal views of the queer community from their self-identification.

In conclusion, the fight against workplace discrimination towards the queer community in the United States has historically faced the challenge of systemic resistance, where the legislative efforts to advocate for queer workplace equality are repetitively ignored and suppressed. Despite legislatively progressive advancements acknowledging the punishable nature of workplace discrimination on the basis of sexual orientation and gender identity, a lack of codified federal legislation, as well as the absence of a unified legal framework incorporating both federal and state regulations continue to expose queer individuals to legal uncertainty and vulnerability. The recent presidential executive order reinstating the state's exclusive recognition of sex by birth, and framing gender identity inaccurately as "gender ideology", marks a significant setback not only by eroding institutional recognition of queer self-identification, but also increases public confusion and misunderstanding regarding the queer community. As such, the pursuit of equal rights for the queer community remains a critical challenge for US.

3 MEASURES TO PROMOTE WORKPLACE EQUALITY FOR QUEER GROUPS

3.1 Legislative Measures

To counteract the effects of workplace discrimination of the queer community that have been aggravated with the empowerment of the Trump administration, further legislative clarification is required. The enactment of President Trump's presidential executive order disregards decades of medical science and legal precedent that established protective measures for transgender and non-binary Americans by erasing the legitimacy of their existence (Trump, 2025). This threat has prompted the constitutional reintroduction of the Equality Act, amended the 1964 Civil Rights Act and enshrining federal protections against discrimination based on sexual orientation and gender identity in employment,

housing, education, public accommodations, jury service, and federally funded programs (Keller, 2025).

Furthermore, to counter traditional stigmatization of queer employees, legislative measures should repeal the normalisation and justification of the discriminatory selection process of employees, based on religious means. The government has traditionally allowed certain federal contractors and subcontractors to establish a hiring procedure following their religious beliefs (Medina et al., 2021). This harms the working conditions of the queer community, as it will be possible for the company to use religion as a facade to mask their discrimination, and to deny queer job applicants job opportunities while suffering no negative consequences. Rather, the government should maintain that traditional interpretations of religious beliefs should not be a criterion to evaluate job applicants, restoring workplace professionalism.

3.2 Corporate Initiatives

To appropriately address any discomfort experienced by the queer community in workplace due to a lack of consideration for their gender identity and physicality, firms need to construct facilities to ensure their occupational safety and health. The inclusion of unisex or non-gendered bathrooms not only provides an alternative option for non-binary and gender fluid employees, rather than forcing them to conform to a system of gender identification that conflicts with their self-identification but also reflects the company's supportive and inclusive stance (Medina et al., 2021). Queer workers are therefore relieved all pressure and negative emotions that may arise when they are forced to misgender themselves.

To ensure workplace equality for the queer community, the employers must restructure the company's welfare system. Increased workplace participation of the queer community prompts the firms to adopt more inclusive definitions of family when providing employees with the opportunity and access to support paid family leaves and medical leaves (Medina et al., 2021)

. Restrictive interpretation of gendered roles and composition within a familial unit creates unnecessary barriers for queer employees that prevent them from securely and certainly accessing workplace accommodations. Queer employees are more likely to seek employment, prolong their professional life and push through potentially work-

disrupting personal issues when they are entitled to clearly and broadly defined measures in consideration of their sexual orientation and gender identity (Medina et al., 2021).

Allowing the freedom of expression for queer employees, encouraging their participation in discussions of family and personal life is also an effective strategy to enhance their work experience. Policies allowing queer disclosure, visibility, and recognition relieves the psychological burden of "being different", "having to hide your difference", that is often felt by queer employees when they initially participate in work (Medina et al., 2021). Simple measures such as encouraging queer employees to decorate their office with family photos, and warmly compliment their family when making small talks in the workplace can ease the initial discomfort and nervousness of queer employees, as a welcoming corporate message has been sent (Medina et al., 2021). The removal of such psychological barriers will not only improve a queer employee's motivation and enthusiasm for work, but also increase the collective spirit of the workplace.

3.3 Mutual Regulation and Oversight

Additionally, the firm should actively seek out clarification and achieve coordination with legislative accommodations to fight for equal treatments for its queer employees. Firms should advocate that programs managed by the US Department of Labour and Department of Commerce acknowledge the gender identity of transgender individuals and use their self-identification to assess eligibility, revoking the currently effective presidential executive order that only admits citizens' gender at birth (Medina et al., 2021). By clarifying the criteria for participation in programs such as Women's Bureau programs, Small Business Administration women and disadvantaged workers programs, the Minority Business Development Agency programs to include the queer community, the state will be able to adequately address discrimination faced by this population, marginalised because of their sexual orientation and gender identity (Medina et al., 2021).

The effectively addressment of workplace discrimination against the queer community demands a joint effort between government regulation and firms. Mutual supervision and monitoring between the two forms of authority determining the working conditions of a queer employee is necessary to prevent the overconcentration of influence to one

party, avoiding the inflation of queer workplace discrimination that stems from the imbalance and a lack of checks and balances on the overly powerful authority. Through collaboration, both entities can implement equitable policies and ensure accountability. This dual approach strengthens the institutional framework needed to protect queer individuals from systemic bias and exclusion.

4 CONCLUSION

In conclusion, the legal implications of workplace discrimination against the queer community in the United States reveal a complex and evolving struggle, corresponding to the alternating claims to the power to make political decisions between progressive and conservative parties. Indeed, the extension of federal protections to encompass sexual orientation and gender identity under Title VII of the Civil Rights Act has been successfully achieved through the Supreme Court's updated legal interpretation of discrimination cases. However, this judicial progress conflicts in its political intent with the recent presidential executive order that denies state acknowledgment of non-binary gender identities.

Historical contempt and belittling of the queer community resurfaces with an increasingly conservative political atmosphere influenced by the newly elected Trump Administration. Recognition and acknowledgement of non-binary gender identities and gender identities different from what is specified at birth, adopted later by the queer community are revoked as a consequence. It is therefore anticipated that conceptual misunderstanding of the queer community will be deepened with this governmental refusal to refer to their queer identity under all official circumstances. The queer community will endure enhanced psychological pressure and literal marginalisation with blatant societal ignorance of a crucial makeup of their personality.

Workplace discrimination against the queer community occurs in forms of hiring bias, wage suppression, and exclusion due to nonconformity in gender expression and identity. Queer employees are frequently forced to misgender themselves, conforming to gender norms to secure their employment. Stereotypes also lead to unequal access to industries—queer women may enter male-dominated fields but face toxic environments, while queer men are excluded for lacking perceived

masculinity. These systemic biases reinforce marginalisation and hinder equal participation, dignity, and economic opportunity for queer people in the workplace.

True workplace equality demands not only the repeal of discriminatory exemptions but also proactive corporate reforms—such as inclusive facilities, broader definitions of family benefits, support for queer visibility, and alignment with inclusive federal programs. A fully equitable and affirming professional environment can only be achieved when both legal frameworks and workplace cultures are reshaped to recognize, protect, and celebrate the diversity of the queer community. Collectively, these measures promote a genuinely equitable and affirming workplace for all.

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