



July 22, 2024

Sexual Orientation and Gender Identity Discrimination

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Sexual Orientation and Gender Identity Discrimination

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Title VII prohibits an employer from discriminating against an applicant or employee with regard to hiring, firing, or taking other adverse actions related to terms of employment based on race, color, religion, sex, and national origin. 42 U.S.C. § 2000e-2(a)(1). In *Bostock v. Clayton County, Georgia*, 140 S.Ct. 1731, the United States Supreme Court held that when an employer discriminates against a person based on their sexual orientation or gender identity, it violates Title VII. The Court reasoned that if the employer fires the male employee for no reason other than the fact he is attracted to men but does not fire a woman who is attracted to men, the employer discriminates against him for traits or actions it tolerates in his female colleague. The Court explained that it is impossible to discriminate against a person for being homosexual or transgender without also discriminating against that individual based on sex. If changing the employee's sex would have yielded a different choice by the employer—a statutory violation of Title VII has occurred.

Under Title VII, it is unlawful to subject an employee to discrimination, harassment, or retaliation based on sexual orientation or gender identity. Examples of practices that may violate Title VII based on sexual orientation or gender identity may include, but are not limited to:

- Making offensive or derogatory remarks about someone's sexual orientation or gender identity (e.g., being gay or straight)
- Intentionally and repeatedly using the wrong name or pronouns to refer to a transgender person
- Keeping LGBTQ+ employees out of public facing positions
- Prohibiting a transgender person from dressing or presenting consistent with the person's gender identity
- Retaliating against a person based on the person's sexual orientation or gender identity

The EEOC has also taken the position that employers may not deny employees equal access to bathrooms, showers, or locker rooms that correspond with the person's gender identity.

More information about discrimination based on sexual orientation can be found on the EEOC's website.

Source URL: <https://www.ctas.tennessee.edu/eli/sexual-orientation-and-gender-identity-discrimination>