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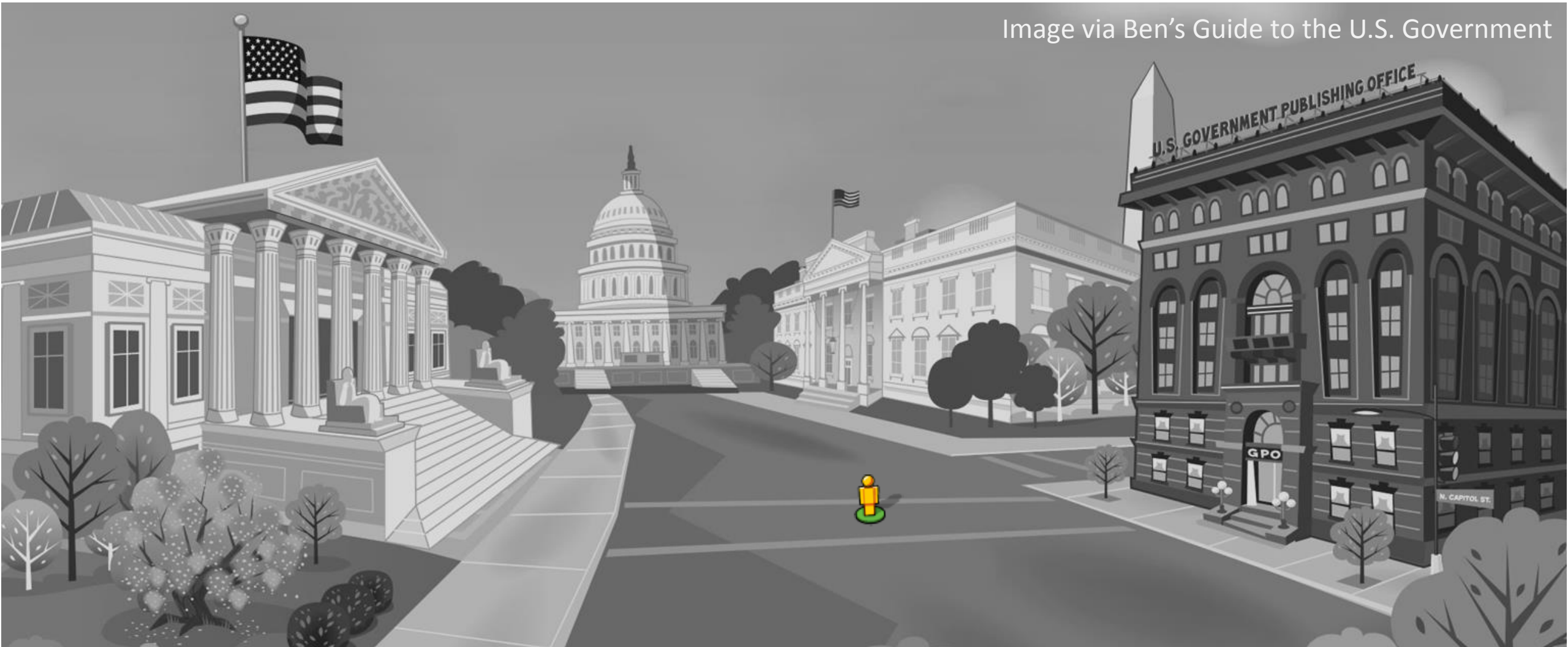


Upcoming Accidental Librarian Webinars

- June 15: Congressional procedures with Morgan Stoddard
- July: data.gov and APIs with Julia Frankosky
- August 8: Congressional research redux with Rosalind Tedford
- September: National Science Foundation resources with Nina Exner
- Brought to you by the North Carolina Library Association's Government Resources Section. Join us! <http://www.nclaonline.org/government-resources>

Legal Research Basics Redux

Image via Ben's Guide to the U.S. Government



Presented by **Jennifer L. Behrens**, Head of Reference Services, Duke University, Goodson Law Library
NCLA "Help! I'm an Accidental Government Information Librarian" Webinar # 58 / May 17, 2016

Legal Research Basics Redux

- **Introduction: Legal Reference & Legal Referrals**
- **U.S. Legal Research: Overview & Key Sources**
 - Legislative materials
 - Executive materials
 - Judicial materials
- **Finding “The Law”**
 - Getting started with secondary sources
 - Courtney’s case: A sample search process
 - “Good law”: Updating your findings

Legal Reference ≠ Legal Advice!

- Manage expectations with library users about the **limits to your assistance**.
- Have a list of **area legal referral services** handy, or bookmarked.

Policy on Legal Reference and Legal Advice:

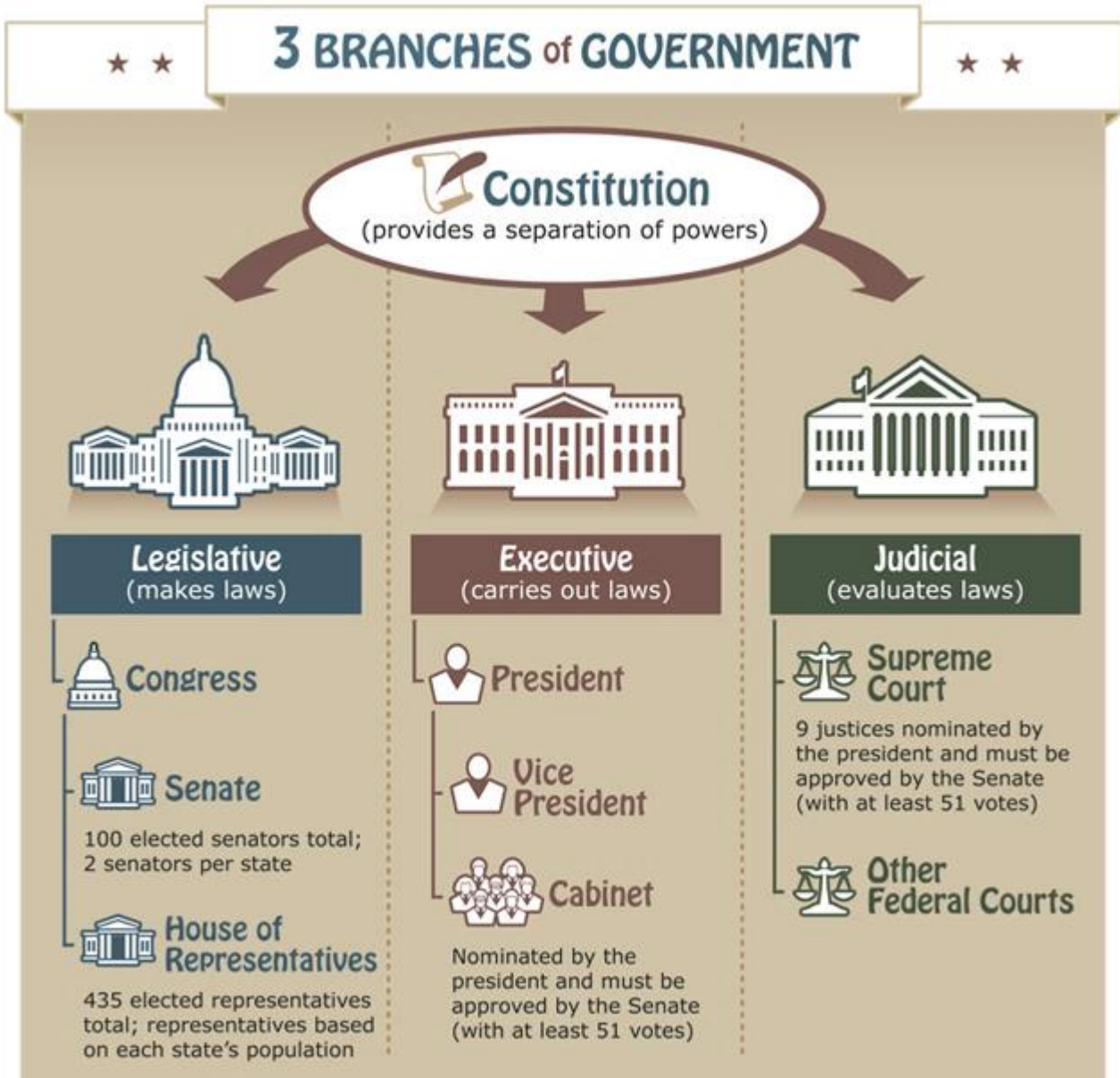
Reference librarians help you use the library and its collections, but they cannot do legal research for you. Librarians locate information, identify relevant resources, develop search strategies for catalogs, databases, the web and indexes and provide assistance in legal research methodology. The reference staff cannot provide substantive advice on a legal problem, interpret legal materials for you, or explain how the law applies to your particular case.

Legal Referral Services

- [Legal Aid](#) (income requirements, but free if users qualify)
- American Bar Association's [FindLegalHelp.org](#) map (not a free service, but many state bar associations offer low-cost initial consultations)
- [Law school](#) clinics or pro bono offices (generally referred through [Legal Aid](#))
- [Law school](#) or local law libraries: same limitations on legal advice, but may have more specialized resources to get a self-represented litigant started.

U.S. Legal Research:

Primary Sources of Law



Sources of Law (federal system): image via Kids.gov

- **State systems** are similar to the federal; some variations in organization and/or nomenclature.
- In both state and federal legal systems, *each* of the three government branches create **primary law** (official government pronouncements which have the force of law).

The Legislative Branch

Statutes/Laws

Codes

How a Bill Becomes a Law

- If you've forgotten, watch [*Schoolhouse Rock!*](#)
- For information on researching the **legislative history** documents created along the way, check out library guides like our [Federal Legislative History](#) or...
- Past **NCLA "Help!" webinars:**
 - [Tracking Legislation](#) (2014)
 - [Lights-Camera-Action! Congressional Committee Hearings](#) (2014)
 - [Secrets of the Congressional Record](#) (2013)
 - [Climbing Capitol Hill: Congressional Research Basics](#) (2013)
 - [NC Legislative History](#) (2011)

Statute Publications

Session Laws

Chronological compilation of enactments by that year's legislature.

Good for **historical research purposes** or for finding **very recent laws**.

Code

Subject-based arrangement of the **current laws in force** (“of a **general and permanent nature**”), updated to reflect subsequent amendments.

Which publication do I use?

If you want to know...	Then you need to consult...
What the Civil Rights Act looked like as it was originally passed by Congress in 1964.	The session law version from <i>U.S. Statutes at Large</i> (frozen in time, does not reflect any later amendments).
The current equal employment statute , outlining which classes of people are protected under federal anti-discrimination law .	The latest edition of the <i>United States Code</i> (current laws in force, includes later amendments).
What protected employment classes are found under North Carolina state law .	The latest edition of the state code, <i>North Carolina General Statutes</i> (current laws in force, includes later amendments).

Tools for finding statutes

- Online versions are **keyword-searchable**.
- **Subject indexes** will point you to code sections on a particular topic.
- **Popular Name Tables** give you citation information based on the “short title” of the legislation (*e.g.*, Civil Rights Act of 1964).
- **50-state surveys**: secondary source compiling citations to each state’s laws on a particular topic.

Selected sources for federal statutes

Session Laws

- [Public & Private Laws, FDsys](#)
(1995 – present)
- [U.S. Statutes at Large, FDsys](#)
(1951 – present)
- [U.S. Statutes at Large, Law Library of Congress](#)
(1789-1950)
- [U.S. Statutes at Large Library, HeinOnline](#) \$
(1789 – present)

U.S. Code

- [U.S. Code, Office of Law Revision Counsel](#)
(current code only)
- [U.S. Code Service \(annotated\), LexisNexis Academic](#) \$
(current code only)
- [U.S. Code PDFs, FDsys](#)
(1994 ed. – present)
- [U.S. Code PDFs, Library of Congress/Hein](#)
(1925 – 1988 ed.)
- [U.S. Code library, HeinOnline](#) \$
(1925 – present)



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Civil Rights Act of 1866

Apr. 9, [1866, ch. 31](#), 14 Stat. 27

Civil Rights Act of 1957

Pub. L. [85-315](#), Sept. 9, 1957, 71 Stat. 634
Short title, see [52 U.S.C. 10101](#) note

Civil Rights Act of 1960

Pub. L. [86-449](#), May 6, 1960, 74 Stat. 86
Short title, see [52 U.S.C. 10101](#) note

Civil Rights Act of 1964

Pub. L. [88-352](#), July 2, 1964, 78 Stat. 241
Short title, see [42 U.S.C. 2000a](#) note

Civil Rights Act of 1964 Commemorative Coin Act

Pub. L. [110-451](#), Dec. 2, 2008, 122 Stat. 5021 ([31 U.S.C. 6101](#))

Civil Rights Act of 1968

Pub. L. [90-284](#), Apr. 11, 1968, 82 Stat. 73
Short title, see [42 U.S.C. 3601](#) note

Civil Rights Act of 1991

Pub. L. [102-166](#), Nov. 21, 1991, 105 Stat. 1071
Short title, see [42 U.S.C. 1981](#) note

Civil Rights Attorney's Fees Awards Act of 1976

Pub. L. [94-559](#), Oct. 19, 1976, 90 Stat. 2641
Short title, see [42 U.S.C. 1988](#) note

Civil Rights Commission Act of 1978

Pub. L. [95-444](#), Oct. 10, 1978, 92 Stat. 1067

- **Pub. L. No. link:** table illustrating where individual sections of the session law can be found in the current *U.S. Code*
- **Stat. link:** scan of the original Public Law from *U.S. Statutes at Large*
- **U.S.C. link:** text of that section of the current *U.S. Code*

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FDsys, U.S. Statutes at Large

[-] Year 1964, 88th Congress, 2nd Session, (Volume 78)

[PDF](#) | [More](#)

[+](#) Bills Enacted into Laws

[+](#) Concurrent Resolutions

[+](#) Constitutional Amendment

[+](#) Private Laws

[+](#) Presidential Proclamations

[\[-\]](#) Public Laws

78 Stat. 240 - An Act to further amend the Reorganization Act of 1949, as amended, so that such act will apply....

Public Law 88-351 (H.R. 3496). Thursday, July 2, 1964.

[PDF](#) | [More](#)

78 Stat. 241 - An Act to enforce the constitutional right to vote, to confer jurisdiction upon the district....

Public Law 88-352 (H.R. 7152). Thursday, July 2, 1964.

[PDF](#) | [More](#)

78 Stat. 268 - An Act to amend the Federal Credit Union Act to allow Federal credit unions greater flexibility....

Public Law 88-353 (H.R. 8459). Thursday, July 2, 1964.

[PDF](#) | [More](#)

78 STAT.]

PUBLIC LAW 88-352—JULY 2, 1964

241

Public Law 88-352

AN ACT

July 2, 1964
[H. R. 7152]

To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1964".

Civil Rights
Act of 1964.

TITLE I—VOTING RIGHTS

SEC. 101.

Section 2004 of the Revised Statutes (42 U.S.C. 1973d) as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and as further amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), is further amended as follows:

(a) Insert "1" after "(a)" in subsection (a) and add at the end of subsection (a) the following new paragraphs:

"(2) No person acting under color of law shall—

"(A) in determining whether any individual is qualified under State law or laws to vote in any Federal election, apply any

Voting quali-
fications.

Internal session law organization & section numbering

Federal financial assistance is to provide employment.

SEC. 605. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

TITLE VII—EQUAL EMPLOYMENT OPPORTUNITY

DEFINITIONS

SEC. 701. For the purposes of this title—

(a) The term “person” includes one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(b) The term “employer” means a person engaged in an industry affecting commerce who has twenty-five or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or a State or political subdivision thereof, (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954: *Provided*, That during the first year after the effective date prescribed in subsection (a) of section 716, persons having fewer than one hun-

“Person.”

“Employer.”

68A Stat. 163;

74 Stat. 534.

26 USC 501.

ment of individuals to perform work connected with the educational activities of such institution.

DISCRIMINATION BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN

SEC. 703. (a) It shall be an unlawful employment practice for an employer—

Unlawful practices.

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

Employers.

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

Employment agency.

(c) It shall be an unlawful employment practice for a labor organization—

Labor organization.



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Short title, see [52 U.S.C. 10101](#) note

Civil Rights Act of 1960

Pub. L. [86-449](#), May 6, 1960, 74 Stat. 86
Short title, see [52 U.S.C. 10101](#) note

Civil Rights Act of 1964

Pub. L. [88-352](#), July 2, 1964, 78 Stat. 241
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Civil Rights Act of 1964 Commemorative Coin Act

Pub. L. [110-451](#), Dec. 2, 2008, 122 Stat. 5021 ([31 U.S.C. 5112](#) note)

Civil Rights Act of 1968

Pub. L. [90-284](#), Apr. 11, 1968, 82 Stat. 73
Short title, see [42 U.S.C. 3601](#) note

Civil Rights Act of 1991

Pub. L. [102-166](#), Nov. 21, 1991, 105 Stat. 1071
Short title, see [42 U.S.C. 1981](#) note

Civil Rights Attorney's Fees Awards Act of 1976

Pub. L. [94-559](#), Oct. 19, 1976, 90 Stat. 2641
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Civil Rights Commission Act of 1978

Pub. L. [95-444](#), Oct. 10, 1978, 92 Stat. 1067

- **Pub. L. No. link:** table illustrating where individual sections of the session law can be found in the current *U.S. Code*

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88-351

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Act Section	Stat. Pg.	Title					
			701	<u>253</u>	42	<u>2000e</u>	
			702	<u>255</u>	42	<u>2000e-1</u>	
			703	<u>255</u>	42	<u>2000e-2</u>	
			704	<u>257</u>	42	<u>2000e-3</u>	
			705	<u>258</u>	42	<u>2000e-4</u>	
1	<u>241</u>	42	705(e)	<u>258</u>	5	2204, 2205	Rev. T.
101	<u>241</u>	52	706	<u>259</u>	42	<u>2000e-5</u>	
201	<u>243</u>	42	707	<u>261</u>	42	<u>2000e-6</u>	
202	<u>244</u>	42	708	<u>262</u>	42	<u>2000e-7</u>	
203	<u>244</u>	42	709	<u>262</u>	42	<u>2000e-8</u>	
204	<u>244</u>	42	710	<u>264</u>	42	<u>2000e-9</u>	
205	<u>244</u>	42	711	<u>265</u>	42	<u>2000e-10</u>	
206	<u>245</u>	42	712	<u>265</u>	42	<u>2000e-11</u>	
207	<u>245</u>	42	713	<u>265</u>	42	<u>2000e-12</u>	
301	<u>246</u>	42	714	<u>265</u>	42	<u>2000e-13</u>	
302	<u>246</u>	42	715	<u>265</u>	42	<u>2000e-14</u>	
303	<u>246</u>	42	716(a), (b)	<u>266</u>	42	<u>2000e nt</u>	
304	<u>246</u>	42	716(c)	<u>266</u>	42	<u>2000e-15</u>	
401	<u>246</u>	42	717		42	<u>2000e-16</u>	
402	<u>247</u>	42	718		42	<u>2000e-17</u>	

§2000e-2. Unlawful employment practices

Current *U.S. Code* text & historical notes

(a) Employer practices

It shall be an unlawful employment practice for an employer-

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, **because of such individual's race, color, religion, sex, or national origin**; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) Employment agency practices

It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any

(3) Any action not precluded under this subsection that challenges an employment consent judgment or order described in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28.

(Pub. L. 88-352, title VII, §703, July 2, 1964, 78 Stat. 255 ; Pub. L. 92-261, §8(a), (b), Mar. 24, 1972, 86 Stat. 109 ; Pub. L. 102-166, title I, §§105(a), 106, 107(a), 108, Nov. 21, 1991, 105 Stat. 1074-1076 .)

REFERENCES IN TEXT

The Subversive Activities Control Act of 1950, referred to in subsec. (f), is title I (§§1-32) of act Sept. 23, 1950, ch. 1024, 64 Stat. 987 , which is classified principally to subchapter I (§781 et seq.) of chapter 23 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

The Controlled Substances Act, referred to in subsec. (k)(3), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242 , which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Federal Rules of Civil Procedure, referred to in subsec. (n)(2)(A), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1991-Subsec. (k). Pub. L. 102-166, §105(a), added subsec. (k).

Subsec. (l). Pub. L. 102-166, §106, added subsec. (l).

Selected sources for state statutes

Session laws	Codes
<ul style="list-style-type: none">• Access through state legislature website (links via Cornell LII) (NC: back to 1959)• Session Laws library, HeinOnline \$ (18th century – present)	<ul style="list-style-type: none">• Access through state legislature website (NC General Statutes)• State Statutes, Codes & Regulations, LexisNexis Academic \$ (current codes only)• State Statutes: A Historical Archive library, HeinOnline \$ (various dates)

Sidebar: Local ordinances

- County, city and/or town **ordinances** regulate local issues such as noise and animal control.
- Codes of ordinances are often posted for free on local government websites, or via:
 - [Municode Library](#)
 - [eCode 360](#)

The Executive Branch

Rules/Regulations

The rulemaking process

Delegation

- **Legislature assigns (“delegates”) its rulemaking power** to executive branch agency or department.
- Usually highly **technical or specialized** area.

Promulgation

- **Executive agency now has power to make (“promulgate”) rules/regulations** within the scope of the legislature’s grant of power.
- Once promulgated, regulations have the same **force of law** as if the legislature had passed it directly.

“Notice & comment” rulemaking

Proposed rule is announced and published in administrative register.



Period for **public comments** to the regulating body.



Finalized rule is re-published in administrative register
with summary of public comments.



Current rules in force are codified in an **administrative code**.

Administrative registers/codes

Federal Register

- FederalRegister.gov
(1994 – present)
- [FDsys](#) (1994 – present)
- [Federal Register PDFs](#),
Library of Congress/Hein
(1936 – present)
- [LexisNexis Academic](#) \$
(1936 – present)

Code of Federal Regulations

- [e-CFR](#), GPO (unofficial, but kept the most up-to-date)
- [FDsys](#) (1996 – present)
- [C.F.R. PDFs](#), Library of Congress/Hein
(1938 – present)
- [LexisNexis Academic](#) \$ (current ed.)

State administrative registers & codes:

[State Law Listings](#), Cornell Legal Information Institute

gion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Establishment.

SEC. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President

RULES AND REGULATIONS

SEC. 713.

(a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person

60 Stat. 237.
5 USC 1001
note.

711	265	42	2000e-10	
712	265	42	2000e-11	
713	265	42	2000e-12	
714	265	42	2000e-13	

From Title 42-THE PUBLIC HEALTH AND WELFARE

CHAPTER 21-CIVIL RIGHTS

SUBCHAPTER VI-EQUAL EMPLOYMENT OPPORTUNITIES

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§2000e–12. Regulations; conformity of regulations with administrative procedure provisions; reliance on interpretations and instructions of Commission

(a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this subchapter. Regulations issued under this section shall be in conformity with the standards and limitations of subchapter II of chapter 5 of title 5.

(b) In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this subchapter if he pleads and proves that he failed to publish and file such information in good faith, in conformity with the instructions of the Commission issued under this subchapter regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this subchapter.

(Pub. L. 88–352, title VII, §713, July 2, 1964, 78 Stat. 265 .)

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Related Resources

The Code of Federal Regulations

ELECTRONIC CODE OF FEDERAL REGULATIONS

Electronic Code of Federal Regulations e-CFR™

- Title 17 - Commodity and Securities Exchange
- Title 18 - Conservation of Power and Water Resources
- Title 19 - Customs Duties
- Title 20 - Employees' Benefits
- Title 21 - Food and Drugs
- Title 22 - Foreign Relations
- Title 23 - Highways
- Title 24 - Housing and Urban Development
- Title 25 - Indians
- Title 26 - Internal Revenue
- Title 27 - Alcohol, Tobacco Products and Firearms
- Title 28 - Judicial Administration
- Title 29 - Labor**
- Title 30 - Mineral Resources
- Title 31 - Money and Finance: Treasury
- Title 32 - National Defense
- Title 33 - Navigation and Navigable Waters
- Title 34 - Education
- Title 35 - [RESERVED]
- Title 36 - Parks, Forests, and Public Property
- Title 1 - General Provisions

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§1604.11 Sexual harassment.

(a) Harassment on the basis of sex is a violation of section 703 of title VII.¹ Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

¹The principles involved here continue to apply to race, color, religion or national origin.

(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

(Title VII, Pub. L. 88-352, 78 Stat. 253 (42 U.S.C. 2000e et seq.))

[45 FR 74677, Nov. 10, 1980, as amended at 64 FR 58334, Oct. 29, 1999]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**29 CFR Part 1604****Discrimination Because of Sex Under Title VII of the Civil Rights Act of 1964, as Amended; Adoption of Interim Interpretive Guidelines****AGENCY:** Equal Employment Opportunity Commission.**ACTION:** Interim amendment to guidelines on discrimination because of sex.

SUMMARY: The Equal Employment Opportunity Commission is amending its Guidelines on Discrimination Because of Sex on an interim basis, in order to clarify its position on the issue of sexual harassment and to invite the public to comment on the issue. This amendment will re-affirm that sexual harassment is an unlawful employment practice. These Interim Guidelines are in full effect from the date of their publication; however, EEOC will receive comments for 60 days subsequent to the date of publication. After the comment period EEOC will evaluate the comments, make whatever changes to the Interim Guidelines may seem appropriate in light of the comments, and publish the final Guidelines.

DATES: Effective date: April 11, 1980. Comments must be received on or before June 10, 1980.

ADDRESSES: Written comments may be addressed to: Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, NW., Room 4096, Washington, D.C. 20506.

All envelopes should be marked Sexual Harassment on the lower left corner.

has determined that there is a need for guidelines in this area of Title VII law. Therefore, on an interim basis EEOC is amending its Guidelines on Discrimination because of Sex (37 FR 6836, April 5, 1972, as amended) to add § 1604.11, Sexual Harassment.

Interim § 1604.11(a) provides that harassment on the basis of sex is a violation of Title VII and states that such unwelcomed behavior may be either physical or verbal in nature. The interim section also sets out three criteria for determining whether an action constitutes unlawful behavior. These criteria are (1) submission to the conduct is either an explicit or implicit term or condition of employment; (2) submission to or rejection of the conduct is used as the basis for employment decisions affecting the person who did the submitting or rejecting; or (3) the conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. It is the Commission's position that sexual harassment, like racial harassment, generates a harmful atmosphere. Under Title VII, employees should be afforded a working environment free of discriminatory intimidation whether based on sex, race, religion, or national origin. Therefore, the employer has an affirmative duty to maintain a workplace free of sexual harassment and intimidation.

Interim § 1604.11(b) recognizes that the question of whether a particular action or incident establishes a purely personal, social relationship without a discriminatory employment effect requires a factual determination. In making such a determination, the Commission will look at the record as a

particular employment relationship and the job functions performed by the individual, rather than accepting an individual's title as being controlling.

Interim § 1604.11(d) distinguishes the employer's responsibility for the acts of its agents or supervisors from the responsibility it has for the acts of other persons. This paragraph (d) of 1604.11 states that liability for the acts of those persons not mentioned in paragraph (c) exists only when the employer, or its agents or supervisory employees, knows or should have known of the conduct. The paragraph further provides that the employer may rebut this apparent liability for the conduct by showing that it took immediate and appropriate corrective action.

Consistent with the policy of voluntary compliance under Title VII, § 1604.11(e) recognizes that the best way to achieve an environment free of sexual harassment is to prevent the occurrence of sexual harassment by utilizing appropriate methods to alert the employees to the problem and to stress that sexual harassment, in any form, will not be tolerated. This paragraph (e) of § 1604.11 requires an employer to take all steps necessary for the prevention of sexual harassment and gives the following as examples of steps which might be deemed necessary: Affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise the issue of sexual harassment under Title VII, and developing methods to sensitize all concerned.

This amendment to the "Guidelines on Discrimination Because of Sex" is a significant regulation under Executive

Proposed rules & requests for public comment are found in the *Federal Register (FR)*.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1604

Discrimination Because of Sex Under Title VII of the Civil Rights Act of 1964, as Amended; Adoption of Final Interpretive Guidelines

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final Amendment to Guidelines on Discrimination Because of Sex.

SUMMARY: On April 11, 1980, the Equal Employment Opportunity Commission published the Interim Guidelines on sexual harassment as an amendment to the Guidelines on Discrimination Because of Sex, 29 CFR Part 1604.11, 45 FR 25024. This amendment will re-affirm that sexual harassment is an unlawful employment practice. The EEOC received public comments for 60 days subsequent to the date of publication of the Interim Guidelines. As a result of the comments and the analysis of them, these Final Guidelines were drafted.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Karen Danart, Acting Director, Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506, (202) 634-7060.

mitigating factor. *Anderson v. Methodist Evangelical Hospital, Inc.*, ——— F.Supp. ———, 3 EPD ¶8282 (D.C. Ky. 1971), *aff'd* 464 F.2d 723, 4 EPD ¶7901 (6th Cir. 1972); Commission Decision No. 71-969, CCH EEOC Decisions (1973) ¶6193; Commission Decision No. 71-1442, CCH EEOC Decisions (1973) ¶6216. Furthermore, a recent 9th Circuit case on sexual harassment imposed strict liability on the employer where a supervisor harassed an employee without the knowledge of the employer. *Miller v. Bank of America*, 600 F.2d 211, 20 EPD ¶30,086 (9th Cir. 1979). In keeping with this standard, the Commission, after full consideration of the comments and the accompanying concerns, will let § 1604.11(c) stand as it is now worded.

A number of people asked the Commission to clarify the use of the term "agent" in § 1604.11(c). "Agent" is used in the same way here as it is used in § 701(b) of Title VII where "agent" is included in the definition of "employer."

A large number of comments referred to § 1604.11(a) in which the Commission defines sexual harassment. These comments generally suggested that the section is too vague and needs more clarification. More specifically, the comments referred to subsection (3) of § 1604.11(a) as presenting the most troublesome definition of what constitutes sexual harassment. The Commission has considered these

clarification and guidance on the meaning of § 604.11(a)(3) is through future Commission decisions which deal with specific fact situations. sexual harassment allegations are reviewed on a case-by-case basis; further questions will be answered through Commission decisions which will be fact specific.

A fair number of comments were received on § 1604.11(d) which dealt with employer liability with respect to persons other than supervisors or agents. Again, as in § 1604.11(c), the traditional Title VII concept prevails regarding employer liability with respect to those people other than agents or supervisory employees. Many commentors asked the Commission to clarify the meaning of "others." As a result, § 1604.11(d) has been separated into two subsections. The new § 1604.11(d) refers to sexual harassment among fellow employees and the liability of an employer in such a situation.

The new § 1604.11(e) refers to the possible liability of employers for non-employees towards employees. Such liability will be determined on a case-by-case basis, taking all factors into consideration, including whether the employer knew or should have known of the conduct, the extent of the employer's control and other legal responsibility with respect to such individuals.

Final Rule – FR (again). Includes summary of comments received and agency explanations.

For modern rules, you can read *all* electronically submitted comments on Regulations.gov.

Regulations summary

- Researchers must always check for **applicable executive branch regulations**.
- They are **legally binding** and can provide additional details not contained in the relevant statutes.
- Begin regulatory research with the **current administrative code** for your jurisdiction.

Sidebar: Other executive materials

- Administrative agencies often issue many other types of documents: **memoranda, reports, press releases, etc.**
- Some agencies also hear disputes and issue **administrative decisions**, very much like a judicial branch court.
- These materials are often available through the **agency website ([USA.gov list](#))**.

The Judicial Branch

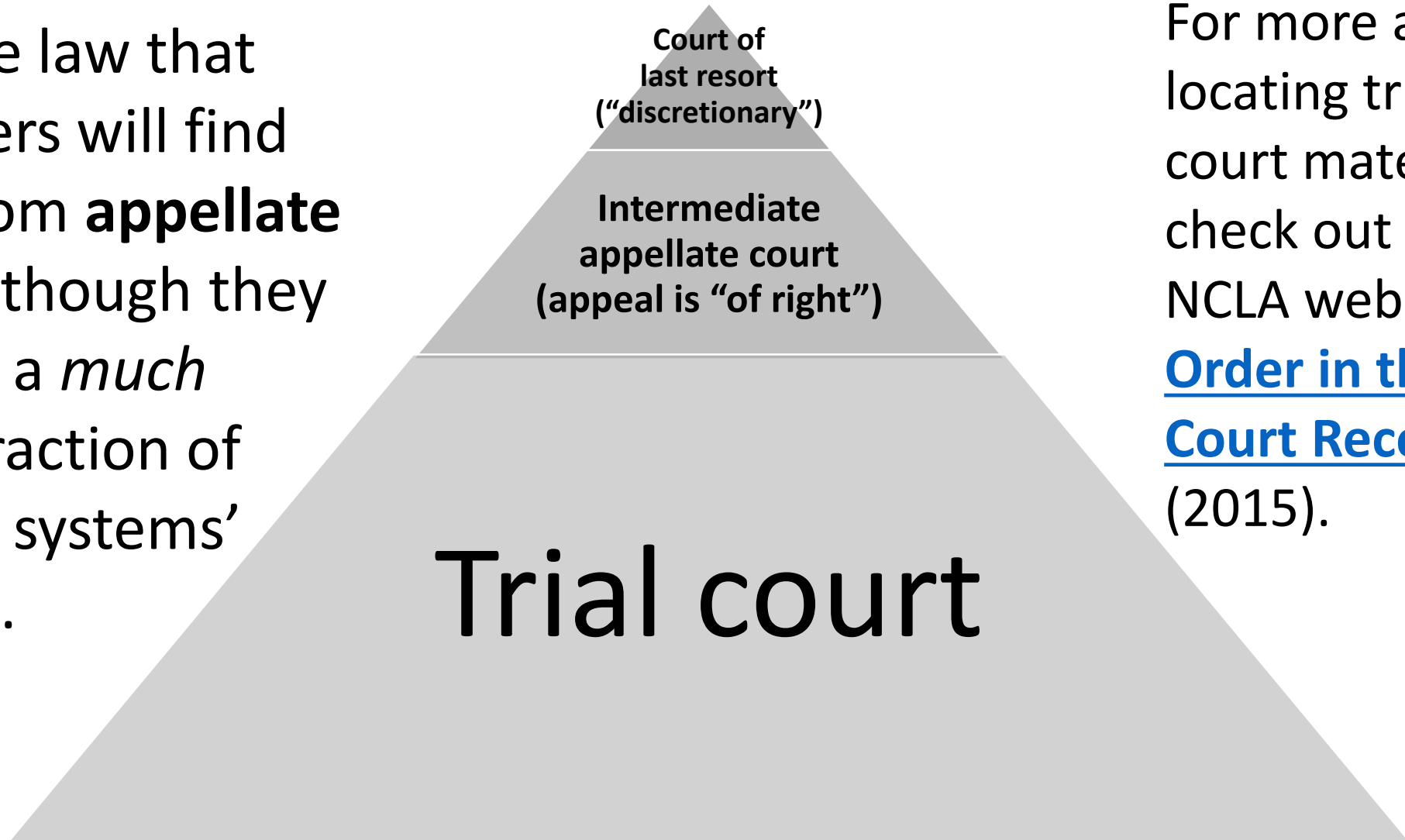
Court opinions/orders

Precedent

- Courts **interpret the meaning of** statutes, regulations, and prior case law, as they apply to a particular situation.
- Their rulings create **precedent** (or “mandatory authority”) which the relevant **jurisdiction** is *bound* to follow in future, similar situations.

The life of a lawsuit

Most case law that researchers will find comes from **appellate courts**, although they comprise a *much* smaller fraction of the court systems' case load.



For more about locating trial court materials, check out my NCLA webinar, [Order in the Court Records](#) (2015).

U.S. Supreme Court – binds lower federal courts on matters of federal law, as well as state courts on federal constitutional issues

Court of last resort – final word on matters of purely state law & the state constitution

U.S. Circuit Courts of Appeal – bind lower federal district courts within that appellate circuit. Different circuits may disagree (“**circuit split**”).

Intermediate appellate court – binds lower trial-level courts.

U.S. District Courts – No binding precedential value in federal system. Most decisions at this level are not formally “published”/reported.

Trial courts – generally have no precedential value; usually not even officially “published”/reported.

Sources for case law

- [LexisNexis Academic](#) \$, Federal & State Cases section
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- [Ravel](#): free access to federal cases & growing historical state case collection [[coverage begins in 1925](#)]
- [FindLaw Cases & Codes](#): includes case law databases.
[coverage varies by database]

Finding “the Law”

Courtney's case: A sample search



- Courtney is a library patron who has recently been terminated from her employment; she believes her firing was illegal discrimination.
- She's very emotional, and wants to tell you every detail of what her employer did and said.
- She refuses attorney referral info as "too expensive."
- She wants to "just read the laws so I can figure out what to do."

Primary legal sources

Secondary legal sources

Official government pronouncements which **have the force of law.**

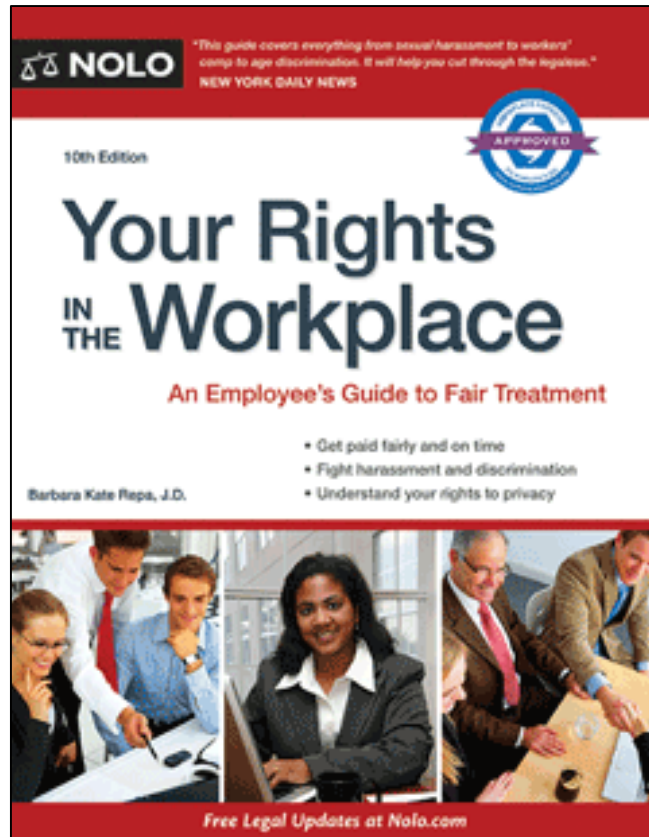
Materials which **analyze or explain the law**, but do not have the force of law.

Examples:

- **Statutes** (legislative)
- **Regulations** (executive)
- **Court opinions** (judicial)

- Legal **self-help** publications
- Legal **encyclopedias**
- Journal & law review **articles**
[CALL.org law school website](#)
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Legal Self-Help Works (e.g., Nolo Press)



- Accessible, **conversational tone** (written specifically for non-lawyers).
- Good **general background & overview** of legal issues related to a particular topic, but only a starting point.
- For more detail and references to primary/secondary sources, try a **legal encyclopedia**.

Legal Encyclopedia

- Provide **helpful summaries** of the law, with case law & secondary source references for further reading.
- Two attempt to cover the “**general**” law across all U.S. states.
 - ***American Jurisprudence 2d*** (“AmJur”): on LexisNexis Academic \$ or Westlaw Patron Access \$
 - ***Corpus Juris Secundum*** (“C.J.S.”): on Westlaw Patron Access \$
- **State encyclopedias** give more specific information for a jurisdiction (e.g., *Strong’s North Carolina Index*)

§ 82. Examples of public policy exception

West's Key Number Digest

West's Key Number Digest, [Labor and Employment](#) 🔑 [759](#), [761](#), [771](#), [772](#), [782](#), [819](#)

National Background:

As to public policy exception to employment-at-will rule, generally, see [Am. Jur. 2d, Wrongful Discharge §§ 52 to 63](#).

Cases:

Public policy is violated, for purposes of a claim for wrongful discharge, when an at-will employee is fired in contravention of express policy declarations contained in the North Carolina General Statutes; however, something more than a mere statutory violation is required to sustain a claim of wrongful discharge under the public-policy exception as a degree of intent or willfulness on the part of the employer is required.¹

There is no specific list of what employment actions constitute a violation of public policy.²

To prevail on a claim for unlawful termination in violation of public policy, a plaintiff must identify a specified North Carolina public policy that was violated by an employer in discharging the employee.³ It is not sufficient to simply point to public policy that may be implicated in issues that an employee has raised in a wrongful termination action; the employee must show that the public policy of North Carolina was contravened when defendant terminated the plaintiff from at-will employment.⁴

A plaintiff may state a claim for wrongful discharge in violation of public policy by alleging that the dismissal resulted

⁴ [Restraints on Employee Competition With Employer](#), [Commonwealth Act](#), [5](#)

Journal & law review articles

- **LexisNexis Academic (\$)** includes a section of “[U.S. Law Reviews & Journals.](#)”
- [Google Scholar](#) also provides some legal journal articles.
- The **ABA’s Legal Technology Resource Center** offers a [free custom search engine](#) of open-access law journal articles.

Secondary sources summary

- Despite the name, **secondary sources** should be a legal researcher's *first stop*.
 - Context & background
 - Search keywords
 - Time-saving footnotes to specific primary sources
- **Potential limitations:** currency, jurisdiction, intended audience.



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FIND A BILL: 2015-2016 Session

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North Carolina General Statutes

NOTE: The Statutes on the North Carolina General Assembly website reflect changes made in the [2015](#) Session. The changes from all Sessions are listed in the [NC Statutes and Session Laws affected by ratified bills](#) documents.

The General Statutes published on this website are *not official*. Please read the [caveats](#) for more information.

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- [Chapter 1A](#) Rules of Civil Procedure.
- [Chapter 1B](#) Contribution.
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- [Chapter 1D](#) Punitive Damages.
- [Chapter 1E](#) Eastern Band of Cherokee Indians.
- [Chapter 1F](#) North Carolina Uniform Interstate Depositions and Discovery Act.
- [Chapter 2](#) Clerk of Superior Court [Repealed and Transferred.]

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2.	G.S. 115C-12	§ 115C-12. POWERS AND DUTIES OF THE BOARD...	[HTML PDF RTF]

§ 143-422.2. Legislative declaration.

It is the public policy of this State to protect and safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination or abridgement on account of race, religion, color, national origin, age, sex or handicap by employers which regularly employ 15 or more employees.

It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment foments domestic strife and unrest, deprives the State of the fullest utilization of its capacities for advancement and development, and substantially and adversely affects the interests of employees, employers, and the public in general. (1977, c. 726, s. 1.)

14.	G.S. 1-613	§ 1-613. PRIVATE ACTION FOR RETALIATION A...	[HTML PDF RTF]
15.	G.S. 163-278.19	§ 163-278.19. VIOLATIONS BY CORPORATIONS,...	[HTML PDF RTF]
16.	G.S. 126-4	§ 126-4. POWERS AND DUTIES OF STATE HUMAN...	[HTML PDF RTF]
17.	G.S. 95-47.2	§ 95-47.2. LICENSING PROCEDURES.	[HTML PDF RTF]
18.	G.S. 127B-11	§ 127B-11. PRIVATE DISCRIMINATION PROHIBI...	[HTML PDF RTF]
19.	G.S. 127B-12	§ 127B-12. PUBLIC DISCRIMINATION PROHIBITED.	[HTML PDF RTF]
20.	G.S. 75B-2	§ 75B-2. DISCRIMINATION IN BUSINESS PROHI...	[HTML PDF RTF]
21.	G.S. 7B-2705	§ 7B-2705. EMPLOYMENT DISCRIMINATION UNLA...	[HTML PDF RTF]
22.	G.S. 95-28.1A	§ 95-28.1A. DISCRIMINATION AGAINST PERSON...	[HTML PDF RTF]
23.	G.S. 143-422.2	§ 143-422.2. LEGISLATIVE DECLARATION.	[HTML PDF RTF]



Annotated version of *N.C. General Statutes*

N.C. Gen. Stat. § 143-422.2 (2016)

§ 143-422.2. Legislative declaration

- (a) It is the public policy of this State to protect and safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination or abridgement on account of race, religion, color, national origin, age, biological sex or handicap by employers which regularly employ 15 or more employees.
- (b) It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment foments domestic strife and unrest, deprives the State of the fullest utilization of its capacities for advancement and development, and substantially and adversely affects the interests of employees, employers, and the public in general.
- (c) The General Assembly declares that the regulation of discriminatory practices in employment is properly an issue of general, statewide concern, such that this Article and other applicable provisions of the General Statutes supersede and preempt any ordinance, regulation, resolution, or policy adopted or imposed by a unit of local government or other political subdivision of the State that regulates or imposes any requirement upon an employer pertaining to the regulation of discriminatory practices in employment, except such regulations applicable to personnel employed by that body that are not otherwise in conflict with State law.

Notes of relevant court opinions are found below.

HISTORY: 1977, c. 726, s. 1; 2016-3, 2nd Ex. Sess., s. 3.1.



PRIVATE RIGHT OF ACTION --In an action in which an employee filed suit against her employer alleging claims of race discrimination and retaliation in violation of North Carolina's Equal Employment Practices Act (NCEEPA), *G.S. 143-422.1 et seq.*, the court found that because the NCEEPA did not provide a private right of action, the employee could not maintain a claim under it. *Addison v. Wal-Mart Stores*, 2003 U.S. Dist. LEXIS 10778 (M.D.N.C. June 23, 2003).

Plaintiff's wrongful discharge claim failed as a matter of law, because North Carolina did not recognize plaintiff's tort claims under the North Carolina Equal Employment Practices Act, *G.S. 143-422.1 et seq.*, for wrongful constructive discharge or wrongful discharge in retaliation for complaints of sexual harassment. *Lowe v. Unifi, Inc.*, 292 F. Supp. 2d 773 (M.D.N.C. 2003).

In an action in which former employees filed suit against their former employer pursuant to Title VII of the Civil Rights Act of 1964, *42 U.S.C.S. § 2000e et seq.*, and the North Carolina Equal Employment Practices Act (NCEEPA), *G.S. 143-422.1 et seq.*, the employer was granted summary judgment on the employees' NCEEPA claims; North Carolina courts and federal courts applying North Carolina law have found repeatedly that no private cause of action exists for retaliation, hostile work environment, disparate treatment, or constructive discharge in violation of public policy. *Swann v. Roadway Express, Inc.*, 2004 U.S. Dist. LEXIS 9448 (M.D.N.C. May 14, 2004).

Former employee who asserted claims against her former employer for retaliation and discrimination on the basis of age, race, and sex failed to state a claim under the North Carolina Equal Employment Practices Act (NCEEPA), *G.S. 143-422.2*, because North Carolina did not recognize a private cause of action under the NCEEPA. *Bratcher v. Pharm. Prod. Dev., Inc.*, 545 F. Supp. 2d 533 (E.D.N.C. 2008).

Employee's retaliation claim under North Carolina's Equal Employment Practices Act (NCEEPA), *G.S. 143-422.2*, encountered a fatal flaw because the NCEEPA did not create a private right of action, it was only applicable to common law wrongful discharge claims or in connection with other specific statutory remedies. In addition, even

Full-text case law searches



wrongful discharge public policy 143-422.2



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Articles

Coman v. Thomas Mfg. Co., Inc.

381 SE 2d 445, 325 NC 172 - NC: Supreme Court, 1989 - Google Scholar

Case law

... Plaintiff seeks to recover damages from defendant for **wrongfully** terminating his at-will employment. ... a cause of action for **wrongful discharge** for refusing to commit an **unlawful** act. ... The Court of Appeals ruled that Sides had stated a claim for **wrongful discharge** under theories of ...

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North Carolina Dept. of Correction v. Gibson

301 SE 2d 78, 308 NC 131, 308 SC 131 - NC: Supreme Court, 1983 - Google Scholar

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... DOC filed documentary exhibits which showed that at the time of plaintiff's **discharge** over 40% of the ... There was no evidence presented to show that plaintiff was involved in or **discharged** for his ... that the order was affected by error of law and made upon **unlawful** procedure, and ...

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... reason, there can be no right to terminate such a contract for an **unlawful** reason or ... by enacting the Wage and Hour Act, did not intend to preclude **wrongful discharge** actions based on ... the Court is whether Coman recognized a separate and distinct claim for bad faith **discharge**. ...

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Whitt v. Harris Teeter, Inc.

598 SE 2d 151, 165 NC App. 32 - NC: Court of Appeals, 2004 - Google Scholar

... 588, 440 SE2d 119, 125 (stating that, "[a]ssuming that plaintiff was **wrongfully** constructively **discharged** ... there can be no right to terminate such a contract for an **unlawful** reason or ... 160 in Coman, is a claim in tort for a hostile work environment constructive **wrongful discharge**. ...

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314 N.C. 331, 333 S.E.2d 490 (1985), *overruled in part* on other grounds, [Russell v. Buchanan v. Applied Analytical Industries, Inc.](#), 347 N.C. 329, 493 S.E.2d 420 (1997)). To state a claim for **wrongful discharge** in violation of **public policy**, an employee has the burden of pleading that his "dismissal occurred for a reason that violates **public policy**." [Considine v. Compass Grp. USA, Inc.](#), 145 N.C.App. 314, 317, 551 S.E.2d 179, 181, *affirmed per curiam*, 354 N.C. 568, 557 S.E.2d 528 (2001). "**Public policy** has been defined as the principle of law which holds that no citizen can lawfully do that which has a tendency to be injurious to the **public** or against the **public** good." [Coman](#), 325 N.C. at 175 n. 2, 381 S.E.2d at 447 n. 2. Although this definition of **public policy** "does not include a laundry list of what is or is not 'injurious to the **public** or against the **public** good,' at the very least **public policy** is violated when an employee is fired in contravention of express **policy** declarations contained in the North Carolina General Statutes." [Amos v. Oakdale Knitting Co.](#), 331 N.C. 348, 353, 416 S.E.2d 166, 169 (1992) (footnote omitted).

There is no question that "the right to be free of sexual harassment in the workplace ... is implicated in our State declaration of **public policy**." [Guthrie v. Conroy](#), 152 N.C.App. 15, 19-20, 567 S.E.2d 403, 407 (2002); *see also* N.C. Gen.Stat. § **143-422.2** (2003) (declaring that "[i]t is the **public policy** of this State to protect ... the right ... of all persons to seek, obtain and hold employment without discrimination or abridgement on account of ... sex"); [Russell v. Buchanan](#), 129 N.C.App. 519, 500 S.E.2d 728 (employee suit alleging **wrongful discharge** in violation of Title VII and North Carolina **public policy**), *disc. review denied*, 348 N.C. 501, 510 S.E.2d 655 (1998). Our Supreme Court has ruled that the "ultimate purpose of ... G.S. **143-422.2** and Title VII (42 U.S.C. 2000e, *et seq.*) is the same," and thus the statute is co-extensive with the federal statute, evaluated under the same standards of evidence and principles of law. [Dept. of Correction v. Gibson](#), 308 N.C. 131, 141, 301 S.E.2d 78, 85 (1983). Title VII prohibits sexual harassment in the workplace. *See* 42 *156 U.S.C. § 2000e-2(a)(1) (providing that "it shall be an

Updating Your Findings

- The law is **constantly changing!**
 - Statutes can be **amended**.
 - Regulations can be **revised**.
 - Case law can be **overruled**.
- Print materials become outdated quickly.
- **“Citator tools”** help bring your research up to date.

Google Scholar citation tracking

- [Google Scholar](#)'s legal documents search includes a “**cited by**”/**How Cited** feature for case law and secondary sources.
- Can lead to materials which indicate **subsequent treatment**, but puts more burden on the reader to make distinctions about meaning.

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- “ Therefore, “[a] **discharge** based on sexual harassment [] offends the **public policy** of [North Carolina] and may properly support a **wrongful discharge** claim in violation of **public policy**.” ”
- in [Lingle v. THE PAIN RELIEF CENTERS, PA, 2013](#) and 9 similar citations
- “ —noting that North Carolina courts have yet to adopt a hostile work environment constructive **discharge** claim ”
- in [Johnson v. North Carolina, 2012](#) and 3 similar citations
- “ —the ability of North Carolina courts to recognize the doctrine, and the adoption of the Fourth Circuit's constructive **discharge** elements by the North Carolina Court of Appeals. ”
- in [Whitt v. Harris Teeter, Inc.: Take This Doctrine and Shove It-Recognizing ...](#) and 2 similar citations
- “ The plaintiff, Wendy Whitt, worked as a cashier at a Harris Teeter grocery store in Kernersville, North Carolina ”
- in [Whitt v. Harris Teeter, Inc.: Take This Doctrine and Shove It-Recognizing ...](#) and one similar citation
- “ —the court focused on the fact that the employer did nothing about the sexual harassment and that the sexual harassment itself ultimately made the plaintiff's working conditions so unbearable that she resigned, or was constructively **discharged**. ”
- in [Efird v. Riley, 2004](#) and 2 similar citations
- “ ... alternative grounds for disallowing the plaintiffs **wrongful discharge** claim based on constructive **discharge**:(1) that Coman had been read too broadly and that North Carolina does not recognize a claim for **wrongful discharge** in violation of **public policy**, based on hostile work environment or retaliation, where the **termination** is a constructive **termination**; and (2) that even ... ”
- in [Baldwin v. TRADESMEN INTERNATIONAL, INC., 2013](#) and one similar citation
- “ Looking to the dissenting opinion filed by the North Carolina Court of Appeals' majority opinion in Whitt, it is clear that the dissent was based on two reasons that 1) North Carolina does not recognize

Cited by

- ≡ [Littell v. DIVERSIFIED CLINICAL SERVICES, INC.](#)
Dist. Court, MD North Carolina 2013
- ≡ [Efird v. Riley](#)
342 F. Supp. 2d 413 - Dist. Court, MD North Carolina 2004
- ≡ [Efird v. Riley](#)
Dist. Court, MD North Carolina 2004
- ≡ [McHan v. Cherokee County](#)
Dist. Court, WD North Carolina 2006
- ≡ [ELECTRONIC WORLD, INC. v. Barefoot](#)
NC: Court of Appeals 2005

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Related documents

- [Whitt v. Harris Teeter, Inc.](#)
614 SE 2d 531 - NC: Supreme Court 2005
- [Doyle v. Asheville Orthopaedic Associates](#)
557 SE 2d 577 - NC: Court of Appeals 2001
- [Graham v. Hardee's Food Systems, Inc.](#)
465 SE 2d 558 - NC: Court of Appeals 1996
- [CITATION] [Jones v. Duke Energy Corp.](#)
43 Fed. Appx. 599 - 2002

Shepard's Citations

- **LexisNexis Academic** contains a mini-version of the LexisNexis citator service, *Shepard's Citations*.
- It allows for “**Shepardizing**” of case law and selected secondary sources (see “Citation Formats” for list).
- It does *not* locate citing references to **statutes, court rules, or regulations**.

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- Citing references with analysis is available





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Next Steps   165 N.C. App. 32, *598 S.E.2d 151, **...[Disclaimer](#)Powered by  Google Translate

WENDY WHITT, Plaintiff, v. HARRIS TEETER, INC., and RANDY SHULTZ, Defendants

NO. COA03-335

COURT OF APPEALS OF NORTH CAROLINA

165 N.C. App. 32; **598 S.E.2d 151**; 2004 N.C. App. LEXIS 1160; 94 Fair Empl. Prac. Cas. (BNA) 342

January 13, 2004, Heard in the Court of Appeals

OPINION

[*532] Appeal pursuant to [N.C.G.S. § 7A-30\(2\)](#) from the decision of a divided panel of the Court of Appeals, [165 N.C. App. 32, 598 S.E.2d 151 \(2004\)](#), reversing a judgment entered upon a directed verdict on 2 April 2002 by Judge Sanford L. Steelman, Jr. in Superior Court, Forsyth County. Heard in the Supreme Court 18 May 2005.

PER CURIAM.

For the reasons stated in the dissenting opinion, the decision of the Court of Appeals is reversed.

REVERSED. [**2]

SUBSEQUENT HISTORY: ReviewMotion granted by [Whitt v. Teeter](#)Motion granted by [Whitt v. Teeter](#)Motion granted by [Whitt v. Teeter](#)Motion granted by [Whitt v. Teeter](#)Motion granted by [Whitt v. Teeter](#), [359 N.C. 643, 614 S.E.2d 925, 2005 N.C. LEXIS 542 \(N.C., May 11, 2005\)](#)Reversed by [Whitt v. Harris Teeter, Inc.](#), [359 N.C. 625, 614 S.E.2d 531, 2005 N.C. LEXIS 638 \(N.C., 2005\)](#)

What does this mean?

- The N.C. Supreme Court agreed with the dissenting Court of Appeals judge, and adopted *his* reasoning for future situations like this case. The majority opinion in the Court of Appeals was **reversed**.
- But *Whitt v. Harris Teeter* dealt with a ***constructive discharge*** (i.e., employee resigned due to alleged hostile working conditions).
- Situation of an actual **termination** by employer would be distinguishable. New line of research to pursue!



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North Carolina General Statutes

NOTE: The Statutes on the North Carolina General Assembly website reflect changes made in the [2015](#) Session. The changes from all Sessions are listed in the [NC Statutes and Session Laws affected by ratified bills](#) documents.

The General Statutes published on this website are *not official*. Please read the [caveats](#) for more information.

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- [Chapter 1E](#) Eastern Band of Cherokee Indians.
- [Chapter 1F](#) North Carolina Uniform Interstate Depositions and Discovery Act.
- [Chapter 2](#) Clerk of Superior Court [Repealed and Transferred.]

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House Bill 2 / S.L. 2016-3

Public Facilities Privacy & Security Act. 2016 Second Extra Session

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Bill Text	Fiscal Note
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Edition 2 [HTML]	
Ratified [HTML]	
Session Law 2016-3 [HTML]	

Last Action:	Ch. SL 2016-3 on 03/23/2016
Sponsors:	Bishop; Stam; Howard; Steinburg; (Primary) Adams; Arp; Avila; Bradford; Brody; Burr; Cleveland; Dixon; Elmore; Hager; K. Hall; Hastings; Hurley; Jones; Jordan; Langdon; S. Martin; McElraft; McNeill; Millis; T. Moore; Pittman; Presnell; Riddell; Robinson; Schaffer; Speciale; Torbett; Warren; Watford; Whitmire; Zachary;
Attributes:	Public; Text has changed;
Counties:	<i>No counties specifically cited</i>
Statutes:	95, 115C, 143, 153A, 160A (Chapters); 115C-47, 115C-521.2, 143-422.10, 143-422.11, 143-422.12, 143-422.13, 143-422.2, 143-422.3, 143-760, 153A-449, 160A-20.1, 95-25.1 (Sections)
Keywords:	ADMINISTRATION DEPT., BIDS & BIDDING, CHAPTERED, COMMISSIONS, CONTRACTS, COUNTIES, DISCRIMINATION, EMPLOYMENT, HUMAN RELATIONS COMN., LGBT ISSUES, LOCAL GOVERNMENT, LOCAL ORDINANCES, MINIMUM WAGE, MINORITIES, MUNICIPALITIES, PRESENTED, PUBLIC, PURCHASING, RATIFIED, SALARIES & BENEFITS

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PART III. PROTECTION OF RIGHTS IN EMPLOYMENT AND PUBLIC ACCOMMODATIONS

SECTION 3.1. G.S. 143-422.2 reads as rewritten:

"§ 143-422.2. Legislative declaration.

(a) It is the public policy of this State to protect and safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination or abridgement on account of race, religion, color, national origin, age, biological sex or handicap by employers which regularly employ 15 or more employees.

(b) It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment foments domestic strife and unrest, deprives the State of the fullest utilization of its capacities for advancement and development, and substantially and adversely affects the interests of employees, employers, and the public in general.

(c) The General Assembly declares that the regulation of discriminatory practices in employment is properly an issue of general, statewide concern, such that this Article and other applicable provisions of the General Statutes supersede and preempt any ordinance, regulation, resolution, or policy adopted or imposed by a unit of local government or other political subdivision of the State that regulates or imposes any requirement upon an employer pertaining to the regulation of discriminatory practices in employment, except such regulations applicable to personnel employed by that body that are not otherwise in conflict with State law."

SECTION 3.2. G.S. 143-422.3 reads as rewritten:

"§ 143-422.3. Investigations; conciliations.

The Human Relations Commission in the Department of Administration shall have the authority to receive charges of discrimination from the Equal Employment Opportunity Commission pursuant to an agreement under Section 709(b) of Public Law 88-352, as amended by Public Law 92-261, and investigate and conciliate charges of discrimination. Throughout this process, the agency shall use its good offices to effect an amicable resolution of the charges of discrimination. This Article does not create, and shall not be construed to create or support, a statutory or common law private right of action, and no person may bring any civil action based upon the public policy expressed herein."

Bottom Line

- **Free public access to the law** is growing every day.
- But it's *very* **easy to miss and/or misinterpret** primary law!
- Every legal situation is completely unique, and depends upon a **complex combination of the facts and the law** in that jurisdiction.
- Never a simple “yes-or-no” situation!

Bottom Line

- **Does your patron *really* just need an attorney?**
Have a referral list handy!
- **Do they want general background information on a personal legal problem?**
Get them started with self-help books, encyclopedias, and/or journal articles.
- **Do they have known citations, or are ready to delve into primary law?**
Dazzle them with your know-how!

Questions? (Now or later)

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