

Article - Labor and Employment

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§3-304.

(a) In this section, “providing less favorable employment opportunities” means:

(1) assigning or directing the employee into a less favorable career track, if career tracks are offered, or position;

(2) failing to provide information about promotions or advancement in the full range of career tracks offered by the employer; or

(3) limiting or depriving an employee of employment opportunities that would otherwise be available to the employee but for the employee’s sex or gender identity.

(b) (1) An employer may not discriminate between employees in any occupation by:

(i) paying a wage to employees of one sex or gender identity at a rate less than the rate paid to employees of another sex or gender identity if both employees work in the same establishment and perform work of comparable character or work on the same operation, in the same business, or of the same type; or

(ii) providing less favorable employment opportunities based on sex or gender identity.

(2) For purposes of paragraph (1)(i) of this subsection, an employee shall be deemed to work at the same establishment as another employee if the employees work for the same employer at workplaces located in the same county of the State.

(c) Except as provided in subsection (d) of this section, subsection (b) of this section does not prohibit a variation in a wage that is based on:

(1) a seniority system that does not discriminate on the basis of sex or gender identity;

(2) a merit increase system that does not discriminate on the basis of sex or gender identity;

- (3) jobs that require different abilities or skills;
 - (4) jobs that require the regular performance of different duties or services;
 - (5) work that is performed on different shifts or at different times of day;
 - (6) a system that measures performance based on a quality or quantity of production; or
 - (7) a bona fide factor other than sex or gender identity, including education, training, or experience, in which the factor:
 - (i) is not based on or derived from a gender-based differential in compensation;
 - (ii) is job related with respect to the position and consistent with a business necessity; and
 - (iii) accounts for the entire differential.
- (d) This section does not preclude an employee from demonstrating that an employer's reliance on an exception listed in subsection (c) of this section is a pretext for discrimination on the basis of sex or gender identity.
- (e) An employer who is paying a wage in violation of this subtitle may not reduce another wage to comply with this subtitle.

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