

Federal Employment Law Remedies

| STATUTE | REMEDIES | CAPS |
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| Age Discrimination in Employment Act (ADEA) 29 U.S.C. § 621 et seq. | 29 U.S.C. § 626(b) <ul style="list-style-type: none"> • Remedies include back pay and front pay. Injunctive and equitable relief are available, including reinstatement, with or without back pay, or actual damages if reinstatement is not feasible. • Costs and attorneys' fees permitted. • No compensatory or punitive damages recoverable. • For willful violations, liquidated damages can be awarded equal to amount of back pay | No caps. |
| Americans with Disabilities Act (ADA) 42 U.S.C. § 12111 et seq. | 42 U.S.C. § 12117(a) <ul style="list-style-type: none"> • Remedies include back pay and front pay. Back pay can be awarded from two years prior to the filing of a charge with the EEOC. • Injunctive and equitable relief are available, including reinstatement, with or without back pay. • A court may allow the prevailing party a reasonable attorney's fee (including expert fees) as part of the costs. | 42 U.S.C. § 1981a(b)(3) Caps are placed on the total combined compensatory and punitive damages according to the size of the employer: 14- 100 employees, \$50,000; 101-200 employees, \$100,000; 201-500 employees, \$200,000; and 500+ employees, \$300,000. |
| Consolidated Omnibus Budget Reconciliation Act (COBRA); Employee Retirement Income Security Act (ERISA) | 29 U.S.C. § 1132 <ul style="list-style-type: none"> • Remedies and damages for COBRA violations are provided by ERISA's enforcement provisions. A plan participant or beneficiary may bring a civil action in court to recover benefits due and enforce rights under the plan, or get access to plan documents that have been requested in writing. Plan administrators are subject to personal liability and assessed penalties on a per diem basis for failure to produce documents. | No caps. |
| Equal Rights Discrimination 42 U.S.C. §1981; 42 U.S.C. §1983 (for individual state actors) | 42 U.S.C. § 1988 <ul style="list-style-type: none"> • Equitable/injunctive relief and damages, including compensatory and punitive damages where appropriate. (Not subject to caps on punitive/compensatory damages.) | No caps. |
| Fair Labor Standards Act (FLSA) 29 U.S.C. § 201 et seq. | 29 U.S.C. § 216(b) <ul style="list-style-type: none"> • An aggrieved party can recover unpaid back wages for a period of two years, unless the violation is willful, in which case damages period extends back three years. • Equitable remedies and injunctive relief, including reinstatement, are available. • Attorney's fees and costs may be awarded to a prevailing plaintiff. • Unless the employer can show that the violation was made in good faith, liquidated damages can be awarded equal to amount of back pay. • Punitive damages are generally only available for retaliation claims. | No caps. |
| Family and Medical Leave Act (FMLA) 29 U.S.C. § 2601 et seq. | 29 U.S.C. § 2617(a) <ul style="list-style-type: none"> • Remedies include back pay, or where no back pay is lost, compensatory damages up to a sum equal to 12 weeks of wages. • Prejudgment interest and attorney's fees and costs are also available. • An aggrieved party is also entitled to an additional award of liquidated damages up to the amount of actual damages (back pay or compensatory damages plus interest). | No caps. |
| Genetic Information Nondiscrimination Act (GINA) 42 U.S.C. § 2000ff et seq. | 42 U.S.C.S § 2000ff-6 <ul style="list-style-type: none"> • See Title VII remedies (next page) | 42 U.S.C. § 1981a(b)(3) Caps are placed on the total combined compensatory and punitive damages according to the size of the employer: 14- 100 employees, \$50,000; 101-200 employees, \$100,000; 201-500 employees, \$200,000; and 500+ employees, \$300,000. |

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| National Labor Relations Act 29 U.S.C. § 151 et seq. | 29 U.S.C. § 160(c) <ul style="list-style-type: none"> • Injunctive or equitable relief aimed at restoring the status quo prior to the violation. • Reinstatement, with or without back pay, is available. • Punitive damages generally cannot be awarded, but the NLRB has “inherent authority” to award attorneys’ fees and litigation expenses as a sanction for bad faith conduct. | No caps. |
| Title VII of the Civil Rights Acts of 1964 & 1991 | 42 U.S.C. § 2000e-5(g), (k); 42 U.S.C. § 1981a <ul style="list-style-type: none"> • Attorney’s fees and costs (including expert fees) may be awarded to the prevailing party. • For intentional discrimination (i.e., not disparate impact), back pay and front pay are available, as well as injunctive relief, such as reinstatement. • Compensatory damages (which include “future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses”). • Punitive damages are permitted. • If employer would have taken the same adverse action regardless of impermissible motivating factor: declaratory relief, injunctive relief (but not reinstatement), and attorney’s fees and costs. | 42 U.S.C. § 1981a(b)(3) Caps are placed on the total combined compensatory and punitive damages according to the size of the employer: 14- 100 employees, \$50,000; 101-200 employees, \$100,000; 201-500 employees, \$200,000; and 500+ employees, \$300,000. |
| Uniformed Services Employment and Reemployment Rights Act 38 U.S.C. § 4301 et seq. (N.B.: Remedies vary if federal agency is implicated) | 38 U.S.C. §§ 4322-4325 <ul style="list-style-type: none"> • A complaint is filed with Secretary of Labor for investigation. After exhausting administrative remedy, civil suit may be brought to seek equitable/injunctive relief and lost wages/benefits. • Attorney fees, expert witness fees, and other litigation expenses can be awarded to prevailing plaintiff. • For willful violations, in addition to other remedies, liquidated damages in the amount of lost wages/benefits may also be awarded. | |

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