

Employment Discrimination Statutes of Limitations Desk Aid (with cites)*

LAW • COVERED	SOL • PROCEDURE	EXCEPTIONS
<p>Maine Human Rights Act, 5 M.R.S. §§4551, et seq.</p> <ul style="list-style-type: none"> • Race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, WPA, prior Workers' Comp. • Nearly all employers, regardless of size. 5 M.R.S. §4553(4). 	<ul style="list-style-type: none"> • 300 days from unlawful act to file with Maine Human Rights Commission ("MHRC"). 5 M.R.S. §4611. • Failure to file with MHRC does not bar claim but eliminates civil penal damages, compensatory damages, punitive damages, and attorney's fees. 5 M.R.S. §4622(1). • SOL in court is the later of two years from date of discrimination or 90 days after (1) MHRC dismissal or (2) 90 days after MHRC reasonable grounds finding. 5 M.R.S. §4613(2)(C). 	<ul style="list-style-type: none"> • MHRC will extend the filing deadline if waiver, equitable estoppel, or equitable tolling. <i>See</i> May 17, 2006 Commission Counsel Memo, http://www.maine.gov/mhrc/guidance/memo/20060517_g.pdf. • For equitable tolling, MHRC will consider complainant's 1) lack of actual notice of filing requirement; (2) lack of constructive knowledge of the filing requirement; (3) diligence in pursuing rights; (4) absence of prejudice to respondent; and (5) reasonableness in remaining ignorant of the notice requirement. <i>Id.</i>
<p>42 U.S.C. §1981</p> <ul style="list-style-type: none"> • Race or color discrimination (includes ancestry or ethnicity, e.g., Arab, Jewish). <i>St. Francis College v. Al-Khazrai</i>, 481 U.S. 604 (1987). • Nearly all private and public employers. 	<ul style="list-style-type: none"> • No administrative exhaustion. <i>Johnson v. Railway Express Agency, Inc.</i>, 421 U.S. 454, 460 (1975). • Four years from date of discrimination to file in court. <i>Jones v. R. R. Donnelley & Sons Co.</i>, 541 U.S. 369 (2004). 	
<p>42 U.S.C. §1983</p> <ul style="list-style-type: none"> • Equal Protection, Due Process, First Amendment • State and local governmental employers and private employers acting under color of state or local law. <i>Lugar v. Edmondson Oil Company</i>, 457 U.S. 922, 940 (1982). 	<ul style="list-style-type: none"> • No administrative exhaustion. • Six years from date of discrimination to file in court. <i>Small v. Inhabitants of Belfast</i>, 796 F.2d 544, 545-49 (1st Cir. 1986). 	
<p>Title VII, 42 U.S.C. §§2000e, et seq.</p>	<ul style="list-style-type: none"> • 300 days from unlawful act to file with Equal 	<ul style="list-style-type: none"> • SOL are not jurisdictional and are

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<ul style="list-style-type: none"> • Race, color, religion, sex, national origin. 15 or more employees. 42 U.S.C. §2000e(b). 	<ul style="list-style-type: none"> • Employment Opportunity Commission (“EEOC”). 42 U.S.C. § 2000e–5(e). • Failure to file with EEOC bars claim. <i>Oscar Mayer & Co. v. Evans</i>, 441 U.S. 750, 758 (1979). • May start pay discrimination clock on most recent paycheck. 42 U.S. Code § 2000e–5(e)(3). • 90 days from EEOC right-to-sue (“RTS”) letter to file in court. 42 U.S.C. § 2000e–5(f)(1). 	<ul style="list-style-type: none"> • “subject to waiver, estoppel, and equitable tolling.” <i>Zipes v. TWA</i>, 455 U.S. 385, 393 (1982). • EEOC will extend deadline for “a reasonable period of time” if complainant had no reason to suspect discrimination at the time of the disputed event; complainant’s mental incapacity; if there was misleading information or mishandling of charge by the EEOC or MHRC; or timely filing in the wrong forum. <i>EEOC Compliance Manual</i> §2-IV(D)(1).
<p>ADA, 42 U.S.C. §§12111, et seq.</p> <ul style="list-style-type: none"> • Disability. • 15 or more employees. 42 U.S. Code § 12111(5). 	<ul style="list-style-type: none"> • 300 days from unlawful act to file with EEOC. 42 U.S. Code § 12117(a). • Failure to file with EEOC bars claim. <i>Oscar Mayer & Co. v. Evans</i>, 441 U.S. 750, 758 (1979). • May start pay discrimination clock on most recent paycheck. 42 U.S. Code §§ 2000e–5(e)(3), 12117(a). • 90 days from EEOC RTS letter to file in court. 42 U.S. Code § 12117(a). 	<ul style="list-style-type: none"> • SOL are not jurisdictional and are “subject to waiver, estoppel, and equitable tolling.” <i>Bonilla & Colon v. Alvarez Inc.</i>, 194 F.3d 275, 278 (1st Cir. 1999). • EEOC will extend deadline for “a reasonable period of time” if complainant had no reason to suspect discrimination at the time of the disputed event; complainant’s mental incapacity; if there was misleading information or mishandling of charge by the EEOC or MHRC; or timely filing in the wrong forum. <i>EEOC Compliance Manual</i> §2-IV(D)(1).
<p>ADEA, 29 U.S.C. §§621, et seq.</p> <ul style="list-style-type: none"> • Age – 40 and over. 29 U.S.C. §631(a). 	<ul style="list-style-type: none"> • 300 days from unlawful act to file with EEOC. 29 U.S.C. §626(d). 	<ul style="list-style-type: none"> • SOL are not jurisdictional and are “subject to waiver, estoppel, and

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<ul style="list-style-type: none"> • 20 or more employees. 29 U.S.C. §630(b). 	<ul style="list-style-type: none"> • Failure to file administrative complaint bars claim. <i>Oscar Mayer & Co. v. Evans</i>, 441 U.S. 750, 758 (1979). • May start pay discrimination clock on most recent paycheck. 29 U.S. Code § 626(d)(3). • 90 days from EEOC RTS letter to file in court. 29 U.S.C. §626(e). 	<p>equitable tolling.” <i>Zipes v. TWA</i>, 455 U.S. 385, 393 (1982).</p> <ul style="list-style-type: none"> • EEOC will extend deadline for “a reasonable period of time” if complainant had no reason to suspect discrimination at the time of the disputed event; complainant’s mental incapacity; if there was misleading information or mishandling of charge by the EEOC or MHRC; or timely filing in the wrong forum. <i>EEOC Compliance Manual</i> §2-IV(D)(1).
<p>EPA, 29 U.S.C. §206(d)</p> <ul style="list-style-type: none"> • Unequal pay between sexes. • Nearly all employers regardless of size. 29 U.S.C. § 203(d). 	<ul style="list-style-type: none"> • No administrative exhaustion requirement. 29 U.S.C. §216(b). • Two years to file in court after cause of action accrued; three years if willful. 29 U.S.C. § 255(a). • “Willful” means “employer either knew or showed reckless disregard for the matter of whether its conduct was prohibited by the statute.” <i>McLaughlin v. Richland Shoe Co.</i>, 486 U.S. 128, 133 (1988). 	<ul style="list-style-type: none"> • SOL are not jurisdictional and are subject to equitable tolling. <i>Kiwanuka v. Bakilana</i>, 844 F.Supp.2d 107, 118 (D.D.C. 2012)
<p>FMLA, 29 U.S.C. §§2601, et seq.</p> <ul style="list-style-type: none"> • 12 weeks of leave for childbirth, adoption, serious health condition. 29 U.S.C. § 2612(a). • 50 or more employees. 29 U.S.C. § 2611(4). 	<ul style="list-style-type: none"> • No administrative exhaustion. • Two years to file in court after the date of the last event constituting the alleged violation; three years if willful. 29 U.S.C. §2617(c). 	<ul style="list-style-type: none"> • SOL are not jurisdictional and are subject to equitable tolling. <i>Packard v. Continental Airlines, Inc.</i>, 24 Fed.Appx. 960, 962 (10th Cir. 2001) (unpublished).
<p>Title IX, 20 U.S.C. §1681(a)</p>	<ul style="list-style-type: none"> • No administrative exhaustion requirement. 	

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<ul style="list-style-type: none"> Sex discrimination in education program or activity receiving Federal financial assistance. 20 U.S.C. §1681(a). 	<ul style="list-style-type: none"> Six years from date of discrimination to file in court. <i>Lakshman v. University of Maine System</i>, 328 F.Supp.2d 92, 116 (D.Me. 2004). 	
<p>Rehab Act §504, 29 U.S.C. § 794(a)</p> <ul style="list-style-type: none"> Qualified individual with a disability. Recipients of federal financial assistance. 	<ul style="list-style-type: none"> No administrative exhaustion. Six years from date of discrimination to file in court. <i>Richards v. City of Bangor, Maine</i>, 878 F.Supp.2d 271, 278 (D.Me. 2012). 	
<p>Title VI, 42 U.S.C. § 2000d</p> <ul style="list-style-type: none"> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. 	<ul style="list-style-type: none"> No administrative exhaustion. Six years from date of discrimination to file in court. <i>Nelson v. University of Maine System</i>, 914 F.Supp. 643, 649 (D.Me. 1996). 	
<p>NLRA, 29 U.S.C. §158(a)</p> <ul style="list-style-type: none"> Right to collective bargaining. Most private employers (not government). 29 U.S.C. §152(2). 	<ul style="list-style-type: none"> Six months to file with NLRB. 29 U.S.C. §160(b). 	<ul style="list-style-type: none"> SOL are not jurisdictional and are subject to equitable tolling. <i>National Ass'n of Manufacturers v. National Labor Relations Board</i>, 846 F.Supp.2d 34, 56-58 (D.D.C. 2012).
<p>Maine Medical Leave, 26 M.R.S. §§843, et seq.</p> <ul style="list-style-type: none"> 10 weeks of leave per 2 years if employed for 12 consecutive months, unless fewer than 15 employees at job site. 26 M.R.S. §844(1). 	<ul style="list-style-type: none"> Six years from unlawful act. 14 M.R.S. §752 (no express SOL in Medical Leave law). 	<ul style="list-style-type: none"> Same exceptions that are applicable to 14 M.R.S. §752, e.g., minor, mental illness, imprisonment, pursuant to 14 M.R.S. §853.
<p>Maine Workers' Compensation Act, 39-A M.R.S. §353</p> <ul style="list-style-type: none"> Retaliation for asserting rights. 	<ul style="list-style-type: none"> Two years from retaliation to file petition with Workers' Comp Board. 39-A M.R.S. §§ 306(1), 353. 	

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