



441 G St. N.W.  
Washington, DC 20548

B-324818

July 31, 2013

The Honorable Tom Harkin  
Chairman  
Committee on Health, Education, Labor, and Pensions  
United States Senate

The Honorable Mark Kirk  
United States Senate

The Honorable Jeffrey A. Merkley  
United States Senate

Subject: *Update on State Statutes and Administrative Complaint Data on Employment Discrimination Based on Sexual Orientation and Gender Identity*

Federal law prohibits discrimination in employment based on a number of factors, including race, color, religion, sex, national origin, disability, and age. We reported most recently in 2009 that although federal law does not prohibit employment discrimination on the basis of sexual orientation, some states provide such protection by statute.<sup>1</sup> Specifically, we reported that 22 states had statutes explicitly prohibiting employment discrimination on the basis of sexual orientation; we also reported that 13 states had statutes explicitly prohibiting employment discrimination on the basis of gender identity.<sup>2</sup> In addition, we reported that, generally, the administrative complaint data reported by states at that time showed relatively few employment discrimination complaints based on sexual orientation and gender identity.

In response to your request, this letter updates our 2009 report with regard to the number of states with statutes explicitly prohibiting employment discrimination based on sexual orientation and gender identity.<sup>3</sup> We also include data provided by those states on the number of administrative complaints related to employment discrimination filed between 2007 and 2012—specifically, the total number of complaints and the number of complaints listing sexual orientation or gender identity as a claimed basis for discrimination.

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<sup>1</sup> GAO, *Sexual Orientation and Gender Identity Employment Discrimination: Overview of State Statutes and Complaint Data*, [GAO-10-135R](#) (Washington, D.C.: October 1, 2009).

<sup>2</sup> In our 2009 report, we did not consider whether employment discrimination based on sexual orientation or gender identity may be addressed by federal case law, regulations, policy, or guidance, nor did we do so for purposes of this letter; we did note, however, that Executive Order 13087, issued on May 28, 1998, amended Executive Order 11478 to prohibit discrimination based on sexual orientation within executive branch civilian employment.

<sup>3</sup> As we did in 2009, we refer to the District of Columbia as a state for purposes of this letter.

We found that no states have added explicit statutory prohibitions against employment discrimination based on sexual orientation since our 2009 report was issued, leaving the total number of states with such protections at 22.<sup>4</sup> In addition, we found that five states—Connecticut, Delaware, Hawaii, Massachusetts, and Nevada—have added explicit employment discrimination prohibitions on the basis of gender identity since our 2009 report was issued, bringing the total number of states with such protections to 18.<sup>5</sup> There is significant overlap in the states protecting individuals from employment discrimination on the bases of sexual orientation and gender identity. Eighteen states have statutes that explicitly prohibit both sexual orientation- and gender identity-based employment discrimination, while four states have such prohibitions only for employment discrimination based on sexual orientation. With respect to complaint data, consistent with what we reported in 2009, the administrative complaint data reported to us by states for 2007 through 2012 show relatively few employment discrimination complaints based on sexual orientation and gender identity.

To complete this work, we utilized legal databases to determine which states have statutes explicitly prohibiting employment discrimination on the basis of sexual orientation or gender identity.<sup>6</sup> We sent questionnaires to cognizant officials in the 22 states we identified as having such laws and asked them to verify that we had identified the relevant statutory provisions.<sup>7</sup> We also asked them to provide the total number of administrative employment discrimination complaints filed for the most recent 7 years<sup>8</sup> for which data were available, as well as the

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<sup>4</sup> The 22 states with explicit statutory provisions with regard to sexual orientation are: California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Washington, and Wisconsin. We did not determine whether states that lack explicit prohibitions against employment discrimination based on sexual orientation might allow such complaints to be pursued on other grounds.

<sup>5</sup> The 18 states with explicit statutory provisions with regard to gender identity or other similar terms, such as gender expression or transgender status, are: California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Iowa, Maine, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, and Washington. We did not determine whether any other states that lack explicit statutory provisions might allow such complaints to be pursued on other grounds, though officials in Maryland and New York, which both have statutes prohibiting employment discrimination on the basis of sexual orientation, reported in their responses to our questionnaire that individuals in their states may be able to pursue administrative complaints based on gender identity in the absence of explicit state statutory provisions. Similarly, an official in New Hampshire told us that individuals in that state have the legal right to file a charge of discrimination related to gender identity despite the absence of explicit statutory language and that such charges may be pursued under the protected categories of sex and/or mental disability, depending on jurisdictional issues.

<sup>6</sup> Although state case law, state regulations, or other state guidance may address issues related to employment discrimination or the scope and applicability of state employment discrimination statutes, our focus was only on the explicit language of state statutes. In addition, we did not review local government ordinances, which may also address issues related to employment discrimination.

<sup>7</sup> We asked states to note whether the state statutory provisions we identified were correct, incorrect, or incomplete, and to provide corrections where appropriate. We relied on the information provided by state officials and did not do additional research to identify other state statutory provisions that may be relevant to claims of employment discrimination.

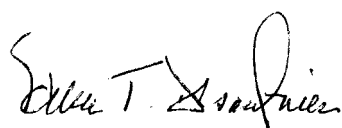
<sup>8</sup> All states reported their complaint data to us by state fiscal year, federal fiscal year, or calendar year. Most states' fiscal years run from July 1 through June 30, and all references to a state fiscal year are to that time frame unless otherwise noted. Moreover, some states use a single year when referring to the state fiscal year and others use a 2 year designation. For instance, some states refer to "FY 2012," while other states use "FY 2011-2012" to refer to the same time period. In either case, this time period would run from July 1, 2011 through June 30, 2012. Some states reported complaint data to us by federal fiscal year, which runs from October 1 through September 30. In light of the variation in how states collect and report this information, we asked states to provide data for the most recent 7 years

number of complaints that identified sexual orientation or gender identity as one of the claimed bases for employment discrimination.<sup>9</sup> All complaint data presented in the enclosure that follows are as reported to us by state officials; we did not independently verify the accuracy of these data or review the methodologies used by states to compile data. We created a table for each state incorporating their responses to our questionnaire and sent the tables to state officials for their comments, which we incorporated as appropriate.

Enclosed with this correspondence are tables for each of the 22 states for which we compiled information. These tables convey, for each state, the responses to our questionnaire—specifically, a citation to the relevant state statutory provisions, as well as the reported employment discrimination complaint data.

James M. Rebbe and Lincoln Schroth, Senior Attorneys, and Sheila R. McCoy, Assistant General Counsel, prepared this letter. If you have any questions about this letter, please contact me at (202) 512-4740.

Sincerely yours,



Helen T. Desaulniers  
Managing Associate General Counsel

Enclosure

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for which data were available to ensure that each state would provide data for the full time period included in the scope of our review, which is 2007 through 2012.

<sup>9</sup> In some states, the statutes prohibiting sexual orientation- or gender identity-based employment discrimination were enacted during the time period covered by our review; therefore, these states did not provide complaint data for the full time period requested. In addition, seven states that have explicit statutory prohibitions against gender identity- based employment discrimination reported that, during the time period covered by our review, they did not separately track data related to the number of gender identity-based complaints they received. These states are: California, Connecticut, Delaware, Hawaii, Illinois, Massachusetts, and Minnesota.

<b>CALIFORNIA</b>	
Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	Cal. Gov. Code § 12940
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	Cal. Gov. Code § 12940 <sup>10</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>11</sup>	CY 2012: 19,839 CY 2011: 18,012 CY 2010: 18,335 CY 2009: 17,680 CY 2008: 18,786 CY 2007: 16,396
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	CY 2012: 1,104 CY 2011: 727 CY 2010: 717 CY 2009: 807 CY 2008: 821 CY 2007: 815
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	Not available <sup>12</sup>

<sup>10</sup> The relevant protected classes explicitly identified in state statute are “gender identity” and “gender expression.”

<sup>11</sup> All complaint data in this table are reported by calendar year.

<sup>12</sup> According to a state official, California does not separately track complaints filed on the basis of gender identity. Currently, complaints filed on the basis of gender identity are tracked with complaints filed on the basis of sex.

**COLORADO**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	Colo. Rev. Stat. § 24-34-402
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	Colo. Rev. Stat. §§ 24-34-401(7.5) and 24-34-402 <sup>13</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>14</sup>	FY 2011-2012: 516 FY 2010-2011: 575 FY 2009-2010: 599 FY 2008-2009: 712 FY 2007-2008: 635 FY 2006-2007: 593
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation <sup>15</sup>	FY 2011-2012: 35 FY 2010-2011: 41 FY 2009-2010: 33 FY 2008-2009: 34 FY 2007-2008: 21
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	FY 2011-2012: 1 FY 2010-2011: 1 FY 2009-2010: 2 FY 2008-2009: 3 FY 2007-2008: 2

<sup>13</sup> State statute prohibits employment discrimination on the basis of sexual orientation, which is defined to include, in relevant part, “transgender status.”

<sup>14</sup> All complaint data in this table are reported by state fiscal year.

<sup>15</sup> A state official told us that sexual orientation and transgender status were not protected statuses under Colorado statute before FY 2007-2008.

**CONNECTICUT**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	Conn. Gen. Stat. § 46a-81c
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	Conn. Gen. Stat. § 46a-60 <sup>16</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>17</sup>	CY 2012: 1,653 CY 2011: 1,656 CY 2010: 1,390 FY 2009-2010: 1,836 FY 2008-2009: 1,827 FY 2007-2008: 1,946 FY 2006-2007: 1,878
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	CY 2012: 41 CY 2011: 49 CY 2010: 36 FY 2009-2010: 53 FY 2008-2009: 44 FY 2007-2008: 49 FY 2006-2007: 60
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	Not available <sup>18</sup>

<sup>16</sup> The relevant protected class explicitly identified in state statute is “gender identity or expression.” This became a protected class status on October 1, 2011.

<sup>17</sup> Connecticut began tracking employment discrimination complaint data by calendar year rather than state fiscal year in 2010. A state official acknowledged that this may have resulted in some double counting of complaints for calendar year 2010.

<sup>18</sup> A state official reported that the state does not separately track complaints based on gender identity.

**DELAWARE**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	19 Del. C. § 711
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	19 Del. C. § 711 <sup>19</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>20</sup>	FY 2012: 727 FY 2011: 520 FY 2010: 437 FY 2009: 654 FY 2008: 665 FY 2007: 653
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation <sup>21</sup>	FY 2012: 31 FY 2011: 16 FY 2010: 13
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	Not available <sup>22</sup>

<sup>19</sup> Delaware amended its employment discrimination statute in June 2013 to add gender identity to the list of protected categories.

<sup>20</sup> All complaint data in this table are reported by federal fiscal year.

<sup>21</sup> As we reported in 2009, sexual orientation became a protected status for purposes of employment discrimination on July 1, 2009. As a result, FY 2010 is the first year for which the state has data for this category.

<sup>22</sup> According to a state official, the numbers listed for complaints based on sexual orientation may include complaints based on gender identity; the state does not separately track the number of complaints filed on the basis of this category.

**DISTRICT OF COLUMBIA**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	D.C. Code § 2-1402.11
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	D.C. Code § 2-1402.11 <sup>23</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>24</sup>	FY 2012: 279 FY 2011: 339 FY 2010: 415 FY 2009: 488 FY 2008: 357 FY 2007: 282
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	FY 2012: 15 FY 2011: 18 FY 2010: 21 FY 2009: 24 FY 2008: 28 FY 2007: 17
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	FY 2012: 0 FY 2011: 0 FY 2010: 1 FY 2009: 1 FY 2008: 2 FY 2007: 0

<sup>23</sup> The relevant protected class explicitly identified in state statute is “gender identity or expression.”

<sup>24</sup> All complaint data in this table are reported by state fiscal year, which runs from October 1 through September 30.



## HAWAII

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	H.R.S. § 378-2
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	H.R.S. § 378-2 <sup>25</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>26</sup>	FY 2011-2012: 558 FY 2010-2011: 563 FY 2009-2010: 632 FY 2008-2009: 632 FY 2007-2008: 617 FY 2006-2007: 461
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	FY 2011-2012: 12 FY 2010-2011: 9 FY 2009-2010: 15 FY 2008-2009: 9 FY 2007-2008: 8 FY 2006-2007: 3
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	Not available <sup>27</sup>

<sup>25</sup> Hawaii amended its statute in 2011 to clarify existing law with regard to sex discrimination and provide that discrimination based upon “gender identity or expression” constitutes a form of sex discrimination.

<sup>26</sup> All complaint data in this table are reported by state fiscal year.

<sup>27</sup> Hawaii reported that it does not compile separate statistics for gender identity complaints, which it categorizes as sex discrimination complaints.

**ILLINOIS**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	§§ 775 ILCS 5/1-103(O-1) and (Q), 5/2-102(A), (B) and (C)
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	§§ 775 ILCS 5/1-103(O-1) and (Q), 5/2-102(A), (B) and (C) <sup>28</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>29</sup>	FY 2012: 3,613 FY 2011: 3,439 FY 2010: 3,769 FY 2009: 4,007 FY 2008: 3,522 FY 2007: 3,287
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	FY 2012: 107 FY 2011: 133 FY 2010: 107 FY 2009: 149 FY 2008: 81 FY 2007: 103
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	Not available <sup>30</sup>

<sup>28</sup> State statute prohibits employment discrimination on the basis of sexual orientation, which is defined to include, in relevant part, “gender-related identity, whether or not traditionally associated with the person’s designated sex at birth.”

<sup>29</sup> All complaint data in this table are reported by state fiscal year.

<sup>30</sup> According to a state official, complaints based on gender identity are included in the numbers of complaints based on sexual orientation.

**IOWA**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	Iowa Code § 216.6
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	Iowa Code § 216.6
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>31</sup>	FY 2012: 1,373 FY 2011: 1,539 FY 2010: 1,458 FY 2009: 1,644 FY 2008: 1,453 FY 2007: 1,413
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation <sup>32</sup>	FY 2012: 69 FY 2011: 59 FY 2010: 93 FY 2009: 25 FY 2008: 17
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	FY 2012: 26 FY 2011: 3 FY 2010: 5 FY 2009: 3 FY 2008: 6

<sup>31</sup> All complaint data in this table are reported by state fiscal year.

<sup>32</sup> As we reported in 2009, Iowa started accepting employment discrimination complaints on the bases of sexual orientation and gender identity on July 1, 2007. As a result, Iowa did not report data for FY 2007 on these bases.

**MAINE**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	5 M.R.S. §§ 4552, 4553(9-C) and (10), 4571, and 4572
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	5 M.R.S. §§ 4552, 4553(9-C) and (10), 4571, and 4572 <sup>33</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>34</sup>	FY 2012: 542 FY 2011: 616 FY 2010: 494 FY 2009: 503 FY 2008: 623 FY 2007: 539
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	FY 2012: 19 FY 2011: 26 FY 2010: 34 FY 2009: 7 FY 2008: 13 FY 2007: 20
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	FY 2012: 1 FY 2011: 0 FY 2010: 0 FY 2009: 1 FY 2008: 1 FY 2007: 2

<sup>33</sup> State statute prohibits employment discrimination on the basis of sexual orientation, which is defined to include, in relevant part, "gender identity or expression."

<sup>34</sup> All complaint data in this table are reported by state fiscal year.

**MARYLAND**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	Md. Code Ann., State Gov't. §§ 20-601 – 20-609
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	None <sup>35</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>36</sup>	FY 2012: 606 FY 2011: 480 FY 2010: 598 FY 2009: 709 FY 2008: 663 FY 2007: 645
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	FY 2012: 24 FY 2011: 26 FY 2010: 22 FY 2009: 23 FY 2008: 24 FY 2007: 28
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	Not available <sup>37</sup>

<sup>35</sup> Although gender identity is not explicitly identified as a protected category under state statute, a state official reported that Maryland accepts gender identity complaints under the category of sex.

<sup>36</sup> All complaint data in this table are reported by state fiscal year.

<sup>37</sup> Maryland reported that it does not separately track gender identity complaints.

**MASSACHUSETTS**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	M.G.L. c. 151B, § 4(1) and (3)
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	M.G.L. c. 151B, § 4(1) and (3) <sup>38</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>39</sup>	CY 2012: 2,654 CY 2011: 2,699 CY 2010: 2,861 CY 2009: 2,832 CY 2008: 2,947 CY 2007: 2,848
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	CY 2012: 105 CY 2011: 119 CY 2010: 62 CY 2009: 66 CY 2008: 73 CY 2007: 61
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	Not available <sup>40</sup>

<sup>38</sup> Massachusetts added gender identity as a protected category in November 2011, effective July 2012.

<sup>39</sup> All complaint data in this table are reported by calendar year.

<sup>40</sup> According to a state official, before Massachusetts explicitly added gender identity as a protected category, effective July 2012, the state accepted complaints alleging gender identity employment discrimination under the categories of disability, gender, or sexual orientation, and gender identity complaints previously filed under these other bases were not tracked separately. Although the state has been accepting complaints under the new protected category of gender identity since July 2012, this official stated that Massachusetts had not been specifically tracking gender identity complaints since that date, but has now begun doing so.

**MINNESOTA**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	M.S.A. § 363A.08
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	M.S.A. §§ 363A.03, Subd. 44 and 363A.08 <sup>41</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>42</sup>	CY 2012: 642 CY 2011: 576 CY 2010: 612 CY 2009: 629 CY 2008: 656 CY 2007: 591
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	CY 2012: 28 CY 2011: 20 CY 2010: 20 CY 2009: 24 CY 2008: 24 CY 2007: 21
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	Not available <sup>43</sup>

<sup>41</sup> State statute prohibits employment discrimination on the basis of sexual orientation, which is defined to include, in relevant part, "having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness."

<sup>42</sup> All complaint data in this table are reported by calendar year.

<sup>43</sup> According to a state official, the numbers listed above for sexual orientation administrative complaints include all gender identity administrative complaints.

**NEVADA**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	N.R.S. §§ 233.010 and 613.330
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	N.R.S. §§ 233.010 and 613.330 <sup>44</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>45</sup>	CY 2012: 799 CY 2011: 756 CY 2010: 544 CY 2009: 833 CY 2008: 1,014 CY 2007: 1,159
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	CY 2012: 47 CY 2011: 40 CY 2010: 28 CY 2009: 21 CY 2008: 44 CY 2007: 38
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity <sup>46</sup>	CY 2012: 6 CY 2011: 0

<sup>44</sup> The relevant protected category explicitly identified in state statute is “gender identity or expression.” This became a protected category on October 1, 2011.

<sup>45</sup> All complaint data in this table are reported by calendar year.

<sup>46</sup> Because this became a protected category on October 1, 2011, data from earlier years are not available.



**NEW HAMPSHIRE**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	N.H. R.S.A. §§ 354-A:6 and 354-A:7
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	None <sup>47</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>48</sup>	FY 2012: 257 FY 2011: 216 FY 2010: 257 FY 2009: 208 FY 2008: 251 FY 2007: 318
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	FY 2012: 6 FY 2011: 11 FY 2010: 6 FY 2009: 4 FY 2008: 7 FY 2007: 14
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity <sup>49</sup>	FY 2012: 1 FY 2011: 1

<sup>47</sup> Although gender identity is not explicitly identified as a protected category under state statute, a state official reported that individuals have the legal right to file a charge of discrimination related to gender identity and that such charges may be pursued under the protected categories of sex and/or mental disability, depending on jurisdictional issues.

<sup>48</sup> All complaint data in this table are reported by federal fiscal year.

<sup>49</sup> A state official reported that the state currently does not track gender identity complaints separately from other gender discrimination complaints, but the state official reviewed complaints for FYs 2011 and 2012 and determined that there was one complaint related to gender identity in each of those years. The official noted further that the state will separately track information related to complaints involving transgendered persons in the future.

**NEW JERSEY**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	N.J.S.A. §§ 10:2-1, 10:5-3, 10:5-4, 10:5-6, 10:5-8, and 10:5-12 <sup>50</sup>
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	N.J.S.A. §§ 10:2-1, 10:5-3, 10:5-4, 10:5-6, 10:5-8, and 10:5-12 <sup>51</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>52</sup>	CY 2012: 616 CY 2011: 506 CY 2010: 548 CY 2009: 505 CY 2008: 692 CY 2007: 717
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	CY 2012: 28 CY 2011: 20 CY 2010: 20 CY 2009: 19 CY 2008: 34 CY 2007: 39
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	CY 2012: 0 CY 2011: 3 CY 2010: 5 CY 2009: 0 CY 2008: 0 CY 2007: 0

<sup>50</sup> The relevant protected class explicitly identified in state statute is “affectional or sexual orientation.”

<sup>51</sup> The relevant protected class explicitly identified in state statute is “gender identity or expression.”

<sup>52</sup> All complaint data in this table are reported by calendar year.

**NEW MEXICO**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	N.M. Stat. Ann. § 28-1-7
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	N.M. Stat. Ann. § 28-1-7
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>53</sup>	CY 2012: 479 CY 2011: 504 CY 2010: 573 CY 2009: 679 CY 2008: 690 CY 2007: 726
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	CY 2012: 25 CY 2011: 39 CY 2010: 41 CY 2009: 30 CY 2008: 45 CY 2007: 46
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	CY 2012: 1 CY 2011: 1 CY 2010: 3 CY 2009: 3 CY 2008: 1 CY 2007: 1

<sup>53</sup> All complaint data in this table are reported by calendar year.

**NEW YORK**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	N.Y. Executive Law § 296
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	None <sup>54</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>55</sup>	FY 2011-2012: 5,032 FY 2010-2011: 5,684 FY 2009-2010: 6,083 FY 2008-2009: 6,445 FY 2007-2008: 6,078 FY 2006-2007: 4,615
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	FY 2011-2012: 243 FY 2010-2011: 236 FY 2009-2010: 224 FY 2008-2009: 270 FY 2007-2008: 216 FY 2006-2007: 141
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	Not available <sup>56</sup>

<sup>54</sup> Although gender identity is not explicitly identified as a protected category under state employment discrimination statutes, a state official reported that the state investigates some gender identity cases under the protected categories of disability and/or sex.

<sup>55</sup> All complaint data in this table are reported by state fiscal year, which runs from April 1 through March 31.

<sup>56</sup> A state official reported that the state does not separately track gender identity cases investigated on the bases of disability and/or sex.

**OREGON**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	ORS §§ 659A.006 and 659A.030
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	ORS §§ 174.100, 659A.006, and 659A.030 <sup>57</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>58</sup>	FY 2012: 1,676 FY 2011: 1,825 FY 2010: 1,811 FY 2009: 1,920 FY 2008: 2,009 FY 2007: 1,862
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation <sup>59</sup>	FY 2012: 30 FY 2011: 35 FY 2010: 31 FY 2009: 46 FY 2008: 22 FY 2007: 32
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	FY 2012: 0 FY 2011: 6 FY 2010: 0 FY 2009: 0 FY 2008: 0 FY 2007: 0

<sup>57</sup> State statute prohibits employment discrimination on the basis of sexual orientation, which is defined to include, in relevant part, “an individual’s...gender identity, regardless of whether the individual’s gender identity, appearance, expression, or behavior differs from that traditionally associated with the individual’s sex at birth.”

<sup>58</sup> All complaint data in this table are reported by state fiscal year.

<sup>59</sup> A state official reported that Oregon’s statute prohibiting employment discrimination on the basis of sexual orientation and gender identity took effect in January 2008, and the state investigated sexual orientation and gender identity discrimination claims under some city and county ordinances before that time. Data for FY 2007 include complaints pursued under city and county ordinances only, while data for FY 2008 include sexual orientation and gender identity discrimination complaints pursued under city and county ordinances and state law. Data for FY 2009 through FY 2012 include only complaints pursued under state law.

**RHODE ISLAND**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	R.I. Gen. Laws §§ 28-5-3 and 28-5-7
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	R.I. Gen. Laws §§ 28-5-3 and 28-5-7 <sup>60</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>61</sup>	FY 2012: 314 FY 2011: 378 FY 2010: 382 FY 2009: 356 FY 2008: 409 FY 2007: 364
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	FY 2012: 8 FY 2011: 17 FY 2010: 15 FY 2009: 15 FY 2008: 15 FY 2007: 14
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	FY 2012: 2 FY 2011: 1 FY 2010: 1 FY 2009: 0 FY 2008: 0 FY 2007: 1

<sup>60</sup> The relevant protected class explicitly identified in state statute is “gender identity or expression.”

<sup>61</sup> All complaint data in this table are reported by state fiscal year.

**VERMONT**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	21 V.S.A. § 495
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	21 V.S.A. § 495
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>62</sup>	FY 2012: 142 FY 2011: 105 FY 2010: 105 FY 2009: 134 FY 2008: 111 FY 2007: 92
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	FY 2012: 4 FY 2011: 2 FY 2010: 3 FY 2009: 7 FY 2008: 4 FY 2007: 4
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	FY 2012: 1 FY 2011: 0 FY 2010: 1 FY 2009: 0 FY 2008: 1 FY 2007: 0

<sup>62</sup> All complaint data in this table are reported by federal fiscal year.

## WASHINGTON

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	Rev. Code Wash. (ARCW) §§ 49.60.030 and 49.60.180
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	Rev. Code Wash. (ARCW) §§ 49.60.030, 49.60.040(26), and 49.60.180 <sup>63</sup>
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>64</sup>	FY 2011-2012: 741 FY 2010-2011: 904 FY 2009-2010: 461 FY 2008-2009: 690 FY 2007-2008: 792 FY 2006-2007: 607
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	FY 2011-2012: 34 FY 2010-2011: 44 FY 2009-2010: 15 FY 2008-2009: 19 FY 2007-2008: 23 FY 2006-2007: 34
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	FY 2011-2012: 4 FY 2010-2011: 1 FY 2009-2010: 0 FY 2008-2009: 4 FY 2007-2008: 5 FY 2006-2007: 2

<sup>63</sup> State statute prohibits employment discrimination on the basis of sexual orientation, which is defined to include, in relevant part, “gender expression or identity.” “Gender expression or identity” is defined to mean “having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.”

<sup>64</sup> All complaint data in this table are reported by state fiscal year.



**WISCONSIN**

Statutory provision(s) providing protection from employment discrimination on the basis of sexual orientation	Wis. Stat. §§ 111.31 and 111.36(1)(d)
Statutory provision(s) providing protection from employment discrimination on the basis of gender identity	None
Total number of employment discrimination administrative complaints filed between 2007 and 2012 <sup>65</sup>	CY 2012: 3,383 CY 2011: 3,923 CY 2010: 3,722 CY 2009: 3,521 CY 2008: 3,847 CY 2007: 4,007
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is sexual orientation	CY 2012: 69 CY 2011: 75 CY 2010: 100 CY 2009: 78 CY 2008: 66 CY 2007: 61
Total number of employment discrimination administrative complaints filed between 2007 and 2012 where at least one of the claimed bases for discrimination is gender identity	Not applicable

<sup>65</sup> All complaint data in this table are reported by calendar year.