

Do District of Columbia Workplace Laws Apply to Employees in this Region who are Working Remotely?

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As a general rule, employees are protected by the antidiscrimination and other workplace laws of the state in which they work. With the proliferation of remote work during the COVID-19 pandemic, however, it can be challenging to determine which states' laws apply to employees' legal claims. If, for example, an individual works for a District of Columbia employer but is working from home in another state, which jurisdiction's laws apply? Luckily for employees, the District of Columbia's antidiscrimination and wage payment laws are broad enough to cover employees who are working from home outside the District for employers located inside the District, as well as employees who are working from home inside the District for employers located elsewhere, as long as certain conditions are met.

Protections for D.C. Employees Against Discrimination

The District of Columbia Human Rights Act (DCHRA) is one of the broadest workplace discrimination statutes in the country. It prohibits discrimination against employees on the basis of [21 protected traits](#), including those traits protected under federal workplace laws like Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national origin), the [Americans with Disabilities Act](#) (disability), the [Age Discrimination in Employment Act](#) (age over 40), and the Genetic Information Nondiscrimination Act (genetic information). It also prohibits discrimination on the basis of traits such as marital status, family responsibility, political affiliation, personal appearance, and status as a victim of domestic violence. Unlike Title VII, which only applies to employers with 15 or more employees, the DCHRA applies to all employers with at least one employee. Though it does not apply to independent contractors, it covers both unpaid interns and paid employees.

Protections for Employees Working Remotely

The DCHRA protects both employees who are working remotely outside the District for employers located inside the District and employees who are working remotely inside the District for employers located outside the District. Specifically, the DCHRA applies to an employee's legal claims, regardless of where that employee physically works, as long as the discriminatory action he or she alleges "occurred in" the District. [Cole v. Boeing Co.](#), 845 F. Supp. 2d 277, 284 (D.D.C. 2012). A discriminatory action "occurred in" the District if either (1) the discriminatory decision was made in the District or (2) the effects of that decision were felt there. [Id.](#)

For example, the District of Columbia Court of Appeals held that a discriminatory action

“occurred in” the District where the decision to transfer an employee from his current office in California to a new office in Georgia was made from the employer’s headquarters in the District. Monteilh v. AFSCME, AFL-CIO, 982 A.2d 301, 305 (D.C. 2009). This was the case even though the employee had never performed any work, nor applied for any position, in the District. Similarly, the District of Columbia District Court held that a discriminatory action “occurred in” the District where an employee spent more than 50 percent of her working time meeting with clients in the District, causing the effects of the hostile work environment and retaliation she alleged to be felt there. Sims v. Sunovion Pharms., Inc., No. CV 17-2519 (CKK), 2019 WL 690343, at *13 (D.D.C. Feb. 19, 2019). In that case, the employer only had offices in Massachusetts and New Jersey. Applying this same logic, an employee who works remotely from the District of Columbia 100 percent of the time could assert claims under the DCHRA, as well, regardless of where the employer is principally located.

Wage Payment Laws in the District of Columbia

The District of Columbia Wage Payment and Collection Law ([DCWPCL](#)) requires employers to, among other things, pay employees on regular paydays; pay any outstanding wages to a discharged employee within one working day of their discharge; and, in the case of a dispute over an employee’s wages, prohibits employers from requiring employees to sign a release of claims to receive payment for wages conceded to be owed. In the event that an employer wrongfully withholds an employee’s wages, it may be liable for liquidated damages in the amount of three times the wages withheld in addition to the amount withheld, for a total of four times the amount of wages withheld.

Like the DCHRA, the DCWPCL covers employees who are working remotely outside the District for employers located inside the District as well as employees who are working remotely inside the District for employers located outside the District. The only requirement that needs to be met is that the employer “employ[s] any person in the District of Columbia.” D.C. Code § 32-1301(1B). Indeed, District of Columbia courts have acknowledged that the DCWPCL “potentially encompasses a broad array of employment relationships bearing little connection to the District of Columbia or the greater Washington metropolitan area.” Lincoln-Odumu v. Med Faculty Assocs., 2016 WL 6427645, at *11 (D.D.C. July 8, 2016).

For example, in Lincoln-Odumu, the District of Columbia District Court held that an employee who worked primarily from her home in Virginia could assert claims under the DCWPCL because her employer was located in the District. This means that employees working remotely outside the District for D.C.-based companies can assert claims under the DCWPCL. Though District of Columbia courts have yet to address the issue, an employee who works from home inside the District for an employer located outside the District likely could assert claims under the DCWPCL, as well, because the employee himself or herself would satisfy the requirement that their employer “employ[s] any person in the District of Columbia.” As a result, the DCWPCL should apply to all employees working remotely in the District.

Thanks to the broad remedial purposes of both the DCHRA and the DCWPCL, even more employees may enjoy the protection of these laws in a remote working environment than prior to the COVID-19 pandemic. D.C. courts no doubt will encounter many cases addressing the coverage of these laws in the wake of workplace changes necessitated by the pandemic. But precedent suggests that employees will be on the winning side. Employees in doubt

about the legal protections that may apply to them should consult an employment attorney.