

HOW TO FILE A COMPLAINT

If you believe that you have been subjected to discrimination in employment based upon your age, race, creed, color, national origin, sexual orientation, military status, sex, disability, pregnancy-related condition, domestic violence victim status, genetic predisposition or carrier status, familial status or marital status, you can file a complaint with the New York State Division of Human Rights.

A complaint must be filed with the Division within one year of the alleged discriminatory act.

To file a complaint:

- Visit the Division's website, at WWW.DHR.NY.GOV, and download a complaint form. Completed complaints must be signed before a notary public, and returned to the Division (by mail or in person).
- Stop by a Division office in person.
- Contact one of the Division's offices, by telephone or by mail, to obtain a complaint form and/or other assistance in filing a complaint.

For more information or to find the regional office nearest to your home or place of employment, visit our website at: WWW.DHR.NY.GOV.

SOME EXAMPLES:

You're a lesbian and bring your girlfriend to a holiday party. When you return to work, homophobic materials begin to appear on your desk. Is this unlawful?

You should report the incident immediately to the individual designated by the company to receive complaints. Ensure that you keep copies of all materials for your own records.

You're a female vice president and have been passed over for promotion on numerous occasions. On each occasion, a less qualified male is promoted. Is this unlawful?

If you were passed over for the promotion based upon your sex, it would be unlawful.

You file a good faith claim of race discrimination against your employer. You are immediately demoted. Is this unlawful?

File a separate claim for retaliation, since the timing of the demotion implies a discriminatory and retaliatory intent.

Do you need to file a discrimination complaint with your employer before filing with the Division?

You're not required to do so. However, in many cases, if the employer was not on notice of the discrimination and given the opportunity to cure, they will not be held liable.



Division of
Human Rights

Basic Guide to **EMPLOYMENT** Discrimination

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A Basic Guide To Employment Discrimination

The New York State Human Rights Law is among one of the broadest anti-discrimination statutes in the country. The Law prohibits discrimination in hiring and firing of an employee, discrimination in compensation, and discrimination in the terms, conditions, or privileges of employment.

The Human Rights Law prohibits discrimination in employment based upon age, race, creed, color, national origin, sexual orientation, military status, sex, disability, pregnancy-related condition, domestic violence victim status, genetic predisposition or carrier status, familial status, or marital status of any individual. Further, employees who file complaints of discrimination are protected from retaliation by their employers.

The Law applies to all employers with four or more employees. Sexual harassment is unlawful even if the employer has fewer than four employees.

The Internal Complaint Process

Most employers have an internal process for reporting allegations of discrimination in the workplace. If your employer does, you should follow the process established and report the conduct to the designated corporate representative.

In many cases, this is the Director of Human Resources, the General Counsel, or your supervisor. If your supervisor is the person engaging in the discriminatory conduct, then you should complain to someone more senior in management.

Failure to follow internal complaint procedures before filing with the Division or another agency may adversely affect your case.

Keep a Record of the Alleged Discriminatory Conduct

It is important to ensure that all complaints to supervisors or management be memorialized in writing. It is often difficult to prove verbal complaints if your employer denies receiving them.

It is highly recommended that you take notes or keep a log or diary that reflects the discriminatory conduct to which you are subjected. Your log or diary should be kept on a contemporaneous basis. In other words, you should make notes on a daily basis or as soon as possible after the conduct occurs. The log or diary is best kept at home.

Duty to Mitigate Damages

If you are terminated by your employer, you must make reasonable attempts to find employment to avoid financial loss. This is known as mitigating your damages.

To establish that you have taken reasonable steps to locate employment, it is recommended that you keep a record of all cover letters, e-mails, and other documents that demonstrate your efforts.

Failure to mitigate damages may negatively impact the amount of damages awarded, should you prevail on your complaint.

If You Prevail on Your Complaint, What Remedies are Available to You?

Actual Damages: Includes back pay and compensation for lost benefits, such as medical insurance coverage and other fringe benefits.

Compensatory Damages: Includes compensation for mental anguish, pain, and suffering.

Reinstatement to the position you had held and other equitable relief, such as ordering the wrongdoer to cease and desist in certain conduct, or to affirmatively adopt anti-discrimination policies.