

PROHIBITS DISCRIMINATION IN EMPLOYMENT, HOUSING, CREDIT, PLACES OF PUBLIC ACCOMMODATIONS, VOLUNTEER FIREFIGHTING, AND NON-SECTARIAN EDUCATIONAL INSTITUTIONS, BASED ON AGE CREED, RACE, COLOR, SEXUAL ORIENTATION, NATIONAL ORIGIN, MARITAL STATUS, DISABILITY, MILITARY STATUS, ARREST RECORD, CONVICTION RECORD, FAMILIAL STATUS, AND PREDISPOSITION TO GENETIC CHARACTERISTICS, DOMESTIC WORKERS, DOMESTIC VIOLENCE VICTIMS STATUS.

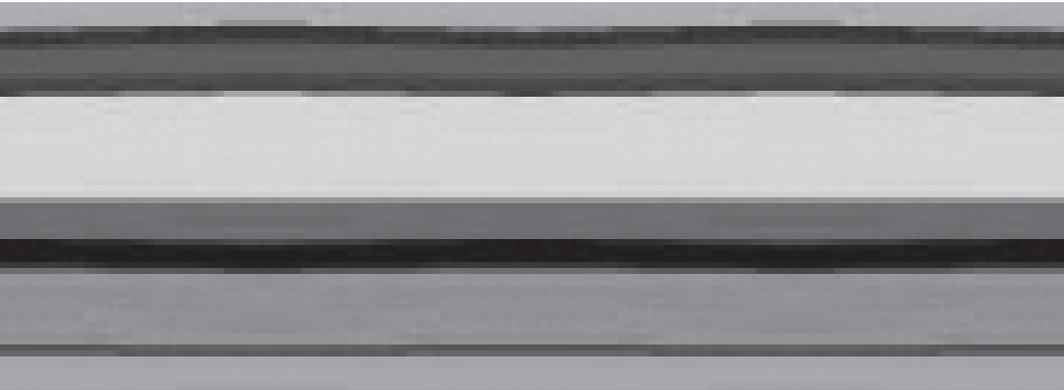


NEW YORK STATE DIVISION OF HUMAN RIGHTS



ANDREW M. CUOMO, GOVERNOR

**Discrimination really hurts.
If you see it or
experience it, call us.
We're here.**



The New York State Human Rights Law and The New York State Division of Human Rights

In 1945, the New York State Legislature passed what was the first civil rights law in the country, highlighting its importance:

The legislature hereby finds and declares that the state has the responsibility to act to assure that every individual within this state is afforded an equal opportunity to enjoy a full and productive life and that the failure to provide such equal opportunity, whether because of discrimination, prejudice, intolerance or inadequate education, training, housing or health care not only threatens the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state and threatens the peace, order, health, safety and general welfare of the state and its inhabitants.

This law—which is known as the Human Rights Law (“Law”)—prohibits discrimination in employment, housing, credit, places of public accommodations, volunteer firefighting, and non-sectarian educational institutions, based on age, creed, race, color, sex, sexual orientation, national origin, marital status, domestic violence victim status, disability, military status, arrest record, conviction record, predisposing genetic characteristics, familial status (in housing only) and domestic workers (in employment only).

The New York State Division of Human Rights (“DHR” or “Division”) enforces this important law for the people of the State of New York through, among other things, the investigation, hearing, and resolution of complaints filed by individuals against alleged discriminators.

This booklet describes the process involved when individuals file or want to file complaints with the Division for alleged acts of unlawful discrimination, and the various ways in which the Division can help you in that process.

Unlawful Discrimination

Webster defines discrimination as “distinctions in treatment.” Simply put, it means treating people differently. But treating people differently does not necessarily constitute unlawful discrimination. For example, an employer can choose to hire one person instead of another based on merit, or a restaurant can turn people away if admission would cause the restaurant to exceed its occupancy limits.

But discrimination is unlawful if it is based on an individual’s race, gender, creed, or some other personal trait or characteristic protected under the Human Rights Law. All New Yorkers should be aware of this important law and their rights under it, including their right to file complaints for alleged acts of unlawful discrimination.

TRAITS/CHARACTERISTICS PROTECTED BY THE HUMAN RIGHTS LAW

The Human Rights Law protects individuals from discrimination based on their age, creed, race, color, sex, sexual orientation, national origin, marital status, domestic violence victim status, disability, pregnancy-related condition, military status, arrest record, conviction record, predisposing genetic characteristics, familial status and domestic workers (in employment only). Collectively, these are known as “protected classes.” If you believe you have been discriminated against based on one of these traits or characteristics, you may have a valid complaint of unlawful discrimination.

When the Human Rights Law Can Help

It is unlawful to discriminate against individuals

- when hiring for a job
- on the job
- in the rental, sale, or provision of housing
- in a place where the public is served (such as a restaurant, hotel, or doctor's office)
- in credit and lending
- in certain educational institutions
- in volunteer firefighting organizations
- through boycotting or blacklisting

It is also illegal for a business, organization, or individual (such as your employer or landlord) to take any action against you for having filed a complaint of discrimination.

In order for an alleged discriminatory act to be illegal, there must be a connection between what happened to you and the trait/characteristic protected by the Human Rights Law. To determine if your situation is covered under the Human Rights Law, you should ask yourself, "Why was I treated in this manner?" If you can answer, "Because I am a member of a protected class," chances are you have a valid complaint.

Making a Complaint of Discrimination

There are federal, state, and city laws banning discrimination, and you may be able to file your complaint in federal or state court.

The New York State Division of Human Rights was established as an alternative to the court system. Division staff specialize in enforcing the Human Rights Law and will assist you in your complaint from investigation through the hearing process (if there is one)— and will do so free of charge.

There are four basic steps to the DHR complaint process:

1. Filing the complaint; and
2. Investigating the allegations in the complaint;

And, where there is probable cause that unlawful discrimination has occurred,
3. A hearing before an Administrative Law Judge; and
4. Resolution of your complaint based on that hearing.

Note: A Division attorney or other representative is available to assist you at all stages of the hearing process, free of charge.

Filing a Complaint

1

IF YOU DECIDE TO FILE A COMPLAINT WITH THE DIVISION, YOU MUST DO SO WITHIN ONE YEAR OF THE MOST RECENT ACT OF DISCRIMINATION.

The day the Division receives your signed and notarized complaint will be the official filing date of your complaint.

If you would like to file a complaint with the Division—on your own or with an attorney—you may do so in one of the following ways:

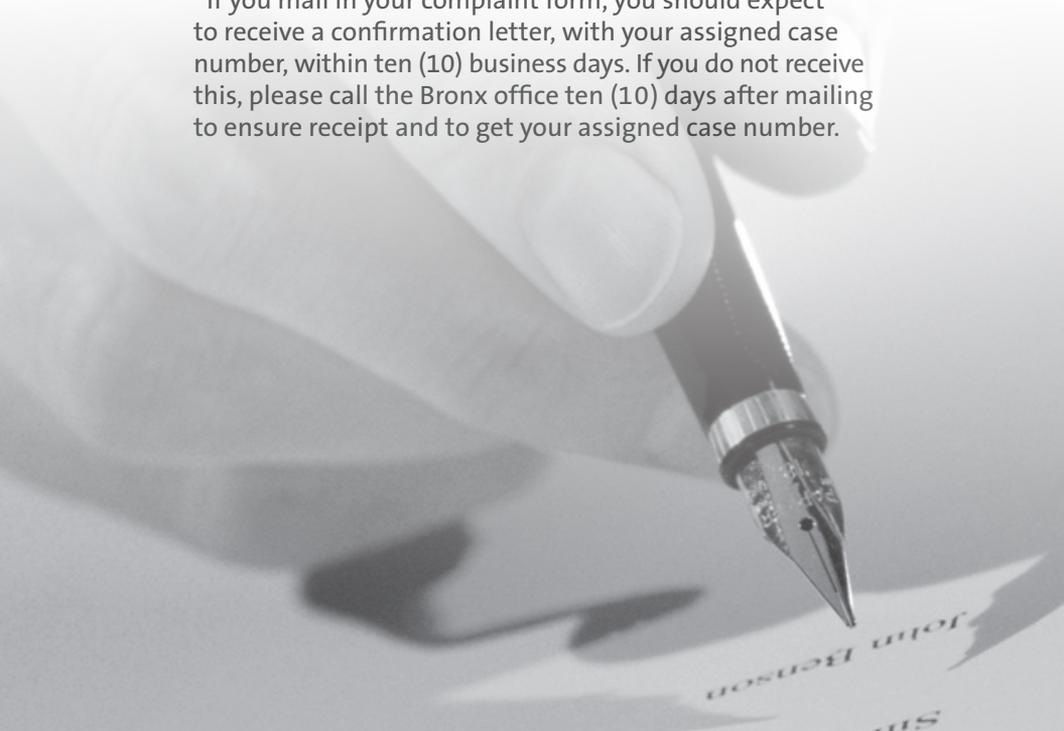
- Visit the Division’s website, at www.dhr.state.ny.us, and download a complaint form. Complete it as instructed, sign it before a notary public, and return it to the Division’s Bronx office (by mail or in person), the address of which is listed at the end of this booklet;*
- File a complaint in person by visiting the Division’s Bronx office or one of the Division’s regional offices, which are listed at the end of this booklet; or
- Contact one of the Division’s regional offices, by telephone or by mail, to obtain a complaint form and/or other assistance in filing a complaint. An individual who files a complaint of discrimination is referred to as “Complainant,” and the alleged discriminator is referred to as “Respondent.”

Filing a Complaint

No matter how you file your complaint, you should be prepared to do the following:

- Identify the individuals, if any, who saw or heard something that supports your claim of discrimination
- Identify any other individuals who, in a situation similar to yours, may have been treated the same or differently by the alleged discriminator
- Identify the specific dates of the incidents or acts

*If you mail in your complaint form, you should expect to receive a confirmation letter, with your assigned case number, within ten (10) business days. If you do not receive this, please call the Bronx office ten (10) days after mailing to ensure receipt and to get your assigned case number.



The Investigation

2

Once your complaint is filed, an investigator will be assigned to investigate your complaint. This may be done through written correspondence, telephone conversations, visits to the site of the alleged discrimination, fact-finding conferences, or a combination of these methods.

Please remember, an investigator's role is to investigate the facts of your case. The investigator cannot give you legal advice or act as your lawyer or representative. The Division does not provide you with an attorney or representative during the investigation process.

Based on the evidence collected during the investigation, the Division will make a determination as to whether there is probable cause that unlawful discrimination occurred. A determination that there is no probable cause that unlawful discrimination occurred will result in the dismissal of your case. If that determination is made, the Complainant has sixty (60) days to appeal that finding to the New York State Supreme Court.

If the Division determines that there is probable cause that you were or are the victim of unlawful discrimination, your case will proceed to the administrative hearing process.

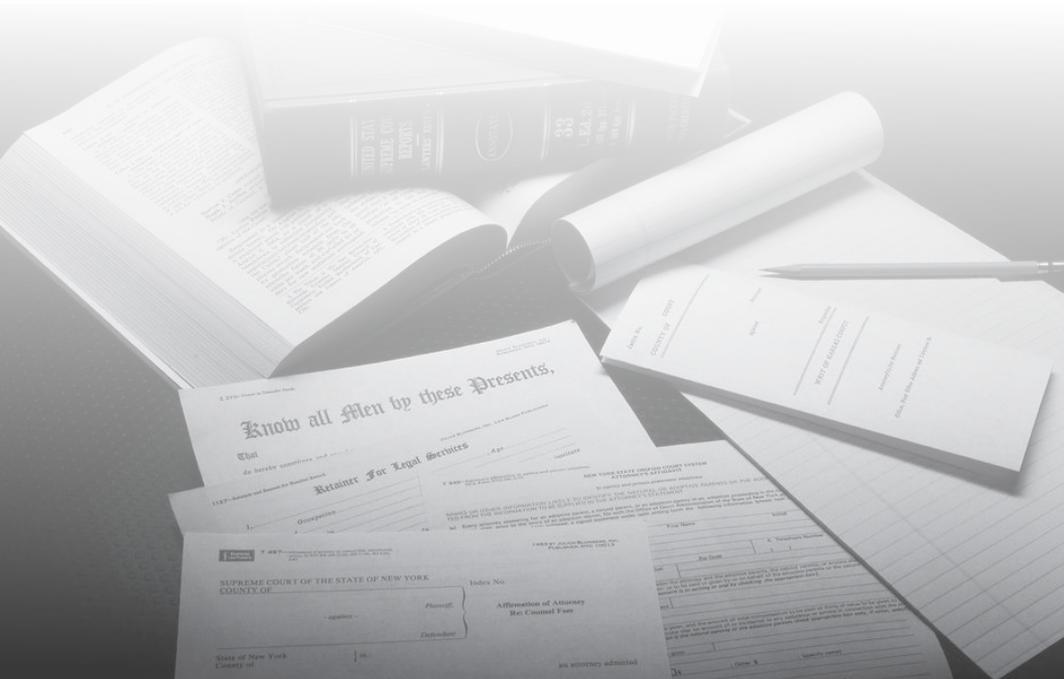
The Administrative Hearing

3

If the investigator determines that probable cause exists that you were or are the victim of unlawful discrimination, the matter will proceed to an administrative hearing. An administrative hearing is similar to a court trial.

An Administrative Law Judge will conduct the hearing based on the allegations in your complaint. In this hearing, both sides will be able to present evidence to support their positions.

Although the hearing is a formal process, you do not need your own lawyer to represent you during this process. The Division will provide an attorney or other agent to present the case in support of your complaint. This service is free of charge. However, you may have your own attorney to represent you, if you wish.



The Resolution: The Commissioner's Order

4

After the hearing and based on the evidence presented at the hearing, the Administrative Law Judge assigned to your case will issue a recommended order, advising the parties and the Commissioner how s/he thinks the case should be resolved—that is, in favor of the Complainant or in favor of the Respondent. This is called the Administrative Law Judge's Recommended Order.

The Commissioner will review the allegations, evidence, and the Administrative Law Judge's Recommended Order and will issue a final Commissioner's Order. If the Commissioner's Order is in favor of the Complainant, the Order will specify a remedy.

In cases of discrimination in employment, remedies may include a change in policies and/or practices; back pay with interest or benefits lost due to the discriminatory practice; and/or compensation for emotional distress.

In cases of discrimination in housing, remedies may include a change in policies and/or practices; the rental, lease, or sale of real property; the provision of services; compensation for emotional distress; punitive damages; and/or civil fines and penalties.

In other cases, such as discrimination in public accommodations or educational institutions, the remedies may include a change in policies and/or practices; admission to and equal treatment in an accommodation, institution, or program; and/or compensation for emotional distress and any other damages.

APPEALS

If the investigator finds that there is no probable cause that unlawful discrimination took place, the Complainant has sixty (60) days to appeal that decision to the New York State Supreme Court.

Either the Complainant or the Respondent can appeal a Commissioner's Order within sixty (60) days of the issuance of that order to the New York State Supreme Court.



Responsibilities

- To file a complaint within one year of the date of the most recent act of discrimination. (You may file directly in state court within three years of the most recent act of discrimination, but you cannot file in both the Division and court.)
- To provide the Division with the information requested so the complaint can be processed in an efficient and timely manner, and to cooperate with the Division fully during the process.
- To notify the Division of any changes in address or telephone number. If the Division cannot locate you, your case may be closed.
- To keep careful records of the dates, names, addresses, and phone numbers of any witnesses of the discriminatory act(s). Keeping a diary or journal of the actions can be very helpful to the investigation.

RESPONDENT

- To respond to each allegation set forth in a complaint.
- To cooperate fully with the Division during the investigation and public hearing, if any.
- To ensure that the Complainant is not retaliated against for the filing of the complaint.
- To notify the Division of any change in address and/or telephone number, and, in the case of a business, of any change in ownership.



Responsibilities

The Division and the Federal Anti-Discrimination Laws

While your complaint may be covered by both the New York State Human Rights Law and the following federal law(s), filing a timely complaint with the Division will protect your state and federal claim(s) in employment or housing. It will also give you more options later if you choose to pursue your complaint in court.

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

Title VII is a federal law banning discrimination in employment based on race, color, sex, national origin, and creed.

THE AGE DISCRIMINATION IN EMPLOYMENT ACT

The Age Discrimination in Employment Act is a federal law banning employment discrimination based upon age for employees forty (40) years of age and over.

THE AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act is a federal law banning discrimination based upon disability.

TITLE VIII OF THE FEDERAL FAIR HOUSING ACT

Title VIII is a federal law banning discrimination in housing based on age, race, color, sex, disability, national origin, creed, or familial status.

Frequently Asked Questions

I AM NOT SURE IF I HAVE BEEN DISCRIMINATED AGAINST. WHO CAN I CONTACT TO GET MORE INFORMATION ABOUT THE SPECIFICS OF MY SITUATION?

If you have any questions about your situation or the filing process, you should review carefully the information in this booklet and on our website— www.dhr.ny.gov. If you still have questions, you can call or visit the Bronx office or one of the Division's regional offices. A staff member will be happy to answer your questions. Remember, the staff member cannot and will not provide legal advice, and this consultation does not constitute filing a complaint. A complaint is filed only through the written and notarized process outlined in this booklet.

DO I NEED AN ATTORNEY TO FILE A COMPLAINT IN THE DIVISION?

No. The Human Rights Law was designed as an alternative to the court system, and, thus, parties need not have a lawyer to file a complaint or to participate in the hearing process. The Division, however, has an interest in vindicating the human rights of New Yorkers, and, thus, a member of the Division staff will assist Complainants throughout the hearing process, free of charge.

WHY DO I ONLY HAVE A YEAR TO FILE MY COMPLAINT?

In order to ensure that Complainants act promptly when they feel they have been discriminated against, the Law imposes a one-year time period for the filing of complaints in the Division. If your claim is older than a year, you should consult with an attorney to see if you are able to file your claim in state court.

Frequently Asked Questions

ARE ALL EMPLOYERS SUBJECT TO THE HUMAN RIGHTS LAW?

Only employers that have at least four employees are subject to the HRL with regard to all protected classes. These employees, however, need not work at the same location. However, a complaint of sexual harassment may be made against any employer, even if the employer has fewer than four employees.

WHAT KIND OF ACCOMMODATION MUST AN EMPLOYER PROVIDE IF I HAVE A DISABILITY OR A PREGNANCY-RELATED CONDITION?

If you need an accommodation because of your disability or pregnancy-related condition to complete the essential tasks of your job in a reasonable manner, your employer is required to provide an accommodation, if it is reasonable under the particular circumstances and does not cause an undue hardship to the employer. You may be required to provide medical documentation of your need, which must be kept confidential by your employer.

WHAT KIND OF ACCOMMODATION MUST A LANDLORD PROVIDE IF I HAVE A DISABILITY?

If you require a reasonable modification to your housing unit because of your disability, the housing provider is required to permit you to make such modification. However, you are responsible for the cost of the modification, and, in the case of rentals, the cost to return the unit to its original condition upon leaving. A housing provider must also make reasonable accommodations in rules, policies, practices, and services to enable a person with a disability to use and enjoy the premises.

CAN I BE FIRED BY MY EMPLOYER OR EVICTED BY MY LANDLORD FOR FILING A COMPLAINT?

No. Retaliating against individuals who complain of any unlawful acts of discrimination, or who testify or assist in any proceeding under the Law, is unlawful. If you suspect that anyone has engaged in such retaliatory conduct against you, please contact the Division and ask whether such conduct gives rise to a separate complaint of discrimination.

Frequently Asked Questions

WHAT IS DISCRIMINATION IN CREDIT?

There are many ways that an individual may be discriminated against in the area of credit, including the denial of credit based on one of the traits or characteristics outlined at the beginning of this booklet, or the granting of credit on less favorable terms based on one of these same traits or characteristics. Because these acts can be subtle, individuals who believe that they have been the subject of such discrimination should contact the Division for consultation.

CAN I FILE A COMPLAINT WITH BOTH A FEDERAL AGENCY AND THE DIVISION?

The U. S. Equal Employment Opportunity Commission (better known as the EEOC) enforces federal anti-discrimination laws in the area of employment. The U.S. Department of Housing and Urban Development (HUD) enforces federal anti-discrimination laws related to housing. The Division enforces the New York State Human Rights Law, which only applies to New York State and goes beyond employment and housing into areas such as public accommodations, lending, and education. Although the federal laws and the Human Rights Law offer slightly different protections in the area of employment and housing, some complaints of employment discrimination and/or housing discrimination may be covered by both federal law and the state law. If this is true in your situation, you can protect all your rights by filing one complaint with the Division.

The Division of Human Rights Offices

REGIONAL OFFICES

Albany
New York State Division
of Human Rights
Agency Building 1, 2nd Floor
Empire State Plaza
Albany, New York 12220
Tel No. (518) 474-2705 (or 2707)

Binghamton
44 Hawley St., Room 603
Binghamton, NY 13901
tel: 607/721-8467

Brooklyn
55 Hanson Place, Room 304
Brooklyn, NY 11217
tel: 718/722-2856

Buffalo
65 Court Street, Suite 506
Buffalo, NY 14202
tel: 716/847-7632

Long Island (Suffolk)
250 Vet. Memorial Hwy.
Suite 2B-49
Hauppauge, NY 11788
tel: 631/952-6434

Long Island (Nassau)
175 Fulton Avenue
Suite 404
Hempstead, NY 11550
tel: 516/538-1360

Manhattan
163 West 125th Street
Fourth Floor
New York, NY 10027
tel: 212/961-8650

Peekskill
8 John Walsh Blvd.
Suite 204
Peekskill, NY 10566
tel: 914/788-8050

Rochester
One Monroe Square
259 Monroe Avenue
Suite 308
Rochester, NY 14607
tel: 585/238-8250

Syracuse
333 East Washington St.
Room 543
Syracuse, NY 13202
tel: 315/428-4633

HEADQUARTERS

The Bronx
One Fordham Plaza
Fourth Floor
Bronx, NY 10458

Office Number
718/741-8400

Toll Free Number
(for Complaint Info)
888/392-3644

Website
www.dhr.ny.gov