



Employment Rights Helpline at Equip for Equality

SELF-ADVOCACY ASSISTANCE ★ LEGAL ADVICE ABOUT EMPLOYMENT RIGHTS ★ SAMPLE LETTERS & FORMS ★ REFERRALS

FACT SHEET: How to File a Charge of Discrimination

What is the EEOC?

The U.S. Equal Employment Opportunity Commission (EEOC) is the federal agency that enforces federal employment discrimination laws, including the Americans with Disabilities Act (ADA).

What is the IDHR?

The Illinois Department of Human Rights (IDHR) is state agency that enforces the Illinois Human Rights Act (IHRA) which is the State of Illinois' anti-discrimination law.

Why do I need to file a charge of discrimination?

Unlike most laws, individuals who wish to file an employment discrimination lawsuit under the ADA or the IHRA cannot go directly to court. In Illinois, individuals must first file a charge of discrimination with either the EEOC or the IDHR.

Do I need to file a charge with both the EEOC and the IDHR?

No. You only have to file with one agency. The EEOC and the IDHR have an agreement where they file any eligible charges of discrimination with the other agency.

Should I file with the EEOC or the IDHR?

There are certain situations where you will want to file with one agency over the other.

- For example, if your employer has fewer than 15 employees, you should file with the IDHR, as the ADA applies only to employers with 15 or more employees.

Otherwise, you can choose to file with either agency.

When do I need to file a charge of discrimination?

It is very important that you do not miss your deadline to file your charge of discrimination.

- For both the EEOC and the IDHR, you must file your charge within 300 days of the discriminatory treatment you experienced.

Do I need to pay a fee to file?

No. It is free to file a charge of discrimination with the EEOC or the IDHR.

Do I need an attorney to file a charge of discrimination?

No. You do not need an attorney to file a charge of discrimination with the EEOC or the IDHR, though some attorneys will represent clients during these administrative processes.

Does this process apply to all employees?

No. Federal employees and job applicants have a different complaint process, which starts by filing a charge of discrimination with your agency's EEO counselor.

www.eeoc.gov/federal/fed_employees/complaint_overview.cfm

How do I file a charge of discrimination with the EEOC?

Depending on where you live, you will file either with the Chicago District Office or the St. Louis District Office. Review their websites to learn more about the filing process.

- Chicago District Office: www.eeoc.gov/field/chicago/index.cfm
- St. Louis District Office: www.eeoc.gov/field/stlouis/index.cfm

You can also complete the EEOC's Intake Questionnaire.

How do I file a charge of discrimination with the IDHR?

Depending on where you live, you will file with IDHR's office in Chicago or in Springfield.

- www.illinois.gov/dhr/FilingCharge/Pages/FAQ_Home.aspx

Your first step will be completing the Complainant Information Sheet.

What happens after I file a charge of discrimination with the EEOC?

- After you file a charge of discrimination, the EEOC sends your charge to your employer, who must respond with a position statement.
- Some cases are referred to mediation. Mediation is voluntary, so it only moves forward if both you and your employer agree to it.
- If mediation is unsuccessful, or if your case does not go to mediation, the EEOC then investigates your case. The EEOC investigator assigned to your case will usually give you the opportunity to respond to your employer's position statement. You can provide documents, names of witnesses, or additional information.
- The EEOC then makes a determination about whether "reasonable cause" exists for your discrimination claim.
 - If the EEOC **does not** find reasonable cause to determine discrimination has occurred, you will be given a "Notice of Right to Sue."
 - If the EEOC **does** find reasonable cause that discrimination has occurred, it will attempt to engage in voluntary settlement called conciliation. It will also determine if it wishes to bring a suit of your behalf. If conciliation fails, and if the

EEOC decides not to file a lawsuit on your behalf, then issues you a “Notice of Right to Sue.”

- After you receive either outcome, you will be able to bring a lawsuit within 90 days in federal court. It does not matter if the EEOC does not find reasonable cause for discrimination; you are still allowed to bring a lawsuit.
- There are procedures to ask the IDHR to review the EEOC’s findings. If you are interested in doing this, be sure to contact an attorney, as there are strict time requirements.

What happens after I file a charge of discrimination with the IDHR?

- After you file a Charge, the IDHR sends your charge to your employer, who must provide a verified response. You may then provide a response.
- Some cases are referred to mediation. Mediation is voluntary and an attorney is not required, although you may bring one.
- If mediation is unsuccessful, or if your case does not go to mediation, the IDHR then investigates your case. The IDHR investigator may contact and interview relevant witnesses and may obtain pertinent documents from both parties. The IDHR may also conduct a fact finding conference with both parties.
- The Illinois Human Rights Act requires that the IDHR conclude all proceedings and make a finding within **365** days of your Charge being filed.
- The IDHR then makes a determination about whether “substantial evidence” exists for your discrimination claim.
 - If the IDHR **does not** find substantial evidence to determine discrimination has occurred, you will be given a “Notice of Right to Sue.” You then have the option of either (1) filing a Request for Review with the Illinois Human Rights Commission (Commission) or (2) filing a civil action in state court.
 - If the IDHR **does** find substantial evidence that discrimination has occurred, you will be given a “Notice of Right to Sue.” You then have the option of either (1) requesting that the IDHR to file a complaint, on your behalf, with the Commission or (2) filing a civil action in state court.
- After you receive either outcome, you will be able to bring a lawsuit within 90 days in state court. It does not matter if the IDHR does not find reasonable cause for discrimination; you are still allowed to bring a lawsuit.
- There are procedures to ask the EEOC to review the IDHR’s findings. If you are interested in doing this, be sure to contact an attorney, as there are strict time requirements.

Where can I learn more?

- EEOC: How to File a Charge of Employment Discrimination: www.eeoc.gov/employees/howtofile.cfm
- IDHR: Filing a Charge: <https://www.illinois.gov/dhr/FilingCharge/Pages/default.aspx>



DO YOU HAVE A QUESTION?

Contact Equip for Equality's Employment Rights Helpline

1-844-RIGHTS-9 (1-844-744-4879) (toll free - voice)

800-610-2779 (tty)

employment@equipforequality.org

www.equipforequality.org

This resource material is intended as a guide for people with disabilities. Nothing written here shall be understood to be legal advice. For specific legal advice, an attorney should be consulted.

Equip for Equality, an independent nonprofit organization, is the Illinois state Protection & Advocacy System whose mission is to advance the human and civil rights of children and adults with disabilities. The Employment Rights Helpline seeks to empower individuals with disabilities to advocate effectively. This publication is made possible by funding support from The Chicago Community Trust, the U.S. Department of Health and Human Services, the Administration on Intellectual and Developmental Disabilities and the Center for Mental Health Services of the Substance Abuse and Mental Health Services Administration; the U.S. Department of Education, Rehabilitation Services Administration; and the Social Security Administration. The contents of this publication are solely the responsibility of Equip for Equality and do not necessarily represent the official views of any of these agencies.

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