



# Employment Rights Helpline at Equip for Equality

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

## FACT SHEET: Documenting Disability Discrimination

### Should I document disability discrimination?

Yes. It is important to document any incidents, exchanges or communications that you believe show that you are being discriminated against on the basis of disability. It is a good idea to document disability discrimination even if you are not sure whether you would like to pursue legal action.

### Why should I document disability discrimination?

There are a number of reasons to document disability discrimination, including:

- If you decide not to pursue legal action, but want to take some action to address the discrimination, a written record will allow you to review all of the incidents to help you brainstorm different ways to approach the situation to prevent future discrimination.
- If you are considering whether to pursue legal action, a written record can be very helpful to the attorney who is assessing and reviewing your case.
- If you decide to pursue legal action, a written record is good evidence of the discrimination that occurred. It can be compelling evidence in court because it was written at the time of the incident, instead of after-the-fact.

### I will never forget what happened to me. Should I still document disability discrimination?

Yes. In our experience, it is very difficult for most of us to remember details of an exchange or incident long after it is over. It is also helpful, from a legal perspective, to have notes written at the time of the discrimination.

### What should I use to document discrimination?

There is no one-size-fits-all method of documentation. The key is to keep your documentation in one place, and use a method that fits easily into your lifestyle.

Here are a few ideas, but use the strategy that would be the simplest for you:

- Journal: Some people like to keep a hard-copy journal with them at all times for the sole purpose of documenting discrimination.
- Calendar/Planner: Other people keep a calendar with them at all times, so like to use it to track discrimination too.
- Computer file: Some people like to keep notes in an electronic document. If you do use this strategy, it is best to do this on a personal (non-work) computer.

- Cell/mobile device: Some people like to keep notes on a cell phone or other mobile device, given that it is always with them and easy to access.

### What does documenting discrimination actually mean? What do I need to do?

There are **three** important things to consider when documenting discrimination.

#### 1. Write down any incidents or communications with supervisors or co-workers that you feel show that you are being treated differently, or unfairly, due to your disability.

Be sure to include:

- The time, date, and location where the discrimination occurred.
- The names of all the people who were involved, and their role.
- The names of all people who witnessed or overheard the discrimination, and what you believe those people saw or heard.
- A detailed account of everything that happened. Be as specific as possible.
  - If you can remember exactly what a person said, include the statement as a quote. *Example: John said, "You cannot get special treatment in this department."*
  - Otherwise, write down what you heard in your own words. *Example: John told me I couldn't get special help on the job.*

#### 2. Keep copies of all written documents, including emails, that are important to understand the discrimination.

These documents could include: hand written or typed notes; memos or letters; files; policies and procedures; reports or evaluations; and emails.

- Print important emails sent on your work email, in the event you no longer have access to it.

#### 3. Memorialize important conversations.

If you have an important verbal conversation with your employer, follow up in writing, recapping the content of the communication. An effective way to do this is to send a thank you note.

*Example: Thank you for meeting with me to discuss my request for an accommodation...*

*Example: Thank you for your time today to discuss my concerns about... During this conversation, you said that...*

For very important communications, request a written response.

- To show proof of receipt, consider sending letters by certified mail.

### Should I let my employer know that I am keeping documentation?

No. You should keep this documentation private. Sharing this with your employer will only escalate the situation.

**Is there anything else I need to know?**

You have the right to inspect your personnel file and add rebuttal information if you disagree with information contained in it. Please see the Employment Rights Helpline Fact Sheet about [How to Request a Copy of Your Personnel File](#) to learn more.

A word of caution. Sometimes, when we start to document, it can be easy to try to find discrimination in a communication or exchange where it does not necessarily exist. While it is important to document, it is also important to maintain a positive workplace for ourselves. Try your best to consider exchanges as objectively as possible.

**EMPLOYEE WORKSHEET: Documenting Discrimination**

Use this worksheet to help you document incidents or communications indicative of disability discrimination.

**Incident:** \_\_\_\_\_

**Date & Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Names/role of all people involved:** \_\_\_\_\_

\_\_\_\_\_

**Names of all witnesses and what they heard or saw:** \_\_\_\_\_

\_\_\_\_\_

**Detailed account of everything that happened (be as specific as possible):** \_\_\_\_\_

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**Incident:** \_\_\_\_\_

**Date & Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Names/role of all people involved:** \_\_\_\_\_

\_\_\_\_\_

**Names of all witnesses and what they heard or saw:** \_\_\_\_\_

\_\_\_\_\_

**Detailed account of everything that happened (be as specific as possible):** \_\_\_\_\_

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**Incident:** \_\_\_\_\_

**Date & Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Names/role of all people involved:** \_\_\_\_\_

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**Names of all witnesses and what they heard or saw:** \_\_\_\_\_

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**Detailed account of everything that happened (be as specific as possible):** \_\_\_\_\_

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### **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](http://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.