

# Independent CAP

## Client Assistance Program



CAP AT EQUIP FOR EQUALITY

## ADA Employment Rights Series

# Steps to Take if You Are Discriminated Against — “Filing a Charge of Discrimination”

This fact sheet answers:

- Why Do I Need to File a Charge of Discrimination?
- When Do I File a Charge of Discrimination?
- How Do I File a Charge of Discrimination?
- And More

## What Is the EEOC?

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

## What Is the IDHR?

The Illinois Department of Human Rights (IDHR) is the 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?

You must file a complaint of discrimination with either the EEOC or the IDHR before you file a claim under the ADA or the IHRA in court.

## Do I Need to File a Charge With Both the EEOC and the IDHR?

**No.** You only need to file with one agency. The EEOC and the IDHR have an agreement where they file all charges of discrimination with the other agency. Make sure you check the box on the form that you want your charge Cross-Filed.

## Should I File With the EEOC or the IDHR?

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

For example, if your employer has less than 15 employees, you should file with the IDHR. This is because the ADA applies only to employers with 15 or more employees. Otherwise, you can 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.

In Illinois, the deadline to file with the EEOC and the IDHR is **300 days** from the date you were discriminated against.

## Do I Need to Pay a Fee to File?

**No.** It is free to file a charge of discrimination.

## Do I Need an Attorney to File a Charge of Discrimination?

**No.** You do not need an attorney, but attorneys represent clients in these administrative cases.

## Does This Process Apply to Federal Government Employees?

**No.** Federal employees and job applicants for federal jobs have a different complaint process, which starts by filing a charge of discrimination with your agency's EEO counselor. See [Overview of Federal Sector EEO Complaint Process](#) to learn more.

## How Do I File a Charge of Discrimination With the EEOC?

You will file either with the Chicago District Office or the St. Louis District Office, depending on where you live. Read their websites to learn more.

- [Chicago District Office](#)
- [St. Louis District Office](#)

You can also start process on the [EEOC's website](#).



## What Happens After I File a Charge of Discrimination With the EEOC?

The EEOC sends a copy of your charge to your employer, who writes a position statement saying what they think happened.

Some cases are sent to mediation. Both you and your employer must agree to mediation. If one side does not agree, mediation does not happen. [Learn more about the EEOC mediation process.](#)

If you do not go to mediation or mediation does not work, the EEOC will look into your case. An EEOC investigator will ask you to respond to your employer's position statement. You can give more facts, documents, or names of people who saw what happened. [Learn more about responding to position statements.](#)

The EEOC then decides if there is "reasonable cause" for your discrimination claim.

- If the EEOC does not find reasonable cause, you will get a "Notice of Right to Sue."
- If the EEOC does find reasonable cause, it starts a process called conciliation and tries to reach a settlement. The EEOC also decides if it wants to bring a lawsuit of your behalf. The EEOC rarely files lawsuits. If conciliation fails, and if the EEOC decides not to file a lawsuit, then it gives you a "Notice of Right to Sue."
- If your employer is a public employer, such as a state or local government, and the EEOC finds reasonable cause, it sends your case to the Department of Justice to decide if it will bring a lawsuit. The rest of the process is the same.

Once you get your Notice of Right to Sue, you have **90 days** to file a lawsuit in federal court. It does not matter if the EEOC does not find reasonable cause for discrimination; you can still file a lawsuit. If you do not file within 90 days, then your case expires.

There are specific ways to ask the IDHR to review the EEOC's findings. There are also ways to ask the IDHR for a Notice of Right to Sue to include a claim under the IHRA. If you want to do this, contact an attorney because there are strict time requirements.

## How Do I File a Charge of Discrimination With the IDHR?

You will file with IDHR's office in Chicago or in Springfield, depending on where you live. See IDHR's [Frequently Asked Questions about the IDHR](#) to learn more.

Your first step is completing the Complainant Information Sheet.



## What Happens After I File a Charge of Discrimination With the IDHR?

The IDHR sends a copy of your charge to your employer, who must provide a verified response.

Some cases are sent to mediation. Both you and your employer must agree to mediation. If one side does not agree, mediation does not happen. An attorney is not required but can help.

If mediation does not work, or you do not go to mediation, the IDHR will look into your case. An IDHR investigator may talk to witnesses and ask for documents from both parties. They may have a meeting with both parties called a fact-finding conference.

The IDHR must make a decision within 365 days of your Charge being filed.

The IDHR then decides if there is “substantial evidence” for your discrimination claim.

- If the IDHR does **not** find substantial evidence of discrimination, it gives you a “Notice of Right to Sue.” You can then either file a Request for Review with the Illinois Human Rights Commission or file a civil action in state court.

- If the IDHR does find substantial evidence that discrimination happened, you get a “Notice of Right to Sue.” You can then ask the IDHR to file a complaint with the Commission, file a complaint with the Commission yourself, or file a lawsuit in state court.

Once you get your Notice of Right to Sue, you have **90 days** to file a lawsuit 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. If you do not file within 90 days, the case expires.

There are ways to ask the EEOC to review the IDHR’s findings. There are also ways to ask the EEOC for a Notice of Right to Sue to include a claim under the ADA. If want to do this, contact an attorney because there are strict time requirements.

## Where Can I Learn More?

- [EEOC: How to File a Charge of Employment Discrimination](#)
- [IDHR: Filing a Charge](#)



Equip for Equality  
20 North Michigan Avenue  
Suite 300  
Chicago, IL 60602

[www.equipforequality.org](http://www.equipforequality.org)  
1-800-537-2632

## Have More Questions?

Call Independent CAP at Equip for Equality.

**855-ILCAP-25 (855-452-2725)**  
[cap@equipforequality.org](mailto:cap@equipforequality.org)  
[www.equipforequality.org/cap](http://www.equipforequality.org/cap)