

Filing an Employment Discrimination Charge with the Equal Employment Opportunity Commission (EEOC)

A Step-by-Step Guide on What to Expect

The Law

Title VII of the Civil Rights Act of 1964 is the federal law that says there will be no job discrimination based on race, color, sex, religion, and national origin. The Equal Employment Opportunity Commission (EEOC) enforces this law.

Under Title VII, these actions are illegal:

- Discriminating in recruitment, advertising jobs, hiring, training, assigning jobs, promotion, transfer, use of company space, layoff, firing, wages, disciplinary action, all fringe benefits, and other terms, privileges, and conditions.
- Getting back at an employee for filing a charge of discrimination or helping in an EEOC investigation.
- Anything bad that happens to an employee because of being against employment practices that are illegal.

Title VII does not cover discrimination based on age, citizenship, union activity, political affiliation, sexual orientation, or disability. (Discrimination based on age or disabilities are covered under other laws that the EEOC enforces.)

Who is covered by this law?

- Private employers, state and local governments, educational institutions, labor organizations with 15 or more employees or members.
- Employment agencies and joint labor-management committees for apprenticeship and training.
- Federal government (you must first consult with an EEO counselor at the employing agency within 45 days of the problem; formal complaints are filed with the employing agency).

The law says a jury will decide how much to pay you because of the job discrimination you experienced. This amount is called “damages.” Damages that can be awarded include the kind to make up for what you suffered such as emotional distress and medical bills. Also, you may receive damages to punish the employer if the discrimination was on purpose. The amount of money that can be awarded as damages is limited by the size of the company and ranges from \$50,000-\$300,000 for each person discriminated against. In addition, you can get back pay and get the job back.

Filing a Charge

To get help under Title VII, you need to file written charges of discrimination with an EEOC office before you can take the case to court. The EEOC serves as a neutral investigator that does not represent either you or the employer.

You must file your charge within a certain period of time after the discrimination happens. Ask your local office what this time limit is for your state.

A charge may be filed by any person who says she/he is the victim of discrimination, by any person or group on behalf of a victim(s) of discrimination, or by any of the EEOC Commissioners. Some EEOC offices also allow charges to be filed by mail. Check with your local EEOC office to see whether you must file in person.

Contacting the EEOC

To reach the office nearest you, go to www.eeoc.gov/offices.html or call 1-800-669-4000. The TTY number is 1-800-669-6820.

A person can go to EEOC and file a charge without a lawyer. However, the agency is short on staff, with many cases, so it is better to hire a lawyer if you can.

The charge is then written up, sworn to and filed. You should ask for a copy of the completed complaint forms before leaving the EEOC office.

When you file a charge, be prepared to provide the following information:

- Your name, address, phone number and social security number.
- The employer's name, address, phone number and approximate number of employees. (The employer is called the "respondent".)
- What kind of alleged discrimination took place (race, color, religion, sex, national origin, retaliation).
- The date of most recent discrimination.
- Details of what happened, including the harm that resulted.
- Names of witnesses who can help prove your case.
- Your work history with the employer.
- Your job description.
- The reason employer gave for action(s) that led to the charge.
- How you were treated differently than other employees not of the same sex, race, religion, etc. Were they treated better than you?
- Other spoken or written evidence to help your case.

The Employer's Response

The EEOC may contact your employer any time after you file a charge. During the investigation, the employer may be asked to provide:

- Specific information about what you said in the charge.
- The names of witnesses who support what the employer says happened.
- Information about the business and workplace.
- Personnel records.

Employers may give other spoken or written evidence.

If an employer tries to frustrate an EEOC investigation by destroying or not keeping records because of an investigation, EEOC can decide that means that the information would have been against the employer and use that in deciding if a charge has merit. If the employer won't turn over information to EEOC and the case goes to court, the withheld information can be gotten in other ways.

Investigation

After a charge is filed, an EEOC investigator will decide if discrimination probably took place. The investigator may 1) be able to decide quickly that discrimination likely took place, or 2) need more time to investigate, or 3) decide that no discrimination took place and dismiss the charge quickly.

You can ask for a "Right to Sue" letter any time after filing a charge with the EEOC. If you do, the letter must be given after 180 days from filing; it may be granted earlier if EEOC decides that taking care of the charge cannot be done in 180 days. After you receive the "Right to Sue" letter, you have 90 days to file in court. The EEOC gives brief status reports by phone or in writing to both parties every few months.

Mediation and Settlement

Mediation is a way of working things out that is offered by the EEOC in place of the usual investigation. You may choose to do this or not. If either you or the employer says no to mediation, OR if both sides don't reach an agreement through mediation, the charge will be sent to an EEOC enforcement unit for investigation.

The mediation process usually takes 90 days. The mediator does not decide who is right or wrong and has no authority to make both sides settle. The mediator helps both sides reach their own agreement. The help available is the same as that available in court and may include reinstatement, promotion, transfer, harassment stopped, reference letters and money.

A settlement that comes through mediation may be less, especially in money, than what you might finally get in court if you were able to win your case. This means you need to weigh what you could get now against what you might get in court in the future. If a settlement is reached during mediation, you will need to sign a waiver saying you have no further legal claims against the employer in this matter. Both parties may have a representative with them at the mediation. This may include a family member, lawyer or

Be Careful

The EEOC may provide the employer with copies of documents related to the case if the employer asks.

You should be careful not to say anything you don't want the employer to read when filling out paperwork such as a Charge Questionnaire or Charge of Discrimination.

You should answer questions directly and give only necessary facts and no more. Do not write anything that could make you look bad. You may ask for copies of the employer's documents.

other person there to help you (called an “advocate.”) The EEOC can provide you with a list of free (“pro bono”) advocates if you ask.

Whether or not a charge is mediated, the EEOC will encourage settlement between the parties.

Your Rights and Responsibilities

You have the right to:

- file any charge that falls under Title VII.
- be represented by a lawyer or other advocate at any stage.
- ask to stop the case at any time.
- sue in Federal District Court for yourself after the case is filed with the EEOC. (You must first get a “Right to Sue” letter from the EEOC. After getting the letter, you have 90 days to file in court).

It is your responsibility to:

- let the EEOC know about any change in address or other information.
- cooperate with the EEOC to make the facts of the case clear, attend fact-finding conferences, or whatever is necessary to work the case out.

Determination of Charge

If the EEOC investigates and finds that there is “no reasonable cause” to believe that discrimination took place, EEOC will send out a “Dismissal and Notice of Rights” form stating that the investigation didn’t prove a violation of the law. This serves as the charging party’s “Right to Sue” letter.

If the EEOC finds that there is “cause” to believe that discrimination took place, the EEOC will attempt to settle the case.

Conciliation

If discrimination is found and things are worked out, you will normally be offered specific help—which can include reinstatement, hiring, promotion, back pay, fringe benefits, and money to make up for the harm to you.

Filing in Court

If settlement is not reached, the EEOC has the power to go to court for you. However, this is not required and EEOC’s limited resources make it unlikely. In most cases when

discrimination is found and settlement attempts fail, the EEOC will quit the case and send you a “Right to Sue” letter which allows you to take the case to court. So you should expect that, if no settlement is reached, you will need to bring your own lawsuit. If the EEOC does sue for you, it has the same right as a private lawyer to work out how much you should receive.

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