

# *Do It Yourself (DIY) Philadelphia:*

## A Guide for How to File An Employment Discrimination Claim



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## TABLE OF CONTENTS

<b>ACKNOWLEDGMENTS</b> .....	4
<b>IS THIS GUIDE FOR ME?</b> .....	5
<b>PART I: LEARN THE LAW</b> .....	6
What is Employment Discrimination?.....	6
How do I know if I have a claim?.....	7
How do I prove that I have been discriminated against?.....	8
DISPARATE IMPACT.....	9
Retaliation.....	10
Harassment.....	11
Failure to Accommodate.....	12
What should I do if I think I have a claim? Can I sue?.....	12
Why are there three different government agencies?.....	13
What are the differences between the agencies?.....	13
Do I need to file MY CLAIM with multiple agencies?.....	16
Disclaimer – Every CLAIM Is Unique!.....	16
<b>PART II: HOW TO FILE WITH EACH AGENCY</b> .....	17
The Equal Employment Opportunity Commission.....	17
Overview of the United States Anti-Discrimination Laws.....	17
When can I file a discrimination CLAIM with the EEOC?.....	18
Who is considered to be in a protected class?.....	19
Who can I bring an employment discrimination CLAIM against?.....	20
What types of discriminatory ACTIONS are illegal?.....	21
How do I file a claim with the EEOC?.....	22
Where is the EEOC office in Philadelphia located?.....	25
The Pennsylvania Human Relations Commission.....	26
When can I file a CLAIM with the Pennsylvania Commission?.....	27
Who is protected by Pennsylvania’s anti-discrimination law?.....	29
Who can I bring an employment discrimination CLAIM against? What discriminatory actions are prohibited?.....	31

What can the Pennsylvania Commission order my employer to do if I prove my employer discriminated against me.....	34
Contacting the Pennsylvania Commission.....	41
The Philadelphia Commission on Human Relations.....	42
When can I file a discrimination claim with the Philadelphia Commission?.....	43
Who is protected by Philadelphia’s anti-discrimination law?.....	44
Who can I bring an employment discrimination claim against? What discriminatory actions are prohibited?.....	45
What can the Philadelphia Commission order my employer to do if I prove my employer discriminated against me?.....	52
How do I file an employment discrimination claim with the Philadelphia Commission?.....	53
Contacting the Philadelphia Commission.....	57
<b>PART III: FREE OR LOW COST LEGAL SERVICES IN PHILADELPHIA.....</b>	<b>58</b>

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## IS THIS GUIDE FOR ME?

*Do It Yourself (DIY) Philadelphia: A Guide for How to File an Employment Discrimination Claim* is designed to walk people who do not have a formal legal education through the process of filing an employment discrimination claim at the administrative level. This guide is not a substitute an attorney, who can provide legal advice that is tailored to your specific situation.

**Part I** is an introduction to help Philadelphians recognize what types of workplace behaviors are classified as employment discrimination. It provides an overview of anti-discrimination laws and helps readers decide whether to bring a claim. Part I also discusses the government agencies where you can file an employment discrimination claim and the advantages or disadvantages of each agency.

**Part II** gives specific details about the process of filing with the city, state, and federal agencies and the specialized protections or remedies available at each agency. Although this guide gives examples of employment discrimination, each case is different and this guide does not cover every type of discrimination that you might encounter. Even if you do not see an example that matches your situation, you may still have a claim and should seek the advice of a licensed attorney.

**Part III** provides a list of free legal services agencies in Philadelphia that may be able to represent you in your employment discrimination case. It provides brief instructions for how to file a claim in court after you have completed the administrative process described in Part II. However, a private attorney may also represent you. Private attorneys in Philadelphia will consider representing you on a *contingency fee basis*. This means that your attorney will be paid a fixed percentage (often one third) of the money awarded to you if you win your case. Generally, if you are not awarded any money in your case, you will not be required to pay your attorney. Although you are not responsible for paying your attorney out of pocket in a contingency fee arrangement, you may be responsible for paying court fees and additional costs related to litigating your case.



## PART I: LEARN THE LAW

As discussed above, this manual guides readers through the process of filing an employment discrimination claim at the federal, state, and city level. But first, learning the law on employment discrimination is helpful and necessary in **understanding** whether you have been discriminated against.

### SECTION 1.01 WHAT IS EMPLOYMENT DISCRIMINATION?

You may be familiar with the word “**discrimination**.” To discriminate against someone means to treat that person differently, or less favorably, for some reason. When discrimination occurs at or in relation to your job, the result can be employment discrimination. You can be discriminated against by employers, co-workers, managers, business owners, labor organizations, and employment agencies.

However, **not all discrimination is ILLEGAL** discrimination. Many states, including Pennsylvania, are **at-will** employment states. At-will employment means that an employer can legally fire an employee for *any* reason *not* prohibited by law. Employment discrimination is prohibited by law. Therefore, even though Pennsylvania is an at-will employment state, an employer cannot illegally discriminate against any employee.

The United States federal government, the Commonwealth of Pennsylvania, and the City of Philadelphia each have laws that define what types of discrimination are illegal.

Let’s look at an example:

*Susan has bright red hair and applies for a job, but is told that the company she is applying for does not accept applicants with red hair. Has Susan been discriminated against? Yes. Susan was treated less favorably because of her red hair. However, **the type of discrimination Susan faced was not illegal** because discriminating based on hair color is not illegal under any laws.*



## When is discrimination illegal?

Discrimination is illegal when it is banned by federal, state, or city anti-discrimination laws. These anti-discrimination laws prohibit employers from harming employees' job opportunities because the employee is a member of a **Protected Class**.

**Being a member of a protected class is essential for any employment discrimination claim. Make sure you fall into a protected class before taking any other steps to file a claim.**

Protected classes vary from agency to agency (and we will discuss them all later.) However, the most common protected classes are:

- [Age](#)
- [Disability](#)
- [National Origin](#)
- [Race/Color](#)
- [Religion](#)
- [Sex](#)
- [Pregnancy](#)



# DISCRIMINATION

## SECTION 1.02 HOW DO I KNOW IF I HAVE A CLAIM?

If your employer has ever taken an **Adverse Employment Action** against you based on your status in a protected class, they have engaged in illegal employment discrimination.

Adverse employment actions include:

- Refused to hire
- Disciplined
- Fired
- Denied training
- Failed to promote
- Failed to accommodate a known disability or religious requirement

### *Definition:*

A Protected Class is a group of people protected by law from discrimination or harassment based on their membership in the group with a specific characteristic or trait.

### *Definition:*

An Adverse Employment Action is a significant change in your employment status, such as hiring, firing, failing to promote, reassignment to a different job with significantly different responsibilities, or a decision causing a significant change in benefits.

- Paid less
- Demoted or
- Harassed

*Tip: These actions are just a starting point. We're going to be discussing other adverse employment actions later in the manual.*

**Finding a connection between your protected class and the discriminatory action IS A MUST! You must be able to show that the adverse employment action was taken *because of* your status in a protected class.**

## SECTION 1.03 HOW DO I PROVE THAT I HAVE BEEN DISCRIMINATED AGAINST?

**First**, you have to show that some action was taken against you for a discriminatory reason. To show that you were illegally discriminated against, you must show that:

- 1) You are a member of a protected class (e.g. you are a woman);
- 2) Your employer took an adverse employment action (they did something negative) against you (e.g. the employer refused to hire you for a job that you were qualified for);
- 3) You are qualified for the job; and
- 4) Your employer treated someone outside of your protected class differently (e.g. they hired a man for the job even though he was less qualified than you).

**Second**, even after you make a claim of employment discrimination, the employer can give some legitimate, nondiscriminatory reason to explain why they took the adverse action against you. Examples of legitimate, nondiscriminatory reasons can include the employee constantly arriving to work late, violating company protocol, or having too many write-ups.

Using the example above, the employer may try and show that the man had some qualifications or experience that you didn't have.

**Third**, you will have a chance to try and prove that the employer's story is not true. You want to be able to show that your employer is only giving that reason to hide the fact that they were actually discriminating against you. This can be very hard to do.

Let's look at an example:

Susan is an older Irish woman who applied for a job as a guidance counselor at a local school, but the school hired a 30-year-old man with much less experience. Does she have a claim against the school?

Susan could say the school did not hire her because:

“I’m a woman!” (Protected class: Sex)

“I’m Irish!” (Protected class: National Origin)

“I’m elderly!” (Protected Class: Age)

To prove her claim, Susan must show that she applied and was qualified for the guidance counselor job, but did not receive it due to one of the above reasons. For example, she could show that she had years more experience than the person who was hired and that the school has not hired anyone older than 40 years old in the last 30 years.

If she can show that, then the school must produce another non-discriminatory reason for not hiring her. The school could say, for example, that she did not have a master’s degree in education while the candidate who was hired did. Susan still has a chance to say:



Wait a minute! I have a PhD in Education!  
So my educational background is not the  
reason, my age, national origin, or sex is!

## SECTION 1.04 DISPARATE IMPACT

It is illegal for an employer to have a policy that creates a **Disparate Impact** on a protected class.

If the employer has a policy in place that excludes groups of people, it must show that there is some **business necessity** for the policy. In other words, *is there a good reason to have the policy?*

### *Definition:*

A **Disparate Impact** results when an employment practice or hiring criteria tends to screen out members of a protected class.

As an example, let’s say the fire department has a strength test that a job applicant must pass in order to be hired as a fire fighter. Women fail the strength test more often than men. This test has a **disparate impact** on women.

To justify this policy, the fire department must show that strength is critical to being a firefighter, in other words, that it is a business necessity. The fire department will probably be able to do this because a firefighter must be able to carry people down stairs and out of burning buildings. Therefore, because the strength test is consistent with business necessity, the hiring practice would be legal. But at the same time, what if the fire department never tested for strength again? Many of the current firefighters may be out of shape and unable to pass the strength test. In that case, the fire department might be overstating its need to have strong people on the force.



But remember a woman who passed the strength test but still was not hired by the fire department may still have an employment discrimination claim if she was not hired because of her sex.

### **Let's Keep Learning the Law!**

Now that we have covered basics of employment discrimination law including what groups are protected by the law (page 7), what employment actions are illegal, (page 7-8), how to prove a claim (page 8), and the concept of disparate impact (page 9-10), we will now explain three additional forms of employment discrimination that are very common in the workplace: **retaliation, harassment, and failure to accommodate.**

#### **SECTION 1.05      RETALIATION**

Every employee has the right to engage in certain actions that are protected by law. Retaliation occurs when your employer takes an adverse employment action against you because you filed an employment discrimination complaint against them, opposed illegal discrimination in the workplace, or helped with an investigation against your employer. **Retaliation is illegal.**

You do not have to be a member of a protected class to have a claim of retaliation.

Let's look at the example below.

*Jerry filed an employment discrimination complaint against his employer. During the agency's investigation of his complaint, Tammy, Jerry's co-worker, is called as a witness to the discrimination. After the boss finds out that Tammy was a witness, he fires her.*

*Is this illegal?*

**Yes!** *Even though Tammy was not discriminated against based on a protected class, her boss **retaliated** against her for participating in an investigation. That is illegal!*

## SECTION 1.06 HARASSMENT

Harassment occurs when someone acts so badly towards you that his or her actions create a hostile work environment. This means that it is difficult to be in the workplace. There are two types of harassment: **pervasive** and **severe**.

Sometimes behavior can create a hostile work environment because it goes on for a long time, even if it is relatively minor. This is called **pervasive or ongoing** harassment. Other times, a bad act is so extreme and serious that it is considered to be harassment, even if it happens just once. This is called **severe** harassment.

A few examples of actions that can amount to harassment are: offensive jokes, slurs, name calling, physical assaults, threats, intimidation, insults, put-downs, circulating offensive objects or pictures, and interference with work performance.

Sometimes, harassment is hard to prove. Simply being annoyed at work is not harassment (at least not illegal harassment). Remember, in order for behavior to be harassment, it must be either **pervasive**, meaning that it took place over a long period of time, or **severe**, meaning that the conduct was outrageous or despicable.

Let's look at an example below.

*Jessica is a secretary who works at a local cable company. Jessica's male manager consistently touches her inappropriately and makes crude, sexual comments to her. Jessica often asks her manager to stop because it makes her very uncomfortable and she cannot finish her work when he is around, but his behavior continues.*

*Is this harassment?*

*This is likely illegal harassment. The manager's comments are both **pervasive/ongoing** (he makes these sexual comments constantly) and **severe** (most people would think the conduct is outrageous). Therefore, the manager has likely created a **hostile work environment** for Jessica because she cannot efficiently complete her work as a result of his conduct.*

## SECTION 1.07

## FAILURE TO ACCOMMODATE

If you are an individual with a **disability** (see page 19 for definition of disability), you have the right to request a **reasonable accommodation** for your disability from your employer. For example, an employer could build a ramp for an employee or applicant who uses a wheelchair, or modify an employee work schedule. There are many reasonable accommodations that you can request and an employer can make. These are just two examples.

Your employer is also required to work with you to accommodate your disability in the workplace. It is discriminatory and illegal for your employer to refuse to work with you to find a reasonable accommodation. However, you must notify your employer of your disability and need for accommodation.

To be protected under the law, you still must be **qualified** for the job. To be qualified, you must be able to perform the essential functions of the job, with or without a reasonable accommodation.

**Remember!** The accommodation must be **reasonable**. Whether an accommodation is reasonable depends upon the job, the nature of the disability, and the nature of the accommodation.

The accommodation must also not cause an **undue hardship** or burden on your employer. Whether an accommodation poses an undue burden depends upon your employer's size, resources, industry, operations, and other factors. For example, if your accommodation would cost your employer a lot of money, that would likely cause an undue burden, and your employer would not be required to provide that accommodation.

### *Definition:*

To decide whether an accommodation imposes an undue hardship, courts consider the overall cost of the accommodation and the employer's ability to pay those costs based on the size of business and the type of operation he or she runs.

## SECTION 1.08

## WHAT SHOULD I DO IF I THINK I HAVE A CLAIM? CAN I SUE?

If you have been discriminated against at work, you should **immediately** contact one of the government agencies that enforce the federal, state, and city anti-discrimination laws. The names of these agencies are the Equal Employment Opportunity Commission ("EEOC"), the Pennsylvania Human Relations Commission

(“Pennsylvania Commission”), and the Philadelphia Commission on Human Relations (“Philadelphia Commission”).

### Timing is Important!

The date the discrimination occurred determines how long you have to file a claim. Typically, **you must file within 300 days** of when the discriminatory act took place. However, the Pennsylvania Human Relations Commission only allows you to file your claim **within 180 days**.



### Can I go to court right away if I have a really good claim?

**No!** Before you go to court you must first **exhaust your administrative remedies**. To do this, you **MUST** file your complaint with one of the three government agencies that enforce anti-discrimination laws. You must go through the agency’s complaint process before you can file your claim in court.

## SECTION 1.09 WHY ARE THERE THREE DIFFERENT GOVERNMENT AGENCIES?

There are employment discrimination laws at the federal (national), state, and city level. Federal laws apply to everyone in the United States, while Pennsylvania and Philadelphia laws only apply to people who live or work in those areas.

As there are federal, state, and city laws that protect against employment discrimination, there are **three** government agencies that accept employment discrimination claims. We will discuss the federal agency on page 17, the state agency on page 26, and the city agency on page 42.

## SECTION 1.10 WHAT ARE THE DIFFERENCES BETWEEN THE AGENCIES?

Each agency enforces their own anti-discrimination laws and the protected classes for each agency differ. The rest of this manual will go into more detail about what classes are protected by each agency.

Another difference is how many days you have to file your claim. The EEOC and Philadelphia Commission provide you with 300 days to file a claim, while the Pennsylvania Commission requires you to file your claim within 180 days.

Additionally, the definition of an “employer” can differ by agency depending on the number of people who work for them. This is important because the number of employees your employer has will help you determine where to file.

- The EEOC defines an employer as a business having 15 or more employees. But if you allege age discrimination, the employer must have 20 or more employees.
- The Pennsylvania Commission defines an employer as a business that operates in Pennsylvania with 4 or more employees.
- The Philadelphia Commission defines an employer as a business that operates in Philadelphia and has 1 or more employee.

Finally, because the laws are different at the city, state, and federal levels, the consequences for discrimination in the workplace differ. This means that the remedy or settlement available to you varies depending where you file your claim.

On the next page you will see a worksheet that it is meant to serve as a step-by-step guide in helping you determine where you should file your employment discrimination claim.

**PROTECTED CLASSES**

Do you believe you were discriminated against because of your...

**EEOC:**

- Age (over 40)
- Religion
- Race or Color
- National Origin
- Genetic Information
- Disability
- Relation to a Disabled Person
- Sex or Gender
- Pregnancy
- Employer's Retaliation

**PENNSYLVANIA COMMISSION:**

- Age (over 40)
- Religion
- Race or Color
- National Origin
- Refusal to Participate in Abortion/Sterilization
- Handicap/Disability
- Relation to a Disabled Person
- Education (GED v. Diploma)
- Use of a Guide/Support Animal
- Sex or Gender
- Pregnancy
- Employer's Retaliation
- Ancestry

**PHILADELPHIA COMMISSION:**

- Age (over 40)
- Religion
- Race or Color
- National Origin
- Genetic Information
- Domestic/Sexual Violence Victim
- Disability
- Ethnicity
- Ancestry
- Sex or Gender
- Pregnancy
- Gender Identity
- Marital Status
- Familial Status
- Employer's Retaliation

**ADVERSE EMPLOYMENT ACTION**

I was...

- Not hired
- Fired
- Disciplined
- Discrimination in terms or condition of employment (\$)
- Harassed
- Not Promoted
- Not Trained
- Demoted
- Paid Less
- Denied an accommodation

Something else: \_\_\_\_\_

**MY EMPLOYER**

My employer has...

- 15 + employees  [EEOC]
- 20+ employees (if alleging age discrimination)  [EEOC]
- 4+ employees and operates in PA  [PENNSYLVANIA COMMISSION]
- 1+ employee and operates in Philadelphia  [PHILADELPHIA COMMISSION]

**My employer did not discriminate against me....**

A labor organization or union did  How many people are in the labor organization? \_\_\_\_\_  
(The EEOC requires 25+ employees if the union does not have a hiring hall)

An employment agency did

**THE DATE OF DISCRIMINATION**

Starting from today, the discrimination happened...

- Less than 300 days ago (about 10 months)  [EEOC & PHILADELPHIA COMMISSION]
- Less than 180 days ago (about 6 months)  [PENNSYLVANIA COMMISSION]

## SECTION 1.11 DO I NEED TO FILE MY CLAIM WITH MULTIPLE AGENCIES?

**No.** Thanks to a “work share agreement” you only need to file with one agency. In fact, **YOU SHOULD NOT FILE WITH MULTIPLE AGENCIES.**

If you file a claim with the Pennsylvania Commission, it will also file with the EEOC for you if you have a claim that is protected by federal law and you request that your claim be dual filed.

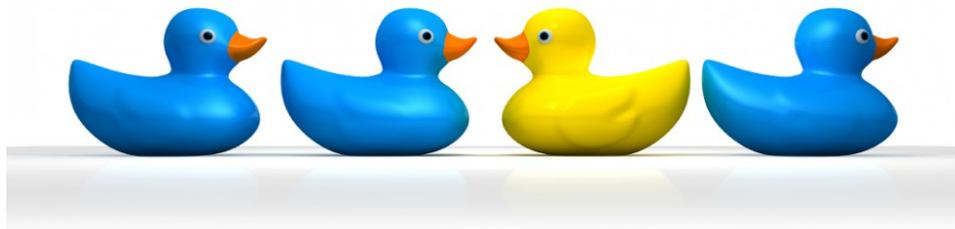
Similarly, if you file with the Philadelphia Commission, it will file the claim with the EEOC if federal law protects your claim.

The EEOC will also send a claim to the Pennsylvania Commission, if you send your claim to the EEOC directly **AND ASK THE EEOC TO SEND ANY CLAIMS TO THE PENNSYLVANIA COMMISSION.**

**BUT** the Philadelphia Commission and the Pennsylvania Commission **DO NOT HAVE A WORK SHARE AGREEMENT.** If you have a claim that is protected by both state and city laws, you have to decide whether you want to file with the state or the city agency. The rest of this guide will give you a better understanding of where to file depending on your situation.

## SECTION 1.12 DISCLAIMER – EVERY CLAIM IS UNIQUE!

As we mentioned in the introduction, this manual only gives examples of common situations. Every case of employment discrimination is different and will have unique facts. If you do not see an example or description that sounds like the employment discrimination you have faced, that does not mean you do not have a claim.



## PART II: HOW TO FILE WITH EACH AGENCY

### SECTION 1.13 THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION



The **Equal Employment Opportunity Commission (EEOC)** is the federal agency that enforces the anti-discrimination laws of the United States federal government. This section will explain the types of claims you can file with the EEOC and guide you through the process of filing a discrimination complaint with that agency.

#### (A) OVERVIEW OF THE UNITED STATES ANTI-DISCRIMINATION LAWS

The United States has laws that address workplace discrimination. Each law identifies the protected classes that make it illegal for your employer to take adverse employment actions against you on the basis of your membership in a protected class.

The EEOC enforces the following anti-discrimination laws:

- Title VII of the Civil Rights Act (Title VII)
- The Pregnancy Discrimination Act
- The Equal Pay Act
- The Age Discrimination in Employment Act (ADEA)
- Title I of the Americans with Disabilities Act (ADA)
- The Genetic Information Nondiscrimination Act

*Tip: Don't worry if you can't remember the names of all these laws! The agents at the EEOC know them all and can help you identify which laws protect you.*

This section of the manual will answer the following common questions about the EEOC and the federal anti-discrimination laws it enforces:

**When** can I file a claim with the EEOC?

**Who** is protected by the federal government's anti-discrimination laws?

**Who** can I bring an employment discrimination claim against?

**What** discriminatory actions do the federal government's anti-discrimination law prohibit?

**What** can the EEOC order my employer to do if I prove my employer discriminated against me?

**How** do I file an employment discrimination claim with the EEOC?

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### (B) WHEN CAN I FILE A DISCRIMINATION CLAIM WITH THE EEOC?

The **Statute of Limitations** in Pennsylvania\* to file a claim of employment discrimination with the EEOC is **300 days** (about 10 months).

*\*The statute of limitations for the EEOC varies from state to state (and even from city to city). This manual is geared toward Philadelphia residents only. If you wish to file with a claim with the EEOC, but live in another state or city, be sure to ask your local EEOC office about its deadlines.*

### Definition:

A **Statute of Limitations** is a law that restricts the amount of time you have to file your complaint.

If you don't file within 300 days, the EEOC will dismiss your claim and you will not be able to file a discrimination claim for this incident. Therefore, you must file as quickly as possible!

*[Note: There are some limited exceptions that would allow you to file past the deadline.]*

**The 300-day clock starts ticking the day the discriminatory act took place.**

**But what if more than one discriminatory act occurred?**

Each discriminatory action against you has its own 300 day deadline to file.

For example, let's say you were demoted and then fired one year (365 days) later. You believe your employer based its decision to demote and fire you on your race, and you file a complaint with the EEOC one day after you were fired.

In this case, only your claim about being fired was filed on time. The claim involving demotion was filed more than 300 days after the act happened, so you cannot include that in your claim.



There is one exception to this general rule and that is if you are alleging pervasive or ongoing harassment. In harassment cases, you must file your charge within 300 days of the last incident of harassment and the EEOC will look at all incidents of harassment when investigating your charge, even if the earlier incidents happened earlier than 300 days. We talked about pervasive/ongoing harassment on page 11.

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### (C) WHO IS CONSIDERED TO BE IN A PROTECTED CLASS?

Page 7 explained how a protected class is a group of people with a characteristic that is protected from workplace discrimination by a law.

For employment discrimination to be found illegal by the EEOC, your employer must have taken an adverse employment action against you because of your membership in one of the following protected classes:

- **Age-** Federal law only protects individuals who are over 40 years old.
- **Disability-** Federal law protects individuals who have a physical or mental impairment that substantially limits their major life activities, such as walking, speaking, breathing, seeing, and hearing. It also protects individuals who have had a physical or mental impairment in the past.

The law even protects people who do not have disabilities, but are believed to have a disability by their employer.

It also protects someone who has a relationship to a person with a disability. For example, you are protected if you take care of a family member with a disability and face discrimination at work because of it.

- **National Origin-** The law protects people from discrimination based on where you were born or raised.
- **Pregnancy-** The law protects women from discrimination based on their pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.
- **Race/Color-** The law protects individuals who belong to any race.

Color is often confused with race. However, color discrimination is solely based on skin tone and can occur between people of the same race.

- **Religion-** An employer may not treat an individual unfavorably because of his or her religious beliefs.
- **Sex-** The law protects people from discrimination based on whether they are a male or female.

- **Genetic Information-** Under the law, genetic information or family medical history cannot be used when making employment decisions. An employer may not request, purchase, or make public an individual's genetic information.

#### (D) WHO CAN I BRING AN EMPLOYMENT DISCRIMINATION CLAIM AGAINST?

You can bring a complaint against a **labor organization, employment agency**, and an **employer** that meets certain requirements.

To file a claim against your employer, the EEOC requires that your employer have at least **15 or more employees**. An employer can be a private company or the local, state, or federal government.

**CAUTION!** If you have a claim of **age discrimination**, you can only bring a complaint against an employer with **20 or more employees** and unions without **hiring halls** that have at least **25 members**. You may not bring a complaint against uniformed members of the armed forces.

### *Definition:*

A **hiring hall** is a union operated job placement center that provides lists of new recruits to employers who have a collective bargaining agreement with the union.

#### **I'm an independent contractor-- can I file a claim?**

If you are an independent contractor, you do not have an "employer" as defined by the **federal** anti-discrimination laws. Unfortunately, you cannot file an employment discrimination claim with the EEOC (but you may be able to file a claim with the Pennsylvania Commission).

#### **What's the difference between an employee and an independent contractor?**

Generally, the more control someone has over the way you work, the more likely you are to be considered their employee. Some common factors that distinguish an employee from an independent contractor are:

- The hirer has the right to supervise and assign work responsibilities
- The hired person does not have discretion over when and how long he or she works
- The hirer provides and controls the tools needed for the work
- The work is located onsite at the hirer's place of business
- The employment does not have a set beginning or end
- The people involved classify their relationship as one of the "employer" and "employee"

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## (E) WHAT TYPES OF DISCRIMINATORY ACTIONS ARE ILLEGAL?

Here are a few examples of discrimination in the workplace that might be covered, but this list is not complete. There are many types of discriminatory actions you could possibly face that are not listed here.

- **Discriminatory job ads**

“Help wanted! Irish need not apply!”

- **Harassment**

Rude comments, emails, or actions based on an employee’s membership in a protected class that are either severe or ongoing. For example, repeatedly telling jokes about why women have bad judgment could be harassment.

- **Unequal pay**

For example, Joe makes more than Susan because he is a man (and they have the same job).

- **Firing**

Terminating someone’s employment because that person is a member of a protected class. For example, Kevin is fired because he is Latino and his employer does not want to employ Latinos.

- **Demoting**

Giving someone a different job with less pay because that person is a member of a protected class. For example, Barbara is given a different job position with less pay because of her age (she is over 40).

- **Adopting a policy that negatively affects one group of people more than others**

For example, a company’s policy only affects women.

- **Offering different discipline, work terms, conditions, benefits or pay to members of a protected class**

- **Refusing to make a reasonable accommodation for a worker with a disability**

For example, this can occur when an employer fails to build a handicap ramp, which is inexpensive and easy to install, that employees with disabilities need.

- **PLUS MANY MORE.** This is not a complete list of all types of illegal adverse employment actions an employer may take against an employee.

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## (F) HOW DO I FILE A CLAIM WITH THE EEOC?

### **STAGE 1: Filing Your Claim**

The first step to filing an employment discrimination claim with the EEOC is to fill out an **intake questionnaire**, which can be found online at the EEOC website or obtained at one of their office locations. (see page 25)

#### **Can I file online?**

The EEOC does not accept claims online. However, the agency does have a great **online assessment tool** that can help you decide if the EEOC is the correct agency to assist you.

Check it out at: <https://egov.eeoc.gov/eas/>

You can then complete an **intake questionnaire** that you may print and either bring or mail to the appropriate EEOC regional office to begin the process of filing a claim.

#### **Filing in Person- What should I do?**

It is a good idea to bring any information or papers that will help explain your case.

For example, if you were fired because of your performance, you might bring the letter or notice telling you that you were fired and your performance evaluations. You might also bring with you the names of people who know about what happened and information about how to contact them.

**Nervous? Bring a friend!** You can bring anyone you want to your meeting, especially if you need language assistance and know someone who can help. You can also bring your lawyer, although you don't have to hire a lawyer to file a claim. If you need special assistance during the meeting, like foreign language interpreter, let the EEOC know ahead of time so they can arrange for someone to be there for you.

#### **Can I call in my claim?**

Although the EEOC does not take claims over the phone, you can get the process started over the phone.

You can call 1-800-669-4000 to submit basic information about a possible claim, and your information will be forward to the EEOC office in your area. Once the office receives your information,

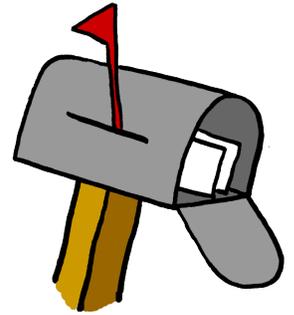


someone will contact you to talk to you about your situation.

### What about mailing it in?

You can file a claim by sending a letter to the EEOC that includes the following information:

- Your name, address, and telephone number
- The name, address and telephone number of the employer (or employment agency or union) you want to file your charge against
- The number of employees there (if known)
- A short description of the actions you believe were discriminatory (for example, you were fired, demoted, or harassed)
- When the events took place
- Why you believe you were discriminated against (for example, because of your race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information)
- Your signature



**Note! Don't forget to sign your letter. If you don't sign it, the EEOC can't investigate!**

### STAGE 2: What happens after I file my claim?

When your claim is filed, the EEOC will give you a copy of your claim with a file number called a "charge number." Within 10 days, the EEOC will also send a notice and a copy of the claim to your employer.

In some cases, the EEOC will ask both you and your employer to take part in the EEOC **mediation program** before your employer sends its response. If the case is not sent to mediation or if mediation does not resolve the claim, the EEOC usually will ask the employer to give a written response to your claim. The EEOC may also ask your employer to answer questions about the claim. Your claim will then be given to an investigator.

***Tip: What's Mediation?** Mediation is a voluntary, informal, and confidential process in which a neutral third party facilitates communication to help resolve disputes. Mediators do not make decisions or devise solutions to disputes, but encourage peaceful resolutions between the parties.*

## Possible Dismissal of Your Claim

If the EEOC does not have authority over your case or if your claim is late (remember 300 days for Pennsylvania residents), they will dismiss your claim. The EEOC may also dismiss your claim if the investigator decides that there was no discrimination. If your claim is dismissed, you will be notified.

## STAGE 3: Investigation

How the EEOC investigates a claim depends on the facts of the case and the kinds of information the investigator needs to gather. In some cases, the investigator will visit the employer to hold interviews and gather documents. In other cases, they will interview witnesses over the telephone and ask for documents by mail. After the EEOC finishes its investigation, it will inform you and the employer of the result.

### How long is this going to take?

That depends on a lot of different things, including the amount of information that needs to be gathered and analyzed.

It took – on average – nearly 6 months to investigate a claim in 2004 (that’s the most recent data). The EEOC is often able to settle a charge faster through mediation (usually in less than 3 months).

### What if my employer won’t cooperate?

If an employer refuses to cooperate with an EEOC investigation, the EEOC can issue an **administrative subpoena** to obtain documents, testimony, or gain access to facilities.

### Possible Action after Investigation Completed

If the EEOC hasn’t found a violation of the law, it will send you a **Notice-of-Right-to-Sue**. This notice gives you permission to file a lawsuit in a court of law.

If the EEOC **DOES find a violation**, it will try to reach a voluntary settlement with the employer. If the EEOC cannot reach a settlement, your case will be referred to the EEOC legal staff (or the Department of Justice in certain cases), which will decide whether or not the agency should file a lawsuit. **Don’t worry if the EEOC decided not to file a lawsuit for you. The EEOC does not go to court unless the claim could change how people understand the law.**

## *Definition:*

**An Administrative Subpoena is a way for the EEOC to request evidence and FORCE it to be handed over. (Whether your boss likes it or not!)**

**(G) WHERE IS THE EEOC OFFICE IN PHILADELPHIA LOCATED?**

**PHILADELPHIA DISTRICT OFFICE**

**Location:** 801 Market Street, Suite 1300

Philadelphia, PA 19107-3127

**Phone:** 215-440-2602

**Fax:** 215-440-2606

**TTY:** 800-669-6820

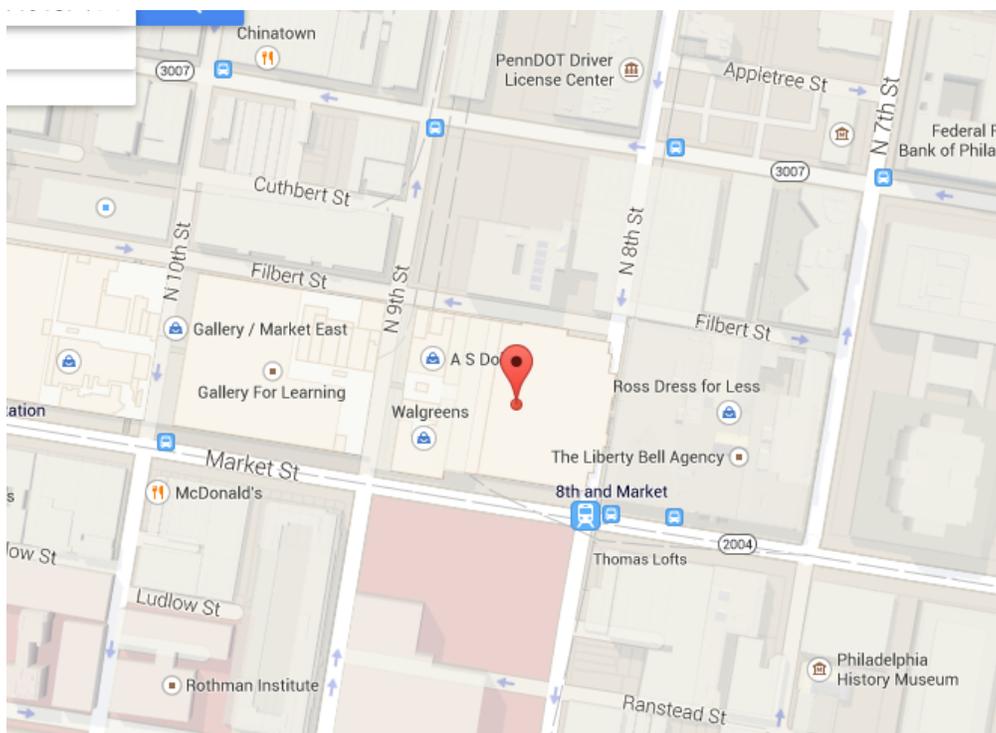
**Director:** Spencer H. Lewis, Jr.

**Regional Attorney:** Debra Lawrence

**Office Hours:** The Philadelphia District Office is open Monday through Friday from 8:30 a.m. to 5:00 p.m. Walk-in hours for filing a charge are Monday-Thursday from 8:30 a.m. to 3:30 p.m.

*Tip: Since limited staff is available each day for interviews, you should arrive by 10:00 a.m. for the best opportunity to have a claim taken the same day.*

*Tips from the EEOC: To make things faster, before you visit to the Philadelphia District Office, please use the EEOC assessment tool found at <https://egov.eeoc.gov/eas/> and bring the completed Intake Questionnaire with you.*





The **Pennsylvania Human Relations Commission** is the the state agency that enforces Pennsylvania’s anti-discrimination law. This law is called the **Pennsylvania Human Relations Act**.

*Tip: Anytime you see “Pennsylvania Commission” in this guide, we are talking about the Pennsylvania Human Relations Commission.*

While the EEOC may be the most well known anti-discrimination agency, the Pennsylvania Commission may be a better choice for some Pennsylvania residents. This section of the guide will help you understand its procedures and the law it enforces.

**This section of the manual will answer the following common questions about Pennsylvania’s anti-discrimination law, and the Pennsylvania Commission:**

**When** can I file a claim with the Pennsylvania Commission?

**Who** is protected by Pennsylvania’s anti-discrimination law?

**Who** can I bring an employment discrimination claim against?

**What** discriminatory actions do Pennsylvania’s anti-discrimination law prohibit?

**What** can the Pennsylvania Commission order my employer to do if I prove my employer discriminated against me?

**How** do I file an employment discrimination claim with the Pennsylvania Commission?

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**(A) WHEN CAN I FILE A CLAIM WITH THE PENNSYLVANIA COMMISSION?**

It is very important to remember the **statute of limitations** for employment discrimination claims in Pennsylvania (for more discussion of statute of limitations, see page 18).

**You must file your employment discrimination complaint within 180 days (almost 6 months) of the unlawful discrimination.**

**If you miss this deadline, you will most likely never be able to bring the claim before the Pennsylvania Commission or file a lawsuit under Pennsylvania’s anti-discrimination laws in state or federal court.**

**180 Days from when?**

Calculating the 180 days may be tricky in some situations.

**Do you start counting 180 days from the date the alleged act of discrimination occurred?**

Yes! But...

**What if you were harassed or discriminated against repeatedly over a longer period of time?**

If you faced continuous, discriminatory harassment, the 180 days starting date will be the last day an act of harassment occurred.

***Tip:** There are some exceptions to the statute of limitations. When in doubt, just ask an investigator! If you think you might have missed the deadline, just ask an investigator at the Pennsylvania Commission to help you figure it out.*

## Let's Look at an Example!

Mary, a 67 year-old woman, worked for Big Pete's Diner as one of eight servers. All of the other servers were in their 20's and 30's. Mary started work on May 1st of 2015, and every day Mary went to work, her 29 year-old manager Kevin would loudly complain to her coworkers that "grannies are too slow for the restaurant business!"

Although Mary had more experience than any of the other servers at Big Pete's, she was always given the worst shifts, even when better paying shifts were available.

On September 1, 2015, Kevin gave a newly hired 21-year old server who had no prior restaurant experience the Saturday dinner shifts that Mary had consistently requested. Because Saturday dinner shifts were the busiest shifts at Big Pete's, servers often made double the amount of money in tips on those nights as compared to weeknights. Mary heard Kevin say, "Mary is too old to work the Saturday night shift."

After 5 months of hearing nearly every day how "old people" should not work in restaurants, Mary was called into Kevin's office on October 1st. Although Kevin had just hired a new 24 year-old server one week prior, Kevin told Mary that she was being fired because there were no available shifts at Big Pete's for her. As Mary was leaving the restaurant she heard Kevin say to a coworker how he was glad "to be rid of that old geezer!"

### **When does the 180-day clock start for Mary's discrimination claims?**

As is typical in the law, the answer is . . . It depends!

When Kevin passed over Mary, and gave the lucrative Saturday dinner shifts to the newly hired 21 year-old, that was a distinct **adverse employment action**. Mary could then bring a discrimination claim based on her protected class, age. Therefore, if Mary wanted to file a complaint based on this action, she would have 180 days from September 1st or until February 28th, 2016 to file her claim based on the discriminatory scheduling.

When Kevin fired Mary on October 1st, this was another separate adverse employment action. Therefore, if she wanted to file a complaint based on discriminatory termination, she would have 180 days from October 1st, the day that she was fired. Mary would have until March 30th to file that claim.

Another important aspect of Mary's scenario is that she may be able to bring a claim for age discrimination based on a hostile work environment. Remember, Kevin harassed her about her age every day she worked. This is called pervasive or severe harassment because the harm was continuous. Mary would have 180 days from October 1st to file her claim because that was the last day that her boss harassed her because of her age.

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## **(B) WHO IS PROTECTED BY PENNSYLVANIA'S ANTI-DISCRIMINATION LAW?**

If you remember back to page 7, we talked a little bit about how a protected class is a personal characteristic that is protected from workplace discrimination by the law. For employment discrimination to be illegal in Pennsylvania, it must be based on someone's:

- **Race**

- **Color**

Color is often confused with race. However, color discrimination is based on different skin tones and discrimination can even occur between members of the same race.

- **Familial Status including Pregnancy**

The state anti-discrimination law protects minors who are under the age of eighteen years and live with a parent or other person having legal custody of them. The law protects any person who is pregnant or is in the process of securing legal custody of a minor who is under the age of eighteen.

- **Sex**

Sex refers to whether you are male or female.

- **Age**

To be in this protected class, you must be over 40 years old.

- **Education**

Employers cannot discriminate against you because you only have a diploma based on passing a general educational development (GED) test as compared to a high school diploma.

- **Ancestry**

For example, ethnic origin (i.e. East Indian, Hispanic or Korean).

- **National Origin**

- **Religious Creed**

For example, PA law prohibits government agencies, officers, or departments from discriminating against any employee, because of that person's observance of a Sabbath or other holy day in accordance with the requirements of that person's religion. However, discrimination based on religion in religious and sectarian organizations is not protected under PA's anti-discrimination laws.

For example, it is legal for a church to not hire a Jewish Rabi for a position as a Christian Pastor.

- **Handicap or Disability**

A physical or mental impairment that substantially limits one or more major life activities, or a record of such an impairment, or being “regarded as” having a disability. Disability does not include current, illegal use of or addiction to a controlled substance.

- **Use of a guide or support animal because of blindness, deafness, or physical handicap**

- **A relationship to a person with a disability**

For example, an employer cannot exclude or otherwise deny equal jobs or benefits to a person because of their relationship to or association with an individual who has handicap or disability.

- **In medical or healthcare settings, discrimination based on an employee’s willingness or refusal to participate in abortion or sterilization procedures**

**Remember:** Discrimination based on other factors may be unfair or unethical, but not specifically prohibited by law in Pennsylvania.

### **Let’s Look at Some Examples Specific to Pennsylvania**

*During an interview, Tony is asked where he graduated high school. Tony never graduated from high school, but he eventually earned his GED. Tony is a very hard worker. After explaining how he got his GED, Tony is told that this company only hires people who graduated from high school and he does not get the job.*

***Is this employment discrimination in Pennsylvania?***

*Yes! Tony will likely have a strong claim for discrimination based on his obtaining of GED instead of a high school diploma.*



## How about another example?

Angie's mother has a mental health disorder and relies on Angie to help take care of her. Angie is a hard worker, is always on time for work, and performs better than co-workers. One day Angie's supervisor tells her the company did not promote her because she will not be able to work as hard as people without a "crazy mom" at home and that Angie will probably "go nuts one day too."

*Is this employment discrimination in Pennsylvania?*

*If Angie was not promoted because of her relationship to someone with a mental health disability, then this would be employment discrimination under Pennsylvania law.*



**STOP! Some types of employees are NOT covered under Pennsylvania's anti-discrimination law.**

Unfortunately, the following employees are **not protected** from employment discrimination under PA laws:

- ❖ Employees of the court system
- ❖ Federal government employees
- ❖ Agricultural and domestic workers
- ❖ Most independent contractors not regulated by the Bureau of Professional and Occupational Affairs
- ❖ Elected officials

### **(C) WHO CAN I BRING AN EMPLOYMENT DISCRIMINATION CLAIM AGAINST? WHAT DISCRIMINATORY ACTIONS ARE PROHIBITED?**

You will likely bring an employment discrimination complaint against your **employer**. However, Pennsylvania law also governs **labor organizations** and **employment agencies**. Pennsylvania law has different requirements for each one, which are described below.

## Employers

To bring an employment discrimination complaint before the Pennsylvania Commission, your **employer must operate in Pennsylvania** and **have at least 4 employees**.

Under the Pennsylvania's anti-discrimination law, an *employer* may not do any of the following based on an individual's status in a protected class:

- **Refuse to hire someone because he or she is a member of a protected class**
- **Fire someone because he or she is a member of a protected class**
- **Discriminate against any individual regarding:**
  - Tenure
  - Compensation
  - Promotions
  - Terms, conditions, or privileges of employment, or
  - Any matter directly or indirectly related to employment
- **Seek information, keep a record of, or use an application containing information concerning an applicant's protected class for employment purposes**
- **Print, publish, or distribute any employment advertisement that indicates a preference for a particular group or person that would constitute discrimination**
- **Use a policy that tends to deny or limit the employment opportunities of any person based on a **Quota System****

For example, let's say an employer needs a total of 24 employees for her store to run successfully. She decides that she wants to hire 14 white employees, 5 African-American employees, and 5 Hispanic employees. If the employer hires based on these criteria, any person denied a position because his racial group had already been filled could bring an employment discrimination complaint for racial discrimination.

### *Definition:*

A quota system is where the employer holds a specific amount of positions open for specific types of people. This is illegal.

- **Retaliate against any individual for engaging in protected activity**

## **Labor Organizations**

A labor organization, commonly referred to as a “labor union,” is any organization that advocates on behalf of employees to the employer about collective or individual grievances, terms, or conditions of their employment.

Under Pennsylvania’s anti-discrimination law, a labor organization may not do any of the following actions based on an individual’s membership in a protected class:

- **Seek information, keep a record of, or use an application containing information concerning an employee’s protected class for employment purposes**
- **Print, publish, or distribute any employment advertisement that indicates a preference for a particular group or person that would constitute discrimination**
- **Use a policy that tends to deny or limit the employment opportunities of any person based on a Quota System (see the definition of a quota system above on page 32)**
- **Discriminate against any individual**
- **Deny full and equal membership rights to any individual**
- **Retaliate against any individual**

## **Employment Agencies**

An employment agency is any person or company that regularly finds people job opportunities and referrals.

Under Pennsylvania anti-discrimination law, an Employment Agency may not do any of the following based on an individual’s membership in a protected class:

- **Seek information, keep a record of, or use an application containing information concerning an employee’s protected class for employment purposes**
- **Print, publish, or distribute any employment advertisement that indicates a preference for a particular group or person that would constitute discrimination**

- Use a policy that tends to deny or limit the employment opportunities of any person based on a Quota System (see the definition of a quota system above on page 32)
- Discriminate against any individual
- Retaliate against any individual
- Fail or refuse to properly classify an individual for employment or fail to refer an individual for employment based on their membership in a protected class

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**(D) WHAT CAN THE PENNSYLVANIA COMMISSION ORDER MY EMPLOYER TO DO IF I PROVE MY EMPLOYER DISCRIMINATED AGAINST ME**

- Order the employer to cease and desist the illegal discrimination (“Stop doing that!”);
- Order the employer to hire, reinstate, or promote an employee;
- Order a labor organization to admit or restore membership to the employee; or
- Order an employment agency to admit an employee to a training program.
- **Pay Compensatory Damages**

Compensatory damages are costs that you paid out of your pocket due to your employer’s discrimination. For example, the amount of money you would have made between the date when your employer fired you and the date of the resolution of your claim.

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**(E) HOW DO I FILE AN EMPLOYMENT DISCRIMINATION CLAIM WITH THE PENNSYLVANIA COMMISSION?**

This section will guide you through the process of filing your claim with the Pennsylvania Commission.

**STAGE 1: Filing your Complaint**

**Remember**, after your employer commits an unlawful employment practice, you have **180 days** to file your claim with the Pennsylvania Commission.

Staff members at the Pennsylvania Commission are available to speak with you about your situation, answer any questions, and help you complete the complaint form.

**Note:** If your allegations are covered by federal law, the Pennsylvania Commission will file your complaint with the EEOC if you “check the box” to Dual File.

Here is a **4-step** checklist for filing your complaint:

- ✓ The Employment Discrimination complaint form can be downloaded online at:  
[http://www.portal.state.pa.us/portal/server.pt/community/file\\_a\\_complaint/18976/complaint\\_forms/698131](http://www.portal.state.pa.us/portal/server.pt/community/file_a_complaint/18976/complaint_forms/698131)
- ✓ If you cannot download and print the form, you may call the Pennsylvania Commission to schedule an appointment to complete the form
- ✓ Fill out the form in its entirety and mail it to the Pennsylvania Commission (the Pennsylvania Commission does not accept electronic copies!)
- ✓ Your complaint will then be reviewed and assigned a docket number.

### ***Remember these tips!***

Your complaint form should:

- \* *Be in writing*
- \* *Be signed by you*
- \* *Mailed to the Pennsylvania Commission or filled out in the office*
- \* *Include your full name, address, and contact information*
- \* *Include the name and address of the employer*
- \* *Clearly identify the actions that violate Pennsylvania's anti-discrimination law*
- \* *Identify your protected class*

**Remember!** Make sure that your complaint is an accurate account of what happened to you to the best of your knowledge and belief before you sign it. *This is important*, because there are penalties for people who knowingly file false complaints.

### **STAGE 2: Mediation**

The Pennsylvania Commission has launched a new mediation program! Like the EEOC's mediation program, it is designed to resolve employment discrimination complaints quickly and avoid lengthy investigations.

The goal of mediation is for you and your employer to reach a *satisfactory and voluntary agreement*.

Keep in mind:

- ✓ It is free to participate in this new mediation program.
- ✓ The process is confidential and you do not need an attorney.
- ✓ If the mediation program does not successfully settle your case within 30 days after your complaint has been sent to your employer, your complaint will be investigated according to the Pennsylvania Commission's normal procedures (**see below!**).

### **The Mediation Process: Step-By-Step**

- The Pennsylvania Commission will review your complaint and determine whether mediation is possible. If so, the Pennsylvania Commission will advise you that voluntary mediation is an option.

- If you accept mediation, your employment discrimination complaint will be sent to your employer along with an invitation to resolve the matter through mediation.
- If your employer accepts the mediation request, the Pennsylvania Commission will assign you a mediator and a mediation session will be scheduled between you and your employer. The Pennsylvania Commission will stop any investigation for ten days to allow for the mediation.
- You and your employer will attend the mediation session and the mediator will try and resolve your employment discrimination complaint.
- If the mediation session is successful and you and your employer agree to settle the case, you will sign a **mediation settlement agreement**.
- If you and your employer have done what you both agreed to do in the mediation settlement agreement, your complaint will be withdrawn and there will be no investigation.

**Definition:**  
 A mediation settlement agreement is a document that lists the actions that you and your employer plan to take to resolve the dispute.

**Remember!** If you or your employer decides not to go through mediation, the Pennsylvania Commission will handle your case according to their normal procedure, starting with an **Investigation**.

### **STAGE 3: The Investigation Period**

After you file your complaint, it will be investigated by a Pennsylvania Commission investigator.

#### **What should I expect during the Investigation Period?**

Below you will find a general overview of what to expect during the Investigation Period. Depending on your individual situation, the Investigation Period may be different.

Keep in mind:

- ✓ Your investigator will ask you for all of the facts surrounding the discrimination. Answer every question you are asked, even if you think the answer might weaken your complaint- the more truthful you are, the better the Pennsylvania Commission can resolve your complaint.
- ✓ The investigator might try and encourage you to settle your employment discrimination claim.
- ✓ Your investigator may dismiss your complaint at any point during the investigation period if you do not comply with the investigation or the investigator believes your claim has no merit. (You will be notified by mail if your complaint is dismissed and the notice will include any appeal rights you may have.).

- ✓ If your complaint has been in the investigation process for one year, the Pennsylvania Commission will send you a “One Year Letter” that will allow you to sue your employer in court.

## *Moving? Have a new phone number?*

Make sure you keep your investigator in the know. If you change your mailing address or phone number, how will they communicate with you about your case? Don't forget to let them know if any of your contact information changes during the investigation.

### The Investigation Process: Step-By-Step

- The Pennsylvania Commission will assign you an investigator who will send your complaint to your employer
- Your employer then has 30 days to submit an **Answer**. When an employer answers your complaint, it is essentially telling its side of the story, and possibly denying any discrimination took place. The employer is required to give you a copy of its answer.

## *Definition:*

The Answer is your employer's opportunity to either admit or deny the allegations you made in your complaint.

- The investigator must decide whether there is **Probable Cause** to believe discrimination took place

## *Definition:*

The Pennsylvania Commission will find Probable Cause when based on all available evidence it is more likely than not that an illegal act of discrimination occurred.

- If the investigator finds **Probable Cause** for unlawful discrimination, then the Commission will order your employer to cease and desist (stop!) any discriminatory conduct, and ask you and your employer to enter into Conciliation. (See page 39 below for details about Conciliation)
- If the investigator issues a finding of **No Probable Cause** in your case, you will be notified by mail, and the investigator will make you aware of your right to request a preliminary hearing. At this point, you are entitled to present any new

evidence that you believe will support a finding of probable cause in your case, or challenge any findings of the investigation.

**Note:** You must file your request for a preliminary hearing within **ten days**.

- After you request a preliminary hearing, your entire investigative file and request for preliminary hearing will be sent to the Pennsylvania Commission Legal Department and one of the Pennsylvania Commission attorneys will review your file to determine whether the investigator correctly found no probable cause.
- After reviewing your file, the Pennsylvania Commission attorney may: (1) confirm the finding of no probable cause, and deny your request for a preliminary hearing; or (2) rule that the no probable cause finding was in error, and order the investigator to continue the investigation; or (3) find probable cause, and grant your request for a preliminary hearing before a “Permanent Hearing Examiner.”
- If at the preliminary hearing the Permanent Hearing Examiner finds that probable cause for discrimination exists in your case, the Commission will order your employer to stop any discriminatory conduct, and ask you and your employer to enter into Conciliation.
- Keep in mind that at any point during the Investigation, the Pennsylvania Commission may hold a **fact-finding conference (see below!)**.

***Tip:** At any time, you and your employer can also agree to a voluntary settlement, but you both must consent to the agreement. If you and your employer reach a settlement, the Pennsylvania Commission will honor the settlement and close the case.*

#### **STAGE 4: The Fact-finding Conference**

A fact-finding conference is where you, your employer, and the investigator will come together to discuss your complaint. The goal of the conference is to *speed up the investigation and possibly reach a fair settlement*.

***Tip:** A significant percentage of the complaints filed with the Pennsylvania Commission are settled at, or as a direct result of, the fact-finding conference.*

The Pennsylvania Commission will try and hold a fact-finding conference as early as possible in the process.

At the conference, you and your employer will both present **evidence** and **documents**. The investigator will also conduct **interviews** of you, your employer, and any relevant witnesses. You may be asked to clarify any statements made in your complaint in light of new information.

## Evidence You Should Bring:

Here are a few examples of evidence that you may use to prove your discrimination claim. This is not a complete list of the different types of evidence you can use.

- **Witnesses:**
  - Anyone who observed or knew about the discrimination you faced. These will often be other employees.
  
- **Documents:**
  - Payroll slips
  - Emails
  - Timesheets
  - Office memos
  - Letters
  - Employment Policy Manuals

***Tip: Remember retaliation is not OK!** The law prohibits anyone from taking any action against you because you have filed a complaint, or against a witness who has testified or assisted in a commission proceeding, or against anyone who has otherwise opposed any illegal discrimination. (That means your witnesses are protected too!)*

### What if I can't get any evidence because my employer has it?

Fear not! If there is important documentation or information your employer has that you do not have access to, your employer is required to provide that information to the investigator.

If your employer refuses to comply with the investigator's information requests, the Pennsylvania Commission has the legal authority to issue a **subpoena** for any necessary evidence.

**Note:** A fact-finding conference might **not** be held in your case for a number of reasons: (1) your complaint may have already been settled; (2) you or your employer may refuse to participate; or (3) the investigator may determine that a conference is not necessary.

### Stage 5: Conciliation or Settlement

If the investigation establishes **probable cause**, the agency will try to bring you and your employer together for a Conciliation (which is just the word the Pennsylvania Commission uses for settlement negotiations).

The Pennsylvania Commission will ask your employer to:

- 1) Stop specific discriminatory acts or practices described in the complaint;

- 2) Start whatever actions, programs or compensation the Pennsylvania Commission requires to resolve your discrimination claim.

### **Stage 6: The Public Hearing**

If you and your employer **cannot** settle your case after a finding of probable cause, the Pennsylvania Commission may arrange a public hearing where testimony under oath is given. A public hearing is very similar to a trial, but there is no jury. Either a Permanent Hearing Examiner or a panel of Commissioners will determine whether discrimination occurred in your case.

At the public hearing, a Pennsylvania Commission attorney will argue on behalf of your Complaint, but he or she is technically not your representative. Although the Pennsylvania Commission attorney will likely be a positive presence for you in the public hearing, the Pennsylvania Commission attorney represents the Commonwealth of Pennsylvania, which has an interest in eliminating illegal employment discrimination.

After the Public Hearing Examiner makes a decision in your case, the side that loses has the option of appealing the decision to the Pennsylvania Commonwealth Court.

***Tip:** Bringing an action to court is not free and may be expensive. Although you can proceed without an attorney, it is recommended that you seek an attorney if you wish to file in court.*

***See page 61-62 for court resources.***





**The Philadelphia Commission on Human Relations** is the city agency that enforces Philadelphia's anti-discrimination law. This law is called the **Fair Practices Ordinance**.

Philadelphia's anti-discrimination law protects more classes of people than both the federal and state anti-discrimination laws. For example, it specifically protects against employment discrimination based on an individual's **sexual orientation** and **gender identity**, while the state and federal anti-discrimination laws do not.

This section of the manual will answer the following common questions about Philadelphia's anti-discrimination law, and the **Philadelphia Commission**:

**When** can I file a discrimination complaint with the Philadelphia Commission?

**Who** is protected by Philadelphia's anti-discrimination law?

**Who** can I bring an employment discrimination complaint against?

**What** discriminatory actions does the Philadelphia's anti-discrimination law prohibit?

**What** can the Philadelphia Commission order my employer to do if I prove my employer discriminated against me?

**How** do I file an employment discrimination claim with the Philadelphia Commission?

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**(A) WHEN CAN I FILE A DISCRIMINATION CLAIM WITH THE PHILADELPHIA COMMISSION?**

We start with this question, because it is very important for you to know about the **statute of limitations** (for more discussion of statute of limitations, see page 18) for employment discrimination claims in Philadelphia. If you wait too long to bring your complaint, the Philadelphia Commission will **not** accept your claim.

You must bring your employment discrimination complaint within **300 Days** (about 10 months) of the **Unlawful Employment Practice**. However, Unlawful Employment Practices are sometimes hard to identify. You should refer to page 44 for examples of Unlawful Employment Practices.

### *Definition:*

An Unlawful Employment Practice occurs when an employer denies or interferes with the employment opportunities of an employee based on their membership in a protected class.

*How do you know when an Unlawful Employment Practice has taken place? Let's look at the example below.*

Michael believes that the shoe store in Center City where he worked for 18 months discriminated against him because of his sexual orientation. After three weeks of working at the shoe store, he notices that his manager is much nicer to straight employees. Although Michael thinks about quitting, he stays at the job because it pays well and he cannot afford to leave.

Then, four months into working at the store, the manager calls Michael a derogatory name and says that he should quit because “we don’t like gay people here.” Michael doesn’t quit because he has bills to pay. The manager’s bigoted remarks and negative attitude continue for the next year.

After Michael has been working at the shoe store for a year-and-a-half, he arrives 30 minutes late to work for the first time in his 18 months working there. The manager then fires Michael on the spot and security escorts him from the store. Michael knows that other straight employees have been late many times, but no one has ever been fired for being late before. Michael believes that the only reason he was fired was because he is gay, not because he was late.

**When did the Unlawful Employment Practice take place?**

- A. Was it three weeks into working at the shoe store when Michael noticed that his manager was nicer to straight employees?
- B. Was it when the manager called Michael the derogatory name, and told him to quit?
- C. Was it when the manager fired Michael?

The answer is C! The **Unlawful Employment Practice** occurred when the manager fired Michael due to his sexual orientation. Michael would then have 300 days from the day he was fired to bring his complaint to the Philadelphia Commission. The other negative comments the manager made are evidence that the manager fired Michael because of his sexual orientation.

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**(B) WHO IS PROTECTED BY PHILADELPHIA’S ANTI-DISCRIMINATION LAW?**

In addition to protecting all of the same people as the state and federal laws, Philadelphia’s anti-discrimination law protects more classes of people. The protected classes under Philadelphia’s anti-discrimination law are as follows:

*Tip: Race, Ancestry, National Origin, and Color are the same classes as those protected under the federal and state anti-discrimination laws. See page 29 for definitions.*

- **Race**
- **Ethnicity**

- [Ancestry](#)

- [National Origin](#)

- [Color](#)

- [Age](#)

You must be 40 years old or older to be protected by Philadelphia's anti-discrimination law.

- [Sex](#)

If an employer refuses to hire females, this would be a classic example of sex discrimination.

- [Pregnancy, Childbirth or any other Medical Condition that is specifically related to gender.](#)

- [Sexual Orientation](#)

Sexual orientation discrimination occurs when someone is treated differently at work because of his or her sexual preferences. It is illegal for an employer to treat you differently based on your sexual orientation.

***Tip:** Under Philadelphia's anti-discrimination law, you can bring a complaint if someone discriminates against you **because they incorrectly believe that you are part of a protected group.** For example, if you are straight (heterosexual), and your employer fires you because he incorrectly believes you are gay (homosexual), you may bring a complaint against him even though you are not actually gay.*

- [Gender Identity](#)

Unlike the federal and state laws, Philadelphia's anti-discrimination law protects against discrimination based on **gender identity**. The law protects people from discrimination based on the gender they were assigned at birth. It also protects an individual **based on how they define their own gender. This includes protections for transgender individuals.** Gender identity refers to a person's self-identity and outward presentation of being either male or female, regardless of their biological anatomy. This includes an individual's style of dress, behavior, and appearance.

Therefore, **it is illegal for an employer to discriminate against an employee because the employee does not dress or behave like a stereotypical man or woman.**

It also protects individuals who are undergoing or have completed sex reassignment.

- **Marital Status**

Marital status refers to an individual's status as being single, married, separated, divorced, or widowed. It also includes status as a **life partner**, former life partner, or surviving Life Partner.

### *Definition:*

A Life Partnership is a long-term committed relationship between two adults of the same sex or gender identity who: (1) live, work or own property in Philadelphia; (2) are not related by blood and have no other life partner (currently or within the last three months); (3) have agreed to share the necessities of life and look out for one another's welfare; and (4) share at least one residence. Philadelphia's City Council created the Life Partnership status before gay marriage became legal in the United States so that gay couples in committed relationships could enjoy some of the same benefits married couples enjoy.

- **Familial Status**

**Familial Status** refers to your family make-up. It is illegal to discriminate against an employee because she takes care of or financially supports other family members. Family members include spouses, life partners, parents, grandparents, siblings, in-laws, children, grandchildren, and nieces or nephews (including any family members who have been adopted by, are dependents of, or have a custodial relationship to the employee).

- **Religion**

Religion under Philadelphia's anti-discrimination law is the same as under the federal and state anti-discrimination laws.

- **Disability**

Philadelphia's anti-discrimination law protects employees with disabilities. Disability refers to a physical or mental impairment that substantially limits one or more of an individual's life activities. The law also protects individuals who have a record of such impairment or are perceived to have a disability.

- **Domestic or Sexual Violence Victim**

Philadelphia’s law protects any individual who has experienced domestic violence, sexual assault, exploitation, or abuse, stalking, rape, or incest. It also protects any individual who has a family member or household member who is a Domestic or Sexual Violence Victim. See page 48 for more information.

- **Genetic Information**

Genetic information is information about tests of your or a family member’s DNA, RNA, chromosomes, or metabolites. Employers are prohibited from discriminating against you because of the existence of a disease or disorder that runs in your family.

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**(C) WHO CAN I BRING AN EMPLOYMENT DISCRIMINATION CLAIM AGAINST? WHAT DISCRIMINATORY ACTIONS ARE PROHIBITED?**

In most circumstances, the answer to this question will be your **employer**, but Philadelphia’s anti-discrimination law governs **labor organizations** and **employment agencies** as well. Philadelphia’s anti-discrimination law has different requirements for each one, which are described below.

**Employers**

To bring an employment discrimination complaint before the Philadelphia Commission, your employer must do business **within the City limits of Philadelphia!**

So, if you work for an employer in New Jersey, or any of Philadelphia’s surrounding counties (for example, Montgomery, Delaware, or Bucks counties), **you cannot bring your discrimination complaint to the Philadelphia Commission**, and you should look to the sections of this manual that discuss the Pennsylvania Commission or the federal Equal Employment Opportunity Commission.

However, you can bring a complaint against any individual or business who: (1) does business in Philadelphia; and (2) employs **at least one employee**.

***Tip:** If your employer is a parent, spouse, life partner, or child, you may NOT bring an employment discrimination complaint against them. Other exceptions are listed on page 51.*

**Under the Fair Practices Ordinance, an employer may NOT do any of the following based on an individual's status in a protected class:**

- **Refuse to hire someone because he or she is a member of a protected class**
- **Fire someone because he or she is a member of a protected class**
- **Discriminate against any individual regarding:**
  - Tenure
  - Promotions
  - Terms, conditions, or privileges of employment, or
  - Any matter directly or indirectly related to employment.
- **Use a policy that tends to deny or limit the employment opportunities of any person or group based on a quota system. See page 32 for definition of quota.**
- **Print, publish, or distribute any employment advertisement that indicates a preference for a particular group or person that would constitute discrimination.**
- **Deny reasonable accommodation and leave to domestic or sexual violence victims**

Under Philadelphia's anti-discrimination law, any employee who is a victim of domestic violence, sexual assault, or stalking or has a family member or household member who is a victim of domestic violence, sexual assault, or stalking has the right to take unpaid leave from work for the following reasons:

- To seek medical attention for both physical and psychological injuries caused by domestic violence, sexual assault, or stalking;
- To use services from a victim services organization;
- To obtain psychological or other counseling;
- To participate in safety planning, temporarily or permanently relocating, or taking other safety measures.

### **Learn the Law!**

**An employee who is a Domestic/Sexual Violence Victim is entitled to:**

- **8 work weeks of leave during any 21-month period from an employer who employs 50 or more employees; or**
- **4 work weeks of leave during any 12-month period from an employer who employs less than 50 employees.**

*Tip: If you are a victim of domestic violence, and you intend to take your allowed leave, you must provide your employer with 48 hours notice, unless it is not practical.*

- Prohibit an employee from dressing according to their gender identity.
- Prohibit an employee from changing his/her name or gender on any forms or records under the control of the employer.
- Fail to provide reasonable adjustments or “accommodations” to the needs of an employee for her pregnancy, childbirth, or a related medical condition, as long as such accommodations will not cause undue hardship for the employer. See page 12 for the definition of undue hardship.

A reasonable accommodation to the needs of an employee for pregnancy, childbirth or related medical condition is a change in the workplace that an employer should make to allow an employee to continue performing the essential functions of her job. For example, reasonable accommodations include restroom breaks, regular rest for those who stand for long periods of time, assistance with manual labor, leave for a period of disability arising from childbirth, reassignment to another position, and job restructuring.

*Tip: In order for an employer’s failure to accommodate pregnancy, childbirth, etc., to be an unlawful discriminatory employment practice, an employee must first request the accommodation.*

- Fail to reasonably accommodate an individual’s need to express breast milk.

Employers should provide unpaid break time or allow an employee to use paid break, mealtime, or both to express milk and provide a private, sanitary space (not a bathroom!) where an employee can express breast milk. However, the accommodation must be “reasonable” and not impose an undue hardship on an employer.

### Labor Organizations

A labor organization, more commonly referred to as a “labor union,” is any organization that advocates on behalf of employees to employers about collective or individual grievances, terms, or conditions of employment.

Under Philadelphia’s anti-discrimination law, a labor organization may not do any of the following actions based on an individual’s membership in a protected class:

- **Discriminate against any individual.**
- **Limit, segregate, or classify an individual's membership in any way that would harm someone's employment opportunities, decrease their wages or working hours, or result in negative conditions of employment.**
- **Maintain a policy that denies or limits the employment or membership opportunities of any individual or group.**
- **Print, publish or distribute any employment advertisement that indicates a preference for a particular group or individual.**
- **Deny reasonable accommodation and leave to domestic or sexual violence victims.**

A Labor Organization is required to provide the same accommodations to victims of domestic or sexual violence that employers do (as described on page 48.)

### **Employment Agencies**

An employment agency is any person or company that regularly finds people job opportunities and referrals.

Under Philadelphia's anti-discrimination law, an employment agency may not do any of the following actions based on an individual's membership in a protected class:

- **Fail (or refuse) to make job referrals**
- **Adopt a policy that denies or limits job opportunities**
- **Adopt quota system that limits or denies job opportunities to individuals or groups that are part of a protected class.**
- **Print or publish discriminatory advertisements.**
- **Deny reasonable accommodation and leave to domestic or sexual violence victims**

## What Employers and Practices Are Exempted From Philadelphia's Anti-discrimination Law?

- If your employer is a **religious organization**, and part of your job includes performing religious activities, it is legal for your employer to require that you be a member of the organization's religion.
- It is legal for an employer to prefer employee from a certain religion, sex, or national origin when the employer can show a **bona fide occupational qualification**.

### *Definition:*

A bona fide occupational qualification is defense to a claim of intentional discrimination when an employer can show that preference for members of one group over another is reasonably necessary to the normal operation of the defendant's particular business.

For example, the owner of a Chinese restaurant who wants to maintain an authentic atmosphere may be able to justify hiring only Chinese people if he or she can show a **bona fide occupational qualification**.

The following employment practices are also permissible.

- An employer can ask a job applicant if he or she can perform the basic duties of a job.
- An employer, employment agency, or labor organization can ask an applicant about their age when it can show that age is a bona fide occupational qualification for the position.
- An employer can hire or fire a **domestic worker** or other employee working in a personal or confidential capacity based on their preferences.

### *Definition:*

A domestic worker is an individual employed in a home or residence for the purpose of caring for a child, serving as a companion for a sick, or elderly person, housekeeping, or any other domestic service purpose.

- An employer, employment agency, or labor organization can follow the terms of a work **seniority system**.

### *Definition:*

A domestic worker is an individual employed in a home or residence for the purpose of caring for a child, serving as a companion for a sick, or elderly person, housekeeping, or any other domestic service purpose.

For example, if a labor union negotiates an agreement with the employer that employees who work for over 5 years are entitled to higher wages and those employees happen to be men, then it would be legal for the employer to pay those men with seniority more than a recently hired group of women.

Furthermore, if a labor union negotiates an agreement that recent hires will be the first to be laid-off in the event of a downturn in business, an employer can legally lay off recently hired African-American workers, even if all of the more experienced workers who keep their jobs are white.

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**(D) WHAT CAN THE PHILADELPHIA COMMISSION ORDER MY EMPLOYER TO DO IF I PROVE MY EMPLOYER DISCRIMINATED AGAINST ME?**

- **Cease and desist the illegal discrimination** (“Stop doing that!”)
- **Order the employer to do any of the following:**
  - Hire, reinstate, or promote an employee;
  - Admit or restore membership in a labor organization; or
  - Admit an employee to a training program;
- **Pay “Compensatory Damages”**

The Philadelphia Commission can require your employer to pay Compensatory Damages, which are meant to reimburse you for the costs that you paid out of your own pocket due to your employer’s discrimination. For example, the money you would have made between when your employer fired you and the date of your public hearing.
- **Pay “Punitive Damages”**

Punitive damages are exactly what they sound like. They are meant to punish your employer for their discrimination and discourage them from doing it again. They are not reimbursements for any costs to you. In Philadelphia, the maximum amount available in punitive damages is \$2,000.
- **Pay Reasonable Attorney’s Fees**

***Remember these tips!***

*Your complaint should:*

*\*Be in writing.*

*\*Be signed and verified by you.*

*\*Include your full name and address.*

*\*Include the name and address of the employer, employment agency, or labor organization that discriminated against you*

*\*Clearly state the actions that violate Philadelphia’s anti-discrimination law*

## (E) HOW DO I FILE AN EMPLOYMENT DISCRIMINATION CLAIM WITH THE PHILADELPHIA COMMISSION?

This section will guide you through the process of filing a claim with the Philadelphia Commission.

### STAGE 1: Filing your Claim

**Remember**, after your employer commits an unlawful employment practice, you have **300 days** to file your claim with the Philadelphia Commission.

Here's a **checklist** of the steps to filing your Complaint:

- ✓ If you do not have an attorney, you **must fill out an intake form and have an intake interview**. If you cannot travel to the office, you may download the form from the Commission's website located at <http://www.phila.gov/HumanRelations/DiscriminationAndEnforcement/Documents/Employment%20Discrimination.pdf>
- ✓ If the Commission accepts your claim, a formal complaint will be drafted and presented to you for your review.
- ✓ If you approve the contents of the complaint you must sign it, verifying that the allegations you state are true.
- ✓ If you are represented by an attorney, he or she will draft the complaint. The Commission will accept your signed complaint directly from your attorney.

***Tip:** If you have already filed a complaint with the Pennsylvania Human Relations Commission with regard to the same claim, the Philadelphia Commission will not accept your complaint.*

### STAGE 2: The Investigation Period

Congratulations on filing your complaint! That is an important first step. Next, your complaint will be assigned to an investigator.

#### **What should I expect during the Investigation Period?**

This section provides a general overview of the investigation process but not every case is the same. Depending on the facts of your case, the actions of your investigator may be different.



*Keep in mind the following!*



- ✓ You may attempt to resolve the dispute with your employer through **mediation**.
- ✓ You and your employer may **settle** the dispute on your own at any time during the investigation.
- ✓ Your investigator may encourage you and your employer to **settle** your employment discrimination claim.
- ✓ Your investigator may dismiss your complaint at any point during the investigation period if he or she believes your claims have no merit.
- ✓ If your investigator dismisses your complaint because there was not enough evidence to support your claim, you will be issued a **Right to Sue letter**. You must receive a Right to Sue letter from the Philadelphia Commission if you want to take your employer to court.
- ✓ If your claim makes it all the way to a public hearing (see page 40) and you lose your case at the public hearing, you can appeal your case in court.

### **The Investigation Process: Step-By-Step**

- The Philadelphia Commission will send your complaint to your employer. This process is called “serving the complaint.”
- The Commission will assign an investigator to your case.
- The investigator will gather information from both you and the employer. Your employer is identified as the “Respondent.” You are identified as the “Complainant.”

### **Optional Stage: Mediation**

- Shortly after the complaint is served, the investigator assigned to your case may invite you to participate in **mediation**.
- A mediator is a neutral person who can facilitate a discussion between you and your employer with the goal of coming to an agreement that is acceptable to both of you.
- You **do not** have to participate in mediation. If you choose not to participate, the investigation will begin immediately.
- If you choose **not** to participate in mediation, or you are unable to reach a settlement through the mediation process, your employer must submit an **answer** to the complaint within **28 days**. See page 37 for the definition of **answer**.
- Once your employer files an answer to your complaint, you then have **28 days** to respond, and produce any requested documents and other evidence that would support your claim.
- At this point, the investigator may hold a **fact-finding conference**.

### STAGE 3: The Fact-finding Conference

The **fact-finding conference** is where you, your employer, and the investigator will come together to discuss your complaint. The goal of this conference is to collect the relevant facts of your case.

After the fact-finding conference, if there is not enough evidence to support your claim, it is possible that your complaint may be **dismissed**.

**Remember! Neither you nor your employer is required by the Philadelphia Commission to settle your claim at this point.**

After completing the investigation, the Philadelphia Commission Staff will make a recommendation to the Commissioners. The Commission Staff may recommend a finding of:

- **CHARGE NOT SUBSTANTIATED**, if the information gathered during the investigation suggests that discrimination did not occur or there is not enough evidence to support a finding of Probable Cause.

**OR**

- **PROBABLE CAUSE**, if the information gathered during the investigation suggests that there are reasonable grounds to suspect that your employer committed an unlawful discriminatory act.

### STAGE 4: Conciliation or a Late-Stage Mediation

Hold tight! This is not where the process ends. **You have not won your claim yet.** After a finding of probable cause, the Philadelphia Commission may pursue conciliation or schedule a late-stage mediation session at a public hearing.

At a public hearing, Commission staff will encourage you and your employer to settle the case by **Conciliation** or **Late-Stage Mediation**.

In **Conciliation**, a Commission staff member meets with you and your employer to assist in settling the dispute through a series of negotiations.

In **Late-Stage Mediation**, an expert in employment law will act as a mediator between you and your employer. The difference between Late-Stage Mediation and Conciliation is that in Late Stage Mediation, the mediator will point out the strengths and weaknesses of your case and suggest how the Commissioners are likely to rule if your case goes to a hearing.

In both Conciliation and Late-Stage Mediation, the Commissioners must approve the final agreement. Once again, neither you, nor your employer is forced to settle at this point.

### **STAGE 5: Public Hearing**

If you and your employer cannot resolve the dispute, a **public hearing** will be held before the Commissioners. A public hearing is similar to a trial, where you and your employer will have the opportunity to present evidence to support and refute each others' cases.

However, there is no jury in the public hearing. The **Commissioners** will decide your case, and make the ultimate decision on whether your employer illegally discriminated against you. The Commissioners are made up of attorneys, and non-attorney community stakeholders.

After the Commissioners make their decision on your case, the losing party has the opportunity to appeal the decision to an appropriate trial court.

Again, time is of the essence! The losing party has **30 days** to appeal the Commissioners' decision.

## (F) CONTACTING THE PHILADELPHIA COMMISSION

### PHILADELPHIA COMMISSION OFFICE- CENTER CITY

**Location:** 601 Walnut Street

Suite 300 South

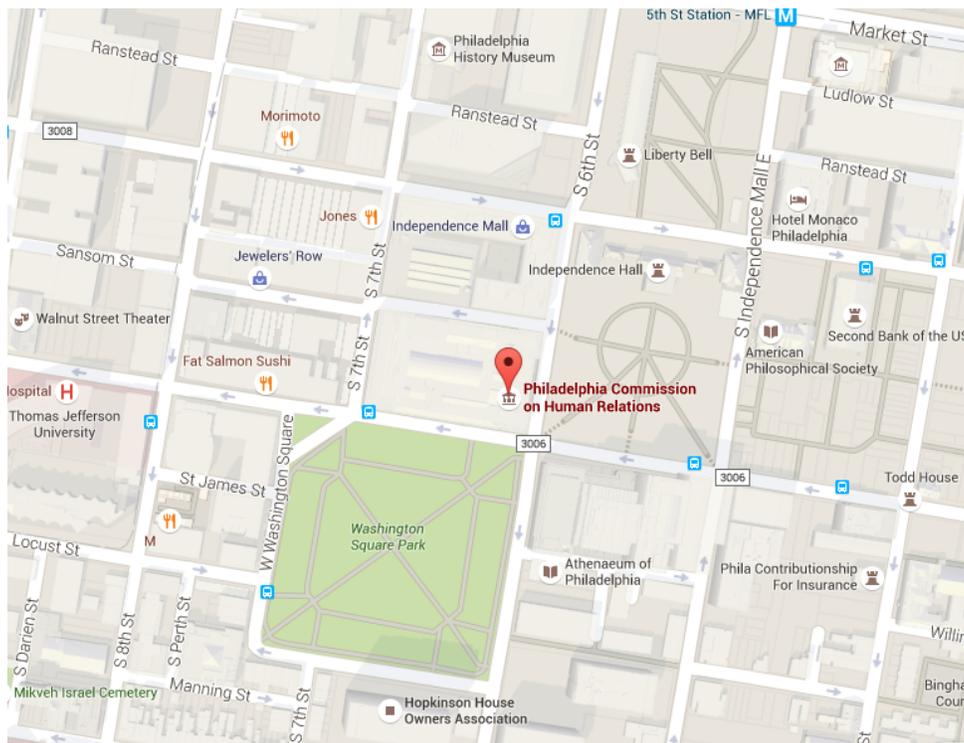
Philadelphia, PA 19106

**Phone:** 215-686-4670

**Fax:** 215-686-4684

**E-mail:** [pchr@phila.gov](mailto:pchr@phila.gov)

**Office Hours:** The Philadelphia Commission is open Monday through Friday from 8:30 a.m.- 5:00 p.m.



## PART III: FREE OR LOW COST LEGAL SERVICES IN PHILADELPHIA

Once you have exhausted your administrative remedies at the EEOC, the Pennsylvania Commission, or the Philadelphia Commission (e.g., you received a “Right to Sue” letter from one of the agencies), you are able to file a claim in state or federal court.

If you wish to file a lawsuit, we strongly urge you to seek the counsel of a licensed attorney. Below is a list of free or low cost legal services providers that may be available to assist you with your case.

Please note that some of the legal service providers listed below specialize in a particular area of discrimination, and may not take your case if your claim does not fit the organization’s mission. For example, the **Disability Rights Pennsylvania** only represents individuals with claims of discrimination based on disability.

### **Drexel University Thomas R. Kline School of Law Community Lawyering Clinic**

3509 Spring Garden St. Philadelphia, PA 19104

Phone: (215) 571-4703

Email: CLC@drexel.edu

The Drexel Community Lawyering Clinic offers a variety of free civil legal services and primarily services the residents of Mantua and Powelton Village in West Philadelphia.

### **AIDS Law Project of Pennsylvania**

1211 Chestnut St., Suite 600 Philadelphia, PA 19107

Phone: (215) 587-9377

Email: goldfine@aidslawpa.org

The AIDS Law Project of Pennsylvania is a non-profit public interest law firm, which provides direct legal services to HIV-positive Pennsylvanians. Its clients all suffer from this chronic and stigmatizing illness. They have no income restrictions for who they serve.

### **Community Legal Services**

1424 Chestnut St. Philadelphia, PA 19102

Phone: (215) 981-3700

Email: info@clsphila.org

Community Legal Services (CLS) helps low-income residents obtain justice by providing advice and representation in civil legal matters including employment discrimination, advocating for their legal rights, and conducting community education about legal issues. CLS primarily provides representation in cases involving

discrimination based on a criminal record. In very limited circumstances, it will provide representation in other discrimination cases.

### **Disability Rights Pennsylvania**

1315 Walnut Street, Suite 500 Philadelphia, PA 19107

Phone: (215) 238-8070

Email: drnpa-phila@drnpa.org

The Disability Rights Pennsylvania (DRP) advances, protects, and advocates for the human, civil, and legal rights of Pennsylvanians with disabilities. DRN works to ensure that people with disabilities have equal and unhindered access to employment.

### **Mazzoni Center Legal Services**

21 S. 12<sup>th</sup> St. Philadelphia, PA 19107

Phone: (215) 563-0652

Email: legalservices@mazzonicenter.org

The Mazzoni Center provides direct legal assistance and referrals to low-income lesbian, gay, bisexual and transgender (LGBT) individuals in the Commonwealth of Pennsylvania in over 30 distinct practice areas, including employment discrimination.

### **Philadelphia Lawyers for Social Equity**

1501 Cherry St., Philadelphia, PA 19102

Phone: (215) 995-1230

Email: info@plsephilly.org

Philadelphia Lawyers for Social Equity (PLSE) is a 501(c)(3) non-profit legal aid organization. PLSE's mission is to work toward just outcomes for low-income individuals who have had contact with the Pennsylvania criminal justice system. PLSE will sometimes provide representation to individuals who have been discriminated against by potential employers based on their criminal history records as well as provide representation to individuals who have arrests from Philadelphia County which are eligible for expungement.

### **Public Interest Law Center**

1709 Benjamin Franklin Parkway, 2<sup>nd</sup> Floor Philadelphia, PA 19103

Phone: (215) 627-7100

The Public Interest Law Center of Philadelphia advances the promise of equal citizenship to all people irrespective of disability, race, national origin, gender, religion, or poverty through systemic reform.

### **University of Pennsylvania Law School Clinics**

3400 Chestnut Street Philadelphia, PA 19104

Phone: (215) 898-8427

Email: clinic@law.upenn.edu

The University of Penn Law School Clinics train law students in lawyering skills by providing free legal services under close in-house faculty supervision. Law students are certified by state and federal courts to represent clients in a wide variety of civil cases in courts and administrative agencies. Areas of practice include civil forfeiture, Social Security/Disability, unemployment compensation, custody, support, housing, consumer educational rights, employment discrimination, civil rights, and expungement of child abuse records. No divorce, bankruptcy, or criminal cases accepted.

### **Villanova School of Law Clinical Program – Villanova Civil Justice Clinic**

299 North Spring Mill Rd. Villanova, PA 19085

Phone: (610) 519-6417

The Villanova Clinical Program provides free legal representation to under-represented individuals through law students working under close faculty supervision. The Villanova Civil Justice Clinic provides representation to low-income clients in a broad range of civil issues including employment discrimination.

### **Women’s Law Project**

125 S. 9<sup>th</sup> Street, Suite 300 Philadelphia, PA 19107

Phone: (215) 928-9801

Email: info@womenlawproject.org

The Women’s Law Project (WLP) is committed to advancing the legal, social, and economic status of women through litigation, public policy advocacy, public education, and individual counseling. In some limited circumstances, the WLP will take employment discrimination cases that relate to sex and pregnancy discrimination.

### **The Philadelphia Bar Association’s Lawyer Referral and Information Service**

Phone: (215) 238-6333

The Lawyer Referral and Information Service (“LRIS”), a public service program operated by the Philadelphia Bar Association, refers a person in need of legal help to an attorney in private practice, legal aid organization, or another resource. The LRIS has a referral panel for employment discrimination as well as several other employment panels, including panels for legal issues related to unions, the Family & Medical Leave Act (FMLA) and Wage & Hour claims. Many attorneys referred through LRIS will consider representing you on a contingency fee basis. This means that your attorney

will be paid a fixed percentage of the money awarded to you if you win your case. If you are not awarded any money in your case, you will not be required to pay your attorney. There is no cost to obtain a referral to a lawyer through the LRIS. There is a \$35 charge for a one-half hour consultation with a private attorney, which is not collected if the attorney decides to handle the client's legal matter on a contingency fee basis.

**The United States District Court for the Eastern District of Pennsylvania also provides a number of resources to individuals who do not have an attorney.**

First, the Court has created a complaint form that you can use to file your case.

The complaint form can be found at:

<https://www.paed.uscourts.gov/documents/forms/frmcempf.pdf>

When you submit your complaint, you must attach a "Right to Sue" letter from the EEOC or a notice from the Pennsylvania or Philadelphia Commission that states your complaint has been dismissed or no settlement was reached in your case in order to prove that you have exhausted your administrative remedies.

There is a \$350 fee for filing a complaint. If you are unable to pay the filing fee of \$350, you must complete and file a Motion to Proceed In Form Pauperis form. The Motion to Proceed In Form Pauperis form can be found at:

<http://www.paed.uscourts.gov/documents/forms/ifpl.pdf>

If the judge denies your request, then you must pay the \$350 filing fee to proceed with your case.

Second, the Court has established an "Attorney Panel for Pro Se Plaintiffs in Employment Cases," which is comprised of volunteer attorneys who have agreed to represent individuals who do not have an attorney. However, it is the Judge's decision whether to appoint an attorney to you. There is no guarantee.

To request the appointment of an attorney to your case you must:

1. Complete and file the abovementioned Complaint form, which can be found at:

<https://www.paed.uscourts.gov/documents/forms/frmcempf.pdf>

2. Complete and file an original copy of the Description of Lawsuit for Court Assignment, which can be found at:

[http://www.paed.uscourts.gov/documents/handbook/forms/app\\_f.pdf](http://www.paed.uscourts.gov/documents/handbook/forms/app_f.pdf)

The Description of Lawsuit for Court Assignment form must be filed with your complaint.

3. Complete and file the abovementioned Motion to Proceed In Form Pauperis form, if you are unable to pay the required \$350 filing fee. The Motion to Proceed In Form Pauperis form can be found at: <http://www.paed.uscourts.gov/documents/forms/ifpl.pdf>

4. Complete and file the Request for Appointment of Attorney form, which can be found at: <https://www.paed.uscourts.gov/documents/forms/frmcempa.pdf>

To file these forms, you may bring them or mail them to:

Clerk of Court  
United States District Court  
601 Market Street, Room 2609  
Philadelphia, PA 19106

If you have any questions about filing your employment discrimination claim in federal court, you may call Court Clerk's office at (215) 597-7704 and ask for the Pro Se Writ Clerk.

***Tip:*** The federal court where you can file your employment discrimination claim is the District Court for the Eastern District of Pennsylvania. This court is located at: 601 Market Street, Philadelphia, PA 19106.