

Guide to Discrimination Complaints



Under the Philadelphia Fair Practices Ordinance: Prohibitions Against Unlawful Discrimination

Enforced by the

Philadelphia Commission on Human Relations

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Philadelphia's Fair Practices Ordinance: Protections Against Unlawful Discrimination

The City of Philadelphia has a powerful law prohibiting discrimination in three areas of protection: (1) employment; (2) public accommodation; and (3) housing and real property. The ordinance applies to employers, businesses, housing providers and property owners of all sizes. Anyone who believes he or she has been harmed by discrimination in violation of the Fair Practices Ordinance may file a complaint with the Philadelphia Commission on Human Relations. The person(s) filing the complaint is referred to as the complainant. The person(s) against whom the complaint is filed, and is alleged to have treated the complainant unfavorably, is referred to as the respondent. Complaints will be investigated and decided as explained in this brochure.

The Commission's Role

With respect to discrimination complaints, the Philadelphia Commission on Human Relations is a NEUTRAL decision-making agency. We do not serve as either side's lawyer or advisor, and we do not prosecute the case for the complainant.

The job of the Commission is to:

- *Investigate* each complaint that is filed and decide whether there is substantial evidence of the alleged ordinance violation
- *Conduct* a public adjudicatory hearing if substantial evidence is found, then *rule* based on the evidence received
- *Order* remedies if the complainant provides at the hearing that discrimination occurred
- *Settle* cases when possible

What is Discrimination?

Please note that the following information is only a general statement of the legal standard for establishing discrimination in the areas of employment, public accommodation, and housing and real property. For example, additional and different legal standards apply to complaints of harassment and of failure to reasonably accommodate. Moreover, **not all unfair treatment is unlawful discrimination** as defined by the Fair Practices Ordinance. Finally, a complainant may have other legal remedies, which can be pursued whether or not a complaint is filed with the Commission.

Employment Discrimination

The Fair Practices Ordinance prohibits discrimination in the area of employment. To win an employment discrimination case, a complainant must be able to show by a preponderance of the evidence that:

- The complainant was subjected to unfavorable treatment by an employer, employment agency or labor organization that is subject to the Fair Practices Ordinance
- The conduct was based on the complainant's status in one or more **protected classes**:

Race	Ethnicity
Color	Sex
Sexual Orientation	Gender Identity
Religion	National Origin
Ancestry	Age (Over 40)
Disability	Marital Status
Familial Status	Genetic Information
Domestic/Sexual Violence Victim Status	

- The conduct took place in the **City of Philadelphia**
- The complaint was filed **within 300 days** of the date of the alleged discriminatory action
- The complainant was treated differently **because of** the protected status (e.g., not for other legitimate, non-discriminatory reasons)

In addition, it is unlawful to **retaliate** against anyone for filing a complaint or participating in the Commission's complaint adjudication process.

Unpaid Leave Due To Domestic/Sexual Violence. Anyone in Philadelphia who is a victim of domestic violence, sexual assault or stalking, and anyone with a family or household member who is a victim of domestic violence, sexual assault or stalking, may be entitled to take certain amounts of unpaid leave. A complaint may be filed with the Commission against any employer that refuses to grant such unpaid leave or retaliates against anyone for taking or requesting to take such leave.

Public Accommodation

The Fair Practices Ordinance prohibits discrimination in the area of public accommodation. A place of public accommodation is any place that is open to the general public. To win a public accommodations case, a complainant must be able to show by a preponderance of the evidence that:

- The complainant was subjected to unfavorable treatment by a public accommodation that is subject to the Fair Practices Ordinance

- The conduct was based on the complainant’s status in one or more **protected classes**:

Race	Ethnicity
Color	Sex
Sexual Orientation	Gender Identity
Religion	National Origin
Ancestry	Disability
Marital Status	Familial Status
Domestic/Sexual Violence Victim Status	

- The conduct took place in the **City of Philadelphia**
- The complaint was filed **within 300 days** of the date of the alleged discriminatory action
- The complainant was treated differently **because of** the protected status (e.g., not for other legitimate, non-discriminatory reasons)

In addition, it is unlawful to **retaliate** against anyone for filing a complaint or participating in the Commission’s complaint adjudication process.

It is also unlawful to prohibit access to any otherwise authorized public accommodation to a **breast-feeding mother**.

Housing and Real Property

The Fair Practices Ordinance prohibits discrimination concerning real property, including both housing and commercial property. To win a discrimination case based on housing or real property, a complainant must be able to show by a preponderance of the evidence that:

- The complainant was subjected to unfavorable treatment by anyone handling transactions pertaining to real property, including both housing and commercial property or was subjected to harassment by a neighbor
- The conduct was based on the complainant’s status in one or more **protected classes**:

Race	Ethnicity
Color	Sex
Sexual Orientation	Gender Identity
Religion	National Origin
Ancestry	Disability
Marital Status	Age
Source of Income	Familial Status
Domestic/Sexual Violence Victim Status	

- The conduct took place in the **City of Philadelphia**

- The complaint was filed **within 300 days** of the date of the alleged discriminatory action
- The complainant was treated differently **because of** the protected status (e.g., not for other legitimate, non-discriminatory reasons)

In addition, it is unlawful to **retaliate** against anyone for filing a complaint or participating in the Commission's complaint adjudication process.

How to File a Complaint

Complaints may be filed by mail, by fax, or in person. Filing by e-mail is not permitted. A complaint is deemed filed when received by the Commission. A fax received after 5:00 p.m. or on a weekend or holiday is treated as received the next full working day. In general, those who wish to receive assistance from staff to draft a complaint should arrive no later than 3:00 p.m.

Anyone wishing to file a complaint may use the Commission's informal complaint form or must submit a written document that contains substantially equivalent information. Certain content is required. For example, all informal complaints must contain the correct name and address of each respondent, plus a description of the conduct, policy, or practice alleged to constitute the unlawful discrimination, in enough detail to substantially apprise the respondent(s) and the Commission of the nature of the alleged violation. In addition, a complainant may be required by the Commission to provide a formal complaint.

How Long Does the Process Take?

Some cases are resolved by settlement within a few weeks, but full investigations could take several months or years. Staff generally must complete the investigation of older cases first, although settlement discussions can take place any time. If the Commission determines that there is a finding of "probable cause" of discrimination and the parties are unable to come to a voluntary resolution or through conciliation, a public adjudicatory hearing will take place. Thus complaints normally cannot obtain immediate remedies.

The Investigation

The Commission generally mails a copy of the complaint to each respondent. Respondents generally receive a deadline to submit a written response and all available information supporting the respondent's position. Respondents must comply with all Commission orders, notices, and regulations. Failure to respond to the complaint as required may lead to default, dismissal, or other sanctions.

Complainants must submit all available information supporting the allegations in the complaint. Failure of a complainant to cooperate with the investigation and adjudication of the case, or failure to inform the Commission of a current address and telephone number, can lead to

dismissal of the complaint or other sanctions. A complainant who no longer wishes to proceed with a case may withdraw the complaint to stop the Commission's proceedings.

A Commission investigator will review the complaint and the written submissions of both sides. As needed, the investigator may interview the parties and other witnesses, seek additional documents and information, and conduct a site inspection.

The Commission staff reviews the investigation file and makes a case-closing recommendation to the Commissioners. In cases where there is finding of "probable cause" of discrimination, such a finding does not mean the complainant has won the case, only that there is enough evidence to proceed to a public adjudicatory hearing.

Public Adjudicatory Hearing

After a probable cause finding, a public adjudicatory hearing is held if the parties do not reach a voluntary settlement of the case. The adjudicatory hearing is a trial, but somewhat less formal than in court. The Chairperson of the Commission appoints one or more commissioners to serve as hearing commissioners. The hearing commissioners preside over the adjudicatory hearing and manage the hearing process. No one is required to have an attorney, but it is recommended. The Commission does not prosecute or present the case for the complainant.

At the adjudicatory hearing, the complainant is required to present evidence, such as witness testimony and documents, to show that unlawful discrimination has occurred and to prove what damages the complainant has incurred.

After the adjudicatory hearing, the hearing commissioners write a decision stating which party should win the case. If the hearing commissioners decide in favor of the complainant, the decision will include appropriate remedies. The ruling can be appealed to the appropriate state court.

What Can a Complainant Receive?

If the respondent is found liable after the adjudicatory hearing, the Commission may order one or more of the following types of remedies, based on the evidence of injury the complainant presented:

- **Out-of-pocket Damages.** Reimbursement for financial losses resulting from the discrimination, such as back pay, if denied a job, or moving costs, if forced out of an apartment.
- **Emotional Distress Damages.** Payment to compensate for the emotional injury that the complainant proved was caused by the unlawful discrimination.
- **Punitive Damages.** Payment up to \$2,000 to the complainant if the respondent's conduct was found to be willful, wanton, or in reckless disregard of the complainant's rights.

- **Attorney Fees and Costs.** Payment for the reasonable work the complainant's attorney performed on the case and reimbursement of hearing costs.
- **Injunctive Relief.** Orders that a respondent take certain steps to eliminate discriminatory practices or makes the complainant whole, such as changing a discriminatory policy, making premises wheelchair accessible, or offering the next available job or housing unit.
- **Penalties.** Payment to the City of Philadelphia up to \$2,000 for each violation of the Fair Practices Ordinance.

Settlement of Pending Cases

The Commission encourages parties to settle cases on a voluntary basis at any time while a complaint is pending. The Commission will not pressure either side to settle but will facilitate discussion if both sides are interested. An investigator may discuss with the parties whether they wish to try to settle the case before the investigation is completed. Either party's attorney or representative may contact the other to initiate settlement discussions at any time, without Commission involvement. If the parties reach agreement on settlement terms, the Commission will explain the procedures to close the case either by approved settlement agreement (with retained jurisdiction to seek enforcement) or by withdrawal of the complaint pursuant to a private settlement.

Questions?

Please call the Philadelphia Commission on Human Relations at (215) 686-4670, or email the Commission at FAQPCHR@phila.gov, with any questions about this information. Copies of the Fair Practices Ordinances, applicable regulations, and required postings are available from the Commission's office at The Curtis Center, 601 Walnut Street, Suite 300 South, Philadelphia, Pennsylvania 19106, or the Commission's website at <http://www.phila.gov/humanrelations/>.