

Complainant's Guide to the Compliance Division



**of the
City of Philadelphia
Commission on Human Relations**

The Philadelphia Fair Practices Ordinance



Enforced by the City of Philadelphia Commission on Human Relations

The Philadelphia Fair Practices Ordinance prohibits discrimination in the areas of employment, public accommodations and housing. The protected bases are outlined below.

Protected Bases

Basis	Employment	Public Accommodations (including delivery of City services)	Housing
Age	Yes (40 years +)	Not Covered	Yes (no limit)
Ancestry	Yes	Yes	Yes
Breast-feeding	Not Covered	Yes	Not Covered
Color	Yes	Yes	Yes
Disability	Yes	Physical	Physical
Domestic/Sexual Violence	Yes	Not Covered	Not Covered
Gender Identity	Yes	Yes	Yes
Marital Status	Yes	Yes	Yes
National Origin	Yes	Yes	Yes
Presence of Children	Not Covered	Not Covered	Yes
Race	Yes	Yes	Yes
Religion	Yes	Yes	Yes
Retaliation	Yes	Not Covered	Yes
Sex	Yes	Yes	Yes
Sexual Orientation	Yes	Yes	Yes
Source of Income	Not Covered	Not Covered	Yes

COMPLAINANT'S GUIDE TO THE COMPLIANCE DIVISION PHILADELPHIA COMMISSION ON HUMAN RELATIONS

THE LAW

The Philadelphia Commission on Human Relations (PCHR) enforces all statutes and ordinances prohibiting discrimination in the City of Philadelphia. In particular, PCHR enforces the Philadelphia Fair Practices Ordinance (FPO), which prohibits discrimination in employment, housing, use of public accommodations, and delivery of City services. The Compliance Division is the enforcement arm of PCHR.

Under the FPO, it is illegal to discriminate in employment on the bases of race, color, religion, national origin, ancestry, age (40 and over), sex (including pregnancy and sexual harassment), sexual orientation, gender identity, mental or physical disability, marital status, or retaliation. The same bases are covered in housing, with the following exceptions: mental disability is not covered; however, presence of children, source of income, breast-feeding and all ages are covered. In use of public accommodations and City services, the bases are the same as those covered in employment, except that age, retaliation and mental disability are not covered.

PCHR also enforces the requirement that employers provide up to eight weeks (depending on the size of the employer) of unpaid leave annually to victims – or employees whose family or household member is a victim – of domestic abuse, sexual assault, or stalking.

THE COMPLAINT

If you wish to file a discrimination complaint, you can discuss your problem with one of our Intake staff members. Intake is a detailed and confidential process designed to determine whether your complaint can be addressed by PCHR. The more documents and details you provide during the intake process, the more information PCHR will have to process your complaint. If you have experienced discrimination on a basis that PCHR enforces, PCHR can help you draft your complaint and prepare it in legal form for your signature. By law, your complaint must be filed within 300 days of the last alleged act of discrimination.

Before you sign, you must make sure the complaint is accurate to the best of your knowledge and belief. This is important because state law provides penalties for persons who knowingly file false complaints. Any employment complaint that can also be filed on the federal level with the Equal Employment Opportunity Commission (EEOC) can be filed with the EEOC at our office.

PCHR is committed to conducting a fair and thorough investigation of your complaint. You do not need an attorney to represent you. However, you have the right to retain a private attorney if you so desire.

After you have filed your complaint, it will be assigned a docket number. You will also be assigned an Investigator, who is neutral and does not serve as an advocate for either party.

The Investigator will serve a copy of the complaint on the Respondent; you will also receive a copy by mail. The Respondent will be required to answer your complaint in a timely fashion.

THE INVESTIGATION

PCHR's investigation will involve analyzing documents, witness testimony and other evidence relevant to your complaint. It is important that you provide the PCHR Investigator with all facts and details you have related to your complaint – even if you think the information might weaken your case. The PCHR Investigator will then be better prepared if such information is discussed by the Respondent. Providing this information also will help PCHR properly investigate and resolve your complaint.

Names, dates, places, addresses, and other details should be as accurate as possible in the information you provide. Please make available to PCHR any witnesses or documents, such as payroll slips, disciplinary notices or rent receipts, that may substantiate your charges. PCHR can subpoena relevant witnesses or documents if it becomes necessary to do so.

The law prohibits anyone from taking action against you because you have filed a complaint, against a witness who has testified or assisted in a PCHR proceeding, or against anyone who has otherwise opposed any practice forbidden by the FPO.

Please keep PCHR advised of any change in your address or telephone number, or the address or phone number of your attorney. If PCHR is unable to contact you to obtain necessary information, it could result in closure of the investigation.

You will be kept advised of the progress of your complaint during the investigative process. While PCHR strives to complete each investigation promptly, some cases are more complicated than others and take more staff time and resources to complete.

THE FACT-FINDING CONFERENCE AND FURTHER INVESTIGATION

A fact-finding conference is normally scheduled to be held within sixty (60) days of the filing of the complaint.

The conference is a meeting, arranged and conducted by the PCHR Investigator, at which you and the Respondent are given the opportunity to present evidence in support of your respective positions. The conference is designed to speed up the investigation and, possibly, to help reach a fair, voluntary, negotiated settlement. The Investigator relays settlement offers to the parties. Offers do not originate with the Investigator, whose role is only to facilitate negotiations.

PCHR is not required by law to hold a fact-finding conference and, in some cases, depending on circumstances will not do so. Neither you nor the Respondent is compelled by law or regulations to attend a conference. Instead, either party may opt for a field investigation. If

your complaint is not resolved at the conference, and if one is not held, the investigation will continue.

You may be asked to clarify your complaint in light of new information, or to rebut the responses of the Respondent. If you should learn of or remember any additional information, please notify your Investigator immediately.

RESULTS OF THE INVESTIGATION

Investigators make every attempt to negotiate mutually agreeable settlements in all cases. However, if a case is not settled, a completed investigation may result in one of the following findings:

- **Probable Cause:** PCHR staff found sufficient evidence to support the complaint and recommends that the PCHR Commissioners hold a public hearing to render a decision on the complaint.
- **Charge Not Substantiated:** After a thorough investigation, PCHR staff did not find sufficient evidence to support the complaint.
- **Administrative Action – Waiver to EEOC:** The Complainant has chosen to withdraw from PCHR in order for EEOC to complete the investigation, or to request a right to sue notice.
- **Administrative Action – Failure to Locate:** The Complainant could not be contacted after a reasonable effort was made to do so.
- **Administrative Action – Failure to Cooperate:** The Complainant failed to cooperate with the investigation in an effort to resolve the charge.
- **Lack of Jurisdiction:** PCHR does not have the jurisdiction, for example, because the alleged acts occurred outside of Philadelphia, the alleged acts occurred more than 300 days before the charge was filed, or the Complainant had first filed a duplicate charge with the Pennsylvania Human Relations Commission.
- **Complaint Withdrawn:** The Complainant has decided to withdraw the charge, and no benefits are being sought.

THE PUBLIC HEARING

If evidence is found during the course of the investigation to support the charges of discrimination, and the parties are not able to agree on a settlement, a Finding of Probable Cause is made and a Public Hearing is scheduled. PCHR Commissioners preside as judges at the Public Hearing. The Complainant, or plaintiff, may be represented by an attorney from the City Solicitor's Office or a private attorney. The Respondent, or defendant, is present with its own attorney. Testimony is given under oath, a court reporter is present, and the case is presented before the Commissioners. Proceedings are open to the public.

After the Hearing, and after the Commissioners have reviewed the transcripts, the Commissioners issue an Order in favor of either the Complainant or the Respondent. An Order can be appealed in the Court of Common Pleas by either party to the complaint.

RELIEF

Under the FPO, a Complainant is entitled to actual damages if a case is found in his/her favor. Depending on the case, actual damages may mean, for example, a position that was applied for, reinstatement to the job that was lost, back pay, an apartment, or a mortgage. A complainant is not entitled to punitive damages or pain and suffering (except for actual medical bills) under the FPO. During an investigation, however, a complaint can be settled for any amount of money or other relief that may exceed actual damages.