

**DISCRIMINATION AND HARASSMENT AT WORK:
Your Rights and How to Enforce Them**

A Publication of:

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INTRODUCTION

Federal, state, Cook County, and City of Chicago law all make it illegal for an employer to discriminate against you, harass you at work or allow you to be harassed by others, or retaliate against you if you make a complaint about discrimination or harassment. This pamphlet provides some basic facts about your right to be free of discrimination at work and what you can do if you have experienced discrimination or harassment.

1. What is discrimination?

In general terms, discrimination occurs when you are treated unfairly or differently than your co-workers. Discrimination is only illegal, however, when it is based on certain protected personal characteristics determined by law. It is important to remember that certain types of discrimination may not be illegal, even if they seem unfair.

2. What types of discrimination are illegal?

Different types of discrimination are illegal under different laws. Under federal, state, Cook County, and City of Chicago law, it is illegal for an employer to discriminate against you based on one or more of the following characteristics:

- **RACE,**
- **COLOR,**
- **NATIONAL ORIGIN,**
- **ANCESTRY,**
- **SEX,**
- **PREGNANCY,**
- **RELIGION,**
- **AGE, or**
- **DISABILITY.**

Discrimination based on **CITIZENSHIP STATUS** is illegal under federal and state law; this means that if you are lawfully authorized to work in the United States, an employer cannot discriminate against you because you are not a U.S. citizen. State, Cook County, and City of Chicago law prohibit discrimination based on **SEXUAL ORIENTATION, MARITAL STATUS,** or **MILITARY DISCHARGE STATUS.** State law also prohibits discrimination based on an **ARREST RECORD.** Finally, Cook County and Chicago law protect you from discrimination based on **PARENTAL STATUS** or your **SOURCE OF INCOME.**

3. What employers are covered by the discrimination laws?

Federal and state laws cover most private and public employers with 15 or more employees with regard to most types of discrimination. Cook County and City of Chicago laws cover private employers regardless of their size. Federal, state, county, and city laws prohibit discrimination by employers, employment agencies, apprenticeship training programs, and labor unions.

4. What types of acts by your employer might be discrimination?

There are two main types of discrimination. The legal term “disparate treatment” refers to a situation in which your employer treats you differently from your co-workers because of a protected characteristic (such as your race or your sex). In general, the law only protects you from discrimination that involves a major change to your job, something the law refers to as a “tangible employment action.” Examples include an employer refusing to hire you for a job, refusing to give you a promotion or a raise, paying you less or giving you worse assignments than other employees who do the same work as you do, demoting you, or firing you.

Another type of discrimination is called “disparate impact.” This legal term refers to an employer rule or practice that, while it seems to apply equally to all employees, actually creates a disadvantage for individuals with certain protected characteristics. Examples include a written test that is not related to job requirements but has the effect of excluding job applicants of a certain race or national origin, or a lifting requirement that is not related to the actual job but that excludes almost all women or older workers.

5. What is harassment and when is it illegal?

Harassment is a common form of discrimination. **Sexual harassment** involves unwanted sexual attention at work and may include touching, sexual remarks, asking for sex, or sexual advances. Sexual harassment may be done by a boss, a supervisor, or by a co-worker. Coworker harassment may make it difficult for you to do your work, but it is important to remember that coworker harassment is not illegal unless it is frequent or severe. For example, a few mildly flirtatious comments may not break the law.

Another form of sexual harassment occurs when a boss or supervisor makes an employment decision (such as whether to hire you, promote you, or keep you) based on whether you agree to a sexual relationship. That form of harassment is illegal.

Harassment can also be based on race, national origin, or any other protected characteristic.

6. Can my employer punish me if I complain about discrimination or harassment?

No. It is illegal for your employer to punish you for filing a discrimination charge; this is known as **retaliation**. Forms of unlawful retaliation include firing you, demoting you, or giving

you a worse work assignment because you complained about discrimination or harassment. If your employer does any of these things, you can file a charge of retaliation with the same agency with which you file your discrimination charge.

7. What should I do if I have experienced discrimination or harassment?

First, if your supervisor or coworkers make sexual comments or comments that are obviously based on your race, gender or other protected characteristic, write down exactly what was said after work or during a work break. Make sure to include the date and time of the incident and the names of any witnesses who saw what happened.

Second, keep copies of any letters you send to your employer about the discrimination or harassment and of any correspondence you receive from your employer in return.

Third, if you have been harassed and your employer has a policy for making complaints about harassment, you should follow the policy and make a complaint. In particular, if you are being harassed by a coworker or low-level supervisor, it is very important that you report the harassment to your employer immediately; otherwise your employer may later argue that it did not know that the harassment was taking place. Follow up your report by sending a written complaint about the harassment to your employer and keep a copy of the complaint for yourself.

In any case, if you think you may want to file a legal action about the discrimination or harassment, you should quickly seek out the assistance of a lawyer or of the appropriate administrative agency.

8. How long do I have to file my discrimination charges?

Filing your charge on time is extremely important - if you fail to do so, you may lose the right to bring your lawsuit at all. In Illinois, you must file a charge with the federal Equal Employment Opportunity Commission (EEOC) within 300 days of the date the discrimination or harassment occurred. The deadline for filing a discrimination charge under state, county, and city law is even shorter - within 180 days from the date the discrimination took place.

9. Where should I file my discrimination charge?

Where you file your charge depends on many factors, *e.g.*, what type of discrimination you have experienced, where the discrimination occurred, the amount of time left to file your charge (see Question 8), the size of your employer, what sorts of remedies you would like to seek, and whether you are the only person affected by the discrimination or not. If possible, seek legal assistance before you file with an enforcement agency so that your lawyer can help you decide which agency is best for you. But do not let the time period for filing pass (again, see Question 8) while you are looking for legal assistance. The filing time period does not stop while you are looking for a lawyer.

If you cannot obtain legal advice as to where you should file your discrimination claim, you should keep the following in mind when deciding where to file:

- If the discrimination was based on a characteristic protected by federal law (see Question 2 for a list of these characteristics), you can file your charge with the EEOC. If the discrimination was based on a characteristic that is protected by state law, you can file your charge with the Illinois Department of Human Rights (IDHR). The Cook County Commission on Human Rights enforces county discrimination law, and the Chicago Commission on Human Relations enforces city discrimination law. The addresses, phone numbers, and intake hours for each of these agencies are listed on the back page of this pamphlet.
- Since some forms of discrimination (such as discrimination based on race or sex) are prohibited by federal, state, Cook County, and City of Chicago law, you may have a choice as to where to file your charge. If you have a choice, it is usually better to file your claim with the EEOC, since federal law allows you to pursue your claim in court even if the EEOC does not find in your favor. Of course, if the discrimination you experienced was based on a characteristic that is only protected by state, county, or city law, you must file your charge with the agency that enforces that law.
- You can only file a complaint with the Cook County Commission on Human Rights if the discrimination occurred outside Chicago but in Cook County, and you can only file a complaint with the Chicago Commission on Human Relations if the discrimination occurred in the City of Chicago.
- The Illinois, Cook County and Chicago agencies do not investigate “class complaints,” so if the discrimination you experienced affected many workers at your work site and you would like this “class discrimination” to be investigated, you must file with the EEOC.

10. What should I include in my discrimination charge?

The most important thing to remember is that you must include every discrimination claim you have against your employer when you file your charge. If you later decide to bring your discrimination claims in court, you will only be allowed to pursue those claims that you first filed with the administrative agency. So, for example, if you feel that you have been discriminated against as an African-American and as a woman, you must include claims of discrimination based on both race and sex in your charge. Similarly, if your employer punished you for complaining about discrimination, you must include claims for both discrimination and for retaliation.

11. Do I have any options other than going to court to resolve my discrimination charge?

If you file your discrimination charge with the EEOC or IDHR, you may be offered to attempt to resolve your complaint through mediation. **Mediation** is a process in which you and the employer sit down with a neutral and unbiased person who has been trained in assisting in the resolution of disputes (a “mediator”) and attempt to work out a solution to your complaint that

both sides can agree upon. Neither you nor the employer is required to participate; mediation will only occur if both sides agree to do so. Also, neither you nor the employer is required to accept any proposed resolution that is discussed during the mediation. That said, mediation is often successful; the EEOC reports that employees and employers reach an agreement almost 70% of the time.

12. I am represented by a union and have already filed a grievance about the discrimination I experienced. Can I still file a charge with a government agency?

Yes. Even if you filed a grievance about the discrimination through your union, you can still file a charge of discrimination with a government agency. The key point to remember is that filing a union grievance does not have any effect on the time you have to file a charge with the EEOC or any other government agency. If you do not file your discrimination charge with the EEOC within 300 days (or within 180 days with the other agencies), you will lose your claim. This is true even if you filed a union grievance and it has not yet been decided.

13. Can I bring a discrimination charge if I am undocumented or do not have legal authorization to work in the United States?

Yes. The discrimination laws protect employees even if they are undocumented. If you win your case, you may not receive all the same remedies as a worker who is authorized to work in the United States, but that will depend on the specific facts of your case.

14. Where can I go for more information or assistance?

If you are seeking information or assistance in filing a charge of discrimination or if you have already filed a charge and are seeking assistance with a mediation, you can contact the Chicago Lawyers' Committee for Civil Rights Under Law, Inc. at (312) 630-9744. Spanish is spoken. We can provide you with basic information about the process of filing a charge and about how the mediation process works. We may also be able to assist you in finding a lawyer to take your case or, in some cases, we may be able to provide you with legal assistance ourselves.

Government agencies that handle discrimination complaints:

U.S. Equal Employment Opportunity Commission
Chicago District Office
500 W. Madison, Suite 2800
Chicago, IL 60661-2511
(312) 353-2713 (voice)
(800) 669-4000 (toll free)
(312) 353-2421 (TTD)
Intake hours: Monday through Friday, 8:30 a.m. - 3:30 p.m. (appointments suggested)

Illinois Department of Human Rights
James R. Thompson Center
100 W. Randolph, Suite 10-100
Chicago, IL 60601
(312) 814-6200 (voice)
(312) 263-1579 (TDD)
Intake hours: Monday through Thursday, 8:30 a.m. - 5:00 p.m.

Cook County Commission on Human Rights
Richard J. Daley Center
50 W. Washington St., Room 404
Chicago, IL 60602
(312) 443-3456 (voice)
(312) 629-6929 (TDD)
Intake hours: Monday through Friday, 8:30 a.m. - 5:00 p.m.

Chicago Commission on Human Relations
740 N. Sedgwick, Third Floor
Chicago, IL 60610
(312) 744-4111 (voice)
(312) 744-1088 (TDD)
Intake hours: Monday through Friday, 9:00 a.m. - 5:00 p.m.

This pamphlet is intended to provide accurate, general information regarding legal rights relating to employment in Illinois. Because laws and procedures frequently change, the Chicago Lawyers' Committee for Civil Rights Under Law, Inc. and MALDEF cannot ensure that the information in this publication is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your legal rights in your situation.