

New York State Attorney General Letitia James

Dear New Yorkers,

Finding a job and succeeding in the workplace takes training and hard work. Unfortunately, those efforts are undercut when employers discriminate against workers or applicants because of their race, gender or other attributes irrelevant to the job.



That's not only unfair, it's also illegal. The right to be judged in the workplace based upon job performance is so fundamental that laws are enacted on the federal, state and local level to prohibit discrimination. Workers are also protected from retaliation in the workplace if they file a complaint.

Fighting discrimination, however, can be complicated. This brochure discusses the laws that govern employment discrimination and how to file a complaint. It's important that victims of job discrimination take the appropriate steps to protect their rights.

If you have questions or need more information, contact the Civil Rights Bureau at 212- 416-8250 or check our website ag.ny.gov/bureau/civil-rights.

Sincerely,

A handwritten signature in black ink that reads "Letitia James".

Letitia James



New York State Attorney General
The State Capitol
Albany, New York 12224
1-800-771-7755
www.ag.ny.gov

Resources

Office of the Attorney General Civil Rights Bureau

28 Liberty Street, New York, NY 10005
(212) 416-8250 or (800) 771-7755 (hotline)
(800) 788-9898 (hearing impaired)
civil.rights@ag.ny.gov

New York District Office of the EEOC

33 Whitehall Street, 5th Floor
New York, New York 10004
(212) 336-3620 or (800) 669-4000
(800) 669-6820 (TTY)

<http://www.eeoc.gov/field/newyork/>

NY State Division of Human Rights

One Fordham Plaza, 4th Floor
Bronx, New York 10458
(718) 741-8400

Find regional offices at:
<http://www.dhr.ny.gov>

NYC Commission on Human Rights

40 Rector Street, 10th Floor
New York, New York 10006
(212) 306-5070 or

212.306.7450 (to file a complaint)

Other bureau offices available at:

<http://www.nyc.gov/html/cchr/html/contactus.html>

The information contained in this brochure is for informational purposes only, and is not intended to provide or be relied upon as legal advice in any particular situation.

Employment Discrimination



NEW YORK STATE OFFICE
of the
ATTORNEY GENERAL
Civil Rights Bureau

Protection Against Discrimination

Federal, state and, in some communities, local laws prohibit discrimination against job applicants and employees based on race, national origin, gender, religion, disability and many other protected categories. Under these laws, it is illegal for an employer to refuse to hire, fail to promote, terminate, pay less, or otherwise treat employees or job applicants differently because of their membership in a protected category.

Protection Against Retaliation

These same laws also prohibit retaliation against employees who complain about discrimination or cooperate with an investigation. That means employees cannot be punished or face negative actions — such as termination or demotion, or being denied a raise or training opportunities — if they complain or cooperate with investigations.

Laws are Similar, but Different

Laws passed by federal, state and local governments cover many of the same issues, but have distinct differences. It's important that you understand the differences and know where to file a complaint. You can find a full description of these laws on our website. You should also check with your city, town or county to see if there is a local human rights law in effect.

What is Protected

Race, national origin, ethnicity, sex, religion, disability and age — uniformly the laws prohibit discrimination based on these categories. In addition, state and many local laws, such as the New York City Human Rights law, also protect on the basis of sexual orientation, marital status, military status, genetic predisposition, prior arrests and convictions. New York City also includes status as a victim of domestic violence, stalking and sex offenses.

The federal statutes typically apply to employers with 15 or more employees; the New York State and New York City statutes apply to those with 4 or more employees. Employment agencies and labor unions also must comply with the laws.

Filing a Complaint

Victims of employment discrimination or related retaliation have several options:

- Filing a complaint with the employer;
- Filing a charge of discrimination with the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, or a local board, such as the NYC Commission on Human Rights;
- Filing a lawsuit;
- Filing a complaint with the New York State Attorney General's Office.

Each of these options has different deadlines and ramifications. The decision about which option(s) to choose is dependent on, among other things, the outcome sought, the time period that has passed since the discrimination or retaliation occurred, and whether a charge must be filed first with an administrative agency before filing a lawsuit.

If you believe you have been subject to unlawful employment discrimination or retaliation, you should consult an attorney as soon as possible before proceeding.

Federal Complaints

Before suing under federal laws, an individual must first file a charge of discrimination with the U.S. Equal Employment Opportunity Commission (EEOC) within 300 days of the most recent discriminatory act (federal employees/job applicants must contact an EEO officer where they work or applied within 45 days). The charge will be investigated and the EEOC may attempt to resolve the matter through mediation. If mediation fails or if the EEOC does not find reasonable cause that discrimination/retaliation occurred, it will issue a "right to sue" letter, giving the employee 90 days to file a lawsuit in federal or state court.

State and Local Complaints

An individual can either file a charge of employment discrimination or retaliation with the New York State Division of Human Rights within one year, or file a lawsuit directly in New York state court within three years from the date of the most recent discriminatory act. If the incidents occur in NYC, the complaint can be filed with the

New York City Commission on Human Rights (NYCCHR), with the same time constraints.

Both the State Division and the NYCCHR have similar processes. Each will investigate the charge and, if it determines that the charge has merit, hold a hearing.

Alternatively, if a lawsuit is filed, the employee and employer will each produce evidence, including documents and sworn testimony of people with knowledge of the events. If the parties do not reach a settlement, the lawsuit will be resolved by the court or a jury.

Typical Outcomes if Discrimination is Found

An employer may be required to hire, reinstate or promote an applicant or employee. In addition, an applicant or employee may obtain an award of monetary damages. Examples include back pay, the value of any lost benefits (such as health insurance and pension), compensatory damages for pain and suffering, and punitive damages. An employee may also be awarded attorneys' fees and costs and interest on lost wages and benefits. In addition, an employer may be required to change its personnel policies, procedures and training.

The Attorney General

The Attorney General's office investigates complaints and prosecutes cases alleging a pattern, or policy of discrimination that affects many people. The Bureau does not represent individuals, nor does it litigate cases against New York State agencies.

However, if you believe that other applicants or employees are experiencing similar discrimination by the same employer, please notify us by filing a complaint.

Please note: Making a complaint to the Attorney General does not satisfy EEOC filing requirements or any other agency or court deadlines. To preserve your legal claims, you may also need to file a discrimination charge with the EEOC, the State Division or the NYCCHR, or file a lawsuit.

To file a complaint, contact the New York State Attorney General's Civil Rights Bureau at (212) 416-8250 or civil.rights@ag.ny.gov, or complete a complaint form available online at: www.ag.ny.gov/bureaus/civil_rights/complaint_forms.html.