

GUIDE to Discrimination Complaints

under the

**Chicago Human Rights Ordinance
Chicago Fair Housing Ordinance**

**City of Chicago
COMMISSION ON HUMAN RELATIONS**

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This booklet provides general information only. The Commission has specific regulations, case law, and procedures which it applies to each case. Any individual case may proceed differently from what is described below. More information about the topics in this brochure is available from the Commission's office or web site.

Chicago's Discrimination Ordinances

The City of Chicago has powerful ordinances prohibiting discrimination in employment, housing, public accommodations, credit transactions, and bonding. They apply to employers, businesses, and housing providers of all sizes. Anyone who believes he or she has been harmed by discrimination in violation of these ordinances may file a complaint with the Commission on Human Relations, which will be investigated and adjudicated as explained in this brochure.

The Commission's Role

With respect to discrimination complaints, the 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
- to hold an administrative hearing if substantial evidence is found, then *rule* based on the evidence received
- to *order remedies* if the complainant proves at the hearing that discrimination occurred
- to *settle* cases if possible

What Is Discrimination?

To win a discrimination case, a complainant must be able to prove by a preponderance of the evidence that:

- The complainant was subjected to **unfavorable treatment** by a covered individual, business, or government agency (the respondent).
- This conduct was based on the complainant's status in one or more of these 14 **protected classes**:

Race	Sex
Color	Sexual Orientation
Ancestry	Gender Identity
National Origin	Marital Status
Religion	Parental Status
Source of Income	Age
Military Discharge Status	Disability

- The conduct was in one of five **covered areas**:

**Housing
Employment**

**Public Accommodations
Credit Transactions**

Bonding

- The conduct took place in the **City of Chicago**.
- The complainant filed the complaint **within 180 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).
- **Retaliation** for filing a complaint or participating in the Commission's complaint adjudication process is prohibited for all covered areas except housing.

Please note that this is only a *general* statement of the legal standard for establishing discrimination. For example, additional and different legal standards apply to complaints of sexual harassment and of failure to reasonably accommodate to a disability. It is important to realize that **not all unfair treatment is discrimination** as defined by law. However, a complainant may have other legal remedies, which can be pursued whether or not a complaint is filed with the Commission.

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. The Commission may offer extended evening or weekend hours for taking complaints; those interested should call or check postings for the current schedule.

Complaint filers must use the Commission's complaint form or a substantial equivalent. Certain content is required. For example, complaints must contain the correct name and address of each respondent sufficient to serve by mail, plus a description of the conduct, policy, or practice alleged to constitute the ordinance violation, in enough detail to substantially apprise the respondent/s and the Commission of the nature of the alleged violation.

How Long Does the Process Take?

Some cases are resolved by settlement within a few weeks, but full investigations take from several months to over a year. 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 "substantial evidence" of discrimination, the hearing process takes place over the next few months. Thus, complainants cannot normally obtain immediate remedies.

The Investigation

The Commission mails a copy of the complaint to each respondent within seven days of filing, along with information explaining a respondent's rights and responsibilities. Respondents 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, as explained in the notice they receive. Failure to respond to the complaint as required can lead to default and other sanctions.

The complainant also receives a mailing, which explains a complainant's rights and responsibilities and sets a deadline to reply to any response and submit all available information supporting the complainant's allegations. Failure of a complainant to cooperate with the investigation and adjudication of the case, and to keep the Commission informed of a current address and telephone number, can lead to dismissal of the complaint and 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 investigator documents the results of the investigation in writing. This documentation is reviewed by a supervisor and then by designated senior staff of the Commission. The Commission's senior staff, *not the investigator*, then determine whether there is "substantial evidence" of discrimination. A finding of "substantial evidence" does not mean the complainant has won the case, only that there is enough evidence to proceed to an administrative hearing.

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 and will not propose settlement terms, 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. The Commission may offer or require participation in a settlement conference conducted by an independent mediator who does not participate in any decisions in the case. Either party 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.

Procedures After Investigation

If the Commission determines that there is *not* "substantial evidence" of an ordinance violation, the complainant has 28 days to submit a written request for review. This request must state the specific reasons the complainant disagrees with the finding of no substantial evidence. If the

Commission grants the request for review, the case will be reconsidered or the Commission may immediately find "substantial evidence." If the request is denied, the case will remain closed and the complainant may seek review in the circuit court.

If the Commission determines that there is "substantial evidence" of the alleged ordinance violation, the case will go forward to the administrative hearing process.

Administrative Hearing

After a substantial evidence finding, an administrative hearing is held if the parties do not reach a voluntary settlement of the case. A hearing is also held when a respondent is defaulted. The hearing is a trial, but somewhat less formal than in court. A hearing officer, who is an independent attorney appointed by the Commission, presides over the hearing and manages 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. Either side may review the Commission's investigation file (on 48 hours' notice) to help identify evidence.

The parties must take certain pre-hearing steps, such as exchanging information about witnesses and other evidence they will introduce. Complainants and respondents may conduct certain "discovery" to seek information from each other, and may request to subpoena witnesses for the hearing. Details are spelled out in orders and regulations given to the parties when a hearing is scheduled.

At the administrative hearing, the complainant is required to present evidence, such as witness testimony and documents, to prove that discrimination has occurred and to prove what damages the complainant has incurred. The respondent may present evidence as well. The parties may cross-examine each other's witnesses.

After the hearing, the hearing officer writes a recommended decision, stating which party should win the case and including the factual and legal reasons for the recommendation. If the hearing officer recommends that the respondent be found liable for discrimination, he or she will propose appropriate relief. The parties receive the recommendation and may submit written objections to it. The recommendation and other hearing materials then go to the Board of Commissioners, which makes the final ruling. Board rulings can be appealed to the state courts.

What Can a Complainant Receive?

If the respondent is found liable after the administrative hearing, the Commission may order one or more of the following types of remedies, based on the evidence of injury which 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 discrimination.
- **Punitive Damages.** Payment 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.
- **Injunctive Relief.** Orders that a respondent take certain steps to eliminate discriminatory practices or make the complainant whole, such as changing a discriminatory policy, making premises wheelchair accessible, or offering the next available job or housing unit.
- **Fines.** Payment to the City of Chicago for each violation of the Human Rights Ordinance or Fair Housing Ordinance.

Questions?

Please call the Commission on Human Relations at 312/744-4111 (312/744-1088 TTY) with any questions about this information. Copies of applicable ordinances and regulations are available from the Commission's office or web site, shown on the cover of this brochure.

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