



## **FILING EMPLOYMENT DISCRIMINATION COMPLAINTS PURSUANT TO THE ADA AND PHRA**

This Fact Sheet offers general information about filing employment discrimination claims under the Americans with Disabilities Act (ADA) and the Pennsylvania Human Relations Act (PHRA) with the federal Equal Employment Opportunity Commission (EEOC) and the Pennsylvania Human Relations Commission (PHRC).

### **The ADA and PHRA**

The ADA is a federal law that addresses disability-based discrimination by many employers, employment agencies, and labor unions. The types of employment discrimination prohibited by the ADA include, but are not limited to: discriminatory treatment (such as not being hired or promoted or being fired or demoted based on disability); failure to make reasonable accommodations for your disability; and harassment based on disability. You may also be able to state a claim under the ADA if your employer "regarded" you as having a disability. The ADA also prohibits retaliation against individuals (regardless of disability) who exercise protected rights under the ADA (such as filing a complaint or testifying). Some employers are not covered by the ADA, including, but not limited to, federal agencies<sup>1</sup> and employers with fewer than 15 employees. More information about the scope of the ADA's employment discrimination provisions is available on DRP's website, <https://www.disabilityrightspa.org/resources/#employment>.

The PHRA is a Pennsylvania law that addresses discrimination, including disability discrimination by employers. The PHRA applies to Pennsylvania state and private employers with four or more employees.

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<sup>1</sup> Federal employees are protected against disability discrimination, but they must follow a different process and there are even more strict timelines than those used by the EEOC and PHRC. For more information see [https://www.eeoc.gov/federal/fed\\_employees/complaint\\_overview.cfm](https://www.eeoc.gov/federal/fed_employees/complaint_overview.cfm).

If you think you have been subject to unlawful employment discrimination under the ADA and/or PHRA, you must file an administrative complaint (sometimes called a "charge") with the EEOC and/or PHRC before you file any legal action in court.

### **Time Limits for filing complaints with the EEOC and PHRC**

The ADA generally requires you to file a charge with the EEOC within 180 calendar days from the day the discrimination took place. Because the PHRC is a designated "Fair Employment Practices Agency" that prohibits disability discrimination, you can file an ADA complaint with the EEOC within 300 calendar days of the discriminatory act.

Claims for violations of the PHRA must be filed within 180 days of the discriminatory act.

Whether you file your complaint with the EEOC or the PHRC, it is important that you ask to "cross-file" or "dual file" the complaint with the other agency.

### **How to file an ADA employment discrimination charge with the EEOC**

You can find information about filing a charge with the EEOC to challenge employment discrimination under the ADA at <https://www.eeoc.gov/employees/howtofile.cfm>. In brief, you can file a complaint with the EEOC in several different ways.

- **Online** – You can file a discrimination charge with the EEOC through the Internet by using the EEOC's Public Portal, <https://publicportal.eeoc.gov/Portal/Login.aspx>. At the Public Portal, you can select "Filing with the EEOC," which will then guide you through a series of questions to determine if the EEOC is the right agency with which to file your complaint. After completing those questions, you must be interviewed by EEOC staff before you can file a charge online. Simply answering the initial questions or "submitting an inquiry" through the Portal is not the same as filing a charge.
- **In Person at an EEOC Office** – You can file an employment discrimination charge at any EEOC field office in the country. In Pennsylvania, there are EEOC offices in Philadelphia and

Pittsburgh. The addresses and contact information are below. You can visit those offices to file an EEOC charge in person without an appointment during "walk-in" hours. Philadelphia walk-in hours are Monday through Thursday during business hours and Pittsburgh walk-in hours are Monday through Thursday between 1 p.m. and 3 p.m. However, it is preferable for you to schedule an appointment. You can schedule an appointment through the EEOC Public Portal, <https://publicportal.eeoc.gov/Portal/Login.aspx>, or by telephoning the office. It is helpful to bring to the interview any information or papers that you think are important to the issue and to write down as much of the information that you can before the interview. You should allow at least 1-2 hours for the visit. If you need assistance or accommodations (such as an interpreter), you should advise the EEOC before your interview.

- **By Mail** – You can file an employment discrimination charge by sending a letter to the EEOC that includes: (a) your name, address, email, and telephone number; (b) the name, address, email, and telephone number of your employer (or the union or employment agency) who you want to file a charge against; (c) the number of employees (if known); (d) for claims of disability discrimination, the nature of your disability and how it affects you; (e) a description of the actions you think were discriminatory (for instance: you were not hired, fired, demoted, not promoted, harassed) and details about what allegedly happened; (f) when the discriminatory action took place; and (f) names of any witnesses who have knowledge of the alleged facts. You can also include copies of any documents that support the charge. You should note that you want to "cross-file" the complaint with the PHRC. You must sign the letter. If you do not sign it, the EEOC will not investigate. The letter should be sent to the nearest EEOC field office (see the addresses below). The complaint is deemed to be filed when it is received by the EEOC, not when it is mailed. So, if you are mailing the complaint, it is important that it be received within the applicable time line.

### **Summary of the EEOC Investigation Process**

Within 10 days of the date you file your discrimination charge, the EEOC will send a notice to the employer. The EEOC may ask you and the employer to participate in mediation to try to settle the charge.

If the charge is not sent to mediation or if mediation is unsuccessful, the EEOC will ask the employer to submit a written answer to your charge called the "Respondent's Position Statement."

The EEOC will then conduct an investigation. The scope and type of investigation varies depending on several factors. On average, it takes the EEOC 10 months to complete an investigation.

If the EEOC determines that your charge is untimely or that the federal laws do not apply to your claims or if it decides that it may not be able to determine if the law was violated, the EEOC may not investigate or may close the investigation. If it does, it must notify you and send you a "Notice of Right to Sue" letter.

If the investigation is not completed within 180 days, you may request a Notice of Right to Sue letter from the EEOC. You may request a Notice of Right to Sue letter before the expiration of the 180-day period, but the EEOC will provide that letter only if determines that it will be unable to finish the investigation within 180 days.

If the EEOC completes the investigation, the EEOC will make a determination either that there is "no cause" or there is "reasonable cause" to conclude that you were subject to unlawful discrimination. If the EEOC makes a "no cause" finding, it will send you a Notice of Right to Sue letter. If the EEOC makes a reasonable cause finding, it will try to reach a voluntary settlement with the employer. If a settlement cannot be reached, it will refer the matter to government attorneys who will decide whether to file a lawsuit. If the government decides not to file a lawsuit, the EEOC will send you a Notice of Right to Sue letter.

The Notice of Right to Sue letter gives you permission to file a lawsuit in federal court. If you want to file a lawsuit, **you must file the lawsuit with the court within 90 days of receipt of the letter.**

### **Pennsylvania EEOC Field Offices**

The addresses and contact information for the EEOC field offices in Pennsylvania are:

EEOC Philadelphia Office

801 Market Street, Suite 1300  
Philadelphia, PA 19107-3127  
800-669-4000 (voice)  
800-669-6820 (TTY) or 844-234-5122 (ASL video)

EEOC Pittsburgh Office  
1000 Liberty Avenue, Suite 1112  
Pittsburgh, PA 15222  
800-669-4000 (voice)  
412-395-5904 (TTY) or 412-395-5904 (ASL video)

### **How to file a complaint with the PHRC**

You can find information about filing an employment discrimination complaint with the PHRC at <https://www.phrc.pa.gov/File-A-Complaint/Pages/About-Filing-A-Complaint.aspx>. In brief, you can file a PHRC complaint in several different ways:

- **Online** – You can file an employment discrimination complaint online with the PHRC at [https://www.complaints.phrc.pa.gov/PHRC\\_Instructions.aspx](https://www.complaints.phrc.pa.gov/PHRC_Instructions.aspx). To file a complaint online, you will need to register with Keystone ID, the Commonwealth's online registration process.
- **By Mail** – The PHRC has standardized employment discrimination complaint forms, which you can complete and mail to the PHRC office that serves your county. The addresses for those offices are listed below. The employment discrimination complaint forms are available online in English, <https://www.phrc.pa.gov/File-A-Complaint/ComplaintForms/Documents/Employment%20Discrimination%20%20Questionnaire.pdf>, and Spanish, <https://www.phrc.pa.gov/Paginas-En-Espanol/Documents/Cuestionarios/CuestionarioSobreDiscriminacionEnElTrabajo.pdf>. When you file a complaint with the PHRC alleging disability discrimination, you will also need to complete and submit an authorization to release your health care information, which is available at <https://www.phrc.pa.gov/File-A-Complaint/ComplaintForms/Documents/Disability%20Info%20Release%20for%20Employment.pdf>.

- **In Person** – You can file an employment discrimination complaint in person at the PHRC office that serves your county. The addresses and contact information of those offices are below. It is best to contact the office before going to see if you need an appointment. You should also bring any documents or other information that you think is important and you might want to complete the standardized forms available online (links above) so that you are familiar with the information the PHRC will ask you. You should ask the PHRC to cross-file the complaint with the EEOC. If you need accommodations or assistance (such as an interpreter), you should advise the PHRC office before your interview.

### **Summary of the PHRC Investigation Process**

The PHRC complaint process is detailed at <https://www.phrc.pa.gov/File-A-Complaint/Filing-Instructions/Pages/You-File-a-Complaint.aspx> and <https://www.phrc.pa.gov/About-Us/Publications/Documents/General%20Publications/complainant%20guide%20trifold.pdf>.

In brief, once you file a complaint it will be served within 30 days on the "respondent," which is the person or entity you alleged is responsible for the discrimination. The respondent has 60 days to respond to your complaint and is required to give you a copy of that response.

The complaint will then be investigated by an investigator employed by the PHRC. The investigator will contact you for facts that support your complaint. You should be prepared to give the investigator the information he or she requests (including, for instance, the names of witnesses or any documents you have). If you learn of new information after speaking with the investigator, you should contact him or her.

The PHRC may, but will not always, hold a "Fact Finding Conference." At that conference, you and the respondent will have the opportunity to present evidence and documents. This is not a public hearing or formal proceeding but is intended to speed up the investigation and determine if settlement is possible.

If there is no settlement, the PHRC will make a finding either that: (a) there is not "probable cause" to support a claim of discrimination, the PHRC

lacks jurisdiction over the complaint, or the complaint should otherwise be dismissed, or (b) there is "probable cause" to support the claim of discrimination. If the PHRC determines that there is probable cause to support the discrimination claim, there will be a "conciliation" to attempt to settle the matter. If the conciliation is unsuccessful, the PHRC may convene a public hearing at which formal testimony is presented. The PHRC will then issue a decision which can be appealed to Commonwealth Court.

If the PHRC has not issued any resolution within one year of filing your complaint or if the Commission dismisses your complaint, you have the option of filing a lawsuit in Pennsylvania state court.

### **PHRC Offices**

PHRC Philadelphia Regional Office  
(Serving Philadelphia, Bucks, Chester, Delaware,  
and Montgomery Counties)  
110 North 8th Street, Suite 501  
Philadelphia, PA 19107  
215-560-2496 (voice)  
215-560-3399 (TTY)

PHRC Harrisburg Regional Office  
(Serving Adams, Bedford, Berks, Blair, Bradford, Cambria,  
Carbon, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin,  
Fulton, Huntingdon, Juniata, Lackawanna, Lancaster, Lebanon,  
Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montour, Northampton,  
Northumberland, Perry, Pike, Schuylkill, Snyder, Somerset, Sullivan,  
Susquehanna, Tioga, Union, Wayne, Wyoming, and York Counties)  
333 Market Street, 8th Floor  
Harrisburg, PA 17101-2210  
717-787-9780 (voice)  
717-787-7279 (TTY)

PHRC Pittsburgh Regional Office  
(Serving Allegheny, Armstrong, Beaver, Butler, Cameron, Clarion,  
Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana,  
Jefferson, Lawrence, McKean, Mercer, Potter, Venango,  
Warren, Washington, and Westmoreland Counties)  
301 Fifth Avenue

Suite 390, Platt Place  
Pittsburgh, PA 15222  
412-565-5395 (voice)  
412-565-5711 (TTY)

## Contact Information

If you need more information or need help, please contact Disability Rights Pennsylvania (DRP) at 800-692-7443 (voice) or 877-375-7139 (TDD). The email address is: [intake@disabilityrightspa.org](mailto:intake@disabilityrightspa.org).

The mission of Disability Rights Pennsylvania is to advance, protect, and advocate for the human, civil, and legal rights of Pennsylvanians with disabilities. Due to our limited resources, Disability Rights Pennsylvania cannot provide individual services to every person with advocacy and legal issues. Disability Rights Pennsylvania prioritizes cases that have the potential to result in widespread, systemic changes to benefit persons with disabilities. While we cannot provide assistance to everyone, we do seek to provide every individual with information and referral options.

**IMPORTANT: This publication is for general informational purposes only. This publication is not intended, nor should be construed, to create an attorney-client relationship between Disability Rights Pennsylvania and any person. Nothing in this publication should be considered to be legal advice.**

**PLEASE NOTE: For information in alternative formats or a language other than English, contact Disability Rights Pennsylvania at 800-692-7443, Ext. 400, TDD: 877-375-7139, or [intake@disabilityrightspa.org](mailto:intake@disabilityrightspa.org).**