

Discrimination at work

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Learn about illegal discrimination at work, laws that protect workers against discrimination, how to find an employment lawyer, and how to file complaints with state and federal agencies that investigate discrimination.

1. Illegal discrimination

Employment discrimination means your employer treated you unfairly because of your legally protected status or characteristic in violation of a federal, state, or local law.

A **protected class** is a group of people with a specific characteristic, like age, sex, or gender (including pregnancy, gender identity or sexual orientation), race, religion, veteran status, disability, and so on. People who have a protected status can't be targeted for discrimination **because of** that characteristic. The laws that protect against discrimination contain lists of protected classes.

Learn about your rights and responsibilities if you recently lost your job and / or if you think you may be owed wages. There are state laws that provide other worker protections that could be helpful to know about.

To be considered **illegal** employment discrimination that you can make a claim against your employer for, the unfair treatment **must**:

- Be based on a protected status **or**
- Have a disproportionate negative impact on one of the protected groups

If you work for a tribal nation, tribal business or organization, tribal casino, or on a reservation, you might not be able to use the state agency complaint process or file in state court. You might have to use the complaint process that is specific to the nation you work for. Learn about civil rights and employment rights in Indian Country.

Some different treatment of employees may not qualify as illegal discrimination if it is **related to and necessary** for a particular job. For example, an employer operating a warehouse may require workers to be able to repeatedly lift 40-pound boxes onto a loading dock. While some people with disabilities may not be able to lift 40-pound boxes, the employer may require “ability to lift 40-pound boxes” in a job posting. The employer may not say “no people with disabilities may apply” in the job posting.

Federal, state, and local discrimination laws may have overlapping protections, **but** some state and local laws have **different or additional** protected classes. The laws **also have different deadlines** for when to file a complaint with an agency or a lawsuit. It can be confusing to know which laws and deadlines apply in your unique situation. Try to talk to a lawyer right away if you think you may have experienced employment discrimination.

What if I was sexually harassed at work?

Sexual harassment at work is a specific kind of mistreatment that can have legal consequences for your employer. Not all sexual harassment is **discrimination** but **some treatment** can be both sexual harassment **and** employment discrimination. It can be complicated to figure out if what you experienced would be considered **legal** sexual harassment. Learn more about what **legally** qualifies as sexual harassment and how to make complaints about it.

2. Discrimination laws

There are several laws that protect workers against discrimination in Washington State.

Washington's Law Against Discrimination (WA LAD)

Washington's Law Against Discrimination

(<https://app.leg.wa.gov/RCW/default.aspx?cite=49.60>) (WA LAD), prohibits

employment discrimination on the basis of race, creed, color, national origin, citizenship or immigration status, sex, honorably discharged veteran or military status, sexual orientation, sensory, mental, or physical disability. You can read this list of protected classes at [RCW 49.60.030](https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.030) (<https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.030>). WA LAD also prohibits [age discrimination](https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.205) (<https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.205>) that violates [RCW 49.44.090](https://app.leg.wa.gov/RCW/default.aspx?cite=49.44.090) (<https://app.leg.wa.gov/RCW/default.aspx?cite=49.44.090>). Gender and gender identity **are** included as protected classes under state law.

WA LAD at [RCW 49.60.180](https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.180) (<https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.180>) prohibits employers from discriminating based on the protected classes, [in hiring](https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.180), firing, compensation, and other terms and conditions of employment. These protections may not cover you if you are an [independent contractor](https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.180), but you may have other [legal protections](https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.180) (<https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.030>).

WA LAD applies to Washington employers with [8 or more employees](https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.040) (<https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.040>) with exceptions for certain religious employers. [RCW 49.60.040\(11\)](https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.040). (<https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.040>)

[Washington's Human Rights Commission \(HRC\)](https://www.hum.wa.gov/employment) (<https://www.hum.wa.gov/employment>) investigates complaints of discrimination that violate WA LAD. You must file a complaint **within 6 months** of the discriminatory acts for HRC to start an investigation. Learn more about filing a complaint with the HRC.

You may still be able to file a civil lawsuit under WA LAD in a Superior Court **within 3 years** of the discriminatory acts even if you don't file a complaint with the HRC.

City and county discrimination laws

Workers in some cities and counties in Washington have additional protections from discrimination.

- **Seattle:** Seattle's Office of Civil Rights (<https://www.seattle.gov/civil-rights>) (OCR) investigates violations of Seattle's Fair Employment Practices Ordinance (https://library.municode.com/wa/seattle/codes/municipal_code?nodeId=TIT14HURI_CH1). You must file a claim within 18 months of the discriminatory acts.
- **King County:** Workers in unincorporated King County can file a complaint (<https://kingcounty.gov/en/dept/executive/governance-leadership/equity-social-justice/office-of-equity-racial-social-justice/civil-rights-program>) with King County's Civil Rights Program (<https://kingcounty.gov/en/dept/executive/governance-leadership/equity-social-justice/office-of-equity-racial-social-justice/civil-rights-program>) within 2 years (https://aqua.kingcounty.gov/council/clerk/code/15_Title_12.htm#_Toc141867209) of the discriminatory acts.
- **Tacoma:** Workers in Tacoma can file a complaint (<https://tacoma.gov/government/departments/human-resources/equal-employment-opportunity/#how-do-i-file-a-complaint>) with Tacoma's Equal Employment Opportunity Office.

<https://tacoma.gov/government/departments/human-resources/equal-employment-opportunity/#how-do-i-file-a-complaint>

- **Spokane:** Spokane workers may [file a complaint](https://my.spokanecity.org/civilrights/report-discrimination/) (<https://my.spokanecity.org/civilrights/report-discrimination/>) within 6 months of the discriminatory acts.

Other cities and counties may have additional worker protections. Contact your county or city offices to ask them about discrimination claims.

Federal laws

- Title VII of the Civil Rights Act (Title 7 (<https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964>)) prohibits employment discrimination based on race, color, religion, sex, national origin, age, disability, and gender identity.
- The [Age Discrimination in Employment Act \(ADEA\)](https://www.eeoc.gov/age-discrimination) (<https://www.eeoc.gov/age-discrimination>) prohibits age discrimination.
- The [Americans with Disabilities Act \(ADA\)](https://www.eeoc.gov/statutes/titles-i-and-v-americans-disabilities-act-1990-ada) (<https://www.eeoc.gov/statutes/titles-i-and-v-americans-disabilities-act-1990-ada>) prohibits disability discrimination.
- The [Equal Pay Act](https://www.eeoc.gov/laws/guidance/facts-about-equal-pay-and-compensation-discrimination) (<https://www.eeoc.gov/laws/guidance/facts-about-equal-pay-and-compensation-discrimination>) prohibits employers from paying people doing “substantially equal work” at different pay rates based on sex.
- Title II of the [Genetic Information Nondiscrimination Act](https://www.eeoc.gov/statutes/genetic-information-nondiscrimination-act-2008) (<https://www.eeoc.gov/statutes/genetic-information-nondiscrimination-act-2008>) prohibits discrimination based on genetic information, for example, requiring employees to provide genetic test results to their employer.

- There are many other federal Equal Employment Opportunity Laws.
(<https://www.eeoc.gov/equal-employment-opportunity-laws>)

If you believe an employer has violated Title 7, the ADEA, or the ADA, you can file a complaint (<https://www.eeoc.gov/filing-charge-discrimination>) with the U.S. Equal Employment Opportunity Commission (<https://www.eeoc.gov/filing-charge-discrimination>) (EEOC) **within 300 days** of the discriminatory acts.

In most cases (**except for Equal Pay Act claims**), you **must** file a complaint with the EEOC **before you can sue** an employer under one of these federal laws.

3. Which laws apply to me?

In many cases, employment discrimination may be prohibited by more than one law, and may be investigated by more than one Federal, state, or local agency. If you are protected by **both** state and federal laws, you may be able to file a “dual claim”. This means that you file your complaint with one agency and that agency will file a duplicate claim with the other agency. If you are going to file a dual claim, **try to** file your complaint with the Washington HRC first.

Try to talk to an employment lawyer as soon as possible about your unique situation to find out what would be the best or most effective way to get relief or money damages.

If the discrimination you experienced was based on marital status, veteran status, or citizenship status, you should file with the **state agency** because **only state laws** protect you. You might be able to make a citizenship status related complaint to a federal agency, but get legal advice first.

4. Independent Contractors

The laws covering your situation depend on whether you are an **employee** or an **independent contractor**. Federal anti-discrimination laws **don't** cover independent contractors.

Washington's Administrative Code

(<https://app.leg.wa.gov/wac/default.aspx?cite=162-16-230>) (WAC) also includes a definition of independent contractors **who aren't covered** by Washington's Law Against Discrimination at RCW 49.60.180 (<https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.180>).

However, while an independent contractor doesn't have the protection of RCW 49.60.180 (<https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.180>), **the contractor is protected by RCW 49.60.030(1)** (<https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.030>), and **may** sue someone who discriminates against them in the independent contractual relationship.

WAC 162-16-230 (<https://app.leg.wa.gov/wac/default.aspx?cite=162-16-230>) lists several factors that judges will use to determine if you are an employee or an independent contractor, including how much control you have over the type, place, and duration of your work. Generally, employers have more control over the work of employees than independent contractors. Usually employees receive paid leave, retirement benefits, and a regular paycheck with taxes withheld from it, while independent contractors usually do not receive benefits and are paid per job.

It can be hard to determine if WLAD applies to independent contractors. If you're an independent contractor who experienced discrimination, contact the HRC (https://wahum.my.site.com/FileaComplaintOnline/s/?language=en_US) about your situation to confirm that state protections **would** apply to you. Call the HRC at 1-800-233-3247, then choose option #4.

5. Discrimination examples

Washington's Law Against Discrimination (<https://app.leg.wa.gov/RCW/default.aspx?cite=49.60>) (WA LAD) prohibits employment discrimination based on several **more** protected classes than Federal law. Washington's Human Rights Commission (<https://www.hum.wa.gov/employment>) investigates discrimination complaints and enforces WA LAD.

Here are some examples of the kinds of discriminatory acts HRC may investigate:

- Age (<https://www.hum.wa.gov/employment/age>) (if you're 40 or older (<https://app.leg.wa.gov/RCW/default.aspx?cite=49.44.090>))

Example: A store refuses to hire a qualified, experienced salesperson because the store manager thinks the applicant, age 55, is “too old to be a good salesperson.”

- Religion or creed
(https://www.hum.wa.gov/sites/default/files/public/publications/Guidance_Docs/Guidance_discrimination_Current.pdf)

Example: A manufacturing plant HR manager refuses to hire anyone with a “Jewish” sounding name because they need people who “will work on Saturdays.”

- Disability status
(<https://www.hum.wa.gov/sites/default/files/public/publications/Disability%20Q%20and%20A.pdf>)
(including HIV and Hepatitis C status)

Example: A highly qualified applicant is offered an interview for a position with a large firm. The applicant requests an ASL interpreter for the interview and is immediately turned down for the job instead.

Example: A newly hired grocery store employee discloses her HIV positive status to her supervisor during training. The supervisor immediately changes their tone and behavior towards the new hire. At the end of the day, the supervisor tells the trainee to “not come back tomorrow, we won’t be hiring you after all.”

- Use of a trained service animal

(<https://www.hum.wa.gov/sites/default/files/public/publications/Service%20Animals%20a032019.pdf>) by a person with a disability

Example: A tele-support company employee transfers to a new company location. The new location tells them they can't bring their trained disability-related service animal to work and don't offer any reasonable explanation for the policy. The service animal was allowed at the previous location.

- Honorably discharged veteran or service member status

(<https://www.hum.wa.gov/sites/default/files/public/publications/veterans%20military%20>

Example: A local, non-religious, for-profit newspaper refuses to hire veterans because "war doesn't align with our political beliefs, so veterans can't work here."

- Marital status (<https://www.hum.wa.gov/employment/marital-status-employment>)

Example: A law firm with 40 employees hires 2 new receptionists. One is married with children. The other is single. After a week, the single receptionist is let go because the firm owner "likes to have respectable family people as the welcoming face of the firm."

- National origin (<https://www.hum.wa.gov/employment/national-origin-employment>)

Example: A restaurant chain employee who is from Russia is regularly subjected to negative remarks and jokes from coworkers about his national origin. The employee reports the treatment to management, but the discrimination continues.

- Race or color (<https://www.hum.wa.gov/employment/racecolor-employment>)

Example: A kitchen supervisor regularly yells at and demeans any black employee who makes a mistake but doesn't yell at white employees who make the same mistake.

Example: Because of his skin color, an employee at a shipyard is constantly taunted by his coworkers to tell them where he's from, to "speak Spanish" for them, and to "go back to his own country." The employee is a Native American who was born in Washington state.

- Citizenship or immigration status
(<https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.180>)

Example: An immigrant with the legal right to work in the U.S. is routinely denied employment by the same large local chain store that offers her citizen family members jobs.

- Sex or pregnancy status
(<https://www.hum.wa.gov/employment/sexpregnancy-employment>)

Example: A large advertising firm pays the male members of their sales team more than they pay their female sales team members. All women sales team members start at a salary that is \$10,000 lower than any male sales team member's starting salary.

Example: A data entry clerk's job with a large company was given away while she was on leave after childbirth, even though she was told her job would be there when the leave ended.

- Sexual orientation (<https://www.hum.wa.gov/employment/sexual-orientation-gender-identity-employment>)

Example: A gay car mechanic is routinely harassed at work by coworkers who make fun of the way he talks, sounds, dresses, and behaves. They call him derogatory names based on his sexual orientation. He complains to management, but the behavior doesn't stop.

Example: A lesbian who works on a medium-sized farm is repeatedly told by her male boss to "man up" and "butch up" whenever she rightfully complains that a job duty is unreasonably dangerous and harmful.

- Gender identity (<https://www.hum.wa.gov/employment/sexual-orientation-gender-identity-employment>)

Example: A nonbinary person working for a sales team that has a dress code is forced to wear the uniform that women are supposed to wear. This makes the nonbinary person uncomfortable because of their gender. No reasonable alternatives were offered to the employee and they were denied their request to be allowed to wear the more "gender neutral" men's uniform.

Example: A transgender person working in a large warehouse isn't allowed to use the bathroom that's safest and most appropriate for the person because it "makes the other bathroom users feel uncomfortable."

- State employee whistleblowers (<https://www.hum.wa.gov/employment/state-employee-whistleblower-retaliation>)

State laws also protect you against retaliation
(<https://www.hum.wa.gov/employment/retaliation-employment>) if you

complain about or oppose discrimination in the workplace, or because you file a charge (<https://www.hum.wa.gov/employment/state-employee-whistleblower-retaliation>), or testify in or take part in a related hearing.

Example: An employee working for a state agency is fired for taking part in an investigation related to a discrimination claim made by another coworker.

6. Discrimination remedies

What result can I get from filing a state or federal complaint?

A legal **remedy or relief** is what can be done to help you and to make the situation as right as possible. Relief can sometimes include **money damages**. The remedy or relief you can get vary depending on your unique situation and where you file a complaint.

The relief available may also vary depending on whether the employer's discriminatory treatment was intentional (on purpose) or not.

Can remedies include money payments?

Yes. You may be able to get back pay you lost and you may also get attorney's fees, expert witness fees, and court costs. If you win a suit in **state** court using state laws, you might also be able to get **money damages**.

You might also be able to get **compensatory damages** using **federal** law if a judge finds the discrimination was intentional or willful. Damages could be for actual money loss, future money loss, and your pain and suffering.

If you're using federal protections, you may get **punitive damages** if your employer acted with malice or reckless indifference. There are limits to the amount of compensatory and punitive damages (<https://www.eeoc.gov/remedies-employment-discrimination>) based on the number of people working at the employer.

You **can't** get punitive damages if your employer was a federal, state, or local government.

Common types of relief

These are some other common types of relief for employment discrimination claims:

- Being hired, re-hired, or a promotion
- Getting back pay or front pay, a kind of financial award if you can't be reinstated or get the job. It's a loss of "future pay" calculation kind of damages
- Getting a reasonable accommodation you requested
- Making your employer take preventative, corrective actions to stop the discriminatory actions, patterns, practices, or policies including having your employer post notices in the workplace describing their violations and employee rights under the law
- Getting a Right-to-Sue letter that can make it easier to sue in **federal** court, where you might be awarded more remedies
- Getting investigative findings that you can use in a lawsuit or settlement process
- Getting assistance from agencies with mediation referrals and support

How do I get the remedy I want?

The remedies **most often** will come from:

- **The court case** you eventually file.
- Related **administrative rulings** from claims you make with an agency or court.
- **Settlement agreements.**

The HRC and EEOC can't **order** an employer to do or stop doing something, like rehire you. Only a **court can do that**. The agencies mainly make investigations and determinations that can help your court and settlement process.

Many cases are resolved through settlement and administrative hearings. Agency investigations also help in the settlement process. The **HRC** can also eventually move your case to an Administrative Law Judge who **can impose penalties** on your employer and issue orders.

How do I know when to file a lawsuit?

It depends on which law applies to the facts of your situation.

You might want to **file in state court if**:

- **both** state and federal protections apply. You can file with the state agency first and ask them to dual claim file with the EEOC.
- **only** state law protects your status or class because you are filing a claim for marital status, veteran status, or citizenship status.

- you're an **independent contractor**. You can **only** file a case in state court if you're an independent contractor.
- **you missed the deadlines** for filing an agency complaint but **can** still file under the 3-year state court deadline.

You might want to **file in federal court if**:

- you got a 90-day Right-to-Sue letter from the EEOC.
- you are using the **Equal Pay Act**.
- you are suing for **age** discrimination using the ADEA.

The laws vary about whether and when you can sue an employer in court. Try to talk to an employment lawyer **as soon as possible** after the discrimination before deciding what to do. The lawyer can help you understand the pros and cons of filing a lawsuit compared to using an agency or taking a settlement. The lawyer can also help you avoid mistakes such as missing the deadline to file your claim if you're required to file with an agency first **before** filing in court.

Government agencies and courts don't act quickly. It often takes one to 2 **years** for a case to resolve. Even arbitration may take many months.

What result can a lawsuit get for me?

A judge could order your employer to do any of these:

- Re-hire, reinstate, or promote you
- Pay you lost wages and benefits, lost future wages or front pay (the wages you would have gotten if the discrimination hadn't happened)

- Pay you for damages, economic loss, and emotional distress. You might be also be able to get punitive damages for certain federal claims. You could get your attorney fees and costs paid for.

7. Find an employment lawyer

It can be complicated to figure out how, when, and where to file agency claims related to employment discrimination and whether and when to also file a lawsuit in court.

Try to get legal help from an employment lawyer as soon as possible after the discriminatory treatment. Some employment lawyers will work **on contingency**, which means they won't get paid unless you get a settlement, and you won't have to pay them until the end of the case.

To find an employment lawyer in your area, use the Washington State Bar Association's (WSBA) [Legal Directory](https://www.mywsba.org/PersonifyEbusiness/LegalDirectory.aspx) (<https://www.mywsba.org/PersonifyEbusiness/LegalDirectory.aspx>). You can choose search options for your results that can include:

- Your county, city, or area
- What kind of lawyer you need (you could choose Employment, Civil Rights, or Labor in the "Practice Area" dropdown menu)
- If you need a lawyer with specific community expertise, you can also choose that in the "Practice Area" dropdown menu (like Disability, LGBTQ, Military, or Workers Compensation)

- If you need a lawyer that speaks a language other than English, you can filter for that

Try to talk to a lawyer well before your deadline to file anything. A lawyer needs time to evaluate your claim and prepare the paperwork.

Before hiring a lawyer, learn how the lawyer will be paid (<https://legalvoice.org/working-with-a-lawyer/>) and how much the lawyer charges. Ask what costs you'll be charged on top of the lawyer's fee. If you have a low income, you might qualify for free legal help.

You can also use employment lawyer directories:

- The Washington Wage Claim Project (<https://wageclaimproject.org/>) (specifically for wage and hour violations)
- Washington Employment Lawyers Association (<https://welalaw.org/>)
- National Employment Lawyers Association (<http://exchange.nela.org/network/findalawyer>) is a national professional organization of lawyers who represent employees.
- Workplace Fairness (<http://www.workplacefairness.org/find-attorney>) has an Attorney Directory that includes lawyers who represent workers.

Working with a lawyer on your case

Employment claims can be hard to manage without a lawyer.

Before you meet with a lawyer, you can prepare for the first meeting by doing these ahead of time:

- **Gather evidence** such as emails, letters, contracts, or other documents related to the situation and the effect it had on you, including your physical and mental health.
- **Create a timeline** with dates and times when discriminatory acts occurred, with facts you remember from each occurrence.
- **If the employment discrimination is ongoing**, write down facts and details like the date, time, who was there, and what was said and done. Write these facts down after work while details are still fresh in your mind, but **don't** do this while you're "on the clock" at work.
- **If you were terminated**, save any records that show how you're trying to find a new job.
- **Come to meetings prepared.** Write down specific questions so your lawyer can help you understand your situation better.
- **Be honest, even if certain details might make you feel embarrassed.** Your lawyer can help you best when they know the good and bad. Every detail will be important to the legal strategy you and your lawyer create together.

8. Agency deadlines

The deadline to file an agency complaint or a lawsuit depends on the type of discrimination and the laws that prohibit it. The deadlines are strict and can be complicated so it's best to try to talk to a lawyer as soon as possible.

Agencies have strict time limits on when you can file a claim about employment discrimination. After you file a claim, there may be **another** deadline about when you can file a civil lawsuit **in court**.

Which laws, agencies, and deadlines apply in your unique employment situation, and which remedies are available can be confusing so it's best to try to talk to an employment lawyer as soon as possible.

The legal protections, processes, and strategies may vary depending on:

- Whether you are employee or independent contractor
- Which protected class(es) you belong to
- The size of your employer
- The type of remedy you want

State complaint deadlines

Washington's Human Rights Commission

(<https://www.hum.wa.gov/employment>) requires you to file most kinds of employment discrimination complaints within **6 months** of the discriminatory acts. You may have additional time (<https://www.hum.wa.gov>) to file complaints related to **pregnancy** or **whistleblower retaliation** but it's best to try to talk to a lawyer about which deadlines apply rather than wait.

If you **only** want to use **state** law protections, you might be able to file a lawsuit in state court **without** making a state agency complaint **first**. You **don't have** to file with HRC to file a **state** lawsuit. But it **can usually help** any state court case you file if you have made an HRC complaint **before** filing the

case.

The Human Rights Commission serves any person regardless of immigration or citizenship status. The HRC **doesn't** ask about immigration or citizenship status and **doesn't record that information**.

Federal complaint deadlines

The Federal Equal Employment Opportunity Office (<https://www.eeoc.gov/time-limits-filing-charge>) generally gives you only 180 days (<https://www.eeoc.gov/time-limits-filing-charge>) from the discriminatory acts to file a complaint (a "charge"). If a state or local agency also enforces a law that prohibits the discriminatory act, then the deadline may be extended to 300 days.

Federal employees and job applicants have a different complaint process (<https://www.eeoc.gov/federal-sector/overview-federal-sector-eeo-complaint-process>) and generally must contact an agency EEO Counselor (<https://www.eeoc.gov/federal-sector/contacting-eeo-counselor>) **within 45 days**.

The EEOC **requires** you to file a charge of employment discrimination **before** you can file a lawsuit under the federal laws that it enforces (except for the Equal Pay Act). After investigating, the EEOC may give you a **"Notice of Right to Sue"** in federal or state court.

Once you receive a **Notice of Right to Sue**, you must file your lawsuit within 90 days. If you don't file the lawsuit within 90 days, you may lose your right to sue under the federal laws.

You can choose to file **both** a lawsuit **and** a complaint with an agency. For most situations, you **must** file an agency complaint **first**, before you can sue in court using **federal** protections.

Equal Pay Act lawsuits (<https://www.eeoc.gov/filing-lawsuit>) **are an exception**. You **don't** need get a Notice of Right to Sue from the EEOC before filing an Equal Pay Act lawsuit in court. But you **must** file an Equal Pay Act lawsuit within 2 years of the discriminatory acts (or 3 years if the discrimination was willful).

9. Prepare your evidence

Types of evidence

Proving discrimination against a protected class may be difficult and will require **specific** kinds of evidence. It's not enough to say, for example, "I'm a **woman** and I wasn't hired, but a **man** was." Different treatment **alone** isn't illegal if there was a **legitimate, nondiscriminatory reason** for the different treatment.

Employers may claim that you were treated differently because of the legitimate, non-discriminatory reason. You need **more** evidence showing that

the decision to not hire you was **because** you're a woman.

You may need proof you were treated differently than other employees who aren't in your protected class. Be able to **describe who receives what treatment** from what managers, and why it's different between groups of people. Get witness statements that describe it.

You may need proof that someone **similarly qualified in a similar position was treated more favorably** than you in similar circumstances because they aren't in the protected class **and** you are. Be able to describe how you and the other person are similarly qualified and why. You must show that you both work at the **same** place under **similar conditions** with **shared management and** have the **same rules** applied to you. You must prove that the other person isn't in the protected class (or isn't thought to be so by your employer).

Show proof there **wasn't** a legitimate, nondiscriminatory reason why the employer treated you differently. Be able to show a good work history and other evidence that there was no work-related reason for the mistreatment. Include things like job performance evaluations, attendance records, raises, trainings, other job qualifications, and proof of work history.

If you're making a complaint about **disability** discrimination, you'll also need additional proof of your disability (<https://disabilityrightswa.org/publications/disability-based-employment-discrimination-washington-state/>).

Document these kinds of things

- **What** happened and **when** it happened. Be exact about dates and times. Limit your notes to the **facts** (who, what, when, where). **Don't** guess or exaggerate. Don't misrepresent what happened.
- **Who** said, **did**, or **wrote** what specific things. Be exact about whose action was wrong and why. Try to remember and note as many details as you can.
- The **names** and **roles** of anyone who witnessed the behavior.
- Track how the discrimination or unfair treatment made you **feel**, or what your **response** was when it happened. Note your physical and emotional responses (for example, loss of appetite, can't sleep, losing or gaining weight, depression, anxiety), and how it affected your job performance.
- Keep a log of any times you **reported** the behavior to your employer.
- If you have a written job **description**, keep a copy in your personal records.
- If you've had a written job **evaluation**, ask for a copy. A good evaluation can help fight an employer's claim that they disciplined or fired you because of your poor work habits or quality.
- If you get a written **disciplinary warning** or notice, read it carefully. Make sure you understand it before you sign it. If you don't, ask questions. Ask permission to have a witness at any disciplinary meeting. If you disagree with the notice, write a statement with your view of the facts and ask that it be put in your employment file. Keep a copy for yourself. You have a right to look at your personnel file to make sure your statement is there.

Gathering the evidence

Your own testimony and written declarations may be important evidence for an agency complaint. You may also provide contact information for people willing to provide witness statements on your behalf.

Write down events and statements made by your employer or co-workers shortly after they happen while the events are fresh in your mind but **do this only after work or when you are not “on the clock.”** Write down who said or did things, and who was also there when it happened, with as much factual detail as possible.

Make documentation of every discriminatory act if the treatment is ongoing or repeated. Try to organize your information neatly and in order by dates of incidents. Make a numbered list of facts in order of when each fact happened.

Keep copies of any job evaluations or discipline notices you receive. If you are fired, you can ask for a written statement explaining why. Written documents like this may help you when you file an agency claim, and when you are working with a lawyer.

10. Choosing an agency complaint process

Follow your workplace policy first.

Find out if your employer has a policy or procedure for reporting discrimination or harassment. Your employer may have an internal complaint and investigation process. You may be able to resolve the issue **without** having to file an agency complaint or lawsuit.

If you **don't** follow your employer's policy and procedures but instead proceed to a lawsuit, **it could harm your case**. You may have to show the court you followed your employer's policies **before** being able to file a lawsuit.

Even if your employer doesn't have a formal internal complaint process, you can give your employer a brief written summary of your situation. Sign and date anything you give your employer and keep a copy in your records. If you email your employer, you can send the email to your personal email address and print it out for your records.

Keep copies of your employer's reporting policy, personnel manual, employee handbook, and any other written rules and procedures.
Keep copies of anything you give your employer in writing.

Confirm that your employer is covered by the laws the agency enforces.

State anti-discrimination law

(<https://app.leg.wa.gov/RCW/default.aspx?cite=49.60.040>) covers any employer with at least 8 employees. Anyone acting on behalf of or in the interest of such employer is also covered.

For **federal** laws, it depends (<https://www.eeoc.gov/employers/coverage-0>) on the type of discrimination and type of employer. Generally, if your employer has 15 or more employees on a regular basis for at least 5 months a year, the federal laws should apply. Part-time, seasonal, and temporary employees are included in the total, but contractors and owners **aren't**.

The Equal Pay Act (EPA) applies to almost all people in the workplace **no matter the number of employees**. The EPA protects workers from wage discrimination **only**. It makes it illegal to pay different wages to people of different sexes if they are doing substantially the **same** work in the **same** workplace.

If your claim is for **age related discrimination**, generally your employer must have **20** employees. If your employer is a state or local government (https://www.supremecourt.gov/opinions/18pdf/17-587_n7ip.pdf), there's **no** minimum number of employees.

If your claim is **for national origin discrimination**, your employer must have just 4 or more employees. Employers with at least 4 employees also can't discriminate based on citizenship status while verifying eligibility for employment or as retaliation for making claims about citizenship discrimination.

If you can't figure out if your employer has enough employees for the federal laws to apply, call the Seattle EEOC field office (<https://www.eeoc.gov/field-office/seattle/location>) to get help figuring it out.

Choose which agency you will use.

It's possible to file a complaint with Washington's Human Rights Commission (<https://www.hum.wa.gov>) as well as the Federal Equal Employment

Opportunity Commission (<https://www.eeoc.gov/filing-charge-discrimination>).

However, if you file a similar complaint with more than one agency, then either HRC or EEOC will determine which agency will investigate the complaint.

Washington HRC is considered a Fair Employment Practices Agency (FEPA) (<https://www.eeoc.gov/fair-employment-practices-agencies-fepas-and-dual-filing>) by EEOC, so if you file a complaint with HRC, and federal laws apply, then your complaint will automatically be “dual-filed” with the EEOC, so you don’t need to file a complaint with each agency.

If the discrimination you experience was based on a status protected by Washington’s Law Against Discrimination (<https://www.hum.wa.gov/employment>), but not federal law, file your complaint with Washington’s HRC. Examples include marital status, veteran status, and citizenship status.

Try to talk to an employment lawyer about your discrimination claim and whether it would be better to file a complaint with HRC or a charge with EEOC first. Employment lawyers may have a better idea about current investigation wait times and outcomes.

11. WA Human Rights Commission Complaint

A worker in Washington who believes that they have been discriminated against based on protected class status may file a complaint of discrimination with the Washington State Human Rights Commission (HRC).

Washington's HRC doesn't ask for or record immigration information.

Washington's Human Rights Commission

(<https://www.hum.wa.gov/employment>) requires you to file most kinds of employment discrimination complaints within **6 months** of the discriminatory acts. You may have additional time (<https://www.hum.wa.gov>) to file complaints related to **pregnancy** or **whistleblower retaliation** but it's best to try to talk to a lawyer about which deadlines apply rather than wait.

You can file online, by fax, by email, or by mailing in

(https://wahum.my.site.com/FileaComplaintOnline/s/?language=en_US&tabset-4c28e=4ac66) your HRC complaint and you can request a reasonable accommodation

(https://wahum.my.site.com/FileaComplaintOnline/s/?language=en_US&tabset-4c28e=4ac66) for help with your complaint. There is no fee to submit a complaint.

After you file a HRC Complaint

HRC will determine if they have jurisdiction, that is, that your complaint is covered by one of the Washington State laws that HRC enforces. Each complaint is unique, but HRC advises that you should expect the investigation to be a lengthy process (a year or more)

(https://wahum.my.site.com/FileaComplaintOnline/s/?language=en_US&tabset-4c28e=61ed6).

If HRC determines you have provide enough evidence to support your claim, HRC will draft a formal complaint, and an investigator will be assigned to you. HRC will ask you to sign the complaint and then notify your employer and give them a copy of the complaint.

After getting your complaint, the agency begins an investigation. They'll ask the employer for a statement in response to your complaint. They'll also usually interview you. They may also interview witnesses. The agencies can use subpoenas to make your employer or uncooperative witnesses take part in the investigation. They can also issue subpoenas for documents or other evidence.

Cooperate with the investigator and provide all the evidence you have. Tell the investigator where to go, who to talk to, and where to look for relevant documents. If the investigator leaves you a voicemail or writes you a letter, respond promptly. If your phone number or address changes, notify the agency right away.

During the investigation, if any new things happen to you at work (related to the same complaint), tell your agency agent right away. They might be able to amend your complaint to include the new actions. If at any time you want to file a court case and close your HRC investigation, you can ask the HRC to do so.

If you don't cooperate with the investigation or respond to requests in time, your case could be closed. If that happens, you can only reopen your claim if you're granted reconsideration. **Stay responsive and involved.**

Possible HRC Complaint outcome

If the investigator finds that there is “Reasonable Cause” to believe that illegal discrimination occurred, there are 2 common outcomes. First, the agency will try to help you and the employer in reaching a settlement agreement.

If you and the employer don’t agree on a settlement, the HRC can move the complaint to a formal hearing before an Administrative Law Judge.

Administrative Law Judges **can impose penalties** on your employer.

In rare situations that impact large groups or state laws, the case may be forwarded to Washington’s Attorney General for possible legal action against the employer.

If the investigator **doesn’t** find enough evidence of illegal discrimination, they can close the case with a finding of “No Reasonable Cause.” If this happens, you can still get legal help and try to file a suit in state court within 3 years of the when the discrimination happened.

Appealing an HRC Complaint

If HRC administratively closes your case, finds they don’t have jurisdiction, or finds “No Reasonable Cause” in your case, you may ask for “reconsideration” within 15 days

(https://wahum.my.site.com/FileaComplaintOnline/s/?language=en_US&tabset-4c28e=61ed6) after you receive the final “Notice of Commission Action” from HRC.

When your case is finalized, you'll receive a Notice of Commission Action. It will include the instructions and requirements you need to ask for reconsideration of your case.

Generally, the deadline for asking for a reconsideration is **15 days after the date on** the Notice of Commission Action. Your request for reconsideration **must** include at least one of these reasons listed:

- The HRC failed to consider relevant information you provided during the investigation.
- The HRC didn't apply the law correctly.

Even after HRC closes your case, you still may be able to file a lawsuit or complaint with a federal or local agency.

12. Federal EEOC Charge

The current status of the EEOC is unpredictable. If you're able to file a state agency claim too, **try to do that first** and then ask the state agency to dual file with the EEOC on your behalf. Try to get legal help before filing a complaint with the EEOC.

If you believe you have been discriminated against at work because of your race, color, religion, sex (including pregnancy, transgender status, and sexual orientation), national origin, age (40 or older), disability or genetic information,

you can file a Charge of Discrimination (<https://www.eeoc.gov/filing-charge-discrimination>) with the U.S. Equal Employment Opportunity Commission (EEOC). (<https://www.eeoc.gov/filing-charge-discrimination>)

You must **include every single action** you think could have been discriminatory treatment when you **first** file your charge. If you leave something out, you **can't** add it to your charge later and can lose the right to protections for the left out actions. But if something **new** happens that's unfair, you **might** be able to add that new action.

Example: In your charge, you only list that you were fired eventually because of race-based discrimination from your boss. You forget to list that before your firing; you were passed up for a raise you should have gotten because of your boss's stereotypes about you due to your race. You can't belatedly add lost wages from the lost raise to your charge to try to get that money.

Charges can be completed through EEOC's Public Portal (<https://publicportal.eeoc.gov/Portal/Login.aspx>) after you submit an online inquiry and EEOC interviews you.

If you have **60 days** or fewer left to file your charge before the deadline, the EEOC Public Portal (<https://publicportal.eeoc.gov/Portal/Login.aspx>) will provide special instructions for quickly providing information to the EEOC and filing your charge. You can also contact or go to the EEOC's Seattle Field Office. (<https://www.eeoc.gov/field-office/seattle/location>)

Filing a discrimination complaint **against a federal agency** differs from complaints against a private or other public employer. Visit Federal Employees & Applicants (<https://www.eeoc.gov/federal-sector/overview-federal-sector-eeo-complaint-process>) for information. Federal employees and applicants can also request a hearing or file an appeal with EEOC through the EEOC Public Portal (<https://publicportal.eeoc.gov/portal/>)

After you file an EEOC Charge

EEOC's Public Portal (<https://www.eeoc.gov/what-you-can-expect-after-you-file-charge>) will allow you to sign up and upload contact information, upload a letter from your lawyer (if you have one), upload documents supporting your claim, and check on the status of your charge. EEOC **will** notify the employer within 10 days after you file your charge. EEOC may ask you and the employer to take part in mediation (<https://www.eeoc.gov/mediation>) to reach a voluntary settlement.

If your charge isn't sent to mediation, or mediation doesn't reach a settlement, EEOC may ask the employer to respond in writing to your charge. You will be asked to review it and have an opportunity to respond in writing through the Public Portal.

EEOC may then conduct further investigations, including gathering documents, and interviewing witnesses. EEOC says (<https://www.eeoc.gov/what-you-can-expect-after-you-file-charge>) that, on average, it takes about **10 months to investigate** a charge, but sometimes

settlements can be reached through mediation in 3 months or fewer.

Notice of Right to Sue

If you filed your charge under Title VII, or the Americans with Disability Act, you must have a **“Notice of Right to Sue”** from EEOC **before** you can file a lawsuit in federal court. You can get this letter regardless of whether the EEOC finds enough evidence that discrimination occurred or if it didn’t.

Generally, EEOC will take **180 days** to give you a Notice of Right to Sue, although you may submit a written request (<https://www.eeoc.gov/after-you-have-filed-charge>) for the Right to Sue notice sooner and sometimes EEOC may give you the notice before 180 days after you file.

If the EEOC dismisses your charge without giving you a Notice of Right to Sue, the letter should include instructions for how to appeal the EEOC’s decision.

If you filed your EEOC Charge under the Age Discrimination in Employment Act, you may file a lawsuit in federal court **60 days** after filing, even without a Notice of Right to Sue.

If you filed your EEOC Charge under the Equal Pay Act, you may file a lawsuit in federal court within 2 years after receiving your last discriminatory paycheck.

After you get a Notice of Right to Sue

Once you get a Notice of Right to Sue from the EEOC, you must file your lawsuit in federal court within 90 days. If you don’t file in time, you may be

prevented from filing at all.

Try to talk to an employment lawyer as soon as possible after receiving a Notice of Right to Sue. Some lawyers may be more likely to take your case if you already have a Notice of Right to Sue from the EEOC.

Sometimes the resolution the EEOC offers will be to sue your employer in federal court. If that happens, **the EEOC lawyer won't be your lawyer**. You'll still need your **own** lawyer. You might also be able to sue your employer yourself.

If the investigation closes without the EEOC suing on your behalf, no matter why, ask **right away** for their **investigation file**. It should include your employer's responses to the investigator's questions. Lawyers who evaluate your case will want to look at this file.

WashingtonLawHelp.org gives general information. It is not legal advice. Find organizations that provide free legal help on our [Get legal help](#) page.