

**YOUR GUIDE TO  
FREQUENTLY ASKED QUESTIONS  
IN  
DISCRIMINATION  
COMPLAINTS**



—○ Guide to FAQ



## Introduction

This booklet is meant to be a guide for individuals who are considering filing or who have filed a complaint with the West Virginia Human Rights Commission. Inside are answers to common questions that individuals have asked about the Human Rights Commission and the complaint process. This booklet is not intended to provide any legal advice and should not be taken as such. If you have any questions about the West Virginia Human Rights Commission, your human rights, or the complaint process, please do not hesitate to call, write, fax, or walk in to the Human Rights Commission office and speak to a staff member.

## Frequently Asked Questions:

### 1. Who may file a complaint?

Anyone who believes that he or she has experienced discrimination because of one of the unlawful motivations identified in the state of West Virginia in the areas of employment, housing, and public accommodation may file a complaint. You do not need to be a resident of West Virginia to file.

### 2. Where do I file?

You must file your complaint with the Human Rights Commission of West Virginia.

### 3. When must a complaint be filed?

A complaint must be filed within 365 days of the alleged discrimination.

### 4. What forms of discrimination are prohibited?

It is unlawful to discriminate against a person based on:

- Race
- Religion
- Sex
- Age (*40 or above, in Employment and Public Accommodation*)
- Color
- Ancestry
- Familial Status (*Housing*)
- National Origin
- Blindness
- Disability

### 5. Do I need a lawyer?

No, you do not need a lawyer. The Commission, however, will work with your attorney if you have decided to retain one. Otherwise, the Intake Officer of the Human Rights Commission can assist you in filing your complaint.

## **6. What information must be included in a complaint?**

The Background Information Form includes:

- Name
- Address
- Phone Number
- Alleged basis for discrimination
- Summary of alleged discriminatory behavior
- Name and Address of person, employer, or entity alleged to have engaged in discriminatory behavior.

## **7. What happens after complaints are filed?**

Complaints are reviewed by an Intake Officer who will draft a formal complaint. A position statement from the party accused of discrimination is collected and the case is assigned to an investigator. The investigator reviews the facts of the case to determine if there is probable cause to pursue the complaint in litigation.

## **8. Am I calling the right place to file an EEOC complaint?**

The Human Rights Commission accepts employment discrimination complaints which have occurred within West Virginia. The Human Rights Commission will dual file your complaint with the federal Equal Employment Opportunity Commission (EEOC) if it is jurisdictional with them. You should not file separately with both. Call the Human Rights Commission with questions at our toll free number: 1-888-676-5546.

## **9. Where are you located?**

We are located at 1321 Plaza East, Room 108A, Charleston, WV 25301. Also, we have a satellite office located at 801 Madison Avenue, Suite 223 Huntington, WV 25701.

## **10. What are your hours?**

Monday through Friday, 8:30 am to 5 pm.

### **11. Will the Human Rights Commission represent me?**

The Human Rights Commission will not represent you. We will conduct an impartial investigation of complaints filed with the agency. If a probable cause determination is made and you don't have a lawyer, the Commission's legal council may assist you in preparing your case for public hearing.

### **12. Do you have lawyers?**

The Human Rights Commission doesn't provide lawyers for parties to a complaint during the investigation process. You don't need a lawyer to go through the investigation process.

### **13. If I file with the Human Rights Commission, can I still go to court?**

Yes. While you can't pursue your discrimination claim with the Commission and in circuit court at the same time, if you wish to move your case to circuit court you may request that your complaint with the Commission be withdrawn. A complaint must be filed in circuit court within 2 years of the date of the alleged discrimination. If this period of time is less than 90 days away when you request a withdrawal, your time period to file in circuit court is extended to 90 days from the date your Human Rights Commission complaint was withdrawn. You may have other rights that the Commission's staff can explain to you when you call or visit the office.

### **14. If I file a complaint, can my employer fire me?**

There is a law which prohibits retaliation for filing a complaint or participating in a protected activity (such as being a witness in a human rights investigation). However, your employer is permitted to supervise and evaluate and, yes, even terminate you for legitimate business reasons. This is a question which you should discuss with a commission staff member as each situation is unique.

**15. If I have a disability, can my employer fire me?**

There are laws which protect persons from being treated unfairly because of their disabilities. However, each situation is unique and needs to be assessed by a staff member who can let you know what rights you have under the law.

**16. Should I quit my job?**

Quitting a job is always a personal decision, but you do not need to quit or resign in order to file a human rights complaint. You can continue to work for the employer during the course of the investigation.

**17. Can I still be evicted if I file a complaint?**

That depends on the particular circumstances in each case. Evictions are legal processes which are governed by the state landlord-tenant laws. The Human Rights Commission doesn't handle landlord-tenant issues, but we can take complaints and investigate allegations of discrimination under the West Virginia Fair Housing Act.

**18. If I file with the Human Rights Commission, should I also file with the EEOC or HUD?**

No, if the complaint is cross-jurisdictional with the federal Equal Employment Opportunity Commission (EEOC) or the U.S. Department of Housing and Urban Development (HUD), the Human Rights Commission will dual file the complaint with the appropriate federal agency.

**19. Do I need an appointment?**

It is helpful to call for an appointment, but you can always call or walk in and the Human Rights Commission will attempt to assist you.

## **20. How long does it take to file a complaint?**

That depends on the complexity of the issue. Generally, the process will take an hour or two to file the initial complaint. The Human Rights Commission will attempt to accommodate your needs.

## **21. How long does it take to complete the processing of my case?**

The Human Rights Commission tries to complete investigations in 180 days. For housing complaints, that time is 100 days. Some investigations are more complex, however, and may require additional time. In addition, if your case goes to hearing or court, it could extend beyond the time it takes to complete an investigation.

## **22. What is the procedure for filing a complaint? Do I have to come into the office?**

First, you must complete a Background Information Form obtained by request. It can be mailed, faxed, or brought into the office. Then the Intake Officer will need to interview you. This can be done in person or over the phone. The Intake officer will draft a complaint for your approval which will then need to be signed in the presence of a notary who also signs. This can be done in the office or by any licensed notary.

## **23. I live in West Virginia, but work in another state. Can I still file my complaint in West Virginia?**

No, the Human Rights Commission can only take complaints that occur in West Virginia regardless of where the complainant may live. Generally, if the alleged discrimination occurred in another state, you must contact that state's Civil or Human Rights Office to file a complaint.

**24. What is conciliation and do you offer it?**

Conciliation is a guided negotiation process that helps the parties determine if a voluntary resolution is possible. The Commission offers conciliation for all parties of the complaints during the investigation. The Commission's conciliation program is optional and both parties must agree for conciliation to take place.

**25. Do you have anyone that can speak Spanish?**

Interpreters will be provided for any language if you need one. If you call the office and let someone know that you need an interpreter one will be contacted by phone to assist with the call.

**26. Will the Human Rights Commission negotiate a cash settlement for me?**

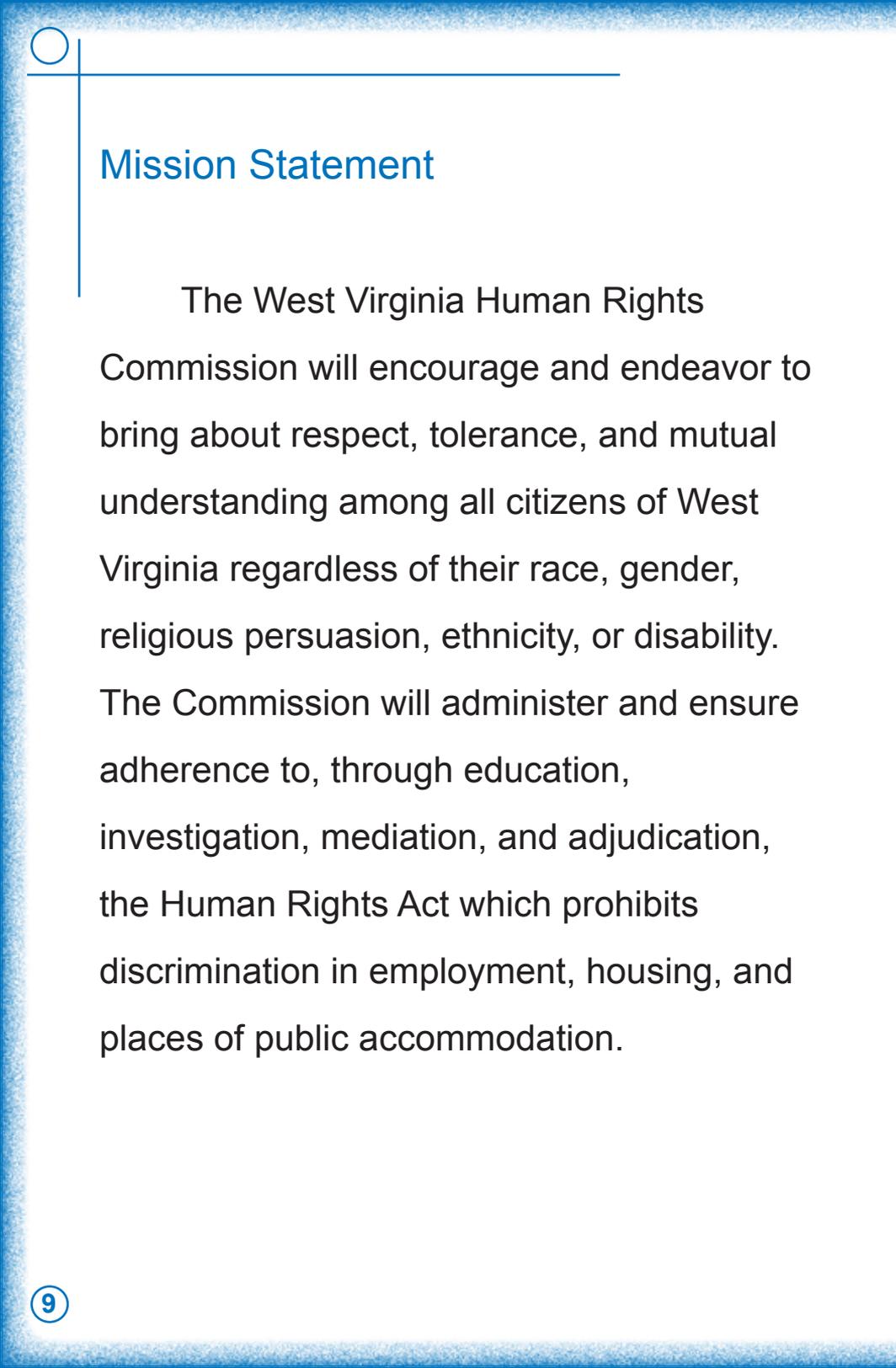
The Human Rights Commission will attempt conciliation and may attempt settlement during the course of the investigation. If a probable cause finding is issued, the parties will enter into the public hearing process. Mediation is a part of the public hearing process with the Commission.

**27. If I have additional information for my case, should I mail it or bring it to the office?**

The Human Rights Commission will accept all information and names of witnesses in whichever way is convenient for you. The information will be copied for you.

**28. Can you give me a status on my case?**

Once you are assigned an investigator, he or she can be contacted for information on your case.



## Mission Statement

The West Virginia Human Rights Commission will encourage and endeavor to bring about respect, tolerance, and mutual understanding among all citizens of West Virginia regardless of their race, gender, religious persuasion, ethnicity, or disability. The Commission will administer and ensure adherence to, through education, investigation, mediation, and adjudication, the Human Rights Act which prohibits discrimination in employment, housing, and places of public accommodation.

The West Virginia Human Rights Act prohibits discrimination in employment and in places of public accommodations based on race, religion, color, national origin, ancestry, sex, age (40 or above), blindness, or disability. In addition, discrimination in housing because of race, religion, color, national origin, ancestry, sex, blindness, disability, or familial status is forbidden.





## West Virginia Human Rights Commission

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Department of Health & Human Resources

West Virginia Human Rights Commission