

Frequently Asked Questions (FAQs) - Human Rights

Question: What is the Human Rights Act?

Answer: The Human Rights Act was enacted in 1969 to ensure that all New Mexicans are protected from discrimination in employment, housing, credit and public accommodation. The Human Rights Bureau is responsible for enforcing the Human Rights Act under the New Mexico Department of Workforce Solutions.

Question: What are the bases of discrimination?

Answer: You can file a complaint of discrimination through the Human Rights Act under race, color, national origin, ancestry, religion, sex, age, physical or mental handicap, serious medical condition or, if your employer has fifty or more employees, spousal affiliation or if the employer has fifteen or more employees, to discriminate against an employee based upon the employee's sexual orientation or gender identity. Under the work sharing agreement with the Equal Employment Opportunity Commission (EEOC), the division may also investigate complaints of discrimination on the basis of race, color, national origin, religion and sex under Title VII of the Civil Rights Act of 1964; age under the Age Discrimination in Employment Act (ADEA) of 1967; and disability under the Americans with Disabilities Act (ADA) of 1990 and the Americans with Disabilities Act Amendments Act (ADAAA).

Question: Is harassment covered under the Human Rights Act?

Answer: Harassment that creates a hostile work environment is considered a type of discrimination if it is based on one of the protected statuses. It would be covered under the statute and investigated like other discriminatory acts. Harassment that is not based on a protected status is not covered by the Act.

Question: How long do I have to file a complaint?

Answer: You must file your charge within three hundred (300) days of the last incident that occurred.

Question: What does it cost to file a complaint?

Answer: The services of the Human Rights Bureau, including complaint investigation, are free of charge.

Question: Does the Human Rights Bureau represent me or provide me an attorney?

Answer: The Human Rights Bureau is a neutral agency that investigates complaints fairly and impartially. It does not represent either side and does not provide attorneys for either side.

Question: What if I want to file my charge with the federal Equal Employment Opportunity Commission?

Answer: Under the work sharing agreement between the Human Rights Bureau and the Equal Employment Opportunity Commission (EEOC), a complaint filed with the Human Rights bureau will be dual-filed with the EEOC, provided it meets the EEOC's jurisdiction requirements. Also a complaint filed with the EEOC that meets the Human Rights Bureau's jurisdiction requirements will be dual-filed with HRD. It is not necessary to contract both offices.

Question: What is the ADR Program?

Answer: The Human Rights Bureau has adopted the Alternative Dispute Resolution (ADR) Program to attempt to resolve discrimination issues through mediation/conciliation. A resolution of a complaint through mediation is less costly because it can settle a case in a matter of weeks as opposed to a lengthy investigation. The ADR program is strictly voluntary and all parties must be willing to participate.

Question: How may I learn about discrimination?

Answer: The Human Rights Bureau has an education unit whose mission is to provide training and education to the public, especially employers, about unlawful discrimination and how to prevent it. If you would like information concerning our education program you may contact the Bureau at (505) 827-6838 or toll-free at 1-800-566-9471.

Question: What is the Human Rights Commission?

Answer: The Human Rights Commission is comprised of eleven citizens appointed by the governor to conduct hearings involving discrimination complaints. The eleven members volunteer their services and are not employees of the state. A commission hearing may be conducted by a single hearing officer or a three-member panel. The final decision in every case is made by a three-member panel either on cases the panel has heard or recommendations from the hearing officer.

Question: What may I have awarded if I win my case?

Answer: Under the Human Rights Act, the commission may award actual damages, e.g., back pay, front pay, compensatory damages and attorney's fees.

Question: I was bypassed for a major promotion because I am pregnant. Is this legal?

Answer: No. The law is very specific when it comes to pregnancy discrimination. The primary agency that administers federal law on pregnancy discrimination is the Equal Employment Opportunity Commission (EEOC), which can be reached at 1-800-669-4000. Contact EEOC to speak to a counselor about your legal rights. You may also contact the New Mexico Human Rights Bureau who cover employers with four or more employees and can be reached at 1-800-566-9471 or through the DWS website. Your employer cannot take away credit for previous work years or seniority because you go on maternity leave.

Question: I just found out that I am pregnant. Can my employer fire me or reassign me?

Answer: The New Mexico Human Rights Act, which covers employers with four or more employees, also prevents an employer from firing you because you are pregnant. You can file a complaint with the New Mexico Human Rights Bureau if you feel that this has happened to you.