

IDHR



State of Illinois
Department of Human Rights

Guide *for* Respondents

ILLINOIS DEPARTMENT OF
Human Rights

Services Provided

*What the Illinois Human
Rights Act Provides*

*What Happens When a
Charge is Filed*

The Illinois Department of Human Rights

The Illinois Department of Human Rights (“IDHR”) is the state agency responsible for enforcing the Illinois Human Rights Act (“Act”).

MISSION

IDHR’s mission is to secure for all individuals within the state of Illinois freedom from unlawful discrimination, and to establish and promote equal opportunity and affirmative action as the policy of this state for all its residents.

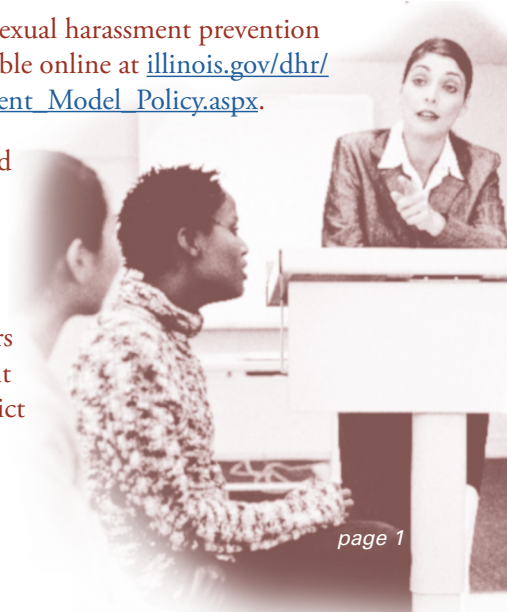
In addition to being an enforcement agency, IDHR also provides a number of services and works in partnership with companies, agencies, organizations and individuals to provide:

Services Provided by IDHR

Public Contracts: All employees and companies that wish to do business with any state entity in Illinois must register through the Public Contracts Unit to ensure that they have implemented equal employment opportunity and affirmative action policies and are in compliance with the Illinois Human Rights Act and IDHR’s rules and regulations. The IDHR’s website for Public Contracts has additional information at illinois.gov/dhr/PublicContracts.

This unit also helps businesses develop sexual harassment prevention policies, including a model policy available online at illinois.gov/dhr/PublicContracts/Pages/Sexual_Harassment_Model_Policy.aspx.

Training: The Institute for Training and Development (“Institute”) conducts training throughout Illinois designed to increase respect among diverse cultures both in the workplace and at home. Using real-life scenarios, certified trainers provide information on fair-employment laws and practices, ways to resolve conflict through better understanding, and non-discrimination requirements such



as sexual harassment prevention. Handouts are supplied for independent study and on-the-job reference tools. The Institute is approved by the HR Certification Institute and offers training modules for HR Certification. Both public and private sessions are offered. Fees may apply to on-site training. For more information or to schedule training, call (312) 814-2477 or visit the Institute's website at <https://www2.illinois.gov/dhr/Training/Pages/default.aspx>.

Request a Department Speaker: IDHR representatives are available to speak about agency rules and procedures related to filing and processing a charge of discrimination in Illinois. Topics cover rights and responsibilities of groups and individuals under the law. A speaker request form is available from IDHR's website at http://www2.illinois.gov/dhr/AboutUs/Pages/Request_Speaker.aspx.

The Law & Your Responsibilities

The Illinois Human Rights Act (775 ILCS 5)¹ prohibits discrimination with respect to employment, financial credit, public accommodations and real estate transactions because of a person's race, color, religion, sex (including pregnancy and sexual harassment), national origin, ancestry, age, order of protection status, marital status, disability, sexual orientation (including gender identity), citizenship status and language restrictions in employment, arrest record in employment and housing, familial status in housing (families with children under the age of 18) and more.

Employment: The law protects persons from discrimination in all terms and conditions of employment, including hiring, selection, promotion, transfer, pay, tenure, discharge, and discipline.

Real Estate Transactions (Housing): It is unlawful to discriminate in the sale or rental of residential or commercial property. A few examples of such discrimination are:

- Refusing to engage in a real estate transaction with a person
- Altering the terms, conditions or privileges of the transaction.

¹ The Illinois Human Rights Act ("Act") is available at: <https://ilga.gov/legislation/ilcs/ilcs5.asp?ActID=2266&ChapterID=64>

- Refusing to negotiate or grant mortgage loans.
- Misrepresenting that property is not available for rental or sale.
- Using advertising, forms, or questions indicting prohibited discrimination.

Financial Credit: All financial institutions doing business in Illinois are prohibited from discriminating in the granting of commercial or personal loans and credit cards.

Public Accommodations: It is unlawful to discriminate in the full and equal enjoyment of facilities, goods and services by any place of public accommodation, such as a business, recreation, lodging, entertainment, or transportation facility.

Sexual Harassment in Education: The law prohibits unwelcome advances of a sexual nature or requests for sexual favors of students by an executive, faculty member, administrative staff member, or teaching assistant in a public or private educational institution when such behavior interferes with the student's performance; creates an intimidating, hostile or offensive environment; or is a term or condition of academic or extracurricular opportunities. It is also unlawful for any educational institution to fail to take remedial action or appropriate disciplinary action against any representative employed by such institution when such institution is aware of the sexual harassment.

A charge of discrimination may be filed with IDHR against you or your organization, company or agency alleging:

- 1) you discriminated against a covered individual;
- 2) the conduct was based on the individual's status in one of the protected classes; and
- 3) the conduct was in one of the five covered areas.

Charges must be filed with IDHR within the time specified in the Act.



What Happens When a Charge is Filed?

If a charge filed with IDHR names you, your company or organization as a Respondent, a copy of the charge and an initial request for information will be served on the named Respondent within the time specified in the Act.

You will be required to:

- **Preserve any records pertinent to the charge;**
- **Refrain from retaliating against any person who has filed or otherwise participated in the investigation of a charge. A person who believes that they have been retaliated against may file a charge with IDHR; and**
- **Provide a response to IDHR's questionnaire by the date indicated. You may also be required to file a formal response to the charge, and the failure to respond can result in a default finding against you.**

A mediation conference is an alternative to an investigation and may quickly resolve a charge. Mediation is an informal, no-cost process in which the Complainant and Respondent meet voluntarily with a trained and certified IDHR mediator who helps them explore possible resolution of the charge. The mediation process is confidential.

Mediation

During the mediation (which can take four hours or more), attorneys may be present in an advisory role. IDHR's mediator does not impose a decision on the parties. Accepting a settlement agreement does not constitute an admission of guilt by the Respondent.

The terms of settlement can include monetary and/or non-monetary elements. After a mediation settlement is reached, both parties have 10 days (which may be waived) to opt out of the settlement. If the parties are unable to reach an agreement, the charge will proceed to the investigation stage.

The Investigation

The case moves to the investigation stage if the parties do not participate in mediation

or if the mediation is unsuccessful. Respondents and Complainants have a responsibility to cooperate with IDHR's investigation. IDHR also has the power to subpoena relevant documents and persons.

IDHR's role is to conduct a neutral investigation of the allegations in the charge. The Investigator assigned to the case may contact and interview relevant witnesses and may obtain pertinent documents from both parties.

The Fact-Finding Conference

Both parties may be required to attend a fact-finding conference, which is a meeting conducted by an IDHR Investigator. The fact-finding conference is an investigative tool designed to secure either a thorough investigation or a voluntary settlement. Each party presents its side of the dispute and responds to the opposing side. Failure to attend the fact-finding conference without a good reason can result in dismissal of the charge for Complainant or default for Respondent.

If a fact-finding conference is held, either party may bring an attorney if the attorney has entered a "Notice of Appearance." However, attorneys have a role that is strictly advisory and they may not testify at the conference except on matters of which they have first-hand knowledge, nor may they ask direct questions of either party.

It is not required that either party be represented by an attorney.

The Investigator will make sure that all parties have a full and fair opportunity to present their facts and evidence. Complainants not represented by an attorney may bring a friend or relative to the conference for advice and moral support; however, that individual may testify only on matters of which they have first-hand knowledge relating to the charge. In addition, Complainant may bring an interpreter to the conference or, if needed, IDHR may use an interpreter service. Witnesses may also participate in the fact-finding conference, but they will be present at the discretion of the Investigator.

The Investigator will question the parties and allow the Complainant and Respondent alternate opportunities to respond and/or rebut the other party's statements. During this time both parties are allowed to present documents or testimony in support of their own position. The Investigator may identify and request further documentation necessary to investigate the charge.

The Investigator takes informal notes of the statements and responses. In accordance with IDHR Regulations, these investigative notes are privileged and may not be given to either party. The conference is not a formal hearing and IDHR does not produce stenographic transcripts.

If the Investigator does not hold a fact-finding conference, the Investigator will gather the facts and evidence in separate contacts with Complainants and Respondents via letter(s), phone, on-site interviews or by individual conferences.

The Findings and Results

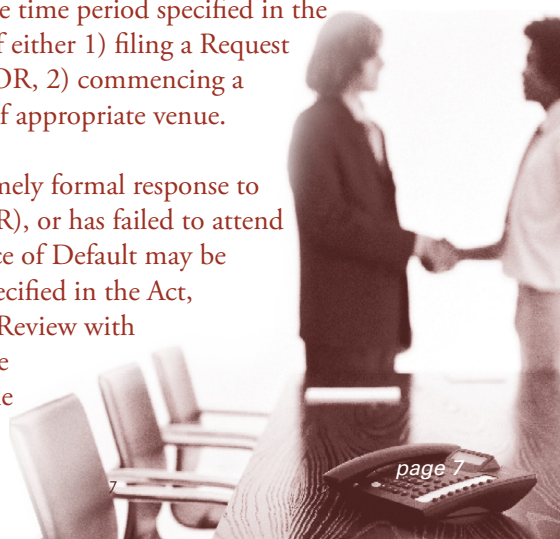
After the investigation, a written report is prepared recommending whether or not there is “substantial evidence” of a violation of the Act. A finding of “substantial evidence” means that there is enough evidence for the allegation to be decided by a trier of fact and Complainant has the option within the time period specified in the Act to either:

- 1) request that IDHR file a complaint on Complainant’s behalf with the Illinois Human Rights Commission (“Commission”), a state agency that conducts hearings on complaints filed under the Act; OR
- 2) commence a civil action in a state circuit court of appropriate venue. If a complaint is filed with the Commission or the circuit court, that forum will hear testimony, receive evidence and determine whether unlawful discrimination occurred.

In housing cases or if Complainant requests IDHR to file a complaint with the Commission, an IDHR attorney will be assigned to help the parties resolve or “conciliate” the charge. If a settlement agreement is not reached, IDHR will file a Complaint of Civil Rights Violation with the Commission on behalf of Complainant. Complainant bears the burden of proving the case before the Commission.

If IDHR finds a “lack of substantial evidence” of discrimination the charge will be dismissed. Within the time period specified in the Act, Complainant has the option of either 1) filing a Request for Review with the Commission, OR, 2) commencing a civil action in a state circuit court of appropriate venue.

If Respondent has failed to file a timely formal response to the charge (when required by IDHR), or has failed to attend the fact-finding conference, a Notice of Default may be entered. Within the time period specified in the Act, Respondent may file a Request for Review with the Commission. Final orders of the Commission may be appealed to the appropriate appellate court.



How Long Does the Process Take?

The time period to conclude an investigation is specified in the Act and may

be extended by written agreement of the parties. IDHR makes every attempt to complete a timely investigation. However, the Investigator may request an extension of time to complete the investigation. If one or both of the parties refuse to sign an extension, and if IDHR does not issue a finding within the time period specified in the Act, Complainant may either file a complaint with the Commission OR commence a civil action in a state circuit court of appropriate venue. If Complainant does not file a complaint with the Commission or commence a civil action in state circuit court within the time period specified in the Act, no further action will be taken on the case. (Extensions are not needed in housing cases and the investigation will be completed within the time period specified in the Act unless it is impracticable to do so.)

The Commission is a separate state agency that conducts public hearings on complaints on Charges of Discrimination filed by IDHR or the

The Illinois Human Rights Commission

Complainant, and reviews IDHR's dismissals of a Charge of Discrimination. The Commission is a neutral judicial agency for resolving disputes of unlawful discrimination defined by the Act. Seven Commissioners, in panels of three members, review dismissals of Charges of Discrimination by the IDHR following an IDHR investigation. If the Commission reverses the dismissal, a Complainant or IDHR may file a Complaint at the Commission in its Administrative Law Section (ALS). If the Commission sustains the IDHR's dismissal, a Complainant may file an appeal with the Illinois Appellate Court.

Through its ALS section, parties litigate Complaints involving Charges of Discrimination. Procedures for Administrative Law proceedings are presented to experienced Administrative Law Judges (ALJs). Parties may be represented by an attorney or may proceed without an attorney. A full range of written discovery and mediation services are also available to all parties.

If the Complainant is successful within the ALS, the judge can order

remedies allowed by the Act to make the Complainant “whole.” Remedies may include back pay, lost benefits, clearing of personnel file, emotional damages, hiring, promotion, reinstatement, front pay where reinstatement is not possible, and attorney’s fees and costs. Punitive damages or damages intended to punish the employer are not available under the Act.

For more detailed information about the Commission and its procedures, please visit: www.illinois.gov/ihrc

Relationship with **Federal Agencies** and **Federal Court**

In order to preserve Complainant’s federal rights, IDHR automatically cross-

files eligible employment charges with the U.S. Equal Employment Opportunity Commission (“EEOC”), and conducts the investigation for EEOC under the terms of the agencies’ Worksharing Agreement. Similarly, housing cases are cross-filed with the U.S. Department of Housing and Urban Development (“HUD”).

The Complainant in an employment charge may at any time request a “Right to Sue Notice” from EEOC to file the case in federal court. If a complaint with the same issues as those filed with IDHR is filed in federal court and the Complainant has not withdrawn the IDHR charge, the Respondent should provide a copy of the complaint to IDHR, and IDHR will generally administratively dismiss the investigation. In keeping with IDHR’s neutral role, IDHR representatives cannot give legal advice to Complainants or Respondents.

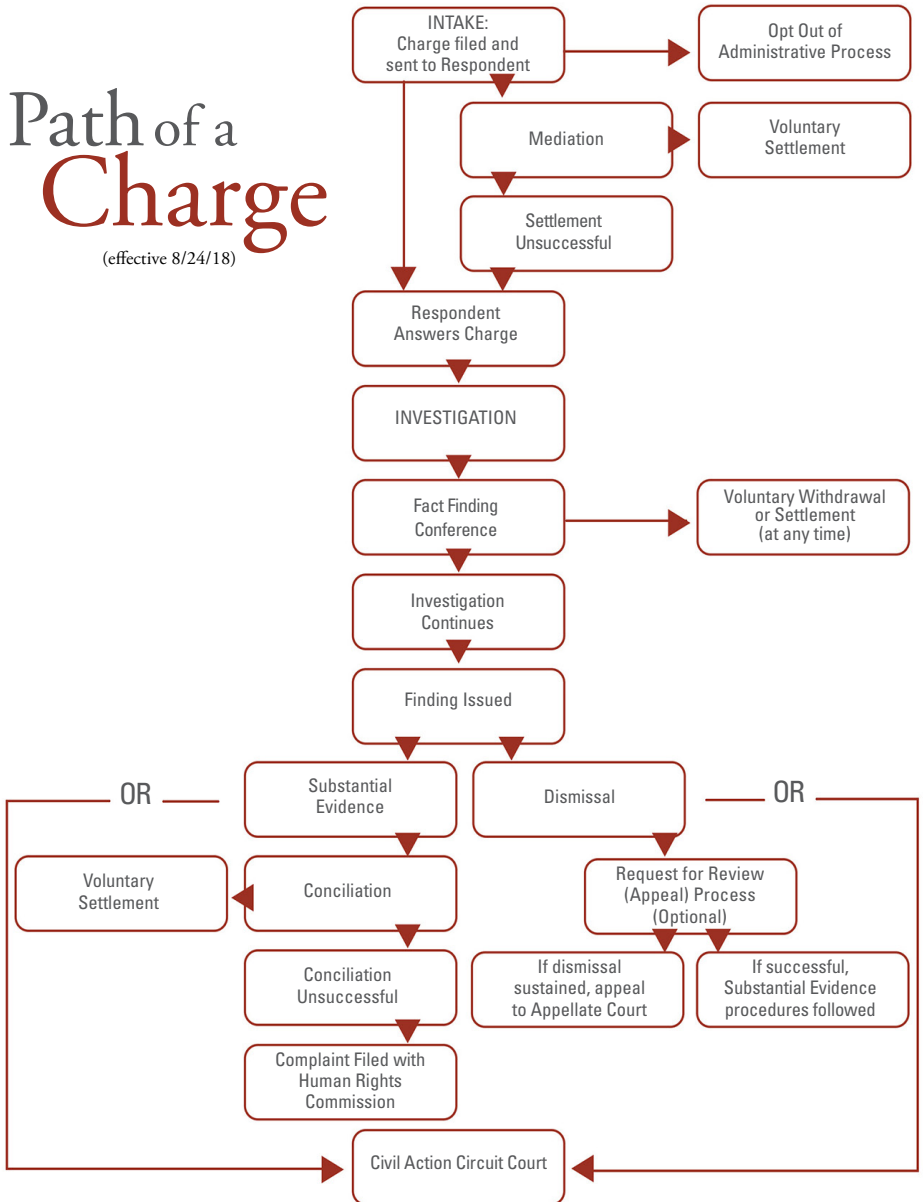
TIPS FOR PREVENTING DISCRIMINATION:

- EDUCATE YOURSELF, YOUR MANAGEMENT STAFF AND YOUR EMPLOYEES ON WHAT THE LAW REQUIRES.
- DEVELOP AND IMPLEMENT CLEAR POLICIES AND FOLLOW THEM CONSISTENTLY.
- PREVENT SEXUAL HARASSMENT AND OTHER DISCRIMINATION BY POSTING POLICIES AND TRAINING ALL EMPLOYEES.
- INVESTIGATE DISCRIMINATION COMPLAINTS PROMPTLY, AND TAKE PROMPT REMEDIAL ACTION WHEN NECESSARY.
- MAINTAIN DOCUMENTATION.

ILLINOIS DEPARTMENT OF
Human Rights

Path of a Charge

(effective 8/24/18)



Other Services **IDHR** Provided by

Training: The Institute for Training and Development (“Institute”) conducts, throughout Illinois, training designed to increase respect among diverse cultures both in the workplace and at home. Using real-life scenarios, certified trainers provide information on fair-employment laws and practices, ways to resolve conflict through better understanding, and non-discrimination requirements such as sexual harassment prevention. Handouts are supplied for independent study and on-the-job reference tools. The Institute is approved by the HR Certification Institute and offers training modules for HR Certification. Both public and private sessions are offered. Fees may apply to on-site training. For more information or to schedule training, call (312) 814-2477.

Affirmative Action Enforcement: The State Agency Liaison Unit monitors and provides technical assistance to state executive agencies for equal employment opportunity and affirmative action (“EEO/AA”) compliance. The Unit also represents the agency on the state Interagency Committee on Employees with Disabilities (“ICED”).

Public Contracts: All persons and companies employing 15 or more individuals at anytime during the 365 day period immediately preceding the date of filing wishing to do business with any state entity in Illinois must register for an eligible bidder number through the Public Contracts Unit to ensure that they have implemented equal employment policies and are following IDHR rules and regulations.

Education and Outreach: The Outreach staff is the public relations arm of IDHR. In an ongoing effort to keep the public informed about human rights issues, staff coordinates workshops, training, events and programs geared towards community and civic organizations, as well as responds to requests for information from media outlets and the general public.



For More Information Contact:

Please contact IDHR directly at (312) 814-6200 or email idhr.webmail@illinois.gov to verify office and intake interview hours.

Website: www.illinois.gov/dhr

In Chicago:

555 West Monroe Street
7th Floor
Chicago, IL 60661
(312) 814-6200 or (800) 662-3942
(866) 740-3953 (TTY)
(312) 814-6251 Fax

In Springfield:

535 West Jefferson Street
1st Floor
Springfield, IL 62702
(217) 785-5100
(866) 740-3953 (TTY)
(217) 785-5106 Fax

In Marion:

2309 W. Main St.
Marion, IL 62959
(618) 993-7463
(866) 740-3953 (TTY)
FAX: (618) 993-7464

This pamphlet is intended as a general guide for understanding the major services and processes of IDHR. This guide will not answer all questions about discrimination and any individual case may proceed differently from what is described. IDHR has specific regulations and procedures it applies to each case. Please call IDHR's office nearest you with any questions about any of the topics described.

In compliance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Illinois Human Rights Act, IDHR will ensure that all programs are readily accessible to and usable by qualified individuals with disabilities. The ADA Coordinator can provide additional information about compliance requirements, at (217)785-5119 (Voice) or (866) 740-3953(TTY).

The IDHR provides free language assistance services for non-English speaking individuals.

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