

KNOW YOUR FAIR HOUSING RIGHTS! Prosecuting Your Discrimination Complaint



Brooklyn Legal Services Corporation A

The Fair Housing Act allows for **anyone** to bring a claim for housing discrimination. If you believe you have been discriminated against by your landlord or landlord's employees (such as a building manager, "super," or broker) and have suffered a loss of housing or access to housing related services such as heat, hot water, or regular repairs, you may have a fair housing claim.

- A person wishing to enforce the FHA has several venues to choose from in which to bring their claim:
- You may initiate a complaint with the U.S. Department for Housing and Urban Development (HUD), with the New York Division of Human Rights (NYDHR), or you may choose to bring an action in State or Federal Court. Additionally, the Office of the State Attorney General may, under certain circumstances, choose to prosecute your claim.

The Fair Housing Act (FHA):

The FHA is a federal law that protects against discrimination based on race, color, national origin, religion, sex, familial status or disability. Both New York State and City have laws governing fair housing that expand protections for lesbian, gay, bisexual and transgendered individuals. [Also additional protections for source of income, military status, citizenship status, national origin, age]

What is the difference between HUD and NYDHR?

- Both the state and federal governments have their own laws governing fair housing. While the laws are very similar, New York City and State have broader coverage for certain groups. For instance, while both federal and state laws protect against discrimination based on race or nationality, only the state laws protect against discrimination based on sexual orientation, and only city laws protect against discriminating against a person on the basis of gender or transgender identity.
- HUD is an agency that is set up to handle federal claims. If you feel that you've been discriminated against in violation of the Federal Fair Housing Act, you should file a claim with HUD.
- NYDHR handles state claims as well as federal. If you have been discriminated against under the state or city law, you should file a claim with the NYDHR.
- Don't worry if you take your complaint to the wrong agency. Both HUD and NYDHR will direct you to the right place.

What about the New York City Commission for Human Rights (NYCCHR)?

- You can also take your claim to NYCCHR. You would want to do that if your claim for discrimination is based on one of the characteristics only protected by NYC Human Rights Law (legal source of income, gender identity, immigration status, or legal occupation). You also would want to bring your claim there if you're being discriminated against in an owner-occupied building with only two units. The complaint process is very similar to that of NYDHR.

Fair Housing Law Enforcement in New York State

| <u>Agency action</u> | <u>How long do I have to bring the complaint?</u> | <u>What does it cover?</u> | <u>Where is it filed?</u> |
|--|---|--|--|
| United States Department of Housing and Urban Development (HUD) | Claim must be brought within 1 year of the last act of discrimination. | Discriminatory conduct based on race, color, national origin, religion, sex, familial status or disability. | With the HUD offices. May be initiated by mail, telephone or online. |
| New York Division of Human Rights (NYDHR) | Claim must be brought within 1 year of the last act of discrimination. | Discriminatory conduct based on race, color, national origin, religion, sex, familial status, disability, military status, sexual orientation, age, marital status. | With the offices of the NYDHR. Call to schedule an appointment with an NYDHR attorney. |
| New York City Commission on Human Rights (NYCCHR) | Claim must be brought within 1 year of last alleged act of discrimination. | Discriminatory conduct based on race, color, national origin, religion, sex, familial status, disability, sexual orientation, age, marital status, citizenship status, gender identity, lawful occupation, family status, lawful source of income. | With the Law Enforcement Bureau of the NYCCHR. Call to schedule an appointment with an NYCCHR attorney. |
| Federal Court | Claim must be brought within 2 years of the act of discrimination. | X | In court. |
| State Court | Claim must be brought within 2 years of the act of discrimination. | X | In court. |

How do I file a complaint with HUD?

Anyone can file a fair housing complaint with HUD for free. A person filing a complaint is called the “complainant” while the person (or persons) against whom the complaint is filed is called the “respondent.” The respondent may be your landlord, landlord’s employees, or a broker. You can initiate your complaint with HUD by telephone, mail or online. After HUD has reviewed your initial complaint, an intake specialist will be assigned to conduct a follow-up interview with you.

How do I file a complaint with the NYDHR?

Filing a fair housing complaint with NYDHR is also free. You may begin the process by calling the NYDHR offices and scheduling an appointment to meet with a staff attorney. You may also download a complaint form online, fill it out, and mail it into NYDHR.

How does the agency (HUD or NYDHR) process a complaint?

After the intake specialist has interviewed you, a HUD investigator will determine whether or not to pursue an investigation. If HUD decides to investigate, the investigator will make a written complaint on your behalf. The investigator will mail you the complaint, which you must sign and return to HUD. Within 10 days after the signed complaint has been returned, HUD will notify the respondent of your complaint. The respondent then has 10 days to “file an answer.” As part of its investigation process, HUD will interview both you and respondent and collect any evidence of housing discrimination.

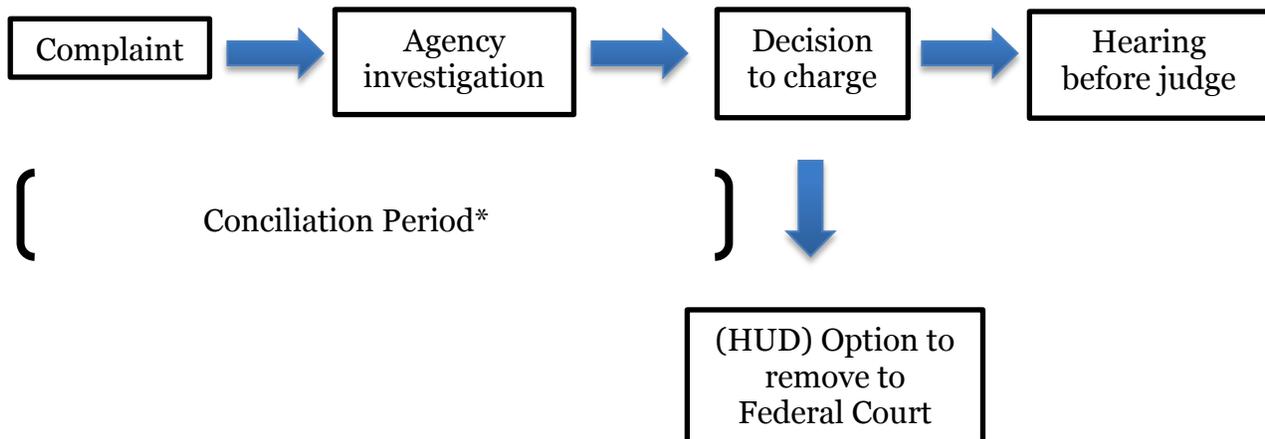
After collecting and reviewing evidence and statements from both sides, HUD will decide whether there is reasonable cause that you were discriminated against. If HUD determines that there is reasonable cause, the agency will inform both sides and send your claim to be heard by an administrative law judge. However, HUD may also send the charge to be heard in federal court if either party so chooses. If you would like to go to federal court, you must decide to do so within 20 days of receiving the agency’s decision to issue a charge.

The NYDHR process is almost the same as HUD’s.

Know Your Rights!

Everyone is entitled to housing free from discrimination. If you have been discriminated against or harassed because of who you are, act now to stop it!

Overview of the HUD and NYDHR Administrative Process



*Fair Housing Law requires HUD to try to settle the matter between you and the person you are accusing of discrimination before your case goes in front of a judge. NYDHR has a similar requirement. HUD or NYDHR will act as an intermediary to try to settle the matter during what is called the “**conciliation period.**” You do not have to settle during this time and are free to proceed to court.

What remedies am I entitled to?

A judge may force a guilty party to rent or sell you housing, or to find reasonable accommodations for you. A judge may also make the respondent pay you money to cover any losses you incurred as a result of discrimination. This measure of damages is called “compensatory,” because it is intended to compensate you for your financial and emotional losses regarding the act of discrimination. Damages may include things like your moving expenses, the cost of taking a more expensive apartment, or lost wages from missing work. In addition, a court may award punitive damages (intended to punish the guilty party for breaking the law), and/or emotional damages. An administrative law judge (ALJ), a judge who hears only cases that are brought by HUD or NYDHR, cannot force the respondent to pay punitive damages. A judge may also impose civil penalties against a guilty party. Civil penalties are paid to the government and not to the person who filed the complaint.

Do I need to get an attorney?

You do not need an attorney to file a complaint with HUD or the NYDHR. However, an attorney may be helpful with the process. If you decide to take your case directly to court, you should speak with a lawyer. There are many legal organizations that will take on cases for free for low-income victims of discrimination.

How do I prove my claim?

You must show that you have been the victim of either direct discriminatory conduct, or that you have been the victim of conduct that does not appear to discriminate on its face but results in discrimination against you as a member of a class that is protected by the city, state, or federal fair housing laws. For instance, a landlord or super who refuses to provide basic services such as heat or repair work because of your race or nationality is guilty of breaking the law.

Can I go directly to court?

Yes. Federal, State, and New York City fair housing law claims can be brought through administrative agencies such as HUD, or in State or Federal court. If you prefer to bring the complaint in front of a judge directly, you should gather your evidence and make an appointment to see an attorney who specializes in fair housing claims.

Should I bring my claim to HUD, NYDHR, or an attorney?

It's your decision! You can, but don't have to, bring your claim to an attorney or agency who can help you in court. You can file a complaint on your own or contact a lawyer to go to court directly. If, however, more than one year has passed since the last time you were discriminated against, neither HUD nor NYDHR will be able to take your complaint and your only option is to proceed in court.

Can I bring my complaint to both an agency and a court at the same time?

You may file a claim with HUD or NYDHR while pursuing a court case up until the point that the complaint has been charged by the agency (see the chart above). After a complaint has been charged, but before the case has been scheduled to appear, either party may choose to take the case to a federal judge. A HUD attorney will be assigned to represent you, but you may also choose to hire your own attorney. If you have already filed with an agency, you will want to speak to an attorney as to whether a court will hear the case.

What should I use to show that I have been discriminated against?

You should include in your complaint with HUD or the NYDHR any evidence you may have of discrimination. Such evidence includes the names, addresses and telephone numbers of those you believe have discriminated against you, as well as any correspondence (such as letters, texts, emails, forms) that you have received regarding the act of discrimination.