



Challenging Employment Discrimination under the ADA

Note: This information does not constitute legal advice. The law is constantly changing and application of the ADA depends on the specific circumstances of each case. Consult an attorney when faced with legal issues.

What should I do if I think my rights under the ADA have been violated?

- If you believe that you have been subject to employment discrimination on the basis of disability, you must file a charge with the Equal Employment Opportunity Commission (EEOC), a government agency responsible for enforcing the ADA.
 - You can also request free legal services by emailing disabiliytintake@pilcop.org for an intake form.
- The ADA requires that you exhaust your administrative remedies by filing a charge with the EEOC or local enforcement agency. You may not file an employment discrimination lawsuit under the ADA until you have filed a charge with the EEOC and the EEOC has issued a “right to sue” letter.

Where should I file my claim?

- You may file a charge with the EEOC at three possible sites:
 - The Office of the EEOC in Washington;
 - The field offices of the EEOC in Philadelphia and Pittsburgh; or
 - The offices of the Pennsylvania Human Relations Commission (PHRC), the Pittsburgh Commission on Human Relations, or the Philadelphia Commission on Human Relations which are all Fair Employment Practices Agencies.

- Dual file your claims with the Pennsylvania or Philadelphia agency and the EEOC. You want to preserve both your federal claims and your state law claims. This usually just requires checking off a box on the form the agency uses to help you file your complaint. Tell the person helping you file your complaint at the agency that you want to dual file.

What is the deadline to file my claim?

- A charge of discrimination under the ADA must be filed within 180 days of the alleged act of discrimination.
 - In Pennsylvania, the deadline is extended to 300 days after the act occurred as long as you initially file a complaint with the Pennsylvania Human Relations Commission (or cross file with the EEOC and the Human Relations Commission).
- A charge under the Pennsylvania Human Relations Act must be filed with the Pennsylvania Human Relations Commission within 180 days after the alleged discriminatory act occurred.
- Note: Courts have held the 180 days begins from the date you were terminated, denied a promotion, or denied a request for a reasonable accommodation.
 - Appealing a denial of an accommodation may not stop the clock ticking.
- Failing to file a charge within the required time period may result in the charge being dismissed. It is important to contact the EEOC or an attorney promptly.

What happens after I file my claim?

- Once the EEOC has received the charge, it will notify the employer within 10 days and commence its investigation.

- If the EEOC dismisses the charge, it will issue a notice of your right to file a lawsuit in federal court within 90 days which is known as a “right to sue” letter. The Pennsylvania Human Relations Commission can keep your claim for one year while they investigate.
- If the charge is not dismissed, the EEOC investigation will generally end in either a determination of “no cause” or a determination of “reasonable cause.”
- A no cause determination is a finding that the agency has found no reasonable cause to believe that an unlawful employment practice occurred. But you may still pursue your legal claims in court on your own.
- A reasonable cause determination is a finding that an unlawful employment act occurred. Either way, the EEOC will issue a right to sue letter indicating that you may file a lawsuit in federal court within 90 days.

Can I file a lawsuit?

- After you receive a right to sue letter from the EEOC or a determination from the PHRC, you have 90 days to file a lawsuit in federal court. If you do not file within the time period, the case will be dismissed.
- If the court finds that your employer violated the ADA, the court may require the employer to remedy the violations by issuing an injunction to prohibit future discriminatory acts or by ordering reinstatement of an employee. The court may also award compensatory damages including monetary losses and emotional harm, and in some cases punitive damages and attorney's fees.