

HOW TO FILE A COMPLAINT

If you believe that you have been discriminated against based upon disability, as an HIV+ individual, you can file a complaint with the New York State Division of Human Rights.

A complaint must be filed with the Division within one year of the alleged discriminatory act. For more information or to make an appointment, contact the regional office nearest to your home or place of employment, or visit our website at www.dhr.state.ny.us.

SOME EXAMPLES:

You go to a new dentist for the first time. Before treatment, you disclose that you are HIV+. The dentist then tells you he is not taking new patients. You believe the dentist does not want to treat you due to your HIV status. What are your rights?

Dentists, doctors, and other medical offices are considered places of public accommodation. It is unlawful for a place of public accommodation to deny a person the benefits and privileges of the public accommodation based upon a disability, which includes HIV status.

You've been in your job for three years and always received positive reviews and raises. You decide to disclose your HIV status to your boss and begin receiving negative reviews and are put on probation. You believe these negative reviews are a result of your disclosure of your HIV status and report the situation to your employer's personnel office. Two weeks later you are laid off. Is this unlawful?

The Human Rights Law prohibits employers from retaliating against those who file a complaint of discrimination. If you believe you were laid off for reporting your supervisor, you can file a complaint with the Division.

You move into a new apartment and then disclose to your landlord that you are HIV+. You begin to experience harassment and the landlord makes derogatory statements about your HIV status. Is this unlawful?

Harassment and other discrimination in housing based upon HIV status is against the Law. You may file a complaint against the landlord.

HIV/AIDS DISCRIMINATION

NEW YORK STATE DIVISION OF HUMAN RIGHTS

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Are people with HIV/AIDS protected under the Law?

People who are HIV+, or who have AIDS, are protected under the disability provisions of the New York State Human Rights Law.

How is a disability defined?

The Human Rights Law defines a disability as:

“a physical, mental or medical impairment which prevents the exercise of a normal bodily function or is demonstrable by medically accepted diagnostic techniques, or

a record of such an impairment, or

a condition regarded by others as such an impairment.”

Both permanent and temporary disabilities are covered under our Law.

What does the Law cover?

The Human Rights Law prohibits discrimination against people who are HIV+ or who have AIDS in employment, housing, places of public accommodation, credit transactions, and certain non-sectarian educational institutions.

The Human Rights Law also prohibits employers and landlords from retaliating against those who file complaints of discrimination.

THE NEW YORK STATE HUMAN RIGHTS LAW IS SUBSTANTIALLY BROADER THAN THE AMERICANS WITH DISABILITIES ACT

People with disabilities should know that New York State Human Rights Law offers substantially broader protection than its federal counterpart, the Americans with Disabilities Act. In fact, for many New Yorkers who are HIV+ or have AIDS, our Law is the only law that provides protection.

Under the ADA, a disability must substantially impair a major life activity. Under the State Law, a disability needs only to impair a normal bodily function or be detectable by medically accepted tests. Unlike the ADA, New York State also covers most temporary disabilities. As a result, the term “reasonable accommodation” has a more expansive meaning. This increases the degree to which employers must accommodate an employee with HIV or AIDS-related illness. Similarly, the State Law offers heightened protections in other areas, such as housing. For example, a person who is HIV+ or has AIDS, and is diagnosed with the related illness of depression, may have a companion animal at home if deemed medically necessary as a reasonable accommodation for the disability, even if the landlord has a “no pet” policy.

STEPS TO TAKE TO PROTECT YOUR RIGHTS:

In the Workplace...

Before requesting a reasonable accommodation from your employer, it is helpful to have all the medical documentation to substantiate the need for the reasonable accommodation.

Be aware that an employer will not be found to have denied a reasonable accommodation unless you provide notice of the disability and the employer is afforded the opportunity to engage in an interactive dialogue to determine if your request for an accommodation can be granted.

Some examples of possible reasonable accommodations are:

- a modified work schedule,
- reassignment of the non-essential functions of the job,
- acquisition or modification of equipment, and
- provision of an accessible worksite.