

FILING A CHARGE OF EMPLOYMENT DISCRIMINATION

A general definition of employment discrimination is when an employer takes action against an employee because of the employee's race, color, sex, (which includes pregnancy and sexual harassment), national origin, disability, age (over 40), religion, gender identity or sexual orientation.

I. GENERAL INFORMATION

A. You may call the Utah Antidiscrimination & Labor Division (UALD) to ask about filing a charge of employment discrimination. Office hours are 8 a.m. to 5 p.m., Monday through Friday. Due to the many calls received, you may need to leave a voice message. An investigator will return your phone call. Call 530-6801, toll-free in state at 1-800-222-1238, or TDD 801-530-7685. You will be given information that can help you decide if you have grounds to file a charge of employment discrimination.

B. There may be a difference between *unfair treatment* and *illegal discrimination*. Discrimination occurs when an employee is singled out and treated differently than other employees because of that employee's race, color, sex, (which includes pregnancy and sexual harassment), national origin, disability, age (over 40), religion, gender identity or sexual orientation. On the other hand, unfair treatment may apply to all employees and may or may not be illegal. **The UALD will only take complaints of illegal employment discrimination. UALD advises persons who have been treated unfairly, but in a non-discriminatory manner, to seek other possible solutions. You may want to consult an attorney.**

II. THE FILING PROCESS

A. FILING YOUR CHARGE

Your employer must have at least 15 employees (less for certain cases of national origin discrimination). You must file your charge of employment discrimination within 180 days of the alleged discriminatory act. If more than 180 days have passed since the last date of harm, but less than 300 days, your charge will be sent to the Equal Employment Opportunity Commission (EEOC) for its consideration.

Definitions:

1. **Charging Party** – person or employee filing the charge of employment discrimination
2. **Respondent** – employer against whom the charge is being filed.

FILING A CHARGE OF DISCRIMINATION
PAGE 2

B. FILING BY PERSON OR MAIL

1. Contact UALD to obtain filing materials. You will be interviewed to assure that UALD has authority to accept your complaint.
2. Fill out the forms. Be specific.
3. If you do not have an appointment already, you may call UALD and make an appointment with the intake officer, or, if filing by mail, simply mail the completed form to UALD.
4. Meet with the intake officer, and discuss the alleged charge of discrimination. If you decide to file a Charge, you will sign it at this meeting. If filing by mail, the intake officer will type up a charge from the information you provide on the questionnaire. The Charge is sent back to you for your signature. Sign the Charge and have it notarized, (notaries can usually be found in a bank or library) and return the form immediately to UALD.
5. The Charge will be assigned a case number. Within 10 days or less, the Charging Party and Respondent will receive a copy of the complaint by mail.

C. ALTERNATIVE DISPUTE RESOLUTION (ADR)

Within 10 days from the filing of the Charge, a letter will be mailed to the parties informing them of the process, the UALD will follow to resolve the complaint and to schedule a Resolution Conference. The purpose of the Resolution Conference is to bring the parties together, with a facilitator provided by UALD, to facilitate communication between the parties who are in disagreement and see if the differences can be resolved before an investigation. The letter will contain a date for the Resolution Conference. The conference does not preclude the Charging Party or Respondent from a more formal investigation or diminish the rights of either party given to them under the law.

1. Both parties are requested to bring all information that may support their positions. Witnesses may be used and affidavits (written notarized witness statements) can also be presented.
2. All issues that reach resolution and all agreements made during the Conference are legal and binding after the Division Director has signed the agreement. If the Resolution Conference is successful, the case will be closed.
3. If the Parties cannot resolve their issues during the Conference, the case is assigned to an investigator for further processing.

D. THE INVESTIGATIVE PROCESS

1. The Respondent will have an opportunity to review the Charge and submit a response to UALD.
2. The Charging Party will have an opportunity to submit a rebuttal and produce any additional evidence or documentation.
3. The Investigator will determine the next steps in the investigation, which may include additional documentation from either party, interviews with witnesses, examination of evidence, on-site inspections and additional fact finding.

E. RIGHTS AND OBLIGATIONS OF THE INVOLVED PARTIES

1. Each party may make an offer of resolution at any time.
2. The Charging Party may withdraw his or her charge with UALD and request a Right to Sue Letter (issued by the EEOC), which can be used to start court proceedings.
3. Each party can obtain legal counsel or other representation at any time. UALD must have written notice of representation from you before it will communicate with your representative.
4. The parties are obligated to keep UALD informed of their current address and phone number. **UALD may close the case if the Charging Party cannot be located.**
5. The Charging Party and Respondent are asked to cooperate fully with the process.
6. The Respondent will have an opportunity to review the Charge and submit a response to UALD. This can include any documentation or evidence which may support the response.

F. THE DETERMINATION PROCESS

Once the investigation has been completed, a Determination and Order are issued by the Division Director to both the Charging Party and Respondent. The Director will either:

1. **Issue a No Cause Finding.** This means that the UALD has found that there is insufficient evidence to prove that a discriminatory act has occurred. After a No Cause Finding, the Charging Party may request a

hearing within 30 days of the Determination and Order. A formal hearing will take place before an Administrative Law Judge (ALJ). This process takes place outside of the UALD Investigation and Resolution process. If no such request is made, the case is then dismissed. The Charging Party may also request a Notice of Right to Sue, or ask for a Substantial Weight Review from the EEOC within 15 days of the date of the order.

OR

2. **Issue a Cause Finding.** This finding means the UALD has found that a discriminatory act has occurred. After a Cause Finding is issued, UALD will contact the employer to schedule a Conciliation Conference. The purpose of the conference is to discuss the terms of relief for the Charging Party. The employer also has the opportunity to request a formal hearing in front of an ALJ.

REFERRAL AGENCIES

Family Medical Leave Act (FMLA) – U.S. Department of Labor	524-5706
Payment of Overtime – U.S. Department of Labor	524-5706
Lost or Unpaid Wages – UALD Employment Standards Bureau	530-6801
Unemployment – Dept of Workforce Services	526-4400
Legal Referrals	
Utah Bar Lawyer Referral	531-9075
	1-800-662-9054
Legal Aid	328-8849
Utah Legal Services	328-8891
Tuesday Night Bar	531-9077
Legal Center for People with Disabilities	363-1347
COBRA – Federal Pension / Welfare	414-744-6700
Worker’s Compensation	530-6842

Persons needing special accommodations, interpreters, or assistive devices due to a disability should contact the Division three days in advance of their appointment or hearing.