

What is the Maine Human Rights Act?

The Maine Human Rights Act (“MHRA”) is Maine’s anti-discrimination law. It prohibits discrimination on the basis of protected class in employment, housing, places of public accommodation, education, and extension of credit. Protected classes include: race, color, ancestry, national origin, sex, sexual orientation (which includes gender identity and expression), physical or mental disability, religion, age, and other categories in certain contexts. The MHRA also prohibits retaliation for asserting MHRA-protected rights.

Who enforces the MHRA? The Maine Human Rights Commission (the “Commission”), which is a quasi-independent state agency, enforces the MHRA. The Commission’s purpose is “to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of these practices, so that corrective measures may, where possible, be promptly recommended and implemented”. We do this by receiving and investigating complaints of discrimination, attempting to resolve complaints, interpreting the MHRA, providing guidance, and enforcing the MHRA in the public interest. The Commission is a neutral agency, and does not provide assistance or legal advice to any party to a complaint.

How is discrimination proven? There are three general categories of discrimination:

Disparate treatment: This occurs when a person is treated less favorably than others because of their membership in a protected class.

Disparate impact: This occurs when a policy or practice that is neutral on its face operates in a way that adversely impacts members of a protected class.

Hostile environment: This usually does not involve a single discriminatory action, but rather a pattern that is abusive and is based on protected class. It is often referred to as harassment. To be unlawful under the MHRA, the conduct must be severe or pervasive to the point that the environment is abusive, and be both subjectively and objectively offensive.

In addition, it is unlawful to retaliate against someone for opposing a violation of the MHRA, participating in the Commission process, or asserting their rights under the MHRA.

Which protected classes are covered in which areas? The classes protected in each area of jurisdiction vary:

Employment: race, color, national origin, ancestry, age religion, physical or mental disability, sex, sexual orientation, genetic predisposition, protected activity under the Maine Whistleblowers’ Protection Act, and filing a prior claim under the Workers’ Compensation Act.

Housing: Race, color, national origin, ancestry, sex, sexual orientation, physical or mental disability, religion, familial status, and receipt of public assistance.

Public accommodations: Race, color, national origin, ancestry, sex, sexual orientation, physical or mental disability, and religion. In most lodging, having children is also protected.

Education: Race, national origin, sex, sexual orientation, and physical or mental disability.

Extension of credit: Sex, sexual orientation, age, race, color, ancestry, national origin, religion, and marital status.

How is the process started? Parties who believe they’ve been discriminated against start the process by filling out our intake form online, or calling us to request a form. The online form can be found here: <https://mainehumanrightscommission.formstack.com/forms/intake>.

Please note that the MHRA requires all complaints to be filed within 300 days of the date of discrimination.

The intake form is not a complaint. An intake officer will screen the information, and if it meets the minimum requirements to state a claim, they will draft a formal complaint. The complaint will be sent to the complainant by mail, who will need to make sure it is accurate, sign it in front of a notary public, and return it to us.

Complainants can also skip the intake process and file a signed and notarized complaint themselves.

What happens after a complaint is filed?

Once we receive the complaint, we will notify the parties named as Respondents and ask them for information.

Complainant will receive that information and have a chance to respond. After this initial exchange of documents is completed, the case goes to “review”. The submissions are examined to make sure that Complainant stated a claim covered by the MHRA and provided at least some information to substantiate it. The parties may also be offered the chance to meet with a neutral third-party mediator to attempt to settle the dispute.

The file is next assigned to an investigator. The investigator will conduct whatever preliminary investigation they feel is needed in order to determine whether there are reasonable grounds to believe discrimination occurred. The “reasonable grounds” standard means the Complainant has at least an even chance of prevailing in a civil lawsuit. The investigator might request additional information in writing, conduct interviews, or hold a conference, and will facilitate opportunities for settlement. Ultimately, the investigator will write a report of the case and make a recommendation to the Commissioners as to whether reasonable grounds exist for each claim made.

In general, the Commission has two years from the date the complaint is filed to conclude its investigation. In housing discrimination cases, the Commission is required to complete its investigation within 100 days whenever possible.

The report is sent to the parties, who may file written objections to the recommended findings. If they do, they may appear before the Commission to argue their case; if they do not, the case is considered without argument.

The Commission meets monthly to consider the cases before it, and votes to find whether or not reasonable grounds exist. If it does not, the case is dismissed. If reasonable grounds do exist, the Commission will attempt to conciliate (resolve) the case by agreement. However, the Commission’s finding does not result in any relief being awarded, and the Complainant may file suit regardless of the Commission’s finding.

In reasonable grounds cases, the Commission becomes a party, and has the authority to file a lawsuit in the public interest. The Commission must file suit in most housing discrimination claims that are not resolved in the conciliation process.

The Commission’s process is described more fully in our procedural rule: <http://www.maine.gov/sos/cec/rules/90/94/348/348c002.doc>.

THE MAINE HUMAN RIGHTS ACT: COVERAGE AND ENFORCEMENT



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