

How to File a Charge with the HRC

By Sam Abel-Palmer

Vermont law prohibits discrimination based on sexual orientation – as well as other categories that include housing, public accommodations, and employment. That means you can't be denied a service by a store or restaurant, refused a rental opportunity, fired from a job, harassed in a school, by a landlord or by an employer because of your sexual orientation, actual or perceived.

If you feel that you have experienced discrimination and want to do something about it, you have several options. You can hire an attorney and file a lawsuit. You can approach an advocacy group, such as the ACLU or Vermont Tenant's Association. Or you can ask the Vermont Human Rights Commission to investigate.

The Human Rights Commission investigates charges of discrimination in housing, public accommodations, and state government employment. (The Civil Rights division of the Attorney General's office handles charges of employment discrimination involving private employers.) We investigate charges of unlawful discrimination based on sexual orientation, race, color, national origin, sex, religion, disability, and several other categories. We work, whenever possible, to facilitate a settlement between conflicting parties. When settlement is not possible, we determine, based on available evidence, whether or not there are reasonable grounds to believe that illegal discrimination occurred. Here's how the process works.

Filing a Charge

If you feel that someone has discriminated against you, call the Human Rights Commission at 802-828-2480 or toll free in-state at 800-416-2010. A member of the staff will ask you to describe what happened and why you feel that the event was motivated by your sexual orientation (or other protected status). For example, you might state that you had a verbal agreement with a landlord to rent an apartment; when the landlord found out you were living with someone of the same sex, he suddenly told you that the apartment was no longer available but then rented the apartment to a straight couple the next week.

The HRC staff will then determine whether your complaint states a "Prima Facie Case"; in other words, whether it presents basic evidence of illegal discrimination. If it does, you will work with the HRC's Case Manager to draft a

formal charge that you must then sign in front of a notary. At that point, you have officially filed a charge of discrimination, and you become the Charging Party.

The charge is then sent to the person you accuse of discrimination, now called the Responding Party. The Responding Party is then asked to file a written response to the charge. When the Commission receives the response, the Case Manager will usually ask some follow-up questions in order to get more background information. The case is then assigned to an investigator.

You don't need to hire an attorney to file a charge with the HRC. We will, however, be happy to work with an attorney or any other advocate or representative that you choose.

Investigation

An investigator from the HRC staff will contact you to set up an interview to discuss the details of the case. The investigator will ask for copies of any relevant documents and for the names of witnesses. The investigator will then interview the Responding Party and the witnesses.

When all information about the case has been gathered, the investigator writes a report. The report summarizes the facts of the case and analyzes the available evidence to determine whether it meets the standards of illegal discrimination as defined by the courts. If the HRC staff determines that the evidence is sufficient, the report will recommend that the Commission find that there are reasonable grounds to believe that illegal discrimination occurred. If the evidence is insufficient, the report will recommend that the Commission find that there are no reasonable grounds.

The completed report then goes to both parties who have a chance to respond to it in writing and to comment on anything they feel is wrong or was omitted.

The Charging Party has the "burden of proof." In other words, in order for you to prevail, the investigator must uncover enough evidence to support your claim. If it's your word against someone else's, or if the Responding Party can show they had a legitimate non-discriminatory reason for their behavior, the investigator may have to conclude that there is insufficient evidence to find reasonable grounds to believe that discrimination took place.

During the investigation the HRC will not release information about the case to anyone other than the parties involved. Both the Charging Party and

the Responding Party have the right to view the contents of an investigative file during the investigation. In some situations, witnesses' names can be kept confidential.

Mediation and Settlement

The HRC encourages opposing parties to engage in mediation to resolve their disputes. If both the Charging Party and the Responding Party agree to participate in mediation, the HRC will provide an independent professional mediator at no charge to either party. If mediation succeeds, the HRC will draw up a settlement agreement and both parties will sign it. The HRC then monitors the agreement to make sure its terms are completed successfully. If mediation fails, the HRC resumes its investigation.

Even without a mediator, either party may make a settlement offer at any time in the process. The HRC will facilitate settlement negotiations between the parties. As with mediation, if the parties come to a settlement agreement before the investigation ends, the HRC will draft a settlement agreement and monitor compliance.

Resolution

If the parties don't settle before the investigation is completed, the investigative report goes to the five Commissioners, who are appointed by the governor. The Commissioners meet once a month to review cases. Before the meeting, the Commissioners read the report and the written responses from both sides. When the Commission meets, both parties have a chance to appear in person or by telephone at the meeting. The Commissioners ask questions of both parties and then meet in Executive Session to make a final determination, either that there are or are not reasonable grounds to believe that illegal discrimination occurred.

If the Commission finds "No Reasonable Grounds," the case is closed and the file remains confidential. If the Commission finds "Reasonable Grounds," then the Final Determination becomes a public document. The Commission will then attempt to facilitate a settlement between the parties. If no settlement is reached, the Commissioners may then decide to file a lawsuit in the case.

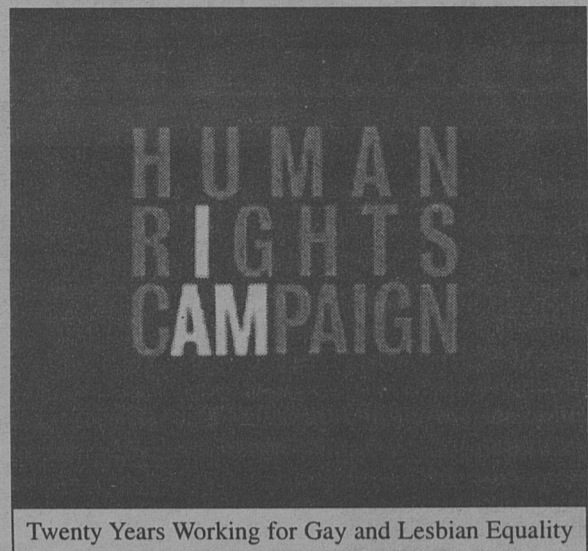
Please take note that the Human Rights Commission is not a victim's advocate group. We normally can't step in to stop discrimination as it is

occurring. The Commission does not represent either side in the dispute; our job is to conduct an impartial investigation, and to determine whether illegal discrimination actually happened or not. If the Commission finds that illegal discrimination did happen, then we will represent you in settlement negotiations with the Responding Party and, if that fails, we may seek damages against the Responding Party in a lawsuit.

Vermont has very strong civil rights laws, but the laws only work when they are enforced. Unlike criminal law, nobody is out patrolling the

streets to enforce anti-discrimination laws. The Human Rights Commission relies on reports of violations from people who are affected by discrimination. Help us to protect your legally guaranteed rights.

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Here are some things to keep in mind:

Leave a paper trail.

When you're dealing with the Responding Party or witnesses, keep copies of all letters you send and receive. If you talk to someone about a discriminatory incident, send a follow-up letter and keep a copy. Print copies of e-mails you send and receive. If you speak to someone on the phone, jot down some notes about the conversation when it is finished. And put a date on everything. Even things that might seem unimportant may turn out to be evidence of discrimination later on.

Get witnesses.

In many cases the Commission has to find "No Reasonable Grounds" in a case, not because the discrimination didn't happen, but for lack of evidence. It's especially hard if a case comes down to one person's word against another. A store owner may tell you, "I won't sell to queers." But if no one other than you hears the comment, and he denies that he said it (and he probably will), it will be very hard to prove your case. If someone else witnessed the discriminatory statement, you will be on more solid ground.

Keep a record of events.

If you are involved in a case of on-going discrimination, keep a journal where you record the discriminatory events, when they happened, who said what to whom, and other relevant information. A single unpleasant comment may not constitute illegal discrimination, but a pattern of such comments may.