



CITY OF IOWA CITY MEMORANDUM

Date: November 17, 2017

To: Iowa City Business Owners, Landlords and Property Managers

From: Kristin Watson, Human Rights Investigator

Re: What To Do If A Complaint Is Filed Against Your Business

When you operate a business, you have both employees and patrons. Either may be the source of a discrimination complaint. The Iowa City Office of Equity and Human Rights (the Human Rights Office) is a neutral administrative agency that enforces Title 2 of the City Code (the Human Rights Ordinance). Under the Human Rights Ordinance, a person claiming to have been discriminated against in the areas of employment, public accommodation, credit, education, or housing may file a complaint with the office based upon age, color, creed, disability, gender identity, marital status, national origin, race, religion, sex or sexual orientation. The office does not represent or advocate for complainants or respondents. Our role is to conduct an impartial investigation.

What should you do if someone files a complaint against your business?

Don't panic.

Once a verified complaint has been received, this office must serve the complaint upon the respondent,¹ but that does not mean the respondent has unlawfully discriminated against the complainant. It is only the first step in the process.

Do participate.

The worst thing a business can do is ignore the complaint. A notification letter will be sent, along with a copy of the complaint and a questionnaire. If a business fails to respond to the questionnaire, the office can subpoena a response. If circumstances prevent responding within the deadline, contact the office. Depending on the situation, you may be granted an extension of time to answer. The questionnaire is your chance to tell your side of the story. A complaint will be closed when a response clearly shows it does not warrant further investigation.

Do submit a complete response.

Responses must be typed or neatly written and must include the signature of the person providing the information. A response should include copies of all relevant documents. The Iowa Administrative Code requires that you keep all documents until the investigation is complete, so do not destroy anything related to the complaint or the complainant including any audio or video recordings. It is best to submit one complete response, but if additional relevant information is discovered, do send it even if the response date has passed.

Do consider participating in mediation.

We offer mediation services at no cost to the participants. Mediation is free, quick, and confidential. The purpose of mediation is to find a resolution satisfactory to both parties. Mediation can help the parties understand each side's perspective and possibly repair an ongoing relationship.

Mediators are neutral third parties who have no interest in the outcome. Information given to the mediator cannot be used in the investigation if mediation is not successful. If mediation is

¹This assumes the complaint meets basic jurisdictional requirements. For example, the alleged discriminatory act must have occurred within the past 300 days. Complaints that do not meet these requirements are not served.

successful, there is no further investigation. Settlement agreements secured during mediation are not admissions of guilt.

Don't retaliate.

If an employee, patron, or tenant makes a complaint, do not treat them any differently than before they did so. A retaliation claim may, in some instances, be easy to prove. A complainant's original discrimination complaint may fail, while their retaliation complaint may be successful. Note that this does not mean you must accept behavior you would not accept had there not been a complaint. A complaining employee may still, for example, be disciplined. Be sure, however, that you are treating them in the same way that you treat other employees who have not made a complaint, and that you can document that fact to avoid accusations of "papering their file." Similarly, a complaining tenant may still be evicted or charged fees, but you must be able to show you are not treating them any differently than other tenants who have engaged in the same behavior.

Do educate yourself about the process.

Title 2 of the City Code is available here:

http://www.sterlingcodifiers.com/codebook/index.php?book_id=953.

You may also call the office at 319-356-5015 or 319-356-5022 with any questions.

Do take steps to avoid discrimination claims from your employees.

Attorney Donna M. Ballman suggests the following to avoid employee claims. For more details, visit her website at www.ballmanlawfirm.com/top-ten-ways-to-avoid-discrimination-claims.html.

- Document: keep notes, make memos to files, memorialize verbal warnings in writing, put all disciplinary decisions and terminations in writing.
- Have a witness: for any disciplinary action or difficult conversation with an employee, have a witness sit in. Be sure it is someone who will keep their knowledge confidential unless it is needed.
- Investigate any internal discrimination claims thoroughly.
- Never announce companywide that a discrimination claim has been made. If the claim is not upheld, the accused person could bring a defamation claim.
- Have written discrimination, sexual harassment, and grievance policies. Policies should designate a person to whom employees may complain, together with alternates (in case there is a complaint against the person designated).
- Have written disciplinary/termination policies. Include an appeals process if possible, but be sure to follow it in all cases if it is included.
- Train all interviewers and personnel managers. Be sure they are kept up to date on changes in laws such as the Americans with Disabilities Act. (The Human Rights Office offers free trainings on a variety of topics upon request.)
- Regularly review your policies to make sure they are current.
- Don't lie to allow someone to get unemployment compensation. The false reason for termination that you put in writing will be used against you.
- Include arbitration and mediation clauses in contracts and severance agreements.

The City of Iowa City Office of Equity and Human Rights has been providing memos to businesses on areas of discrimination since August of 2016. Please send topics you would like to receive guidance on in the future, or inquiries regarding discrimination issues, to humanrights@iowa-city.org.