

EEOC Charges Demystified: What To Expect When Investigators Come Knocking

by Gary S. Young on June 27, 2012

Receiving a complaint letter from the Equal Employment Opportunity Commission (EEOC) can be unsettling, even when you believe such claim to be baseless. As New York and New Jersey employment attorneys, we want to alleviate some of the uncertainty by providing a brief overview of the EEOC complaint process.

When a charge is filed against you under federal law, the EEOC is the federal governmental agency charged with administrative responsibility for discrimination claims, and it must notify you within ten days of the filing. A charge does not constitute a finding that your company engaged in discrimination. Rather, the EEOC is obligated to investigate and determine whether there is a reasonable cause to believe discrimination occurred. Please note that each state has similar discrimination laws and each state maintains similar administrative agencies to process discrimination claims. Procedure under state law may vary from federal procedures, however.

During the EEOC investigation, you and the employee (Charging Party) will be asked to provide information. The investigator assigned to your case will evaluate the information submitted to determine whether unlawful discrimination has taken place. During the course of the investigation, you may be asked to:

- Submit a statement of position. This is your opportunity to tell your side of the story and you should take advantage of it.
- Respond to a Request for Information (RFI). The RFI may ask you to submit copies of personnel policies, Charging Party's personnel files, the personnel files of other individuals and other relevant information.
- Permit an on-site visit. In some cases, an on-site visit may be an alternative to a RFI if requested documents are made available for viewing or photocopying.
- Provide contact information for or have employees available for witness interviews. You may be present during interviews with management personnel, but an investigator is allowed to conduct interviews of non-management level employees without your presence or permission.

On average, EEOC investigations take 182 days. Once the investigator has completed the investigation, the EEOC will make a determination on the merits of the charge.

If EEOC determines that there is no reasonable cause to believe that discrimination occurred, the charging party will be issued a letter called a Dismissal and Notice of Rights. It informs the Charging Party s/he has the right to file a lawsuit in federal court within 90 days from the date of receipt of the letter. The employer will also receive a copy of this document.

If EEOC determines there is reasonable cause to believe discrimination has occurred, both parties will be issued a Letter of Determination stating that there is reason to believe that discrimination occurred and inviting the parties to join the agency in seeking to resolve the charge, through an informal process known as conciliation.

Where conciliation fails, EEOC is authorized to file a lawsuit in federal court. If the EEOC decides not to litigate, the Charging Party will then receive a Notice of Right to Sue and may file a lawsuit in federal court within 90 days. As noted above, a claim under state law can produce significant procedural differences. Unlike federal statutes (such as Title VII and the Age Discrimination in Employment Act), in New Jersey, an employee need not file an administrative claim with the Division on Civil Rights or the Equal Employment Opportunity Commission. Instead, the employee is permitted to file a complaint directly with the Superior Court. For this reason, many plaintiff attorneys will sue under state law to avoid the delays imposed under federal procedure.

While this post provides a brief overview of the EEOC claims process, it is imperative to contact an experienced New York or New Jersey employment attorney as soon as you are contacted by the EEOC. In many cases, we can help speed up the dismissal of the charges or resolve the charge through settlement or mediation.