

Discrimination Against People Living With HIV or AIDS

Is it against the law to discriminate against me because I have HIV or AIDS?

Yes, in Westchester County it is against the law to treat you unfairly or harass you because:

- you are living with HIV or AIDS, or
- someone thinks you are living with HIV or AIDS, or
- you are homosexual or someone thinks you are homosexual. Some people living with HIV or AIDS are also discriminated against because they are homosexual or thought to be homosexual. Also, homosexuals and people thought to be homosexual may be discriminated against because it is assumed they have HIV or AIDS. This type of discrimination is also against the law.

It is against the law to discriminate against someone with HIV or AIDS in the following places or circumstances:

Employment:

“Employment” includes not only a direct employer, but also an employment agency or labor union. It pertains to the time you first apply for a job, the time you are actually employed, and the time after you leave a job. As long as you can do the job safely and effectively, then it is unlawful for your employer, employment agency, or labor union to discriminate against you. These individuals and entities also have a legal duty to provide you with “reasonable accommodation,” i.e., special facilities or services you need to help you do your job, provided that it will not cause them “unjustifiable hardship.” If you want more information as to what “reasonable accommodation” or “unjustifiable hardship” mean, please contact the Westchester County Human Rights Commission.

Places of Public Accommodation:

This includes places you go to in order to purchase goods and services and also organizations, clubs or other recreation in which you want to participate whether or not the organization, club or recreation has a specific place or headquarters. For example, “public accommodations” includes your patronage of shops, bars, restaurants, places of entertainment or banks; your solicitation of legal, medical or governmental services; your membership or participation in athletic teams or events and civic or social organizations; and your rental or use of a room in a hotel, motel, inn or resort.

Housing:

This pertains to your purchase, attempt to purchase, rental or attempt to rent real estate. Thus, a landlord, realtor or seller may not unlawfully discriminate against you when you try to purchase or rent a condominium, house, commercial property or public assisted housing.

Direct or indirect discrimination based on HIV or AIDS is also against the law in the context of employment, public accommodation, and real property.

It is also against the law if, in the circumstances of employment, public accommodation, and real property described above, an individual publicly suggests or condones unlawful discrimination against you or others:

- because you are living with HIV or AIDS, or
- because someone thinks you are living with HIV or AIDS.

This means that the following examples could be against the law:

- for any person to retaliate against you because you have complained about unlawful discrimination, filed a complaint, or appeared as a witness on another’s behalf in a case which alleges unlawful discrimination.

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- for any person to aid, incite or compel another to unlawfully discriminate against you because of HIV or AIDS.
- for the owner, manager or employee of a public accommodation to publish, mail, or post advertisements, circulars or signs which indicate that the accommodations, advantages, privileges or facilities are denied to those persons within this group.
- for a landlord, seller or rent estate broker of real estate to print, publish, or mail any literature or application which excludes or otherwise discriminates against persons with HIV or AIDS.

What can I do if I am treated unfairly or harassed because I am living with HIV or AIDS?

If this happens to you and you cannot sort it out yourself, please contact the Westchester County Human Rights Commission.

You can ask a friend or adviser to help you file a complaint with the Commission. You can also ask an organization representing people living with HIV or AIDS to make the complaint on your behalf.

The Commission has the legal power to investigate your complaint and if it appears to be against the law, to try to conciliate it. Conciliation means helping you and the person or organization you are complaining about to reach a private settlement where you both agree. The settlement will depend on the circumstances of your case. It could be that the person or organization, which discriminated against you, will agree to pay you financial compensation, reinstate you to your job, or agree to teach a program on HIV/AIDS awareness to ensure that persons living with HIV or AIDS are not discriminated against in the future.

Alternatively, if you do not want the Commission to handle your complaint you may file a lawsuit in state court or with the Federal Equal Employment Opportunity Commission if you have been discriminated against in employment.

The Commissions services are free. The Commission processes your complaint as quickly as it can and with as little stress on you as possible. It is up to you as to how far you want the Commission to go with your complaint.

Remember, it is also against the law for anyone to take any action against you because you have complained.

Any complaint of discrimination or unlawful treatment must have occurred and be filed within one (1) year of the alleged act.

CONTACT INFORMATION:

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