

# Filing a complaint for housing discrimination

If you want to file a complaint about housing discrimination, with the state of Wisconsin or with the federal government, you must do it within one year of the most recent discriminatory act or one year of the date you became aware of the discrimination.

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Last updated on January 15, 2025.

To file a complaint with the Wisconsin Equal Rights Division (ERD) of the Department of Workforce Development (DWD) under Wisconsin's Open Housing Law:

1. You can complete [this complaint form](#) and mail it to one of the Equal Rights Division offices. Their address is on the form. You can also submit a [housing discrimination complaint online](#). To do this, you'll need to make a DWD ID. This means you'll have to set up a username and password.
2. When the ERD receives your complaint, they will send a letter to the landlord requesting a written response to the complaint in writing by a certain date. The letter also says that the landlord does not need to file a written response to the complaint if they are interested in participating in mediation.
  - a. If the landlord tells ERD that they are willing to participate in mediation, the ERD will check with you to see if you are also interested in mediation.
    - i. If both sides are interested in mediation, the case is assigned to an Administrative Law Judge (ALJ)/Mediator, rather than being assigned for investigation. The role of the ALJ/Mediator is to help you and the landlord communicate with each other in order to reach a settlement that you can both agree to.
      - A. If both sides reach an agreement, they can write a settlement agreement themselves or ask the ALJ/Mediator to help them. Once both sides agree to settle the case, the ALJ/Mediator will

ask you to sign a form to withdraw the complaint.

B. If the mediation doesn't work at this point, the ALJ/Mediator sends the case back to the Equal Rights Officer (ERO) to investigate the complaint. The landlord will then have to write a statement explaining their side of the story in response to your complaint.

I. Even if they do not settle during this early mediation attempt, both sides are still free to try mediation again at a later point in the process.

II. If mediation is unsuccessful, the ALJ/Mediator who handled the mediation will not be involved in the subsequent hearing of the case.

ii. If you are not interested in mediation, your case will be investigated.

b. If the landlord is not willing to participate in mediation, they must send in their written response to your claims by the deadline in the letter, and the ERD will begin an investigation.

3. The ERD will investigate your complaint, then reach out and let you know the next steps. There are a couple of ways the ERD could handle your complaint:
- a. The ERD may determine that there is probable cause (reasonable basis) to believe that discrimination has taken place and issue a charge of discrimination.
    - i. Either you or the landlord can then decide to bring the charge to circuit court to be decided on by a judge.
    - ii. If neither you or the landlord decide to take the issue to court, the complaint will be decided at hearing before an Administrative Law Judge of the Equal Rights Department.

**Note:** A court can award a type of remedy to the person complaining of discrimination - punitive damages, i.e., damages intended to punish and deter discrimination - that an administrative law judge cannot.

b. The ERD might decide that there isn't enough evidence to prove that discrimination happened, and they will dismiss the case. If you disagree with this decision, you have 20 days to file an appeal.

**If you are able to prove that you were a victim of discrimination, a judge may determine for you to receive one or more of the following:**

- Out of pocket losses and interest
- Attorney fees and costs
- Compensatory damages for losses or injury
- Injunctive relief, such as an order not to discriminate
- Fines
- Other Remedies (e.g. staff training)
- Punitive damages (if filed in circuit court)

Can this process stop my eviction?

Once a case is filed, the ERD may ask a court to stop the eviction process while it investigates, but it can't do this in every case. Tenants facing eviction should let the ERD know, but they might also want to explore other legal options if eviction is a possibility.

Can I file a complaint against my neighbor?

Generally, the Wisconsin Open Housing Law does not cover discrimination or harassment by neighbors or roommates.

Can a Fair Housing Council Help?

Yes, if a Fair Housing Council serves your area it can help you understand your rights under the law and outline a variety of ways to pursue a complaint. Fair Housing Councils can also investigate by using "testing." This method checks how different home seekers are treated to see if there's unfair treatment. The results from testing can later be used as evidence in court or other legal actions. A Fair Housing Council may also be able to refer you to an attorney experienced in fair housing matters.

The Fair Housing Center in Wisconsin serves the following counties: Brown, Calumet, Dane, Milwaukee, Outagamie, Ozaukee, Washington, Waukesha, and Winnebago. To find the office nearest you, contact the Metropolitan Milwaukee Fair Housing Council at (414) 278-1240 or go to [their website](#).

What are the advantages of going through mediation?

**Cheaper.** An ALJ/Mediator will meet with both sides to try to assist them to resolve the dispute before there has been any investigation or hearing. At this stage, neither side has paid any of the costs that come with the investigation and hearing process.

**Preserve relationships.** If both sides have an ongoing relationship, an ALJ/Mediator can often help them find a solution that will maintain their working relationship. During the mediation, both sides generally meet face to face in a neutral setting where they can be free to discuss their dispute openly.

**Explanations of laws and remedies.** An ALJ/Mediator can explain the law to those who are unrepresented and can explain the difficulties involved in the litigation process. An ALJ/Mediator can explain the range of possible solutions. This is helpful if the person raising the complaint has unrealistic expectations about what they might get if discrimination is found, or if the landlord doesn't know all the possible solutions that could be offered.

**Flexible solutions.** Mediations allow those involved to determine for themselves how they want to resolve their dispute. They might agree on different types of solutions than what the complainant would get if they won at a hearing. Successful. The ERD ALJ/Mediators are able to assist people to settle approximately two-thirds of the cases where a mediation session is held.

**Privacy.** The settlement agreement can often be written to preserve confidentiality and protect the privacy of each side. Other than the complaint itself, there will be no public record of the case. On the other hand, if the case goes to a hearing, the case file and the hearing itself are usually open to the public.

**Preparation.** Even if a mediation is not successful, it may lay the groundwork for those involved to begin thinking about a settlement to which they might agree later in the process.

To file a complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO) under the federal Fair Housing Act:

- Report [online](#).

- Complete [this complaint form](#) and mail it to:

Chicago Regional Office of FHEO  
U.S. Department of Housing and Urban Development  
Ralph H. Metcalfe Federal Building  
77 W. Jackson Boulevard Suite 2202  
Chicago, IL 60604

On the [FHEO website](#), you can find this form available in seven languages in addition to English.

- Report the discrimination over the phone by calling an FHEO intake specialist at 1-800-669-9777. You can also call the regional FHEO office, located in Chicago, at: (312) 913-8453 or (800) 765-9372.

Here's an overview of the rest of the process:

1. **Intake.** When an individual reports possible discrimination, FHEO checks whether a formal complaint can be filed under one of the laws they enforce.
  - a. FHEO may interview you.
  - b. Where appropriate, FHEO will draft a formal complaint, have you review and sign the complaint, and notify the parties that a complaint has been filed.
  - c. FHEO may refer the complaint to a state or local government agency for investigation.
2. **Investigation.** After a formal complaint is filed, FHEO investigates the claims made in the complaint.
  - a. HUD will assign one or more investigators.
  - b. The investigator may ask you to provide more information. Generally, it will be helpful if you are prepared to provide:
    - i. A timeline of events, starting with the first contact you had with the person or entity you believe violated your rights;
    - ii. The locations of events;
    - iii. Any people who were present when events occurred;
    - iv. Any other people who might have information related to your complaint; and

- v. Any relevant documents.
  - c. HUD will provide the landlord notice and an opportunity to respond to the complaint.
  - d. HUD may gather evidence in many ways, including interviewing both sides and witnesses, getting documents, and inspecting properties.
  - e. After completing the investigation, FHEO will send you a written report of its findings.
3. **Conciliation or Voluntary Compliance.** At any time, both sides can resolve the complaint under terms that are satisfactory to the parties and HUD.
- a. Throughout the investigation, HUD will try to help those involved resolve the complaint through an agreement. Any agreement is voluntary; no side is required to accept an offer.
  - b. If both sides agree, HUD will prepare an agreement for signature.
  - c. Following a signed agreement, HUD will close the investigation and monitor compliance with the agreement.
4. **Legal Action.** Where appropriate, HUD will take actions to enforce the law.
- a. The government may bring a Fair Housing Act or other civil rights case based on the findings of a HUD investigation. In such cases, the government may ask for compensation for victims, changes to policies and procedures, and staff training.
  - b. When the government brings a legal action, it does not charge any fees or costs to individuals who are alleging discrimination.

What happens after an investigation of a complaint of housing discrimination?

When your complaint's investigation is complete, HUD will issue a determination as to whether or not 'reasonable cause' exists to believe discrimination occurred.

1. If HUD determines that there is reasonable cause to believe that discrimination occurred, HUD will issue a Determination of Reasonable Cause and a Charge of Discrimination. You and the landlord each have 20 days after receiving notice of the Charge to decide whether to have the case tried before a Federal District Court judge. If neither of you does so, the case is heard by a HUD Administrative Law Judge (ALJ).
2. If HUD finds that there is no reasonable cause to believe that discrimination occurred, HUD will dismiss your complaint with a Determination of No

Reasonable Cause. HUD will notify both sides of the dismissal, and you may request a copy of the Final Investigative Report. The Fair Housing Act does not provide a formal appeal process for complaints dismissed by HUD. However, if your complaint is dismissed with a Determination of No Reasonable Cause, you may submit a written request for a reconsideration review to:

Director, FHEO Office of Enforcement  
U.S. Department of Housing and Urban Development  
451 7th Street, SW, Room 5226  
Washington, DC 20410-2000

What happens at an Administrative Law Judge Hearing?

If neither side chooses to have a federal civil trial before the 20-day Election Period ends, HUD will promptly schedule a hearing for your case before an ALJ. The ALJ hearing will take place in or near the area where the discrimination is said to have happened. During the ALJ hearing, both sides have the right to appear in person, to be represented by legal counsel, to present evidence, to cross-examine witnesses and to conduct discovery of evidence. HUD attorneys will be assigned to represent you during the ALJ hearing at no cost to you; however, you may also choose to intervene in the case and retain your own attorney. At the end of the hearing, the ALJ will issue a decision.

What happens at a trial in Federal Court?

If any side elects to have a federal civil trial, HUD must refer your case to the U.S. Department of Justice for enforcement. The U.S. Department of Justice will file a civil lawsuit on your behalf in the U.S. District Court in the district in which the discrimination is said to have occurred. You also may choose to intervene in the case and retain your own attorney. Either side may request a jury trial, and both sides have the right to appear in person, to be represented by legal counsel, to present evidence, to cross-examine witnesses, and to participate in the discovery of evidence.

What happens if the ALJ, Judge, or jury decides I was discriminated against?

If the ALJ concludes a violation of the Fair Housing Act occurred, the following relief can be ordered:

- Compensation for your actual damages, including out-of-pocket expenses and emotional distress damages.
- Permanent injunctive relief, such as an order not to discriminate.
- Appropriate equitable relief, such as making housing available to you.
- Payment of reasonable attorney's fees if you hired a private attorney.
- Payment of a civil penalty to vindicate the public interest.

If the Federal Court decides in your favor, a Judge or jury may order the following relief:

- Compensation for actual damages, including out-of-pocket expenses and emotional distress damages.
- Permanent injunctive relief, such as an order not to discriminate.
- Appropriate equitable relief, such as making housing available to you.
- Payment of reasonable attorney's fees if you hired a private attorney.
- Payment of a civil penalty to vindicate the public interest.
- *Payment of punitive damages.*

The first five remedies are available in both kinds of cases. Any civil penalty awarded would not go to you directly, whereas the punitive damages that a judge or jury can order in a civil case would go directly to you as part of your award.

Can I file a private lawsuit instead of or in addition to filing with HUD?

You can file a private lawsuit in court instead of filing a complaint with HUD, or even if you've already complained to HUD. Under the federal Fair Housing Act, you must file your lawsuit within two years of when the discrimination happened. If you filed with HUD, the time they spent handling your complaint doesn't count in the two-year limit. You have to pay for your lawsuit if you're bringing it privately, including providing your own lawyer. You might not be able to sue in federal court if you (1) agreed to fix things with HUD already, or (2) an Administrative Law Judge has started a hearing for your complaint.

Can this process stop my eviction?



If you could lose the home due to discrimination, HUD may be able to assist you during the investigation. Inform your HUD investigator as soon as possible if you believe you may lose your home due to unlawful discrimination.

There are advantages and disadvantages to filing under the federal Fair Housing Act and the state Open Housing Law. Here are some differences to consider:

**Coverage.** Wisconsin's classes of protected persons are more extensive than those covered in the federal Fair Housing Act. Wisconsin considers ancestry, marital status, age, sexual orientation, status as a victim of domestic abuse, sexual assault, or stalking, and lawful source of income as protected classes. The federal Fair Housing Act does not recognize these as protected classes.

**Categories of Housing.** Under federal law, single-family housing sold or rented by its owner, and owner-occupied housing of four or less units, are exempt from the provisions of the Fair Housing Act (with some exceptions, particularly concerning advertising). Wisconsin's law specifically includes single-family housing.

**Representation.** If HUD finds reasonable cause to believe discrimination has occurred, HUD attorneys will litigate the case on your behalf in the administrative hearing. If one of the sides chooses instead to go to federal court after a finding of reasonable cause, the U.S. Attorney General will file a suit in federal district court and litigate it on your behalf. Generally, the Wisconsin Equal Rights Division will not provide you with an attorney if you choose to go to a hearing or circuit court after a finding of probable cause. However, in certain cases the Attorney General may choose to represent you in either a hearing or in circuit court after a finding of probable cause.

**Civil Action Timing.** Under state law, you have one year after the discrimination to start a private civil case. Under the federal Fair Housing Act, you have two years after the discrimination to start a private civil case.

**Level of proof.** Unlike HUD at the federal level, which need only find reasonable cause to believe that discrimination occurred, the Equal Rights Division must find probable cause to believe that discrimination occurred before it can issue a charge on behalf of the complainant. Probable cause is a slightly harder standard of proof for the person bringing the case than reasonable cause is.

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