

Unfair Immigration-Related Employment Practices Complaint Form

FORM INSTRUCTIONS

Please read all of the directions carefully. **Before you file a complaint with our office, you must have first:**

- 1) Filed a charge with the Immigrant and Employee Rights Section (IER) of the Department of Justice, **and**
- 2) Received a letter from IER telling you that you may now file your own complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). Please note that your complaint must be filed with OCAHO within ninety (90) days of receiving the letter from IER.

If you need more space to respond to a question, you may attach additional sheets. Please indicate clearly which question(s) you are responding to on any additional sheets, and number each additional sheet.

If you complete this form by hand, please write using only blue or black ink.

When you have completed the complaint, please return it, and the required documents below, to:

United States Department of Justice
Executive Office for Immigration Review
Office of the Chief Administrative Hearing Officer
5107 Leesburg Pike, Suite 2500
Falls Church, VA 22041

CONTACT INFORMATION

If you have any questions about this form, call OCAHO at 703-305-0864 (Mon.-Fri. 7:00am-4:00pm).

If you need to contact IER, call the IER Worker Hotline at 1-800-255-7688 (toll free) or 1-800-237-2515 (TDD device for the hearing impaired), or write to:

U.S. Department of Justice
Civil Rights Division
Immigrant and Employee Rights Section
950 Pennsylvania Avenue, N.W.
IER, NYA 9000
Washington, DC 20530

For questions about Title VII of the Civil Rights Act of 1964, please contact the Equal Employment Opportunity Commission by calling 1-800-669-4000 (toll free) or 1-800-669-6820 (TDD device for the hearing impaired).

REQUIRED DOCUMENTS (You *must* include the following in the packet you mail to OCAHO):

- 1) **Original** complaint and **four** additional copies of your completed complaint, **each** with an **original** signature; *and*
- 2) **Five** copies of the charge document (and five copies of any attachments to the charge) you filed with IER; *and*
- 3) **Five** copies of the letter you received from IER telling you that you may now file your own complaint with OCAHO.

Except for the original complaint, you should not send the originals of any other documents or attachments to OCAHO. A copy of the complaint and copies of all attachments will be sent by OCAHO to the Respondent Business/Employer once the complaint has been filed.

You should label all attachments to your complaint form and include page numbers on each page of those attachments.

NOTE: Use of this form is optional. A party seeking to file a complaint with OCAHO concerning unfair immigration-related employment practices may file a complaint in an alternative format, provided that the complaint meets the requirements contained in OCAHO's regulations, 28 C.F.R. 68.7. Specifically, all complaints filed with OCAHO must contain:

- (1) A clear and concise statement of facts, upon which an assertion of jurisdiction is predicated;
- (2) The names and addresses of the respondents, agents, and/or their representatives who have been alleged to have committed the violation;
- (3) The alleged violations of law, with a clear and concise statement of facts for each violation alleged to have occurred; and
- (4) A short statement containing the remedies and/or sanctions sought to be imposed against the respondent.

28 C.F.R. 68.7(b).

The complaint must also be accompanied by a statement identifying the party or parties to be served by OCAHO with notice of the complaint. 28 C.F.R. 68.7(b)(5). Furthermore, as noted previously in these instructions, the complaint must be accompanied by a copy of the charge previously filed with IER and a copy of the letter from IER informing the party that they may file their own complaint with OCAHO. 28 C.F.R. 68.7(c). An original and four copies of the complaint must be filed with OCAHO. 28 C.F.R. 68.6(a).

Section 1: General Information

1) How would you like to be addressed? Mr. Ms. Other:

2) Please provide your name and contact information: Male Female

Full name (First Name) (Middle Name) (Last Name)

Other names used

Street Address

City State Zip Code

Home Phone Cell Number Email Address Fax Number

2) When did you file a charge with the Immigrant and Employee Rights Section (IER)?

____/____/____
Month Day Year

3) When did you receive a letter from IER telling you that you could now file your own complaint with the Office of the Chief Administrative Hearing Officer (OCAHO)?

____/____/____
Month Day Year

Section 2: Representation

Do you have an attorney or other authorized representative in this matter? ____ YES or ____ NO

If YES, please provide the following information:

Name of Representative

Name of Business

Street Address

City State Zip Code

Phone Number Email Address Fax Number

Section 3a: National Origin, Citizenship Status, and Immigration Status at the Time of the Alleged Discrimination

What was your national origin (actual and perceived) at the time of the alleged discrimination?

What was your citizenship or immigration status at the time of the alleged discrimination?

- United States Citizen or National **or**
 Alien Lawfully Admitted for Permanent Residence (“Green Card” Holder) **or**
 Alien authorized to work in the United States

If you were a United States Citizen at the time of the alleged discrimination, go to Section 4. **Otherwise, please complete this section.**

1) **In what country were you born?** _____

2) What country were you a citizen of at the time of the alleged discrimination?

3) If you were a permanent resident (i.e., “Green Card” holder) at the time of the alleged discrimination, when did you obtain your permanent resident status?

_____/_____/_____
Month Day Year

4) If **you are** eligible to apply for naturalization, when did you become eligible to apply for naturalization? (If not yet eligible, leave this answer blank and go to question 6 below.)

_____/_____/_____
Month Day Year

5) Have you applied for naturalization? _____ YES or _____ NO

a) If YES, when did you apply? ____/____/_____
Month Day Year

6) If you were otherwise authorized to work in the United States at the time of the alleged discrimination, what was your citizenship status or visa type (e.g., asylee, refugee, Temporary Protected Status, H-1B, L-1, F-1, J-1, etc.)?

7) What type of work authorization document did you possess at the time of the alleged discrimination?

Section 3a: Citizenship or Immigration Status at the Time of the Alleged Discrimination Continued

8) For what time period(s) (if any) were you authorized to work in the United States (to the present)? (If there were breaks in your work authorization, **please attach a sheet** listing all the time periods you were authorized to work in the United States.)

From: _____ / _____ / _____ To: _____ / _____ / _____
Month Day Year Month Day Year

I have never been authorized to work in the United States: _____

Section 3b: Current Citizenship or Immigration Status Information

What is your current citizenship or immigration status?

- United States Citizen or National **or**
- Alien Lawfully Admitted for Permanent Residence (“Green Card” Holder) **or**
- Alien authorized to work in the United States **or**
- Alien who is not work authorized now, but who was authorized to work in the United States at the time of the alleged discrimination

If you are a United States Citizen, go to Section 4. If you are not a United States Citizen, please complete this section.

1) If you are a permanent resident (i.e., “Green Card” holder), when did you obtain your permanent resident status?

_____ / _____ / _____
Month Day Year

2) If you are otherwise authorized to work in the United States, what is your citizenship status or visa type and when did you obtain this status (e.g., asylee, refugee, Temporary Protected Status, H-1B, L-1, F-1, J-1, etc.)?

3) What type of work authorization document do you currently possess?

4) For what time period are/were you authorized to work in the United States? (If there were breaks in your work authorization, please attach a sheet listing all the time periods you were authorized to work in the United States.)

From: _____ / _____ / _____ To: _____ / _____ / _____
Month Day Year Month Day Year

Section 4: Respondent Business/Employer Information

Please provide the following information about the Business/Employer that allegedly discriminated against you. Provide the mailing address of the Business/Employer if that address is different from its workplace address or physical location. Please identify the individual with the Business/Employer to whom the complaint should be directed (such as the owner, a partner, or an officer of the company). Additionally, some Businesses/Employers appoint a registered agent for service of process, meaning an individual or organization authorized to receive legal documents and official government communications on behalf of the Business/Employer. If applicable, please provide the name and contact information for the Business/Employer's registered agent for service of process.

Business/Employer Name _____

Other names the Business/Employer operates under _____

Name of Individual at the Business/Employer to Whom the Complaint Should be Directed _____

Street Address _____

City _____ State _____ Zip Code _____

Phone _____ Fax _____

If you worked at a different location than the Business/Employer address entered above, please identify the workplace address of the Business/Employer where you worked:

Street Address _____

City _____ State _____ Zip Code _____

Phone _____ Fax _____

Where did the alleged discrimination take place? _____

City _____ State _____

Section 4 continued: Respondent Business/Employer Information

How many employees does the Business/Employer have?

- 3 or fewer employees
- Between 4 and 14 employees
- 15 or more employees
- I do not know how many employees the Business/Employer has.

Section 5: Respondent Business/Employer Representation

If the Business/Employer has an attorney or other representative in this matter, please provide that information, if known:

Name of Business/Employer Attorney or Representative

Street Address

City

State

Zip Code

Phone

Fax

Section 6: Basis of Discrimination

- 1) Were you discriminated against because of your national origin (e.g., where you were born, foreign language/accent, appearance and/or ancestry, etc.)? _____ YES or _____ NO
- 2) Were you discriminated against because of your citizenship status (e.g., either because you were or were not a U.S. citizen)? _____ YES or _____ NO
- 3) Were you intimidated, threatened, coerced or retaliated against for exercising your rights under 8 U.S.C. § 1324b (unfair immigration-related employment practices)? _____ YES or _____ NO
- 4) Were you asked for more or different documents than required for the employment eligibility verification process (Employment Eligibility Verification Form I-9, electronic employment eligibility verification “E-Verify” system)? _____ YES or _____ NO

Section 7: Discrimination in Hiring, Recruitment, or Referral for a Fee, 8 U.S.C. § 1324b(a)(1)

- 1) Did the Business/Employer refuse to hire you? _____ YES or _____ NO

If you answered NO to question (1), go to Section 8. If you answered YES to question (1), complete the rest of this section.

- 2) When did you apply for work at the Business/Employer? _____/_____/_____
Month Day Year
- 3) Please describe the job title and duties:

- 4) Were you qualified for the job? _____ YES or _____ NO
- 5) Was the Business/Employer looking for workers? _____ YES or _____ NO
- 6) Why did the Business/Employer refuse to hire you? (**CHECK AS MANY AS APPLY**)
 - Citizenship status **or**
 - National origin

Section 7: Discrimination in Hiring, Recruitment, or Referral for a Fee, 8 U.S.C. § 1324b(a)(1)
Continued

7) Please list any other reason(s), if any, you were not hired:

8) Did the job remain open and the Business/Employer continue taking applications from other people after you were not hired? _____ YES or _____ NO

9) Was someone else hired for the job? _____ YES or _____ NO

10) If you answered YES to question (9) above, to the extent you know, who was hired and why?

11) Do you want to be hired by the Business/Employer? _____ YES or _____ NO

NOTE: Your answer to question (11) will *not* affect your right to continue with your complaint.

Section 8: Discrimination in Firing, 8 U.S.C. § 1324b(a)(1)

1) Did the Business/Employer fire you? _____ YES or _____ NO

If you answered NO to question (1), go to Section 9. If you answered YES to question (1), complete the rest of this section.

2) When were you fired? _____ / _____ / _____
Month Day Year

3) Why were you fired? (**CHECK AS MANY AS APPLY**)

- Citizenship status **or**
- National origin

4) Please list any other reason(s), if any, why you were fired:

5) Were you fired even though you were qualified for the job? _____ YES or _____ NO

6) Did other workers with different nationalities or citizenship who were in your (or similar) position continue working at the Business/Employer? _____ YES or _____ NO

7) Do you want to be rehired by the Business/Employer? _____ YES or _____ NO

NOTE: The answer to question (7) will *not* affect your right to continue with your complaint.

Section 9: Intimidated, Threatened, Coerced or Retaliated Against, 8 U.S.C. § 1324b(a)(5)

- 1) Were you intimidated, threatened, coerced, or retaliated against because you filed or planned to file a complaint? _____ YES or _____ NO
- 2) Were you intimidated, threatened, coerced, or retaliated against because you helped or tried to help someone who filed or planned to file an unfair immigration-related employment practices complaint? _____ YES or _____ NO
- 3) Were you intimidated, threatened, coerced, or retaliated against to keep you from testifying, assisting, or participating in any manner in an unfair immigration-related employment practices investigation, proceeding, or hearing?
_____ YES or _____ NO
- 4) Were you intimidated, threatened, coerced, or retaliated against because you otherwise asserted your legal rights against unfair immigration-related employment practices?
_____ YES or _____ NO
- 5) Were you intimidated, threatened, coerced, or retaliated against because you helped someone assert their legal rights against unfair immigration-related employment practices?
_____ YES or _____ NO

If you answered NO to ALL of questions (1) through (5), go to Section 10. If you answered YES to ANY of questions (1) through (5), please complete this section.

- 6) When did the alleged retaliation occur? _____ / _____ _____
Month Day Year
- 7) **Please describe what happened and how you were intimidated, threatened, coerced, or retaliated against and why** (if more space is needed, you may attach a separate sheet(s) explaining what happened. Please print or type. Please number any additional sheets).

Section 10: Documentation Practices, 8 U.S.C. § 1324b(a)(6)

1) Did the Business/Employer reject or refuse to accept the documents you presented to prove your identity and/or show that you are authorized to work in the United States? _____ YES or _____ NO

a) If YES, when did the Business/Employer reject or refuse to accept the documents you presented? _____ / _____ / _____
Month Day Year

If you answered NO to question (1), go to question (3). If you answered YES to question (1), answer question (2).

2) Please list the documents that the Business/Employer rejected or refused to accept and, to the extent you know, state why:

3) Did the Business/Employer ask you for more or different documents than required for the employment eligibility verification process (or the Form I-9 or E-Verify system) to show you are eligible to work in the United States? _____ YES or _____ NO

a) If YES, when did the Business/Employer ask you for more or different documents than required for the employment eligibility verification process?
_____ / _____ / _____
Month Day Year

If you answered NO to question (3), go to Section 11. If you answered YES to question (3), answer question (4).

4) If so, please list the documents that the Business/Employer requested and, if applicable, include the reason the employer gave for requesting these documents:

Section 11: Relief Requested, 8 U.S.C. § 1324b(g)(2)(B)

The remedies listed below may be available to you. Please check **YES** or **NO** for EACH question.

- 1) Are you seeking back pay (wages you lost because of the Business'/Employer's alleged actions)?
_____ YES or _____ NO
 - a) If YES, from what date are you seeking back pay? _____ / _____ / _____
Month Day Year
- 2) Do you want to be rehired? _____ YES or _____ NO
- 3) If there is a false performance review or false warning document in your personnel file, would you like it removed? _____ YES or _____ NO
- 4) Are there restrictions on and/or changes to your work assignments, work shifts, or movements that you would like removed? _____ YES or _____ NO

Section 12: Declaration and Signature

YOU MUST SIGN AND DATE THE COMPLAINT BELOW.

I declare under penalty of perjury that the foregoing information provided on this form is true and correct. I respectfully request that OCAHO serve the Complaint and Notice of Case Assignment on the Respondent and assign an Administrative Law Judge (ALJ) to consider the complaint and to preside at a hearing as soon as practicable. I also respectfully request that the ALJ grant the relief available to me under the law, as specified in section 68.52 of Title 28 of the Code of Federal Regulations.

SIGNATURE: _____

DATE: _____ PRINT NAME: _____

REMEMBER, you must send:

- Original** complaint and **four** additional copies of your completed complaint, **each** with an **original** signature; **and**
- Five** copies of the charge document (and five copies of any attachments to the charge) you filed with IER; **and**
- Five** copies of the letter you received from IER informing you that you may now file your own complaint with OCAHO.

You should label all attachments to your complaint form and include page numbers on each page of those attachments.

PLEASE RETURN TO:

United States Department of Justice
Executive Office for Immigration Review
Office of the Chief Administrative Hearing Officer
5107 Leesburg Pike, Suite 2500
Falls Church, VA 22041

Privacy Act Statement

The authority for requesting this information from the individual or entity is contained in 8 U.S.C. § 1324b and 28 C.F.R. part 68 (Rules of Practice and Procedure for Administrative Hearings Before Administrative Law Judges in Cases Involving Allegations of Unlawful Employment of Aliens, Unfair Immigration-Related Employment Practices, and Document Fraud). The information that the individual or entity provides on this form will be used to initiate and conduct a case before the Office of the Chief Administrative Hearing Officer under 8 U.S.C. § 1324b. The use of this form is optional. An individual or entity may elect to provide the information requested herein in an alternative format that complies with the requirements of 28 C.F.R. part 68. **The Office of the Chief Administrative Hearing Officer may share this information with others in accordance with approved routine uses described in system of records notice (SORN) Department of Justice/EOIR-002, OCAHO Case Management System (CMS), 84 FR 42016 (Aug. 16, 2019), and exemptions, 84 FR 64198 (Nov. 21, 2019).**

Paperwork Reduction Act Notice

The information requested in this form is sought in accordance with the Paperwork Reduction Act of 1995. The information collected is necessary to enable the Department of Justice to process and adjudicate complaints of discrimination under 8 U.S.C. § 1324b, as required by statute. The use of this complaint form (collection instrument) will facilitate this process by assisting complainants to provide the information necessary to initiate a proceeding.

The estimated average time burden associated with this collection is **1 hour** per complainant or his/her representative, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.