

## **School Discrimination Under the Human Rights Law**

In 2019, the Human Rights Law (“HRL”), New York’s major anti-discrimination law, was amended to prohibit discrimination in public schools and other educational institutions on the basis of race, color, religion, disability, national origin, sexual orientation, gender identity or expression, military status, sex, age, and marital status. Almost all schools except for private schools run by a religious organization are prohibited from discriminating against individuals based on these protected classes.

There are two main options for seeking legal remedy under the HRL: filing a complaint with the New York State Division of Human Rights (“DHR”) or filing a lawsuit in state court.

### ***The Division of Human Rights***

DHR is the state agency that enforces the HRL. An individual (or parent/guardian in cases involving minor children) can file a complaint free of charge with DHR. **For acts of discrimination that occurred prior to February 15, 2024, an individual must file the complaint within one year of the act of discrimination. For acts of discrimination that occurred February 15, 2024 or later, an individual may file a complaint within three years of the act of discrimination.** Once a complaint is filed, DHR will conduct an investigation into the allegations of discrimination and make a finding of probable cause or no probable cause. A probable cause determination means that it is more likely than not that discrimination occurred and the case will be scheduled for a public hearing in front of an administrative law judge (“ALJ”). A no probable cause determination means that it is unlikely that discrimination occurred and the case will be closed.

If the case receives a probable cause determination, the complainant, or individual who filed the complaint, will be assigned a DHR attorney free of charge. It should be noted, however, that a complainant has the ability to hire an outside at any stage of the DHR process. Prior to the public hearing, the parties will have the opportunity to settle the case at a prehearing settlement conference, although this is a voluntary proceeding. If the case does not settle, it will be scheduled for a public hearing. After the public hearing, the ALJ presiding over the case will draft a proposed order making a recommended finding of discrimination or not. Both parties have the ability to respond to this proposed order. The Commissioner of Human Rights will then consider the proposed order and party responses and issue a final order, in which a determination of whether the school discriminated against the complainant or not is made. Either party can appeal the final order in state court within 60 days of the final order being issued.

There are several remedies available to the complainant if the Commissioner of Human Rights finds that discrimination did occur, including anti-discrimination training, changed policies, reasonable accommodations for disabilities, compensatory damages for pain and suffering, attorney’s fees, and civil fines and penalties.

### ***Filing a Lawsuit***

Instead of filing a complaint with DHR, an individual, parent, or guardian (“plaintiff”) can file a lawsuit under the HRL in state court. In order to do so, the plaintiff must serve a Notice of Claim to a school or school district within 90 days after the claim arises in order to give the school notice that

a lawsuit may be filed. The lawsuit must be filed within one year of the act of discrimination. If you are interested in filing a lawsuit in state court, it is advisable to consult with an attorney before you do so.

***Empire Justice Center's School Discrimination Helpline***

Empire Justice Center recently launched a statewide school discrimination helpline in order to help New Yorkers navigate their legal options and exercise their rights under the law. If you or your child have experienced discrimination at school, call our helpline at **1-800-724-0490 Ext. 5827** or email us at [schooldiscriminationhelpline@empirejustice.org](mailto:schooldiscriminationhelpline@empirejustice.org).