



## Ohio Revised Code

### Section 4112.051 Employment discrimination administrative remedy.

Effective: April 15, 2021

Legislation: House Bill 352 - 133rd General Assembly

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(A) As used in this section:

(1) "Complainant" means a person who files a charge under this section.

(2) "Respondent" means a person who is the subject of a charge filed under this section.

(B) The Ohio civil rights commission, as provided in this section, shall prevent any person from engaging in unlawful discriminatory practices relating to employment. The commission may at any time attempt to resolve allegations of unlawful discriminatory practices relating to employment by the use of alternative dispute resolution, provided that, before instituting the formal hearing authorized by this section, it shall attempt, by informal methods of conference, conciliation, and persuasion, to induce compliance with this chapter.

(C)(1) Any person who believes that a person has been the subject of an unlawful discriminatory practice relating to employment may file a charge with the commission alleging either or both of the following:

(a) That an employer, employment agency, personnel placement service, or labor organization has engaged or is engaging in an unlawful discriminatory practice relating to employment;

(b) That a person has engaged in an unlawful discriminatory practice relating to employment described in division (A)(24)(b) of section 4112.01 of the Revised Code.

(2) A charge under this section shall be in writing, under oath, and shall be filed with the commission within two years after the alleged unlawful discriminatory practice was committed.

(3) An oath under this section may be made in any form of affirmation the person considers binding on the person's conscience. Acceptable forms include, but are not limited to, declarations made under



penalty of perjury.

(4) Any charge timely received, via facsimile, postal mail, electronic mail, or otherwise, may be signed under oath after the limitations period for filing set forth under division (C) of this section and will relate back to the original filing date.

(D)(1) Upon receiving a charge under this section, the commission may initiate a preliminary investigation to determine whether it is probable that an alleged unlawful discriminatory practice relating to employment has occurred or is occurring. The commission also may conduct, on its own initiative and independent of the filing of any charge, a preliminary investigation relating to any alleged unlawful discriminatory practice relating to employment. Before a notification of a complainant under division (E) of this section or before the commencement of informal methods of conference, conciliation, and persuasion, or alternative dispute resolution, under division (F) of this section, the members of the commission and the officers and employees of the commission shall not make public in any manner and shall retain as confidential all information that was obtained as a result of or that otherwise pertains to a preliminary investigation.

(2) With respect to a charge filed under division (C) of this section that alleges an unlawful discriminatory practice relating to employment, the complainant may request in writing that the commission cease its preliminary investigation and issue a notice of right to sue to the complainant. If the commission ceases its preliminary investigation, it shall issue a notice of right to sue to the complainant. The complainant is prohibited from refiling the charge with the commission.

(E) If, after a preliminary investigation, the commission determines that it is not probable that an unlawful discriminatory practice relating to employment has occurred or is occurring, the commission shall notify the complainant of its determination and that it will not issue a complaint in the matter. The commission shall include a notice of right to sue in the notice.

(F)(1) If, after a preliminary investigation, the commission determines that it is probable that an unlawful discriminatory practice relating to employment has occurred or is occurring, the commission shall notify the complainant and the respondent of its determination and, in the notice the commission issues to the complainant, inform the complainant that the complainant may withdraw the charge and file a civil action under this chapter. If the complainant does not withdraw



the charge, the commission shall endeavor to eliminate the alleged unlawful discriminatory practice relating to employment by informal methods of conference, conciliation, and persuasion, or by alternative dispute resolution.

(2) If, after the use of the informal methods of conference, conciliation, and persuasion, or alternative dispute resolution, the commission is satisfied that the unlawful discriminatory practice in question will be eliminated, the commission may treat the charge as being conciliated and enter that disposition on the records of the commission.

(3) Nothing said or done during informal methods of conference, conciliation, or persuasion, or during alternative dispute resolution, under this section shall be disclosed by any member of the commission or its staff or be used as evidence in any subsequent hearing or other proceeding.

(G) If the commission fails to effect the elimination of the alleged unlawful discriminatory practice relating to employment and is unable to obtain voluntary compliance with this chapter through informal methods of conference, conciliation, and persuasion, or by alternative dispute resolution under this section, the commission shall issue and cause to be served upon any person, including the respondent, a complaint.

(1) The complaint shall state the charges involved and shall contain a notice of a hearing before the commission, a member of the commission, or a hearing examiner, as well as the hearing's location. Any such hearing shall be held in the county in which the alleged unlawful discriminatory practice occurred or is occurring or in which the respondent transacts business, and shall be held not less than thirty days after service of the complaint. After issuing a complaint, the commission may do any of the following:

(a) Upon the request of a complainant that the commission receives not later than thirty days before the date of the hearing, dismiss the complaint;

(b) Eliminate the alleged unlawful discriminatory practice relating to employment by the informal methods described in division (F)(1) of this section and treat the charge as being conciliated as provided in division (F)(2) of this section;



(c) Continue with the hearing process as provided in this section.

(2) The attorney general shall represent the commission at any such hearing and shall present the evidence in support of the complaint.

(3) Any complaint issued pursuant to this division after the filing of a charge under this section shall be issued within one year after the complainant filed the charge with respect to an alleged unlawful discriminatory practice relating to employment.

(4) Any such complaint may be amended by the commission, a member of the commission, or the commission's legal counsel at any time prior to the hearing if the respondent is given sufficient and reasonable notice. The respondent shall have the right to file an answer or an amended answer to the original, and any amended, complaints.

(5) The respondent shall have the right to appear at the hearing in person, by attorney, or otherwise to examine and cross-examine witnesses.

(6) The complainant shall be a party to a hearing under this section. Any person who is an indispensable party to a complete determination or settlement of the complaint central to the hearing shall be joined.

(7) For any hearing initiated under this section, the commission, a member of the commission, or a hearing officer is not bound by the Rules of Evidence, but shall take into account all reliable, probative, and substantial statistical or other evidence produced at the hearing that may prove the existence of a predetermined pattern of employment or membership.

(8)(a) The testimony provided during a hearing under this section shall be under oath and shall be transcribed in writing and filed with the commission.

(b) The commission, at its discretion, may hear further testimony or argument after the initial hearing if notice, that indicates an opportunity to be present, is provided to the complainant and the respondent.



(H) If, after a hearing carried out under division (G) of this section, the commission determines that the respondent has engaged in, or is engaging in, any unlawful discriminatory practice relating to employment, whether against the complainant or others adversely affected by the allegations in the complaint, the commission shall state its findings of fact and conclusions of law and shall issue and cause to be served to the respondent, subject to the provisions of Chapter 119. of the Revised Code, an order to cease and desist from the unlawful discriminatory practice.

(1) The order shall require the respondent to take affirmative or other action necessary to effectuate the purposes of this chapter, including hiring, reinstating, or promoting the complainant or others adversely affected by the unlawful discriminatory practice and shall require the respondent to report to the commission the manner of compliance.

(2)(a) The order may require back pay or admission or restoration to union membership.

(b) If the order requires back pay, the commission shall take into account earnings collected during the resolution of the complaint.

(3) Upon receipt of the report of compliance required under this division, the commission may issue a declaratory order stating that the respondent has ceased to engage in the unlawful discriminatory practices that were the subject of the complaint.

(I) If, after a hearing carried out under division (G) of this section, the commission finds that a respondent has not engaged in any unlawful discriminatory practice relating to employment against the complainant or others, it shall issue an order stating its findings of fact and dismissing the complaint to the complainant, respondent, and any other affected party. A copy of the order shall also be delivered to the attorney general and any other public officer the commission considers appropriate.

(J) The commission, subject to Chapter 119. of the Revised Code, upon reasonable notice to the respondent and claimant and in the manner it considers proper, may modify or set aside, in whole or in part, any finding or order made under this section until the time period for appeal set forth in section 4112.06 of the Revised Code has passed.



(K) The commission shall adopt rules, in accordance with Chapter 119. of the Revised Code, to carry out this section.

(L) Nothing in this section requires any person to observe in hiring the proportion that persons of any race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry bear to the total population or in accordance with any other criteria than the qualifications of applicants.

(M) The issuance of a notice of right to sue by the commission under this section does not prohibit the commission from offering assistance to the person to whom the notice was issued.

(N) If a complainant requests a notice of right to sue under this section less than sixty days after filing a charge pursuant to division (C) of this section, the commission shall not grant the request until at least sixty days after the complainant filed the charge. If a complainant requests a notice of right to sue under this section sixty or more days after filing a charge, the commission may immediately grant the request.