

Idaho Legal Aid Services, Inc.

Advocacy. Education. Representation.

www.idaholegalaid.org

Your Rights ^[1]

Age & Disability Discrimination

Employment discrimination means treating people differently in the workplace (hiring, firing, promotions, wages, training opportunities, etc.) because of their age or disability. There are two main laws that protect older people from discrimination by employers. The Federal Age Discrimination in Employment Act (ADEA), found at 29 U.S. Code Section 621, protects workers against age discrimination by employers who have 20 or more employees.

Idaho's anti-discrimination law is found at Idaho Code Section 67-5909 and it prohibits employment discrimination based on age (being age 40 and older) or disability. However, if a person has a particular disability that prevents a person from performing the work required by that employer, even with a reasonable accommodation, then the employer is not required to hire that person.

If you think you might have been discriminated against in the workplace because of your age, you should call the Idaho Human Rights Commission as soon as possible. Under federal law, you must file your complaint within 300 days (a little less than a year) from the date you were discriminated against. You do not need a lawyer to file a complaint.

If you were denied a job because of your age or disability, you can file a complaint with:

Idaho Human Rights Commission

317 W. Main St., Boise, Idaho 83735

(208) 334-2873 or 1-888-249-7025

TTY: (208) 334-4751

IHRC's website also has lots of information about state and federal anti-discrimination laws:

<https://humanrights.idaho.gov/> [2]

If you or your employer need help coming up with an accommodation to help you perform your job tasks, contact:

Job Accommodation Network

1-800-52607234

1-877-781-9403 (TTY)

askjan.org [3]

Defending Your Rights

You may find it necessary to use the court system to enforce one of your rights described in this Guidebook. In many cases, it will be a good idea to have a lawyer to help you in court.

However, you can take steps to defend your rights with or without an attorney. Practice “legal self-defense.” Remember these “tricks of the trade”:

- Get it in writing
- Make copies
- Keep records
- Don't sign what you don't understand
- Feel free to say no
- Take along a witness
- Take photos or videos if you can
- Look up the law
- Ask what the other person knows about the law
- Write reasonable demand letters
- Be aware of time limits and statutes of limitations

If you have a disagreement with someone, writing a letter stating your rights or referencing the applicable law can have powerful effect. Send it “certified mail” or hand deliver it with a witness to prove the other person received it. Even if the person doesn't respond, a copy of your letter may help your case if you have to sue.

Small Claims Court

Small Claims Court is available for disputes less than \$5000. If your demand letter doesn't work,

you may have to sue in Small Claims Court. Neither side can have an attorney in Small Claims Court, so you will have to sue “pro se,” which means by yourself. However, you can prove your case to the judge by bringing witnesses, photographs, documents, and other evidence, just like an attorney. There is a fee to file in Small Claims Court, but if you can’t afford it, you can apply for a fee waiver.

The Court Assistance Office in each County Courthouse has all the forms you will need to help file your Small Claims Lawsuit and information on how to collect your money if you win. These forms are also available online at www.idaholegalaid.org [4].

Mediation

Mediation may also be a good option: it can take less time and be less hostile than a lawsuit. Mediators are available in the phone book or through the Idaho Mediation Association.

Small claims court is only available for limited types of cases. If your case is not the type that is heard in small claims court, it will be filed in an Idaho Magistrate Court, an Idaho District Court, or, less frequently, in a Federal Court. Although having an attorney is not required in these cases, you may need a lawyer to bring your suit successfully because the rules regarding your witnesses and evidence are not as relaxed as in Small Claims Court and the judge is required to hold you to the same standards as an attorney.

What if someone is suing you?

If you receive a Complaint and Summons, the Court Assistance Office at the county courthouse has forms available so you can file an Answer as a defendant in a lawsuit. In many cases, you must file your Answer within 20 days. Carefully read the plaintiff’s claims in the Complaint. You will have to admit or deny each of the claims in your Answer, and state any defenses you have. You then must sign the Answer in front of a notary and have it properly served on the other party and filed with the court. The Answer form should come with instructions, which you should follow carefully.

You can find a private attorney through the Idaho State Bar Private Attorney Referral Service or through Idaho Volunteer Lawyers Program if you are low income and have a qualifying case.

Idaho Lawyer Referral Service: isb.idaho.gov or 208-334-4500

Idaho Volunteer Lawyers Program: 208-334-4510 or 1-800-221-3295

What to expect when you meet your lawyer:

- Your lawyer will ask you a lot of questions about your case and what results you want
- Be prepared with a timeline of relevant events and copies of all relevant documents

Your lawyer should explain to you:

- Duty of Confidentiality (which means that your lawyer cannot discuss your case with others)

without your permission)

- Your role
- The lawyers role
- The steps in the legal process
- Your legal options
- Your chances of getting what you want
- The risks you may face, if any
- The limits of the representation

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