

Instructions for Unfair Immigration-Related Employment Practices Complaint Form

Pursuant to 28 C.F.R. § 68.7(e), all documents filed with the Office of the Chief Administrative Hearing Officer (OCAHO) must be in English or, if in another language, must be accompanied by a certified English translation. While OCAHO is providing these instructions for Form EOIR-58 (Unfair Immigration-Related Employment Practices Complaint Form) in Spanish to assist Spanish-speaking individuals in completing the form, all responses on the Form EOIR-58 itself must be in English or accompanied by a certified English translation.

Do not enter responses on these instructions; record all responses in English only on the Form EOIR-58 itself.

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 to the complaint form. Please indicate clearly which question(s) you are responding to on any additional sheets and number each additional sheet.

If you complete the complaint by hand, please write or print legibly using only blue or black ink.

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

United States Department of Justice
Executive Office for Immigration Review
Office of the Chief Administrative Hearing Officer
5107 Leesburg Pike, Suite 2519
Falls Church, VA 22041

CONTACT INFORMATION

If you have any questions about the complaint 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 (against whom the complaint is filed) once the complaint has been filed.

Section 1: General Information

Provide the following information on the complaint form:

1) **Full name:** Provide your full legal first name, middle name, and last name.

Other names used: Provide all other names used, if any.

Street Address: Provide the street address where you currently live, including street number and name, and apartment or unit number (if applicable).

City, State, Zip Code: Provide the city, state, and zip code of your street address.

Home Phone, Cell Number, Email Address, Fax Number: Provide your home telephone number, your cell phone number (if any), your email address (if any), and your fax number (if any).

2) Enter the date (month/day/year) when you filed your charge with Immigrant and Employee Rights Section (IER).

3) Enter the date (month/day/year) when you received a letter from IER telling you that you could now file your own complaint with the Office of the Chief Administrative Hearing Officer.

Section 2: Representation

This question asks whether or not you have an attorney or other authorized representative in this matter, and asks you to check “YES” or “NO” on the complaint form.

If you have an attorney or other authorized representative, complete the rest of Section 2 on the complaint form. If you do not have an attorney or other authorized representative, go to Section 3 on the complaint form.

Name of Representative: Provide the full name of your attorney or other authorized representative.

Name of Business: Provide the name of your attorney or authorized representative’s firm or business (if any).

Street Address: Provide the street address of your attorney or authorized representative, including street number and name, and suite, office, or unit number (if applicable).

City, State, Zip Code: Provide the city, state, and zip code of your attorney or authorized representative’s street address.

Phone Number, Email Address, Fax Number: Provide your attorney or authorized representative’s telephone number, email address (if any), and fax number (if any).

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

Indicate your citizenship or immigration status at the time of the alleged discrimination by checking the appropriate box on the complaint form (check only one box on the complaint form):

Check the first box on the complaint form if you were a United States Citizen or National at the time of the alleged discrimination.

Check the second box on the complaint form if you were an Alien Lawfully Admitted for Permanent Residence (“Green Card” Holder) at the time of the alleged discrimination.

Check the third box on the complaint form if you were an alien authorized to work in the United States at the time of the alleged discrimination.

If you were a United States Citizen at the time of the alleged discrimination, go to Section 4 on the complaint form. If you were not a United States Citizen at the time of the alleged discrimination, complete the rest of Section 3a on the complaint form as follows, and complete Section 3b.

- 1) Provide the name of the country in which you were born.
- 2) Provide the name of the country you were a citizen of at the time of the alleged discrimination.
- 3) If you are eligible to apply for naturalization, enter the date (month/day/year) when you became eligible to apply for naturalization.
- 4) Indicate whether you have applied for naturalization by checking either “YES” or “NO on the complaint form.” If you answer “YES,” on the complaint form provide the date (month/day/year) when you applied for naturalization.
- 5) If you were a permanent resident (i.e., “Green Card” holder) at the time of the alleged discrimination, on the complaint form provide the date (month/day/year) when you obtained your permanent resident status.
- 6) If you were otherwise authorized to work in the United States at the time of the alleged discrimination, on the complaint form provide your citizenship status or visa type (e.g., asylee, refugee, Temporary Protected Status, H-1B, L-1, F-1, J-1, etc.).
- 7) On the complaint form, identify the type of work authorization document you possessed at the time of the alleged discrimination.
- 8) On the complaint form, indicate the time period(s) (if any) when you were authorized to work in the United States by entering the starting date (month/day/year) and ending date (month/day/year) of your work authorization. If there were breaks in your work authorization, attach an additional sheet listing all the time periods you were authorized to work in the United States.

If you have never been authorized to work in the United States, check the box at the end of this section on the complaint form.

Section 3b: Current Citizenship or Immigration Status Information

Indicate your current citizenship or immigration status by checking the appropriate box on the complaint form:

Check the first box on the complaint form if you are currently a United States Citizen or National.

Check the second box on the complaint form if you are currently an Alien Lawfully Admitted for Permanent Residence (“Green Card” Holder).

Check the third box on the complaint form if you are currently an alien authorized to work in the United States.

Check the fourth box on the complaint form if you are an alien who is not work authorized now, but were authorized to work in the United States at the time of the alleged discrimination.

If you are currently a United States Citizen, go to Section 4 on the complaint form. If you are not currently a United States Citizen, complete the rest of Section 3b on the complaint form as follows.

- 1) If you are a permanent resident (i.e., “Green Card” holder), on the complaint form provide the date (month/day/year) when you obtained your permanent resident status.
- 2) If you are otherwise authorized to work in the United States, on the complaint form identify your current citizenship status or visa type (e.g., asylee, refugee, Temporary Protected Status, H-1B, L-1, F-1, J-1, etc.) and indicate when you obtained this status.
- 3) On the complaint form, indicate what type of work authorization document you currently possess.
- 4) On the complaint form, indicate the time period(s) when you were authorized to work in the United States by entering the starting date (month/day/year) and ending date (month/day/year) of your work authorization. If there were breaks in your work authorization, attach an additional sheet listing all the time periods you were authorized to work in the United States.

Section 4: Respondent Business/Employer Information

Provide the following information on the complaint form about the Business/Employer who allegedly discriminated against you.

Business/Employer Name: Provide the name of the Business/Employer who allegedly discriminated against you.

Other names the Business/Employer operates under: Provide any other names the Business/Employer used to conduct its business.

Street Address: Provide the street address of the Business/Employer, including street number and name, and suite or office number (if applicable).

City, State, Zip Code: Provide the city, state, and zip code of the Business/Employer's street address.

Phone, Fax: Provide the telephone number and fax number (if any) of the Business/Employer.

If you worked at a different location than the Business/Employer address entered above, provide the workplace address of the Business/Employer where you worked.

Street Address: Provide the street address of the Business/Employer's location where you worked, including street number and name, and suite or office number (if applicable).

City, State, Zip Code: Provide the city, state, and zip code of the Business/Employer's street address where you worked.

Phone, Fax: Provide the telephone number and fax number (if any) of the workplace location of the Business/Employer where you worked.

Provide the location (city and state) where the alleged discrimination took place.

Section 5: Respondent Business/Employer Representation

This section of the complaint form asks you to provide the name and contact information for the attorney or other representative of the Business/Employer, if known.

Name of Business/Employer Attorney or Representative: Provide the name of the Business/Employer's attorney or representative.

Street Address: Provide the street address of the Business/Employer's attorney or representative, including street number and name, and suite or office number (if applicable).

City, State, Zip Code: Provide the city, state, and zip code of the Business/Employer's attorney or representative.

Phone, Fax: Provide the telephone number and fax number (if any) of the Business/Employer's attorney or representative.

Section 6: Basis of Discrimination

Respond to each of the following questions by checking either “YES” or “NO” on the complaint form after each question:

- 1) This question asks whether you were discriminated against because of your national origin (e.g., where you were born, foreign language/accent, appearance and/or ancestry, etc.).
- 2) This question asks whether you were discriminated against because of your citizenship status (e.g., either because you were or were not a U.S. citizen).
- 3) This question asks whether you were intimidated, threatened, coerced or retaliated against for exercising your rights under 8 U.S.C. § 1324b, which prohibits employment discrimination based on citizenship or national origin and overdocumentation in the employment eligibility verification process (e.g., the Employment Eligibility Verification Form I-9 or electronic employment eligibility verification “E-Verify” system).
- 4) This question asks whether you were asked for more or different documents than required for the employment eligibility verification process (e.g., the Employment Eligibility Verification Form I-9 or electronic employment eligibility verification “E-Verify” system).

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

- 1) This question asks whether the Business/Employer refused to hire you, and asks you to check “YES” or “NO” on the complaint form.

If you answered “NO” to question (1), go to Section 8 on the complaint form. If you answered “YES” to question (1), complete the rest of Section 7 on the complaint form as follows.

- 2) Provide the date (month/day/year) when you applied for work at the Business/Employer.
- 3) In the space provided on the complaint form, describe the job title and duties.
- 4) This question asks whether you were qualified for the job, and asks you to check “YES” or “NO” on the complaint form.
- 5) This question asks whether the Business/Employer was looking for workers, and asks you to check “YES” or “NO” on the complaint form.
- 6) This question asks you to identify the reason(s) why the Business/Employer refused to hire you. (Check as many boxes on the complaint form as apply.)

Check the first box on the complaint form if the Business/Employer refused to hire you because of your citizenship status.

Check the second box on the complaint form if the Business/Employer refused to hire you because of your national origin.

- 7) In the space provided on the complaint form, list any other reason(s), if any, why you were not hired.
- 8) This question asks whether the job remained open and the Business/Employer continued taking applications from other people after you were not hired, and asks you to check “YES” or “NO” on the complaint form.
- 9) This question asks whether someone else was hired for the job, and asks you to check “YES” or “NO” on the complaint form.
- 10) If you answered “YES” to question (9), to the extent you know, on the complaint form identify who was hired and why.
- 11) This question asks whether you want to be hired by the Business/Employer, and asks you to check “YES” or “NO” on the complaint form.

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) This question asks whether the Business/Employer fired you, and asks you to check “YES” or “NO” on the complaint form.

If you answered “NO” to question (1), go to Section 9 on the complaint form. If you answered “YES” to question (1), complete the rest of Section 8 on the complaint form as follows.

- 2) Provide the date (month/day/year) when you were fired.
- 3) Identify the reason(s) why you were fired. (Check as many boxes on the complaint form as apply.)

Check the first box on the complaint form if you were fired because of your citizenship status.

Check the second box on the complaint form if you were fired because of your national origin.

- 4) In the space provided on the complaint form, list any other reason(s), if any, why you were fired.
- 5) This question asks whether you fired even though you were qualified for the job, and asks you to check “YES” or “NO” on the complaint form.
- 6) This question asks whether other workers with different nationalities or citizenship who were in your (or similar) position continued working at the Business/Employer, and asks you to check “YES” or “NO” on the complaint form.
- 7) This question asks whether you want to be rehired by the Business/Employer, and asks you to check “YES” or “NO” on the complaint form.

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) This question asks whether you were intimidated, threatened, coerced, or retaliated against because you filed or planned to file a complaint, and asks you to check “YES” or “NO” on the complaint form.
- 2) This question asks whether you were 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, and asks you to check “YES” or “NO” on the complaint form.
- 3) This question asks whether you were 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, and asks you to check “YES” or “NO” on the complaint form.
- 4) This question asks whether you were intimidated, threatened, coerced, or retaliated against because you otherwise asserted your legal rights against unfair immigration-related employment practices, and asks you to check “YES” or “NO” on the complaint form.
- 5) This question asks whether you were intimidated, threatened, coerced, or retaliated against because you helped someone assert their legal rights against unfair immigration-related employment practices, and asks you to check “YES” or “NO” on the complaint form.

If you answered “NO” to questions (1), (2), (3), (4), and (5), go to Section 10 on the complaint form. If you answered “YES” to any of the above questions (1), (2), (3), (4), or (5), complete the rest of Section 9 on the complaint form.

- 6) In the space provided on the complaint form, explain in detail what happened and how you were intimidated, threatened, coerced, or retaliated against and why. (If you need more space, you may attach a separate sheet(s) to the complaint form explaining what happened. Please print or type in blue or black ink. Please number any additional sheets.)

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

- 1) This question asks whether the Business/Employer rejected or refused to accept the documents you presented to prove your identity and/or show that you are authorized to work in the United States, and asks you to check “YES” or “NO” on the complaint form.

If you answered “NO” to question (1), go to question (3) on the complaint form.

- 2) If you answered “YES” to question (1), in the space provided on the complaint form, list the documents that the Business/Employer rejected or refused to accept and, to the extent you know, state why.
- 3) This question asks whether the Business/Employer asked 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, and asks you to check “YES” or “NO” on the complaint form.

If you answered “NO” to question (3), go to Section 11 on the complaint form.

- 4) If you answered “YES” to question (3), in the space provided on the complaint form, 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 in this section of the form may be available to you. Check “YES” or “NO” on the complaint form for each question.

- 1) This question asks whether you are seeking back pay (wages you lost because of the Business/Employer’s alleged actions), and asks you to check “YES” or “NO” on the complaint form.
 - a) If “YES,” on the complaint form provide the date (month/day/year) from which you are seeking back pay.
- 2) This question asks whether you want to be rehired, and asks you to check “YES” or “NO” on the complaint form.
- 3) This question asks whether, if there is a false performance review or false warning document in your personnel file, you would like it removed, and asks you to check “YES” or “NO” on the complaint form.
- 4) This question asks whether there restrictions on and/or changes to work assignments, work shifts, or movements that you would like removed, and asks you to check “YES” or “NO” on the complaint form.

Section 12: Declaration and Signature

You must sign and date the complaint form in Section 12. By signing and dating the form, you affirm the following:

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.

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.

PLEASE RETURN THE COMPLAINT FORM AND ANY ATTACHMENTS TO:

United States Department of Justice
Executive Office for Immigration Review
Office of the Chief Administrative Hearing Officer
5107 Leesburg Pike, Suite 2519
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.

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 30 minutes 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.