



**LABOR RELATIONS DIVISION
HUMAN RIGHTS BUREAU**

WWW.DWS.STATE.NM.US

1596 Pacheco Street, Suite 103
Santa Fe, NM 87505
Phone: 505-827-6838 Toll Free: 800-566-9471 Fax: 505-827-6878
Email: Ted.Flanagan2@state.nm.us

HUMAN RIGHTS BUREAU DISCRIMINATION INQUIRY FORM GUIDANCE

Our Process

By completing the attached inquiry form and submitting it to the New Mexico Human Rights Bureau, potential complaining parties begin the intake process. Upon receipt, the Bureau will assign your inquiry to a Civil Rights Investigator. The Investigator will review your inquiry and then contact you to obtain additional details and discuss how we may proceed with a potential complaint. **It's very important to for you to complete all applicable fields of this form, because it will help us determine if and how we might take a complaint.**

Complaints must be filed with the Bureau within 300 days of the last act of discrimination or harassment. **Inquiries to the Bureau, such as submitting the attached form, are not considered a formal complaint.**

Information obtained from individuals who contact the Bureau is confidential and will not be revealed to the alleged Respondent until the individual files a charge of discrimination.

All of the laws that we enforce make it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in a discrimination investigation or lawsuit.

Laws

The Bureau enforces the provisions of the Human Rights Act of 1969 (and subsequent amendments), which prohibits discrimination and retaliation in the areas of employment, housing, credit, and public accommodations. Under a work-sharing agreement with the U.S. Equal Employment Opportunity Commission, the Bureau also enforces provisions of federal workplace discrimination laws.

Title VII of the Civil Rights Act of 1964

This law makes it illegal to discriminate against someone in the workplace based on the basis of race, color, religion, national origin, or sex. The law also makes it illegal to discriminate against a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. The law also requires that employers reasonably accommodate applicants' and employees' sincerely held religious practices, unless doing so would impose an undue hardship on the operation of the employer's business.

Age Discrimination in Employment Act of 1967

This law protects people who are 40 years of age or older from discrimination because of age.

Americans with Disabilities Act of 1990

This law makes it illegal to discriminate against a qualified person with a disability, because they have a history of a disability, because they are regarded as having a disability, or because of their relationship with a person with a disability. The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business.

New Mexico Human Rights Act of 1969

Similar to the laws described above, this law makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, sex (including pregnancy), age (40 or older), ancestry, disability, serious medical condition, sexual orientation, gender identity, or spousal affiliation.

<p>For assistance in filing a complaint, or for any other information on the Human Rights Act, please call (800) 566-9471 (toll-free) or (505) 827-6838, or visit our website at: www.dws.state.nm.us</p>	<p>Para ayuda a completar una queja, o para más información sobre la Ley de Derechos Humanos, por favor llame al 1-800-827-6838, o visite nuestra página por Internet en: www.dws.state.nm.us</p>
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HUMAN RIGHTS BUREAU DISCRIMINATION INQUIRY FORM

If you believe you have been subjected to discrimination in violation of the New Mexico Human Rights Act of 1969, Title VII of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990, or Age Discrimination in Employment Act of 1967, complete this form and return it to the New Mexico Human Rights Bureau by mail, fax, email, or hand delivery.

1. Personal Information

Last Name: Khan First Name: Muhammad MI: _____
Street or Mailing Address: c/o ACLU-NM P.O. Box 566
City: Albuquerque County: Bernalillo State: NM Zip: 87103
Phone Number: _____ Email Address: _____
Best time to reach you: M-F 9-5 Contact preference: Phone or e-mail
Date of Birth (MM/DD/YYYY): _____ Gender: Male

2. Organization involved in the alleged discrimination

Name: Mesa Detection Agency
Street or Mailing Address: 500 4th St. NW, Suite 100
City: Albuquerque County: Bernalillo State: NM Zip: 87102
Phone Number: (505) 821 - 7620 Type of Business: Private security firm
Number of employees: Unknown Date of Hire (if applicable; MM/DD/YYYY): ____ / ____ / ____
Job Title (if applicable): _____ Date employment ended (MM/DD/YYYY): ____ / ____ / ____

3. Individual(s) whom you allege discriminated against you.

Complete if you would like to name an individual in your complaint.

Last Name: Tucker First Name: Noah MI: _____
Street or Mailing Address: 500 4th St. NW, Suite 100
City: Albuquerque County: Bernalillo State: NM Zip: 87102
Phone Number: (505) 821 - 7620 Job Title: Security guard
Last Name: _____ First Name: _____ MI: _____
Street or Mailing Address: _____
City: _____ County: _____ State: _____ Zip: _____
Phone Number: (_____) _____ - _____ Job Title: _____

This section for HRB use only

4. What is the type of discrimination that you are alleging? Check all that apply

- Employment** Title VII of the Civil Rights Act of 1964
 Age Discrimination in Employment Act of 1967
 Americans with Disabilities Act of 1990
 New Mexico Human Rights Act of 1969
- Housing** New Mexico Human Rights Act of 1969
- Credit** New Mexico Human Rights Act of 1969
- Public Accommodation** New Mexico Human Rights Act of 1969

5. What is the reason (basis) for your claim of discrimination?

For example, if you feel that you were treated differently than someone else because of your race, you should check the box next to "Race." If you feel that you were treated differently for more than one reason, check all that apply.

- | | | | |
|---|--|--|--------------------------------------|
| <input checked="" type="checkbox"/> Race | <input type="checkbox"/> Sex (including pregnancy) | <input type="checkbox"/> Age (40+ years) | <input type="checkbox"/> Race |
| <input checked="" type="checkbox"/> National Origin | <input type="checkbox"/> Ancestry | <input checked="" type="checkbox"/> Religion | <input type="checkbox"/> Disability |
| <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Gender Identity | <input type="checkbox"/> Spousal Affiliation | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Color | <input type="checkbox"/> Serious Medical Condition | | |

§28-1-10.I of the New Mexico Human Rights Act, states in part:

“... ‘urgent medical condition’ means any medical condition as defined by an appropriate medical authority through documentation or by direct witness of a clearly visible disablement that poses a serious threat to the life of the person with the medical condition.” Do you have an urgent medical condition? Yes No

6. When did the alleged discrimination begin?

(MM/DD/YYYY) 06 / 24 / 2019

Is the alleged discrimination continuing? Yes No

If the alleged discrimination is not continuing, what date did it end? (MM/DD/YYYY) 06 / 25 / 2019

7. Have you filed a charge in this matter with U.S. Equal Employment Opportunity Commission

Yes No If yes, provide the EEOC Charge Number: _____ - _____ - _____

8. If you currently have a legal representative in this matter:

Attorney Name: Maria Sanchez Phone Number: (_____) _____ - _____

Street or Mailing Address: P.O. Box 566

City: Albuquerque State: NM Zip: 87103

9. What happened to you that you believe is discriminatory?

Attach additional pages if necessary. Do not include evidence or supporting documentation at this time.

Please see attached narrative.

9. What happened to you that you believe is discriminatory?

Muhammad “Nadeem” Khan is a sixty-year-old Pakistani Muslim who immigrated to the United States in 1985. He has lived in this country for thirty-four years. He moved to New Mexico in 2014 with his son, Tehseen. On June 15, 2019, Mr. Khan lost Tehseen, who was 24-years-old, to suicide. Tehseen was Mr. Khan’s best friend and the only family he had in New Mexico. Mr. Khan’s world was shattered the day he lost his son and his absence has left an irreparable void in his life. For these reasons, what happened to Mr. Khan at the hands of Mesa Detection Agency at the place of Tehseen’s final resting place is all the more devastating.

Mr. Khan buried his son’s body on June 19, 2019 in Fairview Memorial Park in Albuquerque. The body was interred in the section of the cemetery reserved for Muslim decedents. Pursuant to Mr. Khan’s religious family traditions, when a family member dies their relative must visit their grave on a daily basis for forty days to pray for the forgiveness of the decedent’s sins. After his son’s burial, Mr. Khan visited his son’s grave every day. On June 24, 2019 at approximately 7:00 PM, five days into his visits, Mr. Khan was at his son’s gravesite. As is required by his Islamic faith, Mr. Khan’s visit entailed the recital of traditional prayers from the Qur’an. Because he did not have them committed to memory, Mr. Khan pulled a video of the prayers up on his Smartphone and began to pray along with the voice on the video. The prayers on the video were recited in Arabic.

Fifteen minutes into his prayers, a security guard from Mesa Detection Agency (later identified as Noah Tucker) approached Mr. Khan and rudely informed him that the cemetery was closing and that he would have to leave. Mr. Khan found this curious as he had been informed by a member of the Islamic Center of New Mexico who routinely deals with Fairview Memorial Park that in the summer the cemetery doesn’t close until 8:30 PM. Further, the sign at the front of the cemetery said that it was open until dusk. It was four days past the summer equinox – the longest day of the year – and at approximately 7:15 PM the sun was still shining high in the sky. Dusk had not yet arrived. Mr. Khan informed Mr. Tucker that he was praying for his recently-deceased son, that the cemetery stays open until dusk and, thus, requested that he give him at least a couple more minutes in order to finish his prayers. Mr. Tucker became upset by this and told him, “it closes when I say it closes, it’s not my job to wait on you” and again ordered Mr. Khan to leave. However, this time he verbalized the order with an accent, apparently in an effort to humiliate Mr. Khan by imitating his Pakistani accent. Mr. Khan proceeded to leave the cemetery before the conclusion of his prayers because he did not want any further trouble with Mr. Tucker nor did he want to disrespect his son’s gravesite.

The next morning, Mr. Khan contacted the administration of Fairview Memorial Park to inform them of what happened the prior evening and to confirm the closing time of the cemetery. He spoke with a representative of the cemetery, who assured him that he could stay in the cemetery until 8:30 PM. That same day at approximately 6:50 PM, Mr. Khan returned to the cemetery to visit Tehseen’s gravesite. As he did the evening before, Mr. Khan utilized his phone to play prayers from the Qur’an as he followed along. After approximately ten minutes, Mr. Tucker showed up to Tehseen’s gravesite. He again demanded that Mr. Khan leave, to which Mr. Khan responded that he had spoken with the administration of the cemetery and that he would not be leaving until he completed his prayers for his son. He then attempted to turn on his phone

to record Mr. Tucker. Mr. Khan told him that he was not going to allow him to kick him out again and asked him for his name, which Mr. Tucker refused to give. Mr. Tucker told Mr. Khan to “turn that shit off” (referring to Mr. Khan’s phone) as Mr. Khan continued to request his name. Eventually, Mr. Khan called Mr. Tucker a coward for refusing to give him his name. This infuriated Mr. Tucker, who proceeded to angrily approach Mr. Khan with clenched fists. He got inches from Mr. Khan’s face, screamed and called him a “bitch.” Mr. Khan told him not to lay a finger on him. Mr. Tucker proceeded to tell Mr. Khan that he was “a piece of shit,” “stupid,” and to “go back to wherever the fuck you came from.” He also told him “we don’t do this shit here,” referring to Mr. Khan’s recital of prayers from the Qur’an. Mr. Khan continued to request his name and Mr. Tucker continued to refuse to give it. He proceeded to spit tobacco on Mr. Khan’s foot and car. Mr. Khan told Mr. Tucker that he had just buried his son and to have a heart. Mr. Tucker asked Mr. Khan for his name. Mr. Khan refused to give it so Mr. Tucker proceeded to walk over to the grave of Tehseen, stating, “I’ll find your name,” apparently implying that he could find Mr. Khan’s name (or at least his last name) on Tehseen’s tombstone. However, at that point Tehseen still did not have a tombstone. When Mr. Tucker arrived to the grave and saw there was no tombstone, he began stomping on the freshly dug gravesite. He then got in the car and told Mr. Khan that the police would be arriving soon and again told him that he would be going to jail. Mr. Tucker then left.

At approximately 7:20, Mr. Khan left his son’s gravesite and got into his car, which was parked on the cemetery road near his son’s grave. He proceeded to drive to the exit. Upon arrival, he found Mr. Tucker’s vehicle completely blocking the exit. The entrance gate was also closed. Mr. Khan had no way to exit the cemetery. He opened his door to get out of the car to see if there was a way to open the entrance gate. At that point, Mr. Tucker rushed Mr. Khan’s vehicle while grabbing an object at his side that Mr. Khan assumed was a gun. Mr. Tucker slammed Mr. Khan’s car door shut with great force, narrowly missing Mr. Khan’s leg as he quickly pulled it back into the car. Mr. Tucker shoved his head into Mr. Khan’s open window and started making odd animal sounds and told him that he would hurt Mr. Khan so bad that he would remember it for the rest of his life.

At this point, Mr. Khan was in fear for his life as Mr. Tucker was becoming increasingly hostile and because he was trapped inside the cemetery. Mr. Tucker continued to berate him, telling him, “your faggot ass is going to jail tonight and you’re going to get fucked in the ass.” Mr. Khan again asked for his name, to which Mr. Tucker responded, “I fucked your mother, that’s my name” as he laughed hysterically. He also called him a “little faggot bitch” and again told him “why do you people have to come here? Why don’t you to go back to wherever you came from?”

Mr. Tucker proceeded to call someone on his cell phone that he addressed as “Isaiah.” Mr. Khan was not sure who Mr. Tucker was speaking with but began yelling and asking for help, hoping that the person on the phone would hear him. At that point, he had been held against his will in the cemetery for 45 minutes. At approximately 8:15 PM, a man identified by his badge as E. Dzienis arrived to the cemetery. Mr. Khan assumed that this was another employee of the security company and informed him of the abuse he suffered at the hands of Mr. Tucker, including the fact that he had held him against his will. Mr. Dzienis claimed to know nothing of the situation but immediately told Mr. Khan that he was free to stay at the cemetery until 8:30.

He then ordered Mr. Tucker to move his car so that it no longer blocked the exit. Mr. Khan asked Mr. Dzienis what action would be taken to address the abuse and assault Mr. Tucker had committed and Mr. Dzienis replied that he did not yet know.

After leaving the cemetery on June 25, 2019, Mr. Khan immediately filed a police report with the Albuquerque Police Department and again called the Fairview Memorial Park to report what had happened.

Upon information and belief, Mr. Tucker is still employed by Mesa Detection Agency. The company offers the service of on-site security services to businesses in Albuquerque and is therefore a public accommodation pursuant to the New Mexico Human Rights Act. In providing its security services, Mesa Detection Agency prevented Mr. Khan from accessing Fairview Memorial Park, another public accommodation.