

# **FILING SUIT FOR DENIAL OF ACCOMMODATIONS**

## **ATTENTION TO ALL SUPPORTERS OF ADVOCATES FOR FAITH AND FREEDOM**

Due to the extraordinary volume of requests for assistance in COVID-19 employment issues we are receiving at this time, Advocates is unable to review and comment on every exemption letter being sent to us. Following the guidelines below should, however, put you in the best position to have your complaint heard. The EEOC and equivalent state agency processes are designed to be used by individuals and do not require a lawyer to be involved.

### **EEOC SUITS**

After you have asked for a religious, medical, or other accommodation and your employer has denied your request, ask that your employer provide you with the steps on how to appeal the denial. Follow those appeal steps, if any. If the denial is final and you want to pursue the matter further, you must file a complaint with either the regional office of the U.S. Equal Employment Opportunity Commission (EEOC) or your State's equivalent. Note that some states may require you to file with them in order to preserve specific state rights.

### **Charge Filing and Notice of Right-to-Sue Requirements**

If you plan to file a lawsuit for the denial of your accommodation under federal law alleging discrimination on the basis of religion, disability, other medical reasons, or retaliation, you first have to file a charge with the EEOC.

The EEOC will give you a Notice of Right to Sue at the time it closes its investigation. You may also request a Notice of Right to Sue from the EEOC office investigating your charge if you wish to file a lawsuit in court before the investigation is completed (see below). This notice gives you permission to file a lawsuit in federal or state court.

### **You Have 90 Days to File A Lawsuit in Court**

Once you receive a Notice of Right to Sue, you must file your lawsuit within 90 days. This deadline is set by law. If you don't file in time, you may be prevented from going forward with your lawsuit.

## **How to Request a Notice of Right to Sue**

If you have a registration in EEOC's Public Portal, you can submit your request by logging in to your charge account and uploading your request. If you don't have an online charge account, send your request for a Notice of Right to Sue to the EEOC office responsible for investigating your charge and include your EEOC charge number and the names of the parties. Note the following:

If more than 180 days have passed from the day you filed your charge, the EEOC is required by law to give you the notice if you ask for it.

If fewer than 180 days have passed, the EEOC will only give you the notice if it will be unable to finish its investigation within 180 days.

If you want the EEOC to continue investigating your charge, don't request a Notice of Right to Sue. Further, it is important to note that if you don't seek a Notice of Right to Sue, the EEOC may file a suit on your behalf if it finds there is reasonable cause to believe that discrimination has occurred in your case, and it is unable to resolve the matter through a process called "conciliation."

## **California Department of Fair Employment and Housing (DFEH)**

When someone files a discrimination complaint, DFEH evaluates the facts and decides whether to accept the case for investigation. If it accepts the case, DFEH independently investigates the facts and the legal issues. This involves reviewing respondents' responses to complaints and other information and evidence that complainants and respondents submit, among other things. DFEH attempts to resolve the dispute in appropriate cases. DFEH may also decide to take legal action.

### **File a complaint**

Initial Steps:

If you feel you were the victim of discrimination, DFEH is available to investigate and help settle your complaint. To begin this process, gather the information listed below and file an intake form in one of three ways:

- Online by creating an account and using DFEH's interactive Cal Civil Rights System, CCRS
- By mail using a printable intake form
- By calling using information on the DFEH's contact us page

If you decide to use the DFEH investigation process, you will need to gather the following:

- The specific facts and any records about the incident(s), including the name and contact information of the person or entity you believe harmed you (if known);
- Copies of any documents or other evidence related to your complaint; and

- The names and contact information of any witnesses (if known).

In employment cases, you must do this within three years of the date you were harmed. If you would prefer not to use the DFEH investigation process and instead file your own lawsuit, you can obtain an immediate Right-To-Sue notice.

DFEH will evaluate the allegations in the intake form and decide whether the laws that DFEH enforces cover these allegations. If these laws cover your allegations, DFEH will prepare a complaint form for your signature. When you return the signed complaint, it will be delivered to the person or entity that you believe discriminated against you (called the respondent).

In most cases, the filing of a complaint does not mean that DFEH has already determined whether there is reasonable cause to believe any laws have been violated. Instead, it means that DFEH has preliminarily determined that the laws that the department enforces cover the complaint's parties and allegations.

#### Last Steps:

Although DFEH may provide legal services and advice for complainants who are seeking relief for alleged civil rights violations, the department independently investigates and assesses the facts and legal issues in each case. These investigations and assessments include, among other things, reviewing information and evidence from complainants, respondents, or other sources. When a respondent answers a complaint, DFEH reviews it with the complainant.

As appropriate or required by law, DFEH attempts to resolve complaints through the free dispute resolution services that DFEH offers to parties. Unless a complaint has already been resolved, DFEH uses the facts obtained through its investigation to determine if there is reasonable cause to believe that a law the department enforces has been violated. If not, the case is closed. If there is reasonable cause, DFEH notifies the parties of this determination and may notify them that the department intends to file a lawsuit in court.

But before DFEH files a lawsuit, it typically requires the parties to go to mediation. This mediation provides another opportunity to reach an agreement to resolve the dispute. If the case is not settled during this mediation, DFEH may proceed with filing its lawsuit in a court.

#### **Obtain a Right to Sue**

You may file your own lawsuit for employment discrimination in court rather than using the DFEH investigation process. This is advisable only if you have an attorney. Also note that if you receive a right-to-sue notice, your complaint will not be investigated by DFEH even if you later decide not to file a lawsuit.

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To proceed in court, you are first required to file a complaint to secure a right-to-sue notice. You may file an online complaint or submit a printed complaint to the Department for processing.

Here are the steps for each option:

## **Online form:**

To fill out the form online you need to create a free account in DFEH's interactive service, called Cal Civil Rights System, CCRS. When you begin the process for the first time, you will see a dialog box with directions on how to create a new account. Then you will simply click on the "Right to Sue" button and answer the questions presented to you.

## **Printed form:**

Download and print the right-to-sue form. Fill it out and return to DFEH using either email or the post office. Mail to its headquarters address:

Department of Fair Employment & Housing  
Right to Sue  
2218 Kausen Drive, Suite 100  
Elk Grove, CA 95758

## **FOR PEOPLE WHO DO NOT RESIDE IN CALIFORNIA**

If you do not reside in California and want to file a complaint on the state level, please refer to the website of the agency in your state which regulates employment-discrimination issues to figure out the steps you must follow.

The EEOC and equivalent state agency processes are designed to be used by individuals and do not require a lawyer to be involved.