

## What procedures must one follow in order to file a Title VII claim of religious discrimination with the EEOC?

While it would be inappropriate for The Rutherford Institute to provide you with legal advice at this time and under these circumstances, we are pleased to provide you with the following information regarding your area of concern.

### I. Charge Process

1. A charge must first be filed with a state or local agency (if available). Title VII says that no charge may be filed with the EEOC by the aggrieved person within sixty days from the filing of the state or local claim.
2. Title VII requires only that the Commission refrain from processing a charge for sixty days following institution of the state or local administrative action, but it does not require that state or local remedies be exhausted as a condition precedent to the federal action.

### II. When to file with the EEOC

3. Title VII does not require a complaint to go through a state or local agency if no state or local authority has been established under which a party can seek civil relief or institute criminal proceedings.
4. Timely filing of charges with the EEOC is a jurisdictional prerequisite which must be met for the EEOC to have the power to investigate. Under Title VII as it was amended in 1972, there are three distinct time limitations for the filing of EEOC charges which apply in different circumstances:
  1. If the alleged unlawful employment discrimination practice occurred in a state or locality which has an applicable anti-discrimination law, and if the aggrieved party has initially instituted proceedings under such a law, a charge with the EEOC must be filed by or on behalf of the person aggrieved within 300 days after the alleged unlawful employment practice occurred, unless...

2. The charging party earlier received a notice that the state or local agency involved has terminated proceedings under state or local law, in which case a charge with the EEOC must be filed by or on behalf of the person aggrieved within thirty days after receiving notice that the state or local agency has terminated its proceedings;
3. In all other circumstances, a charge under Title VII must be file within 180 days after the alleged incident occurred.

When a charge is considered "filed" with the EEOC

- 3.1 Generally, charges are deemed filed with the EEOC upon their receipt by the Commission.
- 3.2 If a charge is initially presented to the state or local agency, it will be deemed filed with the EEOC sixty days (or where appropriate, 120 days) after the institution of state proceedings, or upon the termination of state proceedings, whichever is earlier.
- 3.3 If the charging party initially goes to a state or local agency, and does not request that the charge be presented to the EEOC, the charging party may present the charge to the EEOC, and once presented to the EEOC, the charge will be deemed filed upon the earlier of either the termination of the proceeding before the local agency, or upon the expiration of sixty days (or where appropriate, 120 days) from the filing with the agency.

Contents and format of charge

In order to be valid, a charge must be written, allege a violation of Title VII, be directed against a respondent covered under Title VII, be timely filed, and be signed and verified.

**\*\*NOTE\*\*** There may be differences between the sufficiency of a charge which will trigger EEOC investigative processes and a charge which will be considered sufficient by a District Court to take jurisdiction over a subsequent lawsuit which may develop from the charge.

Charge must be verified

The requirement that the charge be verified is usually satisfied by the administration of an oath at the time the charge is filed.

VI. Where to file an EEOC charge

- A. May be filed by person, or by mail, either:

1. at the offices of the Commission in Washington, D.C.
2. with any designated representative of the Commission, or
3. at any of the EEOC's district or area offices.

B. Filing by mail

After charge is received by EEOC, it is rewritten following an interview with the charging party; verification of the charge takes place at the first interview. If unable to come in, it may be drafted over the phone.

C. Filing in person

At the EEOC office, charge forms are available for the use of charging parties or their representatives. After a charge has been formally filed at an EEOC office, EEOC personnel will encourage the charging party to make a more detailed statement of the fact in affidavit.

VII. Lawsuits

As a general rule, administrative remedies provided by the EEOC must be exhausted before a federal court may take jurisdiction over a Title VII action. However, a plaintiff is often allowed some latitude when compliance with the procedural requirements of Title VII is assessed.