

CEA EEOC Charge Response Playbook

A practical operating guide for Christian employers

PURPOSE

This members-only resource helps Christian employers respond carefully when an EEOC charge arrives. It is designed to support immediate action, preserve the record, protect employees from retaliation, and help qualified counsel evaluate any CEA legal protection that may apply.

IMPORTANT

This resource is educational. It does not provide legal advice, create an attorney-client relationship, guarantee representation, or promise payment of legal fees. Every charge is fact-specific. Follow the notice you received and consult qualified employment counsel before responding.

DOCUMENT STATUS

Revised manuscript based on CEA's counsel-approved source documents and updated for current EEOC guidance. Current as of September 2026.

Part One: The First 24 Hours

When an EEOC charge arrives, the first 24 hours are critical. The actions you take immediately after receipt will shape your entire response and affect the outcome. Follow these steps in order.

OPERATING RULE

Do not discuss the charge with the named employee or any witness before speaking with counsel. Do not discipline, terminate, or change the work conditions of any person connected to the charge.

Step 1: Secure the Charge

- › Date-stamp the envelope and the notice the moment it is received.
- › Photograph or scan the complete charge document, including all attachments.
- › Note the response deadline on the face of the charge (typically 30 days for a Position Statement).
- › Deliver the original immediately to your designated HR lead or legal contact.
- › Do not leave the document in a shared space or route it through general mail handling.

Step 2: Issue a Litigation Hold

- › Immediately suspend all document destruction or routine deletion schedules for records related to the charge.
- › Identify custodians: the named charging party, supervisors, HR personnel, and anyone who may have relevant records.
- › Send a written litigation hold notice to each custodian before the end of the business day.
- › Preserve email, text messages, performance records, disciplinary files, policy documents, and scheduling records.
- › Do not alter, annotate, or reorganize existing files.

Step 3: Notify CEA and Qualified Counsel

- › Contact CEA immediately at joinceanow.org. Provide a copy of the charge notice so legal staff can evaluate whether CEA protection applies.
- › CEA's network includes attorneys experienced in religious liberty employment law. Evaluation of legal protection eligibility is a member benefit.
- › Do not submit a response to the EEOC before consulting with counsel. Premature responses lock in factual positions that are difficult to revise.
- › If you have existing employment counsel, notify them immediately as well. CEA legal staff will coordinate as appropriate.

Part Two: Assess the Charge

Before preparing any response, you must understand exactly what is alleged, what law applies, and whether your organization has a religious liberty defense available. This assessment drives every subsequent decision.

Identify the Legal Basis

The charge will cite one or more federal statutes. Common bases include:

- **Title VII** — Prohibits discrimination based on religion, sex, race, color, and national origin. Religious employers may assert the religious organization exemption under Section 702.
- **ADA** — Prohibits disability discrimination. Applies to employers with 15 or more employees.
- **ADEA** — Prohibits age discrimination for employees 40 and older.
- **PWFA** — Covers pregnancy, childbirth, and related medical conditions.
- **GINA** — Prohibits genetic information discrimination.

Evaluate Religious Liberty Defenses

CEA members may have one or more available defenses:

- **Religious Organization Exemption (Title VII Sec. 702)** — Allows qualifying religious employers to make employment decisions based on religion.
- **Ministerial Exception** — Constitutional doctrine protecting religious employers' right to select and retain key religious personnel without EEOC interference.
- **RFRA Defense** — The Religious Freedom Restoration Act may bar application of federal mandates that substantially burden sincere religious practice without compelling justification.
- **First Amendment** — Free exercise and establishment clause protections apply in appropriate circumstances.

CEA ASSESSMENT CHECKLIST

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| ☐ Organization meets religious employer criteria under Title VII Sec. 702 | ☐ Religious practice or belief was sincerely held and consistently applied |
| ☐ Statement of Faith or religious purpose governing documents on file | ☐ Written accommodation policy exists and was followed |
| ☐ Named employee held a role with religious duties (ministerial exception evaluation) | ☐ No evidence of pretext or inconsistent treatment among similarly situated employees |
| ☐ Employment decision was grounded in documented religious belief or policy | ☐ CEA has been notified and legal protection evaluation requested |

Part Three: Build Your Record

A strong Position Statement is built on a complete, organized record. Gather documents before drafting. Every item should be authenticated, dated, and ready to be produced.

Personnel File Documents

- › Offer letter and job description at time of hire
- › All performance reviews for the relevant period
- › Written warnings, counseling memos, and PIPs
- › Attendance and leave records
- › Separation documentation and final paycheck records
- › Any signed acknowledgment of employee handbook
- › Signed Statement of Faith (if applicable)

Policy Documents

- › Current employee handbook (version in effect at time of decision)
- › Religious accommodation policy
- › Anti-harassment and anti-retaliation policies
- › Statement of Faith or religious purpose statement
- › Mission and values governing documents

Communications

- › All email communications between HR and the charging party
- › Any written accommodation requests and organizational responses
- › Written complaints filed by the charging party
- › Investigation notes or HR intake records
- › Any communications referencing the decision at issue

Comparator Evidence

- › Records of how similarly situated employees were treated in analogous circumstances
- › Evidence of consistent policy application across employees of different backgrounds
- › Documentation that no differential treatment occurred based on a protected characteristic
- › Any internal investigation report related to the same events

Part Four: Draft the Position Statement

The Position Statement is your formal response to the EEOC. It is a legal document that may be shared with the charging party and used in any subsequent litigation. It must be accurate, complete, and professionally written.

OPERATING RULE

Every factual claim in your Position Statement must be supported by a document in your record. Do not assert facts you cannot prove. Do not omit material facts that cut against your position.

Required Elements

- › **Organizational overview** — Brief description of the organization, religious mission, number of employees, and applicable exemptions.
- › **Factual narrative** — Chronological account of the events giving rise to the charge. Cite specific dates and documents.
- › **Legal argument** — Explain why the employment decision was lawful. Address the specific statute cited in the charge.
- › **Religious liberty basis** — If a religious exemption or defense applies, state it explicitly and cite supporting documentation.
- › **Exhibit index** — List every attached document by exhibit number and description.

Common Drafting Errors

- › Admitting disputed facts without qualification
- › Volunteering information not requested by the charge
- › Using inflammatory or conclusory language about the charging party
- › Contradicting prior oral statements made to EEOC investigators
- › Failing to attach supporting documents referenced in the statement
- › Submitting without legal review

Submission Protocol

- › Submit through the EEOC's online portal (EEOC Respondent Portal) whenever possible.
- › Retain a complete copy of everything submitted, including the submission confirmation.
- › Calendar follow-up deadlines: requests for information, mediation invitations, and right-to-sue letter timelines.
- › Notify CEA upon submission so legal staff can update your file.

Part Five: Prevent Retaliation

Retaliation claims are the most frequently filed EEOC charge. An employer who handles the original charge correctly can still face serious liability if it takes any adverse action against the charging party or a witness after the charge is filed.

OPERATING RULE

From the date the charge is received until final resolution, treat the charging party and all known witnesses identically to how you would treat any other employee in the same circumstances.

Prohibited Actions After Charge Receipt

- › Termination, demotion, or schedule reduction
- › Exclusion from meetings, communications, or projects
- › Changes to job duties or reporting relationships
- › Negative performance reviews not supported by pre-existing documentation
- › Harassment, isolation, or hostile treatment by any manager or coworker
- › Any action that a reasonable person would view as punitive

Required Documentation

- › Log all routine employment actions affecting the charging party during the pendency of the charge.
- › Document the business reason for any personnel action before it is taken.
- › Notify counsel before any disciplinary action or termination of the charging party.

Part Six: EEOC Mediation

The EEOC may offer mediation before or after the investigation. Mediation is voluntary and confidential. Any settlement reached in mediation is binding. Consider it carefully before agreeing to participate.

When Mediation May Be Appropriate

- › The charge is factually complex and litigation risk is genuine.
- › Settlement would preserve an ongoing employment relationship.
- › The cost of defense exceeds the likely settlement value.
- › A confidential resolution protects the organization's reputation.

When to Decline Mediation

- › The charge involves a core religious liberty principle CEA is prepared to defend in litigation.
- › Settlement would require the organization to alter its Statement of Faith, religious policies, or hiring standards.
- › A public adjudication would advance CEA's broader advocacy mission.
- › CEA legal counsel recommends declining based on the legal posture of the case.

Note: CEA members should notify CEA before agreeing to or declining mediation. CEA legal staff can evaluate the charge in light of CEA's advocacy strategy and available legal resources.

Part Seven: Cause Determination and Litigation

After the EEOC investigation concludes, the agency will issue one of three outcomes. Each requires a different response from the employer.

EEOC OUTCOME	WHAT IT MEANS	EMPLOYER ACTION REQUIRED
No Cause Determination	EEOC finds insufficient evidence of discrimination. Charging party receives a Right to Sue letter and may file in federal court within 90 days.	Notify CEA. Review litigation exposure even after a favorable EEOC outcome. Preserve all records through any subsequent litigation deadline.
Cause Determination	EEOC finds reasonable cause to believe discrimination occurred. The agency will attempt conciliation before authorizing a lawsuit.	Do not engage in conciliation without counsel. Notify CEA immediately. Evaluate whether to conciliate or prepare for potential EEOC litigation.
Right to Sue (Charging Party Request)	Charging party requests early closure to pursue litigation. EEOC issues the letter without completing its investigation.	The 90-day litigation window begins. Notify CEA and litigation counsel immediately. Begin building a comprehensive defense record.

If CEA Legal Defense Applies

CEA's legal defense program is available to qualifying members facing EEOC charges or litigation arising from religious liberty issues. CEA cannot guarantee representation in every case and does not guarantee payment of legal fees. CEA evaluates each matter on the facts, the legal posture, and the organization's available defenses.

Factors in CEA Defense Evaluation

- › Organization is a current CEA member in good standing
- › Charge arises from a genuine religious liberty conflict
- › Organization has documented religious mission and applicable policies
- › Matter presents a significant issue for Christian employers broadly
- › Defense is legally viable based on current law and available precedent

Documents to Have Ready

- › Complete charge notice and all EEOC correspondence
- › Position Statement and exhibit index
- › Organizational governing documents and Statement of Faith
- › Full personnel file for the charging party
- › Any internal investigation report
- › Timeline of all employment actions taken since charge receipt

ABOUT CEA ACTION

Protecting Christian Employers in the Workplace and in Court

The Christian Employers Alliance is a membership organization that provides legal resources, policy advocacy, and educational tools to help Christian employers operate according to their faith. CEA has secured two permanent federal injunctions and one binding federal settlement protecting member employers from government mandates that violate religious freedom.

LEGAL DEFENSE

Federal injunctions, litigation support, and EEOC charge evaluation for qualifying members.

POLICY ADVOCACY

Active in Congress and federal agencies on legislation affecting religious employers and workplace freedom.

MEMBER RESOURCES

Playbooks, checklists, policy guides, and legal frameworks developed with employment law counsel.

GET SUPPORT

Visit joinceanow.org to access your full member portal, connect with CEA legal staff, or contact us about an active charge or legal matter.