90-Day Right-to-Sue Request / Closure
SOP# 200

Employment Discrimination Bureau
North Carolina Department of Labor

Procedure approved by: Tiffany Lathan, Bureau Chief

Signature: Tiffany Lathan **Date:** 7/22/14

Prepared by: Kathy Woodford

Signature: Kathy Woodford **Date:** 7/16/14

STANDARD OPERATING PROCEDURE MANUAL

1. PURPOSE and SCOPE

1.1. Purpose

This SOP establishes the procedure used to close a case when a Complainant has requested a 90-day right-to-sue letter. This procedure has the following goal(s):

- To ensure that the Complainant is entitled to the 90-day right-to-sue letter under the law;
- To ensure that the parties are notified of the case closing;
- To ensure that the closure is properly documented;
- To ensure the issuance of the appropriate right-to-sue letter.

1.2. Scope

This SOP outlines the necessary steps involved in closing a case once a Complainant has requested a 90-day right-to-sue letter, including whether the Complainant is entitled to the letter, notification of closure to the parties, the preparation of a memo to file, and the issuance of the right-to-sue letter. For Occupational Safety & Health (OSH) cases, also refer to the OSH Discrimination Manual for specific OSH procedures.

1.3. Regulations

The following statutes, rules and/or codes must be followed while performing this SOP (click the links for the most up-to-date rules and laws):

1.3.1. NCGS §95-242c

1.3.2. Department of Labor (DOL) Record Retention Policy

2. PERSONNEL RESPONSIBILITIES

The following is a list of people who participate in the procedure and the overall responsibilities of each role.

Role	Responsibilities
Investigator	• Must date stamp any faxed or mailed written request from Complainant; • Must ensure that more than 90 days have lapsed since the date the complaint was filed; • Must notify the parties of the closure; • Must prepare a memo to file; • Must issue a 90-day right-to-sue letter when the 90-day issuance requirements are met.

3. HEALTH AND SAFETY ISSUES

Refer to the *Employee Safety and Health Program Policies*, the *Employee Safety and Health Manual*, and the *Employee Safety Rules* on the DOL Intranet for information related to safety matters affecting EDB personnel. For information related to the Americans with Disabilities Act, refer to the ADA Checklist on the Intranet as well. To access these policies and checklists, click on the links above or visit the DOL Intranet *Safety and Health Program* and the EDB *Standard Operating Procedures* pages.

4. PROCEDURE

4.1. Trigger

This procedure is triggered when the Complainant requests a 90-day right-to-sue letter.

4.2. Primary Procedure

4.2.1. A Complainant may request a right-to-sue letter before the assignment of a case file *or* before completion of an investigation as long as more than 90 days have lapsed since the date the complaint was filed with the DOL. When receiving such a request, the investigator must:

a. Ensure that the request for a right-to-sue letter is received by the Employment Discrimination Bureau (EDB) in writing (mailed, faxed, or emailed)(Phone requests are not accepted.);
b. Ensure that 90 days have lapsed since the complaint was *filed*;
c. Ensure that the case has not already been closed.

4.2.2. If the criteria in 4.2.1 are met, the investigator should proceed by holding separate closing conferences with the Complainant and Respondent to inform the parties of the case closure and issuance of the right-to-sue letter. In the closing conference, the investigator should:

a. Explain that REDA allows for right-to-sue letter requests after 90 days from the date of complaint filing;
b. Explain that the case is being closed due to Complainant's request for a right-to-sue letter after the 90-day time lapse;
c. Explain that no further action will be taken by EDB in this matter;
d. Allow for any questions and confirm mailing addresses.

4.2.3. The investigator shall prepare a memo to file documenting the Complainant's request for the 90-day right-to-sue letter. The memo shall include:

a. When the request was made by Complainant;

b. The date the complaint was initially filed;

c. A statement that at least 90-days have passed since the date of filing.

4.2.4. The investigator shall issue a 90-day right-to-sue letter. Refer to Exhibit 200-1. The right-to-sue letter must:

a. State the Complainant's name and address;

b. State Respondent's name;

c. State that the Complainant made a request for the right-to-sue letter and that the request is being granted because at least 90-days have lapsed since the complaint filing;

d. Be dated the day the case is closed. Exception: If the letter cannot be mailed that day, then the letter may be dated with the next business date. For instance, a letter completed after mail pickup on a Friday afternoon may be dated for the following Monday.

4.2.5. The investigator shall organize the case file in accordance with SOP# 1200 and place the closed file in the appropriate file cabinet / designated space in the office.

4.3. Alternative Procedures – N/A

4.4. Exception Procedures - N/A

5. CUSTOMER SERVICE REQUIREMENTS

The following table lists the customer service requirements that must be satisfied for each Customer of the procedure.

Customer	Requirements
Public (Complainants and Respondents)	Clear communication, both in writing and verbally, is a must so that the parties understand all information being discussed. It is necessary to remain courteous and respectful when dealing with the public, even in the face of frustration. Though the investigator must remain professional at all times, verbal abuse from a party or witness will not be tolerated, and the investigator may end a conversation in such circumstances.

6. DATA AND RECORD MANAGEMENT

6.1. Data Entry in Oracle

6.1.1. The investigator shall enter the following information into Oracle (Refer to Exhibit Oracle for screenshot):

a. Investigator
b. Assigned Date
c. Received
d. R Contact
e. C Contact

f. Completed (date the case is closed)
g. Inv Finding (90/RTS)
h. Closure Date (dated the case is closed)

6.2. Record Retention

6.2.1. All records must be retained in the file and may not be destroyed, per the DOL Retention Policy. Records include, but are not limited to, Complainant's written request for the 90-day right-to-sue letter, the complaint form, questionnaire, emails, and any evidence submitted by the Complainant or Respondent.

7. Exhibits

Exhibits are examples of forms, letters, checklists, reports or other documents that are used or created during the execution of this SOP. Exhibits referenced in this SOP are available for view on the SOP website.

7.1.1. Exhibit 200-1 (sample 90-day right-to-sue letter)

7.1.2. Exhibit Oracle (Screen shot of Oracle)