

1 for a disability, other, denied work opportunities or assignments, denied family care or
2 medical leave (cfra).

3 **Additional Complaint Details:** Please see attached additional facts.
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1 VERIFICATION

2 I, **Joseph L. Richardson**, am the **Attorney** in the above-entitled complaint. I have
3 read the foregoing complaint and know the contents thereof. The matters alleged are
4 based on information and belief, which I believe to be true.

5 On April 21, 2022, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **San Bernardino CA**

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Date Filed: April 21, 2022

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DFEH-Request for Right to Sue Letter-Paige Griffin

Additional Information

-Briefly describe what you believe to be the reason(s) for the discrimination, harassment, or retaliation.

In actions that continue through the time of this filing, Paige Griffin (“GRIFFIN”), a woman, alleges that her employer San Bernardino (“CSUSB “) took the following adverse actions against GRIFFIN: discrimination, harassment, disparate impact, denied a work environment free of discrimination, retaliation and/or harassment. GRIFFIN believes CSUSB committed these actions because of GRIFFIN’s sex and gender, and disability status. CSUSB is an employer who is subject to action under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et. seq.). Based on the foregoing, GRIFFIN believes CSUSB is subject to the FEHA for, among other things: Based on the foregoing, GRIFFIN believes CSUSB is subject to the FEHA for, among other things:

-Retaliation for reporting Harassment and/or Discrimination, which is a protected activity under state and federal law;

-Wrongful Harassment, Retaliation and Discrimination in Violation of Government Code Section 12940, Subsection (a) and (j)).

-Wrongful Retaliation in Violation of Government Code Section 12940, Subsection (h); and

-Failure to Undertake Reasonable Steps to Prevent Harassment from Occurring under Government Code Section 12940(k).

GRIFFIN is informed and believes that:

-GRIFFIN is an Administrative Support Coordinator I in the Facilities Planning and Management Department of California State University – San Bernardino (“CSUSB “). She has been a dedicated employee of CSUSB for more than six years. During her tenure at CSUSB she was the victim of several instances of harassment, the most recent of which involved an employee who sexually assaulted her at her isolated workstation. The foregoing incident “the INCIDENT” occurred on or about March 1, 2022.

-GRIFFIN reported the INCIDENT to CSUSB; when she did so, she was offered vague promises of an investigation into the matter; then threatened with disciplinary action for not returning to work immediately. Upon her attempted return to work, being in the same department triggered unbearable fear and anxiety. Her physical and mental symptoms arising out of the incident constitute a disability. She understood that she could not work in the Facilities Planning and Management Department.

-Following her reporting of the INCIDENT, GRIFFIN was threatened with disciplinary action for not attending work for health and safety reasons. To this point CSUSB refuses to place her in a safe workspace or allow her to work remotely, and has her on unpaid leave. More, she is informed and believes that CSUSB police have not honored her request to press charges in this matter.

-GRIFFIN has sought leave status, including filing under Title IX, as well as a Workers Compensation claim and a disability claim, and given CSUSB all information it needed in order to understand the need to either have GRIFFIN accommodated though working in a separate department or to work remotely. To this point, CSUSB has failed to provide reasonable accommodations for Ms. GRIFFIN's trauma and anxiety at work following her sexual assault, only offering an accommodation that keeps GRIFFIN in the same department where she was assaulted. CSUSB has denied requests to allow her to work remotely and rejected a transfer of her job duties to a different team and location. She currently is on unpaid leave during the university's investigation into the matter, while perpetrator is believed to be on paid leave.

Wrongful Termination /Discrimination in Violation of Government Code Section 12940, Subsection (a), (c), (i), (j)(1)

GRIFFIN was employed by CSUSB during the times and in the position, which is described with more particularity, above. At all times herein mentioned, GRIFFIN was performing competently in her position with CSUSB

At all times herein mentioned, California's Fair Employment and Housing Act ("FEHA"), Cal. Government Code § 12940 et seq., was in full force and effect and fully binding upon CSUSB. GRIFFIN was a member of a group protected by the statute, in particular section 12940(a), prohibiting discrimination in employment based on sex, and gender, as well as mental/physical condition and disability status. GRIFFIN was a female who, by all accounts was performing her job duties satisfactorily. Upon being hired, she was put in various uncomfortable situations on resulting in at least three incidents that were reported to CSUSB, the last of which involved her being forcibly kissed and sexually assaulted by a co-worker in her isolated workspace. GRIFFIN complained about the incident, and has found herself on an unpaid leave, after being threatened with disciplinary action for not coming to work due to her mental and physical health issues arising out of the INCIDENT.

The sexual assault, as well as the further adverse actions that have occurred by CSUSB constitute discrimination based on sex and gender, and disability status, and violated Government Code § 12940(a).

As a direct, foreseeable and proximate result of CSUSB's actions, GRIFFIN has suffered emotional distress, humiliation, shame, and embarrassment all to the GRIFFIN's detriment causing her damages.

CSUSB affected, facilitated, authorized, and/or ratified the actions of the perpetrator in the INCIDENT. GRIFFIN further believes that any alleged reasons for her termination were a pretext for discrimination based on her sex and gender, as well as mental/physical condition and disability status.

By engaging in the discriminatory activities and by maintaining the discriminatory policies, practices and procedures more fully described above, and more specifically by demoting, failing to properly train, berating, isolating and retaliating against GRIFFIN as set forth above, CSUSB

violated the fundamental, substantial, and well-established public policies embodied in applicable law.

As a direct and proximate result of CSUSB'S willful, knowing, and intentional violations of the Fair Employment and Housing Act (FEHA) by discriminating against GRIFFIN based on gender and sex, physical and mental condition, and disability status, and by their failure to take all reasonable steps necessary to prevent harassment, retaliation and discrimination as herein below alleged, GRIFFIN was damaged thereby.

Harassment Based on Sex and Gender in Violation of California Government Code § 12940(A) & (J)

At all times herein mentioned, California's Fair Employment and Housing Act ("FEHA"), Cal. Gov't Code §§ 12900, et seq., was in full force and effect and was fully binding upon CSUSBs. Specifically, §§ 12940(j) prohibits an employer from sexually harassing an employee on the basis on her sex and gender.

The actions of the perpetrator, as well as CSUSB (as manager) directed at GRIFFIN, as described herein, created a hostile working environment which materially altered GRIFFIN's working conditions, and which constitutes sexual harassment in violation of Gov't Code §12940(j)(1).

As a direct, foreseeable and proximate result of CSUSBs' unlawful actions, GRIFFIN suffered economic damages and harm, including back pay, lost vacation pay, benefits and other compensation.

As a direct, foreseeable, and proximate result of CSUSBs' unlawful actions, GRIFFIN suffered emotional distress, humiliation, shame, and embarrassment, all to the GRIFFIN's detriment in an amount to be proven at the time of trial.

Harassment Based on Physical/Mental Condition, and Disability Status, in Violation of California Government Code § 12940(A) & (J)

At all times herein mentioned, California's Fair Employment and Housing Act ("FEHA"), Cal. Gov't Code §§ 12900, et seq., was in full force and effect and was fully binding upon CSUSBs. Specifically, §§ 12940(j) prohibits an employer from harassing or retaliating against employee on the basis on her physical/mental condition, or disability status.

Following her reporting of the INCIDENT, GRIFFIN was threatened with disciplinary action for not attending work for health and safety reasons. GRIFFIN has sought leave status, including filing under Title IX, as well as a Workers Compensation claim and a disability claim, and given CSUSB all information it needed in order to understand the need to either have GRIFFIN accommodated though working in a separate department or to work remotely.

The actions of CSUSB directed at GRIFFIN, as described herein, created a hostile working environment which materially altered GRIFFIN's working conditions, and which constitutes sexual harassment in violation of Gov't Code §12940(j)(1).

As a direct, foreseeable and proximate result of CSUSBs' unlawful actions, GRIFFIN suffered economic damages and harm, including back pay, lost vacation pay, benefits and other compensation.

As a direct, foreseeable, and proximate result of CSUSBs' unlawful actions, GRIFFIN suffered emotional distress, humiliation, shame, and embarrassment, all to the GRIFFIN's detriment in an amount to be proven at the time of trial.

Wrongful Retaliation in Violation of Government Code Section 12940, Subsection (h)

While GRIFFIN worked for CSUSB, the policies and procedures implemented by CSUSB created a custom and practice of discrimination and retaliation within CSUSB in general, and against individuals in GRIFFIN's department, in particular, the failure to use appropriate and recognized processes. The actions were ratified by CSUSB. Specifically, GRIFFIN has been retaliated against for complaining about the sexual assault that occurred at the hands of another employee in GRIFFIN's isolated work area. She has been singled out, threatened with disciplinary action for not coming immediately back to work, forced to use her vacation time to stay off work and deal with her trauma, and currently sits home on an unpaid leave.

Wrongful Failure to Take Reasonable Steps to Prevent Harassment, Discrimination and Retaliation in Violation of Government Code Section 12940, Subsections (j)(1) and (k)

While GRIFFIN was working for CSUSB, CSUSB failed to take reasonable steps to prevent harassment, discrimination, and retaliation from occurring. Specifically, CSUSB, among other things, failed to appropriately train its employees in the methods by which harassment, discrimination and retaliation may be prevented, and failed to prevent such harmful activity from occurring in the first instance; failed to properly investigate claims of harassment, discrimination and retaliation within the department; and failed to appropriately discipline its employees who were known to have committed acts of wrongful harassment, discrimination, and/or retaliation. In addition to the practices enumerated above, CSUSB has engaged in other practices in violation of FEHA, including Government Code section 12940(h), retaliation for engaging in protected activity.

As a direct and proximate result of CSUSB's willful, knowing, and intentional violations of FEHA by retaliating against GRIFFIN because she complained of sexual harassment/assault, retaliation, and/or discrimination, and by their failure to take all reasonable steps necessary to prevent discrimination as hereinabove alleged, CSUSB retaliated against GRIFFIN with unfair conduct, including threatening GRIFFIN with disciplinary action for not attending work for health and safety reasons. To this point CSUSB refuses to place her in a safe workspace or allow her to work remotely, and has her on unpaid leave, and CSUSB damaged GRIFFIN thereby.

As a direct and proximate result of CSUSB's willful, knowing, and intentional violations of FEHA, and by their failure to take all reasonable steps necessary to prevent discrimination as hereinabove alleged, GRIFFIN was isolated, harassed, discriminated against, and retaliated against and was damaged.

Failure to Accommodate/Failure to Engage in Good Faith Interactive Process

Upon her attempted return to work, being in the same department triggered unbearable fear and anxiety. Her physical and mental symptoms arising out of the incident constitute a disability. Despite her earnest attempt, she came to understand that she could not work in the Facilities Planning and Management Department. As a result, GRIFFIN has sought leave status, including filing under Title IX, as well as a Workers Compensation claim and a disability claim, and given CSUSB all information it needed pertaining to GRIFFIN's physical/mental condition and disability in order to understand the need to either have GRIFFIN accommodated through working in a separate department or to work remotely.

At all relevant times, GRIFFIN was qualified for the position she held with CSUSB and was able to perform the essential functions of that job if such reasonable accommodation had been made. At no time would the performance of the position's functions, with such reasonable accommodation, have been a danger to the health or safety of GRIFFIN or anyone else, nor would it have created an undue hardship to the operation of CSUSB's business. CSUSB's failure to accommodate GRIFFIN under these circumstances constitutes unlawful conduct in violation of Government Code Section 12940, et. seq.

GRIFFIN is informed and believes and thereon alleges that CSUSB has jobs available in GRIFFIN'S category that could keep her at work in a safe environment, and/or that CSUSB has the ability to allow GRIFFIN to work remotely, as all or most of the people on her department currently do. Despite this, CSUSB has failed to provide reasonable accommodations for Ms. GRIFFIN's trauma and anxiety at work following her sexual assault, only offering an accommodation that keeps GRIFFIN in the same department where she was assaulted. CSUSB has denied requests to allow her to work remotely and rejected a transfer of her job duties to a different team and location. She currently is on unpaid leave during the university's investigation into the matter. CSUSB has also failed to engage in the interactive process in good faith as required under the law.

GRIFFIN has been foreseeably harmed due to CSUSB's conduct by lost wages, lost benefits, vacation pay, and potential for advancement, among other things. GRIFFIN continues to suffer emotional distress and anguish as a foreseeable result of the foregoing as well. Such actions were the result of CSUSB's failure to supervise, control, direct, manage and counsel those agents throughout GRIFFIN'S employment and CSUSB ratified, condoned and/or encouraged the discriminatory behavior and enabled agents to believe their conduct to be appropriate.

GRIFFIN is informed and believes and thereon alleges that CSUSB has a systemic and widespread policy of discriminating against and retaliating against employees with disabilities, including those whose disabilities arise from issues at the workplace and who complain about sexual assault/harassment coming from workplace conduct.. By failing to stop same, CSUSC ratified the conduct in question.

GRIFFIN is informed and believes and thereon alleges that CSUSB's desire to avoid accommodating GRIFFIN, and to avoid an interactive process undertaken in good faith, was a motivating factor in the decision of CSUSB to discriminate against her and which has her now on an unpaid leave status.