

§ 44.303

28 CFR Ch. I (7–1–09 Edition)

§ 44.303 Determination.

(a) Within 120 days of the receipt of a charge, the Special Counsel shall undertake an investigation of the charge and determine whether a complaint with respect to the charge will be brought before an administrative law judge specially designated by the Attorney General to hear cases under section 102 of the Act.

(b) When the Special Counsel decides not to file a complaint with respect to such charge before an administrative law judge within the 120-day period, or at the end of the 120-day period, the Special Counsel shall issue letters of determination by certified mail which notify the charging party and the respondent of the Special Counsel's determination not to file a complaint.

(c) When the charging party receives a letter of determination issued pursuant to § 44.303(b), indicating that the Special Counsel will not file a complaint with respect to such charge, the charging party, other than an officer of the Immigration and Naturalization Service, may bring his or her complaint directly before an administrative law judge within 90 days after his or her receipt of the Special Counsel's letter of determination. The charging party's complaint must be filed with an administrative law judge pursuant to the regulations issued by the Office of the Chief Administrative Hearing Officer codified at 28 CFR 68.1.

(d) The Special Counsel's failure to file a complaint with respect to such charge, before an administrative law judge within 120 days shall not affect the right of the Special Counsel to continue to investigate the charge or to bring a complaint before an administrative law judge during the additional 90-day period as defined by paragraph (c) of this section.

(e) The Special Counsel may seek to intervene at any time in any proceeding brought by a charging party before an administrative law judge.

[Order No. 1225–87, 52 FR 37409, Oct. 6, 1987, as amended by Order No. 1520–91, 56 FR 40249, Aug. 14, 1991]

§ 44.304 Special Counsel acting on own initiative.

(a) The Special Counsel may, on his or her own initiative, conduct inves-

tigations respecting unfair immigration-related employment practices when there is reason to believe that a person or entity has engaged or is engaging in such practices.

(b) The Special Counsel may file a complaint with an administrative law judge where there is reasonable cause to believe that an unfair immigration-related employment practice has occurred within 180 days from the date of the filing of the complaint.

§ 44.305 Regional offices.

The Special Counsel, in consultation with the Attorney General, shall establish such regional offices as may be necessary to carry out his or her duties.

PART 45—EMPLOYEE RESPONSIBILITIES

Sec.

- 45.1 Cross-reference to ethical standards and financial disclosure regulations.
- 45.2 Disqualification arising from personal or political relationship.
- 45.3 Disciplinary proceedings under 18 U.S.C. 207(j).
- 45.4 Personal use of Government property.
- 45.10 Procedures to promote compliance with crime victims' rights obligations.
- 45.11 Reporting to the Office of the Inspector General.
- 45.12 Reporting to the Department of Justice Office of Professional Responsibility.
- 45.13 Duty to cooperate in an official investigation.

AUTHORITY: 5 U.S.C. 301, 7301, App. 3, 6; 18 U.S.C. 207; 28 U.S.C. 503, 528; DOJ Order 1735.1.

§ 45.1 Cross-reference to ethical standards and financial disclosure regulations.

Employees of the Department of Justice are subject to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the Department of Justice regulations at 5 CFR part 3801 which supplement the executive branch-wide standards, the executive branch-wide financial disclosure regulations at 5 CFR part 2634 and the executive branch-wide employee responsibilities and conduct regulations at 5 CFR part 735.

[61 FR 59815, Nov. 25, 1996]