

(b) *Postponement of determination.* When a complaint is under investigation pursuant to §1978.103, postponement of determination would be justified where the rights asserted in other proceedings are substantially the same as rights under section 405 and those proceedings are not likely to violate rights guaranteed by section 405. The factual issues in such proceedings must be substantially the same as those raised by a section 405 complaint, and the forum hearing the matter must have the power to determine the ultimate issue of discrimination.

(c) *Deferral to outcome of other proceedings.* A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-by-case basis, after careful scrutiny of all available information. Before the Assistant Secretary or the Secretary defers to the results of other proceedings, it must be clear that those proceedings dealt adequately with all factual issues, that the proceedings were fair, regular, and free of procedural infirmities, and that the outcome of the proceedings was not repugnant to the purpose and policy of the Act. In this regard, if such other actions initiated by a complainant are dismissed without adjudicatory hearing thereof, such dismissal will not ordinarily be regarded as determinative of the section 405 complaint.

#### **§ 1978.113 Judicial enforcement.**

Whenever any person has failed to comply with a preliminary order of reinstatement or a final order or the terms of a settlement agreement, the Secretary may file a civil action seeking enforcement of the order in the United States district court for the district in which the violation was found to occur.

#### **§ 1978.114 Statutory time periods.**

The time requirements imposed on the Secretary by these regulations are directory in nature. While every effort will be made to meet these requirements, there may be instances when it is not possible to meet these requirements. Failure to meet these requirements does not invalidate any action

by the Assistant Secretary or Secretary under section 405.

#### **§ 1978.115 Special circumstances; waiver of rules.**

In special circumstances not contemplated by the provisions of these rules, or for good cause shown, the judge or the Secretary on review may, upon application, after three days notice to all parties and intervenors, waive any rule or issue such orders as justice or the administration of section 405 requires.

### **PART 1979—PROCEDURES FOR THE HANDLING OF DISCRIMINATION COMPLAINTS UNDER SECTION 519 OF THE WENDELL H. FORD AVIATION INVESTMENT AND REFORM ACT FOR THE 21ST CENTURY**

#### **Subpart A—Complaints, Investigations, Findings and Preliminary Orders**

##### **Sec.**

- 1979.100 Purpose and scope.
- 1979.101 Definitions.
- 1979.102 Obligations and prohibited acts.
- 1979.103 Filing of discrimination complaint.
- 1979.104 Investigation.
- 1979.105 Issuance of findings and preliminary orders.

#### **Subpart B—Litigation**

- 1979.106 Objections to the findings and the preliminary order and request for a hearing.
- 1979.107 Hearings.
- 1979.108 Role of Federal agencies.
- 1979.109 Decision and orders of the administrative law judge.
- 1979.110 Decision and orders of the Administrative Review Board.

#### **Subpart C—Miscellaneous Provisions**

- 1979.111 Withdrawal of complaints, objections, and findings; settlement.
- 1979.112 Judicial review.
- 1979.113 Judicial enforcement.
- 1979.114 Special circumstances; waiver of rules.

**AUTHORITY:** 49 U.S.C. 42121; Secretary of Labor's Order 5-2002, 67 FR 65008 (October 22, 2002).

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