

the Director of Field Management Programs and each District Director the authority, upon the basis of a preliminary investigation, to make the initial determination on its behalf that prompt judicial action is necessary to carry out the purposes of the Act and recommend such action to the General Counsel. The Commission authorizes the General Counsel to institute an appropriate action on behalf of the Commission in such a case not involving a government, governmental agency, or political subdivision.

(b) In a case involving a government, governmental agency, or political subdivision, any recommendation for preliminary or temporary relief shall be transmitted directly to the Attorney General by the Director of the Office of Field Programs or upon delegation, the Director of Field Management Programs or the District Director.

(c) Nothing in this section shall be construed to prohibit private individuals from exercising their rights to seek temporary or preliminary relief on their own motion.

[42 FR 55388, Oct. 14, 1977, as amended at 47 FR 46275, Oct. 18, 1982; 54 FR 32061, Aug. 4, 1989; 71 FR 26828, May 9, 2006]

**§ 1601.24 Conciliation: Procedure and authority.**

(a) Where the Commission determines that there is reasonable cause to believe that an unlawful employment practice has occurred or is occurring, the Commission shall endeavor to eliminate such practice by informal methods of conference, conciliation and persuasion. In conciliating a case in which a determination of reasonable cause has been made, the Commission shall attempt to achieve a just resolution of all violations found and to obtain agreement that the respondent will eliminate the unlawful employment practice and provide appropriate affirmative relief. Where such conciliation attempts are successful, the terms of the conciliation agreement shall be reduced to writing and shall be signed by the Commission's designated representative and the parties. A copy of the signed agreement shall be sent to the respondent and the person claiming to be aggrieved. Where a charge has been filed on behalf of a person claim-

ing to be aggrieved, the conciliation agreement may be signed by the person filing the charge or by the person on whose behalf the charge was filed.

(b) District Directors; the Director of the Office of Field Programs or the Director of Field Management Programs; or their designees are hereby delegated authority to enter into informal conciliation efforts. District Directors or upon delegation, Field Directors, Area Directors, or Local Directors; the Director of the Office of Field Programs; or the Director of Field Management Programs are hereby delegated the authority to negotiate and sign conciliation agreements. When a suit brought by the Commission is in litigation, the General Counsel is hereby delegated the authority to negotiate and sign conciliation agreements where, pursuant to section 706(f)(1) of title VII, a court has stayed proceedings in the case pending further efforts of the Commission to obtain voluntary compliance.

(c) Proof of compliance with title VII, the ADA, or GINA in accordance with the terms of the agreement shall be obtained by the Commission before the case is closed. In those instances in which a person claiming to be aggrieved or a member of the class claimed to be aggrieved by the practices alleged in the charge is not a party to such an agreement, the agreement shall not extinguish or in any way prejudice the rights of such person to proceed in court under section 706(f)(1) of title VII, the ADA, or GINA.

[42 FR 55388, Oct. 14, 1977, as amended at 48 FR 19165, Apr. 28, 1983; 49 FR 13024, Apr. 2, 1984; 49 FR 13874, Apr. 9, 1984; 52 FR 26959, July 17, 1987; 54 FR 32061, Aug. 4, 1989; 56 FR 9624, 9625, Mar. 7, 1991; 71 FR 26828, May 9, 2006; 74 FR 63982, Dec. 7, 2009]

**§ 1601.25 Failure of conciliation; notice.**

Where the Commission is unable to obtain voluntary compliance as provided by title VII, the ADA, or GINA and it determines that further efforts to do so would be futile or nonproductive, it shall, through the appropriate District Director, the Director of the Office of Field Programs, or Director of Field Management Programs, or their

## § 1601.26

designees, so notify the respondent in writing.

[42 FR 55388, Oct. 14, 1977, as amended at 47 FR 46275, Oct. 18, 1982; 54 FR 32061, Aug. 4, 1989; 56 FR 9624, Mar. 7, 1991; 71 FR 26829, May 9, 2006; 74 FR 63982, Dec. 7, 2009]

### § 1601.26 Confidentiality of endeavors.

(a) Nothing that is said or done during and as part of the informal endeavors of the Commission to eliminate unlawful employment practices by informal methods of conference, conciliation, and persuasion may be made a matter of public information by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. This provision does not apply to such disclosures to the representatives of Federal, State or local agencies as may be appropriate or necessary to the carrying out of the Commission's functions under title VII, the ADA, or GINA: *Provided, however*, That the Commission may refuse to make disclosures to any such agency which does not maintain the confidentiality of such endeavors in accord with this section or in any circumstances where the disclosures will not serve the purposes of the effective enforcement of title VII, the ADA, or GINA.

(b) Factual information obtained by the Commission during such informal endeavors, if such information is otherwise obtainable by the Commission under section 709 of title VII, for disclosure purposes will be considered by the Commission as obtained during the investigatory process.

[42 FR 55388, Oct. 14, 1977, as amended at 56 FR 9625, Mar. 7, 1991; 74 FR 63982, Dec. 7, 2009]

#### PROCEDURE CONCERNING THE INSTITUTION OF CIVIL ACTIONS

### § 1601.27 Civil actions by the Commission.

The Commission may bring a civil action against any respondent named in a charge not a government, governmental agency or political subdivision, after thirty (30) days from the date of the filing of a charge with the Commission unless a conciliation agreement acceptable to the Commission has been secured: *Provided, however*, That the

## 29 CFR Ch. XIV (7-1-11 Edition)

Commission may seek preliminary or temporary relief pursuant to section 706(f)(2) of title VII, according to the procedures set forth in §1601.23 of this part, at any time.

### § 1601.28 Notice of right to sue: Procedure and authority.

(a) Issuance of notice of right to sue upon request. (1) When a person claiming to be aggrieved requests, in writing, that a notice of right to sue be issued and the charge to which the request relates is filed against a respondent other than a government, governmental agency or political subdivision, the Commission shall promptly issue such notice as described in §1601.28(e) to all parties, at any time after the expiration of one hundred eighty (180) days from the date of filing of the charge with the Commission, or in the case of a Commissioner charge 180 days after the filing of the charge or 180 days after the expiration of any period of reference under section 706(d) of title VII as appropriate.

(2) When a person claiming to be aggrieved requests, in writing, that a notice of right to sue be issued, and the charge to which the request relates is filed against a respondent other than a government, governmental agency or political subdivision, the Commission may issue such notice as described in §1601.28(e) with copies to all parties, at any time prior to the expiration of 180 days from the date of filing of the charge with the Commission; provided that the District Director, the Field Director, the Area Director, the Local Director, the Director of the Office of Field Programs or upon delegation, the Director of Field Management Programs has determined that it is probable that the Commission will be unable to complete its administrative processing of the charge within 180 days from the filing of the charge and has attached a written certificate to that effect.

(3) Issuance of a notice of right to sue shall terminate further proceeding of any charge that is not a Commissioner charge unless the District Director; Field Director; Area Director; Local Director; Director of the Office of Field Programs or upon delegation, the Director of Field Management Programs;