

## § 1603.305

to the administrative law judge without decision.

(c) The Commission will not accept or consider new evidence on appeal unless the Commission, in its discretion, reopens the record on appeal.

(d) The decision of the Commission on appeal shall be its final order and shall be served on all parties.

(e) In the absence of a timely appeal under §1603.302, the decision of the administrative law judge under §1603.217 or a dismissal under §1603.107 shall become the final order of the Commission. A final order under this paragraph shall not have precedential significance.

### § 1603.305 Modification or withdrawal of Commission decision.

At any time, the Commission may modify or withdraw a decision for any reason provided that no petition for review in a United States Court of Appeals has been filed.

### § 1603.306 Judicial review.

Any party to a complaint who is aggrieved by a final decision under §1603.304 may obtain a review of such final decision under chapter 158 of title 28 of the United States Code by filing a petition for review with a United States Court of Appeals within 60 days after issuance of the final decision. Such petition for review should be filed in the judicial circuit in which the petitioner resides, or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

## PART 1604—GUIDELINES ON DISCRIMINATION BECAUSE OF SEX

Sec.

1604.1 General principles.

1604.2 Sex as a bona fide occupational qualification.

1604.3 Separate lines of progression and seniority systems.

1604.4 Discrimination against married women.

1604.5 Job opportunities advertising.

1604.6 Employment agencies.

1604.7 Pre-employment inquiries as to sex.

1604.8 Relationship of title VII to the Equal Pay Act.

1604.9 Fringe benefits.

1604.10 Employment policies relating to pregnancy and childbirth.

## 29 CFR Ch. XIV (7–1–11 Edition)

1604.11 Sexual harassment.

APPENDIX TO PART 1604—QUESTIONS AND ANSWERS ON THE PREGNANCY DISCRIMINATION ACT, PUBLIC LAW 95-555, 92 STAT. 2076 (1978)

AUTHORITY: Sec. 713(b), 78 Stat. 265, 42 U.S.C. 2000e-12.

SOURCE: 37 FR 6836, April 5, 1972, unless otherwise noted.

### § 1604.1 General principles.

(a) References to “employer” or “employers” in this part 1604 state principles that are applicable not only to employers but also to labor organizations and to employment agencies insofar as their action or inaction may adversely affect employment opportunities.

(b) To the extent that the views expressed in prior Commission pronouncements are inconsistent with the views expressed herein, such prior views are hereby overruled.

(c) The Commission will continue to consider particular problems relating to sex discrimination on a case-by-case basis.

### § 1604.2 Sex as a bona fide occupational qualification.

(a) The commission believes that the bona fide occupational qualification exception as to sex should be interpreted narrowly. Label—“Men’s jobs” and “Women’s jobs”—tend to deny employment opportunities unnecessarily to one sex or the other.

(1) The Commission will find that the following situations do not warrant the application of the bona fide occupational qualification exception:

(i) The refusal to hire a woman because of her sex based on assumptions of the comparative employment characteristics of women in general. For example, the assumption that the turnover rate among women is higher than among men.

(ii) The refusal to hire an individual based on stereotyped characterizations of the sexes. Such stereotypes include, for example, that men are less capable of assembling intricate equipment; that women are less capable of aggressive salesmanship. The principle of nondiscrimination requires that individuals be considered on the basis of individual capacities and not on the basis