

§ 1626.18

(2) Notification that the charge has been dismissed or the Commission's proceedings have otherwise been terminated; and

(3) Notification that the aggrieved person's right to file a civil action against the respondent on the subject charge under the ADEA will expire 90 days after receipt of such notice.

[68 FR 70152, Dec. 17, 2003, as amended at 71 FR 26831, May 9, 2006]

§ 1626.18 Filing of private lawsuit.

(a) An aggrieved person may file a civil action against the respondent named in the charge in either Federal or State court under section 7 of the ADEA.

(b) An aggrieved person whose claims are the subject of a timely pending charge may file a civil action at any time after 60 days have elapsed from the filing of the charge with the Commission (or as provided in §1626.12) without waiting for a Notice of Dismissal or Termination to be issued.

(c) The right of an aggrieved person to file suit expires 90 days after receipt of the Notice of Dismissal or Termination or upon commencement of an action by the Commission to enforce the right of such person.

(d) If the Commission becomes aware that the aggrieved person whose claim is the subject of a pending ADEA charge has filed an ADEA lawsuit against the respondent named in the charge, it shall terminate further processing of the charge or portion of the charge affecting that person unless the District Director; Field Director; Area Director; Local Director; Director of the Office of Field Programs; the General Counsel; the Director of Field Management Programs; or their designees determine at that time or at a later time that it would effectuate the purpose of the ADEA to further process the charge.

[68 FR 70152, Dec. 17, 2003, as amended at 71 FR 26831, May 9, 2006]

§ 1626.19 Filing of Commission lawsuit.

The right of the Commission to file a civil action under the ADEA is not dependent on the filing of a charge and is not affected by the issuance of a Notice

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of Dismissal or Termination to any aggrieved person.

[68 FR 70152, Dec. 17, 2003]

§ 1626.20 Procedure for requesting an opinion letter.

(a) A request for an opinion letter should be submitted in writing to the Chairman, Equal Employment Opportunity Commission, 131 M Street, NE., Washington DC 20507, and shall contain:

(1) A concise statement of the issues on which an opinion is requested;

(2) As full a statement as possible of relevant facts and law; and

(3) The names and addresses of the person making the request and other interested persons.

(b) Issuance of an opinion letter by the Commission is discretionary.

(c) *Informal advice.* When the Commission, at its discretion, determines that it will not issue an opinion letter as defined in §1626.18, the Commission may provide informal advice or guidance to the requestor. An informal letter of advice does not represent the formal position of the Commission and does not commit the Commission to the views expressed therein. Any letter other than those defined in §1626.18(a)(1) will be considered a letter of advice and may not be relied upon by any employer within the meaning of section 10 of the Portal to Portal Act of 1947, incorporated into the Age Discrimination in Employment Act of 1967 through section 7(e)(1) of the Act.

[48 FR 140, Jan. 3, 1983, as amended at 54 FR 32063, Aug. 4, 1989. Redesignated at 68 FR 70152, Dec. 17, 2003; 74 FR 3430, Jan. 21, 2009]

§ 1626.21 Effect of opinions and interpretations of the Commission.

(a) Section 10 of the Portal to Portal Act of 1947, incorporated into the Age Discrimination in Employment Act of 1967 through section 7(e)(1) of the Act, provides that:

In any action or proceeding based on any act or omission on or after the date of the enactment of this Act, no employer shall be subject to any liability or punishment * * * if he pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any written