

§ 1614.603

the agency to carry out its equal employment opportunity program.

§ 1614.603 Voluntary settlement attempts.

Each agency shall make reasonable efforts to voluntarily settle complaints of discrimination as early as possible in, and throughout, the administrative processing of complaints, including the pre-complaint counseling stage. Any settlement reached shall be in writing and signed by both parties and shall identify the claims resolved.

[57 FR 12646, Apr. 10, 1992, as amended at 64 FR 37661, July 12, 1999]

§ 1614.604 Filing and computation of time.

(a) All time periods in this part that are stated in terms of days are calendar days unless otherwise stated.

(b) A document shall be deemed timely if it is received or postmarked before the expiration of the applicable filing period, or, in the absence of a legible postmark, if it is received by mail within five days of the expiration of the applicable filing period.

(c) The time limits in this part are subject to waiver, estoppel and equitable tolling.

(d) The first day counted shall be the day after the event from which the time period begins to run and the last day of the period shall be included, unless it falls on a Saturday, Sunday or Federal holiday, in which case the period shall be extended to include the next business day.

[57 FR 12646, Apr. 10, 1992, as amended at 64 FR 37661, July 12, 1999]

§ 1614.605 Representation and official time.

(a) At any stage in the processing of a complaint, including the counseling stage § 1614.105, the complainant shall have the right to be accompanied, represented, and advised by a representative of complainant's choice.

(b) If the complainant is an employee of the agency, he or she shall have a reasonable amount of official time, if otherwise on duty, to prepare the complaint and to respond to agency and EEOC requests for information. If the complainant is an employee of the agency and he designates another em-

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ployee of the agency as his or her representative, the representative shall have a reasonable amount of official time, if otherwise on duty, to prepare the complaint and respond to agency and EEOC requests for information. The agency is not obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow the complainant and representative to confer. The complainant and representative, if employed by the agency and otherwise in a pay status, shall be on official time, regardless of their tour of duty, when their presence is authorized or required by the agency or the Commission during the investigation, informal adjustment, or hearing on the complaint.

(c) In cases where the representation of a complainant or agency would conflict with the official or collateral duties of the representative, the Commission or the agency may, after giving the representative an opportunity to respond, disqualify the representative.

(d) Unless the complainant states otherwise in writing, after the agency has received written notice of the name, address and telephone number of a representative for the complainant, all official correspondence shall be with the representative with copies to the complainant. When the complainant designates an attorney as representative, service of all official correspondence shall be made on the attorney and the complainant, but time frames for receipt of materials shall be computed from the time of receipt by the attorney. The complainant must serve all official correspondence on the designated representative of the agency.

(e) The Complainant shall at all times be responsible for proceeding with the complaint whether or not he or she has designated a representative.

(f) Witnesses who are Federal employees, regardless of their tour of duty and regardless of whether they are employed by the respondent agency or some other Federal agency, shall be in a duty status when their presence is authorized or required by Commission

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or agency officials in connection with a complaint.

[57 FR 12646, Apr. 10, 1992, as amended at 64 FR 37661, July 12, 1999]

§ 1614.606 Joint processing and consolidation of complaints.

Complaints of discrimination filed by two or more complainants consisting of substantially similar allegations of discrimination or relating to the same matter may be consolidated by the agency or the Commission for joint processing after appropriate notification to the parties. Two or more complaints of discrimination filed by the same complainant shall be consolidated by the agency for joint processing after appropriate notification to the complainant. When a complaint has been consolidated with one or more earlier filed complaints, the agency shall complete its investigation within the earlier of 180 days after the filing of the last complaint or 360 days after the filing of the original complaint, except that the complainant may request a hearing from an administrative judge on the consolidated complaints any time after 180 days from the date of the first filed complaint. Administrative judges or the Commission may, in their discretion, consolidate two or more complaints of discrimination filed by the same complainant.

[64 FR 37661, July 12, 1999]

§ 1614.607 Delegation of authority.

An agency head may delegate authority under this part, to one or more designees.

Subpart G—Procedures Under the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act)

AUTHORITY: Sec. 303, Pub. L. 107-174, 116 Stat. 574.

SOURCE: 71 FR 43650, Aug. 2, 2006, unless otherwise noted.

§ 1614.701 Purpose and scope.

This subpart implements Title III of the Notification and Federal Employee Antidiscrimination and Retaliation

Act of 2002 (No FEAR Act), Pub. L. 107-174. It sets forth the basic responsibilities of Federal agencies and the Commission to post certain information on their public Web sites.

§ 1614.702 Definitions.

The following definitions apply for purposes of this subpart.

(a) The term *Federal agency* or *agency* means an Executive agency (as defined in 5 U.S.C. 105), the United States Postal Service, and the Postal Rate Commission.

(b) The term *Commission* means the Equal Employment Opportunity Commission and any subdivision thereof authorized to act on its behalf.

(c) The term *investigation* refers to the step of the federal sector EEO process described in 29 CFR 1614.108 and 1614.106(e)(2) and, for purposes of this subpart, it commences when the complaint is filed and ceases when the complainant is given notice under §1614.108(f) of the right to request a hearing or to receive an immediate final decision without a hearing.

(d) The term *hearing* refers to the step of the federal sector EEO process described in 29 CFR 1614.109 and, for purposes of §1614.704(1)(2)(ii), it commences on the date the agency is informed by the complainant or EEOC, whichever occurs first, that the complainant has requested a hearing and ends on the date the agency receives from the EEOC notice that the EEOC Administrative Judge (AJ) is returning the case to the agency to take final action. For all other purposes under this subpart, a hearing commences when the AJ receives the complaint file from the agency and ceases when the AJ returns the case to the agency to take final action.

(e) For purposes of §1614.704(i), (j), and (k) the phrase without a hearing refers to a final action by an agency that is rendered:

(1) When an agency does not receive a reply to a notice issued under §1614.108(f);

(2) After a complainant requests an immediate final decision;

(3) After a complainant withdraws a request for a hearing; and