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(c) Prior to rendering its determination, the Commission may request that the parties submit whatever additional information or documentation it deems necessary or may direct that an investigation or hearing on the matter be conducted. If the Commission determines that the Board is not in compliance and the noncompliance is not attributable to acts or conduct of the complainant, it may order such compliance or it may order that the complaint be reinstated for further processing from the point processing ceased. Allegations that subsequent acts of discrimination violate a settlement agreement shall be processed as separate complaints under §§ 268.105 or 268.204, as appropriate, rather than under this section.

§ 268.505 Interim relief.

(a)(1) When the Board appeals and the case involves removal, separation, or suspension continuing beyond the date of the appeal, and when the administrative judge orders retroactive restoration, the Board shall comply with the decision to the extent of the temporary or conditional restoration of the employee to duty status in the position specified in the decision, pending the outcome of the Board appeal. The employee may decline the offer of interim relief.

(2) Service under the temporary or conditional restoration provisions of paragraph (a)(1) of this section shall be credited toward the completion of a probationary or trial period, eligibility for a within-grade increase, or the completion of the service requirement for career tenure, if the Commission upholds the decision on appeal. Such service shall not be credited toward the completion of any applicable probationary or trial period or the completion of the service requirement for career tenure if the Commission reverses the decision on appeal.

(3) When the Board appeals, it may delay the payment of any amount, other than prospective pay and benefits, ordered to be paid to the complainant until after the appeal is resolved. If the Board delays payment of any amount pending the outcome of the appeal and the resolution of the appeal requires the Board to make the payment, then the Board shall pay interest from the date of the original decision until payment is made.

(4) The Board shall notify the Commission and the employee in writing at the same time it appeals that the relief it provides is temporary or conditional and, if applicable, that it will delay the payment of any amounts owed but will pay interest as specified in paragraph (b)(2) of this section. Failure of the Board to provide notification will result in the dismissal of the Board's appeal.

(5) The Board may, by notice to the complainant, decline to return the complainant to his or her place of employment if it determines that the return or presence of the complainant will be unduly disruptive to the work environment. However, prospective pay and benefits must be provided. The determination not to return the complainant to his or her place of employment is not reviewable. A grant of interim relief does not insulate a complainant from subsequent disciplinary or adverse action.

(b) If the Board files an appeal and has not provided required interim relief, the complainant may request dismissal of the Board's appeal. Any such request must be filed with the Office of Federal Operations within 25 days of the date of service of the Board's appeal. A copy of the request must be served on the Board at the same time it is filed with EEOC. The Board may respond with evidence and argument to the complainant's request to dismiss within 15 days of the date of service of the request.

Subpart G—Matters of General Applicability

§ 268.601 EEO group statistics.

(a) The Board shall establish a system to collect and maintain accurate employment information on the race, national origin, sex and disability(ies) of its employees.

(b) Data on race, national origin and sex shall be collected by voluntary self-identification. If an employee does not voluntarily provide the requested information, the Board shall advise the employee of the importance of the data and of the Board's obligation to report

it. If the employee still refuses to provide the information, the Board must make a visual identification and inform the employee of the data it will be reporting. If the Board believes that information provided by an employee is inaccurate, the Board shall advise the employee about the solely statistical purpose for which the data is being collected, the need for accuracy, the Board's recognition of the sensitivity of the information and the existence of procedures to prevent its unauthorized disclosure. If, thereafter, the employee declines to change the apparently inaccurate self identification, the Board must accept it.

(c) Subject to applicable law, the information collected under paragraph (b) of this section shall be disclosed only in the form of gross statistics. The Board shall not collect or maintain any information on the race, national origin or sex of individual employees except in accordance with applicable law and when an automated data processing system is used in accordance with standards and requirements prescribed by the Commission to insure individual privacy and the separation of that information from personnel records.

(d) The Board's system is subject to the following controls:

(1) Only those categories of race and national origin prescribed by the Commission may be used;

(2) Only the specific procedures for the collection and maintenance of data that are prescribed or approved by the Commission may be used.

(e) The Board may use the data only in studies and analyses which contribute affirmatively to achieving the objectives of the Board's equal employment opportunity program. The Board shall not establish a quota for the employment of persons on the basis of race, color, religion, sex, or national origin.

(f) Data on disabilities shall also be collected by voluntary self-identification. If an employee does not voluntarily provide the requested information, the Board shall advise the employee of the importance of the data and of the Board's obligation to report it. If an employee who has been appointed pursuant to a special Board program for hiring individuals with a disability still refuses to provide the requested information, the Board must identify the employee's disability based upon the records supporting the appointment. If any other employee still refuses to provide the requested information or provides information that the Board believes to be inaccurate, the Board should report the employee's disability status as unknown.

(g) The Board shall report to the Commission on employment by race, national origin, sex and disability in the form and at such times as the Board and Commission shall agree.

§ 268.602 Reports to the Commission.

(a) The Board shall report to the Commission information concerning pre-complaint counseling and the status, processing, and disposition of complaints under this part at such times and in such manner as the Board and Commission shall agree.

(b) The Board shall advise the Commission whenever it is served with a Federal court complaint based upon a complaint that is pending on appeal at the Commission.

(c) The Board shall submit annually for the review and approval of the Commission written equal employment opportunity plans of action. Plans shall be submitted in the format prescribed by the Commission and shall include, but not be limited to:

(1) Provision for the establishment of training and education programs designed to provide maximum opportunity for employees to advance so as to perform at their highest potential;

(2) Description of the qualifications, in terms of training and experience relating to equal employment opportunity, of the principal and operating officials concerned with administration of the Board's equal employment opportunity program; and

(3) Description of the allocation of personnel and resources proposed by the Board to carry out its equal employment opportunity program.

§ 268.603 Voluntary settlement attempts.

The Board 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.

§ 268.604 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.

§ 268.605 Representation and official time.

(a) At any stage in the processing of a complaint, including the counseling stage under § 268.104, 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 Board, he or she shall have a reasonable amount of official time, if otherwise on duty, to prepare the complaint and to respond to Board and EEOC requests for information. If the complainant is an employee of the Board and he designates another employee of the Board 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 Board and EEOC requests for information. The Board 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 the representative, if employed by the Board 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 Board or the Commission during the investigation, informal adjustment, or hearing on the complaint.

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

(d) Unless the complainant states otherwise in writing, after the Board 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 material shall be computed from the time of receipt by the attorney. The complainant must serve all official correspondence on the designated representative of the Board.

(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 Board employees shall be in a duty status when their presence is authorized or required by Commission or Board officials in connection with a complaint.

§ 268.606 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 Board 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 Board for joint processing after appropriate notification to the complainant. When a complaint has been consolidated with one or more

earlier filed complaints, the Board 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.

§ 268.607 Delegation of authority.

The Board of Governors may delegate authority under this part, to one or more designees.

Subpart H—Prohibition Against Discrimination in Board Programs and Activities Because of Physical or Mental Disability

§ 268.701 Purpose and application.

(a) *Purpose.* The purpose of this subpart H is to prohibit discrimination on the basis of a disability in programs or activities conducted by the Board.

(b) *Application.* (1) This subpart H applies to all programs and activities conducted by the Board. Such programs and activities include:

(i) Holding open meetings of the Board or other meetings or public hearings at the Board's office in Washington, DC;

(ii) Responding to inquiries, filing complaints, or applying for employment at the Board's office;

(iii) Making available the Board's library facilities; and

(iv) Any other lawful interaction with the Board or its staff in any official matter with people who are not employees of the Board.

(2) This subpart H does not apply to Federal Reserve Banks or to financial institutions or other companies supervised or regulated by the Board.

§ 268.702 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Auxiliary aids* means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Board. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

(b) *Complete complaint* means a written statement that contains the complainant's name and address and describes the Board's alleged discriminatory action in sufficient detail to inform the Board of the nature and date of the alleged violation. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

(c) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

(d) *Person with a disability* means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) Physical or mental impairment includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one of more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not