AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

§ 268.503 Enforcement of final EEOC decisions.

(a) *Petition for enforcement.* A complainant may petition the Commission for enforcement of a decision issued under the Commission's appellate jurisdiction. The petition shall be submitted to the Office of Federal Operations. The petition shall specifically set forth the reasons that lead the complainant to believe that the Board is not complying with the decision.

(b) *Compliance.* On behalf of the Commission, the Office of Federal Operations shall take all necessary action to ascertain whether the Board is implementing the decision of the Commission. If the Board is found not to be in compliance with the decision, efforts shall be undertaken to obtain compliance.

(c) *Clarification.* On behalf of the Commission, the Office of Federal Operations may, on its own motion or in response to a petition for enforcement or in connection with a timely request for reconsideration, issue a clarification of a prior decision. A clarification cannot change the result of a prior decision or enlarge or diminish the relief ordered but may further explain the meaning or intent of the prior decision.

(d) *Referral to the Commission.* Where the Director, Office of Federal Operations, is unable to obtain satisfactory compliance with the final decision, the Director shall submit appropriate findings and recommendations for enforcement to the Commission, or, as directed by the Commission, refer the matter to another appropriate agency.

(e) *Commission notice to show cause.* The Commission may issue a notice to the Chairman of the Board to show cause why there is noncompliance. Such notice may request the Chairman of the Board or a representative to appear before the Commission or to respond to the notice in writing with adequate evidence of compliance or with compelling reasons for noncompliance.

(f) *Notification to complainant of completion of administrative efforts.* Where the Commission has determined that the Board is not complying with a prior decision, or where the Board has failed or refused to submit any required report of compliance, the Commission shall notify the complainant the right to file a civil action for enforcement of the decision pursuant to title VII, the ADEA, the Equal Pay Act or the Rehabilitation Act and to seek judicial review of the Board's refusal to implement the ordered relief pursuant to the Administrative Procedures Act, 5 U.S.C. 701 *et seq.*, and the mandamus statute, 28 U.S.C. 1361, or to commence *de novo* proceedings pursuant to the appropriate statutes.

§ 268.504 Compliance with settlement agreements and final actions.

(a) Any settlement agreement knowingly and voluntarily agreed to by the parties, reached at any stage of the complaint process, shall be binding on both parties. Final action that has not been the subject of an appeal or a civil action shall be binding on the Board. If the complainant believes that the Board has failed to comply with the terms of a settlement agreement or decision, the complainant shall notify the Board's EEO Programs Director, in writing, of the alleged noncompliance within 30 days of when the complainant knew or should have known of the alleged noncompliance. The complainant may request that the terms of the settlement agreement be specifically implemented or, alternatively, that the complaint be reinstated for further processing from the point processing ceased.

(b) The Board shall resolve the matter and respond to the complainant, in writing. If the Board has not responded to the complainant, in writing, or if the complainant is not satisfied with the Board's attempt to resolve the matter, the complainant may appeal to the Commission for a determination as to whether the Board has complied with the terms of the settlement agreement or decision. The complainant may file such an appeal 35 days after he or she has served the Board with the allegations of noncompliance, but must file an appeal within 30 days of his or her receipt of the Board's determination. The complainant must serve a copy of the appeal on the Board and the Board may submit a response to the Commission within 30 days of receiving notice of the appeal.

(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