

§ 1601.22

(2) When the issuing Director does reconsider, he or she shall provide prompt notification of his or her intent to reconsider, which is effective upon issuance, and final decision after reconsideration to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the charge or identified by the Commissioner in the third party certificate, if any, and the respondent.

(e) In making a determination as to whether reasonable cause exists, substantial weight shall be accorded final findings and orders made by designated FEP agencies to which the Commission defers charges pursuant to §1601.13. For the purposes of this section, the following definitions shall apply:

(1) "Final findings and orders" shall mean:

(i) The findings of fact and order incident thereto issued by a FEP agency on the merits of a charge; or

(ii) The consent order or consent decree entered into by the FEP agency on the merits of a charge.

Provided, however, That no findings and order of a FEP agency shall be considered final for purposes of this section unless the FEP agency shall have served a copy of such findings and order upon the Commission and upon the person claiming to be aggrieved and shall have informed such person of his or her rights of appeal or to request reconsideration, or rehearing or similar rights; and the time for such appeal, reconsideration, or rehearing request shall have expired or the issues of such appeal, reconsideration or rehearing shall have been determined.

(2) "Substantial weight" shall mean that such full and careful consideration shall be accorded to final findings and orders, as defined above, as is appropriate in light of the facts supporting them when they meet all of the prerequisites set forth below:

(i) The proceedings were fair and regular; and

(ii) The practices prohibited by the State or local law are comparable in scope to the practices prohibited by Federal law; and

(iii) The final findings and order serve the interest of the effective enforcement of title VII, the ADA, or

29 CFR Ch. XIV (7-1-10 Edition)

GINA: *Provided,* That giving substantial weight to final findings and orders of a FEP agency does not include according weight, for purposes of applying Federal law, to such Agency's conclusions of law.

[42 FR 55388, Oct. 14, 1977, as amended at 45 FR 73036, Nov. 4, 1980; 48 FR 19165, Apr. 28, 1983; 49 FR 13024, Apr. 2, 1984; 51 FR 18778, May 22, 1986; 52 FR 26959, July 17, 1987; 53 FR 3370, Feb. 7, 1988; 54 FR 32061, Aug. 4, 1989; 56 FR 9624, 9625, Mar. 7, 1991; 71 FR 26828, May 9, 2006; 74 FR 63982, Dec. 7, 2009]

§ 1601.22 Confidentiality.

Neither a charge, nor information obtained during the investigation of a charge of employment discrimination under title VII, the ADA, or GINA, nor information obtained from records required to be kept or reports required to be filed pursuant to title VII, the ADA, or GINA, shall be made matters of public information by the Commission prior to the institution of any proceeding under title VII, the ADA, or GINA involving such charge or information. This provision does not apply to such earlier disclosures to charging parties, or their attorneys, respondents or their attorneys, or witnesses where disclosure is deemed necessary for securing appropriate relief. This provision also does not apply to such earlier disclosures to representatives of interested Federal, State, and local authorities as may be appropriate or necessary to the carrying out of the Commission's function under title VII, the ADA, or GINA, nor to the publication of data derived from such information in a form which does not reveal the identity of charging parties, respondents, or persons supplying the information.

[42 FR 55388, Oct. 14, 1977, as amended at 56 FR 9624, 9625, Mar. 7, 1991; 74 FR 63982, 63983, Dec. 7, 2009.]

PROCEDURE TO RECTIFY UNLAWFUL EMPLOYMENT PRACTICES

§ 1601.23 Preliminary or temporary relief.

(a) In the interest of the expeditious procedure required by section 706(f)(2) of title VII, the Commission hereby delegates to the Director of the Office of Field Programs or upon delegation,

the Director of Field Management Programs and each District Director the authority, upon the basis of a preliminary investigation, to make the initial determination on its behalf that prompt judicial action is necessary to carry out the purposes of the Act and recommend such action to the General Counsel. The Commission authorizes the General Counsel to institute an appropriate action on behalf of the Commission in such a case not involving a government, governmental agency, or political subdivision.

(b) In a case involving a government, governmental agency, or political subdivision, any recommendation for preliminary or temporary relief shall be transmitted directly to the Attorney General by the Director of the Office of Field Programs or upon delegation, the Director of Field Management Programs or the District Director.

(c) Nothing in this section shall be construed to prohibit private individuals from exercising their rights to seek temporary or preliminary relief on their own motion.

[42 FR 55388, Oct. 14, 1977, as amended at 47 FR 46275, Oct. 18, 1982; 54 FR 32061, Aug. 4, 1989; 71 FR 26828, May 9, 2006]

§ 1601.24 Conciliation: Procedure and authority.

(a) Where the Commission determines that there is reasonable cause to believe that an unlawful employment practice has occurred or is occurring, the Commission shall endeavor to eliminate such practice by informal methods of conference, conciliation and persuasion. In conciliating a case in which a determination of reasonable cause has been made, the Commission shall attempt to achieve a just resolution of all violations found and to obtain agreement that the respondent will eliminate the unlawful employment practice and provide appropriate affirmative relief. Where such conciliation attempts are successful, the terms of the conciliation agreement shall be reduced to writing and shall be signed by the Commission's designated representative and the parties. A copy of the signed agreement shall be sent to the respondent and the person claiming to be aggrieved. Where a charge has been filed on behalf of a person claim-

ing to be aggrieved, the conciliation agreement may be signed by the person filing the charge or by the person on whose behalf the charge was filed.

(b) District Directors; the Director of the Office of Field Programs or the Director of Field Management Programs; or their designees are hereby delegated authority to enter into informal conciliation efforts. District Directors or upon delegation, Field Directors, Area Directors, or Local Directors; the Director of the Office of Field Programs; or the Director of Field Management Programs are hereby delegated the authority to negotiate and sign conciliation agreements. When a suit brought by the Commission is in litigation, the General Counsel is hereby delegated the authority to negotiate and sign conciliation agreements where, pursuant to section 706(f)(1) of title VII, a court has stayed proceedings in the case pending further efforts of the Commission to obtain voluntary compliance.

(c) Proof of compliance with title VII, the ADA, or GINA in accordance with the terms of the agreement shall be obtained by the Commission before the case is closed. In those instances in which a person claiming to be aggrieved or a member of the class claimed to be aggrieved by the practices alleged in the charge is not a party to such an agreement, the agreement shall not extinguish or in any way prejudice the rights of such person to proceed in court under section 706(f)(1) of title VII, the ADA, or GINA.

[42 FR 55388, Oct. 14, 1977, as amended at 48 FR 19165, Apr. 28, 1983; 49 FR 13024, Apr. 2, 1984; 49 FR 13874, Apr. 9, 1984; 52 FR 26959, July 17, 1987; 54 FR 32061, Aug. 4, 1989; 56 FR 9624, 9625, Mar. 7, 1991; 71 FR 26828, May 9, 2006; 74 FR 63982, Dec. 7, 2009]

§ 1601.25 Failure of conciliation; notice.

Where the Commission is unable to obtain voluntary compliance as provided by title VII, the ADA, or GINA and it determines that further efforts to do so would be futile or nonproductive, it shall, through the appropriate District Director, the Director of the Office of Field Programs, or Director of Field Management Programs, or their