§ 1640.7 Processing of charges of employment discrimination filed with the EEOC.

(a) EEOC determination of jurisdiction. Upon receipt of a charge of employment discrimination, the EEOC shall:

(1) Determine whether it has jurisdiction over the charge under title I of the ADA. If it has jurisdiction, except as provided in paragraph (b)(2) of this section, the EEOC shall process the charge pursuant to title I procedures.

(2) If the EEOC determines that it does not have jurisdiction under title I, the EEOC shall promptly refer the charge to the Civil Rights Division. The Civil Rights Division shall determine if a Federal agency may have jurisdiction over the charge under section 504 or title II, and, if so, shall refer the charge to a section 504 agency or to a designated agency with jurisdiction over the complaint.

(b) Retention by the EEOC for investigation. (1) The EEOC shall retain a charge for investigation when it determines that it has jurisdiction over the charge under title I.

(2) Referral to an agency. Any charge retained by the EEOC for investigation and processing will be investigated and processed under title I only, unless the charging party elects to have the complaint processed under title I and the EEOC receives a written request from the complainant for section 504 agency processing within twenty days of the date of the notice letter required to be sent pursuant to §1640.6(c)(2)(ii).

§ 1640.8 Processing of complaints or charges of employment discrimination filed with both the EEOC and a section 504 agency.

(a) Procedures for handling dual-filed complaints or charges. As between the EEOC and a section 504 agency, except as provided in paragraph (e) of this section, a complaint or charge of employment discrimination that is dual filed with both the EEOC and a section 504 agency shall be processed as follows:

(1) EEOC processing. The EEOC shall investigate and process the charge when the EEOC determines that it has jurisdiction over the charge under title I and the charging party elects to have the complaint processed under title I.

(2) Section 504 agency processing. A section 504 agency shall investigate and process the complaint when the agency determines that it has jurisdiction over the charge under section 504, and:

(i) The complaint alleges discrimination in both employment and in other practices or services of the respondent; or

(ii) The complaint alleges a pattern or practice of discrimination in employment; or

(iii) In the case of a complaint solely alleging employment discrimination against an individual, the charging party elects to have the complaint processed under section 504 agency procedures, and the section 504 agency receives a written request from the complainant for section 504 agency processing within twenty days of the date of the notice letter required to be sent pursuant to §1640.6(c)(2)(ii).

(b) Referral to the Civil Rights Division. If the EEOC determines that it does not have jurisdiction under title I, and the section 504 agency determines that it does not have jurisdiction under section 504 or title II, the complaint or charge shall be promptly referred to the Civil Rights Division. The Civil Rights Division shall determine if another Federal agency or agency with jurisdiction over the complaint.