

## § 1601.8

Commission's consideration of the charge.

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

### § 1601.8 Where to make a charge.

A charge may be made in person or by mail at any office of the Commission or with any designated representative of the Commission. The addresses of the Commission's offices appear in § 1610.4.

[44 FR 4668, Jan. 23, 1979, as amended at 49 FR 13024, Apr. 2, 1984; 54 FR 32061, Aug. 4, 1989; 71 FR 26828, May 9, 2006]

### § 1601.9 Form of charge.

A charge shall be in writing and signed and shall be verified.

### § 1601.10 Withdrawal of a charge by a person claiming to be aggrieved.

A charge filed by or on behalf of a person claiming to be aggrieved may be withdrawn only by the person claiming to be aggrieved and only with the consent of the Commission. The Commission hereby delegates authority to District Directors, Field Directors, Area Directors, Local Directors, the Director of the Office of Field Programs and the Director of Field Management Programs, or their designees, to grant consent to a request to withdraw a charge, other than a Commissioner charge, where the withdrawal of the charge will not defeat the purposes of title VII, the ADA, or GINA.

[44 FR 4669, Jan. 23, 1979, as amended at 47 FR 46275, Oct. 18, 1982; 49 FR 13024, Apr. 2, 1984; 54 FR 32061, Aug. 4, 1989; 56 FR 9624, Mar. 7, 1991; 71 FR 26828, May 9, 2006; 74 FR 63982, Dec. 7, 2009]

### § 1601.11 Charges by members of the Commission.

(a) Any member of the Commission may file a charge with the Commission. Such charge shall be in writing and signed and shall be verified.

(b) A Commissioner who files a charge under paragraph (a) of this section may withdraw the charge with the consent of the Commission. The Commission may withdraw any charge filed under paragraph (a) of this section by a Commissioner who is no longer holding office when it determines that the pur-

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poses of title VII, the ADA, or GINA are no longer served by processing the charge. Commissioner charges may not be withdrawn pursuant to this section after a determination as to reasonable cause has been made. This paragraph does not apply to a charge filed by a Commissioner which is on behalf of a person claiming to be aggrieved within the meaning of § 1601.7 unless such person submits a written request for withdrawal to the Commission.

[43 FR 30798, July 18, 1978, as amended at 56 FR 9624, Mar. 7, 1991; 74 FR 63982, Dec. 7, 2009]

### § 1601.12 Contents of charge; amendment of charge.

(a) Each charge should contain the following:

(1) The full name, address and telephone number of the person making the charge except as provided in § 1601.7;

(2) The full name and address of the person against whom the charge is made, if known (hereinafter referred to as the respondent);

(3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged unlawful employment practices: See § 1601.15(b);

(4) If known, the approximate number of employees of the respondent employer or the approximate number of members of the respondent labor organization, as the case may be; and

(5) A statement disclosing whether proceedings involving the alleged unlawful employment practice have been commenced before a State or local agency charged with the enforcement of fair employment practice laws and, if so, the date of such commencement and the name of the agency.

(b) Notwithstanding the provisions of paragraph (a) of this section, a charge is sufficient when the Commission receives from the person making the charge a written statement sufficiently precise to identify the parties, and to describe generally the action or practices complained of. A charge may be amended to cure technical defects or omissions, including failure to verify the charge, or to clarify and amplify allegations made therein. Such amendments and amendments alleging additional acts which constitute unlawful employment practices related to or

growing out of the subject matter of the original charge will relate back to the date the charge was first received. A charge that has been so amended shall not be required to be redeferred.

**§ 1601.13 Filing; deferrals to State and local agencies.**

(a) *Initial presentation of a charge to the Commission.* (1) Charges arising in jurisdictions having no FEP agency are filed with the Commission upon receipt. Such charges are timely filed if received by the Commission within 180 days from the date of the alleged violation.

(2) A jurisdiction having a FEP agency without subject matter jurisdiction over a charge (e.g., an agency which does not cover sex discrimination or does not cover nonprofit organizations) is equivalent to a jurisdiction having no FEP agency. Charges over which a FEP agency has no subject matter jurisdiction are filed with the Commission upon receipt and are timely filed if received by the Commission within 180 days from the date of the alleged violation.

(3) Charges arising in jurisdictions having a FEP agency with subject matter jurisdiction over the charges are to be processed in accordance with the Commission's deferral policy set forth below and the procedures in paragraph (a)(4) of this section.

(i) In order to give full weight to the policy of section 706(c) of title VII, which affords State and local fair employment practice agencies that come within the provisions of that section an opportunity to remedy alleged discrimination concurrently regulated by title VII, the ADA, or GINA and State or local law, the Commission adopts the following procedures with respect to allegations of discrimination filed with the Commission. It is the intent of the Commission to thereby encourage the maximum degree of effectiveness in the State and local agencies. The Commission shall endeavor to maintain close communication with the State and local agencies with respect to all matters forwarded to such agencies and shall provide such assistance to State and local agencies as is permitted by law and as is practicable.

(ii) Section 706(c) of title VII grants States and their political subdivisions the exclusive right to process allegations of discrimination filed by a person other than a Commissioner for a period of 60 days (or 120 days during the first year after the effective date of the qualifying State or local law). This right exists where, as set forth in §1601.70, a State or local law prohibits the employment practice alleged to be unlawful and a State or local agency has been authorized to grant or seek relief. After the expiration of the exclusive processing period, the Commission may commence processing the allegation of discrimination.

(iii) A FEP agency may waive its right to the period of exclusive processing of charges provided under section 706(c) of title VII with respect to any charge or category of charges. Copies of all such charges will be forwarded to the appropriate FEP agency.

(4) The following procedures shall be followed with respect to charges which arise in jurisdictions having a FEP agency with subject matter jurisdiction over the charges:

(i) Where any document, whether or not verified, is received by the Commission as provided in §1601.8 which may constitute a charge cognizable under title VII, the ADA, or GINA, and where the FEP agency has not waived its right to the period of exclusive processing with respect to that document, that document shall be deferred to the appropriate FEP agency as provided in the procedures set forth below:

(A) All such documents shall be dated and time stamped upon receipt.

(B) A copy of the original document, shall be transmitted by registered mail, return receipt requested, to the appropriate FEP agency, or, where the FEP agency has consented thereto, by certified mail, by regular mail or by hand delivery. State or local proceedings are deemed to have commenced on the date such document is mailed or hand delivered.

(C) The person claiming to be aggrieved and any person filing a charge on behalf of such person shall be notified, in writing, that the document which he or she sent to the Commission has been forwarded to the FEP