

## Equal Employment Opportunity Comm.

## § 1601.15

than by the FEP agency during the period specified in section 706(c) and section 706(d) of title VII.

(d) *Preliminary relief.* When a charge is filed with the Commission, the Commission may make a preliminary investigation and commence judicial action for immediate, temporary or preliminary relief pursuant to section 706(f)(2) of title VII.

(e) *Commissioner charges.* A charge made by a member of the Commission shall be deemed filed upon receipt by the Commission office responsible for investigating the charge. The Commission will notify a FEP agency when an allegation of discrimination is made by a member of the Commission concerning an employment practice occurring within the jurisdiction of the FEP agency. The FEP agency will be entitled to process the charge exclusively for a period of not less than 60 days if the FEP agency makes a written request to the Commission within 10 days of receiving notice that the allegation has been filed. The 60-day period shall be extended to 120 days during the first year after the effective date of the qualifying State or local law.

[46 FR 43039, Aug. 26, 1981, as amended at 46 FR 48189, Oct. 1, 1981; 52 FR 10224, Mar. 31, 1987; 52 FR 18354, May 15, 1987; 56 FR 9624, Mar. 7, 1991; 74 FR 63982, Dec. 7, 2009; 85 FR 65217, Oct. 15, 2020]

### § 1601.14 Service of charge or notice of charge.

(a) Within ten days after the filing of a charge in the appropriate Commission office, the Commission shall serve respondent the charge by digital transmission, by mail, or in person, except when it is determined that providing the charge would impede the law enforcement functions of the Commission. Where the charge is not provided, the respondent will be served with a notice of the charge within ten days after the filing of the charge. The notice shall include the date, place and circumstances of the alleged unlawful employment practice. Where appropriate, the notice may include the identity of the person or organization filing the charge.

(b) District Directors, Field Directors, Area Directors, Local Directors, the Director of the Office of Field Pro-

grams, and the Director of Field Management Programs, or their designees, are hereby delegated the authority to issue the notice described in paragraph (a) of this section.

[44 FR 4669, Jan. 23, 1979, as amended at 47 FR 46275, Oct. 18, 1982; 49 FR 13024, Apr. 2, 1984; 49 FR 13874, Apr. 9, 1984; 54 FR 32061, Aug. 4, 1989; 71 FR 26828, May 9, 2006; 85 FR 65218, Oct. 15, 2020]

### INVESTIGATION OF A CHARGE

### § 1601.15 Investigative authority.

(a) The investigation of a charge shall be made by the Commission, its investigators, or any other representative designated by the Commission. During the course of such investigation, the Commission may utilize the services of State and local agencies which are charged with the administration of fair employment practice laws or appropriate Federal agencies, and may utilize the information gathered by such authorities or agencies. As part of each investigation, the Commission will accept any statement of position or evidence with respect to the allegations of the charge which the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, or the respondent wishes to submit.

(b) As part of the Commission's investigation, the Commission may require the person claiming to be aggrieved to provide a statement which includes:

(1) A statement of each specific harm that the person has suffered and the date on which each harm occurred;

(2) For each harm, a statement specifying the act, policy or practice which is alleged to be unlawful;

(3) For each act, policy, or practice alleged to have harmed the person claiming to be aggrieved, a statement of the facts which lead the person claiming to be aggrieved to believe that the act, policy or practice is discriminatory.

(c) The Commission may require a fact-finding conference with the parties prior to a determination on a charge of discrimination. The conference is primarily an investigative forum intended to define the issues, to

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determine which elements are undisputed, to resolve those issues that can be resolved and to ascertain whether there is a basis for negotiated settlement of the charge.

(d) The Commission's authority to investigate a charge is not limited to the procedures outlined in paragraphs (a), (b), and (c) of this section.

### **§ 1601.16 Access to and production of evidence; testimony of witnesses; procedure and authority.**

(a) To effectuate the purposes of title VII, the ADA, and GINA, any member of the Commission shall have the authority to sign and issue a subpoena requiring:

(1) The attendance and testimony of witnesses;

(2) The production of evidence including, but not limited to, books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and

(3) Access to evidence for the purposes of examination and the right to copy.

Any District Director, and the Director of the Office of Field Programs, or upon delegation, the Director of Field Management Programs, or any representatives designated by the Commission, may sign and issue a subpoena on behalf of the Commission. The subpoena shall state the name and address of its issuer, identify the person or evidence subpoenaed, the person to whom and the place, date, and the time at which it is returnable or the nature of the evidence to be examined or copied, and the date and time when access is requested. A subpoena shall be returnable to a duly authorized investigator or other representative of the Commission. Neither the person claiming to be aggrieved, the person filing a charge on behalf of such person nor the respondent shall have the right to demand that a subpoena be issued.

(b)(1) Any person served with a district director-issued subpoena who intends not to comply shall petition the issuing director to seek its revocation or modification. Any person served with a Commissioner-issued subpoena who intends not to comply shall petition the General Counsel to seek its revocation or modification. Petitions

must be transmitted digitally or mailed to the issuing director at the address stated on the subpoena (or, if the subpoena was issued by a Commissioner, to the General Counsel) within five days (excluding Saturdays, Sundays, and Federal legal holidays) after service of the subpoena. Petitions to the General Counsel pertaining to subpoenas issued by a Commissioner may be transmitted digitally or mailed to 131 M Street NE, Washington, DC 20507 and a copy of the petition shall also be served upon the issuing Commissioner.

(2) The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each such portion, the basis for non-compliance with the subpoena. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A." Within eight calendar days after receipt or as soon as practicable, the General Counsel or Director, as appropriate, shall either grant the petition to revoke or modify in its entirety or make a proposed determination on the petition, stating reasons, and submit the petition and proposed determination to the Commission for its review and final determination. A Commissioner who has issued a subpoena shall abstain from reviewing a petition concerning that subpoena. The Commission shall serve a copy of the final determination on the petitioner.

(c) Upon the failure of any person to comply with a subpoena issued under this section, the Commission may utilize the procedures of section 11(2) of the National Labor Relations Act, as amended, 29 U.S.C. 161(2), to compel enforcement of the subpoena.

(d) If a person who is served with a subpoena does not comply with the subpoena and does not petition for its revocation or modification pursuant to paragraph (b) of this section, the General Counsel or his or her designee may institute proceedings to enforce the subpoena in accordance with the provisions of paragraph (c) of this section. Likewise, if a person who is served with a subpoena petitions for revocation or modification of the subpoena pursuant to paragraph (b), and the