

## § 180.410

(e) *Untimely filing.* The ALJ may refuse to consider any motion or other document that is not filed in a timely fashion.

### § 180.410 Charges under the Fair Housing Act.

(a) *Filing and service.* Within three days after the issuance of a charge, the General Counsel shall file the charge with the Chief Docket Clerk and serve copies (with the additional information required under paragraph (b) of this section) on all respondents and aggrieved persons.

(b) *Contents.* The charge shall consist of a short and plain written statement of the facts upon which reasonable cause has been found to believe that a discriminatory housing practice has occurred or is about to occur. A notification shall be served with the charge containing the following information:

(1) Any complainant, respondent, or aggrieved person may elect to have the claims asserted in the charge decided in a civil action under 42 U.S.C. 3612(o), in lieu of an administrative proceeding under this part.

(2) Such election must be made not later than 20 days after receipt of service of the charge by serving written notice of such on the Chief Docket Clerk, each respondent, each aggrieved person on whose behalf the charge was issued, the Assistant Secretary, and the General Counsel.

(3) If no person timely elects to have the claims asserted in the charge decided in a civil action under 42 U.S.C. 3612(o), an administrative proceeding will be conducted under this part.

(4) If an administrative hearing is conducted:

(i) The hearing will be held at a date and place specified.

(ii) The respondent will have an opportunity to file an answer to the charge within 30 days after service of the charge.

(iii) The aggrieved person may participate as a party to the administrative proceeding by filing a request for intervention within 50 days after service of the charge.

(iv) All discovery must be concluded 15 days before the date set for hearing.

(v) The rules in this part will govern the proceeding.

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(5) If, at any time following service of the charge on the respondent, the respondent intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of the charge, the respondent must provide a copy of the charge to such person before the respondent and the person enter into the contract, sale, encumbrance or lease.

(c) *Election of judicial determination.* If the complainant, the respondent, or the aggrieved person on whose behalf a complaint was filed makes a timely election to have the claims asserted in the charge decided in a civil action under 42 U.S.C. 3612(o), the Chief ALJ shall dismiss the administrative proceeding.

(d) *Effect of a civil action on administrative proceeding.* An ALJ may not continue an administrative proceeding under the Fair Housing Act after the beginning of the trial of a civil action commenced by the aggrieved person under an act of Congress or a State law seeking relief with respect to that discriminatory housing practice. If such a trial is commenced, the ALJ shall dismiss the administrative proceeding. The commencement and maintenance of a civil action for appropriate temporary or preliminary relief under 42 U.S.C. 3610(e) or 42 U.S.C. 3613 does not affect administrative proceedings under this part.

### § 180.415 Notice of proposed adverse action regarding Federal financial assistance in non-Fair Housing Act matters.

(a) *Filing and service.* Within 10 days after a Recipient/applicant has requested a hearing, as provided for in 24 CFR parts 1, 6, 8, or 146, the General Counsel shall file a notice of proposed adverse action with the Chief Docket Clerk and serve copies (with the additional information required under paragraph (b) of this section) on all respondents and complainants.

(b) *Contents.* The notice of proposed adverse action shall consist of a short and plain written statement of the facts and legal authority upon which the proposed action is based. A notification shall be served with the notice containing the following information: