

at a stated time and place within the State in which such person resides, transacts business, or is served with the demand, for the purpose of testifying under oath before the Commission or its representative. If there be noncompliance with any such demand, the Commission may utilize the procedures of section 710 of title VII and the ADA to compel such person to testify. A transcript of testimony may be made a part of the record of each investigation.

(b) Witnesses who testify as provided in paragraph (a) of this section shall be entitled to the same fees and mileage that are paid witnesses in the courts of the United States.

[42 FR 55388, Oct. 14, 1977, as amended at 56 FR 9624, Mar. 7, 1991]

PROCEDURE FOLLOWING FILING OF A
CHARGE

§ 1601.18 Dismissal: Procedure and authority.

(a) Where a charge on its face, or as amplified by the statements of the person claiming to be aggrieved discloses, or where after investigation the Commission determines, that the charge and every portion thereof is not timely filed, or otherwise fails to state a claim under title VII or the ADA, the Commission shall dismiss the charge. A charge which raises a claim exclusively under section 717 of title VII or the Rehabilitation Act shall not be taken and persons seeking to raise such claims shall be referred to the appropriate Federal agency.

(b) Where the person claiming to be aggrieved fails to provide requested necessary information, fails or refuses to appear or to be available for interviews or conferences as necessary, fails or refuses to provide information requested by the Commission pursuant to § 1601.15(b), or otherwise refuses to cooperate to the extent that the Commission is unable to resolve the charge, and after due notice, the charging party has had 30 days in which to respond, the Commission may dismiss the charge.

(c) Where the person claiming to be aggrieved cannot be located, the Commission may dismiss the charge: *Provided*, That reasonable efforts have

been made to locate the charging party and the charging party has not responded within 30 days to a notice sent by the Commission to the person's last known address.

(d) Where a respondent has made a settlement offer described in § 1601.20 which is in writing and specific in its terms, the Commission may dismiss the charge if the person claiming to be aggrieved refuses to accept the offer: *Provided*, That the offer would afford full relief for the harm alleged by the person claiming to be aggrieved and the person claiming to be aggrieved fails to accept such an offer within 30 days after actual notice of the offer.

(e) Written notice of disposition, pursuant to paragraphs (a), (b), (c) or (d) of this section, shall be issued to the person claiming to be aggrieved and to the person making the charge on behalf of such person, where applicable; in the case of a Commissioner charge, to all persons specified in § 1601.28(b)(2); and to the respondent. Appropriate notices of right to sue shall be issued pursuant to § 1601.28.

(f) The Commission hereby delegates authority to District Directors; the Program Director, Office of Program Operations or upon delegation, the Director of Systemic Programs, Office of Program Operations or the Directors, Field Management Programs, Office of Program Operations, as appropriate, to dismiss charges, as limited by § 1601.21(d). The Commission hereby delegates authority to Area Directors or Local Director to dismiss charges pursuant to paragraphs (a), (b) and (c) of this section, as limited by § 1601.21(d). The authority of the Commission to reconsider decisions and determinations as set forth in § 1601.21 (b) and (d) shall be applicable to this section.

[42 FR 55388, Oct. 14, 1977, as amended at 48 FR 19165, Apr. 28, 1983; 49 FR 13024, Apr. 2, 1984. Redesignated and amended at 52 FR 26957, July 17, 1987; 54 FR 32061, Aug. 4, 1989; 55 FR 26684, June 29, 1990; 56 FR 9624, 9625, Mar. 7, 1991]

§ 1601.19 No cause determinations: Procedure and authority.

(a) Where the Commission completes its investigation of a charge and finds that there is not reasonable cause to believe that an unlawful employment