

## Equal Employment Opportunity Comm.

## § 1641.2

investigative reports and files, and any voluntary compliance agreement.

SOURCE: 57 FR 2962, 2964, Jan. 24, 1992, unless otherwise noted.

### § 1640.12 Standards.

In any investigation, compliance review, hearing or other proceeding, the standards used to determine whether section 504 has been violated in a complaint alleging employment discrimination shall be the standards applied under title I of the ADA and the provisions of sections 501 through 504, and 510, of the ADA, as such sections relate to employment. Section 504 agencies shall consider the regulations and appendix implementing title I of the ADA, set forth at 29 CFR part 1630, and case law arising under such regulations, in determining whether a recipient of Federal financial assistance has engaged in an unlawful employment practice.

### § 1640.13 Agency specific memoranda of understanding.

When a section 504 agency amends its regulations to make them consistent with title I of the ADA, the EEOC and the individual section 504 agency may elect to enter into a memorandum of understanding providing for the investigation and processing of complaints dual filed under both section 504 and title I of the ADA by the section 504 agency.

## PART 1641—PROCEDURES FOR COMPLAINTS/CHARGES OF EMPLOYMENT DISCRIMINATION BASED ON DISABILITY FILED AGAINST EMPLOYERS HOLDING GOVERNMENT CONTRACTS OR SUBCONTRACTS

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AUTHORITY: 42 U.S.C. 12117(b).

### § 1641.1 Purpose and application.

The purpose of this part is to implement procedures for processing and resolving complaints/charges of employment discrimination filed against employers holding government contracts or subcontracts, where the complaints/charges fall within the jurisdiction of both section 503 of the Rehabilitation Act of 1973 (hereinafter "Section 503") and the Americans with Disabilities Act of 1990 (hereinafter "ADA"). The promulgation of this part is required pursuant to section 107(b) of the ADA. Nothing in this part should be deemed to affect the Department of Labor's (hereinafter "DOL") Office of Federal Contract Compliance Programs' (hereinafter "OFCCP") conduct of compliance reviews of government contractors and subcontractors under section 503. Nothing in this part is intended to create rights in any person.

### § 1641.2 Exchange of information.

(a) EEOC and OFCCP shall share any information relating to the employment policies and practices of employers holding government contracts or subcontracts that may assist each office in carrying out its responsibilities. Such information shall include, but not necessarily be limited to, affirmative action programs, annual employment reports, complaints, charges, investigative files, and compliance review reports and files.

(b) All requests by third parties for disclosure of the information described in paragraph (a) of this section shall be coordinated with the agency which initially compiled or collected the information.

(c) Paragraph (b) of this section is not applicable to requests for data in EEOC files made by any State or local agency designated as a "FEP agency" with which EEOC has a charge resolution contract and a work-sharing agreement containing the confidentiality requirements of sections 706(b) and 709(e) of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*). However, such an agency shall not disclose any of the information, initially compiled by OFCCP, to the