

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) Written notice of disposition, pursuant to 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.

(c) The Commission hereby delegates authority to District Directors; the Director of the Office of Field Programs, or upon delegation, the Director of Field Management Programs, as appropriate, to dismiss charges, as limited by §1601.21(d). The Commission hereby delegates authority to Field Directors, Area Directors and Local Directors 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; 71 FR 26828, May 9, 2006; 73 FR 3388, Jan. 18, 2008]

§ 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 practice has occurred or is occurring as to all issues addressed in the determination, the Commission shall issue a letter of determination to all parties to the charge indicating the finding. The Commission's letter of determination shall be the final determination of the Commission. The letter of determination shall inform the person claiming to be aggrieved or the person on whose behalf a charge was filed of the right to sue in Federal district court within 90 days of receipt of the letter of determination. The Commission hereby delegates authority to the Director of the Office of Field Programs, or upon delegation to the Director of Field Management Programs, and District Directors or upon delegation to Field Directors, Area Directors or Local Directors, except in those cases involving issues currently designated by the Commission for priority review, to issue no cause letters of determination.

(b) The Commission may on its own initiative reconsider a final determination of no reasonable cause and an issuing director may, on his or her own initiative reconsider his or her final determination of no reasonable cause. If the Commission or an issuing director decides to reconsider a final no cause determination, a notice of intent to reconsider shall promptly issue to all parties to the charge. If such notice of intent to reconsider is issued within 90 days of receipt of the final no cause determination, and the person claiming to be aggrieved or the person on whose

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behalf a charge was filed has not filed suit and did not request and receive a notice of right to sue pursuant to §1601.28(a) (1) or (2), the notice of intent to reconsider shall vacate the letter of determination and shall revoke the charging party's right to bring suit within 90 days. If the 90 day suit period has expired, the charging party has filed suit, or the charging party had requested a notice of right to sue pursuant to §1601.28(a) (1) or (2), the notice of intent to reconsider shall vacate the letter of determination, but shall not revoke the charging party's right to sue in 90 days. After reconsideration, the Commission or issuing director shall issue a new determination. In those circumstances where the charging party's right to bring suit in 90 days was revoked, the determination shall include notice that a new 90 day suit period shall begin upon the charging party's receipt of the determination. Where a member of the Commission has filed a Commissioner charge, he or she shall abstain from making a determination in that case.

[52 FR 26958, July 17, 1987, as amended at 54 FR 32061, Aug. 4, 1989; 56 FR 9625, Mar. 7, 1991; 56 FR 14470, Apr. 10, 1991; 71 FR 26828, May 9, 2006]

§ 1601.20 Negotiated settlement.

(a) Prior to the issuance of a determination as to reasonable cause the Commission may encourage the parties to settle the charge on terms that are mutually agreeable. District Directors, Field Directors, Area Directors, Local Directors, the Director of the Office of Field Programs, the Director of Field Management Programs, or their designees, shall have the authority to sign any settlement agreement which is agreeable to both parties. When the Commission agrees in any negotiated settlement not to process that charge further, the Commission's agreement shall be in consideration for the promises made by the other parties to the agreement. Such an agreement shall not affect the processing of any other charge, including, but not limited to, a Commissioner charge or a charge, the allegations of which are like or related to the individual allegations settled.

(b) In the alternative, the Commission may facilitate a settlement be-

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tween the person claiming to be aggrieved and the respondent by permitting withdrawal of the charge pursuant to §1601.10.

[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]

§ 1601.21 Reasonable cause determination: Procedure and authority.

(a) After completing its investigation, where the Commission has not settled or dismissed a charge or made a no cause finding as to every allegation addressed in the determination under §1601.19, the Commission shall issue a determination that reasonable cause exists to believe that an unlawful employment practice has occurred or is occurring under title VII or the ADA. A determination finding reasonable cause is based on, and limited to, evidence obtained by the Commission and does not reflect any judgment on the merits of allegations not addressed in the determination.

(b) The Commission shall provide prompt notification of its determination under paragraph (a) of this section to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commission in the third party certificate, if any, and the respondent. The Commission may, however, on its own initiative reconsider its decision or the determination of any of its designated officers who have authority to issue Letters of Determination, Except that the Commission will not reconsider determinations of reasonable cause previously issued against a government, governmental entity or political subdivision after a failure of conciliation as set forth in §1601.25.

(1) In cases where the Commission decides to reconsider a dismissal or a determination finding reasonable cause to believe a charge is true, a notice of intent to reconsider will promptly issue. If such notice of intent to reconsider is issued within 90 days from receipt of a notice of right to sue and the charging party has not filed suit and did not receive a notice of right to sue