

§ 1691.7

29 CFR Ch. XIV (7-1-08 Edition)

§ 1691.7 EEOC dismissals of complaints.

If EEOC determines that the title VII allegations of a joint complaint should be dismissed, EEOC shall notify the complainant and the recipient of the reason for the dismissal and the effect the dismissal has on the complainant's rights under the relevant civil rights provision(s) of the referring agency, and issue a notice of right to sue under title VII. At the same time, EEOC shall transmit to the referring agency a copy of EEOC's file.

§ 1691.8 Agency action on complaints dismissed by EEOC.

Upon EEOC's transmittal of a dismissal under § 1691.7 of this part, the referring agency shall determine within thirty days, what, if any, action the agency intends to take with respect to the complaint and then notify the complainant and the recipient. In reaching that determination, the referring agency shall give due weight to EEOC's determination that the title VII allegations of the joint complaint should be dismissed. If the referring agency decides to take action with respect to a complaint that EEOC has dismissed for lack of reasonable cause to believe that title VII has been violated, the agency shall notify the Assistant Attorney General and the Chairman of the EEOC in writing of the action it plans to take and the basis of its decision to take such action.

§ 1691.9 EEOC reasonable cause determinations and conciliation efforts.

(a) If EEOC, after investigation of a joint complaint, determines that reasonable cause exists to believe that title VII has been violated, EEOC shall advise the referring agency, the complainant and the recipient of that determination and attempt to resolve the complaint by informal methods of conference, conciliation and persuasion. If EEOC would like the referring agency to participate in conciliation negotiations, EEOC shall so notify the agency and the agency shall participate. EEOC shall provide advance notice of any conciliation negotiations to referring agencies that request such notice, whether or not EEOC requests their participation in the negotiations.

(b) If EEOC's efforts to resolve the complaint by informal methods of conference, conciliation and persuasion fail, EEOC shall:

(1) Issue a notice of failure of conciliation to the recipient in accordance with 29 CFR 1601.25;

(2) Transmit to the referring agency a copy of EEOC's investigative file, including its Letter of Determination and notice of failure of conciliation;

(3) If the recipient is not a government, governmental entity or political subdivision, determine whether EEOC will bring suit under title VII and, in accordance with 29 CFR 1601.28, issue a notice of right to sue under title VII;

(4) If the recipient is a government, governmental entity or political subdivision, refer the matter to the Attorney General in accordance with 29 CFR 1601.29. The Attorney General, or his or her delegate, will determine whether the Department of Justice will bring suit under title VII and, in accordance with 29 CFR 1601.28, issue a notice of right to sue under title VII.

§ 1691.10 Agency enforcement of unresolved complaints.

(a) Upon EEOC's transmittal of a reasonable cause determination and notice of failure of conciliation under § 1691.9(b)(2) of this regulation, the referring agency shall determine, within thirty days, whether the recipient has violated any applicable civil rights provision(s) which the agency has a responsibility to enforce. The referring agency shall give due weight to EEOC's determination that reasonable cause exists to believe that title VII has been violated.

(b) If the referring agency determines that the recipient has violated any applicable civil rights provision(s) which the agency has a responsibility to enforce, the agency shall so notify the complainant and the recipient and determine whether further efforts to obtain voluntary compliance are warranted. In reaching that determination, the agency shall give due weight to the failure of EEOC's efforts to resolve the complaint by informal methods. If the referring agency determines that further efforts to obtain voluntary compliance are not warranted or if such further efforts fail, the agency