

(180) days after receipt of the complaint by all affected agencies and persons. A complaint shall be deemed informally resolved if the person or agencies responsible for the alleged violation either:

(1) Demonstrates to the Executive Director that no violation has occurred, or

(2) Corrects the violation, or

(3) Agrees in writing to implement specific compliance action within a definite time agreed to by the Executive Director, or

(4) Are timely implementing a plan for compliance agreed to by the Executive Director.

No later than ten (10) days after the determination of the one hundred eighty (180) day period, the Executive Director shall either issue a citation under § 1150.42, or determine in writing that a citation will not be issued at that time and the reasons that it is considered unnecessary.

(g) A determination not to issue a citation shall be served in accordance with § 1150.23 on all interested agencies and persons upon whom a citation would have been served if it had been issued. Except as otherwise provided in paragraph (i) of this section, the failure of the Executive Director to take action within the ten (10) day period after termination of the one hundred eighty (180) day informal resolution period shall not preclude the Executive Director from taking action thereafter.

(h) Nothing in paragraphs (a) through (g) of this section shall be construed as precluding the Executive Director before the termination of the one hundred eighty (180) day informal resolution period from:

(1) Issuing a citation if it is reasonably clear that informal resolution cannot be achieved within that time, or

(2) Determining not to issue a citation if it is reasonably clear that compliance can be achieved or that issuance of a citation is not otherwise warranted.

(i) At any time after the expiration of one hundred ninety (190) days after receipt of the complaint by all affected agencies and persons, any person or agency receiving a copy of the complaint, or the complainant, may serve a

written request on the Executive Director to issue a citation or determination not to proceed within thirty (30) days. If the Executive Director fails to serve a written response within thirty (30) days of receipt of such a request, the complaint shall be deemed closed.

[53 FR 39474, Oct. 7, 1988]

§ 1150.42 Citations.

(a) If there appears to be a failure or threatened failure to comply with a relevant standard, and the noncompliance or threatened noncompliance cannot be corrected or resolved by informal means under § 1150.41, the Executive Director on behalf of the A&TBCB may issue a written citation, requesting the ordering of relief necessary to ensure compliance with the standards or guidelines and requirements. The relief may include the suspension or withholding of funds and/or specific corrective action.

(b) The citation shall be served upon all interested parties, as appropriate, including but not limited to the complainant, the agency having custody, control, or use of the building or facility, and the agency funding by contract, grant, or loan, the allegedly non-complying building or facility.

(c) The citation shall contain:

(1) A concise jurisdictional statement reciting the provisions of section 502 of the Rehabilitation Act and Architectural Barriers Act under which the requested action may be taken, (2) a short and plain basis for requesting the imposition of the sanctions, (3) a statement either that within fifteen (15) days a hearing date will be set or that the agency or affected parties may request a hearing within fifteen (15) days from service of the citation, and (4) a list of all pertinent documents necessary for the judge to make a decision on the alleged noncompliance, including but not limited to, contracts, invitations for bids, specifications, contract or grant drawings, and correspondence.

(d) The Executive Director shall file copies of all pertinent documents listed in the citation simultaneously with filing the citation.