

employees; (4) impose on persons subject to the Act appropriate record-keeping and reporting requirements; (5) advise employers, employment agencies and labor organizations with regard to their obligations under the Act and any changes necessary in their policies, practices and procedures to assure compliance with the Act; (6) subpoena witnesses and require the production of documents and other evidence; (7) supervise the payment of amounts owing pursuant to section 16(c) of the FLSA, and (8) institute action under section 16(c) or section 17 of the FLSA or both to obtain appropriate relief.

(b) Whenever the Commission has a reasonable basis to conclude that a violation of the Act has occurred or will occur, it may commence conciliation under section 7(b) of the Act. The date of issuance of written notice to the respondent of the Commission's intent to begin or continue conciliation shall determine when the statute of limitations is tolled pursuant to section 7(e)(2) of the Act. Such notice will ordinarily be issued in the form of a letter of violation; provided, however, that failure to issue a written violation letter shall in no instance be construed as a finding of no violation. The Commission will ordinarily notify the respondent and aggrieved persons of its determination. In the process of conducting any investigation or conciliation under this Act, the identity of persons who have provided information in confidence shall not be disclosed except in accordance with § 1626.4. When the written notice prescribed above is issued, the statute of limitations shall be tolled for a period of one year unless a conciliation agreement is obtained earlier. The tolling period pursuant to section 7(e)(2) is applicable to both Commission and private party litigation.

(c) Any agreement reached as a result of efforts undertaken pursuant to this section shall, as far as practicable, require the respondent to eliminate the unlawful practice(s) and provide appropriate affirmative relief. Such agreement shall be reduced to writing and will ordinarily be signed by the Commission's delegated representative, the respondent, and the charging party, if any. A copy of the signed agreement

shall be sent to all the signatories thereto.

(d) Upon the failure of informal conciliation, conference and persuasion under section 7(b) of the Act, the Commission may initiate and conduct litigation.

(e) The District Directors, the Washington Field Office Director, and the Director of the Office of Program Operations or their designees, are hereby delegated authority to exercise the powers enumerated in § 1626.15(a) (1) through (7) and (b) and (c). The General Counsel or his/her designee is hereby delegated the authority to exercise the powers in paragraph (a) of this section and at the direction of the Commission to initiate and conduct litigation.

[48 FR 140, Jan. 3, 1983, as amended at 54 FR 32063, Aug. 4, 1989; 54 FR 33503, Aug. 15, 1989]

§ 1626.16 Subpoenas.

(a) To effectuate the purposes of the Act the Commission shall have the authority to issue a subpoena requiring:

(1) The attendance and testimony of witnesses;

(2) The production of evidence including, but not limited to, books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and

(3) Access to evidence for the purpose of examination and the right to copy.

(b) The power to issue subpoenas has been delegated by the Commission, pursuant to section 6(a) of the Act, to the General Counsel, the District Directors, the Washington Field Office Director, the Director of the Office of Program Operations, or their designees. The subpoena shall state the name, address and title of the issuer, identify the person or evidence subpoenaed, the name of the person to whom the subpoena is returnable, the date, time and place that testimony is to be given or that documents are to be provided or access provided.

(c) A subpoena issued by the Commission or its designee pursuant to the Act is not subject to review or appeal.

(d) Upon the failure of any person to comply with a subpoena issued under this section, the Commission may utilize the provisions of sections 9 and 10 of the Federal Trade Commission Act,

§ 1626.17

15 U.S.C. 49 and 50, to compel compliance with the subpoena.

(e) Persons subpoenaed shall be entitled to the same fees and mileage that are paid witnesses in the courts of the United States.

[48 FR 140, Jan. 3, 1983, as amended at 54 FR 32063, Aug. 4, 1989]

§ 1626.17 Procedure for requesting an opinion letter.

(a) A request for an opinion letter should be submitted in writing to the Chairman, Equal Employment Opportunity Commission, 1801 L Street NW., Washington DC 20507, and shall contain:

(1) A concise statement of the issues on which an opinion is requested;

(2) As full a statement as possible of relevant facts and law; and

(3) The names and addresses of the person making the request and other interested persons.

(b) Issuance of an opinion letter by the Commission is discretionary.

(c) *Informal advice.* When the Commission, at its discretion, determines that it will not issue an opinion letter as defined in § 1626.18, the Commission may provide informal advice or guidance to the requestor. An informal letter of advice does not represent the formal position of the Commission and does not commit the Commission to the views expressed therein. Any letter other than those defined in § 1626.18(a)(1) will be considered a letter of advice and may not be relied upon by any employer within the meaning of section 10 of the Portal to Portal Act of 1947, incorporated into the Age Discrimination in Employment Act of 1967 through section 7(e)(1) of the Act.

[48 FR 140, Jan. 3, 1983, as amended at 54 FR 32063, Aug. 4, 1989]

§ 1626.18 Effect of opinions and interpretations of the Commission.

(a) Section 10 of the Portal to Portal Act of 1947, incorporated into the Age Discrimination in Employment Act of 1967 through section 7(e)(1) of the Act, provides that:

In any action or proceeding based on any act or omission on or after the date of the enactment of this Act, no employer shall be subject to any liability or punishment * * * if he pleads and proves that the act or omis-

29 CFR Ch. XIV (7-1-03 Edition)

sion complained of was in good faith in conformity with and in reliance on any written administrative regulations, order, ruling, approval or interpretation * * * or any administrative practice or enforcement policy of [the Commission].

The Commission has determined that only (1) a written document, entitled "opinion letter," signed by the Legal Counsel on behalf of and as approved by the Commission, or (2) a written document issued in the conduct of litigation, entitled "opinion letter," signed by the General Counsel on behalf of and as approved by the Commission, or (3) matter published and specifically designated as such in the FEDERAL REGISTER, may be relied upon by any employer as a "written regulation, order, ruling, approval or interpretation" or "evidence of any administrative practice or enforcement policy" of the Commission "with respect to the class of employers to which he belongs," within the meaning of the statutory provisions quoted above.

(b) An opinion letter issued pursuant to paragraph (a)(1) of this section, when issued to the specific addressee, has no effect upon situations other than that of the specific addressee.

(c) When an opinion letter, as defined in paragraph (a)(1) of this section, is requested, the procedure stated in § 1626.17 shall be followed.

§ 1626.19 Rules to be liberally construed.

(a) These rules and regulations shall be liberally construed to effectuate the purposes and provisions of this Act and any other acts administered by the Commission.

(b) Whenever the Commission receives a charge or obtains information relating to possible violations of one of the statutes which it administers and the charge or information reveals possible violations of one or more of the other statutes which it administers, the Commission will treat such charges or information in accordance with all such relevant statutes.

(c) Whenever a charge is filed under one statute and it is subsequently believed that the alleged discrimination constitutes an unlawful employment