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processings in the case pending further efforts of the Commission to obtain voluntary compliance.

(c) Proof of compliance with title VII or the ADA in accordance with the terms of the agreement shall be obtained by the Commission before the case is closed. In those instances in which a person claiming to be aggrieved or a member of the class claimed to be aggrieved by the practices alleged in the charge is not a party to such an agreement, the agreement shall not extinguish or in any way prejudice the rights of such person to proceed in court under section 706(f)(1) of title VII or the ADA.

[42 FR 55388, Oct. 14, 1977, as amended at 48 FR 19165, Apr. 28, 1983; 49 FR 13024, Apr. 2, 1984; 49 FR 13874, Apr. 9, 1984; 52 FR 26959, July 17, 1987; 54 FR 32061, Aug. 4, 1989; 56 FR 9624, 9625, Mar. 7, 1991]

§ 1601.25 Failure of conciliation; notice.

Where the Commission is unable to obtain voluntary compliance as provided by title VII or the ADA and it determines that further efforts to do so would be futile or nonproductive, it shall, through the appropriate District Director, the Program Director, Office of Program Operations, Director of Systemic Programs, Office of Program Operations, or Directors, Field Management Programs, Office of Program Operations, or their designees, so notify the respondent in writing.

[42 FR 55388, Oct. 14, 1977, as amended at 47 FR 46275, Oct. 18, 1982; 54 FR 32061, Aug. 4, 1989; 56 FR 9624, Mar. 7, 1991]

§ 1601.26 Confidentiality of endeavors.

(a) Nothing that is said or done during and as part of the informal endeavors of the Commission to eliminate unlawful employment practices by informal methods of conference, conciliation, and persuasion may be made a matter of public information by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. This provision does not apply to such disclosures to the representatives of Federal, State or local agencies as may be appropriate or necessary to the carrying out of the Commission's functions under title VII

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or the ADA: *Provided, however*, That the Commission may refuse to make disclosures to any such agency which does not maintain the confidentiality of such endeavors in accord with this section or in any circumstances where the disclosures will not serve the purposes of the effective enforcement of title VII or the ADA.

(b) Factual information obtained by the Commission during such informal endeavors, if such information is otherwise obtainable by the Commission under section 709 of title VII, for disclosure purposes will be considered by the Commission as obtained during the investigatory process.

[42 FR 55388, Oct. 14, 1977, as amended at 56 FR 9625, Mar. 7, 1991]

PROCEDURE CONCERNING THE INSTITUTION OF CIVIL ACTIONS

§ 1601.27 Civil actions by the Commission.

The Commission may bring a civil action against any respondent named in a charge not a government, governmental agency or political subdivision, after thirty (30) days from the date of the filing of a charge with the Commission unless a conciliation agreement acceptable to the Commission has been secured: *Provided, however*, That the Commission may seek preliminary or temporary relief pursuant to section 706(f)(2) of title VII, according to the procedures set forth in §1601.23 of this part, at any time.

§ 1601.28 Notice of right to sue: Procedure and authority.

(a) Issuance of notice of right to sue upon request. (1) When a person claiming to be aggrieved requests, in writing, that a notice of right to sue be issued and the charge to which the request relates is filed against a respondent other than a government, governmental agency or political subdivision, the Commission shall promptly issue such notice as described in §1601.28(e) to all parties, at any time after the expiration of one hundred eighty (180) days from the date of filing of the charge with the Commission, or in the case of a Commissioner charge 180 days after the filing of the charge or 180 days after the expiration of any period

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of reference under section 706(d) of title VII as appropriate.

(2) When a person claiming to be aggrieved requests, in writing, that a notice of right to sue be issued, and the charge to which the request relates is filed against a respondent other than a government, governmental agency or political subdivision, the Commission may issue such notice as described in § 1601.28(e) with copies to all parties, at any time prior to the expiration of 180 days from the date of filing the charge with the Commission; provided, that the District Director, the Area Director, the Local Director, the Program Director, Office of Program Operations or upon delegation, the Director of Systemic Programs, Office of Program Operations or the Directors, Field Management Programs, Office of Program Operations has determined that it is probable that the Commission will be unable to complete its administrative processing of the charge within 180 days from the filing of the charge and has attached a written certificate to that effect.

(3) Issuance of a notice of right to sue shall terminate further proceeding of any charge not a Commissioner charge unless the District Director; Area Director; Local Director; Program Director, Office of Program Operations or upon delegation, the Director of Systemic Programs, Office of Program Operations or the Directors, Field Management Programs, Office of Program Operations; or the General Counsel, determines at that time or at a later time that it would effectuate the purpose of title VII or the ADA to further process the charge. Issuance of a notice of right to sue shall not terminate the processing of a Commissioner charge.

(4) The issuance of a notice of right to sue does not preclude the Commission from offering such assistance to a person issued such notice as the Commission deems necessary or appropriate.

(b) Issuance of notice of right to sue following Commission disposition of charge. (1) Where the Commission has found reasonable cause to believe that title VII or the ADA has been violated, has been unable to obtain voluntary compliance with title VII or the ADA, and where the Commission has decided

not to bring a civil action against the respondent, it will issue a notice of right to sue on the charge as described in § 1601.28(e) to:

(i) The person claiming to be aggrieved, or,

(ii) In the case of a Commissioner charge, to any member of the class who is named in the charge, identified by the Commissioner in a third-party certificate, or otherwise identified by the Commission as a member of the class and provide a copy thereof to all parties.

(2) Where the Commission has entered into a conciliation agreement to which the person claiming to be aggrieved is not a party, the Commission shall issue a notice of right to sue on the charge to the person claiming to be aggrieved.

(3) Where the Commission has dismissed a charge pursuant to § 1601.18, it shall issue a notice of right to sue as described in § 1601.28(e) to:

(i) The person claiming to be aggrieved, or,

(ii) In the case of a Commissioner charge, to any member of the class who is named in the charge, identified by the Commissioner in a third-party certificate, or otherwise identified by the Commission as a member of the class, and provide a copy thereof to all parties.

(4) The issuance of a notice of right to sue does not preclude the Commission from offering such assistance to a person issued such notice as the Commission deems necessary or appropriate.

(c) The Commission hereby delegates authority to District Directors, Area Directors, Local Directors, the Program Director, Office of Program Operations, Director of Systemic Programs, Office of Program Operations, or Directors, Field Management Programs, Office of Program Operations, or their designees, to issue notices of right to sue, in accordance with this section, on behalf of the Commission. Where a charge has been filed on behalf of a person claiming to be aggrieved, the notice of right to sue shall be issued in

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the name of the person or organization who filed the charge.¹

(d) Notices of right-of-sue for charges against Governmental respondents. In all cases where the respondent is a government, governmental agency, or a political subdivision, the Commission will issue the notice of right to sue when there has been a dismissal of a charge. The notice of right to sue will be issued in accordance with § 1601.28(e). In all other cases where the respondent is a government, governmental agency, or political subdivision, the Attorney General will issue the notice of right to sue, including the following cases:

(1) When there has been a finding of reasonable cause by the Commission, there has been a failure of conciliation, and the Attorney General has decided not to file a civil action; and

(2) Where a charging party has requested a notice of right to sue pursuant to § 1601.28(a)(1) or (2). In cases where a charge of discrimination results in a finding of cause in part and no cause in part, the case will be treated as a “cause” determination and will be referred to the Attorney General.

(e) Content of notice of right to sue. The notice of right to sue shall include:

(1) Authorization to the aggrieved person to bring a civil action under title VII or the ADA pursuant to section 706(f)(1) of title VII or section 107 of the ADA within 90 days from receipt of such authorization;

(2) Advice concerning the institution of such civil action by the person claiming to be aggrieved, where appropriate;

(3) A copy of the charge;

¹Formal Ratification-Notice is hereby given that the EEOC at a Commission meeting on March 12, 1974, formally ratified the acts of the District Directors of EEOC District Offices in issuing notices of right to sue pursuant to Commission practice instituted on October 15, 1969, and continued through March 18, 1974. 39 FR 10178 (March 18, 1974).

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(4) The Commission’s decision, determination, or dismissal, as appropriate.

[42 FR 55388, Oct. 14, 1977, as amended at 44 FR 4669, Jan. 23, 1979; 45 FR 73037, Nov. 4, 1980; 47 FR 46275, Oct. 18, 1982; 48 FR 19165, Apr. 28, 1983; 49 FR 13024, Apr. 2, 1984; 49 FR 13874, Apr. 9, 1984; 52 FR 26959, July 17, 1987; 54 FR 32061, Aug. 4, 1989; 56 FR 9624, 9625, Mar. 7, 1991]

§ 1601.29 Referral to the Attorney General.

If the Commission is unable to obtain voluntary compliance in a charge involving a government, governmental agency or political subdivision, it shall inform the Attorney General of the appropriate facts in the case with recommendations for the institution of a civil action by him or her against such respondent or for intervention by him or her in a civil action previously instituted by the person claiming to be aggrieved.

Subpart C—Notices to Employees, Applicants for Employment and Union Members

§ 1601.30 Notices to be posted.

(a) Every employer, employment agency, labor organization, and joint labor-management committee controlling an apprenticeship or other training program that has an obligation under title VII or the ADA shall post and keep posted in conspicuous places upon its premises notices in an accessible format, to be prepared or approved by the Commission, describing the applicable provisions of title VII and the ADA. Such notice must be posted in prominent and accessible places where notices to employees, applicants and members are customarily maintained.

(b) Section 711(b) of Title VII makes failure to comply with this section punishable by a fine of not more than \$110 for each separate offense.

[42 FR 55388, Oct. 14, 1977, as amended at 55 FR 2518, Jan. 25, 1990; 56 FR 9625, Mar. 7, 1991; 62 FR 26934, May 16, 1997]