

**§ 1614.606**

or the Commission during the investigation, informal adjustment, or hearing on the complaint.

(c) In cases where the representation of a complainant or agency would conflict with the official or collateral duties of the representative, the Commission or the agency may, after giving the representative an opportunity to respond, disqualify the representative.

(d) Unless the complainant states otherwise in writing, after the agency has received written notice of the name, address and telephone number of a representative for the complainant, all official correspondence shall be with the representative with copies to the complainant. When the complainant designates an attorney as representative, service of all official correspondence shall be made on the attorney and the complainant, but time frames for receipt of materials shall be computed from the time of receipt by the attorney. The complainant must serve all official correspondence on the designated representative of the agency.

(e) The Complainant shall at all times be responsible for proceeding with the complaint whether or not he or she has designated a representative.

(f) Witnesses who are Federal employees, regardless of their tour of duty and regardless of whether they are employed by the respondent agency or some other Federal agency, shall be in a duty status when their presence is authorized or required by Commission or agency officials in connection with a complaint.

[57 FR 12646, Apr. 10, 1992, as amended at 64 FR 37661, July 12, 1999]

**§ 1614.606 Joint processing and consolidation of complaints.**

Complaints of discrimination filed by two or more complainants consisting of substantially similar allegations of discrimination or relating to the same matter may be consolidated by the agency or the Commission for joint processing after appropriate notification to the parties. Two or more complaints of discrimination filed by the same complainant shall be consolidated by the agency for joint processing after appropriate notification to the complainant. When a complaint

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has been consolidated with one or more earlier filed complaints, the agency shall complete its investigation within the earlier of 180 days after the filing of the last complaint or 360 days after the filing of the original complaint, except that the complainant may request a hearing from an administrative judge on the consolidated complaints any time after 180 days from the date of the first filed complaint. Administrative judges or the Commission may, in their discretion, consolidate two or more complaints of discrimination filed by the same complainant.

[64 FR 37661, July 12, 1999]

**§ 1614.607 Delegation of authority.**

An agency head may delegate authority under this part, to one or more designees.

**Subpart G—Procedures Under the Notification and Federal Employee Antidiscrimination and Retaliation Act (No Fear Act) of 2002**

AUTHORITY: Sec. 303, Pub. L. 107-174, 116 Stat. 574.

SOURCE: 69 FR 3489, Jan. 26, 2004, unless otherwise noted.

**§ 1614.701 Purpose and scope.**

This subpart implements Title III of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No Fear Act), Public Law 107-174. It sets forth the basic responsibilities of federal agencies and the Commission to post certain information on their public Web sites.

**§ 1614.702 Definitions.**

The following definitions apply for purposes of this subpart:

(a) The term *Federal agency* means an Executive agency (as defined in 5 U.S.C. 105), the United States Postal Service, and the Postal Rate Commission;

(b) The term *Commission* means the Equal Employment Opportunity Commission and any subdivision thereof authorized to act on its behalf;

(c) The term *investigation* refers to the step of the federal sector EEO process described in 29 CFR 1614.108 and, for purposes of this subpart, it commences when the complaint is filed and ceases when the complainant is given notice under §1614.108(f) of the right to request a hearing or to receive an immediate final decision without a hearing;

(d) The term *hearing* refers to the step of the Federal sector EEO process described in 29 CFR 1614.109 and, for purposes of this subpart, it commences when the EEOC Administrative Judge (AJ) receives the complaint file from the agency and ceases when the AJ returns the case to the agency to take final action;

(e) For purposes of §1614.704(h), (i) and (j), the phrase *without a hearing* refers to a final action by an agency that is rendered:

(1) When an agency does not receive a reply to a notice issued under §1614.108(f);

(2) After a complainant requests an immediate final decision,

(3) After a complainant withdraws a request for a hearing; and

(4) After an administrative judge cancels a hearing and remands the matter to the agency;

(f) For purposes of § 1614.704(h), (i) and (j), the term *after a hearing* refers to a final action by an agency that is rendered following a decision by an administrative judge under §1614.109(f)(3)(iv), (g) or (i).

(g) The phrase *final action by an agency* refers to the step of the federal sector EEO process described in 29 CFR 1614.110 and, for purposes of this subpart, it commences when the agency receives a decision by an Administrative Judge (AJ), receives a request from the complainant for an immediate final decision without a hearing or fails to receive a response to a notice issued under §1614.108(f) and ceases when the agency issues a final order or final decision on the complaint.

(h) The phrase *final action by an agency involving a finding of discrimination* means:

(1) A final order issued by an agency pursuant to §1614.110(a) following a finding of discrimination by an administrative judge; and

(2) A final decision issued by an agency pursuant to §1614.110(b) in which the agency finds discrimination;

(i) The term *appeal* refers to the step of the federal sector EEO process described in 29 CFR 1614.401 and, for purposes of this subpart, it commences when the appeal is received by the Commission and ceases when the appellate decision is issued;

(j) The term *basis of alleged discrimination* refers to the individual's protected status (*i.e.*, race, color, religion, sex, national origin, age, disability, or retaliation). Only those bases protected by Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*; the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 *et seq.*; the Equal Pay Act of 1963, 29 U.S.C. 206(d); and the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791 *et seq.*, are covered by the federal EEO process.

(k) The term *issue of alleged discrimination* means one of the following challenged agency actions affecting a term or condition of employment as listed on EEOC Standard Form 462 (Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints): Appointment/hire; assignment of duties; awards; conversion to full time; disciplinary action/demotion; disciplinary action/reprimand; disciplinary action/suspension; disciplinary action/removal; duty hours; evaluation/appraisal; examination/test; harassment/non-sexual; harassment/sexual; medical examination; pay/overtime; promotion/non-selection; reassignment/denied; reassignment/directed; reasonable accommodation; reinstatement; retirement; termination; terms/conditions of employment; time and attendance; training; and, other.

(l) The term *subelement* refers to any organizational sub-unit directly below the agency or department level which has 1,000 or more employees.

#### § 1614.703 Manner and format of data.

(a) Agencies shall post their statistical data in the following two formats: Portable Document Format (PDF) and an accessible text format that complies with section 508 of the Rehabilitation Act.