

§ 1640.9

29 CFR Ch. XIV (7-1-04 Edition)

(c) *Procedures for determining whether a complaint or charge has been dual filed.* The EEOC and each agency with jurisdiction to investigate and process complaints of employment discrimination under section 504 shall jointly develop procedures for determining whether complaints or charges of discrimination have been dual filed with the EEOC and with one or more other agencies.

(d) *Notification of deferral.* The agency required to process a dual-filed complaint or charge under this section shall notify the complainant or charging party and the respondent that the complaint or charge was dual filed with one or more other agencies and that such other agencies have agreed to defer processing and will take no further action except as provided in § 1640.10 or § 1640.11, as applicable.

(e) *Exceptions.* When special circumstances make deferral as provided in this section inappropriate, the EEOC, and an agency with investigative authority under section 504, may jointly determine to reallocate investigative responsibilities. Special circumstances include, but are not limited to, cases in which the EEOC has already commenced its investigation at the time that the agency discovers that the complaint or charge is a dual-filed complaint or charge in which the complainant has elected section 504 processing, alleged discrimination in both employment and in other practices or services of the respondent, or alleged a pattern or practice of employment discrimination.

§ 1640.9 Processing of complaints or charges of employment discrimination filed with a designated agency and either a section 504 agency, the EEOC, or both.

(a) *Designated agency processing.* A designated agency shall investigate and process a complaint that has been filed with it and with the EEOC, a section 504 agency, or both, when either of the following conditions is met:

(1) The designated agency determines that it has jurisdiction over the complaint under title II and that neither the EEOC nor a section 504 agency (other than the designated agency, if the designated agency is also a section

504 agency) has jurisdiction over the complaint; or

(2) The designated agency determines that it has jurisdiction over the complaint under section 504 and the complaint meets the requirements for processing by a section 504 agency set forth in § 1640.8(a)(2).

(b) *Referral by a designated agency.* A designated agency that has jurisdiction over a complaint solely under title II (and not under section 504) shall forward a complaint that has been filed with it and with the EEOC, a section 504 agency, or both, to either the EEOC or to a section 504 agency, as follows:

(1) If the designated agency determines that the EEOC is the sole agency, other than the designated agency, with jurisdiction over the complaint, the designated agency shall forward the complaint to the EEOC for processing under title I; or

(2) If the designated agency determines that the section 504 agency is the sole agency, other than the designated agency, with jurisdiction over the complaint, the designated agency shall forward the complaint to the section 504 agency for processing under section 504; or

(3) If the designated agency determines that both the EEOC and a section 504 agency have jurisdiction over the complaint, the designated agency shall forward the complaint to the EEOC if it determines that the complaint solely alleges employment discrimination against an individual, or it shall forward the complaint to the section 504 agency if it determines that the complaint meets the requirements for processing by a section 504 agency set out in § 1640.8(a)(2)(i) or (a)(2)(ii).

§ 1640.10 Section 504 agency review of deferred complaints.

(a) *Deferral by the section 504 agency.* When a section 504 agency refers a complaint to the EEOC pursuant to § 1640.6(c)(2) or when it is determined that, as between the EEOC and a section 504 agency, the EEOC is the agency that shall process a dual-filed complaint or charge under § 1640.8(a)(1) or § 1640.8(e), the section 504 agency shall defer further action until: