

reasonable leave on account of child-bearing. The conditions applicable to her leave (other than the length thereof) and to her return to employment, shall be in accordance with the employer's leave policy.

(2) If the employer has no leave policy, childbearing must be considered by the employer to be a justification for a leave of absence for a female employee for a reasonable period of time. Following childbirth, and upon signifying her intent to return within a reasonable time, such female employee shall be reinstated to her original job or to a position of like status and pay, without loss of service credits.

(h) The employer must not specify any differences for male and female employees on the basis of sex in either mandatory or optional retirement age.

(i) Nothing in these guidelines shall be interpreted to mean that differences in capabilities for job assignments do not exist among individuals and that such distinctions may not be recognized by the employer in making specific assignments. The purpose of these guidelines is to insure that such distinctions are not based upon sex.

§ 60-20.4 Seniority system.

Where they exist, seniority lines and lists must not be based solely upon sex. Where such a separation has existed, the employer must eliminate this distinction.

§ 60-20.5 Discriminatory wages.

(a) The employer's wages schedules must not be related to or based on the sex of the employees.

NOTE: The more obvious cases of discrimination exist where employees of different sexes are paid different wages on jobs which require substantially equal skill, effort and responsibility and are performed under similar working conditions.

(b) The employer may not discriminatorily restrict one sex to certain job classifications. In such a situation, the employer must take steps to make jobs available to all qualified employees in all classifications without regard to sex. (Example: An electrical manufacturing company may have a production division with three functional units: One (assembly) all female; another (wiring), all male; and a third (circuit boards), also all

male. The highest wage attainable in the assembly unit is considerably less than that in the circuit board and wiring units. In such a case the employer must take steps to provide qualified female employees opportunity for placement in job openings in the other two units.)

(c) To avoid overlapping and conflicting administration the Director will consult with the Administrator of the Wage and Hour Administration before issuing an opinion on any matter covered by both the Equal Pay Act and Executive Order 11246, as amended.

§ 60-20.6 Affirmative action.

(a) The employer shall take affirmative action to recruit women to apply for those jobs where they have been previously excluded.

NOTE: This can be done by various methods. Examples include: (1) Including in itineraries of recruiting trips women's colleges where graduates with skills desired by the employer can be found, and female students of coeducational institutions and (2) designing advertisements to indicate that women will be considered equally with men for jobs.

(b) Women have not been typically found in significant numbers in management. In many companies management trainee programs are one of the ladders to management positions. Traditionally, few, if any, women have been admitted into these programs. An important element of affirmative action shall be a commitment to include women candidates in such programs.

(c) Distinctions based on sex may not be made in other training programs. Both sexes should have equal access to all training programs and affirmative action programs should require a demonstration by the employer that such access has been provided.

PART 60-30—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS TO ENFORCE EQUAL OPPORTUNITY UNDER EXECUTIVE ORDER 11246

GENERAL PROVISIONS

Sec.

60-30.1 Applicability of rules.

60-30.2 Waiver, modification.

60-30.3 Computation of time.

§ 60-30.1

60-30.4 Form, filing, service of pleadings and papers.

PREHEARING PROCEDURES

- 60-30.5 Administrative complaint.
- 60-30.6 Answer.
- 60-30.7 Notice of prehearing conference.
- 60-30.8 Motions; disposition of motions.
- 60-30.9 Interrogatories, and admissions as to facts and documents.
- 60-30.10 Production of documents and things and entry upon land for inspection and other purposes.
- 60-30.11 Depositions upon oral examination.
- 60-30.12 Prehearing conferences.
- 60-30.13 Consent findings and order.

HEARINGS AND RELATED MATTERS

- 60-30.14 Designation of Administrative Law Judges.
- 60-30.15 Authority and responsibilities of Administrative Law Judges.
- 60-30.16 Appearances.
- 60-30.17 Appearance of witnesses.
- 60-30.18 Rules of evidence.
- 60-30.19 Objections; exceptions; offer of proof.
- 60-30.20 Ex parte communications.
- 60-30.21 Oral argument.
- 60-30.22 Official transcript.
- 60-30.23 Summary judgment.
- 60-30.24 Participation by interested persons.

POST HEARING PROCEDURES

- 60-30.25 Proposed findings of fact and conclusions of law.
- 60-30.26 Record for recommended decision.
- 60-30.27 Recommended decision.
- 60-30.28 Exceptions to recommended decisions.
- 60-30.29 Record.
- 60-30.30 Final Administrative order.

EXPEDITED HEARING PROCEDURES

- 60-30.31 Expedited hearings—when appropriate.
- 60-30.32 Administrative complaint and answer.
- 60-30.33 Discovery.
- 60-30.34 Conduct of hearing.
- 60-30.35 Recommended decision after hearing.
- 60-30.36 Exceptions to recommendations.
- 60-30.37 Final Administrative order.

AUTHORITY: Executive Order 11246, as amended, 30 FR 12319, 32 FR 14303, as amended by E.O. 12086; 29 U.S.C. 793, as amended, and 38 U.S.C. 4212, as amended.

SOURCE: 43 FR 49259, Oct. 20, 1978, unless otherwise noted.

41 CFR Ch. 60 (7-1-05 Edition)

GENERAL PROVISIONS

§ 60-30.1 Applicability of rules.

This part provides the rules of practice for all administrative proceedings, instituted by the OFCCP including but not limited to proceedings instituted against construction contractors or subcontractors, which relate to the enforcement of equal opportunity under Executive Order 11246, as amended. In the absence of a specific provision, procedures shall be in accordance with the Federal Rules of Civil Procedure.

§ 60-30.2 Waiver, modification.

Upon notice to all parties, the Administrative Law Judge may, with respect to matters pending before him modify or waive any rule herein upon a determination that no party will be prejudiced and that the ends of justice will be served thereby.

[43 FR 49259, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978]

§ 60-30.3 Computation of time.

In computing any period of time under these rules or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government in which event it includes the next business day.

§ 60-30.4 Form, filing, service of pleadings and papers.

(a) *Form.* The original of all pleadings and papers in a proceeding conducted under the regulations in this part shall be filed with the Administrative Law Judge assigned to the case or with the Chief Administrative Law Judge if the case has not been assigned. Every pleading and paper filed in the proceeding shall contain a caption setting forth the name of the agency instituting the proceeding, the title of the action, the case file number assigned by the Administrative Law Judge, and a designation of the pleading or paper (e.g., complaint, motion to dismiss, etc.). The pleading or papers shall be signed and shall contain the address and telephone number of the person representing the party or the person on whose behalf the pleading or paper was