

it should be possible to identify the position's actual duties, and to make a determination of coverage on that basis.

16. The fact that a position is deemed not to have been engaged in carrying out a Government contract does not affect the individual's rights under the Americans with Disabilities Act of 1990.

PART 60-742—PROCEDURES FOR COMPLAINTS/CHARGES OF EMPLOYMENT DISCRIMINATION BASED ON DISABILITY FILED AGAINST EMPLOYERS HOLDING GOVERNMENT CONTRACTS OR SUBCONTRACTS

Sec.

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AUTHORITY: 42 U.S.C. 12117(b).

SOURCE: 57 FR 2962, 2965, Jan. 24, 1992, unless otherwise noted.

§ 60-742.1 Purpose and application.

The purpose of this part is to implement procedures for processing and resolving complaints/charges of employment discrimination filed against employers holding government contracts or subcontracts, where the complaints/charges fall within the jurisdiction of both section 503 of the Rehabilitation Act of 1973 (hereinafter "Section 503") and the Americans with Disabilities Act of 1990 (hereinafter "ADA"). The promulgation of this part is required pursuant to section 107(b) of the ADA. Nothing in this part should be deemed to affect the Department of Labor's (hereinafter "DOL") Office of Federal Contract Compliance Programs' (hereinafter "OFCCP") conduct of compliance reviews of government contractors and subcontractors under section 503. Nothing in this part is intended to create rights in any person.

§ 60-742.2 Exchange of information.

(a) EEOC and OFCCP shall share any information relating to the employment policies and practices of employers holding government contracts or subcontracts that may assist each office in carrying out its responsibilities. Such information shall include, but not necessarily be limited to, affirmative action programs, annual employment reports, complaints, charges, investigative files, and compliance review reports and files.

(b) All requests by third parties for disclosure of the information described in paragraph (a) of this section shall be coordinated with the agency which initially compiled or collected the information.

(c) Paragraph (b) of this section is not applicable to requests for data in EEOC files made by any state or local agency designated as a "FEP agency" with which EEOC has a charge resolution contract and a work-sharing agreement containing the confidentiality requirements of sections 706(b) and 709(e) of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*). However, such an agency shall not disclose any of the information, initially compiled by OFCCP, to the public without express written approval by the Director of OFCCP.

§ 60-742.3 Confidentiality.

When the Department of Labor receives information obtained by EEOC, the Department of Labor shall observe the confidentiality requirements of sections 706(b) and 709(e) of title VII of the Civil Rights Act of 1964, as incorporated by section 107(a) of the ADA, as would EEOC, except in cases where DOL receives the same information from a source independent of EEOC. Questions concerning confidentiality shall be directed to the Associate Legal Counsel for Legal Services, Office of Legal Counsel of EEOC.

§ 60-742.4 Standards for investigations, hearings, determinations and other proceedings.

In any OFCCP investigation, hearing, determination or other proceeding involving a complaint/charge that is dual filed under both section 503 and the