

Department of Justice

§ 42.208

section 815(c) of the JSIA, the Office shall institute administrative proceedings pursuant to § 42.208, *et seq.*

[45 FR 28705, Apr. 30, 1980; 45 FR 54037, Aug. 14, 1980]

§ 42.207 Compliance information.

(a) Each recipient shall:

(1) Keep such records, and submit to OJARS such timely, complete, and accurate information as OJARS may request to determine whether the recipient is complying with section 815(c)(1) of the JSIA; and

(2) Permit reasonable access by OJARS to its books, documents, papers, and records, to the extent necessary to determine whether the recipient is complying with section 815(c)(1) of the JSIA.

(b) Failure to comply with § 42.207(a) shall subject the recipient to the sanctions provided in section 803(a) of the JSIA, 42 U.S.C. 3783(a).

§ 42.208 Notice of noncompliance.

(a) Whenever the Office has:

(1) Received notice of a finding, after notice and opportunity for a hearing by:

(i) A Federal court (other than in an action brought by the Attorney General under section 815(c)(3) of the JSIA);

(ii) A State court; or

(iii) A Federal or State administrative agency (other than the Office under paragraph (a)(2) of this section); to the effect that there has been a pattern or practice of discrimination in violation of section 815(c)(1) of the JSIA; or

(2) Made a determination after an investigation by the Office pursuant to § 42.205 or § 42.206 of this subpart that a State government or unit of general local government, or agency thereof, is not in compliance with this subpart, or section 815(c)(1) of the JSIA, or this subpart: the Office shall, within 10 days after such occurrence, notify the chief executive of the affected State and, if the action involves a unit of general local government, the chief executive of such unit of general local government, that such program or activity has been so found or determined not to be in compliance with this subpart or section 815(c)(1) of the JSIA or this

subpart, and shall request each chief executive notified under this section with respect to such violation to secure compliance.

(b) For the purposes of this section, notice means:

(1) Publication in—

(i) Employment Practices Decisions, Commerce Clearinghouse, Inc.;

(ii) Fair Employment Practices, Bureau of National Affairs, Inc.;

(iii) The United States Law Week, Bureau of National Affairs, Inc.; or

(iv) Federal Supplement, Federal Reporter, or Supreme Reporter, West Publishing Company; or

(2) Receipt by the Office of a reliable copy of a pattern or practice finding, made after a due process hearing from any source.

(c) When the Office receives notice of a finding which has been made more than 120 days prior to receipt, the Office will determine if the finding is currently applicable.

(1) In determining the current applicability of the finding, the Office will contact the clerk of the court and the office of the deciding judge (or the appropriate agency official) to determine whether any subsequent orders have been entered.

(2) If the information is unavailable through the clerk or the office of the judge (or the appropriate agency official), the Office will contact the attorneys of record for both the plaintiff and defendant to determine whether any subsequent orders have been entered, or if the recipient is in compliance.

(3) If, within 10 days of receipt of notice, it is not determined through the procedures set forth in paragraphs (c)(1) and (2) of this section, that the recipient is in full compliance with a final order of the court (or agency) within the meaning of § 42.211(b), the Office will notify the appropriate chief executive of the recipient's noncompliance as provided in § 42.208(a).

(d) For purposes of paragraph (a)(1)(iii) of this section a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, U.S.