

findings and recommendations of the administrative judge shall become the Board's final decision. The Board shall transmit the final decision to the agent of the class within 5 calendar days of the expiration of the 60-day period.

(5) The final decision of the Board shall require any relief authorized by law and determined to be necessary or desirable to resolve the issue of discrimination.

(6) The final decision of the Board shall, subject to subpart E of this part, be binding on all members of the class and the Board.

(7) The final decision shall inform the class agent of the right to seek review by the Commission, or to file a civil action, in accordance with subpart E of this part, and of the applicable time limits.

(j) *Notification of decision.* The Board shall notify class members of the Board's final decision and relief awarded, if any, through the same media employed to give notice of the existence of the class complaint. The notice, where appropriate, shall include information concerning the rights of class members to seek individual relief, and of the procedures to be followed. Notice shall be given by the Board within 10 calendar days of the transmittal of the final decision to the agent of the class.

(k) *Relief for individual class members.*

(1) When the Board finds class discrimination, the Board shall eliminate or modify the personnel policy or practice out of which the complaint arose and provide individual relief, including an award of attorney's fees and costs, to the agent of the class in accordance with § 268.501(e) of this part.

(2) When class-wide discrimination is not found, but it is found that the agent of the class is a victim of discrimination, § 268.501 of this part shall apply. The Board shall also, within 60 days of the issuance of its final decision finding no class-wide discrimination, issue the acknowledgement of receipt of an individual complaint as required by § 268.205(d) of this part and process in accordance with the provisions of subpart B of this part, each individual complaint that was subsumed into the class complaint.

(3) When class-wide discrimination is found in a final decision of the Board,

and a class member believes that he or she is entitled to individual relief, the class member may file a written claim with the Board's EEO Programs Director within 30 days of receipt of notification by the Board of its final decision. The claim must include a specific, detailed showing that the claimant is a class member who was affected by a personnel action or matter resulting from the discriminatory personnel policy or practice, and that this discriminatory action took place within the period of time for which the Board found class-wide discrimination in its final decision. The period of time for which the Board finds class-wide discrimination shall begin not more than 45 days prior to the initial contact by the agent of the class with the EEO Counselor and shall end not later than the date when the Board eliminates the personnel policy or practice found to be discriminatory in the Board's final decision. The Board shall issue a final decision on each such claim within 90 days of filing. Such decision must include a notice of the right to file a request for review with the Commission or a civil action in accordance with subpart E of this part and the applicable time limits. A copy of EEOC Form 573, notice of Appeal/Petition, shall be attached to the Board's decision pursuant to § 268.209(b)(7) of this part.

[59 FR 16098, Apr. 6, 1996, as amended at 61 FR 13079, Mar. 26, 1996]

### Subpart D—Review by the Equal Employment Opportunity Commission

#### § 268.401 Review by the Equal Employment Opportunity Commission.

(a) An individual complainant may file a request for review with the Commission of a final decision issued by the Board under § 268.209 of this part, or a dismissal by the Board of all or a portion of an individual complaint under § 268.206 of this part.

(b) An agent of the class may file a request for review with the Commission of a dismissal of all or a portion of a class complaint rendered by the Board under § 268.305(c) of this part, or a final decision of the Board accepting or rejecting all or a portion of a report

of findings and recommendations of an administrative judge with regard to a class complaint pursuant to § 268.305(i) of this part. A class member may file a request for review with the Commission of a final decision by the Board on a claim for individual relief under a class complaint pursuant to § 268.305(k) of this part. Both an agent of the class and a class member may file a request for review with the Commission of a final decision of the Board on a petition pursuant to § 268.305(f)(4) of this part.

(c) A complainant, agent of the class or individual class claimant may file a request for review with the Commission of the Board's alleged noncompliance with a settlement agreement or final decision in accordance with § 268.504 of this part.

**§ 268.402 Time limits for review by the Equal Employment Opportunity Commission.**

(a) Any dismissal of a complaint or a portion of a complaint, or any final decision of the Board, as set forth in paragraphs (b)(1) through (7) of § 268.209 of this part, may be reviewed by the Commission if a request for review is filed with the Commission within 30 days of the complainant's receipt of the dismissal or final decision. In the case of class complaints, any final decision of the Board received by an agent of the class, petitioner or any individual class claimant may be reviewed by the Commission if a request for review is filed with the Commission within 30 days of its receipt. Where a complainant has notified the EEO Programs Director of alleged noncompliance with a settlement agreement in accordance with § 268.504 of this part, the complainant may file a request for review with the Commission within 35 days after notification to the EEO Programs Director under § 268.504(a) of this part of such noncompliance, but the complainant must file a request for review within 30 days of receipt of the Board's determination.

(b) If the complainant is represented by an attorney of record, then the 30 day time period provided in paragraph (a) of this section within which to file a request for review shall be calculated from the receipt of the notification re-

quired under § 268.504(a) of this part by the attorney. In all other instances, the time within which to file a request for review with the Commission shall be calculated from the receipt of the notification required under § 268.504(a) of this part by the complainant.

**§ 268.403 How to seek review.**

(a) The complainant must file a request for review with the Commission by sending EEOC Form 573, notice of Appeal/Petition, to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, P.O. Box 19848, Washington, DC 20036, or by personal delivery or facsimile. The complainant should indicate what matters he or she is requesting the Commission to review.

(b) The complainant shall furnish a copy of the request for review to the Board's EEO Programs Director at the same time that he or she files the request for review with the Commission. In or attached to the request for review by the Commission, the complainant must certify the date and method by which service was made on the Board.

(c) If a complainant does not file a request for review with the Commission within the time limits of this subpart D, the request for review shall be untimely and shall be dismissed by the Commission.

(d) Any statement or brief in support of the request for review must be submitted to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, and to the Board within 30 days of the filing of the request for review. Following receipt of the request for review, and any brief in support of the request for review, the Director, Office of Federal Operations, Equal Employment Opportunity Commission, shall request the complaint file from the Board. The Board shall submit the complaint file and any Board statement or brief in opposition to the request for review to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, within 30 days of receipt of the Commission's request for the complaint file. A copy of the Board's statement or brief shall be served on the complainant at the same time.