

Federal Reserve System

§ 268.402

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 required 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.

§268.404 Procedure on review.

(a) The Commission's Office of Federal Operations shall review the com-

plaint file and all written statements and briefs from either party. The Commission may supplement the record by an exchange of letters or memoranda, investigation, remand to the Board or other procedures.

(b) If the Commission's Office of Federal Operations requests information from one or both of the parties to supplement the record, each party providing information shall send a copy of the information submitted to the Commission to the other party.

§268.405 Decisions on review.

(a) The Commission's Office of Federal Operations shall issue a written decision (the EEOC decision) setting forth its reasons for the decision. The Commission shall dismiss requests for review in accordance with §§268.206, 268.403(c) and 268.507 of this part. The EEOC decision shall be based on the preponderance of the evidence. If the EEOC decision contains a finding of discrimination, appropriate remedy(ies) shall be included and, where appropriate, the entitlement to interest, attorney's fees or costs shall be indicated. The EEOC decision shall reflect the date of its issuance, inform the complainant of his or her civil action rights, and be transmitted to the complainant and to the Board by certified mail, return receipt requested.

(b) The EEOC decision issued under paragraph (a) of this section is final, subject to paragraph (c) of this section, within the meaning of §268.406(d) of this part unless:

(1) Either party files a timely request for reconsideration pursuant to §268.406 of this part; or

(2) The Commission on its own motion reconsiders the case.

(c) The Board, within 30 days of receiving the EEOC decision, shall issue a final decision pursuant to §268.209 of this part based upon the EEOC decision.

§268.406 Reconsideration.

(a) Within a reasonable period of time, the Commission may, in its discretion, reconsider an EEOC decision issued under §268.405(a) of this part, notwithstanding any other provisions of this part.