

the following factors, although ordinarily many of these factors are subsumed within the calculation set forth in this paragraph (e)(2)(ii)(B): The time and labor required, the novelty and difficulty of the questions, the skill requisite to perform the legal service properly, the attorney's preclusion from other employment due to acceptance of the case, the customary fee, whether the fee is fixed or contingent, time limitations imposed by the client or the circumstances, the amount involved and the results obtained, the experience, reputation, and ability of the attorney, the undesirability of the case, the nature and length of the professional relationship with the client, and the awards in similar cases. Only in cases of exceptional success should any of these factors be used to enhance an award computed by the formula set forth in this paragraph (e)(2)(ii)(B).

(C) The costs that may be awarded are those authorized by 28 U.S.C. 1920 to include: Fees of the reporter for all or any of the stenographic transcript necessarily obtained for use in the case; fees and disbursements for printing and witnesses; and fees for exemplification and copies necessarily obtained for use in the case.

(iii) Witness fees shall be awarded in accordance with the provisions of 28 U.S.C. 1821, except that no award shall be made for a federal employee who is in a duty status when made available as a witness.

§ 268.502 Compliance with EEOC decisions.

(a) The relief ordered in an EEOC decision, if accepted pursuant to § 268.209 of this part as a final decision, or not acted upon by the Board within the time periods of § 268.209 of this part, shall be binding upon the Board. Failure to implement its final decision, or the EEOC decision in such circumstances, shall be grounds for the complainant to file a civil action under §§ 268.505 and 268.506 of this part.

(b) Notwithstanding paragraph (a) of this section, when the Board requests reconsideration, when the case involves an employee's removal, separation, or suspension continuing beyond the date of the request for reconsideration, and when the EEOC decision recommends

retroactive restoration, the Board shall comply with the EEOC decision only to the extent of the temporary or conditional restoration of the employee to duty status in the position recommended by the Commission, pending the outcome of the Board's request for reconsideration.

(1) Service under the temporary or conditional restoration provisions of this paragraph (b) shall be credited toward the completion of a probationary or trial period, or eligibility for a within-grade increase, if the EEOC decision is upheld.

(2) The Board shall notify the Commission and the employee in writing, at the same time it requests reconsideration, that the relief it provides is temporary or conditional.

(c) Relief shall be provided in full no later than 60 days after all administrative proceedings have ended.

§ 268.503 Enforcement of EEOC decisions.

(a) *Petition for enforcement.* As set forth in this section, a complainant may petition the Commission for enforcement of an EEOC decision issued under the review process of this part. The petition shall be submitted to the Office of Federal Operations, Equal Employment Opportunity Commission. The petition shall specifically set forth the reasons that lead the complainant to believe that the Board is not complying with the EEOC decision.

(b) *Compliance.* The Commission's Office of Federal Operations may take appropriate action to ascertain whether the Board should have adopted the EEOC decision pursuant to § 268.209 of this part. If the Commission determines that the Board has failed to comply with the EEOC decision in full, the Commission may undertake the efforts set forth in paragraphs (c) and (d) of this section to obtain compliance by the Board.

(c) *Clarification.* The Commission's Office of Federal Operations may, on its own motion or in response to the petition for enforcement or in connection with a timely request for reconsideration, issue a clarification of an EEOC decision. A clarification may not change the result of a prior EEOC decision or enlarge or diminish the relief