

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 contained in the EEOC decision, but it may further explain the meaning or in-

tent of the EEOC decision. The Commission may also send a notice to the Board seeking an explanation why the Board failed to adopt the EEOC decision as its final decision under § 268.209 of this part, and the Board shall respond to such request within 30 days of receipt of the notice addressing the issue raised by the Commission.

(d) *Notification to complainant of completion of administrative efforts.* Where the Commission has determined that the Board has failed to adopt the EEOC decision as its final decision, the Commission may notify the complainant who has petitioned the Commission under paragraph (a) of this section of his or her right to file a civil action under § 268.505 of this part for failure of the Board to adopt the EEOC decision as its final decision.

§ 268.504 Compliance with settlement agreements and final decisions.

(a) Any settlement agreement knowingly and voluntarily agreed to by the Board and a complainant, reached at any stage of the complaint process, shall be binding on both parties. A final decision of the Board that has not been the subject of review by the Commission, or in a civil action, shall nonetheless be binding on the Board. If the complainant believes that the Board has failed to comply with the terms of a settlement agreement or a final decision, the complainant shall notify the EEO Programs Director, in writing, of the alleged noncompliance within 30 days of when the complainant knew or should have known of the alleged noncompliance. The complainant may request that the Board implement the terms of the settlement agreement or final decision or alternatively, that the complaint be reinstated for further processing from the point processing ceased.

(b) The Board shall attempt to resolve the matter brought to the Board's attention by the complainant in paragraph (a) of this section, and respond to the complainant, in writing. If the Board has not responded to the complainant, in writing, or if the complainant is not satisfied with the Board's attempt to resolve the matter, the complainant may request the Commission to review whether the Board

has complied with the terms of the settlement agreement or the final decision. The complainant may file such request for review 35 days after he or she has served the Board with the notice of allegations of noncompliance, but must file the request for review with the Commission within 30 days of his or her receipt of a Board's determination. The complainant must serve a copy of the request for review on the Board and the Board may submit a response to the Commission within 30 days of receiving notice of request for review.

(c) Prior to rendering its determination, the Commission may request that the parties submit whatever additional information or documentation they deem necessary, or it may direct that an investigation or hearing on the matter be conducted. If the Commission determines that the Board is not in compliance and the noncompliance is not attributable to acts or conduct of the complainant, it may order that the complaint be reinstated for further processing from the point processing ceased. Allegations that subsequent acts of discrimination violate a settlement agreement shall be processed as separate complaints under §§ 268.205 or 268.305 of this part, as appropriate, rather than under this section.

§ 268.505 Civil action: Title VII, Age Discrimination in Employment Act and Rehabilitation Act.

A complainant who has filed an individual complaint, an agent of the class who has filed a class complaint or a claimant who has filed a claim for individual relief pursuant to a class complaint may file a civil action in an appropriate United States District Court alleging violations of Title VII, the ADEA or the Rehabilitation Act:

(a) Within 90 days of receipt of the Board's final decision on an individual or class complaint, whether or not a request for review has been filed with the Commission;

(b) After 180 days from the date of filing an individual or class complaint if a request for review by the Commission has not been filed and a final decision of the Board has not been issued;

(c) Within 90 days of receipt of an EEOC decision; or

(d) After 180 days from the date of filing a request for review with the Commission if an EEOC decision has not been issued by the Commission.

§ 268.506 Civil action: Equal Pay Act.

A complainant may file a civil action under section 16(b) of the Fair Labor Standards Act (29 U.S.C. 216(b)) in a court of competent jurisdiction within two years or, if the violation is willful, three years of the date of the alleged violation of the Equal Pay Act regardless of whether he or she pursued any administrative complaint processing. Recovery of back wages under the Equal Pay Act is limited to two years prior to the date of filing suit, or to three years if the violation is deemed willful. Liquidated damages in an equal amount may also be awarded. The filing of a complaint or request for review with the Commission under this part shall not toll the time for filing a civil action.

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

§ 268.507 Effect of filing a civil action.

Filing a civil action under §§ 268.505 or 268.506 of this part shall terminate the Commission's processing of any request for review. If a private suit is filed subsequent to the filing of a request for review, the parties shall notify the Commission of such filing in writing.

Subpart F—Matters of General Applicability

§ 268.601 EEO group statistics.

(a) The Board shall collect and maintain accurate employment information on the race, national origin, sex and disabilities of its employees.

(b) Data on race, national origin and sex shall be collected by voluntary self-identification. If an employee does not voluntarily provide the requested information, the Board shall advise the employee of the importance of the data and of the Board's obligation to report it. If the employee still refuses to provide the information, the Board shall make a visual identification and inform the employee of the data it will be reporting. If the Board believes that