

§ 1603.106, Nf.

29 CFR Ch. XIV (7–1–24 Edition)

by mail within five days of the expiration of the applicable filing period.

(c) All time limits in this part are subject to waiver, estoppel and equitable tolling.

(d) The first day counted shall be the day after the event from which the time period begins to run and the last day of the period shall be included unless it falls on a Saturday, Sunday or federal holiday, in which case the period shall be extended to include the next business day.

EFFECTIVE DATE NOTE: At 89 FR 47852, June 4, 2024, §1603.106 was revised, effective July 5, 2024. For the convenience of the user, the revised text is set forth as follows:

§ 1603.106 Computation of time generally and for timely receipt by the Commission.

(a)(1) All time periods in this part that are stated in terms of days are calendar days unless otherwise stated.

(2) The first day counted shall be the day after the event from which the time period begins to run, and the last day of the period shall be included unless it falls on a Saturday, Sunday, or Federal holiday, in which case the period shall be extended to include the next business day.

(3) All time limits in this part are subject to waiver, estoppel, and equitable tolling.

(b) Documents submitted to the Commission are deemed timely received as follows:

(1) A document submitted by digital transmission, by facsimile not exceeding 20 pages, or by personal delivery or commercial delivery service shall be deemed timely if it is received before the expiration of the applicable filing period. A document submitted by digital means shall be deemed received on the date the EEOC's designated digital system records the upload.

(2) A document submitted by mail shall be deemed timely if it is postmarked before the expiration of the applicable filing period or, in the absence of a legible postmark, if it is received within 5 days of the expiration of the applicable filing period.

(c) For the purposes of this part, the terms *file*, *serve*, *receive*, *issue*, *transmit*, *send*, and any other word forms of these terms, such as *filing* or *serving*, when used to describe transmission of documents, shall include all forms of digital transmission.

§ 1603.107 Dismissals of complaints.

(a) Where a complaint on its face, or after further inquiry, is determined to be not timely filed or otherwise fails to state a claim under this part, the Commission shall dismiss the complaint.

(b) Where the complainant cannot be located, the Commission may dismiss

the complaint provided that reasonable efforts have been made to locate the complainant and the complainant has not responded within 30 days to a notice sent by the Commission to the complainant's last known address.

(c) Where the complainant fails to provide requested information, fails or refuses to appear or to be available for interviews or conferences as necessary, or otherwise refuses to cooperate, the Commission, after providing the complainant with notice and 30 days in which to respond, may dismiss the complaint.

(d) Written notice of dismissal pursuant to paragraphs (a), (b), or (c) of this section shall be issued to the complainant and the respondent. The Commission hereby delegates authority to the Program Director, Office of Field Programs, or to his or her designees, and District Directors, or to their designees, to dismiss complaints.

(e) A complainant who is dissatisfied with a dismissal issued pursuant to paragraphs (a), (b), or (c) of this section may appeal to the Commission in accordance with the procedures in subpart C of this part.

[62 FR 17543, Apr. 10, 1997, as amended at 64 FR 28744, May 27, 1999]

EFFECTIVE DATE NOTE: At 89 FR 47852, June 4, 2024, §1603.107 was revised, effective July 5, 2024. For the convenience of the user, the revised text is set forth as follows:

§ 1603.107 Dismissals of complaints.

(a) Where a complaint is not timely filed or, except as described in §1603.102(e), fails to state a claim under this part, the Commission shall dismiss the complaint.

(b) Written notice of dismissal pursuant to paragraph (a) of this section shall be issued to the complainant and the respondent. The Commission hereby delegates authority to dismiss complaints to the Director, Office of Field Programs or the Director's designees, and to District Directors or their designees.

(c) A complainant who is dissatisfied with a dismissal issued pursuant to this section may appeal to the Commission in accordance with the procedures in subpart C of this part.

§ 1603.108 Settlement and alternative dispute resolution.

(a) The parties are at all times free to settle all or part of a complaint on terms that are mutually agreeable. Any settlement reached shall be in writing and signed by both parties and

shall identify the allegations resolved. A copy of any settlement shall be served on the Commission.

(b) With the agreement of the parties, the Commission may refer a complaint to a neutral mediator or to any other alternative dispute resolution process authorized by the Administrative Dispute Resolution Act, 5 U.S.C. 571 to 583, or other statute.

(c) The Commission may use the services of the Federal Mediation and Conciliation Service, other federal agencies, appropriate professional organizations, employees of the Commission and other appropriate sources in selecting neutrals for alternative dispute resolution processes.

(d) The alternative dispute resolution process shall be strictly confidential, and no party to a complaint or neutral shall disclose any dispute resolution communication or any information provided in confidence to the neutral except as provided in 5 U.S.C. 584.

EFFECTIVE DATE NOTE: At 89 FR 47852, June 4, 2024, §1603.108 was amended by adding a comma after the words “employees of the Commission” in paragraph (c) and removing the number “584” and adding in its place the number “574” in paragraph (d), effective July 5, 2024.

§ 1603.109 Investigations.

(a) Before referring a complaint to an administrative law judge under section 201 of this part, the Commission may conduct investigation using an exchange of letters, interrogatories, fact-finding conferences, interviews, on-site visits or other fact-finding methods that address the matters at issue.

(b) During an investigation of a complaint under this part, the Commission shall have the authority to sign and issue a subpoena requiring the attendance and testimony of witnesses, the production of evidence and access to evidence for the purposes of examination and the right to copy. The subpoena procedures contained in 29 CFR 1601.16 shall apply to subpoenas issued pursuant to this section.

EFFECTIVE DATE NOTE: At 89 FR 47852, June 4, 2024, §1603.109 was amended by adding the word “an” before the word “investigation” and adding a comma after the word “visits” in paragraph (a) and adding a comma after the words “the production of evidence” in

the first sentence of paragraph (b), effective July 5, 2024.

Subpart B—Hearings

§ 1603.201 Referral and scheduling for hearing.

(a) Upon request by the complainant under paragraph (b) of this section or if the complaint is not dismissed or resolved under subpart A of this part, on behalf of the Commission, the Office of Federal Operations shall transmit the complaint file to an administrative law judge, appointed under 5 U.S.C. 3105, for a hearing.

(b) If the complaint has not been referred to an administrative law judge within 180 days after filing, the complainant may request that the complaint be immediately transmitted to an administrative law judge for a hearing.

(c) The administrative law judge shall fix the time, place, and date for the hearing with due regard for the convenience of the parties, their representatives or witnesses and shall notify the parties of the same.

EFFECTIVE DATE NOTE: At 89 FR 47852, June 4, 2024, §1603.201 was amended by adding a comma after the words “of this section or” in paragraph (a) and removing the words “representatives or witnesses” and adding in their place the words “representatives, and their witnesses”, effective July 5, 2024.

§ 1603.202 Administrative law judge.

The administrative law judge shall have all the powers necessary to conduct fair, expeditious, and impartial hearings as provided in 5 U.S.C. 556(c). In addition, the administrative law judge shall have the power to:

(a) Change the time, place or date of the hearing;

(b) Enter a default decision against a party failing to appear at a hearing unless the party shows good cause by contacting the administrative law judge and presenting arguments as to why the party or the party’s representative could not appear either prior to the hearing or within two days after the scheduled hearing; and

(c) Take any appropriate action authorized by the Federal Rules of Civil Procedure (28 U.S.C. appendix).