ASSEMBLY JUDICIARY SUBCOMMITTEE MINUTES (RE AB 247)
Thursday, March 31, 1977

MEMBERS PRESENT: Chairman Price, Assemblymen Coulter and Ross;

MEMBERS ABSENT: Assemblymen Barengo and Banner

GUESTS: Dorothy Mead, Deputy District Director,
Equal Employment Opportunity Commission;
Phoenix District Office;

Edward Valenzuela, District Director;
Equal Employment Opportunity Commission
Phoenix District Office;

Antonio De Dios, Deferral Coordinator;
Equal Employment Opportunity Commission
Phoenix District Office;

Michael W. Dyer, Deputy Attorney General;

Rick Kuhlmey;

Clinton G. Knoll representing the Nevada Association of Employers;

George Cotton, Nevada Equal Rights Commission staff;

Stan Warren representing Nevada Bell

Chairman Price called the meeting to order at 2:35 p.m. He apologized for the delay in starting the meeting, explaining that the Assembly was in session longer than had been anticipated. He said that the other subcommittee members would be arriving shortly.

He explained that at the initial hearing on AB 247, time was spent with both sides and that the employers claimed they were not receiving what they considered to be a fair account of the alleged charges against them. They also complained that it was very expensive for them to gather the required information on the Interrogatories. Employers also seemed disinclined, he said, to give the Equal Rights Commission broader powers of investigation and authority to levy fines and pursue action in court. On the other hand, the Commission raised the point that if certain criteria was not met by the State, the State would be uncertified leaving it to the mercy of the Federal authorities, the EEOC, in this case. He distributed copies of various items that had been presented to the committee by the state agency.

Mr. Valenzuela explained the requirements regarding giving adequate notice to employers. He said that in reviewing AB 247 EEOC finds no conflict with the Federal Act and felt the intent of the bill was good. Employer concern is a real one, he said, and charges against an employer are not secret. EEOC feels it necessary and important that the employer have as much information made available to him after charges have been made. This aids both sides in reaching a fair and impartial determination.

After a complaint has been filed, he continued, EEOC submits Form 131, notifying the employer that charges have been filed and indicating issues and basis. This form does not, in most cases, indicate the name of the individual charging or the circumstances involved. This form is only meant to be a notice. Since last year, EEOC has changed this procedure. They now send a copy of the charge itself to the employer and invite the employer to participate in a "pre-determination settlement" hoping to resolve the matter before a full investigation is commenced.

Employers have the option of reviewing the case themselves in-house and if, at that point, they feel it can be settled, EEOC is glad to enter into an agreement with them. If the employer feels that it cannot be resolved at that point, EEOC then supplies them with an interrogatory by mail, possibly avoiding a field visit but not a field investigation. EEOC attempts to give the employer as much opportunity as possible to help resolve charges of discrimination.

The intent of Congress, Mr. Valenzuela explained, in passing the bill and including the section of deferral was to provide states with an opportunity to resolve charges of discrimination at that level. If the state has authority to resolve charges to meet the standards of the Federal remedy requirements, EEOC accepts the findings of the state agency. EEOC tries, in many cases, to supply funds to help train and expand staff so that they can handle as many cases as possible. On contract, EEOC provides funds to state agencies to resolve "X" number of charges.

Mr. Price asked Mr. Valenzuela when EEOC adopted their procedures. Mr. Valenzuela stated that it was in the Fall of 1976. Mr Price asked if EEOC provides guidelines to states for them to follow. Mr. Valenzuela answered in the affirmative. (At this point, Mr. Valenzuela stated that a memo referred to from Phoenix by Mr. Price was incorrect.) Mr. Valenzuela stated that though the information regarding the actual charge is public information, some information received from charging parties is confidential. Mr. Price asked Mr. Valenzuela if the Commission is required to have the ability to make "whole" any losses incurred by the charging party, if charges are sustained, or is the Commission's ability to appeal to District Courts sufficient, neither of which is presently authorized.

Mr. Valenzuela stated that he felt AB 247 needs revision for clarification. Administrative guidelines could be established from EEOC guidelines. In the Federal Act, damages are not provided; just making the person "whole" with backpay, reinstatement or seniority, etc., where the person would have been if not discriminated against.

Mike Dyer, Deputy Attorney General, said he has no objection to furnishing employers with a copy of charges and he agreed that pre-determination settlement conferences are a good idea. The problem in Nevada, he said, is that the Commission cannot create by regulation power to levy fines and force employers to re-hire people because Nevada is working under a different system than the Federal authorities. Congress passes viability on regulations enacted by Federal agencies, so that they are sanctioned by Congress as they go along. State agencies can only operate under regulations established by the Legislature, i.e., the Commission cannot establish regulations itself to make people "whole".

Mr. Price pointed out that this can be done in two ways: giving the Commission power to bring action in court or giving the Commission authority to assess fines and penalties that could be appealed to the District Court. Mr. Dyer suggested that the Legislature can create in the District Court power to make persons "whole" and then give the Commission power to bring that action or granting the Commission authority under an administrative proceeding to assess a fine or establish remedy and allow appeal in the courts. He felt the first suggestion more orderly.

Mr. Valenzuela said that the present bill gives sufficient authorization to make a person "whole"; that it is just a matter of clarification as to what will make a person "whole." AB 247, he said, goes beyond the Federal regulations regarding damages which the Federal regulations do not include. A problem is created in Section 2, subsection 2, he said, where an employer could be fined $1,000 per violation for not meeting the requirements of the order, but the bill does not address re-payment of the original backpay.

Mr. Dyer felt this was covered in the first line of this subsection.

(Mr. Ross suggested that the audience sit around the table for purposes of better communication.)

Mr. Price brought up the matter of the Attorney General's opinion regarding the Commission representing handicapped people. He read that the Commission has the duty to also represent this group of people (NRS 233.060; NRS 651.050 to 651.120) and asked Mr. Valenzuela if he knew if this is done in other states. Mr. Valenzuela stated that Title VII only covers discrimination on the basis of sex, race, national origin and religion.

Mr. Price asked if representing the handicapped would effect Federal requirements. Mr. Valenzuela stated that there would be no problem.

Clinton G. Knoll, representing the Nevada Association of Employers, expressed his members' objections to the proposed bill, though not opposition to the matter in principle. He felt this would remove due process because matters covered by the bill are often decided on an emotional basis. He said that for the first time, one of their members had received a copy of the complaint of charges. He feels the bill is too severe and empowering and wants to see the Commission experiment through informal conferences similar to collective bargaining to settle cases. He read from the Commission's regulations adopted July, 1976, Rule 3 of Procedures, Investigations, 312. Section A which allows for "informal methods of conference, conciliation or persuasion" to settle cases. He does not feel that the Commission has given this method a fair try and the interrogatories requested by the Commission are too voluminous. Many questions asked in the interrogatories, he feels, are irrelevant to the case at hand.

Ms. Mead of EEOC read Section 706(c) (Exhibit "A") from the Federal Act which states: "...no charge may be filed under subsection (a) by the person aggrieved before the expiration of 60 days after proceedings have been commenced under the State... law, unless such proceedings have been earlier terminated..." "If any requirement for the commencement of such proceedings is imposed by a state... other than a requirement of the filing of a written and signed statement of the facts ... the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate... authority."

She said this section means the filing of a complaint of employment discrimination should be simple, straight-forward and no more than an allegation that a person believes that he has been discriminated against. At that point, the burden of investigating rests initially with the state agency and after 60 days the Federal agency has jurisdiction.

She continued by saying that the provisions being discussed would impose a requirement on the charging party other than the simple filing of a charge. She agreed that the state authority does need authority to settle charges of discrimination and to authorize back-pay awards, reinstatement, transfer or promotion, etc. If filing charges is made complicated, the Federal agency will have to assume that authority quicker than it would otherwise because this is the relief the Federal authorities can offer and which they are required to do under Federal statutes.

She explained that when a complaint is received by the Federal agency, that complaint is transmitted to the state agency,

the procedure known as "deferral". For a period of 60 days, unless sooner waived, the state agency has exclusive jurisdiction to investigate and resolve that complaint. The Federal agency receives copies of all employment discrimination complaints filed with the state, since the state is just an arm of EEOC.

Mr. Valenzuela presented a sample of Form 131 no longer used - Notice of Charge of Employment Discrimination (Exhibit "B") and a copy of the cover letter accompanying that Notice. (Exhibit "C") The cover letter includes a list of advantages to the employer of pre-determination settlement.

Mr. Price asked if Nevada has any laws covering people making false charges of discrimination. Mr. Knoll stated that the Federal Code 1100 covers this but knows of none in Nevada.

Mr. Stan Warren stated that he is not opposed to this type of legislation but is concerned about the severity of some of the language included in the bill, i.e., you SHALL do this. He suggested changes to "MAY" in his amendments previously offered. He felt the court should be left some discretion to make determinations. And he also suggested changing one year to six months on page 6, Section 15, the time allowed for bringing action after an act has been complained of.

Mr. Cotton corrected Mr. Knoll's assertion that employers have not been receiving copies of charges. In the three years that he has worked with the Commission, copies of charges, via certified mail, have been mailed to all employers involved. Regarding conciliation, Mr. Cotton stated that the Commission is now successfully using the PDS (Pre-Determination Settlement) method. Probable cause can only be made after an investigation which requires the interrogatories, he said. He pointed out that the respondent has 20 days in which to respond to the initial charge. Interrogatores are sent out about 30 days after the charges are mailed to the respondents and after receiving a response from the respondent.

Mr. Knoll stated that the Commission is attempting to do too much with this single bill. He suggested taking the highest incidence of discrimination and applying specific remedies to handle cases involving each type of discrimination.

Ms. Mead stated that the bill applies the same remedies to all types and degrees of discrimination. A solution would be to take this legislation and list it by title, i.e., Title 1 - employment; Title 2 - housing; Title 3 - public accommodations, etc., and then apply within each section only those provisions which apply to that particular section.

Mr. Knoll described the procedures and remedies available to employers before the National Labor Relations board as compared to the State ERC.

Mr. Dyer pointed out that AB 247 is what the state has decided it needs and though the Federal Act refers to the state's authority to grant or seek relief, the state simply does not have this authority under existing statute. "I think that's the bottom line", he said. He pointed out that time is of the essence to clean up the bill because otherwise Nevada will face decertification. The present laws allow only investigation by the Commission. He agreed with Mr. Knoll's suggestion of informal get-togethers after the complaint has been filed and offered the services of the Attorney General's Office in helping to establish procedures.

Mr. Dyer continued by pointing out that though there have been problems with the Commission in the past, i.e., carrying on investigations of a charge too long before dismissal, he didn't think it was incompetence on the Commission's part, but basically a failure to have a good working relationship with the Attorney General's Office. The Attorney General's Office now peruses a complaint, takes one look at it, and determines if there is or isn't any charge of discrimination. If there isn't, the case is closed. He felt this can be worked out between attorneys, employers and the Commission.

He again pointed out that the Legislature can either authorize the court to grant relief or can authorize the Commission to mete out the relief and then grant the responding party rights of appeal to the District Court who will decide the matter upon the record.

Ms. Mead stated that the review of the case by the court can eliminate a public hearing. An administrative hearing before the Commission with the respondent then allowed to appeal to the District Court for review of the Commission's findings is a waste of time. She suggested a "novo" review by the court after the Commission's findings. This also protects the respondent from time-consuming hearings.

Mr. Price asked if this would mean that the Commission would make a finding after an investigation with no hearing whatsoever to the charged party. Mr. Dyer explained that after the complaint is filed, the Commission undertakes an investigation, interrogatories are served; the respondent is kept apprised of the Commission's findings and determinations as they go along; a probable cause determination is returned after investigation and the responding party is then given a chance to conciliate.

If the responding party refuses to conciliate, the Commission goes to a public hearing. It is at this point where changes are necessary - foregoing the public hearing and going right to court - if the respondent disagrees with the determination of the Commission.

Or the Commission can seek relief at the public hearing and mete out relief and then the District Court would sit as an appeal court reviewing the record to see if there is evidence to sustain the administrative agency's findings.

Or, in the alternative, after the employer has refused conciliation, the Commission has the right to go into court to seek specific relief. The important thing is that the Commission has the right to give some relief, whichever method is used.

Mr. Knoll approved of the latter suggestion. He asked for a definition of "conciliation". Mr. Dyer explained that in most cases, the Attorney General has already made up his mind that they are going to go to court and they then work with the employer to settle, such as asking the employer to simply re-hire the employee. Mr. Knoll asked if it wasn't standard procedure to request an "affirmative "action" program as part of that conciliation. Mr. Dyer stated that they are trying to get away from formalized forms and are working towards handling each case on an individual basis.

Mr. Price asked the results of the Commission reaching an agreement with an employer but the complaining party violating that agreement at a later date, i.e., employer re-hiring person complaining, but that person in addition wanting back-pay. Mr. Dyer stated that if an employer negotiates in good faith and settles a case, the complaining party is required to sign a waiver of legal action.

Ms. Mead re-explained the pre-determination hearing where the Commission sits down with the parties to the complaint, subsequent to it being served, and attempt to settle the case prior to investigation. No admission of guilt or wrongdoing is expected. This is consistent with the Federal Act.

Mr. Price asked Mr. Dyer his opinion regarding listing the various acts of discrimination by title. Mr. Dyer said that he has no objections to this, but "let's do it right". He said that there is no one statute where you can find out everything the Commission can do; "you have to go to five or six statutes". He suggested putting the matter into a study, repeal the existing statute and enact a new statute in this bill setting out all the different areas of discrimination. Mr. Price asked Mr. Dyer to draw up such a resolution and he would ask the Judiciary Committee for an introduction of the resolution. Ms. Mead offered the assistance of the EEOC office.

Mr. Dyer said that there are certain parts of the bill which the Commission can live without, such as punitive damages which would be relevant to housing, but not to employment. Mr. Cotton pointed out that the Commission would be jeopardizing their standing with HUD and the Justice Department if the $250 was not

left in Section 16(c). Mr. Dyer felt that actual punitive damages related more to housing or public accommodations than it does to employment because backpay damages are picked up in Section 2, (4) (b) (3) at the top of page 3. He felt that in Section 7, line 45, page 3, the purpose of including the confidentiality of information obtained by the Commission was to assure employers that this information was not public record available to anyone else. This does not apply to the complaint.

Ms. Mead suggested following the Federal practice of the confidentiality of any conciliatory discussion. Unless the Commission and the charging parties and employer can go in and really speak freely, there will be a reluctance on the part of the employer to discuss matters openly.

Mr. Knoll asked about the time limitation for filing complaints. He felt this was another reason for segregating the types of discrimination. In labor disputes, he said, he said, the maximum allowable time for filing complaints in cases of dismissal are a matter of a few days or a week. Mr. Dyer stated that this 180 days is from the Federal regulations. In the past, he said, there has been no time limit in which the complaint must be filed. He said that by putting a shorter period in the bill Nevada would run afoul of the Federal law. Ms. Mead said "you're just handing the complaint to the Federal government because the charging party has 180 days under the Federal law." She said that California has one year. Mr. Knoll felt this was plausible in certain types of discrimination, but not in employment or a refusal to hire.

Mr. Rick Kuhlmay asked what happens if a complaint is filed after 180 days and a state deadline is one year. Does the Federal office have any jurisdiction? Ms. Mead answered that if it's filed within the year, but after the Federal limit of 180 days, there's a 300 day period allowed, not a year, before the Federal office assumes jurisdiction.

Mr. Valenzuela pointed out that the Federal authorities cannot negotiate with the employer for less than the charging party is entitled to. If backpay and reinstatement is in order, EEOC cannot negotiate for less than that. However, if the charging party accepts less, then EEOC may approve the settlement.

Chairman Price thanked the audience and adjourned the meeting at 4:00 p.m.

Respectfully submitted,

1302

PHYLLIS BERKSON, Secretary

NOTE: Receipt for Copy of Charge of Discrimination, Booklet entitled Your Job Rights Under the Law and Information on Investigation of Title VII Charges are attached as Exhibits D. E. & F.

EXHIBIT "A"

Public Law 92-261
92nd Congress, H. R. 1746
March 24, 1972

An Act

86 STAT. 103

To further promote equal employment opportunities for American workers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Employment Opportunity Act of 1972". Equal Employment Opportunity Act of 1972.

SEC. 2. Section 701 of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e) is amended as follows: Definitions. 80 Stat. 662.

(1) In subsection (a) insert "governments, governmental agencies, political subdivisions," after the word "individuals".

(2) Subsection (b) is amended to read as follows:

"(b) The term 'employer' means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5 of the United States Code), or (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, except that during the first year after the date of enactment of the Equal Employment Opportunity Act of 1972, persons having fewer than twenty-five employees (and their agents) shall not be considered employers." 80 Stat. 408. 68A Stat. 163. 26 USC 501.

(3) In subsection (c) beginning with the semicolon strike out through the word "assistance".

(4) In subsection (e) strike out between "(A)" and "and such labor organization", and insert in lieu thereof "twenty-five or more during the first year after the date of enactment of the Equal Employment Opportunity Act of 1972, or (B) fifteen or more thereafter,".

(5) In subsection (f), insert before the period a comma and the following: "except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency or political subdivision."

(6) At the end of subsection (h) insert before the period a comma and the following: "and further includes any governmental industry, business, or activity".

(7) After subsection (i) insert the following new subsection (j): "Religion."

"(j) The term 'religion' includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business."

SEC. 3. Section 702 of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000e–1) is amended to read as follows:

"EXEMPTION

"SEC. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities."

Enforcement.

SEC. 4. (a) Subsections (a) through (g) of section 706 of the Civil Rights Act of 1964 (78 Stat. 259; 42 U.S.C. 2000e-5(a)-(g)) are amended to read as follows:

"SEC. 706. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 703 or 704 of this title.

42 USC 2000e-2, 2000e-3.

Charges.

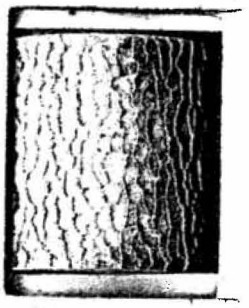
"(b) Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by a member of the Commission, alleging that an employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the 'respondent') within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d). If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d), from the date upon which the Commission is authorized to take action with respect to the charge.

Penalty.

State enforcement proceedings, deferral period.

"(c) In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (a) by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier termi-

deferral



nated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

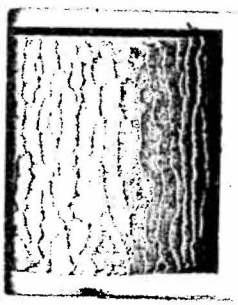
"(d) In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

Filing.

"(e) A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) shall be served upon the person against whom such charge is made within ten days thereafter, except that in a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

Civil action.

"(f) (1) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) or (d), the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission may bring a civil action against any respondent not a government, governmental agency, or political subdivision named in the charge. In the case of a respondent which is a government, governmental agency, or political subdivision, if the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. The person or persons aggrieved shall have the right to intervene in a civil action brought by the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision. If a charge filed with the Commission pursuant to subsection (b) is dismissed by the Commission, or if within one hundred and eighty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the Commission has not filed a civil action under this section or the Attorney General has not filed



a civil action in a case involving a government, governmental agency, or political subdivision, or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, shall so notify the person aggrieved and within ninety days after the giving of such notice a civil action may be brought against the respondent named in the charge (A) by the person claiming to be aggrieved or (B) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, to intervene in such civil action upon certification that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsections (c) or (d) of this section or further efforts of the Commission to obtain voluntary compliance.

"(2) Whenever a charge is filed with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure. It shall be the duty of a court having jurisdiction over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.

28 USC app.

Jurisdiction.

"(3) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the aggrieved person would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

62 Stat. 937; 74 Stat. 912; 76A Stat. 699.

Judge, designation.

"(4) It shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"(5) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. If such judge has not scheduled the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure. 28 USC app.

"(g) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union, or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin or in violation of section 704(a)." Relief. Back pay liability. 78 Stat. 257.

(b)(1) Subsection (i) of section 706 of such Act is amended by striking out "subsection (e)" and inserting in lieu thereof "this section". 42 USC 2000e-3. 78 Stat. 259. 42 USC 2000e-5.

(2) Subsection (j) of such section is amended by striking out "subsection (e)" and inserting in lieu thereof "this section".

SEC. 5. Section 707 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection: 42 USC 2000e-6.

"(c) Effective two years after the date of enactment of the Equal Employment Opportunity Act of 1972, the functions of the Attorney General under this section shall be transferred to the Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with such functions unless the President submits, and neither House of Congress vetoes, a reorganization plan pursuant to chapter 9 of title 5, United States Code, inconsistent with the provisions of this subsection. The Commission shall carry out such functions in accordance with subsections (d) and (e) of this section. Transfer of functions. 80 Stat. 394; 85 Stat. 574. 5 USC 901.

"(d) Upon the transfer of functions provided for in subsection (c) of this section, in all suits commenced pursuant to this section prior to the date of such transfer, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America, the Attorney General, or the Acting Attorney General, as appropriate.

"(e) Subsequent to the date of enactment of the Equal Employment Opportunity Act of 1972, the Commission shall have authority to investigate and act on a charge of a pattern or practice of discrimination, whether filed by or on behalf of a person claiming to be aggrieved or by a member of the Commission. All such actions shall be conducted in accordance with the procedures set forth in section 706 of this Act." Authority. Ante, p. 104.

SEC. 6. Subsections (b), (c), and (d) of section 709 of the Civil

Rights Act of 1964 (78 Stat. 263; 42 U.S.C. 2000e-8(b)-(d)) are amended to read as follows:

State and local agencies, cooperation.

"(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, pay by advance or reimbursement such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

Recordkeeping; reports.

"(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.

State and Federal agencies, coordination.

"(d) In prescribing requirements pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements

with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency charged with the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection." Information, availability.

SEC. 7. Section 710 of the Civil Rights Act of 1964 (78 Stat. 264; 42 U.S.C. 2000e-9) is amended to read as follows:

"INVESTIGATORY POWERS

"SEC. 710. For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 11 of the National Labor Relations Act (49 Stat. 455; 29 U.S.C. 161) shall apply." 61 Stat. 150;

SEC. 8. (a) Section 703(a)(2) of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000e-2(a)(2)) is amended by inserting the words "or applicants for employment" after the words "his employees". 84 Stat. 930.

(b) Section 703(c)(2) of such Act is amended by inserting the words "or applicants for membership" after the word "membership".

(c)(1) Section 704(a) of such Act is amended by inserting a comma and the following: "or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs," after "employment agency". 42 USC 2000e-3.

(2) Section 704(b) of such Act is amended by (A) striking out "or employment agency" and inserting in lieu thereof "employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs,", and (B) inserting a comma and the words "or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee" before the word "indicating".

(d) Section 705(a) of the Civil Rights Act of 1964 (78 Stat. 258; 42 U.S.C. 2000e-4(a)) is amended to read as follows: Equal Employment Opportunity Commission.

"SEC. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party. Members of the Commission shall be appointed by the President by and with the advice and consent of the Senate for a term of five years. Any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed, and all members of the Commission shall continue to serve until their successors are appointed and qualified, except that no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and, except as provided in subsection (b), shall appoint, in accordance with the provisions of title 5, United States Term.

5 USC 101 et seq.

Code, governing appointments in the competitive service, such officers, agents, attorneys, hearing examiners, and employees as he deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided*, That assignment, removal, and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code."

5 USC 5101, 5331. 5 USC 5332 note. 80 Stat. 415, 425, 473, 528.

(e)(1) Section 705 of such Act is amended by inserting after subsection (a) the following new subsection (b):

78 Stat. 258. 42 USC 2000e-4. General Counsel, appointment.

"(b)(1) There shall be a General Counsel of the Commission appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel shall have responsibility for the conduct of litigation as provided in sections 706 and 707 of this title. The General Counsel shall have such other duties as the Commission may prescribe or as may be provided by law and shall concur with the Chairman of the Commission on the appointment and supervision of regional attorneys. The General Counsel of the Commission on the effective date of this Act shall continue in such position and perform the functions specified in this subsection until a successor is appointed and qualified.

Ante, p. 104. Ante, p. 107.

"(2) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court, provided that the Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court pursuant to this title."

Repeal.

(2) Subsections (e) and (h) of such section 705 are repealed.

(3) Subsections (b), (c), (d), (i), and (j) of such section 705, and all references thereto, are redesignated as subsections (c), (d), (e), (h), and (i), respectively.

(f) Section 705(g)(6) of such Act, is amended to read as follows:

"(6) to intervene in a civil action brought under section 706 by an aggrieved party against a respondent other than a government, governmental agency or political subdivision."

42 USC 2000e-13.

(g) Section 714 of such Act is amended to read as follows:

"FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

"SEC. 714. The provisions of sections 111 and 1114, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties. Notwithstanding the provisions of sections 111 and 1114 of title 18, United States Code, whoever in violation of the provisions of section 1114 of such title kills a person while engaged in or on account of the performance of his official functions under this Act shall be punished by imprisonment for any term of years or for life."

62 Stat. 688; 65 Stat. 721.

80 Stat. 460; 84 Stat. 1604; 85 Stat. 625.

SEC. 9. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new clause:

"(58) Chairman, Equal Employment Opportunity Commission."

(b) Clause (72) of section 5315 of such title is amended to read as follows:

"(72) Members, Equal Employment Opportunity Commission (4)."

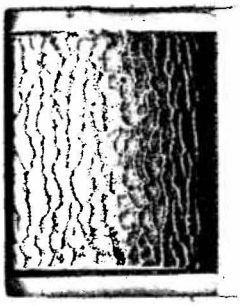
Repeal.

(c) Clause (111) of section 5316 of such title is repealed.

84 Stat. 968.

(d) Section 5316 of such title is amended by adding at the end thereof the following new clause:

"(131) General Counsel of the Equal Employment Opportunity Commission."



SEC. 10. Section 715 of the Civil Rights Act of 1964 is amended to read as follows: 78 Stat. 265. 42 USC 2000e-14 note.

"EQUAL EMPLOYMENT OPPORTUNITY COORDINATING COUNCIL

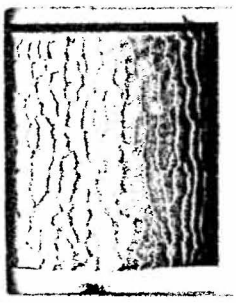
"SEC. 715. There shall be established an Equal Employment Opportunity Coordinating Council (hereinafter referred to in this section as the Council) composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, the Chairman of the United States Civil Service Commission, and the Chairman of the United States Civil Rights Commission, or their respective delegates. The Council shall have the responsibility for developing and implementing agreements, policies and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the various departments, agencies and branches of the Federal Government responsible for the implementation and enforcement of equal employment opportunity legislation, orders, and policies. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section." Report to President and Congress.

SEC. 11. Title VII of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e et seq.) is amended by adding at the end thereof the following new section: Ante, p. 103.

"NONDISCRIMINATION IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 717. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin. 80 Stat. 378.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission shall have authority to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section, and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall— Enforcement; rules and regulations.



"(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in subsection (a) of this section shall submit in order to maintain an affirmative program of equal employment opportunity for all such employees and applicants for employment; National and regional plan, annual review.

86 STAT. 112

Progress reports, publication.

"(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

"(3) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

"(1) provision for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

"(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

Librarian of Congress, authority.

With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Within thirty days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection 717(a), or by the Civil Service Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding Executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 706, in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

42 USC 2000e note.

Ante, p. 104.

78 Stat. 259. 42 USC 2000e-5.

"(d) The provisions of section 706 (f) through (k), as applicable, shall govern civil actions brought hereunder.

"(e) Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government."

USC prec. title 1.

80 Stat. 453; 84 Stat. 1955.

SEC. 12. Section 5108(c) of title 5, United States Code, is amended by—

(1) striking out the word "and" at the end of paragraph (9);

(2) striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding immediately after paragraph (10) the last time it appears therein in the following new paragraph:

"(11) the Chairman of the Equal Employment Opportunity Commission, subject to the standards and procedures prescribed by this chapter, may place an additional ten positions in the Equal Employment Opportunity Commission in GS-16, GS-17, and GS-18 for the purposes of carrying out title VII of the Civil Rights Act of 1964."

SEC. 13. Title VII of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e et seq.) is further amended by adding at the end thereof the following new section: Ante, p. 111.

"SPECIAL PROVISION WITH RESPECT TO DENIAL, TERMINATION, AND SUSPENSION OF GOVERNMENT CONTRACTS

"SEC. 718. No Government contract, or portion thereof, with any employer, shall be denied, withheld, terminated, or suspended, by any agency or officer of the United States under any equal employment opportunity law or order, where such employer has an affirmative action plan which has previously been accepted by the Government for the same facility within the past twelve months without first according such employer full hearing and adjudication under the provisions of title 5, United States Code, section 554, and the following pertinent sections: *Provided,* That if such employer has deviated substantially from such previously agreed to affirmative action plan, this section shall not apply: *Provided further,* That for the purposes of this section an affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate compliance agency has accepted such plan unless within forty-five days thereafter the Office of Federal Contract Compliance has disapproved such plan." 80 Stat. 384.

SEC. 14. The amendments made by this Act to section 706 of the Civil Rights Act of 1964 shall be applicable with respect to charges pending with the Commission on the date of enactment of this Act and all charges filed thereafter. Effective date. Ante, p. 104.

Approved March 24, 1972.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 92-238 (Comm. on Education and Labor) and No. 92-899 (Comm. of Conference).
SENATE REPORTS: No. 92-415 accompanying S. 2515 (Comm. on Labor and Public Welfare) and No. 92-416 (Comm. on Labor and Public Welfare) and No. 92-681 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 117 (1971): Sept. 15,16, considered and passed House.
Vol. 118 (1972): Jan. 19-21, 24-28, 31, Feb. 1-4, 7-9, 14-18, 21, 22, considered and passed Senate, amended, in lieu of S. 2515.
Mar. 6, Senate agreed to conference report.
Mar. 8, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 8, No. 13:
Mar. 25, Presidential statement.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PHOENIX DISTRICT OFFICE
GREATER ARIZONA SAVINGS BUILDING
201 N. CENTRAL AVENUE, SUITE 1450
PHOENIX, ARIZONA 85004

TO:

PERSON FILING CHARGE

EXHIBIT "B"

THIS PERSON *(Check one)*	
☐	CLAIMS TO BE AGGRIEVED
☐	IS FILING ON BEHALF OF A PERSON CLAIMING TO BE AGGRIEVED
☐	IS A COMMISSIONER OF EEOC
DATE OF ALLEGED VIOLATION	
PLACE OF ALLEGED VIOLATION	
CHARGE NUMBER	

NOTICE OF CHARGE OF EMPLOYMENT DISCRIMINATION

(See Notice of Non-retaliation on reverse)

You are hereby notified that a charge of employment discrimination under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e et. seq., has been filed against you. Information relating to the date, place, and circumstances of the alleged unlawful employment practice or practices is proved herein.

If you wish to submit any information in writing, it will be made a part of the file and will be considered when this charge is investigated. Telephone communications cannot be made a part of the record. Section 1602.14 of the Commission's Regulations *(See attachment)* requires the preservation of all personnel records relevant to this charge, as described below, until it is resolved.

You will be contacted when investigation commences.

BASIS OF DISCRIMINATION → ☐ RACE OR COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN

NATURE OF CHARGE

☐	HIRING	☐	DISCHARGE	☐	LAYOFF	☐	RECALL
☐	WAGES	☐	PROMOTION	☐	DEMOTION	☐	SENIORITY
☐	JOB CLASSIFICATION	☐	TRAINING/ APPRENTICESHIP	☐	EXCLUSION	☐	UNION REPRESENTATION
☐	SEGREGATED LOCALS	☐	REFERRAL	☐	QUALIFICATION/TESTING	☐	ADVERTISING
☐	BENEFITS	☐	SEGREGATED FACILITIES	☐	INTIMIDATION/ REPRISAL	☐	REPRISAL *(USC 704(a) Only)*
☐	TERMS AND CONDITIONS	☐	UNSPECIFIED AND OTHER	☐	PATTERN/PRACTICE 707	☐	OTHER *(Specify)*

DATE	TYPED NAME/ TITLE OF AUTHORIZED EEOC OFFICIAL	SIGNATURE

NOTICE OF NON-RETALIATION REQUIREMENT

Section 704(a) of the Civil Rights Act of 1964, as amended, states:

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

Persons filing charges of employment discrimination are advised of this Non-Retaliation Requirement and are instructed to notify the Equal Employment Opportunity Commission if any attempt at retaliation is made.

EXHIBIT "C"

AREA CODE 602
261-3882

UNITED STATES OF AMERICA
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
PHOENIX DISTRICT OFFICE
201 N. CENTRAL
SUITE 1450
PHOENIX, ARIZONA 85073

IN-REPLY REFER TO:

Chief Executive Officer:

A charge of employment discrimination, has been filed pursuant to Title VII of the Civil Rights Act of 1964, as amended, alleging that your organization has engaged in unlawful employment practices. This statute grants the Commission authority to conduct an investigation. The investigative process will be initiated by mail with minimal interruption to your normal operations. One of our representatives will contact you at a later date to advise you regarding additional information required and to arrange for a visit to your facilities, if necessary, to complete our investigation.

If you wish to submit any information in writing, such as a statement of your position relative to the charge, in order for the Commission to view all elements in reaching a meaningful resolution, it will be made a part of the record and will be taken into consideration. Telephone communications cannot be made a part of the record. The Commission's Regulation require the preservation of all personnel records relevant to the charge. Charging Party and witnesses are protected under the Act from retaliation for filing a charge.

You may wish to resolve this matter through a Pre-Determination Settlement at this time. See the enclosed information regarding the advantages of pre-determination settlement.

We feel that it is to the best interest of the Charging Party, your organization and the Commission to resolve this matter as expeditiously as possible.

EXHIBIT "C"

The following items are enclosed:

1. Advantages of a Pre-Determination Settlement, Requirements of Title VII:

2. Copy of the Charge.

3. An original and one copy of our Receipt for Service of Charge. The original should be signed by an individual who is authorized to receive and sign documents and returned to us.

4. Notice of Charge of Employment Discrimination.

If you feel that a Pre-Determination Settlement can be considered at this point, please indicate your willingness in writing to the Investigation Unit.

If you do not wish to avail yourself of this opportunity, please submit your documentation to the Investigative Division.

Sincerely,

Edward Valenzuela

EDWARD VALENZUELA
District Director

By: Larry J. Zill
Records Management

EXHIBIT "C"

ADVANTAGES OF A PRE-DETERMINATION SETTLEMENT

The Pre-determination Settlement process is an opportunity for all parties involved to resolve the charge at the earliest possible stage before or in place of a full investigation. It serves to bring relief and remedy to the Charging Party while it reduces the possible amount of liability for the employer. If no PDS is attempted or fails, a similar process of conciliation occurs after the Commission has found reasonable cause to believe there has been a violation of Title VII.

1. There is no admission on the part of respondent that a violation of Title VII has occurred in order to make a settlement, and none is presumed from the settlement.

2. If a Pre-determination Settlement is made, there is no need to respond to an Interrogatory.

3. A Pre-determination Settlement eliminates the requirement that an Equal Employment Opportunity Commission Investigator conduct an investigation.

4. Respondent avoids possible lawsuit if settlement is made through a Pre-determination Settlement.

5. Respondent avoids possible adverse publicity resulting from a lawsuit if a Pre-determination Settlement is made.

6. A Pre-determination Settlement is economically advantageous to all parties.

7. Respondent who have been awarded government contracts, reduce the possibility of being excluded from future government contracts for non-compliance with federal laws.

8. It is a legal obligation to give equal employment opportunity to all persons regardless of race, color, sex, religion or national origin, and the remedies to be proposed or agreed on do no more than that.

9. The Equal Employment Opportunity Commission seeks a written agreement to achieve these objectives (stated above) "Pre-Determination Settlement." This agreement will preserve the rights of the Charging Party or Parties and similarly situated persons under Title VII, and will secure a waiver of the right of the Charging Party or Parties to sue.

EXHIBIT "C"

REQUIREMENTS OF TITLE VII FOR COMMON VIOLATIONS

HIRING OR DISCHARGE. Hiring or discharge may not be based on qualifications which affect either minorities or females disproportionately unless essential to the operation of the business (See *Qualifications, Testing* below). Similarly, females may not ordinarily be refused employment because of pregnancy or terminated therefor at a particular stage of pregnancy where not physically disabled. Further, an employer may not refuse to hire or discharge a person who because of religious beliefs refuses to work on Sabbaths, for example, without showing that reasonable accommodations would cause an undue hardship on the employer's business.

LAYOFF AND RECALL. Where a seniority system carries forward the present effects of past discrimination (See *Job Classifications or Seniority* below), layoffs or members of the class discriminated against are unlawful. In such a situation layoffs and recalls to vacated positions must be based on company seniority in order to erase the taint of past discrimination, even where recall in such a manner may affect the expectations of the former incumbents.

While a layoff may be a single act, the failure to recall may constitute a continuing violation so that the Commission may accept a charge filed at any time up to 180 days (300 days in some circumstances) after an aggrieved person is properly recalled on a nondiscriminatory basis.

WAGES. Classes of individuals (by race, color, religion, sex or national origin) performing substantially equal work in the same establishment must be paid wages regardless of the fact that their jobs may be classified differently.

In order to compensate an aggrieved person for financial harm caused by discriminatory practices, including unequal wages, back pay may be required for a period commencing two years prior to the filing of a charge with the Commission.

PROMOTION OR DEMOTION. Where promotions are denied because of requirements which carry forward the effects of past discrimination, such as departmental seniority or unnecessary residency in a prior qualifying job, or because of requirements which are invalid (See *Qualification, Testing* below), such failure to promote is unlawful.

Since a failure to promote is a continuing violation, the Commission may accept a charge 180 days (300 days in some circumstances) after the aggrieved person is promoted to the proper job.

JOB CLASSIFICATIONS OR SENIORITY. Job classifications may not be segregated on the basis of race, color, religion, sex, or national origin. For example, a job classification with a weight-lifting requirement which is used to exclude women as a class, where individual women are able to qualify, is unlawful.

Furthermore, a seniority system may not carry into the present the effects of formerly segregated job classifications. This results, for instance, where departmental seniority causes classes of formerly excluded employees to lose their accumulated company seniority upon transferring to the job from which they had been excluded. At least for the victims of the past discrimination, the system must be changed to a company-seniority one.

TRAINING OR APPRENTICESHIP. Where a union has engaged in a program resulting in a predominately white or male membership, affirmative efforts must be made to establish nondiscriminatory apprenticeship or on-the-job training programs, which include minorities and women. The program must be publicized generally and in the minority community in such a way as to overcome the union's reputation for exclusiveness and ensure participation of minorities and women. Any unjustified qualifications (see below) required for the program, including a high school diploma, passing unvalidated tests, or the absence of arrest records, must be eliminated. The same applies to training programs of employers.

EXCLUSION. A union which is predominately white or male may not require as a basis for membership a minority applicant to be a family relation of a present member of require a minority of female applicant to receive the endorsement of a present member or the majority vote of the membership. Such a union which has kept its membership artificially small in relation to the demand in the area for the skills of its members may be required to increase its size in order to include more minority and female members.

UNION REPRESENTATION. A union is required to represent minorities and females fairly with respect to processing grievances (including assisting in the filing of a discrimination charge with the EEOC), bargaining for the elimination of unlawful employment practices, and otherwise opposing the existence of unlawful employment practices with or without specific contract authority or instructions from its international union to do so.

SEGREGATED LOCALS. Locals which are segregated along the lines of race, color religion, sex or national origin are inherently discriminatory and must be merged even where the members of each local favor separation. Protective transitional arrangements are to be included, where necessary, in any merger agreement for the benefit of the "minority" union.

REFERRAL. A local union which has maintained a predominately white or male membership and has effectively excluded minorities and females from its hiring hall may not continue a system under which only persons who meet artificial standards of experience which are in excess of that required to perform the job are given priority in referral under the collective bargaining contract. The system must be modified to refer also on a priority basis minorities and females who are able to perform the required work.

QUALIFICATIONS, TESTING. Qualifications, including a high school diploma, passing a written test or demonstrating speaking or writing ability, may have a disparate effect in screening out minorities from employment opportunities in comparison with others in an employer's applicant flow or workforce. Unless they can be shown to be essential to the safe and efficient operation of the business, or otherwise justified by business necessity, such qualifications are unlawful.

Business necessity may be shown for a qualification through a validation study in which a positive relationship is established between the qualification and the successful performance of the job sought. Where a qualification (e.g., a test score) is used to select employees for a training program for a job or promotion, the qualification must show a positive relationship not only between the qualification and success in training but also between such training and the successful performance of the job sought.

ADVERTISING. Advertisements, including help-wanted advertisements, may not contain material which indicates a preference for an individual on the basis of race, color, religion, sex or national origin except where religion, sex, or national origin is essential to successful performance of the job. (In addition, religious institutions are entitled to prefer members of a particular faith in employment and advertisements therefor.) For example, advertisements may not be placed or requested to be placed under columns headed "Male" or Female".

BENEFITS. All fringe benefits including medical, hospital, retirement, disability, and leave benefits must be provided to men and women equally regardless of the fact that the cost of such benefits may be greater with respect to one sex than for the other. A pregnant employee is entitled to the same disability benefits during the period she is unable to work because of pregnancy as a male would receive during a period of disability.

SEGREGATED FACILITIES. Employers must take care that all company facilities are available to all employees on a nondiscriminatory basis. Thus, an employer cannot lawfully maintain racially segregated restroom or locker facilities, lunchrooms snackbars, drinking fountains, payrolls lines, or badge-number identification systems, etc. Further, the fact that an employer may have to provide separate company facilities for employees of each sex under state law will not justify discrimination as to hiring, promotion or job classification on the basis of sex.

INTIMIDATION. Employers, unions or employment agencies have a responsibility to maintain an environment free of harassment, intimidation, insults, or ridicule based on race, color, religion, sex or national origin.

REPRISAL. Any discrimination or adverse action taken against an individual because he or she filed a charge with EEOC, cooperated in any EEOC investigation, or opposed an unlawful employment practice, is itself a violation of the law. Section 704(a) of the Civil Rights Act of 1964, as amended, prohibits such reprisal. It is intended to provide exceptionally broad coverage for protestors of discrimination.

OTHER TERMS AND CONDITIONS. With respect to all other terms and conditions of employment, employers, unions or employment agencies must treat individuals without regard to race, color, religion, sex or national origin.

PRESERVATION OF RECORDS

EEOC RULES AND REGULATIONS

§ 1602.14 Preservation of records made or kept.

(a) Any personnel or employment record made or kept by an employer (including but not necessarily limited to application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, layoff, or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be preserved by the employer for a period of 6 months from the date of the making of the record or the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of 6 months from the date of termination. Where a charge of discrimination has been filed, or an action brought by the Commission or the Attorney General, against an employer under Title VII, the respondent employer shall preserve all personnel records relevant to the charge or action until final disposition of the charge or the action. The term "personnel records relevant to the charge," for example, would include personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the aggrieved person applied and was rejected. The date of "final disposition of the charge or the action" means the date of expiration of the statutory period within which the aggrieved person may bring an action in a U.S. District Court or, where an action is brought against an employer either by the aggrieved person, the Commission, or by the Attorney General, the date on which such litigation is terminated.

(b) The requirements of this section shall not apply to application forms and other preemployment records of applicants for positions known to applicants to be of a temporary or seasonal nature.

EXHIBIT "D"

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
PHOENIX DISTRICT OFFICE
201 N. Central Ave, Suite 1450
Phoenix, AZ 85073

RECEIPT FOR COPY OF CHARGE OF DISCRIMINATION

(To be completed by respondent upon receipt of a Charge of Discrimination and returned to the EEOC District Office named above or the EEOC representative named below.)

CHARGE NUMBER	RESPONDENT(S)
CHARGING PARTY(IES)	

I hereby acknowledge receipt ☐ by mail ☐ personally, a copy of the charge(s) of discrimination identified above, alleging employment discrimination in violation of Title VII of the Civil Rights Act of 1964. The signing of this receipt does not constitute admission of violation of Title VII or any other law.

DATE	INDIVIDUAL ACCEPTING CHARGE *(Title)*	SIGNATURE

CERTIFICATION. I certify that I personally mailed/delivered a copy of the Charge(s) identified above to the respondent.

DATE	EEOC REPRESENTATIVE *(Typed name)*	SIGNATURE

EEOC FORM MAY 73 150

EXHIBIT "E"

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
PHOENIX DISTRICT OFFICE
201 N. CENTRAL, SUITE 1450
VALLEY CENTER
PHOENIX, ARIZONA 85073

Your Job Rights Under the Law

You cannot be denied a job, or fair treatment on a job, because of discrimination based on your race, color, religion, sex or national origin. That's the law!

The basic law which ensures you this right is the Civil Rights Act of 1964, as amended. Title VII of the Act set up the U.S. Equal Employment Opportunity Commission (EEOC) to make sure the law is obeyed.

Moreover, your fundamental right to non-discrimination in the workplace has been broadened by passage of the Equal Employment Opportunity Act of 1972, rulings of the Federal courts, actions of the states and key decisions of the EEOC.

Discrimination by any of these groups is prohibited by Title VII:

- Private employers of 15 or more persons
- State and local governments
- Public and private educational institutions
- Public and private employment agencies
- Labor unions with 15 or more members
- Joint labor-management committees for apprenticeship and training

A job discrimination charge may be filed by you or by an individual or group on your behalf *with your knowledge and consent.*

The EEOC investigates charges of job discrimination. When it finds that the facts support the charge, the Commission works to eliminate the unlawful practice through conciliation. Where conciliation is not achieved, the EEOC may file suit under Title VII. The charging party also may take court action.

The EEOC also will investigate and attempt to conciliate charges against state or local governments and public educational institutions. However, if no settlement can be reached, the EEOC must refer such cases to the U.S. Department of Justice for possible court action.

TYPES OF DISCRIMINATORY ACTS

Discrimination based on race, color, religion, sex or national origin is unlawful:

For Employers, with regard to—

- classified advertising
- testing
- hiring or firing
- different wages for equal work
- transfer, promotion, layoff and recall
- use of company facilities
- training and apprenticeship programs
- fringe benefits such as life and health insurance, retirement plans, disability leave and pay
- causing or attempting to cause a union to discriminate
- other terms and conditions of employment

For Employment Agencies, with regard to—

- classified advertising
- testing
- receiving, classifying or referring applicants for employment

For Unions, with regard to—

- applications for membership
- testing
- segregation or classification of members
- referrals for employment
- training and apprenticeship programs
- fringe benefits, such as life and health insurance, retirement plans, disability leave and pay
- other discriminatory conduct, including causing or attempting to cause an employer to discriminate

It pays to check with the nearest EEOC District Office when you have a question about job discrimination or terms and conditions of employment. Such requirements as a high school diploma or not having an arrest record may be discriminatory *unless they clearly relate to job performance.*

Employers are required by law to post in a conspicuous place a notice giving summaries of the law and information about the filing of charges.

NO ONE may retaliate against any person because he or she has opposed any discriminatory employment practices, or has made charges, testified or participated in any action under Title VII.

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WHO IS NOT COVERED BY TITLE VII

Title VII does not cover employees or applicants of the Federal government, government-owned corporations or Indian tribes. Under Executive Order 11478, administered by the U.S. Civil Service Commission (CSC), Federal employees and applicants are protected from job discrimination based on race, color, sex, religion or national origin. Under the 1972 Amendments to Title VII, Federal workers and applicants may file private lawsuits if discrimination charges are not settled satisfactorily within the government agency or the CSC.

HOW TO FILE A CHARGE

If you believe that you have been discriminated against in an employment situation because of your race, color, sex, religion or national origin, you may file a charge with the U.S. Equal Employment Opportunity Commission. It is important for you to file your charge *promptly.*

Instructions and forms for filing a charge are available from the EEOC District Office nearest you in Phoenix, Arizona or write;

Office of Compliance Programs
The U.S. Equal Employment Opportunity Commission
2401 E Street, N.W.
Washington, D.C. 20506
(202) 634-6850

The "Charge of Discrimination" form should be completed and taken (or mailed) to the EEOC District Office nearest you. The EEOC, however, will accept any written statement which identifies parties and clearly describes the discriminatory acts complained of. The agency cannot act on charges received over the telephone. *All charges must be in writing.*

Charges covered by Title VII will be processed in the following manner:

—The EEOC District Office which receives your charge must "defer" it to an approved state or local fair employment practices agency (FEP). The deferral agency has 60 days to act on the charge (120 days if the agency has been operating less than one year). In localities where there is no FEP agency, the EEOC assumes immediate responsibility for processing the charge.

—If there has been no action by the state or local FEP agency after 60/120 days, the EEOC assumes responsibility for processing the charge on the 61st/121st day. This then becomes the *official filing* date of the charge.

—Within 10 days of the official filing date, the EEOC will notify those who are being charged.

—The EEOC will then conduct an investigation to determine if the charge has merit under the law.

—If the investigation reveals sufficient evidence of discrimination, the EEOC's findings will be reported to all parties and attempts will be made to resolve the charge through informal methods of conciliation. The case is closed if an agreement acceptable to *all* parties is reached.

—If a successful conciliation is not reached the EEOC *may* file suit in a Federal district court on your behalf. You may also file a court suit on your own.

—If, however, the evidence from the investigation does *not* indicate violation of the law, the EEOC will take no further action. At this point, you will be informed of your right-to-sue, and upon receipt of a right-to-sue letter, you have 90 days to initiate private civil action if you so desire. You also may *request a right-to-sue letter if the EEOC has not brought suit within 180 days from the official filing date of your charge.*

WHERE TO FILE A CHARGE

EEOC District Offices are in 32 cities nationwide. For the EEOC office nearest you, consult your telephone directory or you may write to:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
PHOENIX DISTRICT OFFICE
201 N. CENTRAL, SUITE 1450
VALLEY CENTER
PHOENIX, ARIZONA 85073

In addition to processing job discrimination charges, EEOC District Offices have additional information on the equal employment opportunity law.

Remember that charges of employment discrimination must always be filed with the nearest EEOC District Office; charges must be in writing and should be filed promptly after the discrimination takes place.

EXHIBIT "F"

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
PHOENIX DISTRICT OFFICE
201 N. CENTRAL, SUITE 1450
PHOENIX, ARIZONA 85073

INFORMATION ON INVESTIGATION OF TITLE VII CHARGES

1. CHARGE IS FILED -

CHARGE IS DEFERRED TO STATE AGENCY FOR 60 DAYS.

IF STATE DOES NOT RESOLVE CHARGES, EEOC ASSUMES JURISDICTION AND CHARGE IS OFFICIALLY FILED.

2. PLANNED NEW PROCEDURE -

RESPONDENT IS NOTIFIED OF COMPLAINT WITH -

A COPY OF THE CHARGE, AN INVITATION TO IMMEDIATELY RESOLVE CHARGE THROUGH A PRE-DETERMINATION SETTLEMENT (PDS) INFORMATION ON WHAT A PDS IS, REQUEST FOR INFORMATION AND DOCUMENTS (RID) WHEN PDS WILL NOT BE CONSIDERED, RECEIPT FOR SERVICE OF CHARGE, LIST OF STANDARD REMEDIES.

3. OLDER CHARGES PENDING INVESTIGATION -

RESPONDENT IS INVITED TO PDS. INVESTIGATOR MAY CONDUCT IMMEDIATE FIELD INVESTIGATION, QUESTIONNAIRE (INTERROGATORY) MAY BE MAILED, REQUEST FOR INFORMATION AND DOCUMENTS (RID) BY MAIL, THE INVESTIGATION MAY BE STARTED BY MAIL AND COMPLETED BY FIELD VISIT.

4. WHERE CHARGES ARE INVESTIGATED AND REASONABLE CAUSE TO BELIEVE THAT A VIOLATION OF TITLE VII HAS OCCURRED, THE COMMISSION WILL ATTEMPT TO CONCILIATE (RESOLVE THE CHARGE).

5. WHERE DOCUMENTS ARE SUBMITTED BY RESPONDENT - COMPARATIVE EVIDENCE OF TREATMENT OF OTHER EMPLOYERS IS REQUIRED. IN PDS OR CONCILIATION SETTLEMENT AGREEMENTS, FEDERAL REMEDIES WILL BE SOUGHT. CHARGING PARTY MAY ACCEPT LESS THAN WHAT THEY ARE ENTITLED TO.