

*The U.S. Equal Employment Opportunity Commission*

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August 13, 2007

MEMORANDUM

TO: All District, Field, Area, and Local Office Directors  
Regional Attorneys

FROM: Nicholas M. Inzeo, Director  
Office of Field Programs

Ronald S. Cooper  
General Counsel

SUBJECT: Timely Notification to Respondents of Receipt of Intake Questionnaires or  
other Correspondence Constituting Charges

The Supreme Court will be considering a case raising the issue of whether a minimally sufficient intake questionnaire that manifested the complainant's intent to file a charge constitutes a charge for timeliness purposes, even though the EEOC failed to docket it and notify the employer. **See Federal Express Corp. v. Holowecki**, No. 06-1322 (U.S.). Although the Court of Appeals found the questionnaire to be a charge, the district court in this case, as well as another circuit court, held that in these circumstances a questionnaire does not constitute a charge, resulting in the loss of the plaintiff's suit rights.

Our field office neglected to send a timely notice of the intake questionnaire. That situation should not have occurred, and this guidance is intended to insure that timely notice of charges is sent. An intake questionnaire or other correspondence can constitute a charge under the statutes we enforce if it contains all the information required by EEOC regulations governing the contents of a charge and constitutes a clear request for the agency to act. EEOC Compl. Man., Vol. I, §§ 2.2(b) and 2.7.

Under the statutes EEOC enforces, we are required to provide notification to the respondent once we receive a charge. Title VII and the ADA provide for EEOC to notify respondents within 10 days of receiving a charge. The ADEA similarly provides for EEOC to provide "prompt []" notice of a charge. Accordingly, if it appears that a perfected charge cannot be docketed and served within ten days of receipt of a correspondence meeting the minimal requirements of a charge, be it a letter or intake questionnaire; staff must take steps to promptly ascertain whether the submitter intended to initiate proceedings and, if so, docket the questionnaire or other correspondence as a charge and serve notice on the respondent within ten days of receipt. Intent can be inferred from a plain reading of the correspondence or determined by contacting the author/submitter. Staff should send respondent notice by mailing a Form 131 accompanied by the charge or by mailing only Form 131 (in situations where sending the charge "would impede the law enforcement function of the Commission)."

These instructions should be sent to all Enforcement and Legal Staff.

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*This page was last modified on September 11, 2007.*



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