



**U.S. Equal Employment Opportunity Commission**

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# A Guide to Motions for Unrepresented Complainants

## What are Motions?

Motions are formal requests directed to the Administrative Judge that seek a legal ruling or decision.

## What Kinds of Motions Can be Filed?

Parties may file motions for a number of reasons. Some of the most common motions include:

- Motion to Amend Complaint (request to add or modify one or more claims and/or basis(es))
- Motion to Consolidate (request to combine two or more cases)
- Motion to Dismiss (request to eliminate one or more claims)
- Motion to Compel (request to require the other party to satisfy their discovery obligations)
- Motion for Summary Judgment or for a Decision Without a Hearing (request for Administrative Judge to rule in favor of one party or the other without conducting a hearing)
- Motion for Protective Order (request to limit access to private or otherwise sensitive information)
- Motion for Sanctions (request for penalties to be imposed against the other party)

- Motion for Extension of Time (request to extend one or more deadlines)
- Motion to Withdraw (request to withdraw one or more claims or bases of discrimination, to withdraw the hearing request, or to withdraw the entire EEO complaint)

### **When Can Motions be Filed?**

Generally speaking, motions can be filed at any stage of the hearings process. Certain motions (like Motions for Summary Judgment, for example) are typically filed according to a schedule set by the Administrative Judge. Other motions (like Motions to Withdraw, for example), can be filed at any time, including before the Initial Conference or after the hearing.

### **Are Motions Required to be in Writing?**

In most cases, yes. Oral motions may be permitted, in the Administrative Judge's discretion, during the hearing and other proceedings with the Administrative Judge.

### **Are Motions Required to Follow a Particular Form?**

Yes. Parties should include a "caption" on the first page of their motion. The caption includes: (1) the complainant's name; (2) the name of the agency head (for example, the name of the current Secretary of Defense); (3) the name of the agency (for example, the "U.S. Department of Defense"); (4) the EEOC case number (for example, EEOC No. 123-2022-00123X); (5) the agency number (for example, DN-123456-C); and (6) the date on which the motion was filed.

The body of the motion should contain the party's factual and legal arguments in support of their motion. Citations to documents in the record, or to court decisions, regulations, or other legal authorities, are always encouraged where appropriate. Citations are written descriptions for how and where to find the information referenced. Some examples include: (1) **a case citation:** *Adams v. Dept. of Defense*, EEOC Appeal No. 0123456789 (Mar. 12, 2021); (2) **an investigative record citation:** Report of Investigation p. 298; and (3) **a regulatory citation:** 29 C.F.R. § 1614.105(a).

### **Must Parties Include Anything with their Motion?**

Yes. Parties must include a "certificate of service" at the end of, or as an attachment to, all motions. A certificate of service includes: (1) a statement that the motion was

served on (delivered to) the other party and the Administrative Judge; (2) an indication of how the motion was served (for example, by email, by upload to the public portal, or by first-class mail); (3) the date the motion was served, and; (4) the signature of the person who served the motion.

In addition, parties must attach to their motion a draft order granting or denying the motion for the Administrative Judge's signature. See the **[sample draft order](https://www.eeoc.gov/federal-sector/sample-draft-order)** (<https://www.eeoc.gov/federal-sector/sample-draft-order>).

### **Do I Have to Notify the Other Party Before Filing a Motion?**

Sometimes. In the case of discovery motions (that is, Motions to Compel and Motions for Protective Order), the party wishing to file a motion (the “moving party”) must notify the other party (the “non-moving party”) of their intention and attempt to resolve the matter without involving the Administrative Judge. If the matter is not resolved, the moving party may proceed to file a discovery motion, which must contain a written statement that they made a good faith effort to resolve the matter before filing the motion.

In the case of Motions to Amend Complaint, Motions to Consolidate, and Motions for Extension of Time, the moving party must notify the non-moving party of their intention and note in the body of their motion whether the non-moving party opposes it.

In the case of Motions for Sanctions, Motions to Dismiss, and Motions for Summary Judgment, where the non-moving party's opposition can be reasonably presumed, it is not necessary for the moving party to provide advance notice to the non-moving party.

Parties must always serve their motion, no matter the type, on the other party at the same time they file their motion with the Administrative Judge.

### **How Do I File a Motion?**

Motions may be filed electronically, either by uploading them to the EEOC's Public Portal or by sending them to the other party and the Administrative Judge by email; motions may also be filed by mailing them directly to the other party's and the Administrative Judge's physical office locations.

### **Can I Respond to a Motion Filed by the Other Party?**

Yes. The non-moving party is encouraged to file a response to the motion. The form of a response should mirror the form of a motion. That is, the response should include a caption and a certificate of service, along with the party's arguments in support of their position, as well as appropriate citations.

### **How Much Time Do I Have to File a Response?**

Unless the Administrative Judge specifically states otherwise, parties have 15 calendar days to file their response to a motion. If the 15th day falls on a weekend or federal holiday, the response is due on the next business day.

### **Will I Be Punished if I Do Not File a Response to a Motion?**

Maybe. In most instances, parties are not required to respond to motions, even though responses are encouraged. However, parties are always required to follow the orders of the Administrative Judge. For that reason, if the Administrative Judge has ordered a party to file a response to a particular motion, and the party fails to do so, the Administrative Judge has the authority to sanction (that is, penalize) the party that failed to file a response.

### **Can I Respond to the Other Party's Response?**

Maybe. If the moving party wishes to file a "reply" to the non-moving party's response, they must first obtain permission to do so from the Administrative Judge. A notable exception involves Motions for Summary Judgment, when replies are always permitted, unless the Administrative Judge specifically states otherwise. The form of a reply should mirror the form of a motion. That is, the reply should include a caption and a certificate of service, along with the party's arguments in support of their position.

### **How Much Time Do I Have to File a Reply?**

Unless the Administrative Judge specifically states otherwise, moving parties have 5 calendar days to file their reply to a non-moving party's response. If the 5th day falls on a weekend or federal holiday, the response is due on the next business day.

### **Will I Be Punished if I Do Not File a Reply to a Response?**

Maybe. In most instances, parties are not required to file replies to responses. However, as indicated, parties are always required to follow the orders of the Administrative Judge. For that reason, if the Administrative Judge has ordered a

party to file a reply to a particular response, and the party fails to do so, the Administrative Judge has the authority to sanction the party that failed to file a reply.

### **How Will I Know if the Administrative Judge Has Ruled on a Motion?**

In most instances, the Administrative Judge will issue a written order that memorializes their decision to grant, deny, or partially grant/deny a motion. In some instances, such as in the course of a hearing, orders are issued orally; however, such orders are later reduced to writing in the hearing transcript. In any case, orders will always be issued to both parties.

### **Can I Challenge an Order Denying My Motion?**

Either party may challenge an Administrative Judge's ruling on their motion, but only as part of a later appeal to the EEOC's Office of Federal Operations (OFO). Appeals may be filed only after the Administrative Judge has completed their processing of the case **and** after the federal agency has issued a decision either accepting or rejecting the Administrative Judge's final decision. Information regarding how and when to submit an appeal to the EEOC's OFO will be provided by the federal agency when it takes final action on the complaint.

Learn more here about the EEOC's federal sector case processing requirements, including information about motions:

- **[U.S. Equal Employment Opportunity Commission \(eeoc.gov\)](https://www.eeoc.gov/)**  
**[\(https://www.eeoc.gov/\)](https://www.eeoc.gov/)**
- **[29 C.F.R. Part 1614 \(regulations governing EEOC's federal sector hearings process\)](https://www.govinfo.gov/content/pkg/CFR-2020-title29-vol4/xml/CFR-2020-title29-vol4-part1614.xml)**  
 **[\(https://www.govinfo.gov/content/pkg/CFR-2020-title29-vol4/xml/CFR-2020-title29-vol4-part1614.xml\)](https://www.govinfo.gov/content/pkg/CFR-2020-title29-vol4/xml/CFR-2020-title29-vol4-part1614.xml)**
- **[EEOC's Management Directive 110, Chapter 7 \(Hearings\)](https://www.eeoc.gov/federal-sector/management-directive/chapter-7-hearings)**  
 **[\(https://www.eeoc.gov/federal-sector/management-directive/chapter-7-hearings\)](https://www.eeoc.gov/federal-sector/management-directive/chapter-7-hearings)**