

875—36.10(91A) Arbitration or other agency proceedings.

36.10(1) An employee who files a complaint under Iowa Code section 91A.10(5) may also pursue remedies under grievance arbitration proceedings in collective bargaining agreements. In addition, the complainant may concurrently resort to other agencies for relief, such as the National Labor Relations Board. The commissioner's jurisdiction is independent of the jurisdiction of the other agencies or bodies. The commissioner may file an action in district court regardless of the pendency of other proceedings. However, the commissioner recognizes the policy favoring voluntary resolution of disputes under proceedings in collective bargaining agreements. Due deference is given to the jurisdictions of other forums established to resolve disputes which may also be related to the commissioner's jurisdiction. Where a complainant is pursuing other remedies, postponement of the commissioner's determination and deferral to the results of the other proceedings may be appropriate.

36.10(2) Postponement of determination would be justified where the rights asserted in other proceedings are substantially the same as rights under Iowa Code section 91A.10(5) and those proceedings are not likely to violate the rights guaranteed by section 91A.10(5). The factual issues in such proceedings must be substantially the same as those raised in the complaint to the commissioner, and the forum hearing the matter must have the power to determine the ultimate issues of discrimination. If the other actions initiated by a complainant are dismissed without adjudicatory hearing, such dismissal will not ordinarily be regarded as determinative of the complaint.