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However, the hearing examiner shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

§ 18.17 Depositions.

Depositions for use at a hearing may, with the consent of the parties in writing or the written approval of the hearing examiner, be taken by either the Director General or the respondent or their duly authorized representatives. Depositions may be taken upon oral or written interrogatories. There shall be at least 10 days written notice to the other party. The requirement of a 10-day written notice may be waived by the parties in writing. When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such written interrogatories shall be served upon the other party with the notice, and copies of any written cross-interrogation shall be mailed or delivered to the opposing party at least 5 days before the date of taking the depositions, unless the parties mutually agree otherwise. Expenses in the reporting of depositions shall be borne by the party at whose instance the deposition is taken.

§ 18.18 Proposed findings and conclusions.

Except in cases where the respondent has failed to answer the complaint or where a party has failed to appear at the hearing, the hearing examiner, prior to making his/her decision, shall afford the parties a reasonable opportunity to submit proposed findings and conclusions and supporting reasons therefor.

§ 18.19 Decision of the hearing examiner.

As soon as practicable after the conclusion of a hearing and the receipt of any proposed findings and conclusions timely submitted by the parties, the hearing examiner shall make the initial decision. The decision shall include

(a) A statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and

(b) An order of suspension from practice before the Department or other ap-

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propriate disciplinary action, or an order of dismissal of the complaint. The hearing examiner shall file the decision with the Director General and shall transmit a copy thereof to the respondent or his/her attorney of record. A party adversely affected by the decision shall be given notice of his or her right to appeal to the Board of Appellate Review (part 7 of this chapter) within 30 days from the date of the hearing examiner's decision.

§ 18.20 Appeal to the Board of Appellate Review.

Within 30 days from the date of the hearing examiner's decision, either party may appeal to the Board of Appellate Review. The appeal shall be taken by filing notice of appeal, in triplicate, with the Board of Appellate Review, which shall state with particularity exceptions to the decision of the hearing examiner and reasons for such exceptions. If an appeal is by the Director General, he/she shall transmit a copy thereof to the respondent. Within 30 days after receipt of an appeal or copy thereof, the other party may file a reply brief, in triplicate, with the Board of Appellate Review. If the reply brief is filed by the Director General, he/she shall transmit a copy of it to the respondent. The Director General shall transmit the entire case record to the Board of Appellate Review within 30 days after an appeal has been taken.

§ 18.21 Decision of the Board of Appellate Review.

The Board of Appellate Review shall decide the appeal on the basis of the record. The decision of the Board shall be final, and not subject to further administrative review. Copies of the Board's decision shall be forwarded promptly to the parties by the Board.

§ 18.22 Notice of disciplinary action.

Upon the issuance of a final order suspending a former officer or employee from practice before the Department, the Director General shall give notice thereof to appropriate officers and employees of the Department. Officers and employees of the Department shall refuse to participate in any appearance by such former officer or employee or to accept any communication

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which constitutes the prohibited practice before the Department during the period of suspension. The Director General shall take other appropriate disciplinary action as may be required by the final order.

PART 19—BENEFITS FOR SPOUSES AND FORMER SPOUSES OF PARTICIPANTS IN THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

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AUTHORITY: Secs. 206 and 801 of Foreign Service Act of 1980 (94 Stat. 2079, 2102); Sec. 4 of Act of May 26, 1949 (22 U.S.C. 2658).

SOURCE: 46 FR 12958, Feb. 19, 1981, unless otherwise noted. Redesignated at 46 FR 18970, Mar. 27, 1981.

§ 19.1 Authorities.

Chapter 8 of the Foreign Service Act of 1980 (Pub. L. 96-465, 94 Stat. 2102) (hereafter "the Act"), and any Executive order issued under authority of section 827 of the Act.

§ 19.2 Definitions.

(a) *Agencies* means the Department, the Agency for International Development (AID), the International Communication Agency (USICA), the Foreign Agricultural Service (FAS), and the Foreign Commercial Service (FCS).

(b) *Annuitant* means any person including a former participant or survivor who meets all requirements for an annuity from the Fund under the provisions of the Foreign Service Act of 1980, or any other law and who has filed claim therefor.

(c) *Basic salary* means the salary fixed by law or administrative action before deductions and exclusive of additional compensation of any kind. It includes the salary fixed by sections 401, 402, 403, and 406 of the Act and salary incident to assignment under section 503 of the Act. Basic salary excludes premium pay for overtime,