Public Health Service, HHS

§ 93.501 Opportunity to contest findings of research misconduct and administrative actions.

(a) Opportunity to contest. A respondent may contest ORI findings of research misconduct and HHS administrative actions, including any debarment or suspension action, by requesting a hearing within 30 days of receipt of the charge letter or other written notice provided under §93.405.

(b) Form of a request for hearing. The respondent’s request for a hearing must be—

(1) In writing;
(2) Signed by the respondent or by the respondent’s attorney; and
(3) Sent by certified mail, or other equivalent (i.e., with a verified method of delivery), to the DAB Chair and ORI.

(c) Contents of a request for hearing. The request for a hearing must—

(1) Admit or deny each finding of research misconduct and each factual assertion made in support of the finding;
(2) Accept or challenge each proposed HHS administrative action;
(3) Provide detailed, substantive reasons for each denial or challenge;
(4) Identify any legal issues or defenses that the respondent intends to raise during the proceeding; and
(5) Identify any mitigating factors that the respondent intends to prove.

(d) Extension for good cause to supplement the hearing request. (1) After receiving notification of the appointment of the ALJ, the respondent has 10 days to submit a written request to the ALJ for supplementation of the hearing request to comply fully with the requirements of paragraph (c) of this section. The written request must show good cause in accordance with paragraph (d)(2) of this section and set forth the proposed supplementation of the hearing request in whole or in part upon a finding of good cause.

(2) Good cause means circumstances beyond the control of the respondent or respondent’s representative and not attributable to neglect or administrative inadequacy.

§ 93.502 Appointment of the Administrative Law Judge and scientific expert.

(a) Within 30 days of receiving a request for a hearing, the DAB Chair, in consultation with the Chief Administrative Law Judge, must designate an Administrative Law Judge (ALJ) to determine whether the hearing request should be granted and, if the hearing request is granted, to make recommended findings in the case after a hearing or review of the administrative record in accordance with this part.

(b) The ALJ may retain one or more persons with appropriate scientific or technical expertise to assist the ALJ in evaluating scientific or technical issues related to the findings of research misconduct.

(1) On the ALJ’s or a party’s motion to appoint an expert, the ALJ must give the parties an opportunity to submit nominations. If such a motion is