Board member, or Board en banc, a reasonable opportunity to render a decision.

(d) A temporary stay under paragraph (b)(1) of this section may be issued if the Board member, or Board en banc, determines that under all of the circumstances the interests of justice would be served by providing more time for the Board’s Office of General Counsel to pursue the investigation. However, the duration of any single temporary stay shall not exceed the amount of time reasonably necessary to acquire sufficient information to support a request for a permanent stay in the exercise of a high degree of diligence and, in no event, shall any single temporary stay exceed 60 days except as provided under paragraph (c) of this section for the purpose of allowing time to render a decision.

(e) In determining whether a permanent stay under paragraph (b)(2) of this section should be issued, the Board member, or Board en banc, shall:

1. Assess the evidence adduced by each side as to whether the proposed personnel action arises out of an alleged prohibited personnel practice as specified by the Board’s General Counsel;
2. Assess the nature and gravity of any harm that could inure to each side if the request for permanent stay is either granted or denied; and
3. Balance the assessments conducted under paragraphs (e)(1) and (2) of this section.

(f) Any order issued by a member of the Board granting or denying, in whole or in part, a stay request under paragraph (b) shall be subject to review by the Board en banc on the filing and service of a notice of appeal, accompanied by a supporting brief, within 10 days of the service of that order. Responsive briefs shall be filed and served within 10 days of service of the appeal.

(g) A motion to vacate a stay order may be filed at any time. A stay order issued by the Board en banc may not be vacated by a single Board member.