§§ 2423.13–2423.19 [Reserved]

Subpart B—Post Complaint, Prehearing Procedures

§ 2423.20 Issuance and contents of the complaint; answer to the complaint; amendments; role of Office of Administrative Law Judges.

(a) Complaint. Whenever formal proceedings are deemed necessary, the Regional Director shall file and serve, in accordance with §2429.12 of this subchapter, a complaint with the Office of Administrative Law Judges. The decision to issue a complaint shall not be subject to review. Any complaint may be withdrawn by the Regional Director prior to the hearing. The complaint shall set forth:

(1) Notice of the charge;
(2) The basis for jurisdiction;
(3) The facts alleged to constitute an unfair labor practice;
(4) The particular sections of 5 U.S.C., chapter 71 and the rules and regulations involved;
(5) Notice of the date, time, and place that a hearing will take place before an Administrative Law Judge; and
(6) A brief statement explaining the nature of the hearing.

(b) Answer. Within 20 days after the date of service of the complaint, but in any event, prior to the beginning of the hearing, the Respondent shall file and serve, in accordance with part 2429 of this subchapter, an answer with the Office of Administrative Law Judges. The answer shall admit, deny, or explain each allegation of the complaint. If theRespondent has no knowledge of an allegation or insufficient information as to its truthfulness, the answer shall so state. Absent a showing of good cause to the contrary, failure to file an answer or respond to any allegation shall constitute an admission. Motions to extend the filing deadline shall be filed in accordance with §2423.21.

(c) Amendments. The Regional Director may amend the complaint at any time before the answer is filed. The Respondent then has 20 days from the date of service of the amended complaint to file an answer with the Office of Administrative Law Judges. Prior to the beginning of the hearing, the answer may be amended by the Respondent within 20 days after the answer is filed. Thereafter, any requests to amend the complaint or answer must be made by motion to the Office of Administrative Law Judges.

(d) Office of Administrative Law Judges. Pleadings, motions, conferences, hearings, and other matters throughout as specified in subparts B, C, and D of this part shall be administered by the Office of Administrative Law Judges, as appropriate. The Chief Administrative Law Judge, or any Administrative Law Judge designated by the Chief Administrative Law Judge, shall administer any matters properly submitted to the Office of Administrative Law Judges. Throughout subparts B, C, and D of this part, “Administrative Law Judge” or “Judge” refers to the Chief Administrative Law Judge or his or her designee.

§ 2423.21 Motions procedure.

(a) General requirements. All motions, except those made during a prehearing conference or hearing, shall be in writing. Motions for an extension of time, postponement of a hearing, or any other procedural ruling shall include a statement of the position of the other parties on the motion. All written motions and responses in subparts B, C, or D of this part shall satisfy the filing and service requirements of part 2429 of this subchapter.

(b) Motions made to the Administrative Law Judge. Prehearing motions and motions made at the hearing shall be filed with the Administrative Law Judge. Unless otherwise specified in subparts B or C of this part, or otherwise directed or approved by the Administrative Law Judge:

(1) Prehearing motions shall be filed at least 10 days prior to the hearing, and responses shall be filed within 5 days after the date of service of the motion;
(2) Responses to motions made during the hearing shall be filed prior to the close of hearing;
(3) Posthearing motions shall be filed within 10 days after the date the hearing closes, and responses shall be filed within 5 days after the date of service of the motion; and
(4) Motions to correct the transcript shall be filed with the Administrative Law Judge.
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§ 2423.24 Powers and duties of the Administrative Law Judge during prehearing proceedings.

(a) Prehearing procedures. The Administrative Law Judge shall regulate the course and scheduling of prehearing matters, including prehearing orders, conferences, disclosure, motions, and subpoena requests.

(b) Changing date, time, or place of hearing. After issuance of the complaint or any prehearing order, the Administrative Law Judge may, in the Judge’s discretion or upon motion by any party through the motions procedure in §2423.21, change the date, time, or place of the hearing.

(c) Prehearing order. (1) The Administrative Law Judge may, in the Judge’s discretion or upon motion by any party through the motions procedure in §2423.21, issue a prehearing order confirming or changing:

(i) The date, time, or place of the hearing;

(ii) The schedule for prehearing disclosure of witness lists and documents intended to be offered into evidence at the hearing;

(iii) The date for submission of procedural and substantive motions;

(iv) The date, time, and place of the prehearing conference; and

(v) Any other matter pertaining to prehearing or hearing procedures.

(2) The prehearing order shall be served in accordance with §2429.12 of this subchapter.

(d) Prehearing conferences. The Administrative Law Judge shall conduct one or more prehearing conferences, either by telephone or in person, at least 7 days prior to the hearing date, unless the Administrative Law Judge determines that a prehearing conference would serve no purpose and no party has moved for a prehearing conference in accordance with §2423.21. If a prehearing conference is held, all parties must participate in the prehearing conference and be prepared to discuss, narrow, and resolve the issues set forth in the complaint and answer, as well as any prehearing disclosure matters or disputes. When necessary, the Administrative Law Judge shall prepare and file for the record a written summary of actions taken at the conference. Summaries of the conference shall be served on all parties in accordance with §2429.12 of this subchapter. The following may also be considered at the prehearing conference:

(1) Settlement of the case, either by the Judge conducting the prehearing conference and be prepared to discuss, narrow, and resolve the issues set forth in the complaint and answer, as well as any prehearing disclosure matters or disputes. When necessary, the Administrative Law Judge shall prepare and file for the record a written summary of actions taken at the conference. Summaries of the conference shall be served on all parties in accordance with §2429.12 of this subchapter. The following may also be considered at the prehearing conference:

(2) Admissions of fact, disclosure of contents and authenticity of documents, and stipulations of fact;

(3) Objections to the introduction of evidence at the hearing, including oral