

## § 1201.203

§ 1201.113 of this part or a final decision of the Board.

[63 FR 41179, Aug. 3, 1998, as amended at 65 FR 5409, Feb. 4, 2000; 77 FR 62373, Oct. 12, 2012; 78 FR 39546, July 2, 2013]

### § 1201.203 Proceedings for attorney fees.

(a) *Form and content of request.* A request for attorney fees must be made by motion, must state why the appellant or respondent believes he or she is entitled to an award under the applicable statutory standard, and must be supported by evidence substantiating the amount of the request. Evidence supporting a motion for attorney fees must include at a minimum:

- (1) Accurate and current time records;
- (2) A copy of the terms of the fee agreement (if any);
- (3) A statement of the attorney's customary billing rate for similar work, with evidence that that rate is consistent with the prevailing community rate for similar services in the community in which the attorney ordinarily practices; and
- (4) An established attorney-client relationship.

(b) *Addendum proceeding.* A request for attorney fees will be decided in an addendum proceeding.

(c) *Place of filing.* Where the initial decision in the proceeding on the merits was issued by a judge in a MSPB regional or field office, a motion for attorney fees must be filed with the regional or field office that issued the initial decision. Where the decision in the proceeding on the merits was an initial decision issued by a judge at the Board's headquarters or where the only decision was a final decision issued by the Board, a motion for attorney fees must be filed with the Clerk of the Board.

(d) *Time of filing.* A motion for attorney fees must be filed as soon as possible after a final decision of the Board but no later than 60 days after the date on which a decision becomes final.

(e) *Service.* A copy of a motion for attorney fees must be served on the other parties or their representatives at the time of filing. A party may file a pleading responding to the motion within

## 5 CFR Ch. II (1-1-22 Edition)

the time limit established by the judge.

(f) *Hearing; applicability of subpart B.* The judge may hold a hearing on a motion for attorney fees and may apply appropriate provisions of subpart B of this part to the addendum proceeding.

(g) *Initial decision; review by the Board.* The judge will issue an initial decision in the addendum proceeding, which shall be subject to the provisions for a petition for review by the Board under subpart C of this part.

[63 FR 41179, Aug. 3, 1998, as amended at 65 FR 24381, Apr. 26, 2000]

### § 1201.204 Proceedings for consequential, liquidated, or compensatory damages.

(a) *Time for making request.* (1) A request for consequential, liquidated, or compensatory damages must be made during the proceeding on the merits, no later than the end of the conference(s) held to define the issues in the case.

(2) The judge or the Board, as applicable, may waive the time limit for making a request for consequential, liquidated, or compensatory damages for good cause shown. The time limit will not be waived if a party shows that such waiver would result in undue prejudice.

(b) *Form and content of request.* A request for consequential, liquidated, or compensatory damages must be made in writing and must state the amount of damages sought and the reasons why the appellant or respondent believes he or she is entitled to an award under the applicable statutory standard.

(c) *Service.* A copy of a request for consequential, liquidated, or compensatory damages must be served on the other parties or their representatives when the request is made.

A party may file a pleading responding to the request within the time limit established by the judge or the Board, as applicable.

(d) *Addendum proceeding.* (1) A request for consequential, liquidated, or compensatory damages will be decided in an addendum proceeding.

(2) A judge may waive the requirement of paragraph (d)(1), either on his or her own motion or on the motion of a party, and consider a request for damages in a proceeding on the merits