

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL LABOR RELATIONS AUTHORITY

### 5 CFR Part 2423

#### Unfair Labor Practice Proceedings

**AGENCY:** Office of the General Counsel, Federal Labor Relations Authority.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The General Counsel of the Federal Labor Relations Authority (FLRA) proposes to revise portions of its regulations regarding unfair labor practice (ULP) proceedings (Part 2423, subpart A). In keeping with the Chairman's focus on the revitalization of the mission of the FLRA, the purpose of the proposed revisions is to clarify the Office of the General Counsel's (OGC) role in facilitating the resolution of disputes and in providing training and educating the FLRA's customers about their rights and responsibilities under the Federal Service Labor-Management Relations Statute (Statute). The revisions also clarify certain administrative matters relating to the filing and investigation of ULP charges. These revisions establish the OGC's leadership role in providing guidance on Alternative Dispute Resolution (ADR) techniques to union and agency representatives to strengthen labor-management relationships that will aid in resolving disputes short of litigation. These amended regulations are also consistent with the purposes underlying Executive Order 13522 (EO 13522) on Creating Labor-Management Forums to Improve Delivery of Government Services, issued on December 9, 2009, by President Obama. EO 13522 provides a platform from which a cooperative and productive form of labor-management relations throughout the executive branch of the Federal government will be established. The FLRA will play a prominent role in providing services, *i.e.*, training; materials and guidances; and facilitation, which are needed to accomplish the objectives of EO 13522. With renewed attention to customer

service, the OGC will use its expertise to foster successful labor-management relations through the training of union representatives and agency personnel in dispute resolution and cooperative methods of labor-management relations. Implementation of the proposed regulatory changes will also enhance the purposes and policies of the Statute by promoting the resolution of disputes at an early stage, thereby preventing ULPs and/or reducing the need to file ULP charges, which will lower costs to the public.

**DATES:** Comments must be received on or before March 3, 2010.

**ADDRESSES:** Mail or deliver written comments to the Office of the General Counsel, Federal Labor Relations Authority, 1400 K Street, NW., Second Floor, Washington, DC 20424. Comments may also be e-mailed to [dwalsh@flra.gov](mailto:dwalsh@flra.gov).

**FOR FURTHER INFORMATION CONTACT:** Dennis P. Walsh, Deputy General Counsel, at the address for the Office of the General Counsel or by telephone number (202) 218-7741, facsimile number (202) 482-6608.

**SUPPLEMENTARY INFORMATION:** The OGC of the FLRA proposes modifications to the existing rules and regulations in subpart A of title 5 of the Code of Federal Regulations regarding the prevention of ULPs. On February 19, 2008, after the OGC effectively provided critical ADR, training and education services for over 10 years, these regulations were revised to prohibit offering any type of pre-investigation or pre-complaint assistance to the parties. The major purpose of these revisions is to restore the ADR, training and education program. The General Counsel offers the OGC staff's services to assist the parties in working collaboratively to resolve labor-management relations disputes. These regulations are consistent with internal OGC policies concerning the prevention and resolution of ULP disputes and the investigation of ULP charges.

#### Sectional Analyses

Sectional analyses of the revisions to Part 2423—Unfair Labor Practice Proceedings are as follows:

#### Part 2423—Unfair Labor Practice Proceedings

##### Section 2423.0

This part is applicable to any charge of an alleged ULP pending or filed with the Authority on or April 1, 2010.

#### Subpart A—Filing, Investigating, Resolving, and Acting on Charges

##### Section 2423.1

Paragraph (a) has been revised to reflect that the OGC may, in appropriate circumstances, make Regional Office staff available to assist parties in identifying issues and interests with a goal of resolving disputes before they ripen into ULP charges. The OGC does not believe that its position of neutrality is compromised by providing the parties with pre-charge assistance in the settlement of disputes.

Paragraph (b) is new. The rationale for the revision to paragraph (a), to assist the parties in resolving disputes before a charge has been filed, also pertains to paragraph (b), which concerns the resolution of ULP disputes after a charge has been filed.

##### Section 2423.2

This section is revised to restore the ADR services provision of this regulation that was in effect before February 18, 2008. The OGC has historically been successful in assisting employees, labor organizations, and agencies in avoiding and resolving labor-management conflict. The use of a problem-solving approach, along with intervention, training, and education services, provides the participants in the Federal sector labor-management relations program with an alternative to adversarial and costly litigation. As stated in the Summary above, the provision of these services supports the purpose underlying EO 13522.

##### Section 2423.3

This section, which identifies who may file a ULP charge, is unchanged.

##### Section 2423.4

This section, describing the content of a ULP charge, is substantially unchanged. Paragraph (b) is revised to track more closely the statutory provision regarding the timeliness of a ULP charge.

*Section 2423.5*

This section, which is reserved, is unchanged.

*Section 2423.6*

This section is unchanged.

*Section 2423.7*

This section, which is reserved, is unchanged.

*Section 2423.8*

This section, which provides for the investigation of charges, is substantially unchanged. The proposed revision deletes the reference to the neutral and unbiased nature of unfair labor practice investigations that was incorporated in the February 18, 2008 revision of this regulation. As a public prosecutor, the Office of the General Counsel always strives to complete unfair labor practice investigations in a neutral and unbiased manner. Therefore, any additional reference is unnecessary.

*Section 2423.9*

This section is unchanged.

*Section 2423.10*

This section is unchanged.

*Section 2423.11*

The proposed revision to paragraph (a) clarifies that the Regional Director retains discretion concerning the notification of the parties when a decision has been made to dismiss a charge. Because the Charging Party bears the burden of presenting evidence to support its ULP allegation(s), the Region will first inform the Charging Party of the Regional Director's decision and will afford the Charging Party an opportunity to request withdrawal of the charge. The proposed regulations no longer require that the Regional Director must inform the Charged Party of the determination to dismiss the charge before the Charging Party has been afforded the opportunity to withdraw the charge. The OGC does not believe that its position of neutrality is comprised by providing the Charging Party with this opportunity before informing the Charged Party of the decision to dismiss the charge.

*Section 2423.12*

Paragraph (a) of this section has been deleted. As referenced above with regard to section 2423.2, the OGC's involvement in the provision of ADR services is not restricted to a point in time after a Regional Director has determined to issue a complaint.

Paragraph (b) of this section is revised and redesignated as paragraph (a). The words "but after a merit determination

by the Regional Director" are unnecessary and therefore have been deleted.

Paragraph (c) of this section is redesignated as paragraph (b) and is revised to add the grounds for granting an appeal of a Regional Director's approval of a unilateral settlement agreement and to reference the applicable paragraphs of section 2423.11 concerning the process for obtaining review of a Regional Director's approval of a unilateral settlement agreement.

**Regulatory Flexibility Act Certification**

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the General Counsel of the FLRA has determined that this regulation, as amended, will not have a significant impact on a substantial number of small entities, because this rule applies to federal employees, federal agencies, and labor organizations representing federal employees.

**Unfunded Mandates Reform Act of 1995**

This rule change will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform act of 1995.

**Small Business Regulatory Enforcement Fairness Act of 1996**

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

**Paperwork Reduction Act of 1995**

The amended regulations contain no additional information collection or record keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

**List of Subjects in 5 CFR Part 2423**

Administrative practice and procedure, Government employees, Labor management relations.

For these reasons, the General Counsel of the Federal Labor Relations Authority proposes to amend 5 CFR Part 2423 as follows:

**PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS**

1. The authority citation for part 2423 continues to read as follows:

**Authority:** 5 U.S.C. 7134.

2. Section 2423.0 is revised to read as follows:

**§ 2423.0 Applicability of this part.**

This part is applicable to any charge of alleged unfair labor practices pending or filed with the Authority on or after April 1, 2010.

3. Subpart A of Part 2423 is revised to read as follows:

**Subpart A—Filing, Investigating, Resolving, and Acting on Charges**

Sec.

2423.1 Resolution of unfair labor practice disputes prior to a Regional Director determination whether to issue a complaint.

2423.2 Alternative Dispute Resolution (ADR) services.

2423.3 Who may file charges.

2423.4 Contents of the charge; supporting evidence and documents.

2423.5 [Reserved]

2423.6 Filing and service of copies.

2423.7 [Reserved]

2423.8 Investigation of charges.

2423.9 Amendment of charges.

2423.10 Action by the Regional Director.

2423.11 Determination not to issue complaint; review of action by the Regional Director.

2423.12 Settlement of unfair labor practice charges after a Regional Director determination to issue a complaint but prior to issuance of a complaint.

2423.13–2423.19 [Reserved]

**Subpart A—Filing, Investigating, Resolving, and Acting on Charges****§ 2423.1 Resolution of unfair labor practice disputes prior to a Regional Director determination whether to issue a complaint.**

(a) *Resolving unfair labor practice disputes prior to filing a charge.* The purposes and policies of the Federal Service Labor-Management Relations Statute can best be achieved by the collaborative efforts of all persons covered by that law. The General Counsel encourages all persons to meet and, in good faith, attempt to resolve unfair labor practice disputes prior to filing unfair labor practice charges. If requested, or agreed to by both parties, a representative of the Regional Office, in appropriate circumstances, may participate in these meetings to assist the parties in identifying the issues and

their interests and in resolving the dispute. Attempts by the parties to resolve unfair labor practice disputes prior to filing an unfair labor practice charge do not toll the time limitations for filing a charge set forth at 5 U.S.C. 7118(a)(4).

(b) *Resolving unfair labor practice disputes after filing a charge.* The General Counsel encourages the informal resolution of unfair labor practice allegations subsequent to the filing of a charge and prior to a determination on the merits of the charge by a Regional Director. A representative of the appropriate Regional Office, as part of the investigation, may assist the parties in informally resolving their dispute.

#### **§ 2423.2 Alternative Dispute Resolution (ADR) services.**

(a) *Purpose of ADR services.* The Office of the General Counsel furthers its mission and implements the agency-wide Federal Labor Relations Authority Collaboration and Alternative Dispute Resolution Program by promoting stable and productive labor-management relationships governed by the Federal Service Labor-Management Relations Statute and by providing services that assist labor organizations and agencies, on a voluntary basis to:

- (1) Develop collaborative labor-management relationships;
- (2) Avoid unfair labor practice disputes; and
- (3) Informally resolve unfair labor practice disputes.

(b) *Types of ADR Services.* Agencies and labor organizations may jointly request, or agree to, the provision of the following services by the Office of the General Counsel:

(1) *Facilitation.* Assisting the parties in improving their labor-management relationship as governed by the Federal Service Labor-Management Relations Statute;

(2) *Intervention.* Intervening when parties are experiencing or expect significant unfair labor practice disputes;

(3) *Training.* Training labor organization officials and agency representatives on their rights and responsibilities under the Federal Service Labor-Management Relations Statute and how to avoid litigation over those rights and responsibilities, and on using problem-solving and ADR skills, techniques, and strategies to resolve informally unfair labor practice disputes; and

(4) *Education.* Working with the parties to recognize the benefits of, and establish processes for, avoiding unfair labor practice disputes, and resolving

any unfair labor practice disputes that arise by consensual, rather than adversarial, methods.

(c) *ADR services after initiation of an investigation.* As part of processing an unfair labor practice charge, the Office of the General Counsel may suggest to the parties, as appropriate, that they may benefit from these ADR services.

#### **§ 2423.3 Who may file charges.**

(a) *Filing charges.* Any person may charge an activity, agency or labor organization with having engaged in, or engaging in, any unfair labor practice prohibited under 5 U.S.C. 7116.

(b) *Charging Party.* Charging Party means the individual, labor organization, activity or agency filing an unfair labor practice charge with a Regional Director.

(c) *Charged Party.* Charged Party means the activity, agency or labor organization charged with allegedly having engaged in, or engaging in, an unfair labor practice.

#### **§ 2423.4 Contents of the charge; supporting evidence and documents.**

(a) *What to file.* The Charging Party may file a charge alleging a violation of 5 U.S.C. 7116 by completing a form prescribed by the General Counsel, or on a substantially similar form, that contains the following information:

(1) The name, address, telephone number, facsimile number (where facsimile equipment is available), and e-mail address of the Charging Party;

(2) The name, address, telephone number, facsimile number (where facsimile equipment is available), and e-mail address of the Charged Party;

(3) The name, address, telephone number, facsimile number (where facsimile equipment is available), and e-mail address of the Charging Party's point of contact;

(4) The name, address, telephone number, facsimile number (where facsimile equipment is available), and e-mail address of the Charged Party's point of contact;

(5) A clear and concise statement of the facts alleged to constitute an unfair labor practice, a statement of how those facts allegedly violate specific section(s) and paragraph(s) of the Federal Service Labor-Management Relations Statute and the date and place of occurrence of the particular acts; and

(6) A statement whether the subject matter raised in the charge:

(i) Has been raised previously in a grievance procedure;

(ii) Has been referred to the Federal Service Impasses Panel, the Federal Mediation and Conciliation Service, the Equal Employment Opportunity

Commission, the Merit Systems Protection Board, or the Office of the Special Counsel for consideration or action;

(iii) Involves a negotiability issue raised by the Charging Party in a petition pending before the Authority pursuant to part 2424 of this subchapter; or

(iv) Has been the subject of any other administrative or judicial proceeding.

(7) A statement describing the result or status of any proceeding identified in paragraph (a)(6) of this section.

(b) When to file. Under 5 U.S.C. 7118(a)(4), a charge alleging an unfair labor practice must normally be filed within six (6) months of its occurrence unless one of the two (2) circumstances described under paragraph (B) of 5 U.S.C. 7118(a)(4) applies.

(c) *Declarations of truth and statement of service.* A charge shall be in writing and signed, and shall contain a declaration by the individual signing the charge, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of that individual's knowledge and belief.

(d) *Statement of service.* A charge shall also contain a statement that the Charging Party served the charge on the Charged Party, and shall list the name, title and location of the individual served, and the method of service.

(e) *Self-contained document.* A charge shall be a self-contained document describing the alleged unfair labor practice without a need to refer to supporting evidence and documents submitted under paragraph (f) of this section.

(f) *Submitting supporting evidence and documents and identifying potential witnesses.* When filing a charge, the Charging Party shall submit to the Regional Director, any supporting evidence and documents, including, but not limited to, correspondence and memoranda, records, reports, applicable collective bargaining agreement clauses, memoranda of understanding, minutes of meetings, applicable regulations, statements of position and other documentary evidence. The Charging Party also shall identify potential witnesses with contact information (telephone number, e-mail address, and facsimile number) and shall provide a brief synopsis of their expected testimony.

#### **§ 2423.5 [Reserved]**

#### **§ 2423.6 Filing and service of copies.**

(a) *Where to file.* A Charging Party shall file the charge with the Regional Director for the region in which the

alleged unfair labor practice has occurred or is occurring. A charge alleging that an unfair labor practice has occurred or is occurring in two or more regions may be filed with the Regional Director in any of those regions.

(b) *Filing date.* A charge is deemed filed when it is received by a Regional Director. A charge received in a Region after the close of the business day will be deemed received and docketed on the next business day. The business hours for each of the Regional Offices are set forth at <http://www.FLRA.gov>.

(c) *Method of filing.* A Charging Party may file a charge with the Regional Director in person or by commercial delivery, first class mail, facsimile or certified mail. If filing by facsimile transmission, the Charging Party is not required to file an original copy of the charge with the Region. A Charging Party assumes responsibility for receipt of a charge. Supporting evidence and documents must be submitted to the Regional Director in person, by commercial delivery, first class mail, certified mail, or by facsimile transmission.

(d) *Service of the charge.* The Charging Party shall serve a copy of the charge (without supporting evidence and documents) on the Charged Party. Where facsimile equipment is available, the charge may be served by facsimile transmission in accordance with paragraph (c) of this section. The Region routinely serves a copy of the charge on the Charged Party, but the Charging Party remains responsible for serving the charge in accordance with this paragraph.

#### § 2423.7 [Reserved]

#### § 2423.8 Investigation of charges.

(a) *Investigation.* The Regional Director, on behalf of the General Counsel, conducts an investigation of the charge as deemed necessary. During the course of the investigation, all parties involved are afforded an opportunity to present their evidence and views to the Regional Director.

(b) *Cooperation.* The purposes and policies of the Federal Service Labor-Management Relations Statute can best be achieved by the full cooperation of all parties involved and the timely submission of all potentially relevant information from all potential sources during the course of the investigation. All persons shall cooperate fully with the Regional Director in the investigation of charges. A failure to cooperate during the investigation of a charge may provide grounds to dismiss a charge for failure to produce evidence supporting the charge. Cooperation

includes any of the following actions, when deemed appropriate by the Regional Director:

(1) Making union officials, employees, and agency supervisors and managers available to give sworn/affirmed testimony regarding matters under investigation;

(2) Producing documentary evidence pertinent to the matters under investigation; and

(3) Providing statements of position on the matters under investigation.

(c) *Investigatory subpoenas.* If a person fails to cooperate with the Regional Director in the investigation of a charge, the General Counsel, upon recommendation of a Regional Director, may decide in appropriate circumstances to issue a subpoena under 5 U.S.C. 7132 for the attendance and testimony of witnesses and the production of documentary or other evidence. However, no subpoena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel or training within an agency or between an agency and the Office of Personnel Management.

(1) A subpoena shall be served by any individual who is at least 18 years old and who is not a party to the proceeding. The individual who served the subpoena must certify that he or she did so:

(i) By delivering it to the witness in person;

(ii) By registered or certified mail; or

(iii) By delivering the subpoena to a responsible individual (named in the document certifying the delivery) at the residence or place of business (as appropriate) of the person for whom the subpoena was intended. The subpoena shall show on its face the name and address of the Regional Director and the General Counsel.

(2) Any person served with a subpoena who does not intend to comply shall, within 5 days after the date of service of the subpoena upon such person, petition in writing to revoke the subpoena. A copy of any petition to revoke shall be served on the General Counsel.

(3) The General Counsel shall revoke the subpoena if the witness or evidence, the production of which is required, is not material and relevant to the matters under investigation or in question in the proceedings, or the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. The General Counsel shall state the procedural or other grounds for the ruling on the petition to revoke. The

petition to revoke shall become part of the official record if there is a hearing under subpart C of this part.

(4) Upon the failure of any person to comply with a subpoena issued by the General Counsel, the General Counsel shall determine whether to institute proceedings in the appropriate district court for the enforcement of the subpoena. Enforcement shall not be sought if to do so would be inconsistent with law, including the Federal Service Labor-Management Relations Statute.

(d) *Confidentiality.* It is the General Counsel's policy to protect the identity of individuals who submit statements and information during the investigation, and to protect against the disclosure of documents obtained during the investigation, as a means of ensuring the General Counsel's continuing ability to obtain all relevant information. After issuance of a complaint and in preparation for a hearing, however, identification of witnesses, a synopsis of their expected testimony and documents proposed to be offered into evidence at the hearing may be disclosed as required by the prehearing disclosure requirements in § 2423.23.

#### § 2423.9 Amendment of charges.

Prior to the issuance of a complaint, the Charging Party may amend the charge in accordance with the requirements set forth in § 2423.6.

#### § 2423.10 Action by the Regional Director.

(a) *Regional Director action.* The Regional Director, on behalf of the General Counsel, may take any of the following actions, as appropriate:

(1) Approve a request to withdraw a charge;

(2) Dismiss a charge;

(3) Approve a written settlement agreement in accordance with the provisions of § 2423.12;

(4) Issue a complaint; or

(5) Withdraw a complaint.

(b) *Request for appropriate temporary relief.* Parties may request the General Counsel to seek appropriate temporary relief (including a restraining order) under 5 U.S.C. 7123(d). The General Counsel may initiate and prosecute injunctive proceedings under 5 U.S.C. 7123(d) only upon approval of the Authority. A determination by the General Counsel not to seek approval of the Authority to seek such appropriate temporary relief is final and shall not be appealed to the Authority.

(c) *General Counsel requests to the Authority.* When a complaint issues and the Authority approves the General Counsel's request to seek appropriate temporary relief (including a restraining

order) under 5 U.S.C. 7123(d), the General Counsel may make application for appropriate temporary relief (including a restraining order) in the district court of the United States within which the unfair labor practice is alleged to have occurred or in which the party sought to be enjoined resides or transacts business. Temporary relief may be sought if it is just and proper and the record establishes probable cause that an unfair labor practice is being committed. Temporary relief shall not be sought if it would interfere with the ability of the agency to carry out its essential functions.

(d) *Actions subsequent to obtaining appropriate temporary relief.* The General Counsel shall inform the district court which granted temporary relief pursuant to 5 U.S.C. 7123(d) whenever an Administrative Law Judge recommends dismissal of the complaint, in whole or in part.

**§ 2423.11 Determination not to issue complaint; review of action by the Regional Director.**

(a) *Opportunity to withdraw a charge.* If the Regional Director determines that the charge has not been timely filed, that the charge fails to state an unfair labor practice, or for other appropriate reasons, the Regional Director may request the Charging Party to withdraw the charge.

(b) *Dismissal letter.* If the Charging Party does not withdraw the charge within a reasonable period of time, the Regional Director will, on behalf of the General Counsel, dismiss the charge and provide the parties with a written statement of the reasons for not issuing a complaint.

(c) *Appeal of a dismissal letter.* The Charging Party may obtain review of the Regional Director's decision to dismiss a charge by filing an appeal with the General Counsel within 25 days after service of the Regional Director's decision. A Charging Party shall serve a copy of the appeal on the Regional Director. The General Counsel shall serve notice on the Charged Party that an appeal has been filed.

(d) *Extension of time.* The Charging Party may file a request, in writing, for an extension of time to file an appeal, which shall be received by the General Counsel not later than 5 days before the date the appeal is due. A Charging Party shall serve a copy of the request for an extension of time on the Regional Director.

(e) *Grounds for granting an appeal.* The General Counsel may grant an appeal when the appeal establishes at least one of the following grounds:

(1) The Regional Director's decision did not consider material facts that would have resulted in issuance of a complaint;

(2) The Regional Director's decision is based on a finding of a material fact that is clearly erroneous;

(3) The Regional Director's decision is based on an incorrect statement or application of the applicable rule of law;

(4) There is no Authority precedent on the legal issue in the case; or

(5) The manner in which the Region conducted the investigation has resulted in prejudicial error.

(f) *General Counsel action.* The General Counsel may deny the appeal of the Regional Director's dismissal of the charge, or may grant the appeal and remand the case to the Regional Director to take further action. The General Counsel's decision on the appeal states the grounds listed in paragraph (e) of this section for denying or granting the appeal, and is served on all the parties. Absent a timely motion for reconsideration, the decision of the General Counsel is final.

(g) *Reconsideration.* After the General Counsel issues a final decision, the Charging Party may move for reconsideration of the final decision if it can establish extraordinary circumstances in its moving papers. The motion shall be filed within 10 days after the date on which the General Counsel's final decision is postmarked. A motion for reconsideration shall state with particularity the extraordinary circumstances claimed and shall be supported by appropriate citations. The decision of the General Counsel on a motion for reconsideration is final.

**§ 2423.12 Settlement of unfair labor practice charges after a Regional Director determination to issue a complaint but prior to issuance of a complaint.**

(a) *Bilateral informal settlement agreement.* Prior to issuing a complaint, the Regional Director may afford the Charging Party and the Charged Party a reasonable period of time to enter into an informal settlement agreement to be approved by the Regional Director. When a Charged Party complies with the terms of an informal settlement agreement approved by the Regional Director, no further action is taken in the case. If the Charged Party fails to perform its obligations under the approved informal settlement agreement, the Regional Director may institute further proceedings.

(b) *Unilateral informal settlement agreement.* If the Charging Party elects not to become a party to a bilateral settlement agreement, which the Regional Director concludes effectuates

the policies of the Federal Service Labor-Management Relations Statute, the Regional Director may choose to approve a unilateral settlement between the Regional Director and the Charged Party. The Regional Director, on behalf of the General Counsel, shall issue a letter stating the grounds for approving the settlement agreement and declining to issue a complaint. The Charging Party may obtain review of the Regional Director's action by filing an appeal with the General Counsel in accordance with § 2423.11(c) and (d). The General Counsel may grant an appeal when the Charging Party has shown that the Regional Director's approval of a unilateral settlement agreement does not effectuate the purposes and policies of the Federal Service Labor-Management Relations Statute. The General Counsel shall take action on the appeal as set forth in § 2423.11(b), (c), (d), (f), and (g).

**§§ 2423.13–2423.19 [Reserved]**

Dated: January 26, 2010.

**Julia Akins Clark,**

*General Counsel, Federal Labor Relations Authority.*

[FR Doc. 2010–2047 Filed 1–29–10; 8:45 am]

BILLING CODE 6727–01–P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA–2009–0710; Airspace Docket No. 09–ASO–16]

**Establishment of Class D and E Airspace; Panama City, FL**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish Class D and E airspace at Panama City, FL, to accommodate new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAPs) for the new Northwest Florida-Panama City International Airport. This action would enhance the safety and management of instrument Flight Rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before March 18, 2010.

**ADDRESSES:** Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–