

Small Business Administration

§ 134.804

request reconsideration by filing with the Judge and serving a petition for reconsideration on all the parties to the appeal within twenty (20) calendar days after service of the written decision. The request for reconsideration must clearly show an error of fact or law material to the decision. The Judge may also reconsider a decision on his or her own initiative.

(b) The Judge may remand a proceeding to the D/GC for a new WOSB or EDWOSB determination if the D/GC fails to address issues of decisional significance sufficiently, does not address all the relevant evidence, or does not identify specifically the evidence upon which it relied. Once remanded, OHA no longer has jurisdiction over the matter, unless a new appeal is filed as a result of the new WOSB or EDWOSB determination.

Subpart H—Rules of Practice for Employee Disputes

SOURCE: 75 FR 47443, Aug. 6, 2010, unless otherwise noted.

§ 134.801 Scope of rules.

(a) The rules of practice in this subpart H apply to the OHA appeal under the Employee Dispute Resolution Process (EDRP). Standard Operating Procedure (SOP) 37 71 sets out the EDRP. It is available at <http://www.sba.gov/tools/resourcelibrary/sops/index.html> or through OHA's Web site <http://www.sba.gov/oha>.

(b) The following rules, located in subparts A and B of this part, also apply to OHA appeals under the EDRP:

- (1) Definitions (§134.101);
- (2) Jurisdiction of OHA (§134.102(r) only);
- (3) Scope of the rules in this subpart B (§134.201(a), (b)(6), and (c) only);
- (4) Commencement of cases (§134.202(d) only, on deadlines and how to count days);
- (5) Filing and service requirements (§134.204);
- (6) Amendments and supplemental pleadings (§134.207);
- (7) Requirement of signature (§134.209);
- (8) Motions (§134.211);
- (9) Summary decision (§134.212); and

(10) Sanctions (§134.219).

[75 FR 47443, Aug. 6, 2010, as amended at 82 FR 25507, June 2, 2017]

§ 134.802 [Reserved]

§ 134.803 Commencement of appeals from SBA Employee Dispute Resolution Process cases (Employee Disputes).

(a) An appeal from a Step Two decision must be commenced by filing an appeal petition within 15 calendar days from the date the Employee receives the Step Two decision.

(b) If the Step Two Official does not issue a decision within 15 calendar days of receiving the SBA Dispute Form from the Employee, the Employee must file his/her appeal petition at OHA no later than 15 calendar days from the date the Step Two decision was due.

(c) The rule for counting days is in §134.202(d).

(d) OHA will dismiss an untimely appeal.

[75 FR 47443, Aug. 6, 2010, as amended at 82 FR 25507, June 2, 2017]

§ 134.804 The appeal petition.

(a) *Form.* There is no required format for an appeal petition. However, it must include the following:

- (1) The completed SBA Dispute Form;
- (2) A copy of the Step One and Step Two decisions, if any;
- (3) Statement of why the Step Two decision (or Step One decision, if no Step Two decision was received), is alleged to be in error;
- (4) Any other pertinent information the OHA Judge should consider;
- (5) A request for mediation, if applicable; and
- (6) If represented by an attorney, the attorney's contact information and signature.

(b) *Service of the appeal petition upon the SBA.* The Employee must serve copies of the entire appeal petition upon three SBA officials:

- (1) The Step Two Official;
- (2) Chief Human Capital Officer, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416; and