

(b) *Procedure.* Hearings shall be conducted by the presiding member so as to assure a full and fair proceeding. The Board shall not be limited by the legal rules of evidence. However, the presiding member shall exclude irrelevant, immaterial, or unduly repetitive evidence. The Board may require the parties to designate one of their representatives as principal spokesperson.

(c) *Order of presentation.* In cases involving disciplinary action, including separation for cause cases, the Agency will ordinarily present its case first and will retain that order of precedence throughout the hearing. In other cases the grievant will ordinarily present his or her case first and will retain that order of precedence throughout the hearing.

(d) *Evidence.* Subject to the presiding member's rulings on the relevancy, materiality, and repetitious nature of evidence, the parties may offer such evidence, including interrogatories, depositions and Agency records as they desire. The shall produce such additional evidence as the presiding member shall consider relevant and material. Where deemed appropriate by the Board, the parties may be supplied only with a summary or extract of classified material (also see § 903.9 of this chapter).

(e) *Testimony.* Testimony at a hearing shall be given under oath or affirmation.

(f) *Transcript.* A verbatim transcript shall be made of any hearing and shall be part of the record of proceedings.

§ 906.8 Witnesses.

(a) *General.* Each party shall be entitled to examine and cross-examine witnesses at the hearing or by deposition. A party wishing to take the deposition of a witness shall give the other parties reasonable notice of the time and place of the deposition and of the identity of the witness.

(b) *Availability.* Upon request of the Board or upon request of the grievant/charged employee deemed relevant and material by the Board, an Agency shall promptly make available at the hearing or by deposition any witness under its control, supervision or responsibility. If the Board determines that the actual presence of such witness at the hearing is required for just resolution

of the case, the witness shall be made available at the hearing, with necessary costs and travel expenses paid by the Agency which is a party to the hearing.

(c) *Notice.* The parties are responsible for notifying their witnesses and for arranging for their appearance at the time and place set for the hearing. The Board may preclude a witness from testifying because of the failure of the party responsible for witness' appearance to comply with this section.

§ 906.9 Failure of party to appear.

The hearing may proceed in the absence of any party who, after due notice and without good cause, fails to be present or obtain an adjournment.

PART 907—PROCEDURE WHEN HEARING IS NOT HELD

AUTHORITY: Sec. 1106 of the Foreign Service Act of 1980, Pub. L. 96-465 (22 U.S.C. 4136), as amended.

§ 907.1 General.

(a) In a case in which a hearing is not required under § 906.1 of this chapter, the Board may request in writing that specified documents or other evidence be furnished to it and/or may authorize the executive secretary to obtain such additional documents or other evidence as may be necessary to understand and decide the case.

(b) Each party will be offered the opportunity to review and to supplement, by written submissions, the record of proceedings, prior to the date fixed by the Board for closing of the Record. The Board shall then consider the case and make a decision based on that Record. This may include the ordering of a hearing in accordance with part 906.

[50 FR 31357, Aug. 2, 1985]

PART 908—REMEDIES

Sec.

908.1 Board orders.

908.2 Attorney fees.

908.3 Board recommendations.

AUTHORITY: Secs. 1106 and 1107 of the Foreign Service Act of 1980, Pub. L. 96-465 (22 U.S.C. 610, 4010, 4136, and 4137).