

§ 458.89 Contents of exceptions to Administrative Law Judge's recommended decision and order.

(a) Exceptions to an Administrative Law Judge's recommended decision and order shall:

(1) Set forth specifically the questions upon which exceptions are taken;

(2) Identify that part of the Administrative Law Judge's recommended decision and order to which objection is made;

(3) Designate by precise citation of page the portions of the record relied on, state the grounds for the exceptions and include the citation of authorities unless set forth in a supporting brief.

(b) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

§ 458.90 Briefs in support of exceptions.

(a) Any brief in support of exceptions shall be filed in accordance with 29 CFR part 26, contain only matters included within the scope of the exceptions, and contain, in the order indicated, the following:

(1) A concise statement of the case containing all that is material to the consideration of the questions presented;

(2) A specification of the questions involved and to be argued;

(3) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific page reference to the transcript and the legal or other material relied on.

(b) Answering briefs to the exceptions may be filed with the Administrative Review Board within ten (10) days after service of the exceptions.

[45 FR 15158, Mar. 7, 1980; 45 FR 28322, Apr. 29, 1980. Redesignated at 50 FR 31311, Aug. 1, 1985, as amended at 78 FR 8027, Feb. 5, 2013; 86 FR 1785, Jan. 11, 2021]

§ 458.91 Action by the Administrative Review Board.

(a) After consideration of the Administrative Law Judge's recommended de-

cision and order, the record, and any exceptions filed, the Administrative Review Board shall issue its decision affirming or reversing the Administrative Law Judge, in whole, or in part, or making such other disposition of the matter as it deems appropriate: *Provided, however,* That unless exceptions are filed which are timely and in accordance with § 458.89, the Administrative Review Board may, at its discretion, adopt without discussion the recommended decision and order of the Administrative Law Judge, as contained in his recommended decision and order, shall, upon appropriate notice to the parties, automatically become the decision of the Administrative Review Board.

(b) Upon finding a violation of the CSRA, FSA or this part, the Administrative Review Board may order respondent to cease and desist from such violative conduct and may require the respondent to take such affirmative action as it deems appropriate to effectuate the policies of the CSRA or FSA.

(c) Upon finding no violation of the CSRA, FSA or this part, the Administrative Review Board shall dismiss the complaint.

[78 FR 8027, Feb. 5, 2013]

§ 458.92 Compliance with decisions and orders of the Administrative Review Board.

When remedial action is ordered, the respondent shall report to the Director, within a specified period, that the required remedial action has been effected. When the Director finds that the required remedial action has not been effected, he shall refer the matter for appropriate action to the Federal Labor Relations Authority (in the case of labor organizations covered by the CSRA), the Foreign Service Labor Relations Board (in the case of labor organizations covered by the FSA), or the Board of Directors of the Office of Compliance (in the case of labor organizations covered by the Congressional Accountability Act).

[78 FR 8027, Feb. 5, 2013]

§ 458.93 Stay of remedial action.

In cases involving violations of this part, the Administrative Review Board