

[[§9.03]] §9.01 Attorney's Fees and Costs

(a) *Request.* No later than **[[20]] 30** days after the entry of a **final [[Hearing Officer's]]** decision of the Office, **[[under section 7.16, or after service of a Board decision by the Office the complainant, if he or she is a]]** the prevailing party**[[,]]** may submit to the Hearing Officer or Arbitrator who **[[heard]]** decided the case initially a motion for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. **[[All motions for attorney's fees and costs shall be submitted to the Hearing Officer.]]** The Hearing Officer or Arbitrator, after giving the respondent an opportunity to reply, shall rule on the motion. Decisions regarding attorney's fees and costs are collateral and do not affect the finality or appealability of a final decision issued by the **[[Hearing Officer]]** Office. **[[A ruling on a motion for attorney's fees and costs may be appealed together with the final decision of the Hearing Officer. If the motion for attorney's fees is ruled on after the final decision has been issued by the Hearing Officer, the ruling may be appealed in the same manner as a final decision, pursuant to section 8.01 of these Rules.]]**

(b) *Form of Motion.* In addition to setting forth the legal and factual bases upon which the attorney's fees and/or costs are sought, a motion for an award of attorney's fees and/or costs shall be accompanied by:

(3) the attorney's customary billing rate for similar work **with evidence that the rate is consistent with the prevailing community rate for similar services in the community in which the attorney ordinarily practices; [[and]]**

(4) an itemization of costs related to the matter in question**[[,]]**; and

(5) evidence of an established attorney-client relationship.

[[§9.04]] §9.02 Ex parte Communications

(a) *Definitions.*

(3) For purposes of section **[[9.04]] 9.02**, the term *proceeding* means the complaint and hearing proceeding under section 405 of the CAA, an appeal to the Board under section 406 of the CAA, a pre-election investigatory hearing under section 220 of the CAA, and any other proceeding of the Office established pursuant to regulations issued by the Board under the CAA

(c) *Prohibited Ex Parte Communications and Exceptions.*

(2) The Hearing Officer or the Office may initiate attempts to settle a matter at any time. The parties may agree to waive the prohibitions against ex parte communications during settlement discussions, and they may agree to any limits on the waiver.

—Renumber subsequent paragraphs—

[[§9.05]] §9.03 Informal Resolutions and Settlement Agreements.

(b) *Formal Settlement Agreement.* The parties may agree formally to settle all or part of a disputed matter in accordance with section 414 of the Act. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval. **The settlement is not effective until it has been approved by the Executive Director.** If the Executive Director does not approve the settlement, such disapproval shall be in writing, shall set forth the grounds therefor, and shall render the settlement ineffective.

(c) *Requirements for a Formal Settlement Agreement.* A formal settlement agreement requires the signature of all parties or their designated representatives on the agreement

document before the agreement can be submitted to the Executive Director for signature. **A formal settlement agreement should not be submitted to the Executive Director for signature until the appropriate revocation periods have expired.** A formal settlement agreement cannot be rescinded after the signatures of all parties have been affixed to the agreement, unless by written revocation of the agreement voluntarily signed by all parties, or as otherwise permitted by law.

(d) *Violation of a Formal Settlement Agreement.* If a party should allege that a formal settlement agreement has been violated, the issue shall be determined by reference to the formal dispute resolution procedures of the agreement. **Settlements should include specific dispute resolution procedures.** If the **[[particular]]** formal settlement agreement does not have a stipulated method for dispute resolution of an alleged violation **[[of the agreement]],** the Office may provide assistance in resolving the dispute, including the services of a Mediator at the discretion of the Executive Director. **[[the following dispute resolution procedure shall be deemed to be a part of each formal settlement agreement approved by the Executive Director pursuant to section 414 of the Act:]]** Where the settlement agreement does not have a stipulated method for resolving violation allegations, **[[Any complaint]]** an allegation **[[regarding]]** of a violation **[[of a formal settlement agreement]]** may be filed with the Executive Director, but no later than 60 days after the party to the agreement becomes aware of the alleged violation. Such **[[complaints may be referred by the Executive Director to a Hearing Officer for a final decision. The procedures for hearing and determining such complaints shall be governed by subparts F, G, and H of these Rule.]]** allegations will be reviewed, investigated or mediated by the Executive Director or designee, as appropriate.

[[§9.06]] §9.04 Payments required pursuant to Decisions, Awards, or Settlements under section 415(a) of the Act

Whenever a final decision or award pursuant to sections 405(g), 406(e), 407, or 408 of the Act, or an approved settlement pursuant to section 414 of the Act, require the payment of funds pursuant to section 415(a) of the Act, the decision, award, or settlement shall be submitted to the Executive Director to be processed by the Office for requisition from the account of the Office of Compliance in the Department of the Treasury, and payment. **No payment shall be made from such account until the time for appeal of a decision has expired, unless a settlement has been reached in the absence of a decision to be appealed.**

[[§9.07]] §9.05 Revocation, Amendment or Waiver of Rules

(a) The Executive Director, subject to the approval of the Board, may revoke or amend these rules by publishing proposed changes in the Congressional Record and providing for a comment period of not less than 30 days. Following the comment period, any changes to the rules are final once they are published in the Congressional Record.

(b) The Board or a Hearing Officer may waive a procedural rule contained in this Part in an individual case for good cause shown if application of the rule is not required by law.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV,

7466. A letter from the Executive Director, Office of Compliance, transmitting notice of adopted amendments to the Rules of Procedure, pursuant to 2 U.S.C. 1383(b); Public Law 104-1, Sec. 303(b) (109 Stat. 28), was taken from the Speaker's table, referred jointly to the Committees on House Administration and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. McCAUL: Committee on Homeland Security. H.R. 5843. A bill to establish a grant program at the Department of Homeland Security to promote cooperative research and development between the United States and Israel on cybersecurity; with an amendment (Rept. 114-826). Referred to the Committee of the Whole House on the state of the Union.

Mr. McCAUL: Committee on Homeland Security. H.R. 5877. A bill to amend the Homeland Security Act of 2002 and the United States-Israel Strategic Partnership Act of 2014 to promote cooperative homeland security research and antiterrorism programs relating to cybersecurity; and for other purposes; with an amendment (Rept. 114-827, Pt. 1). Referred to the Committee of the Whole House on the state of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XIII, the Committee on Foreign Affairs discharged from further consideration. H.R. 5877 referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. DENHAM (for himself, Mr. McCLINTOCK, Mr. COOK, Mr. ROYCE, Mr. CALVERT, Mr. ROHRBACHER, Mr. LAMALFA, Mr. KNIGHT, Mr. VALADAO, Mr. ISSA, Mr. ROUZER, and Mr. HUNTER):

H.R. 6316. A bill to stop the Secretary of the Army from recouping a bonus or similar benefit provided to members of the California Army National Guard between January 1, 2004, and December 31, 2010, unless the Secretary can prove that the member knowingly secured the bonus or similar benefit through fraud or misrepresentation or knowingly failed to perform the service requirement upon which the bonus or similar benefit was conditioned, and for other purposes; to the Committee on Armed Services.

By Mr. O'ROURKE (for himself, Mr. JONES, and Ms. JUDY CHU of California):

H.R. 6317. A bill to amend title 38, United States Code, to ensure that veterans with service-connected disabilities related to mental health are not barred, because of such disabilities, from readjustment counseling and related mental health services under such title, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CUMMINGS (for himself, Mr. CLAY, Ms. PLASKETT, Mr. CONNOLLY, Mr. TED LIEU of California, Mr. LYNCH, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. COOPER, Mr. DESAULNIER, Ms. NORTON, Ms. KELLY of Illinois, Mrs. LAWRENCE, Mrs. WATSON COLEMAN, Mrs. CAROLYN B. MALONEY of New York, Mr. WELCH, Ms. MICHELLE LUJAN GRISHAM of New Mexico, and Ms. DUCKWORTH):

H.R. 6318. A bill to amend title 5, United States Code, to provide an increase in premium pay for certain Federal employees performing protective services during any year in which a presidential election is held, and for other purposes; to the Committee on Oversight and Government Reform.

By Mr. GARAMENDI:

H.R. 6319. A bill to absolve debts resulting from the payment of certain recruitment and reenlistment bonuses to members of the California National Guard, and for other purposes; to the Committee on Armed Services.

By Mr. VEASEY:

H.R. 6320. A bill to include information regarding VA home loans in the Informed Consumer Choice Disclosure required to be provided to a prospective FHA borrower who is a veteran, to amend title 10, United States Code, to authorize the provision of a certificate of eligibility for VA home loans during the prepreparation counseling for members of the Armed Forces, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GRAYSON:

H.R. 6321. A bill to reauthorize the Integrated Coastal and Ocean Observation System Act of 2009 and for other purposes; to the Committee on Science, Space, and Technology, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HONDA (for himself, Mr. ROYCE, Mr. BERA, Ms. BORDALLO, Mr. BRADY of Pennsylvania, Mr. CALVERT, Mr. CARTER of Georgia, Mr. CASTRO of Texas, Mr. CHABOT, Ms. JUDY CHU of California, Mr. COSTA, Mr. DENT, Mr. DESAULNIER, Ms. ESHOO, Mr. FARR, Mr. FLEISCHMANN, Mr. GARAMENDI, Mr. AL GREEN of Texas, Mr. HANNA, Mr. HARPER, Mr. HECK of Nevada, Mr. HILL, Mr. LAMALFA, Ms. LEE, Mr. TED LIEU of California, Ms. LOFGREN, Mr. LOWENTHAL, Mrs. LUMMIS, Mr. MARINO, Ms. MATSUI, Mr. MCKINLEY, Ms. MENG, Mrs. NAPOLITANO, Mr. NUNES, Mr. ROHRBACHER, Mr. SALMON, Mr. SHUSTER, Mr. SMITH of Missouri, Mr. SWALWELL of California, Mr. TAKANO, Mr. THOMPSON of California, Mr. VALADAO, Mr. VARGAS, Mrs. MIMI WALTERS of California, Mr. YOUNG of Alaska, Mr. REICHERT, Ms. GABBARD, and Mr. FARENTHOLD):

H.R. 6322. A bill to award a Congressional Gold Medal to Norman Yoshio Mineta in recognition of his courageous, principled dedication to public service, civic engagement, and civil rights; to the Committee on Financial Services.

By Mr. LOWENTHAL (for himself, Mr. LAMALFA, Mr. HUFFMAN, Mr. GARAMENDI, Mr. MCCLINTOCK, Mr. THOMPSON of California, Ms. MATSUI, Mr. BERA, Mr. COOK, Mr. MCNERNEY, Mr. DENHAM, Mr. DESAULNIER, Ms. PELOSI, Ms. LEE, Ms. SPEIER, Mr. SWALWELL of California, Mr. COSTA, Mr. HONDA, Ms. ESHOO, Ms. LOFGREN, Mr. FARR, Mr. VALADAO, Mr. NUNES, Mrs. CAPPS, Mr. KNIGHT, Ms. BROWNLEY of California, Ms. JUDY CHU of California, Mr. SCHIFF, Mr. CÁRDENAS, Mr. SHERMAN, Mr. AGUILAR, Mrs. NAPOLITANO, Mr. TED LIEU of California, Mr. BECERRA, Mrs. TORRES, Mr. RUIZ, Ms. BASS, Ms. LINDA T. SÁNCHEZ of California, Mr. ROYCE, Ms. ROYBAL-ALLARD, Mr. TAKANO, Mr. CALVERT, Ms. MAXINE WATERS of California, Ms. HAHN, Mrs. MIMI WALTERS of California, Ms. LORETTA SANCHEZ of California, Mr. ROHRBACHER, Mr. ISSA, Mr. HUNTER, Mr. VARGAS, Mr. PETERS, and Mrs. DAVIS of California):

H.R. 6323. A bill to name the Department of Veterans Affairs health care system in Long Beach, California, the "Tibor Rubin VA Medical Center"; to the Committee on Veterans' Affairs.

By Mr. WITTMAN (for himself, Mr. GENE GREEN of Texas, Ms. GRANGER, Ms. ROYBAL-ALLARD, and Mr. MCGOVERN):

H. Con. Res. 172. Concurrent resolution expressing the sense of Congress that public health professionals should be commended for their dedication and continued service to the United States on "Public Health Thank You Day", November 21, 2016; to the Committee on Energy and Commerce.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. DENHAM:

H.R. 6316.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the United States Constitution, specifically Clause 1 (relating to providing for the common defense and general welfare of the United States) and Clause 18 (relating to the power to make all laws necessary and proper for carrying out the powers vested in Congress).

By Mr. O'ROURKE:

H.R. 6317.

Congress has the power to enact this legislation pursuant to the following:

Under Article I, Section 8 of the Constitution, Congress has the power "to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or any Department or Officer thereof".

By Mr. CUMMINGS:

H.R. 6318.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 18: To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States or in any Department of Officer thereof.

By Mr. GARAMENDI:

H.R. 6319.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the Constitution.

By Mr. VEASEY:

H.R. 6320.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the United States Constitution

By Mr. GRAYSON:

H.R. 6321.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, of the United States Constitution.

By Mr. HONDA:

H.R. 6322.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8

By Mr. LOWENTHAL:

H.R. 6323.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions, as follows:

H.R. 20: Ms. GRAHAM.
H.R. 379: Mr. ELLISON and Mr. SCHIFF.
H.R. 525: Ms. ESTY.
H.R. 546: Mr. LATTI, Mr. MICA, Mr. RENACCI, and Mr. LOBIONDO.
H.R. 711: Mr. BRADY of Pennsylvania.
H.R. 793: Mr. DOGGETT.
H.R. 799: Mrs. DINGELL.
H.R. 836: Mr. SANFORD.
H.R. 841: Mr. SMITH of Texas.
H.R. 923: Mr. BYRNE.
H.R. 973: Mr. SCOTT of Virginia.
H.R. 1188: Mr. FALLONE.
H.R. 1220: Mr. MOULTON and Mr. THORNBERRY.
H.R. 1247: Ms. KELLY of Illinois.
H.R. 1287: Mr. LABRADOR.
H.R. 1355: Mr. BISHOP of Georgia.
H.R. 1391: Mr. KILMER.
H.R. 1453: Mr. HARRIS.
H.R. 1559: Mr. SCOTT of Virginia.
H.R. 1571: Mr. TIPTON.
H.R. 1598: Ms. SLAUGHTER.
H.R. 1608: Ms. SEWELL of Alabama, Mr. KATKO, Mr. SERRANO, Mr. HILL, and Mr. MICA.
H.R. 1686: Ms. SEWELL of Alabama.
H.R. 1706: Ms. CASTOR of Florida.
H.R. 1814: Mr. VISCLOSKY.
H.R. 2216: Ms. ROYBAL-ALLARD.
H.R. 2224: Mr. MCNERNEY and Ms. JUDY CHU of California.
H.R. 2280: Mr. SMITH of Washington.
H.R. 2412: Ms. GRAHAM.
H.R. 2450: Mr. MOULTON, Ms. MENG, and Mrs. LOWEY.
H.R. 2493: Ms. ROYBAL-ALLARD, Mr. HIMES, Mr. BRADY of Pennsylvania, Mr. CASTRO of Texas, and Ms. ESTY.
H.R. 2500: Mr. RENACCI.
H.R. 2553: Ms. GRAHAM.
H.R. 2622: Mr. MASSIE and Mrs. COMSTOCK.
H.R. 2692: Ms. VELÁZQUEZ.
H.R. 2694: Ms. GRAHAM.
H.R. 2887: Mr. LANGEVIN.
H.R. 2963: Ms. GRAHAM.
H.R. 2972: Ms. GRAHAM, Mr. BUTTERFIELD, and Mr. MEEKS.
H.R. 3012: Mr. CARSON of Indiana.
H.R. 3119: Mr. LARSEN of Washington.
H.R. 3163: Ms. GRAHAM.
H.R. 3166: Ms. NORTON, Ms. CLARKE of New York, Mr. PETERSON, Mr. HONDA, and Ms. LEE.
H.R. 3238: Ms. VELÁZQUEZ.
H.R. 3339: Mr. COSTELLO of Pennsylvania.
H.R. 3520: Mrs. COMSTOCK, Mr. ISRAEL, Mr. SMITH of Washington, and Mr. MULLIN.
H.R. 3535: Ms. LOFGREN and Ms. STEFANIK.
H.R. 3656: Ms. GABBARD and Mr. ENGEL.
H.R. 3666: Mr. SEAN PATRICK MALONEY of New York, Mr. DELANEY, and Mrs. KIRKPATRICK.
H.R. 3706: Mr. HUIZENGA of Michigan, Mr. SEAN PATRICK MALONEY of New York, Mr. CARTWRIGHT, Mr. HONDA, Ms. SEWELL of Alabama, Mr. ROONEY of Florida, Mr. CRAMER, Ms. JACKSON LEE, Mr. GRAVES of Missouri, Mr. JEFFRIES, Mr. SIMPSON, Mr. AL GREEN of Texas, Ms. HAHN, Mr. ABRAHAM, Ms. GRAHAM, and Mr. THOMPSON of California.
H.R. 3861: Mr. BEYER and Mr. RUPPERSBERGER.
H.R. 3884: Mr. GOODLATTE.
H.R. 3885: Mr. GOODLATTE.
H.R. 4055: Mr. COHEN.
H.R. 4073: Ms. PINGREE.
H.R. 4144: Ms. LEE.
H.R. 4146: Mr. CICILLINE.