

its file on the matter and take no further action. The Commission shall notify the Director of the Office of Government Ethics, the Criminal Division of the Department of Justice, the complainant, and the former employee of its determination. Included in this notification will be a statement of reasons for the Commission's determination.

§ 7.26 Notice to former employee.

(a) *Notice requirement.* After a reasonable cause to believe finding the Ethics Officer shall provide the former Commission employee with adequate notice of an intention to institute a disciplinary proceeding and an opportunity to request a hearing.

(b) *Contents.* The notice required under this section shall contain:

(1) A statement of the allegations (and the basis thereof);

(2) Notification of the right to request a hearing;

(3) An explanation of the method by which a hearing may be requested as set forth at 11 CFR 7.26(c); and

(4) A copy of the post-employment regulations.

(c) *Request for hearing.* (1) A former employee who has received a notice under this section must notify the Commission with ten days after receipt of such notice by certified mail of his or her desire for a hearing. The request for a hearing should include the following information:

(i) The former employee's daytime telephone number;

(ii) The name, address, and telephone number of the former employee's counsel, if he or she intends to be represented by counsel; and

(iii) At least three dates and times at which the former employee will be available for a hearing.

(2) If a written request from the former employee is not received by the Ethics Officer within the stated time period, the right to a hearing shall be waived and the examiner (See 11 CFR 7.27) shall consider the evidence and make a decision.

§ 7.27 Hearing examiner designation and qualifications.

(a) *Designation.* If the Commission decides by an affirmative vote of four of

its members to hold a hearing, the Ethics Officer shall designate an individual to serve as examiner at the administrative disciplinary hearing. In the absence of a hearing, the Ethics Officer shall designate an examiner to consider the written evidence and make a decision. (See 11 CFR 7.26(b)(2)). The individual designated as examiner shall have the qualifications set forth in paragraph (b) of this section.

(b) *Qualifications.* (1) An examiner shall be impartial. No individual who has participated in any manner in the decision to initiate the proceeding may serve as an examiner in those proceedings. Therefore, the following persons may not be designated as an examiner:

(i) A Commissioner,

(ii) The Ethics Officer, or

(iii) Any Commission employee who has participated in the preliminary investigation of the complaint.

(2) The examiner shall be an attorney at the Assistant General Counsel level or higher.

§ 7.28 Hearing date.

(a) *Setting of date by examiner.* The examiner shall set the hearing at a reasonable time, date, and place.

(b) *Considerations.* Whenever practicable, the examiner shall choose a time and date from the list submitted by the former employee in the request for a hearing. In setting a hearing date, the examiner shall give due regard to the former employee's need for:

(1) Adequate time to prepare a defense properly, and

(2) An expeditious resolution of allegations that may be damaging to his or her reputation.

§ 7.29 Hearing rights of former employee.

A hearing conducted under these procedures shall afford the former employee the following rights:

(a) To represent oneself or to be represented by counsel,

(b) To introduce and examine witnesses and to submit physical evidence,

(c) To confront and cross-examine adverse witnesses,

(d) To present oral argument, and

(e) To request a transcript of the recording of proceedings. The requester