

General Accounting Office

§ 28.23

upon the other parties to the proceeding. An original and 3 copies of responses in opposition to written motions must be filed with the administrative judge, or if the action is before the full Board an original and 7 copies must be filed with the Board, and served simultaneously upon the other parties to the proceeding. Responses shall be filed within 20 days of service of the motion, unless the administrative judge requires a shorter response time. All written motions and responses thereto shall include a proposed order, where applicable. A certificate of service will be filed with all motions and responses thereto showing service by mail or personal delivery of the motion to the other parties. Additional responses to the motion or to the response to the motion by either party may be filed only with the approval of the administrative judge. Motions for extension of time will be granted only for good cause shown.

(c) *Oral argument.* The administrative judge may allow oral argument on the motion at his or her discretion.

(d) *General Counsel Settlement.* Where the General Counsel under §28.12(a) transmits a settlement which has been agreed to by the parties, the settlement agreement shall be the final disposition of the case.

§ 28.22 Administrative judges.

(a) *Exercise of authority.* Administrative judges may exercise authority as provided in paragraph (b) of this section upon their own initiative or upon the motion of a party, as appropriate.

(b) *Authority.* Administrative judges shall conduct fair and impartial hearings and take all necessary action to avoid delay in the disposition of all proceedings. They shall have all powers necessary to that end unless otherwise limited by law, including, but not limited to, the authority to:

- (1) Administer oaths and affirmations;
- (2) Issue subpoenas in accordance with §28.46;
- (3) Rule upon offers of proof and receive relevant evidence;
- (4) Rule upon discovery issues as appropriate under §§28.42 through 28.45;
- (5) Convene a hearing as appropriate, regulate the course of the hearing,

maintain decorum and exclude from the hearing any disruptive persons;

(6) Exclude from the hearing any witness, except the petitioner(s), whose later testimony might be colored by testimony of other witnesses, or any persons whose presence might have a chilling effect on a testifying witness;

(7) Rule on all motions, witness and exhibit lists and proposed findings;

(8) Require the filing of memoranda of law and the presentation of oral argument with respect to any question of law;

(9) Order the production of evidence and the appearance of witnesses whose testimony would be relevant, material and not repetitious;

(10) Impose sanctions as provided under §28.24 of this part;

(11) Hold prehearing conferences for the settlement and simplification of issues; and

(12) File recommended or initial decisions, as appropriate.

§ 28.23 Disqualification of administrative judges.

(a) In the event that an administrative judge considers himself or herself disqualified, he or she shall withdraw from the case, stating on the record the reasons therefor, and shall immediately notify the Board of the withdrawal.

(b) Any party may file a motion requesting the administrative judge to withdraw on the basis of personal bias or other disqualification and specifically setting forth the reasons for the request. This motion shall be filed as soon as the party has reason to believe there is a basis for disqualification.

(c) The administrative judge shall rule on the withdrawal motion. If the motion is denied, the party requesting withdrawal may take an appeal to the full Board. The notice of appeal, together with a supporting brief, shall be filed within 15 days of service of the denial of the motion. Upon receipt of the appeal, the Board will determine whether a response from the other party or parties is required, and if so, will fix by order the time for the filing of the response.