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dismissal of the complaint, in whole or in part.

§ 2423.11 Determination not to issue complaint; review of action by the Regional Director.

(a) *Opportunity to withdraw a charge.* If upon the completion of an investigation under § 2423.8, the Regional Director, on behalf of the General Counsel, determines that issuance of a complaint is not warranted because the charge has not been timely filed, that the charge fails to state an unfair labor practice, or for other appropriate reasons, the Regional Director may request the Charging Party to withdraw the charge.

(b) *Dismissal letter.* If the Charging Party does not withdraw the charge within a reasonable period of time, the Regional Director may, on behalf of the General Counsel, dismiss the charge and provide the parties with a written statement of the reasons for not issuing a complaint.

(c) *Appeal of a dismissal letter.* The Charging Party may obtain review of the Regional Director's decision not to issue a complaint by filing an appeal with the General Counsel within 25 days after service of the Regional Director's decision. A Charging Party shall serve a copy of the appeal on the Regional Director. The Office of the General Counsel shall serve notice on the Charged Party that an appeal has been filed.

(d) *Extension of time.* The Charging Party may file a request, in writing, for an extension of time to file an appeal, which shall be received by the General Counsel not later than 5 days before the date the appeal is due. A Charging Party shall serve a copy of the request for an extension of time on the Regional Director.

(e) *Grounds for granting an appeal.* The General Counsel may grant an appeal when the appeal establishes at least one of the following grounds:

(1) The Regional Director's decision did not consider material facts that would have resulted in issuance of complaint;

(2) The Regional Director's decision is based on a finding of a material fact that is clearly erroneous;

(3) The Regional Director's decision is based on an incorrect statement of the applicable rule of law;

(4) There is no Authority precedent on the legal issue in the case; or

(5) The manner in which the Region conducted the investigation has resulted in prejudicial error.

(f) *General Counsel action.* The General Counsel may deny the appeal of the Regional Director's refusal to issue a complaint, or may grant the appeal and remand the case to the Regional Director to take further action. The General Counsel's decision on the appeal states the grounds listed in paragraph (e) of this section for denying or granting the appeal, and is served on all the parties. Absent a timely motion for reconsideration, the decision of the General Counsel is final.

(g) *Reconsideration.* After the General Counsel issues a final decision, the Charging Party may move for reconsideration of the final decision if it can establish extraordinary circumstances in its moving papers. The motion shall be filed within 10 days after the date on which the General Counsel's final decision is postmarked. A motion for reconsideration shall state with particularity the extraordinary circumstances claimed and shall be supported by appropriate citations. The decision of the General Counsel on a motion for reconsideration is final.

§ 2423.12 Settlement of unfair labor practice charges after a Regional Director determination to issue a complaint but prior to issuance of a complaint.

(a) *Bilateral informal settlement agreement.* Prior to issuing a complaint, the Regional Director may afford the Charging Party and the Charged Party a reasonable period of time to enter into an informal settlement agreement to be approved by the Regional Director. When a Charged Party complies with the terms of an informal settlement agreement approved by the Regional Director, no further action is taken in the case. If the Charged Party fails to perform its obligations under the approved informal settlement agreement, the Regional Director may institute further proceedings.

(b) *Unilateral informal settlement agreement.* If the Charging Party elects not

to become a party to an informal settlement agreement which the Regional Director concludes effectuates the policies of the Federal Service Labor-Management Relations Statute, the agreement may be between the Charged Party and the Regional Director. The Regional Director, on behalf of the General Counsel, shall issue a letter stating the grounds for approving the settlement agreement and declining to issue a complaint. The Charging Party may obtain review of the Regional Director's action by filing an appeal with the General Counsel in accordance with § 2423.11(c) and (d). The General Counsel shall take action on the appeal as set forth in § 2423.11(e)–(g).

§§ 2423.13–2423.19 [Reserved]

Subpart B—Post Complaint, Prehearing Procedures

§ 2423.20 Issuance and contents of the complaint; answer to the complaint; amendments; role of Office of Administrative Law Judges.

(a) *Complaint.* Whenever formal proceedings are deemed necessary, the Regional Director shall file and serve, in accordance with § 2429.12 of this subchapter, a complaint with the Office of Administrative Law Judges. The decision to issue a complaint shall not be subject to review. Any complaint may be withdrawn by the Regional Director prior to the hearing. The complaint shall set forth:

(1) Notice of the charge;

(2) The basis for jurisdiction;

(3) The facts alleged to constitute an unfair labor practice;

(4) The particular sections of 5 U.S.C., chapter 71 and the rules and regulations involved;

(5) Notice of the date, time, and place that a hearing will take place before an Administrative Law Judge; and

(6) A brief statement explaining the nature of the hearing.

(b) *Answer.* Within 20 days after the date of service of the complaint, but in any event, prior to the beginning of the hearing, the Respondent shall file and serve, in accordance with part 2429 of this subchapter, an answer with the Office of Administrative Law Judges. The answer shall admit, deny, or explain each allegation of the complaint. If the Respondent has no knowledge of an allegation or insufficient information as to its truthfulness, the answer shall so state. Absent a showing of good cause to the contrary, failure to file an answer or respond to any allegation shall constitute an admission. Motions to extend the filing deadline shall be filed in accordance with § 2423.21.

(c) *Amendments.* The Regional Director may amend the complaint at any time before the answer is filed. The Respondent then has 20 days from the date of service of the amended complaint to file an answer with the Office of Administrative Law Judges. Prior to the beginning of the hearing, the answer may be amended by the Respondent within 20 days after the answer is filed. Thereafter, any requests to amend the complaint or answer must be made by motion to the Office of Administrative Law Judges.

(d) *Office of Administrative Law Judges.* Pleadings, motions, conferences, hearings, and other matters throughout as specified in subparts B, C, and D of this part shall be administered by the Office of Administrative Law Judges, as appropriate. The Chief Administrative Law Judge, or any Administrative Law Judge designated by the Chief Administrative Law Judge, shall administer any matters properly submitted to the Office of Administrative Law Judges. Throughout subparts B, C, and D of this part, ''Administrative Law Judge'' or ''Judge'' refers to the Chief Administrative Law Judge or his or her designee.

§ 2423.21 Motions procedure.

(a) *General requirements.* All motions, except those made during a prehearing conference or hearing, shall be in writing. Motions for an extension of time, postponement of a hearing, or any other procedural ruling shall include a statement of the position of the other parties on the motion. All written motions and responses in subparts B, C, or D of this part shall satisfy the filing and service requirements of part 2429 of this subchapter.

(b) *Motions made to the Administrative Law Judge.* Prehearing motions and motions made at the hearing shall be filed with the Administrative Law