

§ 26.15

(c) A general denial shall not be permitted. Allegations are admitted when not specifically denied in respondent's answer.

§ 26.15 Amendments and supplemental pleadings.

(a) *Amendments.* (1) By right: The Department may amend its complaint without leave at any time within 30 days of the date the complaint is filed or at any time before respondent's responsive pleading is filed, whichever is later. Respondent may amend its answer without leave at any time within 30 days of filing of its answer. A party shall plead in response to an amended pleading within 15 days of receipt of the amended pleading.

(2) By leave: Upon conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, the hearing officer may allow amendments to pleadings upon motion of any party.

(3) Conformance to evidence: When issues not raised by the pleadings, but reasonably within the scope of the proceeding initiated by the complaint, are tried by express or implied consent to the parties, they shall be treated in all respects as if they had been raised in the pleadings, and amendments of the pleadings necessary to make them conform to the evidence shall be allowed at any time.

(b) *Supplemental pleadings.* The hearing officer may, upon reasonable notice, permit service of a supplemental pleading concerning transactions, occurrences, or events that have happened or been discovered since the date of prior pleadings.

§ 26.16 Motions.

(a) *Motions.* Requests for rulings or actions to be taken by the hearing officer should be made, wherever appropriate, in the form of a motion. All motions from the commencement of the action until the issuance of a decision shall be addressed to the hearing officer, and shall be served upon all parties to the proceeding.

(b) *Content.* All written motions shall state the particular order, ruling, or action desired and the grounds for granting the motion. The parties may

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submit a proposed order with any motion.

(c) *Responses to motions.* Within 10 days after receipt of any written motion, or within any other period as may be designated by the hearing officer, the opposing party shall respond to the motion and set forth any objections to the motion. Failure to file a timely response to the motion may constitute a party's consent to the granting of the motion. The moving party shall have no right to reply, except as permitted by the hearing officer.

(d) *Motions for extensions of time.* Either party may file a motion for extension. At the discretion of the hearing officer, a motion for an extension of time may be granted for good cause at any time, notwithstanding an objection or any reply to the motion consistent with the provisions of § 26.2(c)(5) and (7). The hearing officer may waive the requirements of this section as to motions for extensions of time.

(e) *Oral argument.* The hearing officer may order oral argument on any motion.

(f) *Motions for summary judgment.* (1) A party claiming relief or a party against whom relief is sought may timely move, with or without supporting affidavits, for summary judgment on all or part of the claim.

(2) Objections in the consideration of summary judgment motions or answers thereto based upon a failure to strictly comply with the provisions of Rule 56 of the Federal Rules of Civil Procedure may, at the discretion of the hearing officer, be overruled.

(g) *Motions for dismissal.* When a motion to dismiss the proceeding is granted, the hearing officer shall issue a determination and order in accordance with the provisions of § 26.25.

DISCOVERY

§ 26.17 Prehearing conference.

(a) *Prehearing conference.* The hearing officer may, sua sponte or at the request of any party, direct counsel for all parties to confer with the hearing officer before the hearing for the purpose of considering:

(1) Simplification and clarification of the issues;