

## § 957.9

said notice to be personally served on the proposed Respondent by an authorized representative of the Vice President. In the case of personal service the person making service shall secure from the proposed Respondent or his or her agent, a written acknowledgment of receipt of said notice, showing the date and time of such receipt. Said acknowledgment (or the return receipt where service is effectuated by mail) shall be made a part of the record by the Vice President initiating the debarment proceeding. The date of delivery, as shown by the acknowledgment of personal service or the return receipt, shall be the date of service.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]

### **§ 957.9 Respondent's failure to appear at the hearing.**

If the Respondent shall fail to appear at the hearing, the Judicial Officer shall receive the Vice President's evidence and render a Postal Service Decision without requirement of further notice to the Respondent.

[36 FR 11574, June 16, 1971, as amended at 37 FR 23422, Nov. 3, 1972; 63 FR 66051, Dec. 1, 1998]

### **§ 957.10 Respondent already debarred by another Government agency.**

(a) When a Vice President proposes to debar a firm or individual already debarred by another Government agency for a term concurrent with such debarment, the debarment proceedings before the Postal Service may be based entirely upon the record of facts obtained from such other agency or upon such facts and additional other facts. In such cases the facts obtained from the other agency shall be considered as established, but the party to be debarred shall have opportunity to present information to the Judicial Officer and to explain why the debarment by the Postal Service should not be imposed.

(b) Where the Vice President initiating the debarment proceeding relies:

(1) Upon the provisions of paragraph (a) of this section, or

(2) Upon all or part of the record of the proposed Respondent's previous debarment by another Government agency, in initiating such proceeding, the

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notice of proposed debarment shall contain a statement so stating in sufficient detail to apprise the Respondent of the extent of such reliance.

(c) The Vice President's reliance upon provisions of paragraph (a) of this section, stated in conformity with the directions set forth in paragraph (b) of this section does not deprive the Respondent of the right to request the Judicial Officer to grant a hearing pursuant to these rules, nor the Judicial Officer the full discretion to grant or deny such request.

[36 FR 11574, June 16, 1971, as amended at 63 FR 66051, Dec. 1, 1998]

### **§ 957.11 Amendment of pleadings.**

(a) By consent of the parties a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing: *Provided*, That the proposed amendment is reasonably within the scope of the proceeding.

(b) When issues not raised by the pleadings but reasonably within the scope of the proceedings initiated by the notice of proposed debarment are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to make the pleadings conform to the evidence and to raise such issues shall be allowed at any time upon the motion of any party.

(c) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues framed by the pleadings, but fails to satisfy the Judicial Officer that an amendment of the pleadings would prejudice him on the merits, the Judicial Officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(d) The Judicial Officer may, upon reasonable notice and upon such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have transpired since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.