support a request for a permanent stay in the exercise of a high degree of diligence and, in no event, shall any single temporary stay exceed 60 days except as provided under paragraph (c) of this section for the purpose of allowing time to render a decision.

(e) In determining whether a permanent stay under paragraph (b)(2) of this section should be issued, the Board member, or Board en banc, shall:

(1) Assess the evidence adduced by each side as to whether the proposed personnel action arises out of an alleged prohibited personnel practice as specified by the Board’s General Counsel;

(2) Assess the nature and gravity of any harm that could inure to each side if the request for permanent stay is either granted or denied; and

(3) Balance the assessments conducted under paragraphs (e)(1) and (2) of this section.

(f) Any order issued by a member of the Board granting or denying, in whole or in part, a stay request under paragraph (b) shall be subject to review by the Board en banc on the filing and service of a notice of appeal, accompanied by a supporting brief, within 10 days of the service of that order. Responsive briefs shall be filed and served within 10 days of service of the appeal.

(g) A motion to vacate a stay order may be filed at any time. A stay order issued by the Board en banc may not be vacated by a single Board member.

Subpart I—Ex Parte Communications

§ 28.145 Policy.

It is the policy of the Board to regulate strictly ex parte communications between members of the Board and their decision-making personnel and any interested party to a proceeding before the Board.

§ 28.146 Explanation and definitions.

(a) Ex parte communications are oral or written communications between decision-making personnel of the Board and an interested party to a proceeding without providing the other parties to the proceeding a chance to participate. The only ex parte communications that are prohibited are those that involve the merits of the case or those that violate other rules requiring submissions to be in writing. Accordingly, interested parties may make inquiries about such matters as the status of a case, when it will be heard, and the method for transmitting evidence to the Board. Such communications should be directed to the Clerk of the