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§ 708.19 How can a party obtain review by the Secretary of Energy of a decision on appeal of a dismissal?

(a) By the 30th day after receiving a decision on an appeal under § 708.18 from the OHA Director, any party may file a petition for Secretarial review of a dismissal with the Office of Hearings and Appeals.

(b) By the 15th day after filing the petition for Secretarial review, a party must file a statement setting forth the arguments in support of its position. A copy of the statement must be served on the other parties, who may file a response by the 20th day after receipt of the statement. Any response must also be served on the other parties.

(c) All submissions permitted under this section must be filed with the Office of Hearings and Appeals.

(d) After a petition for Secretarial review is filed, the Secretary (or his or her delegee) will issue the final agency decision on jurisdiction over the complaint. The Secretary will reverse or revise an appeal decision by the OHA Director only under extraordinary circumstances. In the event he or she determines that a revision in the appeal decision is appropriate, the Secretary will direct the OHA Director to issue an order either upholding the dismissal by the Head of Field Element or EC Director or ordering further processing of your complaint.

§ 708.20 Will DOE encourage the parties to resolve the complaint informally?

(a) Yes. The Head of Field Element or EC Director (as applicable) may recommend that the parties attempt to resolve the complaint informally, for example, through mediation.

(b) The period for attempting informal resolution of the complaint may not exceed 30 days from the date you filed your complaint, unless the parties agree to extend the time.

(c) The 30-day period permitted for informal resolution of the complaint stops running when a request to dismiss your complaint on jurisdictional grounds is filed with the Head of Field Element or EC Director, and begins to run again on the date the OHA Director returns the complaint to the Head of Field Element or EC Director for further processing.

(d) If the parties resolve the complaint informally, the Head of Field Element or EC Director (as applicable) must be given a copy of the settlement agreement or a written statement from you withdrawing the complaint.

Subpart C—Investigation, Hearing and Decision Process

§ 708.21 What are the employee's options if the complaint cannot be resolved informally?

(a) If the attempt at informal resolution is not successful, the Head of Field Element or EC Director (as applicable) will notify you in writing that you have the following options:

(1) Request that your complaint be referred to the Office of Hearings and Appeals for a hearing without an investigation; or

(2) Request that your complaint be referred to the Office of Hearings and Appeals for an investigation followed by a hearing.

(b) You must notify the Head of Field Element or EC Director (as applicable), in writing, by the 20th day after receiving notice of your options, whether you request referral of your complaint to the Office of Hearings and Appeals for a hearing without an investigation, or an investigation followed by a hearing.

(c) If the Head of Field Element or EC Director does not receive your response to the notice of options by the 20th day after your receipt of that notice, DOE will consider your complaint withdrawn.

(d) If you timely request referral to the Office of Hearings and Appeals, the Head of Field Element or EC Director (as applicable) will forward your complaint to the OHA Director by the 5th day after receipt of your request.

(e) The Head of the Field Element or EC Director (as applicable) will notify all parties that the complaint has been referred to the Office of Hearings and Appeals, and state whether you have requested a hearing without an investigation or requested an investigation followed by a hearing.