

Federal Labor Relations Authority

§ 2473.1

(4) Designate the date on which posthearing briefs, if any, shall be submitted; and

(5) Determine all procedural matters concerning the hearing, including the length of sessions, conduct of persons in attendance, recesses, continuances, and adjournments; and take any other action which, in the judgment of the designated representative, will promote the purpose and objectives of the hearing.

(b) A prehearing conference may be conducted by the designated representative of the Panel to:

(1) Inform the parties of the purpose of the hearing and the procedures under which it will take place;

(2) Explore the possibilities of obtaining stipulations of fact;

(3) Clarify the positions of the parties with respect to the issues to be heard; and

(4) Discuss any other relevant matters which will assist the parties in the resolution of the dispute.

[48 FR 19695, May 2, 1983. Redesignated at 61 FR 41295, Aug. 8, 1996]

§ 2472.10 Reports.

When a report is issued after a hearing conducted pursuant to § 2472.8 and 2472.9, it normally shall be in writing and shall be submitted to the Panel, with a copy to each party, within a period normally not to exceed 30 calendar days after the close of the hearing and receipt of briefs, if any.

[61 FR 41296, Aug. 8, 1996]

§ 2472.11 Final action by the Panel.

(a) After due consideration of the parties' positions, evidence, and arguments, including any report submitted in accordance with § 2472.10, the Panel shall take final action in favor of the agency's determination if:

(1) The finding on which a determination under 5 U.S.C. 6131(c)(2) not to establish a flexible or compressed work schedule is based is supported by evidence that the schedule is likely to cause an adverse agency impact; or

(2) The finding on which a determination under 5 U.S.C. 6131(c)(3) to terminate a flexible or compressed work schedule is based is supported by evi-

dence that the schedule has caused an adverse agency impact.

(b) If the finding on which an agency determination under 5 U.S.C. 6131(c)(2) or (c)(3) is based is not supported by evidence that the schedule is likely to cause or has caused an adverse agency impact, the Panel shall take whatever final action is appropriate.

(c) In preparation for taking such final action, the Panel may hold hearings, administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas, or it may appoint one or more individuals to exercise such authority on its behalf. Such action may be taken without regard to procedures previously authorized by the Panel.

(d) Notice of any final action of the Panel shall be promptly served upon the parties.

[48 FR 19695, May 2, 1983. Redesignated and amended at 61 FR 41295, 41296, Aug. 8, 1996]

PART 2473—SUBPOENAS

AUTHORITY: 5 U.S.C. 7119, 7134.

§ 2473.1 Subpenas.

(a) Any member of the Panel, the Executive Director, or other person designated by the Panel, may issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence. However, no subpoena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management.

(b) Where the parties are in agreement that the appearance of witnesses or the production of documents is necessary, and such witnesses agree to appear, no such subpoena need be sought.

(c) A request for a subpoena by any person, as defined in 5 U.S.C. 7103(a)(1), shall be in writing and filed with the Executive Director, not less than fifteen (15) days prior to the opening of a hearing, or with the appropriate presiding official(s) during the hearing.

(d) All requests shall name and identify the witnesses or documents sought, and state the reasons therefor. The Panel, Executive Director, or any

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other person designated by the Panel, as appropriate, shall grant the request upon the determination that the testimony or documents appear to be necessary to the matters under consideration and the request describes with sufficient particularity the documents sought. Service of an approved subpoena is the responsibility of the party on whose behalf the subpoena was issued. The subpoena shall show on its face the name and address of the party on whose behalf the subpoena was issued.

(e) Any person served with a subpoena who does not intend to comply shall within five (5) days after the date of service of the subpoena upon such person, petition in writing to revoke the subpoena. A copy of any petition to revoke a subpoena shall be served on the party on whose behalf the subpoena was issued. Such petition to revoke, if made prior to the hearing, and a written statement of service, shall be filed with the Executive Director. A petition to revoke a subpoena filed during the hearing, and a written statement of service shall be filed with the appropriate presiding official(s). The Executive Director, or the appropriate presiding official(s) will, as a matter of course, cause a copy of the petition to revoke to be served on the party on whose behalf the subpoena was issued, but shall not be deemed to assume responsibility for such service. The Panel, Executive Director, or any other person designated by the Panel, as appropriate, shall revoke the subpoena if the evidence the production of which is required does not relate to any matter under consideration in the proceedings, or the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. The Panel, Executive Director, or any other person designated by the Panel, as appropriate, shall make a simple statement of procedural or other ground for the ruling on the petition to revoke. The petition to revoke, any answer thereto, and any ruling thereon shall not become part of the official record except upon the request of the party aggrieved by the ruling.

(f) Upon the failure of any person to comply with a subpoena issued, and

upon the request of the party on whose behalf the subpoena was issued, the Solicitor of the FLRA shall, on behalf of such party, institute proceedings in the appropriate district court for the enforcement thereof, unless to do so would be inconsistent with law and the policies of the Federal Service Labor-Management Relations Statute. The Solicitor of the FLRA shall not be deemed thereby to have assumed responsibility for the effective prosecution of the same before the court thereafter.

(g) All papers submitted to the Executive Director under this section shall be filed in duplicate, along with a statement of service showing that a copy has been served on the other party to the dispute.

(h)(1) Witnesses (whether appearing voluntarily or under a subpoena) shall be paid the fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States: Provided, that any witness who is employed by the Federal Government shall not be entitled to receive witness fees in addition to compensation received in conjunction with official time granted for such participation, including necessary travel time, as occurs during the employee's regular work hours and when the employee would otherwise be in a work or paid leave status.

(2) Witness fees and mileage allowances shall be paid by the party at whose instance the witnesses appear except when the witness receives compensation in conjunction with official time as described in paragraph (h)(1) of this section.

[61 FR 41296, Aug. 8, 1996]

APPENDIX A TO 5 CFR CHAPTER XIV— CURRENT ADDRESSES AND GEO- GRAPHIC JURISDICTIONS

(a) The Office address, telephone number, and fax number of the Authority are: Suite 200, 1400 K Street, NW., Washington, DC 20424-0001; telephone: (202) 218-7740; fax: (202) 482-6657.

(b) The Office address, telephone number, and fax number of the General Counsel are: Suite 200, 1400 K Street, NW., Washington, DC 20424; telephone: (202) 218-7910; fax: (202) 482-6608.

(c) The Office address, telephone number, and fax number of the Chief Administrative