

### § 134.217

granted, the Judge will also stay the proceedings before OHA, in whole or in part, as he or she deems appropriate, pending the outcome of the alternative dispute resolution procedures.

(b) A Judge may offer alternative dispute resolution procedures to the parties at any time during the proceeding.

(c) The AA/OHA or a Judge may designate a Judge or attorney assigned to OHA to serve as a neutral in alternative dispute resolution procedures. If OHA provides the neutral and the mediation fails to resolve all issues in the case, the OHA-provided neutral will not be involved in the adjudication.

[61 FR 2683, Jan. 29, 1996, as amended at 75 FR 47441, Aug. 6, 2010]

### § 134.217 Settlement.

At any time during the pendency of a case, the parties may submit a joint motion to dismiss the appeal if they have settled the case, and may file with such motion a copy of the settlement agreement. If the Judge has express authority, under statute, SBA regulation or SBA standard operating procedures, to review the contents of a settlement agreement for legality, the Judge may order the parties to file a copy of the settlement agreement. Otherwise, upon the filing of a joint motion to dismiss, the Judge will issue an order dismissing the case. Settlement negotiations, and rejected settlement agreements, are not admissible into evidence.

[61 FR 2683, Jan. 29, 1996, as amended at 67 FR 47249, July 18, 2002]

### § 134.218 Judges.

(a) *Assignment.* The AA/OHA will assign all cases subject to the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, to an Administrative Law Judge. The AA/OHA will assign all other cases before OHA to either an Administrative Law Judge or an Administrative Judge, or, if the AA/OHA is a duly licensed attorney, to himself or herself.

(b) *Authority.* Except as otherwise limited by this part, or by statute or other regulation, a Judge has the authority to take all appropriate action to ensure the efficient, prompt, and fair determination of a case, including, but not limited to, the authority to ad-

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minister oaths and affirmations and to subpoena and examine witnesses.

(c) *Recusal.* Upon the motion of a party, or upon the Judge's own initiative, a Judge will promptly recuse himself or herself from further participation in a case whenever disqualification is appropriate due to conflict of interest, bias, or some other significant reason. A denial of a motion for recusal may be appealed within 5 days to the AA/OHA, or to the Administrative Law Judge if the AA/OHA is the Judge, but that appeal will not stay proceedings in the case.

[61 FR 2683, Jan. 29, 1996, as amended at 75 FR 47441, Aug. 6, 2010]

### § 134.219 Sanctions.

(a) A Judge may impose appropriate sanctions, except for fees, costs, or monetary penalties, which he or she deems necessary to serve the ends of justice, if a party or its attorney:

- (1) Fails to comply with an order of the Judge;
- (2) Fails to comply with the rules set forth in this part;
- (3) Acts in bad faith or for purposes of delay or harassment;
- (4) Submits false statements knowingly, recklessly, or with deliberate disregard for the truth; or
- (5) Otherwise acts in an unethical or disruptive manner.

(b) Appropriate sanctions may include:

- (1) Ordering a pleading or evidentiary filing to be struck from the record;
- (2) Dismissing an appeal with prejudice;
- (3) Suspending counsel from practice before OHA;
- (4) Filing a complaint with the applicable State bar; and
- (5) Taking any other action that is appropriate to further the administration of justice.

[75 FR 47441, Aug. 6, 2010]

### § 134.220 Prohibition against *ex parte* communications.

No person shall consult or communicate with a Judge concerning any fact, question of law, or SBA policy relevant to the merits of a case before that Judge except on prior notice to all parties, and with the opportunity for