

## Office of the Secretary of Transportation

## § 98.7

(d) *Secretary* means the Secretary of Transportation.

### § 98.3 Reports of apparent violations.

Any person may report, to the Assistant General Counsel for Environmental, Civil Rights and General Law, an apparent violation by a former employee of the Department of 18 U.S.C. 207.

### § 98.4 Initiation of administrative disciplinary proceeding.

(a) Whenever the Assistant General Counsel for Environmental, Civil Rights and General Law has determined that there is reasonable cause to believe that a former Departmental employee has violated 18 U.S.C. 207, the Assistant General Counsel for Environmental, Civil Rights, and General Law:

(1) Shall expeditiously provide that information to the Director, Office of Government Ethics, and to the Criminal Division, Department of Justice; and

(2) After coordinating any proceeding with the Criminal Division, Department of Justice, to avoid prejudicing criminal proceedings, may institute an administrative disciplinary proceeding in accordance with this part.

(b) The person who shall provide for the prosecution of the alleged violation in an administrative disciplinary proceeding under this part (hereinafter referred to as the "Departmental counsel") is:

(1) In a case where the last Departmental employer of the alleged violator is the Office of the Secretary, the Assistant General Counsel for Environmental, Civil Rights and General Law, or his or her designee; or

(2) In a case where the last Departmental employer of the alleged violator is an administration, the Chief Counsel, or his or her designee, for that administration.

(c) Before beginning an administrative disciplinary proceeding, the Departmental counsel shall provide the former employee with actual notice of the institution of a proceeding. This notice must include:

(1) A statement of allegations and the basis for those allegations, which statement must be sufficiently detailed

to enable the former employee to prepare an adequate defense;

(2) Notification of the right to a hearing;

(3) An explanation of the method by which a hearing may be requested; and

(4) A statement of the possible sanctions that may be imposed if a violation by the former employee is found to have occurred.

### § 98.5 Former employee response to notice.

(a) Within 30 working days after service of a notice pursuant to § 98.4(c), the former employee may submit to the Departmental counsel in writing:

(1) A request for a hearing, which, if not all issues are disputed by the former employee, should specify those issues that are;

(2) Any evidence and arguments in lieu of a hearing or

(3) A statement that the allegations are true and set forth any factors that should be considered in determining the administrative sanction to be imposed.

(b) The Department shall deem the right to a hearing to have been waived by the former employee if the former employee does not submit a request under paragraph (b)(1) of this section within 30 working days after service of notice pursuant to § 98.4(c).

### § 98.6 Examiner.

(a) The presiding official at a hearing held under this part and the deciding official under § 98.9 of this part (hereinafter referred to as the "examiner") shall be designated by the Secretary.

(b) The examiner shall not have been involved in any of the events specified in the allegations, shall not have been involved in the investigation of the allegations and the institution of the proceedings under this part, and shall not be or have been employed by the administration, or the Office of the Secretary if applicable, in which the alleged violation occurred.

### § 98.7 Hearing.

(a) The examiner shall, within 30 working days of a request for a hearing under § 98.5(b), schedule the hearing for a reasonable time, date, and place. The examiner shall grant any delays or