

reasonable grounds to proceed on behalf of the charging party.

New subsection (i) is added to explain the PAB Office of General Counsel policy on maintaining confidentiality of documents.

*Section 28.13 (Special procedure for Workforce Restructuring Action):* This provision is revised to reflect the agency's change in terminology, replacing "Reduction in Force" terminology with "Workforce Restructuring Action" and "Civil Rights Office" with "Office of Opportunity and Inclusiveness." In addition, the provision is revised to clarify that the streamlined procedure, where applicable, may also extend to individuals raising civil rights claims.

*Section 28.17 (Internal petitions of Board employees):* Subsection (a)(2) is revised to designate the Board's Executive Director or General Counsel as alternate contact persons for Board employees who believe they have charges involving employment discrimination. The change also reflects that the employee may seek procedural advice from either the Board's Solicitor or its Office of General Counsel. Subsection (a)(3) is revised to specify that the PAB General Counsel arranges for processing of an internal complaint through the Board's Executive Director. The language of subsections (b)(1) and (2) is streamlined. In addition, reference to section 28.86(c) is deleted from subsection (c)(3) because of the Board's decision to delete 28.86.

*Section 28.18 (Filing a petition with the Board):* In addition to conforming changes of terminology, the revision clarifies the methods for filing and formalizes the 4 p.m. deadline that is Board operating practice.

*Section 28.19 (Content of response by charged party):* Subsection (a)(1) is revised to require that the pleading filed in response to a Petition clearly identify the specific allegations to which each responsive answer refers. This provision addresses the difficulty in understanding responses that do not contain specific references to the Petition, particularly where the response attempts to divide an answer. In addition, the section is reorganized to provide separately in new subsection (a)(2) that any other defenses shall be contained in the response. Previous subsection (a)(2) becomes (a)(3).

*Section 28.21 (Amendments to petitions and motions practice):*

Previous § 28.21(d) (General Counsel settlements) has been moved and redesignated as § 28.12(i).

Paragraph (b) is reorganized and further divided to more clearly delineate the specific requirements of motions

practice before the Board. Section 28.21(b)(1), which includes filing requirements for motions practice before a single administrative judge, is revised to make clear that filings are made with the Clerk of the Board rather than the administrative judge. New § 28.22(b)(2) specifies the number of copies required when a matter is before the full Board. Both subsections (b)(1) and (b)(2) specify that responses must be filed in the same number as required for motions and within 20 days of service of the motion. New subsection (b)(3) requires that a motion for extension of time or other procedural motion must include a statement concerning the other party's position on the motion. New subsection (b)(4) states the Board operating procedure that motions or related submissions must be filed with the Board by 4 p.m. Subsection (b)(5) states the requirement that written motions and responses include a proposed order. Subsection (b)(6) states the governing standard that extensions of time will be granted for good cause only. Subsection (b)(7) provides that the administrative judge has discretion to allow oral argument on a motion.

New subsection (c) specifies rules and standards applicable to motions for summary judgment. The Board believes that written, specific procedures on such motions will provide clarification to parties about the method for seeking, the appropriateness of, and the standard applicable to a motion for summary judgment.

*Section 28.24 (Sanctions):* The introductory text of subsection (a) and subsection (a)(2) are revised to expressly include failure to comply with a subpoena as cause for imposing sanctions.

*Section 28.42 (Discovery procedures and protective orders):* Subsection (d)(5) is revised to set the discovery period to begin with service of notice of filing rather than with filing of a Petition. This change is necessary because of the unpredictable time accounted for when a Petition is filed by mail.

*Section 28.46 (Motion for subpoena):* Subsection (d), providing a procedure for obtaining a subpoena where the presiding administrative judge is not a Board member, is deleted.

*Section 28.57 (Public hearings):* Subsection (b) is revised to substitute "management representative" for "technical representative."

*Section 28.61 (Burden and degree of proof):* The definition of "harmful error" is tightened for clarity.

*Sections 28.62 (Decision on the record) and 28.63 (Closing the record):* Previous § 28.62 is redesignated § 28.63 to allow for a new § 28.62 specifying

procedures to follow when the parties agree to forego a hearing and have the case decided on the record submitted. This streamlined procedure will save time and financial resources where appropriate.

*Section 28.66 (Admissibility):* This section is revised to expressly incorporate privilege as a grounds for exclusion of evidence. In addition, the revision clarifies that formal rules of evidence are not binding but may provide guidance in Board cases.

*Section 28.86 (Board procedures; recommended decisions):* This section is repealed and reserved. The Board believes the provision on initial decisions, 28.87, including the standard for full Board review, adequately addresses the rare instance of decisionmaking by an administrative judge who is not a Board member. In addition, providing a unified procedure will simplify the Board process for parties involved in adjudication.

*Section 28.87 (Board procedures; initial decisions):* Subsection (a) is revised to include reference to a decision by an administrative judge who is not a member of the Board. Subsection (g) is revised to clarify the standard applicable when a case is heard by the full Board. In particular, the Board's deference to demeanor-based credibility determinations is made explicit.

*Section 28.88 (Board procedures; enforcement):* The provision on compliance is revised for clarity and streamlining of requirements. The revision includes specific reference to those settlement agreements over which the Board retains jurisdiction.

*Section 28.89 (Attorney's fees and costs):* Reference to filing fee requests with the administrative judge who heard the case is deleted, as this provision did not encompass a request filed after an administrative judge has left the Board.

*Section 28.97 (Class actions in EEO cases):* This section is revised to clarify the different procedures for class actions in EEO cases. The revision explains that while there is no right to a de novo Board hearing in these cases, either party may request an evidentiary hearing at the Board or the Board may on its own determine that such a hearing is needed.

*Section 28.101 (Termination of Board proceedings when suit is filed in Federal District Court):* This section is revised to clarify when a proceeding before the Board will be terminated because of a suit pending in Federal District Court on the same cause of action.

*Section 28.112 (Who may file petitions):* Subsection (a)(3) is revised to