

within the Board's jurisdiction. For the purpose of determining whether it is appropriate to treat a petition as a class action, the administrative judge will be guided, but not controlled, by the applicable provisions of the Federal Rules of Civil Procedure. See § 28.97 for EEO class actions.

17. Revise § 28.19(a) to read as follows:

§ 28.19 Content of response by charged party.

(a) Within 20 days after service of a copy of a petition, the GAO or other charged party shall file a response containing at least the following:

(1) A statement of the position of the charged party on each allegation set forth therein, including admissions, denials or explanations. If the petition contains numbered paragraphs, the responses should reference the paragraph numbers. If the petition does not contain numbered paragraphs, the responses should quote or otherwise clearly identify the specific allegations of the petition.

(2) Any other defenses to the petition.

(3) Designation of, and signature by, the representative authorized to act for the charged party in the matter.

* * * * *

18. Amend § 28.20 by revising the first and last sentences of paragraph (b)(1) and the first two sentences of paragraph (b)(2) to read as follows:

§ 28.20 Number of pleadings, service and response.

* * * * *

(b) *Service.* (1) The Board will serve copies of a petition upon the parties to the proceeding by mail and/or by facsimile. * * * The Board will not serve copies of any pleadings, motions, or other submissions by the parties after the initial petition.

(2) The parties shall serve on each other one copy of all pleadings other than the initial petition. Service shall be made by mailing, by facsimile or by delivering personally a copy of the pleading to each party on the service list previously provided by the Board.

* * *

* * * * *

19. Revise § 28.21 to read as follows:

§ 28.21 Amendments to petitions and motions practice.

(a) *Amendments to petitions.* The Board, at its discretion, may allow amendments to a petition as long as all persons who are parties to the proceeding have adequate notice to prepare for the new allegations and if to do so would not prejudice the rights of the other parties or unduly delay the proceedings.

(b) *Motions practice.* (1) When an action is before an administrative judge, motions of the parties shall be filed with the Clerk of the Board and shall be in writing except for oral motions made during the hearing. An original and 3 copies of written motions shall be filed with the Clerk of the Board. An original and 3 copies of responses in opposition to written motions must be filed with the Clerk of the Board within 20 days of service of the motion unless the administrative judge requires a shorter time.

(2) When an action is before the full Board, an original and 7 copies of any motion shall be filed with the Clerk of the Board. An original and 7 copies of any responses in opposition to motions must be filed with the Clerk of the Board within 20 days of service of the motion unless the Board requires a shorter time.

(3) A party filing a motion for extension of time, a motion for postponement of a hearing, or any other procedural motion must first contact the other party to determine whether there is any objection to the motion and must state in the motion whether the other party has any objection.

(4) No motions, responses or other submissions will be accepted for filing by the Clerk of the Board after 4:00 p.m., Monday through Friday. All written submissions shall be served simultaneously upon the other parties to the proceeding. A certificate of service must be attached showing service by mail, facsimile or personal delivery of the submission to the other parties. Further submissions by either party may be filed only with the approval of the administrative judge or full Board.

(5) All written motions and responses thereto shall include a proposed order, where applicable.

(6) Motions for extension of time will be granted only upon a showing of good cause.

(7) *Oral argument.* The administrative judge may allow oral argument on the motion at his or her discretion.

(c) *Motions for summary judgment.* (1) Either party may move for summary judgment by filing a written motion no later than 14 days prior to the commencement of the hearing or as otherwise ordered by the administrative judge.

(2) Motions for summary judgment must be accompanied by a statement of material facts for which there is no genuine dispute and a statement of reasons in support of the motion. The motion may be supported by documents, affidavits, or other evidence.

(3) Summary judgment will be granted if the pleadings, depositions, answers to interrogatories, admissions, affidavits, if any, and other documents show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

(4) A party moving for summary judgment must make a showing sufficient to establish the existence of each element essential to that party's cause of action and for which that party bears the burden of proof.

(5) When a party moves for summary judgment, the Board will evaluate the motion on its own merits, resolving all reasonable inferences against the moving party.

§ 28.22 [Amended]

20. Amend § 28.22 by removing the words "File recommended or" and adding the word "Issue" in their place in paragraph (b)(12).

21. Amend § 28.24 as follows:

a. Revise paragraph (a), introductory text, and paragraph (a)(2) and

b. In paragraph (b), remove the words "an appeal" and add the words "a petition".

The revision reads as follows:

§ 28.24 Sanctions.

* * * * *

(a) *Failure to comply with an order or subpoena.* When a party fails to comply with an order or subpoena (including an order for the taking of a deposition, for the production of evidence within the party's control, for an admission, or for production of witnesses), the administrative judge may:

(1) * * *

(2) Prohibit the party failing to comply with such order or subpoena from introducing, or otherwise relying upon, evidence relating to the information sought.

* * * * *

Parties, Practitioners and Witnesses

22. Revise the first two sentences of paragraph (a) of § 28.25 to read as follows:

§ 28.25 Representation.

(a) All parties to a petition may be represented in any matter relating to the petition. The parties shall designate their representatives, if any, in the petition or responsive pleading. * * *

* * * * *

23. Amend § 28.27 by revising the first two sentences of paragraph (c) to read as follows:

§ 28.27 Intervenor.

* * * * *