

§ 180.440

the statement and, unless otherwise directed by the ALJ, briefly set forth the following:

- (1) The issues involved in the proceeding;
- (2) The facts stipulated by the parties and a statement that the parties have made a good faith effort to stipulate to the greatest extent possible;
- (3) The facts in dispute;
- (4) The witnesses (together with a summary of the testimony expected) and exhibits to be presented at the hearing;
- (5) A brief statement of applicable law;
- (6) Conclusions to be drawn;
- (7) Estimated time required for presentation of the party's case; and
- (8) Such other information as may assist in the disposition of the proceeding.

§ 180.440 Prehearing conferences.

(a) Before the commencement of or during the course of the hearing, the ALJ may direct the parties to participate in a conference to expedite the hearing. Failure to attend a conference may constitute a waiver of all objections to the agreements reached at the conference and to any order with respect thereto.

(b) During the conference, the ALJ may dispose of any procedural matters on which he/she is authorized to rule. At the conference, the following matters may be considered:

- (1) Pre-trial motions;
- (2) Identification, simplification and clarification of the issues;
- (3) Necessary amendments to the pleadings;
- (4) Stipulations of fact and of the authenticity, accuracy, and admissibility of documents;
- (5) Limitations on the number of witnesses;
- (6) Negotiation, compromise, or settlement of issues;
- (7) The exchange of proposed exhibits and witness lists;
- (8) Matters of which official notice will be requested;
- (9) Scheduling actions discussed at the conference; and
- (10) Such other matters as may assist in the disposition of the proceeding.

24 CFR Subtitle B, Ch. I (4-1-04 Edition)

(c) Conferences may be conducted by telephone or in person, but generally shall be conducted by telephone, unless the ALJ determines that this method is inappropriate. The ALJ shall give reasonable notice of the time, place and manner of the conference.

(d) *Record of conference.* Unless otherwise directed by the ALJ, the conference will not be stenographically recorded. The ALJ will reduce the actions taken at the conference to a written order or, if the conference takes place less than seven days before the beginning of the hearing, may make a statement at the hearing and on the record summarizing the actions taken at the conference.

§ 180.445 Settlement negotiations before a settlement judge.

(a) *Appointment of settlement judge.* The ALJ, upon the motion of a party or upon his or her own motion, may request the Chief ALJ to appoint another ALJ to conduct settlement negotiations. The order appointing the settlement judge may confine the scope of settlement negotiations to specified issues. The order shall direct the settlement judge to report to the Chief ALJ within specified time periods.

(b) *Duties of settlement judge.* (1) The settlement judge shall convene and preside over conferences and settlement negotiations between the parties and assess the practicalities of a potential settlement.

(2) The settlement judge shall report to the Chief ALJ describing the status of the settlement negotiations, evaluating settlement prospects, and recommending the termination or continuation of the settlement negotiations.

(c) *Termination of settlement negotiations.* Settlement negotiations shall terminate upon the order of the chief ALJ issued after consultation with the settlement judge. The conduct of settlement negotiations shall not unduly delay the commencement of the hearing.

§ 180.450 Resolution of charge or notice of proposed adverse action.

At any time before a final decision is issued, the parties may submit to the ALJ an agreement resolving the charge or notice of proposed adverse action. A

charge under the Fair Housing Act can only be resolved with the agreement of the aggrieved person on whose behalf the charge was issued. If the agreement is in the public interest, the ALJ shall accept it by issuing an initial decision and consent order based on the agreement.

Subpart E—Discovery

§ 180.500 Discovery.

(a) *In general.* This subpart governs discovery in aid of administrative proceedings under this part. Discovery in Fair Housing Act matters shall be completed 15 days before the date scheduled for hearing or at such time as the ALJ shall direct. Discovery in non-Fair Housing Act matters shall be completed as the ALJ directs.

(b) *Scope.* The parties are encouraged to engage in voluntary discovery procedures. Discovery shall be conducted as expeditiously and inexpensively as possible, consistent with the needs of all parties to obtain relevant evidence. Unless otherwise ordered by the ALJ, the parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the proceeding, including the existence, description, nature, custody, condition, and location of documents or persons having knowledge of any discoverable matter. It is not grounds for objection that information sought will be inadmissible if the information appears reasonably calculated to lead to the discovery of admissible evidence.

(c) *Methods.* Parties may obtain discovery by one or more of the following methods:

- (1) Deposition upon oral examination or written questions.
- (2) Written interrogatories.
- (3) Requests for the production of documents or other evidence for inspection and other purposes.
- (4) Requests for admissions.
- (5) Upon motion of a party, the presiding ALJ may issue an order requiring a physical or mental examination of a party or of a person in the custody or under the legal control of a party.

(d) *Frequency and sequence.* Unless otherwise ordered by the ALJ or restricted by this subpart, the frequency

or sequence of these methods is not limited.

(e) *Non-intervening aggrieved person.* For purposes of obtaining discovery from a non-intervening aggrieved person, the term *party* as used in this subpart includes the aggrieved person.

§ 180.505 Supplementation of responses.

A party is under a duty, in a timely fashion, to:

(a) Supplement a response with respect to any question directly addressed to:

(1) The identity and location of persons having knowledge of discoverable matters; and

(2) The identity of each person expected to be called as an expert witness, the subject matter on which the expert witness is expected to testify, and the substance of the testimony.

(b) Amend a response if the party later obtains information upon the basis of which:

(1) The party knows the response was incorrect when made, or

(2) The party knows the response, though correct when made, is no longer true, and the circumstances are such that a failure to amend the response is, in substance, a knowing concealment.

(c) Supplement other responses, as imposed by order of the ALJ or by agreement of the parties.

§ 180.510 Interrogatories.

(a) Any party may serve on any other party written interrogatories to be answered by the party served. If the party served is a public or private corporation, a partnership, an association, or a governmental agency, the interrogatories may be answered by any authorized officer or agent who shall furnish such information as may be available to the party. A party may serve not more than 30 written interrogatories on another party without an order of the ALJ.

(b) Each interrogatory shall be answered separately and fully in writing under oath or affirmation, unless it is objected to, in which event, the reasons for the objection shall be stated in lieu of an answer. The answers shall be signed by the person making them, and