

## Federal Labor Relations Authority

## § 2472.9

the party. Service of a document may be made in person or by registered mail, certified mail, regular mail, or private delivery service. With the permission of the person receiving the document, service may be made by facsimile transmission or by any other agreed-upon method.

(c) A signed and dated statement of service shall accompany each document submitted to the Panel. The statement of service shall include the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be the day when the matter served, if properly addressed, is deposited in the U.S. mail, is delivered in person, or is deposited with a private delivery service that will provide a record showing the date the document was tendered to the delivery service. Where service is made by facsimile transmission, the date of service shall be the date on which transmission is received.

(e) Unless otherwise provided by the Panel or its designated representatives, any document or paper filed with the Panel under this part, together with any enclosure filed therewith, shall be typewritten on 8½×11 inch plain white paper, shall have margins no less than 1 inch on each side, shall be in typeface no smaller than 10 characters per inch, and shall be numbered consecutively. Nonconforming papers may, at the Panel's discretion, be rejected.

(f) An impasse arising pursuant to section 6131(c) (2) or (3) of the Act will not be considered to be filed, and no Panel action will be taken, until the party initiating the request has complied with § 2472.4, 2472.5, and 2472.6 of these regulations.

[48 FR 19695, May 2, 1983. Redesignated and amended at 61 FR 41295, Aug. 8, 1996]

### § 2472.7 Investigation of request; Panel assistance.

(a) Upon receipt of a request for consideration of an impasse filed in accordance with these rules, the Panel or its designee shall promptly conduct an investigation, consulting when necessary with the parties. After due con-

sideration, the Panel shall determine the procedures by which the impasse shall be resolved and shall notify the parties of its determination.

(b) The procedures utilized by the Panel shall afford the parties an opportunity to present their positions, including supporting evidence and arguments orally and/or in writing. They include, but are not limited to: informal conferences with a Panel designee; factfinding (by a Panel designee or a private factfinder); written submissions; show cause orders; and oral presentations to the Panel.

[48 FR 19695, May 2, 1983. Redesignated and amended at 61 FR 41295, 41296, Aug. 8, 1996]

### § 2472.8 Preliminary hearing procedures.

When the Panel determines that a hearing shall be held, and it appoints one or more of its designees to conduct such a hearing, it will issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The notice will state:

(a) The names of the parties to the dispute;

(b) The date, time, place, type, and purpose of the hearing;

(c) The date, time, place, and purpose of the prehearing conference, if any;

(d) The name of the designated representative(s) appointed by the Panel;

(e) The issue(s) to be resolved; and

(f) The method, if any, by which the hearing shall be transcribed.

[61 FR 41296, Aug. 8, 1996]

### § 2472.9 Conduct of hearing and prehearing conference.

(a) A designated representative of the Panel, when so appointed to conduct a hearing, shall have the authority on behalf of the Panel to:

(1) Administer oaths, take the testimony or deposition of any person under oath, receive other evidence, and issue subpoenas;

(2) Conduct the hearing in open or in closed session at the discretion of the designated representative for good cause shown;

(3) Rule on motions and requests for appearance of witnesses and the production of records;

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(4) Designate the date on which posthearing briefs, if any, shall be submitted; and

(5) Determine all procedural matters concerning the hearing, including the length of sessions, conduct of persons in attendance, recesses, continuances, and adjournments; and take any other action which, in the judgment of the designated representative, will promote the purpose and objectives of the hearing.

(b) A prehearing conference may be conducted by the designated representative of the Panel to:

(1) Inform the parties of the purpose of the hearing and the procedures under which it will take place;

(2) Explore the possibilities of obtaining stipulations of fact;

(3) Clarify the positions of the parties with respect to the issues to be heard; and

(4) Discuss any other relevant matters which will assist the parties in the resolution of the dispute.

[48 FR 19695, May 2, 1983. Redesignated at 61 FR 41295, Aug. 8, 1996]

### § 2472.10 Reports.

When a report is issued after a hearing conducted pursuant to § 2472.8 and 2472.9, it normally shall be in writing and shall be submitted to the Panel, with a copy to each party, within a period normally not to exceed 30 calendar days after the close of the hearing and receipt of briefs, if any.

[61 FR 41296, Aug. 8, 1996]

### § 2472.11 Final action by the Panel.

(a) After due consideration of the parties' positions, evidence, and arguments, including any report submitted in accordance with § 2472.10, the Panel shall take final action in favor of the agency's determination if:

(1) The finding on which a determination under 5 U.S.C. 6131(c)(2) not to establish a flexible or compressed work schedule is based is supported by evidence that the schedule is likely to cause an adverse agency impact; or

(2) The finding on which a determination under 5 U.S.C. 6131(c)(3) to terminate a flexible or compressed work schedule is based is supported by evi-

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dence that the schedule has caused an adverse agency impact.

(b) If the finding on which an agency determination under 5 U.S.C. 6131(c)(2) or (c)(3) is based is not supported by evidence that the schedule is likely to cause or has caused an adverse agency impact, the Panel shall take whatever final action is appropriate.

(c) In preparation for taking such final action, the Panel may hold hearings, administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas, or it may appoint one or more individuals to exercise such authority on its behalf. Such action may be taken without regard to procedures previously authorized by the Panel.

(d) Notice of any final action of the Panel shall be promptly served upon the parties.

[48 FR 19695, May 2, 1983. Redesignated and amended at 61 FR 41295, 41296, Aug. 8, 1996]

## PART 2473—SUBPOENAS

AUTHORITY: 5 U.S.C. 7119, 7134.

### § 2473.1 Subpenas.

(a) Any member of the Panel, the Executive Director, or other person designated by the Panel, may issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence. However, no subpoena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management.

(b) Where the parties are in agreement that the appearance of witnesses or the production of documents is necessary, and such witnesses agree to appear, no such subpoena need be sought.

(c) A request for a subpoena by any person, as defined in 5 U.S.C. 7103(a)(1), shall be in writing and filed with the Executive Director, not less than fifteen (15) days prior to the opening of a hearing, or with the appropriate presiding official(s) during the hearing.

(d) All requests shall name and identify the witnesses or documents sought, and state the reasons therefor. The Panel, Executive Director, or any