

Federal Deposit Insurance Corporation

§ 308.517

§ 308.515 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. An affidavit alleging conflict of interest or other reason for disqualification must accompany the motion.

(c) Such motion and affidavit must be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections will be deemed waived.

(d) Such affidavit must state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of such facts. The representative of record must certify that the affidavit is made in good faith and this certification must accompany the affidavit.

(e) Upon the filing of such a motion and affidavit, the ALJ will proceed no further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f)(1) If the ALJ determines that a reviewing official is disqualified, the ALJ will dismiss the complaint without prejudice.

(2) If the ALJ disqualifies himself or herself, the case will be reassigned promptly to another ALJ.

(3) If the ALJ denies a motion to disqualify, the Board may determine the matter only as part of the Board's review of the initial decision upon appeal, if any.

§ 308.516 Rights of parties.

Except as otherwise limited by this subpart, all parties may:

(a) Be accompanied, represented, and advised by a representative;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law which will be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law.

§ 308.517 Authority of the ALJ.

(a) The ALJ will conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to:

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(12) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(13) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this subpart.

(c) The ALJ does not have the authority to make any determinations regarding the validity of federal statutes or regulations or of directives, rules, resolutions, policies, orders or other such general pronouncements issued by the Corporation.