

§ 956.10

the person effecting service shall execute a statement, showing the time, place and manner of service, which shall constitute evidence of service. The acknowledgment, statement, or return receipt, when service is effected by mail, shall be made a part of the record by the Ethical Conduct Officer. The date of delivery, as shown by the acknowledgment or statement of personal service or the return receipt, shall be the date of service.

§ 956.10 Respondent's failure to appear at the hearing.

If the respondent shall fail to appear at the hearing, the presiding officer shall receive the Ethical Conduct Officer's evidence and render a decision without requirement of further notice to the respondent.

§ 956.11 Amendment of pleadings.

(a) By consent of the parties, a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing, provided that the proposed amendment is reasonably within the scope of the proceeding.

(b) When issues not raised by the pleadings but reasonably within the scope of the proceedings initiated by the notice of proposed disciplinary action are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments, as may be necessary to make the pleadings conform to the evidence and to raise such issues, shall be allowed at any time upon the motion of any party.

(c) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues framed by the pleadings, but fails to satisfy the presiding officer that an amendment of the pleadings would prejudice him on the merits, the presiding officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(d) The presiding officer may, upon reasonable notice and upon such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which

39 CFR Ch. I (7-1-06 Edition)

have transpired since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 956.12 Continuances and extensions.

Continuances and extensions will not be granted by the presiding officer except for good cause shown.

§ 956.13 Hearings.

(a) Hearings are held at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078, or other locations designated by the presiding officer.

(b) A party may, not later than 7 days prior to the scheduled date of a hearing, file a request that such hearing be held at a place other than that designated in the notice of hearing. He shall support his request with a statement outlining:

(1) The evidence to be offered in such place;

(2) The names and addresses of the witnesses who will testify;

(3) The reasons why such evidence cannot be produced at the place designated in the notice of hearing.

The presiding officer shall give consideration to the convenience and necessity of the parties and the relevance of the evidence to be offered.

[49 FR 40771, Oct. 17, 1984, as amended at 63 FR 66051, Dec. 1, 1998]

§ 956.14 Appearances.

(a) A respondent may appear and be heard in person or by attorney.

(b) An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer (see part 951 of this chapter).

(c) When a respondent is represented by an attorney, all pleadings and other papers subsequent to the notice of proposed disciplinary action shall be mailed to the attorney.

(d) All counsel shall promptly file notices of appearance. Changes of the respondent's counsel shall be recorded by notices from retiring and succeeding counsel and from the respondent.

(e) After an answer has been filed pursuant to the rules in this part, the Law Department shall represent the Ethical Conduct Officer in further proceedings relative to the hearing and