



Office of Compliance

Office of the General Counsel

OOB BROWN BAG LUNCH SERIES OOB PROCEDURES: UPDATE & REVIEW FEBRUARY 15, 2017

Significant Updates to OOB Procedural Rules

Section 303 of the Congressional Accountability Act (“CAA”) authorizes the Office of Compliance (“OOB”) Executive Director to adopt rules governing the procedures of the OOB. 2 U.S.C. § 1383. The Procedural Rules were first adopted in 1995, and were most recently amended in 2016. The chart below shows the substantive differences between the Rules as amended in 2016 and the Rules as previously amended in 2004. The complete text of the current Procedural Rules is available at www.compliance.gov.

Note: This chart does not reference minor, non-substantive changes in the 2016 Rules.

§	2004	§	2016
1.01	Scope and Policy Does not list “definitions” among items addressed by rules or clarify which procedures are included under CAA Title II Parts A and B.	1.01	Scope and Policy Lists “definitions” among items addressed by rules and clarifies the specific procedures that are included under CAA Title II Parts A, B, and C.
1.02	Definitions (b)(3) and (h)(4) “Capitol Guide Service” and its employees are listed as a covered employer and covered employees, respectively. (b)(9) and (h)(5) The “General Accounting Office” and its employees are listed as a covered employer and covered employees (subject to purposes stated in subparagraph (q)). (d) “employee of the Office of the Architect of the Capitol” includes employees of the Senate Restaurants. <i>2016 Rule 1.02(j) is not included in the 2004 amendments.</i>	1.02	Definitions (b)(3) and (h)(4) “Capitol Guide Service” is replaced with “Office of Congressional Accessibility Services”. (b)(9), (h)(5), and (r) “Government Accountability Office” replaces “General Accounting Office” and its employees are listed as a covered employer and covered employees (subject to purposes stated in subparagraph (r)). (d) “employee of the Office of the Architect of the Capitol” does not include employees of the Senate Restaurants. (j) “Designated Representative” is a defined term and means an individual, firm, or other

	<p>(o) “General Counsel” means the OOC General Counsel.</p>		<p>entity designated in writing by a party to represent the interests of that party in a matter filed with the Office.</p> <p>(p) “General Counsel” means the OOC General Counsel and any authorized representative or designee of the General Counsel.</p>
1.03	<p>Filing and Computation of Time</p> <p>(a) Method of Filing Permits electronic filing only when specifically requested by the Executive Director, Hearing Officer, or Board of Directors (“Board”).</p> <p>(a)(2) Mailing</p> <p>(i) Mailed requests for mediation and complaints are deemed filed on the date of receipt in the OOC.</p> <p>(ii) Other documents are deemed filed on the postmark date or date of other proof of mailing to the Office. If a document does not have a legible postmark, it is deemed “timely” if received by the OOC at Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999, by mail within five (5) days of the expiration of the applicable filing period.</p> <p>(a)(3) Faxing Documents Documents faxed to the Office of General Counsel are deemed filed on the date received at the Office of the General Counsel at 202-426-1633.</p> <p>A party may rely on its fax status report sheet to demonstrate filing date if the status report shows date of fax, receiver’s fax number, the number of pages in the fax, and that transmission was completed.</p> <p>This rule does not impose a page limit</p>	1.03	<p>Filing and Computation of Time</p> <p>(a) Method of Filing Expressly permits electronic filing and filing by fax without need for request from the Executive Director, Hearing Officer, or Board. However, the Board, Hearing Officer, Executive Director, and General Counsel have the discretion to determine the method by which documents may be filed in a particular proceeding.</p> <p>(a)(2) By Mail All documents are deemed filed on the postmark date or date of other proof of mailing to the Office. If a document does not have a legible postmark, it is deemed “timely filed” if received by the OOC at Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999, by mail within five (5) days of the expiration of the applicable filing period.</p> <p>(a)(3) By Fax Documents faxed to the Office of General Counsel are deemed filed on the date received if received by 5:00 pm EST. Faxed documents received after 5:00pm EST will be deemed filed the following business day.</p> <p>The time displayed as received by the Office on its fax status report will be used to show the time that the document was filed, and the time displayed as sent by the Office on its fax status report will be used to show the time that the OOC served a document.</p>

	<p>for documents filed by fax.</p> <p><i>2016 Rule 1.03(a)(4) is not included in the 2004 amendments.</i></p>	<p>Fax filing page limit is 75 pages. Attachments to documents exceeding this limit must be submitted to the Office in person or by electronic delivery. Filing date of attachments submitted separately is determined by the date the brief, motion, response, or supporting memorandum is received in the Office, rather than the date the attachments were received in the Office.</p> <p>(a)(4) By Electronic Mail Documents transmitted electronically will be deemed filed on the date received at the Office at oocefile@compliance.gov, or on the date received at the Office of the General Counsel at OSH@compliance.gov if received by 5:00 PM EST. Documents received electronically after 5:00 PM EST will be deemed filed the following business day. An electronic filing will be timely only if the document is received no later than 5:00 PM EST on the last day of the applicable filing period. The time displayed as received or sent by the Office will be based on the document's timestamp information and used to show the time that the document was filed or served.</p>
<p>9.01</p>	<p>Filing, Service and Size Limitations of Motions, Briefs, Responses, and Other Documents</p> <p>(a) Filing with the Office; Number Requires filing of one original and three copies of motions, briefs, and responses, and other related documents, and requires filing of one original and seven copies of appeals, responses, and other related appellate related submissions. Electronic filing permitted only upon request from the OOC, Hearing Officer, or Board.</p> <p>(b) Service Only permits service by mail or hand delivery.</p> <p>(d) Size Limitations Imposes a page limit of 35 pages for briefs, motions, responses, or supporting memoranda (excluding table of contents, table of authorities, and attachments). Rule does not specify whether limit</p>	<p>1.04</p> <p>Filing, Service and Size Limitations of Motions, Briefs, Responses, and Other Documents</p> <p>(a) Filing with the Office; Number and Form Requires filing of only one copy of motions, briefs, responses, OSH requests for inspections, ULP charges, and ADA title II and III charges. Electronic filing permitted without specific request from the OOC, Hearing Officer, or Board.</p> <p>(b) Service Permits service by fax, email, mail, or hand delivery.</p> <p>(d) Size Limitations Imposes a page limit of 35 double-spaced pages for briefs, motions, responses, or supporting memoranda (excluding table of contents, table of authorities, and attachments). Hearing Officer, Board, or</p>

	means double-spaced pages. Board, Office, or Hearing Officer may waive, raise, or reduce this limitation for good cause shown or on its own initiative.		Executive Director may reject non-compliant filings in whole or in part, and may provide the parties an opportunity to refile.
9.02	Signing of Pleadings, Motions, and Other Filings; Violation of Rules; Sanctions Rule does not explicitly permit electronic signature. Rule also mandates sanctions for signing a document in violation of signing standards.	1.05	Signing of Pleadings, Motions, and Other Filings; Violation of Rules; Sanctions (a) Permits electronic signature in case of an electronic filing. (b) Imposing sanctions for signing a document in violation of signing standards is not mandatory.
1.05	Designation of Representative Rule does not impose a limit on the number of representatives that can be designated for an individual. Rule does not require that the revocation of the designation of representative be in writing.	1.07	Designation of Representative (a) Party is limited to one designated representative for receiving service, unless otherwise approved by the Hearing Officer or Executive Director. (c) Rule adds a specific provision on revocation and requires that revocation of a designation of representative be made in writing and filed with the Office.
1.06	Maintenance of Confidentiality Rule provides a general statement on the policy of the OOC to maintain confidentiality “to the fullest extent possible” of the proceedings and of participants in CAA §§ 402-406 proceedings.	1.08	Confidentiality Mandates confidentiality in counseling, mediation, and the proceedings and deliberations of Hearing Officers and the Board in accordance with CAA §§416(a), (b) and (c), except as provided in CAA §§416(d), (e), and (f). 2004 Rule 1.07 subparagraphs for “Prohibition”, “Participant”, and “Contents or Records of Confidential Proceedings” are now included as subparagraphs under 2016 Rule 1.08 and are modified as follows: (b) Participant: adds “witness” to the definition of participant. (c) Prohibition: Unless specifically authorized by the CAA or by these rules, no participant in counseling, mediation or other proceedings made confidential under CAA §416 may disclose a written or oral communication that is prepared for the purpose of or that occurs during counseling, mediation, and the proceedings and deliberations of Hearing Officers and the

			<p>Board.</p> <p>(d) Exceptions: Rule permits party or designated representative to disclose information when necessary to investigate claims, ensure compliance with the Act, or prepare its prosecution or defense. Rule also permits mediator to consult with the OOC with permission from subject party, except when party is an OOC employee. Rule also permits OOC to report statistical information to the Senate and House of Representatives.</p> <p>(f) Sanctions: Rule requires the Executive Director to advise all participants in mediation and hearings at the time they become participants of the confidentiality requirements of CAA §416 and that sanctions may be imposed by the Hearing Officer for a violation of those requirements. No sanctions may be imposed except for good cause and the particulars of which must be stated in the sanction order.</p>
1.07	<p>Breach of Confidentiality Provisions</p> <p>(e) Violation of Confidentiality Violations of confidentiality must be reported to the Executive Director within 30 days of the alleged violation. The Hearing Officer is permitted to initiate proceedings to determine confidentiality violations. If the Hearing Officer finds a violation, the Hearing Officer can impose sanctions listed in 2004 Rule 7.02 as well as other sanctions specifically listed in subparts 1-4.</p>	n/a	<p>2004 Rule 1.07 is not included in the 2016 amendments; however, portions of 2004 Rule 1.07 are included in 2016 Rule 1.08, as described above.</p>
2.01	<p>Matters Covered by Subpart B (pre-complaint procedures)</p> <p>(a) lists laws applied by CAA §§201 and 206, and does not include Chapter 35 of Title 5 of the U.S. Code (relating to veteran's preference) or the Genetic Information Nondiscrimination Act of 2008.</p>	2.01	<p>Matters Covered by Subpart B (pre-complaint procedures)</p> <p>(a)(10) and (11) includes Chapter 35 of Title 5 of the U.S. Code (relating to veteran's preference) and the Genetic Information Nondiscrimination Act of 2008 among laws applied through CAA §§201 and 206.</p>
2.03	<p>Counseling</p> <p>(a) Initiating a Proceeding; Formal Request for Counseling Requires employees to file a written request for counseling, but does not</p>	2.03	<p>Counseling</p> <p>(a) Initiating a Proceeding; Formal Request for Counseling Employees can contact the OOC for a form to use to formally request counseling.</p>

	<p>specify form of written request.</p> <p>(e) Confidentiality and Waiver Unless there is a waiver, counseling is strictly confidential. Rule does not reference impact of discovery process.</p> <p>(m) Employees of the Office of the Architect of the Capitol and Capitol Police</p> <p>(1)(i) Rule does not require employees who use the internal AOC/USCP procedure to provide a waiver to permit Executive Director to inform employer of the recommendation to use the internal procedure.</p>		<p>(e) Confidentiality and Waiver Unless there is a waiver, counseling is strictly confidential and is not subject to discovery.</p> <p>(m) Employees of the Office of the Architect of the Capitol and Capitol Police</p> <p>(1)(i) If an employee uses the internal AOC/USCP procedure, they must provide a waiver of confidentiality permitting the Executive Director to notify the AOC/USCP that the Executive Director has recommended that the employee use the internal procedure.</p>
2.04	<p>Mediation</p> <p>Person in role of mediator is referred to as a “neutral”.</p> <p>(g) Who May Participate Covered employees, employers and their representatives, and the Office may meet jointly or separately with the neutral. Provision does not specify who decides whether to meet jointly or separately. Representative of the employee and representative of the employing office must be physically present at the mediation or immediately accessible by phone during mediation.</p> <p>(k) Confidentiality Explicitly indicates neutrals are not precluded from consulting with OOC, except where the subject employee is an OOC employee. OOC may report non-identifying statistical info to the Senate/House.</p>	2.04	<p>Mediation</p> <p>Person in role of mediator is referred to as a “mediator”.</p> <p>(g) Who May Participate Covered employees and their employers may participate through a designated representative with appropriate settlement authority or access. Mediator decides whether the parties may meet jointly or separately with the Mediator. Mediator can specifically request physical presence in mediation as necessary.</p> <p>(k) Violation of Confidentiality in Mediation Eliminates language regarding non-precluded disclosures. Allegations regarding confidentiality violations may be raised to the mediator during the mediation period, and if not resolved, to the Hearing Officer during CAA §405 proceedings.</p>
n/a	<p>2016 Rule 2.06 is not included in the 2004 amendments.</p>	2.06	<p>Certification of the Official Record</p> <p>Describes contents of official record, and provides that a party may request and receive such record after a complaint has been filed with the Office or the Office has been notified that a civil action has been filed in district court.</p>

4.02	<p>Authority for Inspection</p> <p>(a) General Counsel is authorized to enter any place of employment under the jurisdiction of an employing office. General Counsel may review records required by the CAA or promulgated CAA regulations, and other records directly related to purpose of inspection.</p>	4.02	<p>Authority for Inspection</p> <p>(a) General Counsel is authorized to enter any place where covered employees work. This place does not have to be under the jurisdiction of an employing office. General Counsel may review records maintained by or under the control of the covered entity.</p>
4.03	<p>Requests for Inspections by Employees and Covered Employing Offices</p> <p>Limits scope of requests for inspections and corresponding OOC inspections to places of employment under the jurisdiction of employing offices.</p>	4.03	<p>Requests for Inspections by Employees and Covered Employing Offices</p> <p>The phrase “places of employment” is not qualified by phrase “under the jurisdiction of an employing office”.</p>
4.11	<p>Citations</p> <p>General Counsel must issue any citations for CAA §215 violations within 6 months of alleged violation.</p>	4.11	<p>Citations</p> <p>General Counsel must issue any citations for CAA §215 violations within 6 months of alleged violation unless the violation is continuing or the employing office has agreed to a tolling agreement.</p>
4.13	<p>Posting of Citations</p> <p>(a) Does not specify that the General Counsel may edit or redact 2 U.S.C. §1979 security information from the posted citation copy or may provide a notice for posting that does not reference the security information.</p>	4.13	<p>Posting of Citations</p> <p>(a) General Counsel may edit or redact 2 U.S.C. §1979 security information from the posted citation copy or may provide a notice for posting that does not reference the security information.</p>
5.01	<p>Complaints</p> <p>(a) Who May File Any employee who has completed mediation under Rule 2.04 can file a complaint. Complaint can allege violations of CAA §§201 through 207.</p> <p>(b)(1) When to File Complaints must be filed no sooner than 30 days after the date of receipt of the Rule 2.04(i) mediation conclusion notice, but no later than 90 days after receipt of that notice. Provision does not address consequences of filing complaint before the prescribed period.</p>	5.01	<p>Complaints</p> <p>(a) Who May File Any employee who has completed the mediation period under Rule 2.04 can file a complaint. Complaint can allege violations of any statute made applicable under the CAA (including GINA).</p> <p>(b)(1) When to File Complaints must be filed no sooner than 30 days after the conclusion of the mediation period* and not later than 90 days after the conclusion of the mediation period. When a complaint is filed before the prescribed period, the Executive Director has discretion to return complaint to employee and permit refiling without prejudice within prescribed time period.</p>

	<p>(c) Form and Contents</p> <p>(1) Complaints filed by covered employees Complaints must be in writing using the complaint form available from the OOC.</p> <p>(f) Answer Answer must contain a statement of the position of the respondent on each issue raised in complaint, including admissions, denials, or explanations of each allegation and any affirmative defenses and other defenses to the complaint. Failure to file an answer or raise a defense as to any allegation constitutes an admission of that allegation.</p> <p><i>2016 Rule 5.01(g) is not included in the 2004 amendments.</i></p>	<p><i>* Language in the printed 2016 Rule 5.01(b)(1) conveys that complaints must be filed within 30 days after the receipt of the mediation conclusion notice. This language was included in error, and the rule described here reflects the forthcoming corrected amendment.</i></p> <p>(c) Form and Contents</p> <p>(1) Complaints filed by covered employees Complaints must be in writing but do not have to be submitted using the OOC form.</p> <p>(f) Answer Answer must state in short and plain terms the respondent's defenses to each claim asserted against it and admit or deny the allegations asserted against it by an opposing party. Failure to deny an allegation, except those relating to the amount of damages, or to raise a claim or defense as to any allegation shall constitute an admission of such allegation.</p> <p>(g) Motion to Dismiss A respondent may file a motion to dismiss or other responsive pleading in addition to an answer.</p>
5.03	<p>(f) Withdrawal of Complaint by Complainant Permits complaint withdrawal at any time with approval by the Hearing Officer. This provision does not address whether withdrawal can be with or without prejudice to refile.</p> <p>(g) Withdrawal of Complaint by the General Counsel General Counsel may withdraw complaint after opening of hearing if approved by the Hearing Officer. This provision does not address whether the withdrawal can be with or without prejudice to refile.</p>	5.03 <p>(f) Withdrawal of Complaint by Complainant Permits complaint withdrawal at any time with approval by the Hearing Officer. Withdrawal may be with or without prejudice to refile at the Hearing Officer's discretion.</p> <p>(g) Withdrawal of Complaint by the General Counsel General Counsel may withdraw complaint after opening of hearing if approved by the Hearing Officer. Withdrawal may be with or without prejudice to refile, at the Hearing Officer's discretion.</p>

6.01	<p>Discovery</p> <p>(b) Initial Disclosure OOC’s official policy is to encourage early and voluntary exchange of discoverable information, but the rule does not mandate that certain content always be shared or a timeline for exchange of such information.</p> <p>(d) Claims of Privilege</p> <p>(1) Information Withheld Parties must make claims of privilege in writing, but provision does not specify time frame for raising such claims.</p> <p><i>2016 Rule 6.01(d)(2) is not included in the 2004 amendments.</i></p>	6.01	<p>Discovery</p> <p>(b) Initial Disclosure Except as otherwise stipulated or ordered by the Hearing Officer, within 14 days after the pre-hearing conference or as soon as information is known, parties must exchange the following information without waiting for a discovery request:</p> <ul style="list-style-type: none"> • contact information of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses; and • a copy or a description by category and location of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses. <p>(d) Claims of Privilege</p> <p>(1) Information Withheld Parties must make claims of privilege in writing and must submit such claims no later than the due date for production of the requested information.</p> <p>(2) Information Produced as Inadvertent Disclosure</p> <p>If information claimed as privileged is inadvertently produced in discovery, the producing party may notify the receiving party of the privilege claim. Notice will limit the receiving party’s ability to use the information, as described in the rule.</p>
6.02	<p>Request for Subpoena</p> <p>(a) Authority to Issue Subpoenas Subpoenas may not be issued to compel OOC employee attendance or testimony.</p>	6.02	<p>Request for Subpoena</p> <p>(a) Authority to Issue Subpoenas Subpoenas may not be issued to compel attendance or testimony of an OOC employee or a Counselor or Mediator acting in their official capacity, including files, records, or notes produced during counseling and mediation and maintained by the Office.</p>
7.02	<p>Sanctions</p> <p>(b) Hearing Officer can impose sanctions</p>	7.02	<p>Sanctions</p> <p>(b) In addition to bases included in 2004 Rule</p>

	<p>upon the parties for (but not limited to) the following:</p> <ul style="list-style-type: none"> • failure to comply with an order • failure to prosecute or defend • failure to make timely filing 		<p>7.02(b), the Hearing Officer can also impose sanctions for:</p> <ul style="list-style-type: none"> • filing frivolous claims • failure to maintain confidentiality <p>Rule also details remedies for a sanction for failure to maintain confidentiality.</p>
7.04	<p>Motions and Prehearing Conference</p> <p>(b) Scheduling of the Prehearing Conference Hearing Officer must serve the parties written notice of prehearing conference time, date, and place within 7 days of being assigned to the case.</p> <p>(c) Prehearing Conference Memoranda Memo may include:</p> <ul style="list-style-type: none"> • major fact contentions/legal issues • estimate of time necessary for presentation of party's case • the specific relief sought (including amount of monetary relief) • potential witnesses except rebuttal witnesses • brief description of unresolved issues <p>Provision does not address whether the Hearing Officer can direct parties to file prehearing conference memorandum before or after discovery.</p> <p>(d) Hearing Officer's order, among other things, limits issues to those not disposed of by admissions or agreements of the parties.</p>	7.04	<p>Motions and Prehearing Conference</p> <p>(b) Scheduling of the Prehearing Conference Executive Director may extend time for serving prehearing conference notice by an additional 7 days beyond timeframe established in 2004 Rule 7.04(b).</p> <p>(c) Prehearing Conference Memoranda Memo may include all items listed in 2004 Rule 7.04(c), subject to the following:</p> <ul style="list-style-type: none"> • Specific relief may include calculation of any monetary relief if known and damages • Impeachment witnesses do not have to be listed as potential witnesses <p>Hearing Officer may direct memo to be filed after discovery.</p> <p>(d) Hearing Officer's order, among other things, limits issues to those not disposed of by admissions, stipulations, or agreements of the parties.</p>
7.05	<p>Scheduling the Hearing</p> <p>(b) Motions for Postponement or a Continuance Motions shall be made in writing to the Office. Rule does not specify who decides the motion.</p>	7.05	<p>Scheduling the Hearing</p> <p>(b) Motions for Postponement or a Continuance Motions shall be made in writing to the Hearing Officer. The Hearing Officer decides the motion and may grant the motion upon a showing of good cause.</p>

7.06	<p>Consolidation and Joinder of Cases</p> <p>(b) The Board, Office, and Hearing Officer all have authority to consolidate or join cases. Provision does not specify the specific case stage during which each entity may exercise this authority.</p>	7.06	<p>Consolidation and Joinder of Cases</p> <p>(b) The Board may consolidate or join cases during an appeal; the Executive Director may consolidate or join cases prior to the case being assigned to the Hearing Officer; the Hearing Officer may consolidate a case during the hearing.</p>
7.07	<p>Conduct of Hearing; Disqualification of Representatives</p> <p>(c) Rebuttal witnesses are excluded from exhibit/witness list.</p> <p><i>2016 Rule 7.07(f) is not included in the 2004 amendments.</i></p>	7.07	<p>Conduct of Hearing; Disqualification of Representatives</p> <p>(c) Rebuttal and impeachment witnesses are excluded from exhibit/witness list.</p> <p>(f) Party's failure to appear, present witnesses, or respond to an evidentiary order may result in adverse finding/ruling. Hearing Officer has discretion to hold hearing in absence of complaining party if that party's representative is present.</p>
7.12	<p>Confidentiality</p> <p>Transcripts and any related records shall be kept confidential, except as specified in CAA §§416(d), (e), and (f).</p> <p><i>2016 Rule 7.12(b) is not included in the 2004 amendments.</i></p>	7.12	<p>Confidentiality</p> <p>(a) Transcripts and any related records shall be kept confidential, except as specified in CAA §§416(d), (e), and (f) and Procedural Rule 1.08(d).</p> <p>(b) Violation of Confidentiality A confidentiality violation allegation may be resolved by the Hearing Officer in proceedings under CAA §405.</p>
7.13	<p>Immediate Board Review of a Ruling by a Hearing Officer</p> <p>(b) Standards for Review Provision lists factors that shall be considered by the Hearing Officer in deciding whether the issue is appropriate for immediate review, but does not explicitly state that <i>each</i> factor shall be considered.</p> <p>(d) Hearing Officer Action If the conditions set forth in subparagraph (b) have been met, then the Hearing Officer must forward the request to the Board. Rule does not require a Hearing Officer to certify a request for interlocutory review when forwarding the request to the Board.</p>	7.13	<p>Immediate Board Review of a Ruling by a Hearing Officer</p> <p>(c) Standards for Review Hearing Officer must consider all listed factors and must certify that all of the conditions have been met to forward the request to the Board.</p> <p>(d) Hearing Officer Action The rule has been updated to reflect that the factors for the Hearing Officer's consideration have been moved to section 7.13(c) in the 2016 amendments. The rule also specifies that the Hearing Officer must certify the request for interlocutory review when forwarding it to the Board, and that the decision of the Hearing Officer to forward or decline to</p>

	<p>(e) Grant of Interlocutory Review Within Board’s Sole Discretion Board has sole discretion to grant interlocutory review. Provision does not indicate when the Board can make this decision.</p> <p>(g) Denial of Motion Not Appealable; Mandamus The grant or denial of a motion for a request for interlocutory review (by the Hearing Officer) is not appealable; however, the Board has the discretion to grant the review sua sponte if, upon consideration of the motion and reason for denial, it determines that interlocutory review is warranted. The Board also has discretion to entertain a writ of mandamus directly from the party to review a ruling of the Hearing Officer.</p>		<p>forward a request for review is not appealable.</p> <p>(e) Grant of Interlocutory Review Within Board’s Sole Discretion Board can grant interlocutory review upon the Hearing Officer’s certification and decision to forward a request for review.</p> <p><i>2004 Rule 7.13(g) is not included in the 2016 amendments.</i> The Rules no longer provide for sua sponte review of the Hearing Officer’s decision not to forward the request for interlocutory review to the Board. The Rules also no longer provide for writs of mandamus directly from the parties. Neither the Hearing Officer’s decision to forward the request nor the Board’s decision to grant or deny interlocutory review is appealable.</p>
7.14	<p>Posthearing Briefs</p> <p>(b) Length Imposes a 50 page (12,500 words) limit for post-hearing principal briefs and 25 page (6,250 words) limit for reply briefs (excluding tables and pages limited only to quotations of statutes, rules, etc.). Briefs in excess of 10 pages shall include an index and a table of authorities.</p>	n/a	<p><i>2004 Rule 7.14(b) is not included in the 2016 amendments. Post-hearing briefs are subject to the requirements listed in 2016 Rule 1.04(d).</i></p>
7.15	<p>Closing the Record of the Hearing</p> <p>(a) Allows for record to remain open for submission of additional evidence previously identified for introduction. The Hearing Officer may allow an additional period before the conclusion of the hearing as is necessary for that purpose.</p> <p>(b) The only evidence that can be submitted after the record is closed is new and material evidence that was not available earlier despite due diligence.</p>	7.15	<p>Closing the Record of the Hearing</p> <p>(a) Allows for the record to remain open for submission of arguments, briefs, documents, or additional evidence previously identified for introduction. The record will remain open for as much time as the Hearing Officer grants for that purpose.</p> <p>(b) In addition to new and material evidence, additional evidence or arguments that will rebut new evidence or arguments submitted by the other party just before the record closes can also be submitted after the record has closed.</p>

<p>7.16</p>	<p>Hearing Officer Decisions; Entry in Records of the Office</p> <p>This rule does not specify mandatory content to be included in the Hearing Officer’s decision or address corrections to the Record or motions to alter, amend, or vacate the decision.</p>	<p>7.16</p>	<p>Hearing Officer Decisions; Entry in Records of the Office; Corrections to the Record; Motions to Alter, Amend, or Vacate the Decision</p> <p>(b) The Hearing Officer’s written decision shall:</p> <ol style="list-style-type: none"> 1) state the issues raised in the complaint; 2) describe the evidence in the record; 3) contain findings of facts and conclusions of law, and the reasons or bases therefore, on all the material issues of fact, law, or discretion that were presented on the record; 4) contain a determination of whether a violation has occurred; and 5) order appropriate remedies under the CAA <p>(f) Corrections to the Record After issuing a decision and before appeal to the Board, the Hearing Officer may, on his or her own or on motion of the parties, issue an erratum notice to correct simple or easily correctible errors.</p> <p>(g) After the Hearing Officer issues a decision, but before an appeal is filed or, if no appeal is filed, before the decision becomes final, a party to the proceeding before the Hearing Officer may move to alter, amend, or vacate the decision for listed reasons. The motion must be filed within 15 days after service of the Hearing Officer’s decision. Filing this motion does not relieve a party of the obligation to file a timely appeal or operate to stay the action of the Hearing Officer unless otherwise ordered by the Hearing Officer.</p>
<p>8.01</p>	<p>Appeal to the Board</p> <p>(a) An aggrieved party may seek review of the decision and order of the Hearing Officer within 30 days after entry in the records of the Office.</p> <p>(b)(1) Briefs submitted under this provision must comply with 2004 Rule 9.01.</p>	<p>8.01</p>	<p>Appeal to the Board</p> <p>(a) An aggrieved party may seek review of the final decision and order of the Hearing Officer.</p> <p>(b)(1) Briefs submitted under this provision must comply with 2016 Rule 1.04.*</p> <p><i>*Language in the printed 2016 Rules conveys that briefs submitted under this provision must comply with 2016 Rule 9.01. This language was included in error, and the rule</i></p>

	<p>(b)(3) The Executive Director has authority to determine requests for extensions of time to file post-petition for review submissions. Written delegation of the Board is required for the Executive Director to exercise this authority. No other Executive Director authority is referenced in this rule.</p> <p>(d) The Board may affirm, reverse, modify, or remand the decision of the Hearing Officer in whole or in part.</p> <p>(e) Rule suggests that the Board must remand the matter to the same Hearing Officer who presided over the proceedings below. The rule does not indicate whether the Board’s decision to remand is subject to review under CAA §407 or specify the procedures governing a remanded hearing.</p> <p>(h) Lists items included in the record. The docket sheet, docketed memoranda for the Record, and correspondence between the Office and the parties are not named items.</p> <p><i>2016 Rule 8.01(j) is not included in the 2004 amendments.</i></p>	<p><i>described here reflects the forthcoming corrected amendment.</i></p> <p>(b)(3) The Executive Director also has authority to determine requests for enlargement of page limitations and to require proof of service when there are questions of proper service. The Board does not have to delegate this authority in writing for the Executive Director to exercise this authority.</p> <p>(d) In addition to the Board actions listed in 2004 Rule 8.01(d), the Board may also dismiss the appeal.</p> <p>(e) The Board may remand to “a” Hearing Officer, not necessarily the same Hearing Officer from the proceedings below. The decision to remand a case is not subject to judicial review under CAA §407. The procedures for a remanded hearing are governed by subparts F, G, and H of these Rules.</p> <p>(h) Rule includes docket sheet, docketed memoranda for the Record, and correspondence between the Office and the parties as record items.</p> <p>(j) Appellant may move to withdraw a petition for review at any time before the Board renders a decision.</p>	
8.02	<p>Reconsideration</p> <p>This rule does not address whether the Board’s decision to grant or deny a motion for reconsideration is appealable.</p>	8.02	<p>Reconsideration</p> <p>The decision to grant or deny a motion for reconsideration is within the sole discretion of the Board and is not appealable.</p>
8.03	<p>Compliance with Final Decisions, Requests for Enforcement</p> <p>Rule does not address whether a party can file a petition for attorney fees and/or damages after a final order has been entered, unless the Board has stayed the final decision during the pendency of an appeal.</p>	8.03	<p>Compliance with Final Decisions, Requests for Enforcement</p> <p>A party can file a petition for attorney fees and/or damages after a final order has been entered, unless the Board has stayed the final decision during the pendency of an appeal.</p>

n/a	<i>2016 Rule 8.05 is not included in the 2004 amendments.</i>	8.05	Application for Review of an Executive Director Action Rule incorporates Parts 2422.30-31 of the substantive regulations of the Board regarding labor-management relations.
n/a	<i>2016 Rule 8.06 is not included in the 2004 amendments.</i>	8.06	Expedited Review of Negotiability Issues Rule incorporates Part 2424 of the substantive regulations of the Board regarding labor-management relations.
n/a	<i>2016 Rule 8.07 is not included in the 2004 amendments.</i>	8.07	Review of Arbitration Awards Rule incorporates Part 2425 of the substantive regulations of the Board regarding labor-management relations.
n/a	<i>2016 Rule 8.08 is not included in the 2004 amendments.</i>	8.08	Procedures of the Board in Impasse Proceedings Rule incorporates Part 2471 of the substantive regulations of the Board regarding labor-management relations.
9.03	Attorney's Fees and Costs (a) Request Motion for attorney's fees and costs is due within 20 days after entry of a Hearing Officer's decision or service of a Board decision. Motion must be submitted to the Hearing Officer who heard the case. A ruling on a motion for attorney's fees and costs may be appealed together with the final decision of the Hearing Officer. If the motion for attorney's fees is ruled on after the final decision has been issued by the Hearing Officer, the ruling may be appealed in the same manner as a final decision. (b) Form of Motion Movant does not have to supplement information on the attorney's customary billing rate for similar work with evidence that the rate is consistent with prevailing community rate for similar services. Movant does not have to provide evidence of an established attorney-client relationship.	9.01	Attorney's Fees and Costs (a) Request Motion for attorney's fees and costs is due within 30 days after entry of a Hearing Officer's decision or service of a Board decision. Motion must be submitted to either the Hearing Officer or the Arbitrator who decided the case. (b) Form of Motion Movant must provide the attorney's customary billing rate for similar work with evidence that the rate is consistent with the prevailing community rate for similar services in the community in which the attorney ordinarily practices. Movant must include evidence of an established attorney-client relationship.

9.04	<p>Ex parte Communications</p> <p>(c) Prohibited Ex Parte Communications and Exceptions Rules does not address the Hearing Officer's or the Office's authority to initiate attempts to settle a matter or the parties' ability to waive prohibitions on ex parte communications.</p>	9.02	<p>Ex parte Communications</p> <p>(c) Prohibited Ex Parte communications and Exceptions The Hearing Officer or the Office may initiate attempts to settle at any time. Parties may agree to waive the prohibitions against ex parte communications during settlement discussions and they may agree to limits on the waiver.</p>
9.05	<p>Informal Resolutions and Settlement Agreements</p> <p>(b) Formal Settlement Agreement Rule does not address when the settlement is effective.</p> <p>(c) Requirements for a Formal Settlement Agreement Rule does not address whether the settlement agreement can be sent to the Executive Director before revocation periods have expired.</p> <p>(d) Violation of a Formal Settlement Agreement Provision does not explicitly encourage parties to include a specific dispute resolution procedure in the settlement agreement. If parties do not include a specific dispute resolution procedure, the rule provides the following process as a mandatory default: complaints may be filed with the Executive Director within 60 days after the party to the agreement becomes aware of the alleged violation; the Executive Director may refer the complaint to a Hearing Officer for a final decision; and the proceedings are governed by subparts F, G, and H of the Rules.</p>	9.03	<p>Informal Resolutions and Settlement Agreements</p> <p>(b) Formal Settlement Agreement Settlement is not effective until it has been approved by the Executive Director.</p> <p>(c) Requirements for a Formal Settlement Agreement A formal settlement agreement should not be submitted to the Executive Director for signature until the appropriate revocation periods have expired.</p> <p>(d) Violation of a Formal Settlement Agreement Parties should include a specific dispute resolution procedure in the settlement agreement. Parties may, but are not required to, use the default dispute resolution procedure described in the 2004 amendments. The 2016 amendment modifies the procedure as follows: allegations will be reviewed, investigated, or mediated by the Executive Director or designee, as appropriate.</p>
9.06	<p>Payments required pursuant to Decisions, Awards, or Settlements under section 415(a) of the Act</p> <p>Rule does not address whether a payment required by CAA §415(a) from the OOC's account in the Department of the Treasury must be made after the time for appeal of a decision has expired.</p>	9.04	<p>Payments required pursuant to Decisions, Awards, or Settlements under section 415(a) of the Act</p> <p>Payments required by CAA §415(a) from the OOC's account in the Department of the Treasury cannot be made until the time for appeal of a decision has expired.</p>