

§ 1428.3

for enforcement shall be served on the labor organization against which such order applies.

(b) An opposition to Board enforcement of any such Assistant Secretary decision and order may be filed by the labor organization against which such order applies twenty (20) days from the date of service of the petition, unless the Board, upon good cause shown by the Assistant Secretary, sets a shorter time for filing such position. A copy of the opposition to enforcement shall be served on the Assistant Secretary.

§ 1428.3 Board decision.

(a) A decision and order of the Assistant Secretary shall be enforced unless it is arbitrary and capricious or based upon manifest disregard of the law.

(b) The Board shall issue its decision on the case enforcing, enforcing as modified, refusing to enforce, or remanding the decision and order of the Assistant Secretary.

PART 1429—MISCELLANEOUS AND GENERAL REQUIREMENTS

Subpart A—Miscellaneous

Sec.

- 1429.1 Transfer of cases to the Board.
- 1429.2 Transfer and consolidation of cases.
- 1429.3 Transfer of record.
- 1429.4 Referral of policy questions to the Board.
- 1429.5 Matters not previously presented; official notice.
- 1429.6 Oral argument.
- 1429.7 Subpoenas.
- 1429.8 Stay of action taken by Grievance Board; requests.
- 1429.9 Amicus curiae.
- 1429.10 Advisory opinions.
- 1429.11 Interlocutory appeals.
- 1429.12 Service of process and papers by the Board.
- 1429.13 Official time.
- 1429.14 Witness fees.
- 1429.15 Board requests for advisory opinions.
- 1429.16 General remedial authority.

Subpart B—General Requirements

- 1429.21 Computation of time for filing papers.
- 1429.22 Additional time after service by mail.
- 1429.23 Extension; waiver.
- 1429.24 Place and method of filing; acknowledgement.

22 CFR Ch. XIV (4–1–04 Edition)

- 1429.25 Number of copies.
- 1429.26 Other documents.
- 1429.27 Service; statement of service.
- 1429.28 Petitions for amendment of regulations.

AUTHORITY: 22 U.S.C. 4107(c).

SOURCE: 46 FR 45876, Sept. 15, 1981, unless otherwise noted.

Subpart A—Miscellaneous

§ 1429.1 Transfer of cases to the Board.

(a) In any representation case under part 1422 of this subchapter in which the Regional Director determines, based upon a stipulation by the parties, that no material issue of fact exists, the Regional Director may transfer the case to the Board; and the Board may decide the case on the basis of the papers alone after having allowed twenty-five (25) days for the filing of briefs. In any unfair labor practice case under part 1423 of this subchapter in which, after the issuance of a complaint, the Regional Director determines, based upon a stipulation by the parties, that no material issue of fact exists, the Regional Director may upon agreement of all parties transfer the case to the Board; and the Board shall decide the case on the basis of the case papers alone after having allowed twenty-five (25) days for the filing of briefs. The Board may remand any such case to the Regional Director if it determines that a material question of fact does exist. Orders of transfer and remand shall be served on all parties.

(b) In any case under parts 1422 and 1423 of this subchapter in which it appears to the Regional Director that the proceedings raise questions which should be decided by the Board, the Regional Director may, at any time, issue an order transferring the case to the Board for decision or other appropriate action. Such an order shall be served on the parties.

§ 1429.2 Transfer and consolidation of cases.

In any matter arising pursuant to parts 1422 and 1423 of this subchapter, whenever it appears necessary in order to effectuate the purposes of the Foreign Service Labor-Management Relations Statute or to avoid unnecessary costs or delay, Regional Directors may

Foreign Service Labor Relations Board, etc.

§ 1429.7

consolidate cases within their own region or may transfer such cases to any other region, for the purpose of investigation or consolidation with any proceedings which may have been instituted in, or transferred to, such region.

§ 1429.3 Transfer of record.

In any case under part 1425 of this subchapter, upon request by the Board, the parties jointly shall transfer the record in the case, including a copy of the transcript, if any, exhibits, briefs and other documents filed with the Grievance Board, to the Board.

§ 1429.4 Referral of policy questions to the Board.

Notwithstanding the procedures set forth in this subchapter, the General Counsel, the Assistant Secretary, or the Panel may refer for review and decision or general ruling by the Board any case involving a major policy issue that arises in a proceeding before any of them. Any such referral shall be in writing and a copy of such referral shall be served on all parties to the proceeding. Before decision or general ruling, the Board shall obtain the views of the parties and other interested persons, orally or in writing, as it deems necessary and appropriate.

§ 1429.5 Matters not previously presented; official notice.

The Board will not consider evidence offered by a party, or any issue, which was not presented in the proceedings before the Regional Director, Hearing Officer, Administrative Law Judge, or Grievance Board. The Board may, however, take official notice of such matters as would be proper.

§ 1429.6 Oral argument.

The Board or the General Counsel, in their discretion, may request or permit oral argument in any matter arising under this subchapter under such circumstances and conditions as they deem appropriate.

§ 1429.7 Subpoenas.

(a) Any member of the Board, the General Counsel, any Administrative Law Judge appointed by the Board under 5 U.S.C. 3105, and any Regional Director, Hearing Officer, or other em-

ployee of the Board designated by the Board 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 22 U.S.C. 4102 shall be in writing and filed with the Regional Director, in proceedings arising under parts 1422 and 1423 of this subchapter, or filed with the Board, in proceedings arising under parts 1424 and 1425 of this subchapter, 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 Board, General Counsel, Administrative Law Judge, Regional Director, Hearing Officer, or any other employee of the Board designated by the Board, as appropriate, shall grant the request upon the determination that the testimony or documents appear to be necessary to the matters under investigation and the request describes with sufficient particularity the documents sought. Service of an approved subpoena is the responsibility of the party on whose behalf the subpoena was issued. The subpoena shall show on its face the name and address of the party on whose behalf the subpoena was issued.

(e) Any person served with a subpoena who does not intend to comply, shall, within five (5) days after the date of service of the subpoena upon such person, petition in writing to revoke the subpoena. A copy of any petition to revoke a subpoena shall be served on the party on whose behalf the subpoena was issued. Such petition to revoke, if made prior to the hearing, and a written statement of service, shall be filed with the Regional Director, who may