

(1) An FAA decision to dismiss a complaint without prejudice, as set forth in §16.27;

(2) A Director's determination;

(3) An initial decision issued by a hearing officer at the conclusion of a hearing;

(4) A Director's determination or an initial decision of a hearing officer that becomes the final decision of the Associate Administrator because it was not appealed within the applicable time periods provided under §§16.33(b) and 16.241(b).

### Subpart I—Ex Parte Communications

#### § 16.301 Definitions.

As used in this subpart:

*Decisional employee* means the Administrator, Deputy Administrator, Associate Administrator, Director, hearing officer, or other FAA employee who is or who may reasonably be expected to be involved in the decisional process of the proceeding.

*Ex parte communication* means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this part, or communications between FAA employees who participate as parties to a hearing pursuant to 16.203(b) of this part and other parties to a hearing.

#### § 16.303 Prohibited ex parte communications.

(a) The prohibitions of this section shall apply from the time a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply at the time of the acquisition of such knowledge.

(b) Except to the extent required for the disposition of ex parte matters as authorized by law:

(1) No interested person outside the FAA and no FAA employee participating as a party shall make or knowingly cause to be made to any decisional employee an ex parte communication relevant to the merits of the proceeding;

(2) No FAA employee shall make or knowingly cause to be made to any interested person outside the FAA an ex parte communication relevant to the merits of the proceeding; or

(3) Ex parte communications regarding solely matters of agency procedure or practice are not prohibited by this section.

#### § 16.305 Procedures for handling ex parte communications.

A decisional employee who receives or who makes or knowingly causes to be made a communication prohibited by §16.303 shall place in the public record of the proceeding:

(a) All such written communications;

(b) Memoranda stating the substance of all such oral communications; and

(c) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraphs (a) and (b) of this section.

#### § 16.307 Requirement to show cause and imposition of sanction.

(a) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of §16.303, the Associate Administrator or his designee or the hearing officer may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his or her claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(b) The Associate Administrator may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the FAA, consider a violation of this subpart sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur.

## PART 17—PROCEDURES FOR PROTESTS AND CONTRACTS DISPUTES

### Subpart A—General

Sec.

17.1 Applicability.

17.3 Definitions.

17.5 Delegation of authority.