

United States Postal Service

§ 959.15

(c) Documents shall be dated and state the title of the proceeding and, except initial petitions, the docket number. Any pleading or other document required by order of the presiding officer to be filed by a specified date, shall be delivered to the Recorder on or before such date. The date of filing shall be entered thereon by the Recorder.

[39 FR 33213, Sept. 16, 1974, as amended at 63 FR 66052, Dec. 1, 1998]

§ 959.10 Default.

(a) If the respondent fails to file an answer within the time specified in the notice of hearing, the respondent shall be deemed in default and to have waived hearing and further procedural steps. The Judicial Officer shall thereafter issue an order without further notice to the respondent.

(b) If the respondent files an answer but fails to appear at the hearing, the presiding officer shall receive petitioner's evidence and render an initial decision.

[39 FR 33213, Sept. 16, 1974, as amended at 63 FR 66052, Dec. 1, 1998]

§ 959.11 Amendment of pleadings.

(a) Amendments proposed prior to the hearing shall be filed with the Recorder. Amendments proposed thereafter shall be filed with the presiding officer.

(b) 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 and, provided that the amendment is reasonably within the scope of the proceeding initiated by the petition, the presiding officer shall make such ruling on the motion as he or she deems fair and equitable to the parties.

(c) When issues not raised by the pleadings, but reasonably within the scope of the proceedings initiated by the petition, 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.

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

(e) The presiding officer may, upon reasonable notice and upon such terms as are just, permit service of supplemental pleadings setting forth transactions, occurrences, or events which have happened since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

[39 FR 33213, Sept. 16, 1974, as amended at 63 FR 66052, Dec. 1, 1998]

§ 959.12 Continuances and extensions.

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

§ 959.13 Hearings.

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

[63 FR 66052, Dec. 1, 1998]

§ 959.14 Change of place of hearings.

Not later than the date fixed for the filing of the answer, a party may file a written request that a hearing be held at a place other than that designated in the notice. The party shall support the request with a statement outlining:

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

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

(c) The reasons why such evidence cannot be produced at Arlington, VA. The presiding officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

[39 FR 33213, Sept. 16, 1974, as amended at 63 FR 66052, Dec. 1, 1998]

§ 959.15 Appearances.

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

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(b) An attorney may practice before the Postal Service in accordance with the rules in part 951 of this title.

(c) When a respondent is represented by an attorney, all pleadings and other papers subsequent to the initial petition shall be mailed to the attorney.

(d) A respondent must promptly file a notice of change of attorney.

§ 959.16 Presiding officers.

(a) The presiding officer shall be either an Administrative Law Judge qualified in accordance with law, or the Judicial Officer. The Chief Administrative Law Judge shall assign cases to Administrative Law Judges upon rotation so far as practicable. The Judicial Officer may, for good cause found, preside at the reception of evidence in proceedings upon request of either party.

(b) The presiding officer shall have authority to:

- (1) Administer oaths and affirmations;
- (2) Examine witnesses;
- (3) Rule upon offers of proof, admissibility of evidence and matters of procedure;
- (4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;
- (5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;
- (6) Require the filing of briefs or memoranda of law on any matter upon which he or she is required to rule;
- (7) Order prehearing conferences for the purpose of settlement or simplification of issues by the parties;
- (8) Order the proceeding reopened at any time prior to his or her decision for the receipt of additional evidence; and,
- (9) Render an initial decision if the presiding officer is an Administrative Law Judge, which becomes the final decision of the Postal Service unless a timely appeal is taken; the Judicial Officer may issue a tentative or a final decision.

[39 FR 33213, Sept. 16, 1974, as amended at 63 FR 66052, Dec. 1, 1998]

§ 959.17 Evidence.

(a) Except as otherwise provided in these rules, the rules of evidence governing civil proceedings in matters not

involving trial by jury in the District courts of the United States shall govern. However, such rules may be relaxed to the extent that the presiding officer deems proper to insure a fair hearing. The presiding officer shall exclude irrelevant, immaterial or repetitious evidence.

(b) Testimony shall be under oath or affirmation and witnesses shall be subject to cross-examination.

(c) Agreed statements of fact may be received into evidence.

(d) Official notice or knowledge may be taken of the types of matters of which judicial notice or knowledge may be taken.

(e) The written statement of a competent witness may be received into evidence provided that such statement is relevant to the issues, that the witness shall testify under oath at the hearing that the statement is in all respects true, and, in the case of expert witnesses, that the statement correctly states his or her opinion or knowledge concerning the matters in question.

(f) A party who objects to the admission of evidence shall make a brief statement of the grounds for the objection. Formal exceptions to the rulings of the presiding officer are unnecessary.

[39 FR 33213, Sept. 16, 1974, as amended at 63 FR 66052, Dec. 1, 1998]

§ 959.18 Subpoenas.

The Postal Service is not authorized by law to issue subpoenas requiring the attendance or testimony of witnesses or the production of documents. This does not affect the authority of the Chief Postal Inspector to issue subpoenas for the production of documents or information pursuant to §233.1(c) of this chapter.

[39 FR 33213, Sept. 16, 1974, as amended at 56 FR 55825, Oct. 30, 1991]

§ 959.19 Witness fees.

The Postal Service does not pay fees and expenses for a respondent's witnesses or for depositions requested by a respondent.

§ 959.20 Depositions.

(a) Not later than 5 days after the filing of respondent's answer, any party