Prohibition of indemnity bond cases means cases involving allegations under section 274A(g) of the INA;

Respondent means a party to an adjudicatory proceeding, other than a complainant, against whom findings may be made or who may be required to provide relief or take remedial action;

Special Counsel means the Special Counsel for Unfair Immigration-Related Employment Practices appointed by the President under section 274B of the INA, or his or her designee or in the case of a vacancy in the Office of Special Counsel, the officer or employee designated by the President who shall act as Special Counsel during such vacancy;

Unfair immigration-related employment practice cases means cases involving allegations under section 274B of the INA;

Unlawful employment cases means cases involving allegations under section 274A of the INA, other than prohibition of indemnity bond cases.

[Order No. 2203–99, 64 FR 7073, Feb. 12, 1999, as amended by Order No. 2255–99, 64 FR 49660, Sept. 14, 1999]

§68.3 Service of complaint, notice of hearing, written orders, and decisions.

(a) Service of complaint, notice of hearing, written orders, and decisions shall be made by the Office of the Chief Administrative Hearing Officer or the Administrative Law Judge to whom the case is assigned either:

(1) By delivering a copy to the individual party, partner of a party, officer of a corporate party, registered agent for service of process of a corporate party, or attorney or representative of record of a party;

(2) By leaving a copy at the principal office, place of business, or residence of a party; or

(3) By mailing to the last known address of such individual, partner, officer, or attorney or representative of record.

(b) Service of complaint and notice of hearing is complete upon receipt by addressee.

(c) In circumstances where the Office of the Chief Administrative Hearing Officer or the Administrative Law Judge encounters difficulty with perfecting service, the Chief Administrative Hearing Officer or the Administrative Law Judge may direct that a party execute service of process.

[Order No. 2203–99, 64 FR 7074, Feb. 12, 1999]

§68.4 Complaints regarding unfair immigration-related employment practices.

(a) *Generally*. An individual must file a charge with the Special Counsel within one hundred and eighty (180) days of the date of the alleged unfair immigration-related employment practice.

(b) The Special Counsel shall, within one hundred and twenty (120) days of the date of receipt of the charge:

(1) Determine whether there is a reasonable cause to believe the charge is true and whether to bring a complaint respecting the charge with the Chief Administrative Hearing Officer within the 120-day period; or,

(2) Notify the party within the 120-day period that the Special Counsel will not file a complaint with the Chief Administrative Hearing Officer within the 120-day period.

(c) The charging individual may file a complaint directly with the Chief Administrative Hearing Officer within ninety (90) days after the date of receipt of notice that the Special Counsel will not be filing a complaint within the 120-day period. However, the Special Counsel's failure to file a complaint within the 120-day period will not affect the right of the Special Counsel to investigate the charge or bring a complaint within the 90-day period.

[Order No. 1534–91, 56 FR 50053, Oct. 3, 1991]

§68.5 Notice of date, time, and place of hearing.

(a) *Generally*. The Administrative Law Judge to whom the case is assigned shall notify the parties of a date, time, and place set for hearing thereon or for a prehearing conference, or both within thirty (30) days of receipt of respondent's answer to the complaint.

(b) *Place of hearing*. In section 274B cases, pursuant to section 554 of title 5, United States Code, due regard shall be given to the convenience of the parties

and the witnesses in selecting a place for a hearing. Sections 274A(e)(3)(B) and 274C(d)(2)(B) of the INA require that hearings be held at the nearest practicable place to the place where the person or entity resides or to the place where the alleged violation occurred.

[54 FR 48596, Nov. 24, 1989. Redesignated and amended by Order No. 1534–91, 56 FR 50053, 50054, Oct. 3, 1991; Order No. 1635–92, 57 FR 57672, Dec. 7, 1992]

§ 68.6 Service and filing of documents.

(a) *Generally*. An original and four copies of the complaint shall be filed with the Chief Administrative Hearing Officer. An original and two copies of all other pleadings, including any attachments, shall be filed with the Chief Administrative Hearing Officer by the parties presenting the pleadings until an Administrative Law Judge is assigned to a case. Thereafter, all pleadings shall be delivered or mailed for filing to the Administrative Law Judge assigned to the case, and shall be accompanied by a certification indicating service to all parties of record. When a party is represented by an attorney, service shall be made upon the attorney. Except as required by § 68.54(c) and paragraph (c) of this section, service of any document upon any party may be made by personal delivery or by mailing a copy to the last known address. The person serving the document shall certify to the manner and date of service.

(b) *Discovery*. The parties shall not file requests for discovery, answers, or responses thereto with the Administrative Law Judge. The Administrative Law Judge may, however, upon motion of a party or on his or her own initiative, order that such requests for discovery, answers, or responses thereto be filed.

(c) *Where a time limit is imposed by statute, regulation, or order*. Pleadings and briefs may be filed by facsimile with either an Administrative Law Judge or, in the case of a complaint, with the Chief Administrative Hearing Officer, only to toll the running of a time limit. All original signed pleadings and other documents must be forwarded concurrently with the transmission of the facsimile. Any party filing documents by facsimile must include in the certification of service a certification that service on the opposing party has also been made by facsimile or by same-day hand delivery, or, if service by facsimile or same-day hand delivery cannot be made, a certification that the document has been served instead by overnight delivery service. In the case of requests for administrative review, briefs or other filings relating to review by the Chief Administrative Hearing Officer, filing, or service shall be made using the procedure set forth in this paragraph pursuant to § 68.54(c).

[Order No. 2203–99, 64 FR 7074, Feb. 12, 1999]

§ 68.7 Form of pleadings.

(a) Every pleading shall contain a caption setting forth the statutory provision under which the proceeding is instituted, the title of the proceeding, the docket number assigned by the Office of the Chief Administrative Hearing Officer, the names of all parties (or, after the complaint, at least the first party named as a complainant or respondent), and a designation of the type of pleading (e.g., complaint, motion to dismiss). The pleading shall be signed, dated, and shall contain the address and telephone number of the party or person representing the party. The pleading shall be on standard size (8½×11) paper and should also be typewritten when possible.

(b) A complaint filed pursuant to section 274A, 274B, or 274C of the INA shall contain the following:

(1) A clear and concise statement of facts, upon which an assertion of jurisdiction is predicated;

(2) The names and addresses of the respondents, agents, and/or their representatives who have been alleged to have committed the violation;

(3) The alleged violations of law, with a clear and concise statement of facts for each violation alleged to have occurred; and,

(4) A short statement containing the remedies and/or sanctions sought to be imposed against the respondent.

(5) The complaint must be accompanied by a statement identifying the