

§ 16.27

(c) *Motions for summary judgment.* (1) A motion for summary judgment may be based upon the ground that there is no genuine issue of material fact for adjudication and that the complaint, when viewed in the light most favorable to the complainant, should be summarily adjudicated in favor of the respondent as a matter of law. A motion for summary judgment may seek dismissal of the entire complaint or dismissal of specified claims or issues in the complaint.

(2) The motion for summary judgment shall be accompanied by a concise statement of the material facts as to which the respondent contends there is no genuine issue of material fact. The motion may include affidavits and documentary evidence in support of the contention that there is no genuine issue of material fact in dispute.

(3) A complainant may file an answer to the motion for summary judgment within 10 days of the date the motion is served on the complainant, or within any other period set by the Director. The answer shall be accompanied by a concise statement of the material facts as to which the complainant contends there is a genuine issue, and may be accompanied by affidavits and other documentary evidence in support of that contention.

(4) Within 30 days of the date an answer to a motion for summary judgment is due under this section, the Director may issue an order disposing of the motion. If the Director denies the motion in whole or in part, or grants the motion in part, then within 20 days of when the order is served on the respondent, the respondent shall file an answer to the complaint.

(5) If the Director does not act on the motion for summary judgment within 30 days of the date an answer to a motion is due under this section, the respondent shall file an answer to the complaint within the next 20 days.

[Amdt. 16-1, 78 FR 56144, Sept. 12, 2013]

§ 16.27 Incomplete complaints.

(a) If a complaint is not dismissed pursuant to § 16.25, but is deficient as to one or more of the requirements set forth in § 16.21 or § 16.23(b), the Director will dismiss the complaint within 20 days after receiving it. Dismissal will

14 CFR Ch. I (1-1-19 Edition)

be without prejudice to the refiling of the complaint after amendment to correct the deficiencies. The Director's dismissal will include the reasons for the dismissal.

(b) Dismissals under this section are not initial determinations, and appeals from decisions under this section will not be permitted.

[Amdt. 16-1, 78 FR 56144, Sept. 12, 2013]

§ 16.29 Investigations.

(a) If, based on the pleadings, there appears to be a reasonable basis for further investigation, the FAA investigates the subject matter of the complaint.

(b) The investigation may include one or more of the following, at the sole discretion of the FAA:

(1) A review of the written submissions or pleadings of the parties, as supplemented by any informal investigation the FAA considers necessary and by additional information furnished by the parties at FAA request. In rendering its initial determination, the FAA may rely entirely on the complaint and the responsive pleadings provided under this subpart. Each party shall file documents that it considers sufficient to present all relevant facts and argument necessary for the FAA to determine whether the sponsor is in compliance.

(2) Obtaining additional oral and documentary evidence by use of the agency's authority to compel production of such evidence under 49 U.S.C. 40113 and 46104, and 49 U.S.C. 47122. The Administrator's statutory authority to issue compulsory process has been delegated to the Chief Counsel, the Deputy Chief Counsel, the Assistant Chief Counsel for Airports and Environmental Law, and each Assistant Chief Counsel for a region or center.

(3) Conducting or requiring that a sponsor conduct an audit of airport financial records and transactions as provided in 49 U.S.C. 47107 and 47121.

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