

## § 16.5

*Party* means the complainant(s) and the respondent(s) named in the complaint and, after an initial determination providing an opportunity for hearing is issued under § 16.31 and subpart E of this part, the agency.

*Person* in addition to its meaning under 49 U.S.C. 40102(a)(33), includes a public agency as defined in 49 U.S.C. 47102(a)(15).

*Personal delivery* means same-day hand delivery or overnight express delivery service.

*Respondent* means any person named in a complaint as a person responsible for noncompliance.

*Sponsor* means:

(1) Any public agency which, either individually or jointly with one or more other public agencies, has received Federal financial assistance for airport development or planning under the Federal Airport Act, Airport and Airway Development Act or Airport and Airway Improvement Act;

(2) Any private owner of a public-use airport that has received financial assistance from the FAA for such airport; and

(3) Any person to whom the Federal Government has conveyed property for airport purposes under section 13(g) of the Surplus Property Act of 1944, as amended.

*Writing or written* includes paper documents that are filed and/or served by mail, personal delivery, facsimile, or email (as attached PDF files).

[Doc. No. 27783, 61 FR 54004, Oct. 16, 1996, as amended at Amdt. 16-1, 78 FR 56141, Sept. 12, 2013]

## § 16.5 Separation of functions.

(a) Proceedings under this part, including hearings under subpart F of this part, will be prosecuted by an agency attorney.

(b) After issuance of an initial determination in which the FAA provides the opportunity for a hearing, an agency employee engaged in the performance of investigative or prosecutorial functions in a proceeding under this part will not, in that case or a factually related case, participate or give advice in an initial decision by the hearing officer, or a final decision by the Associate Administrator or designee on written appeal, and will not,

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except as counsel or as witness in the public proceedings, engage in any substantive communication regarding that case or a related case with the hearing officer, the Associate Administrator on written appeal, or agency employees advising those officials in that capacity.

(c) The Chief Counsel, the Assistant Chief Counsel for Litigation, or an attorney on the staff of the Assistant Chief Counsel for Litigation advises the Associate Administrator regarding an initial decision, an appeal, or a final decision regarding any case brought under this part.

## Subpart B—General Rules Applicable to Complaints, Proceedings Initiated by the FAA, and Appeals

### § 16.11 General processes.

(a) Under the authority of 49 U.S.C. 40113 and 47121, the Director may conduct investigations, issue orders, and take such other actions as are necessary to fulfill the purposes of this part. This includes the extension of any time period prescribed, where necessary or appropriate for a fair and complete consideration of matters before the agency, prior to issuance of the Director's Determination.

(b) Notwithstanding any other provision of this part, upon finding that circumstances require expedited handling of a particular case or controversy, the Director may issue an order directing any of the following prior to the issuance of the Director's Determination:

(1) Shortening the time period for any action under this part consistent with due process;

(2) If other adequate opportunity to respond to pleadings is available, eliminating the reply, rebuttal, or other actions prescribed by this part;

(3) Designating alternative methods of service; or

(4) Directing such other measures as may be required.

(c) Other than those matters concerning a Corrective Action Plan, the jurisdiction of the Director terminates upon the issuance of the Director's Determination. All matters arising during the appeal period, such as requests