

Their fallen cones scattered at the edge
Calm, suspended from the world and time
It observes the preparations undisturbed.
Somewhere near, they'll build a stage
For politicians, veterans, other dignitaries.
They'll have their say, then wing their way,
Adding little, detracting nothing.
Fewer seats, more empty chairs,
This commemoration.
I'd rather wait within the esplanade of trees,
Defer the grid of graves behind me,
Lift a pine cone from the path,
Roll it in my hand,
Smell its earth and resin tar,
Gaze across the cliff
Beyond the beach,
Drift the moment,
Delay the turn.
A weepy rain is in the air,
But I can hear the hush press on my back,
The quiet murmur of ten thousand
Crosses sprung from planted souls,
They no longer scream.
The gentle yet relentless passage of these
sixty years
Does not diminish any sacrifice; it has re-
moved the sting.
Wounds have eased, their pains appeased.
Time deftly folds the space between those
lost and left,
Eventually to wrap them all in common
thought,
Collected minds of how this place was
wrought
Wrap us
In the mists creeping up the slopes,
Seeping through the burial ground.
Make free wind stall, and pine cone fall.
Let no shadow touch the mall.
The Channel's rough today.

Mr. President, I yield the floor.
The PRESIDING OFFICER. The Sen-
ator from Alabama is recognized.
Mr. SESSIONS. Mr. President, I
thank the Senator from Georgia for his
excellent works. Once again, he has
shown he is one of the most eloquent
Members of this body, if not the most
eloquent. We are going to miss him. He
still has a lot to do between now and
the end of this session, but he has cer-
tainly done yeoman's service here. His
tribute to those soldiers who were
there on that special day many years
ago is valuable to us all.

Mr. President, I had the opportunity
to accompany former Senator Phil
Gramm to Pointe du Hoc in Normandy
a few years ago. Tears were in his eyes
when he showed us exactly where the
Texans went up the hill at Pointe du
Hoc. It was an incredible achievement.

MORNING BUSINESS

Mr. SESSIONS. Mr. President, I ask
unanimous consent that the Senate
now proceed to a period of morning
business with Senators permitted to
speak therein for up to 10 minutes
each.

The PRESIDING OFFICER. Without
objection, it is so ordered.

OFFICE OF COMPLIANCE
STATEMENT

Mr. STEVENS. Mr. President, I ask
unanimous consent that the attached
statement from the Office of Compli-
ance be printed in the RECORD today
pursuant to section 304(a) of the Con-

gressional Accountability Act of 1995 (2
U.S.C. 1383(a)).

There being no objection, the mate-
rial was ordered to be printed in the
RECORD, as follows:

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, June 16, 2004.

Hon. TED STEVENS,
President Pro Tempore, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: This transmittal let-
ter supersedes the transmittal letter of June
15, 2004.

Section 303(a) of the Congressional Ac-
countability Act of 1995 ("Act"), 2 U.S.C.
1383(a), the Executive Director of the Office
of Compliance shall, "subject to the approval
of the Board [of Directors of the Office of
Compliance], adopt rules governing the pro-
cedures of the Office, including the proce-
dures of hearing officers, which shall be sub-
mitted for publication in the Congressional
Record. The rules may be amended in the
same manner." The Executive Director and
Board of Directors of the Office of Compli-
ance are transmitting herewith the enclosed
Amendments to the Procedural Rules of the
Office of Compliance for publication in both
the House and Senate versions of the Con-
gressional Record on the first day on which
both Houses of Congress are in session fol-
lowing this transmittal. See 303(b) of the
Act, 2 U.S.C. 1383(b).

These amendments to the Procedural
Rules of the Office of Compliance shall be
deemed adopted by the Executive Director
with the approval of the Board of Directors
on the date of publication of this Notice of
Adoption of Amendments to Procedural
Rules on both the House and Senate versions
of the Congressional Record.

Any inquiries regarding this Notice should
be addressed to the Executive Director, Of-
fice of Compliance, 110 2nd Street, SE., Room
LA-200, Washington, DC 20540; 202-724-9250,
TDD 202-426-1912.

Sincerely,

SUSAN S. ROBFOGEL,
Chair of the Board of
Directors.

WILLIAM W. THOMPSON II,
Executive Director.

NOTICE OF ADOPTION OF AMENDMENTS TO
PROCEDURAL RULES

INTRODUCTORY STATEMENT

On September 4, 2003, a Notice of Proposed
Amendments to the Procedural Rules of the
Office of Compliance was published in the
Congressional Record at S11110, and H7944.
As specified by the Congressional Account-
ability Act of 1995 ("Act") at Section 303(b)
(2 U.S.C. 1384(b)), a 30 day period for
comments from interested parties ensued. In re-
sponse, the Office received a number of com-
ments regarding the proposed amendments.

At the request of a commenter, for good
reason shown, the Board of Directors ex-
tended the 30 day comment period until Oc-
tober 20, 2003. The extension of the comment
period was published in the Congressional
Record on October 2, 2003 at H9209 and S12361.

On October 15, 2003, an announcement that
the Board of Directors intended to hold a
hearing on December 2, 2003 regarding the
proposed procedural rule amendments was
published in the Congressional Record at
H9475 and S12599. On November 21, 2003, a
Notice of the cancellation of the December 2,
2003 hearing was published in the Congres-
sional Record at S15394 and H12304.

On February 26, 2004, the Board of Direc-
tors of the Office of Compliance caused a
Second Notice of Proposed Amendments to
the Procedural Rules to be published in the
Congressional Record at H693 and S1671. The

Second Notice included changes to the ini-
tial proposed amendments, together with a
brief discussion of each proposed amend-
ment, and afforded interested parties an-
other opportunity to comment on these pro-
posed amendments. (The Second Notice was
also published in the House version of the
Congressional Record on February 24, 2004.
However, because the Senate did not publish
the Second Notice on that date, the Second
Notice was published on February 26, 2004.)

The comment period for the Second Notice
of Proposed Amendments to the Procedural
Rules ended on March 25, 2004. The Board re-
ceived a number of additional comments re-
garding the proposed amendments.

The Executive Director and the Board of
Directors of the Office of Compliance have
reviewed all comments received regarding
the Notice and the Second Notice, have made
certain additional changes to the proposed
amendments *inter alia* in response thereto,
and herewith issue the final Amendments to
the Procedural Rules as authorized by sec-
tion 303(b) of the Act, which sates in part:
"Rules shall be considered issued by the Ex-
ecutive Director as of the date on which they
are published in the Congressional Record."
See 2 U.S.C. 1383(b).

The complete existing Procedural Rules of
the Office of Compliance may be found on
the Office's web site: www.compliance.gov.

Supplementary Information: The Congres-
sional Accountability Act of 1995 (CAA), PL
104-1, was enacted into law on January 23,
1995. The CAA applies the rights and protec-
tions of 11 federal labor and employment
statutes to covered employees and employ-
ing offices within the Legislative Branch of
Government. Section 301 of the CAA (2
U.S.C. 1381) establishes the Office of Compli-
ance as an independent office within that
Branch. Section 303 (2 U.S.C. 1383) directs
that the Executive Director, as the Chief Op-
erating Officer of the agency, adopt rules of
procedure governing the Office of Compli-
ance, subject to approval by the Board of Di-
rectors of the Office of Compliance. The
rules of procedure generally establish the
process by which alleged violations of the
laws made applicable to the Legislative
Branch under the CAA will be considered and
resolved. The rules include procedures for
counseling, mediation, and election between
filing an administrative complaint with the
Office of Compliance or filing a civil action
in U.S. District Court. The rules also include
the procedures for processing Occupational
Safety and Health investigations and en-
forcement, as well as the process for the con-
duct of administrative hearings held as the
result of the filing of an administrative com-
plaint under all of the statutes applied by
the Act, and for appeals of a decision by a
hearing officer to the Board of Directors of
the Office of Compliance, and for the filing of
an appeal of a decision by the Board of Direc-
tors to the United States Court of Appeals
for the Federal Circuit. The rules also con-
tain other matters of general applicability to
the dispute resolution process and to the op-
eration of the Office of Compliance.

These amendments to the Rules of Proce-
dures are the result of the experience of the
Office in processing disputes under the CAA
during the period since the original adoption
of these rules in 1995.

HOW TO READ THE AMENDMENTS

The text of the amendments shows changes
to the preexisting text of the Procedural
Rules as follows: [deletions within italicized
brackets], and added text in italicized bold.
Only subsections of the rules which include
amendments are reproduced in this NOTICE.
The insertion of a series of small dots
(. . . .) indicates additional, unamended
text within a section has not been repro-
duced in this document. The insertion of a se-
ries of stars (* * * *) indicates that the

unamended text of entire sections of the Rules have not been reproduced in this document. For the text of other portions of the Rules which are not amended, please access the Office of Compliance web site at www.compliance.gov

Included with these amendments are "Discussions" which are not part of the Procedural Rules, but which have been added to provide additional information regarding the adoption of these amendments to the Procedural Rules.

DISABILITY ACCESS

This Notice of Adoption of Amendments to the Procedural Rules is available on the Office of Compliance web site, www.compliance.gov, which is compliant with section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. 794d. This Notice is also available in large print or Braille. Requests for this Notice in an alternative format should be made to: Alma Candelaria, Deputy Executive Director, Office of Compliance, 110 2nd Street, S.E., Room LA-200, Washington, D.C. 20540; 202-724-9225; TDD: 202-426-1912; FAX: 202-426-1913.

PART I—OFFICE OF COMPLIANCE

RULES OF PROCEDURE

As Amended—February 12, 1998 (Subpart A, section 1.02, "Definitions"), and As Amended by the publication of this Notice of Adoption of Amendments to the Procedural Rules on June __, 2004.

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§ 1.03 Filing and Computation of Time.

(a) Method of Filing. Documents may be filed in person or by mail, including express, overnight and other expedited delivery. When specifically requested by the Executive Director, or by a Hearing Officer in the case of a matter pending before the Hearing Officer, or by the Board of Directors in the case of an appeal to the Board, any document may also be filed by electronic transmittal in a designated format, with receipt confirmed by electronic transmittal in the same format. Requests for counseling under section 2.03, requests for mediation under section 2.04 and complaints under section 5.01 of these rules may also be filed by facsimile (FAX) transmission. . . .

Discussion: The Office is beginning the process or migrating to electronic filing of documents. Because of the limitations in current capabilities, this authorization is optional, and provides for a designation of the format to be utilized. The Rule does not contemplate that a party will be involuntarily required to file electronically. The authorization for such filing must be made by the official(s) before whom the filing is pending.

* * * * *

(d) Service or filing of documents by certified mail, return receipt requested. Whenever these rules permit or require service or filing of documents by certified mail, return receipt requested, such documents may also be served or fled by express mail or other forms of expedited delivery in which proof of date of receipt by the addressee is provided.

Discussion: Because of the increase in time required to process mail through the U.S. Postal Service since 9-11, the Office has determined that additional flexibility in the use of comparable document delivery services is needed.

* * * * *

2.03 Counseling.

(a) Initiating a Proceeding, Formal Request for Counseling. In order to initiate a proceeding under these rules, an employee shall [formally] file a written request for counseling [from] with the Office regarding an alleged violation of the Act, as referred to in section 2.01(a) above. All [formal] requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under section 2.03(e)(2), below.

Discussion: Requiring a written request for counseling provides the Office with documentation of the request. Such documents remain confidential, as required by section 416 of the Act, and by the Procedural Rules.

* * * * *

(c) When, How, and Where to Request Counseling. A [formal] request for counseling must be in writing, and [(1)] shall be [made] filed pursuant to the requirements of section 2.03(a) of these Rules with the Office of Compliance at Room LA-200, 110 Second Street, S.E., Washington, D.C. 20540-1999, [telephone 202-724-9250;] FAX 202-426-1913; TDD 202-426-1912, not later than 180 days after the alleged violation of the Act. [(2)] may be made to the Office in person, by telephone, or by written request; (3) shall be directed to: Office of Compliance, Adams Building, Room LA-200, 110 Second Street, S.E., Washington, D.C. 20540-1999; telephone 202-724-9250; FAX 202-426-1913; TDD 202-426-1912.]

Discussion: This amendment conforms to the amendment at section 2.03(a).

* * * * *

(1) Conclusion of the Counseling Period and Notice. The Executive Director shall notify the employee in writing of the end of the counseling period, by certified mail, return receipt requested, or by personal delivery evidenced by a written receipt. The Executive Director, as part of the notification of the end of the counseling period, shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

Discussion: Because of the increase in time required to process mail through the U.S. Postal Service since 9-11, the Office has determined that additional flexibility of personal delivery is needed, as long as that delivery can be verified.

(m) Employees of the Office of the Architect of the Capitol and the Capitol Police.

(1) Where an employee of the Office of the Architect of the Capitol or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police. The term 'grievance procedures' refers to internal procedures of the Architect of the Capitol and the Capitol Police that can provide a resolution of the matter(s) about which counseling was requested. Pursuant to section 401 of the Act and by agreement with the Architect of the Capitol and the Capitol Police Board, when the Executive Director makes such a recommendation, the following procedures shall apply:

(ii) After having contacted the Office and having utilized the grievance procedures of the Architect of the Capitol or of the Capitol Police Board, the employee may notify the Office that he or she wishes to return to the procedures under these rules:

(A) within [10] 60 days after the expiration of the period recommended by the Executive Director, if the matter has not [been resolved] **resulted in a final decision**; or

(B) within 20 days after service of a final decision resulting from the grievance procedures of the Architect of the Capitol or the Capitol Police Board.

(iii) The period during which the matter is pending in the internal grievance procedure shall not count against the time available for counseling or mediation under the Act. If the grievance is resolved to the employee's satisfaction, **the employee shall so notify the Office within 20 days after the employee has received service of the final decision resulting from the grievance procedure.** [or i] If no request to return to the procedures under these rules is received within [the applicable time period] **60 days after the expiration of the period recommended by the Executive Director**, the Office will [consider the case to be closed in its official files] **issue a Notice of End of Counseling, as specified in section 2.04(i) of these Rules.**

Discussion: Section 401 of the Act authorizes the Executive Director, "after receiving a request for counseling . . . [to] recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police for resolution of the employee's grievance for a specific period of time, which shall not count against the time available for counseling or mediation." The extension of the grace period in the case of a matter which has not been concluded in 60 days provides the parties additional time to complete the grievance process. The issuance of a Notice of End of Counseling rather than the administrative closure of a matter ensures that no employee inadvertently loses the opportunity to continue to pursue a matter, which has not been successfully concluded through the agency grievance procedure. If an employee notifies the Office of a desire to return to the Office dispute resolution procedure pursuant to subsection (ii) above, the time remaining in counseling shall not include any time between the filing of the request for counseling, and the date of issuance by the Executive Director of a recommended referral. Thus, for instance, if the Executive Director recommends referral 5 days after the filing of a Request for Counseling, the time remaining in counseling as of the date the Office receives a notification of return would be 25 days.

2.04 Mediation.

(e) *Duration and Extension.*

(1) The mediation period shall be 30 days beginning on the date the request for medi-

ation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint **written** request of the parties **or of the appointed mediator on behalf of the parties to the attention of the Executive Director.** The request [may be oral or] **shall be written and [shall be noted and] filed with the Office no later than the last day of the mediation period.** The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Request for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

Discussion: This amendment authorizes a mediator or both parties to submit a request for extension. The Office will accept joint requests by the parties in which the signature of a party has been authorized to be executed by the other party, as long as that authorization is stated in the submission.

* * * * *

(i) *Conclusion of the Mediation Period and Notice.* If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the Office shall provide the employee, and the employing office, and their representatives, with written notice that the mediation period has concluded. The written notice to the employee will be sent by certified mail, return receipt requested, **or will be [hand] personally delivered, evidenced by a written receipt,** and it will also notify the employee of his or her right to elect to file a complaint with the Office in accordance with section 405 of the Act and section 5.01 of these rules or to file a civil action pursuant to section 408 of the Act and section 2.06 of these rules.

Discussion: Because of the increase in time required to process mail through the U.S. Postal Service since 9-11, the Office has determined that additional flexibility of personal delivery is needed, as long as that delivery can be verified.

* * * * *

2.06 Filing of Civil Action.

* * * * *

(c) *Communication Regarding Civil Actions Filed with District Court.* **The party filing any civil action with the United States District Court pursuant to sections 404(2) and 408 of the Act shall provide a written notice to the Office that the party has filed a civil action, specifying the district court in which the civil action was filed and the case number.**

Discussion: The Office of Compliance is required by the Act to educate Members of Congress, employing offices, and employees regarding their rights and responsibilities under the Act (section 301(h)); to ensure that an employee has not filed both a District Court and an administrative complaint in violation of section 404; and to monitor any judicial interpretation of the Act or review of Office regulations pursuant to sections 408 and 409. Requiring such notice by a party to a matter which has been processed through counseling and mediation before this agency pursuant to a duly promulgated rule of this agency does not violate any applicable attorney rule of professional conduct.

* * * * *

§ 5.03 Dismissal, Summary Judgment, and Withdrawal of Complaints.

* * * * *

(d) *Summary Judgment.* **A Hearing Officer may, after notice and an opportunity for the parties to address the question of summary judgment, issue summary judgment on some or all of the complaint.**

Discussion: This amendment clarifies the existing authority of Hearing Officers to issue summary judgment or partial summary judgment.

([d]e) *Appeal.* A [dismissal] **final decision** by the Hearing Officer made under section 5.03(a)-(c) (d) or 7.16 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under section 8.01. **A final decision under section 5.03(a)-(d) which does not resolve all of the claims or issues in the case(s) before the Hearing Officer may not be appealed to the Board in advance of a final decision entered under section 7.16 of these rules, except as authorized pursuant to section 7.13 of these rules.**

Discussion: This amendment clarifies that any final decision which does not completely dispose of a matter will be treated as an interlocutory appeal.

([e]f)
([f]g)

* * * * *

§ 7.02 Sanctions.

(a) *The Hearing Officer may impose sanctions on a party's representative necessary to regulate the course of the hearing.*

Discussion: This rule is procedural. The Office of Compliance is required by section 405(d)(3) of the Act to conduct its hearings "to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 554 through 557 of [the Administrative Procedure Act found at] title 5, United States Code." The phrase "necessary to regulate the course of the hearing" is derived from section 556(c)(5) of the Administrative Procedure Act, 5 U.S.C. 556(c)(5). Agency tribunals operated under the Administrative Procedure Act possess broad authority to regulate the practice and conduct of attorneys and other representatives appearing on behalf of parties to proceedings before them.

(b) The Hearing Officer may impose sanctions upon the parties under, but not limited to, the circumstances set forth in this section.

([a]I) *Failure to Comply with an Order.* When a party fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party's control, or for production of witnesses), the Hearing Officer may:

([1]a)
([2]b)
([3]c)
([4]d)
([5]e)
([6]f)
([7]g)
([b]2)
([c]3)

* * * * *

§ 8.01 Appeal to the Board.

* * * * *

(b)(1) Unless otherwise ordered by the Board, within 21 days following the filing of a petition for review to the Board, the appellant shall file and serve a supporting brief in accordance with section 9.01 of these rules. That brief shall identify with particularity those findings or conclusions in the decision and order that are challenged and shall refer specifically to the portions of the record and the provisions of statutes or rules that are alleged to support each assertion made on appeal.

(2) Unless otherwise ordered by the Board, within 21 days following the service of the appellant's brief, the opposing party may file and serve a responsive brief. Unless otherwise ordered by the Board, within 10 days following the service of the appellee's responsive brief, the appellant may file and serve a reply brief.

(3) Upon written delegation by the Board, the Executive Director is authorized to determine any request for extensions of time to file any post petition for review document or-submission with the Board in any case in which the Executive Director has not rendered a determination on the merits. Such delegation shall continue until revoked by the Board.

Discussion: This ministerial delegation is not a "substantive" rule. The extension of filing deadlines is limited to the parameters of a written authorization from the Board, and cannot affect the requirement of section 406(a) that a party must "file a petition for review by the Board not later than 30 days after entry of the decision in the records of the Office."

* * * * *

§9.01 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents.

(a) Filing with the Office; Number. One original and three copies of all motions, briefs, responses, and other documents must be filed, whenever required, with the Office or Hearing Officer. However, when a party aggrieved by the decision of a Hearing Officer or a party to any other matter or determination reviewable by the Board files an appeal or other submission with the Board, one original and seven copies of [both] any [appeal brief] submission and any responses must be filed with the Office. The Officer, Hearing Officer, or Board may also request a party to submit an electronic version of any submission [on a disk] in a designated format, with receipt confirmed by electronic transmittal in the same format.

Discussion: The addition of the phrase "or other matter or determination reviewable by the Board" references those controversies over which the Board has jurisdiction, but which are not initially determined before a Hearing Officer. These other matters or determinations include collective bargaining representation and negotiability determinations made by the Board pursuant to Part 2422 of the Office of Compliance Rules, review by the Board of arbitration decisions pursuant to Part 2425 of the Rules, determination of bargaining consultation rights under Part 2426 of the Rules, requests for statements of policy or guidance by the Board under Part 2427 of the Rules, enforcement of standards of conduct decisions and orders by the Assistant Secretary of Labor of Labor Management Relations pursuant to Part 2428 of the Rules, and determinations regarding collective bargaining impasses pursuant to Part 2470 of the Rules. Some of these matters are addressed to the Board in the first instance. Submission by electronic version is an option in addition to the existing methods for filing documents. See also amended rule 1.03(a), supra. This addition reflects the decision of this agency to begin migrating toward electronic filing of submissions. Because of the limitations in current capabilities, this authorization is optional, and provides for a designation of the format to be utilized. The Rule does not contemplate that a party will be involuntarily required to file electronically. The authorization for such filing must be made by the official(s) before whom the filing is pending.

* * * * *

§9.03 Attorney's fees and costs.

(a) Request. No later than 20 days after the entry of a Hearing Officer's decision under section 7.16 or after service of a Board decision by the Office, the complainant, if he or she is a prevailing party, may submit to the Hearing Officer who heard the case initially a motion for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. All motions for

attorney's fees and costs shall be submitted to the Hearing Officer. The Hearing Officer, after giving the respondent an opportunity to reply, shall rule on the motion. Decisions regarding attorney's fees and costs are collateral and do not affect the finality or appealability of a final decision issued by the Hearing Officer. A ruling on a motion for attorney's fees and costs may be appealed together with the final decision of the Hearing Officer. If the motion for attorney's fees is ruled on after the final decision has been issued by the Hearing Officer, the ruling may be appealed in the same manner as a final decision, pursuant to section 8.01 of these Rules.

Discussion: This amendment clarifies the rules to exclude the filing of motions for attorney's fees with the Board of Directors.

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§9.05 Informal Resolutions and Settlement Agreements

(b) Formal Settlement Agreement. The parties may agree formally to settle all or part of a disputed matter in accordance with section 414 of the Act. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval. If the Executive Director does not approve the settlement, such disapproval shall be in writing, shall set forth the grounds therefor, and shall render the settlement ineffective.

(c) Requirements for a Formal Settlement Agreement. A formal settlement agreement requires the signature of all parties or their designated representatives on the agreement document before the agreement can be submitted to the Executive Director. A formal settlement agreement cannot be rescinded after the signatures of all parties have been affixed to the agreement, unless by written revocation of the agreement voluntarily signed by all parties, or as otherwise permitted by law.

(d) Violation of a Formal Settlement Agreement. If a party should allege that a formal settlement agreement has been violated, the issue shall be determined by reference to the formal dispute resolution procedures of the agreement. If the particular formal settlement agreement does not have a stipulated method for dispute resolution of an alleged violation of the agreement, the following dispute resolution procedure shall be deemed to be apart of each formal settlement agreement approved by the Executive Director pursuant to section 414 of the Act. Any complaint regarding a violation of a formal settlement agreement may be filed with the Executive Director no later than 60 days after the party to the agreement becomes aware of the alleged violation. Such complaints may be referred by the Executive Director to a Hearing Officer for a final decision. The procedures for hearing and determining such complaints shall be governed by subparts F, G, and H of these rules.

Discussion: The Act empowers the Executive Director to exercise final approval over any settlement agreement. Otherwise, no settlement agreement shall "become effective." See 2 U.S.C. 1414. This procedural rule provides a dispute resolution procedure which is designed to preserve the confidentiality of any settlement agreement to the maximum extent possible, should the parties not include another dispute resolution mechanism in the settlement agreement which is approved by the Executive Director.

§9.06 Payments required pursuant to Decisions, Awards, or Settlements under section 415(a) of the Act. Whenever a decision or award pursuant to sections 4050, 406(e), 407, or 408 of the Act, or an approved settlement pursuant to section 414 of the Act, require the payment of funds pursuant to section 415(a) of the Act, the decision, award, or settlement shall be submitted to the Executive Director to

be processed by the Office for requisition from the account of the Office of Compliance in the Department of the Treasury, and payment.

Discussion: This rule memorializes existing practices authorized under section 415(a) of the Act.

§9.07 Revocation, Amendment or Waiver of Rules.

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CONGRATULATING RAE ANN RED OWL OF PINE RIDGE, SOUTH DAKOTA ON HER MASTER'S DEGREE IN NURSING

Mr. DASCHLE, Mr. President, as my colleagues will attest, I routinely come to the Senate floor to discuss the numerous challenges facing Native Americans in my state, and across Indian Country. While I've spoken at length about the need to address Indian education, Indian health care, and economic development on Indian reservations, I am here today for a different reason: to congratulate one of my constituents on an extraordinary accomplishment.

Earlier this month, Rae Ann Red Owl of the Pine Ridge Reservation became the first Lakota person, man or woman, to receive a master's degree from the nursing program at the University of North Dakota. More than that, when she walked across the stage, she became the first woman ever from Pine Ridge to earn a master's degree in nursing.

While earning a master's degree is a remarkable achievement, for Rae Ann, this step represents yet another obstacle overcome in a long life of beating the odds. Rae Ann can trace her desire to attend college all the way back to when she was in fifth grade and had to get a ride to school with her grandfather because she had overslept and missed the school bus. As her grandfather drove her to school, he told her, "education is the most important thing in life." That advice made her decide right then and there that she wanted to attend college.

Unfortunately, fulfilling dreams like this one is easier said than done in Indian Country. Rae Ann grew up on Pine Ridge, one of the poorest Indian reservations in the country. In a community where rates of alcohol and drug abuse are well above the national averages, Rae Ann was not immune to such pressures. But, instead of succumbing to these problems, she defeated them, and set a new course for her life.

Rae Ann applied for, and was accepted to, the Indians Into Medicine Program at the University of North Dakota. As she set out to pursue her dream, she found herself away from her home and her family for the first time, all the while caring for her two young daughters. In 1989, after years of studying, she graduated with a nursing degree, returned to Pine Ridge, and landed a job working for the Indian Health Service. Twelve years later, she realized that, with additional training, she could do even more to improve the quality of life on Pine Ridge—especially at the IHS—and returned to the