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Friday  
December 19, 1980

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## Part VII

## Department of Labor

Wage and Hour Division, Employment  
Standards Administration

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Labor Standards on Projects or  
Productions Assisted by Grants from the  
National Endowments for the Arts and  
Humanities

## DEPARTMENT OF LABOR

## Wage and Hour Division, Employment Standards Administration

## 29 CFR Part 505

## Labor Standards on Projects or Productions Assisted by Grants from the National Endowments for the Arts and Humanities

**AGENCY:** Wage and Hour Division, Labor.

**ACTION:** Proposed rule.

**SUMMARY:** It is proposed to revise the Regulations on Labor standards covering professional performers and supporting or related technical personnel employed on projects or productions assisted by grants from the National Endowment for the Arts and the National Endowment for the Humanities to properly reflect the prevailing minimum compensation for the applicable crafts. The National Foundation on the Arts and Humanities Act of 1965 was amended in 1976 to expand labor standards coverage to include professional personnel and related or supporting personnel employed on projects or productions assisted by grants from the National Endowment for the Humanities. We are interested in obtaining all forms of information from interested parties who have knowledge concerning compensation paid to the various crafts of performers and technical personnel in an attempt to promulgate regulations that would ultimately reflect prevailing compensation paid to the various crafts in the industry. We are particularly interested in obtaining information relating to the presumptions contained in the existing regulations. Thus, we are submitting revised regulations for public comment in which proposed changes are being made to reflect these statutory amendments and to incorporate interpretations of the existing regulation that have been adopted in the course of administering and enforcing these labor standards provisions. With regard to this existing regulation, 29 CFR Part 505, thorough substantive updating and clarification have not occurred since 1967.

**DATE:** Comments in triplicate must be received on or before February 17, 1981.

**ADDRESS:** Comments should be sent to Henry T. White, Jr., Deputy Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

**FOR FURTHER INFORMATION CONTACT:**

Herbert J. Cohen, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone: (202) 523-8353.

**SUPPLEMENTARY INFORMATION:** In 1976 Congress amended the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 954(i) and 956(g)) and, among other things, provided that Humanities grant recipients would also be subject to prevailing minimum compensation standards. Sections 5(j) and 7(g) of the Act (20 U.S.C. 954(i) and 956(g)) require all grant recipients to furnish adequate assurances to pay not less than the minimum compensation to their professional employees and related or supporting professional personnel as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities.

The method of determining prevailing compensation since 1967 when the present regulation was adopted is based on collective bargaining agreements which take into consideration the type of performance, nature of the operation, such as repertory, stock, or experimental companies, non-profit and profit, and potential for income in part based on size. The compensation determination must also recognize the unique market and competition for the skills of the professional performing artist as well as the problems posed by production through television, video, and audio tape reproduction, and traveling performing companies. The agreements on which the determinations have been based in the past have been negotiated by the representatives of professional performing artists and employers throughout the country. Thus, a presumption was adopted at that time that the compensation provided for in connection with the 10 named labor organizations in § 505.3(a) was the prevailing minimum compensation for the various performers and related or supporting professional personnel. Also, provisions were made in § 505.3(b) to grant a variation from the prevailing minimum compensation established under § 505.3(a).

While this agency is interested in obtaining all pertinent information on wages paid to performers and technical personnel in the industry, the following proposed revision of Regulation Part 505 is published for comment. Revised part 505 incorporates labor standards for professional performers and related or supporting professional personnel employed by grantees of the National

Endowment for the Humanities and amends certain administrative procedures as they apply to professional performers and related or supporting professional personnel employed by grantees of the National Endowment for the Arts. Highlights of the proposed revisions are summarized below.

1. Section 505.1—Conforming changes are made to this section as necessary to reflect the statutory amendment.

2. Section 505.2—This section proposes to change the definition of the term "professional" pursuant to § 505.2. Experience in enforcing these regulations since 1967 has demonstrated the necessity to expand the definition of "amateur" to include those performers and supporting personnel who may receive reimbursement for expenses incurred on a production. We are particularly interested in receiving comments on these proposed definitions and would welcome all suggestions from knowledgeable persons for improvement on the definitions so that the terms "professional" and "amateur" would be defined in a manner that is compatible with their use by this industry. Other conforming changes are made as necessary to reflect the statutory amendment.

3. Section 505.3(a)—The proposed revisions of this section expand the basis for the determination of the prevailing minimum compensation. We are particularly interested in receiving all comments from knowledgeable persons as to whether the prevailing minimum compensation for all crafts has been properly determined or whether some other rate is prevailing for some or all of the crafts. We would welcome payment data on non-Government supported grants or performances for all of the affected crafts to assist this agency in determining the prevailing minimum compensation. In addition, conforming changes are made as necessary to reflect the statutory amendment.

4. Section 505.3(b)—This section provides additional details concerning data which the Administrator has determined to be necessary when requesting a variation from the prevailing minimum compensation established by § 505.3(a); for example, the lower minimum compensation that is to be paid and the number of affected employees. While none of these factors is controlling in making a determination, in total they assist in indicating whether a variation should be granted.

5. Section 505.3(c)—This proposed new section is added to establish procedures to determine a prevailing minimum compensation for all crafts performing cultural activities under

applicable grants that do not come within the purview of § 505.3(a).

6. Section 505.3(d)—This proposed new section is added to establish that not less than the Federal minimum wage as prescribed by the Fair Labor Standards Act, must be paid for hours worked by a grantee's professional and related or supporting personnel.

7. Sections 505.4 and 505.5—Conforming changes are made to these sections as necessary to reflect statutory amendments.

8. Section 505.6—This section is revised to conform with the requirements of the Occupational Safety and Health Act and to make conforming changes to reflect statutory amendment to the National Foundation on the Arts and Humanities Act.

9. Section 505.7—The "Failure to comply" section has been expanded to clarify the regulatory lists that will be maintained by the Secretary's representatives and to provide in more detail the administrative procedure that will be followed in the event that non-compliance of the previously specified labor standards on the part of a grantee of the National Endowment for the Arts or the National Endowment for the Humanities occurs.

Comments, current wage data and any or all pertinent information are solicited from those persons, grantees and the general public who are familiar with cultural activities throughout this nation concerning the application of this Proposed Rule on the programs funded through grants supplied by either Endowment. This agency encourages the public to submit such relevant comments in order that the final regulation accurately reflects the wage scales and practices prevailing in the industry.

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator for Fair Labor Standards, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone 202-523-8353.

The Department of Labor has determined that the proposal in this document is not a major regulation that requires the preparation of a regulatory analysis within the meaning of Executive Order 12044 and the Department's guidelines published at 44 FR 5570.

Accordingly, it is proposed to revise Part 505 of Title 29 as set forth below.

Signed at Washington, D.C., this 10th day of December, 1980.

Donald Elisburg,

*Assistant Secretary of Labor for Employment Standards.*

#### **PART 505—LABOR STANDARDS ON PROJECTS OR PRODUCTIONS ASSISTED BY GRANTS FROM THE NATIONAL ENDOWMENTS FOR THE ARTS AND HUMANITIES**

Sec.

- 505.1 Purpose and scope.
- 505.2 Definitions.
- 505.3 Prevailing minimum compensation.
- 505.4 Receipt of grant funds.
- 505.5 Adequate assurances.
- 505.6 Safety and health standards.
- 505.7 Failure to comply.

Authority: Sec. 5(j), Pub. L. 89-209, 79 Stat. 848 (20 U.S.C. 954 (j)); Sec. 7(g), Pub. L. 94-462, 90 Stat. 1971 (20 U.S.C. 956(g)) and Secretary's Order 16-75 (40 FR 55913) and Employment Standards Administration Order No. 78-1 (43 FR 51469).

##### **§ 505.1 Purpose and scope.**

(a) The regulations contained in this part set forth the procedures which are deemed necessary and appropriate to carry out the provisions of section 5(j) and section 7(g) of the National Foundation on the Arts and Humanities Act of 1965, as amended, 20 U.S.C. 954(i), 20 U.S.C. 956(g). As a condition to the receipt of any grant, the grantees must give adequate assurances that all professional performers and related or supporting personnel shall receive not less than the prevailing minimum compensation as determined by the Secretary of Labor on projects or productions assisted by grants from the National Endowment for the Arts and the National Endowment for the Humanities.

(b) Regulations and procedures relating to wages on construction projects as provided in section 5(j) of the National Foundation on the Arts and Humanities Act of 1965, as amended, may be found in Parts 3 and 5 of this Title.

(c) Standards of overtime compensation for laborers or mechanics may be found in the Contract Work Hours and Safety Standards Act, 76 Stat. 357, 40 U.S.C. 327, *et. seq.* and Part 5 of this Title.

##### **§ 505.2 Definitions.**

(a) The term "Act", means the National Foundation on the Arts and the Humanities Act of 1965, as amended, 79 Stat. 848, 20 U.S.C. 954(i), and 956(g).

(b) The term "Secretary" means the Secretary of Labor.

(c) The term "Administrator" means the Administrator of the Wage and Hour Division who exercises responsibilities

for the Secretary over the requirements pertaining to wages.

(d) The term "Assistant Secretary" means the Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, who exercises responsibilities for the Secretary over the requirements pertaining to safety and health.

(e) "Professional" in the phrase "professional performer and related or supporting professional personnel" shall include all those who work for compensation on a project or production which is assisted by a grant from the National Endowment for the Arts and the Humanities regardless of whether paid out of grant funds. It shall not include those whose status is "amateur" because their engagement for performance or supporting work contemplates no compensation. Compensation does not mean reimbursement of expenses (i.e., meals, costumes, make-up, etc.). The words "related or supporting \* \* \* personnel" in the same phrase shall include all those whose work is related to the particular project or production such as musicians, stage hands, scenery designers, technicians, electricians and moving picture machine operators, as distinguished from those who operate a place for receiving an audience without reference to the particular project or production being exhibited, such as ushers, janitors, and those who sell and collect tickets. The phrase shall not include laborers and mechanics employed by contractors or subcontractors on construction projects, but their compensation is regulated under section 5(k) of the Act. The phrase "professional performers and related or supporting professional personnel" shall not include persons employed as regular faculty or staff of an educational institution performing primary duties commonly associated with the teaching process. It shall include persons employed by educational institutions primarily to engage in activities customarily performed by the performing artists or by those who assist in the presentation of the performing arts and the humanities.

##### **§ 505.3 Prevailing minimum compensation.**

(a) *Generally.* The prevailing minimum compensation shall be established by labor organizations which are affiliated with one of the following:

- Actor's Equity Association
- Screen Actors Guild, Inc.
- Screen Extras Guild, Inc.
- American Guild of Musical Artists, Inc.

International Alliance of Theatrical  
Stage Employees and Moving Picture  
Machine Operator  
American Federation of Musicians  
National Association of Broadcast  
Employees and Technicians  
American Federation of Television and  
Radio Artists  
International Brotherhood of Electrical  
Workers  
American Guild of Variety Artists  
Writers Guild

It has been determined that these contracts provide the minimum compensation (including fringe benefits) to be paid such professional performers and related or supporting professional personnel. The compensation provided in each of these contracts is hereby determined to be the prevailing minimum compensation for each of the professional performers and related or supporting professional personnel to which it applies or would apply if he or she were a member of the appropriate one of the above mentioned labor organizations. Such determination shall be subject to variation, however, on behalf of any adversely affected professional worker or grantee as provided in paragraph (b) of this section.

(b) *Variations.* (1) *On behalf of professional workers.* Any professional performer or related or supporting professional personnel desiring employment on any such project or production and any labor organization representing any one of them may protest the determination made in paragraph (a) of this section. Such variation request shall be in writing, shall be directed to the Administrator, shall identify the locality or localities and the class or classes of professional performers and related or supporting professional personnel to whom it relates, and shall present all of the evidence available to the applicant relating to the prevailing minimum compensation. Upon receipt of the variation application, the Administrator, may, at his or her discretion conduct a public hearing at which time all interested parties will be able to participate. In any event, all interested parties will be given twenty-one (21) days after notification of the variation request to comment on the variation application. The Administrator will make a determination concerning each such variation request to the extent necessary to resolve the issue for any approved grant application.

(2) *On behalf of grantees.* Any grant applicant that proposes to compensate related or supporting professional personnel in an amount less than the prevailing minimum compensation determined in paragraph (a) of this

section shall submit a variation request to the Administrator which contains the following information:

- (i) The lower minimum compensation that the grantee proposes to pay;
- (ii) Granting agency, a copy of the grant application, desired period of grant and the amount of each grant request;
- (iii) Number of affected professional employees and the craft (or crafts) in question;
- (iv) Nature of the proposed performances;
- (v) The name of competing organizations who employed persons in the same or similar occupations;
- (vi) The number of performances that these organizations performed in the past year;
- (vii) All other relevant information in support of the variation application;
- (viii) Whether the applicant desires a public hearing in support of the application.

Upon receipt of the variation application, the Administrator will determine whether a public hearing is necessary and appropriate. If no public hearing is appropriate, any interested party will be given twenty-one (21) days after notification of the variation application to comment in favor of or in opposition to the variation request. Upon receipt of all comments or after the public hearing is concluded, the variation request will be resolved by the Administrator.

(c) *Additional classifications.* The prevailing minimum compensation for professional performers and related or supporting professional personnel who are to perform activities which do not come within the jurisdiction of one of the above named labor organizations shall be specifically determined by the Administrator. A written request shall be made describing the activity in question, suggesting a proposed wage rate and a copy of the grant application. Within sixty (60) days the Administrator shall approve the proposed rate or substitute a rate deemed appropriate for the activity in question.

(d) *Minimum wage rate.* The Administrator has determined that in no instance may less than the Federal minimum wage as prescribed by the Fair Labor Standards Act be paid to the affected employees for their hours of work.

#### § 505.4 Receipt of grant funds.

(a) The grantee shall not receive funds authorized by section 5 of the Act until adequate initial assurances pursuant to section 5(i)(1) and (2) and section 7(g)(1) and (2) of the Act as provided in §§ 505.5(a) and 505.6 have been filed

with the Chairperson of the National Endowment of the Arts or the Chairperson of the National Endowment of the Humanities. Neither shall he or she receive any such funds if and after the Chairperson of the National Endowment of the Arts or Chairperson of the National Endowment of the Humanities is advised by the Secretary that continuing assurances as provided in § 505.5(b) are inadequate or that labor standards contemplated by section 5(i)(1) and (2) and section 7(g)(1) and (2) of the Act have not been observed.

(b) In order to facilitate such assurance so that the grantee may receive the grant funds promptly, the Chairpersons of the National Endowment of the Arts and the Humanities will transmit to each grantee of a grant under section 5 of the Arts and Humanities Act of 1965, as amended, with the grant letter a copy of these regulations together with two copies of the assurance form (USDL Form No. 1-297). He or she will advise the grantee that before the grant may be received, the grantee must give assurances that all professional performers and related or supporting professional personnel (other than laborers or mechanics with respect to whom labor standards are prescribed in section 5(k) of the Act), will be paid without subsequent deduction or rebate on any account not less than the minimum compensation determined in § 505.3(a) unless a variation is obtained under § 505.3(b) and that the safety and health requirements under § 505.6 are met. The Chairpersons will maintain a file in Washington, D.C., for a period of six (6) years and make available upon request to the Secretary the original signed Form USDL No. 1-297 and a copy of the grant letter together with any supplementary documents needed to give a description of the project or production to be financed in whole or part under the grant.

#### § 505.5 Adequate assurances.

(a) *Initial assurances.* Unless the grantee seeks variation of the determination of prevailing minimum compensation contained in § 505.3, or variation of the safety and health standards contained in § 505.6, execution of USDL Form No. 1-297 will constitute his or her initial assurances. If variation of the prevailing minimum compensation provided in § 505.3(a) is sought under § 505.3(b) the information called for by § 505.3(b) shall be furnished in lieu of assurances on USDL Form No. 1-297 and appropriate assurances will be drafted by the Administrator for the grantee upon

resolution of the application for variation.

(b) *Continuing assurances.* (1) The grantee shall maintain and preserve sufficient records as an assurance of compliance with section 5(i)(1) and (2) and section 7(g)(1) and (2) of the Act and shall make such reports therefrom to the Secretary as necessary or appropriate to assure the adequacy of the assurances given. These records shall include the following information relating to each performer and related or supporting personnel for whom a prevailing minimum compensation determination has been made pursuant to § 505.3. In addition the record required in paragraph (b)(1)(vii) of this section shall be kept for all employees engaged in the project or production assisted by the grant.

(i) Name.

(ii) Home address.

(iii) Occupation.

(iv) Basic unit of compensation (such as the amount of a weekly or monthly salary, talent or performance fee hourly rate or other basis on which compensation is computed), including fringe benefits or amounts paid in lieu thereof.

(v) Work performed for each pay period expressed in terms of the total units of compensation fully and partially completed.

(vi) Total compensation paid each pay period, deductions made, and date of payment, including amounts paid for fringe benefits and the person to whom they were paid, and

(vii) Brief description of any injury incurred while performing under the grant and the dates and duration of disability. Such records shall be kept for a period of three (3) years after completion of the project or production to which they pertain.

(2) The grantee shall permit the Administrator and the Assistant Secretary or their representatives to investigate and gather data regarding the wages, hours, safety, health, and other conditions and practices of employment related to the project or production, and to enter and inspect such project or production and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as may be deemed necessary or appropriate to determine whether the grantee has violated the labor standards contemplated by section 5(i) and section 7(g) of the Act, or which may aid in the enforcement of such standards.

(c) *Determination of adequacy.* The Administrator and Assistant Secretary shall determine the adequacy of

assurances within each of their respective areas of responsibilities, given pursuant to paragraphs (a) and (b) of this section and may revise their determination at any time.

#### § 505.6 Safety and health standards.

(a) *Standards.* Section 5(i)(2) and section 7(g)(2) of the Act provides that "(2) no part of any project or production which is financed in whole or part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. The Secretary of Labor shall have the authority to prescribe standards \* \* \* as he may deem necessary or appropriate to carry out" this provision. The applicable safety and health standards shall be those published in 29 CFR Parts 1910 and 1926, including matters incorporated by reference therein. Evidence of compliance with State laws relating to health and sanitation will be considered prima facie evidence of compliance with the safety and health requirements of the Act and any contract subject thereto, and it shall be sufficient unless rebutted or overcome by a preponderance of evidence or a failure to comply with any applicable safety and health standards published in 29 CFR Part 1910 and 1926, including matters incorporated by reference therein. The standards expressed in 29 CFR Parts 1910 and 1926 are for application to ordinary employment situations; compliance with them shall not relieve anyone from the obligation to provide protection for the health and safety of his or her employees in unusual employment situations. Neither do such standards purport to describe all of the working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees. Where such other working conditions may be found to be unsanitary or hazardous or dangerous to the health and safety of employees, professionally accepted safety and health practices will be used.

(b) *Variations.* (1) Variations from standards applied under paragraph (a) of this section may be granted under the same circumstances in which variations may be granted under section 6(b)(6)(A) or 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655). The procedures for the granting of variations and for related relief are those published in Part 1905 of this title.

(2) Any requests for variations shall also be considered requests for variations under the Williams-Steiger

Occupational Safety and Health Act of 1970, and any variance from a standard applied under paragraph (a) of this section and in Part 1910 of this title shall be deemed a variance from the standards under both the National Foundation on the Arts and Humanities Act of 1965 and the Williams-Steiger Occupational Safety and Health Act of 1970.

#### § 505.7 Failure to comply.

(a) *The Secretary's representatives shall maintain two lists:* (1) A list of those grantees who are considered to be responsible in a willful manner for instances of failure to comply with the obligation of the grantee specified in section 5(j)(1) and (2) and section 7(g)(1) and (2) of the Act, as amended. Those grantees appearing on list (1) will remain on the list for a period of three years.

(2) A list of those grantees who are considered to be responsible for instances of failure to comply with the obligation of the grantees in Section 5(i)(1) and (2) and section 7(g)(1) and (2) of the Act, as amended, which are considered to be of such nature as to cast doubt on the reliability of formal assurances subsequently given; and/or where adjustment of the violations satisfactory to the Secretary was not properly made. Those grantees appearing on list (2) will remain on the list for a period not exceeding three years.

Assurances from persons or organizations on list (2) or any organization in which such named person or persons have a substantial interest should be considered inadequate until such time as they may, by appropriate application to the Secretary's representative (in this case, the Administrator) achieve their removal from such lists.

(b) *Procedures.* (1) At such time that the Administrator has sufficient knowledge or information that a grantee under the National Foundation on the Arts and the Humanities, as amended, 20 U.S.C 954(j) and 956(g), has failed to comply with the prevailing minimum compensation under this section, the Administrator will recommend the initiation of enforcement proceedings.

(2) Enforcement proceedings will be instituted by the Associate Solicitor for General Legal Services by issuing a complaint and causing the complaint to be served upon the respondent by certified mail and the matter referred for hearing to the Chief Administrative Law Judge, U.S. Department of Labor.

(3) Contest. The complaint shall contain a clear and concise factual statement sufficient to inform the

respondent of the acts or practices alleged to have been committed in violation of the Act or of the contractual obligation.

(4) Notice of hearing. The Administrative Law Judge shall notify the parties of the date, time and place for a hearing within thirty (30) days after the service of the complaint.

(5) The following conditions will control the enforcement proceedings:

(i) Appearances.

(A) Representation. The parties, other than the Secretary, will file an appearance within thirty (30) days of receipt of the complaint and may appear at the hearing in person, by counsel, or otherwise. The Secretary shall be represented by attorneys from the Office of the Solicitor of Labor.

(B) Failure to appear. In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election to present evidence in whole or such portion thereof sufficient to make a prima facie case before the Administrative Law Judge. Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the Administrative Law Judge's decision.

(ii) Motions and requests. Motions or requests shall be filed with the Chief Administrative Law Judge, except that those made during the course of the hearing shall be filed with the Administrative Law Judge or shall be stated orally and made part of the transcript of record. Each motion or request shall state the particular order, ruling or action desired, and the grounds thereof. The Administrative Law Judge is authorized to rule upon all motions or requests filed or made prior to the filing of the decision.

(iii) Hearings.

(A) Order of proceeding. Except as may be determined otherwise by the Administrative Law Judge counsel for the Department of Labor shall proceed first at the hearing.

(B) Evidence. (1) In general. The testimony of witnesses shall be upon oath or affirmation administered by the Administrative Law Judge and shall be subject to such cross-examination as may be required for a full and true disclosure of the facts. The Administrative Law Judge may exclude evidence which is immaterial, irrelevant, or unduly repetitious.

(2) Objections. If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, the party shall state briefly the grounds for such objection. Rulings on all objections shall

appear in the record. Only objections made before the Administrative Law Judge may be relied upon subsequently in the proceeding. Formal exception to an adverse ruling is not required.

(C) Official notice. Official notice may be taken of any material fact not appearing in evidence in the record which is among the traditional matters of judicial notice and also concerning which the Department of Labor by reason of its functions is presumed to be expert: *Provided*, That the parties shall be given adequate notice at the hearing or by reference in the Administrative Law Judge's decision of the matters so noticed, and shall be given adequate opportunity to show the contrary.

(D) Amendments to the Complaint. At any time prior to the close of the hearing, the complaint may be amended at the discretion of the Administrative Law Judge and on such terms as he or she may approve.

(E) Transcript. A transcript shall be made of the proceeding.

(6) Decision and Order.

(i) Proposed findings of fact, conclusions, and order. Within thirty (30) days after receipt of notice that the transcript of the testimony has been filed or such additional time as the Administrative Law Judge may allow, each party may file with the Administrative Law Judge proposed findings of fact, conclusions of law, and an order, together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all parties, and shall refer to all portions of the record and to all authorities relied upon in support of each proposal.

(ii) Decisions of the Administrative Law Judge. Within a reasonable time after the time allowed for the filing of proposed findings of fact, conclusions of law, and order, or after submission of an agreement containing consent findings and order, the Administrative Law Judge shall make his or her decision as to whether the grantee should be included on one of the failure to comply lists.

(7) Within thirty (30) days after the date of the decision of the Administrative Law Judge (or such additional time as is granted by the Secretary of Labor), any party aggrieved thereby may file a petition for review thereof with supporting reasons. Such party shall transmit the petition in writing to the Secretary of Labor, with a copy thereof to the Chief Administrative Law Judge. The Petition shall refer to the specific findings of fact, conclusions of law, or order at issue.

(8) Upon the final decision of the Administrative Law Judge or the Secretary of Labor, as appropriate, the

Administrator shall promptly forward to the Endowment for the Arts and the Endowment for the Humanities the name or names of the grantees to be placed on the failure to comply lists.

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