

# HOW TO USE THE LITIGATION MANUAL

The Litigation Manual is formatted to help Trial Attorneys in Regional Offices prepare for, and litigate, Unfair Labor Practice cases. The subject matters that are discussed throughout the Manual are presented in the following sequence: from the pre-hearing stage of the process through the hearing stage to the post-hearing or final stage of the process. A description of the organization and style of the Litigation Manual is discussed below as well as, in order of presentation, a description of the different sections of the Litigation Manual:

1. **Foreword:**

The Foreword explains the purpose of the Manual.

2. **Chart on Unfair Labor Practice Regulatory Time Limits and Document Formatting and Service Requirements:**

This seven-page document includes a chart that summarizes the regulatory requirements governing the particular ULP activity or document that is covered in one or more of the Chapters of the Manual. The information contained in this chart is not covered in detail in the Manual. This chart incorporates the requirements of the post-complaint ULP regulations issued on July 31, 1997. 62 Fed. Reg. 40911 that are set forth at Part 2423--Unfair Labor Practice Proceedings, subparts B, C, and D (§§ 2423.20 through 2423.42). The last page of the document summarizes the Office of the General Counsel's document formatting requirements.

Pre-complaint ULP matters covered by subpart A--Filing, Investigating, Resolving, and Acting on Charges (§§ 2423.1 through 2423.12), are addressed in the ULP Case Handling Manual.

3. **Organization of the Manual into 3 distinct Parts:**

The manual is divided into 3 Parts, and each Part is divided into Chapters;

- [Part 1](#) is entitled "Pre-Hearing" ("Notice of Hearing to Opening of Hearing");
- [Part 2](#) is entitled "Hearing" ("Opening of the Hearing to Close of the Record"); and
- [Part 3](#) is entitled "Post-Hearing";

Parts 1 and 2 are subdivided into several discrete sections:

- Part 1: Initial Matters, Alternatives to Hearing, and Preparation for Hearing
- Part 2: Preliminary matters, General Counsel's Case, Respondent's Case, and Prior to the Close of Hearing.

There is a TAB for each Part of the Manual.

To guide the Trial Attorney, each page has a Header which describes the Chapter, and in the case of Parts 1 and 2, the placement of the Chapter within a particular section of that Part, and a Footer which indicates that the Office of the General Counsel is the author of the Litigation Manual;

The pages of each Chapter in each of the three Parts of the Manual are numbered consecutively. The first number corresponds with the Part, the second number corresponds with the Chapter, and the third number indicates the page, e.g., 2AA-1 is "2" denotes the second Part--The Hearing, "AA" denotes Chapter AA--Witness Using Notes, "-1" indicates the first page of the Chapter.

4. **Overview and Objective for each Chapter:**

An Overview describes very generally how the subject matter of the Chapter fits within the scheme of the trial process.

The Objective of each Chapter generally describes what guidance is provided, i.e., what subtopics are covered in each Chapter.


5. **Glossary for the Manual:**

The following abbreviations are used throughout the Litigation Manual:

ALJ	Administrative Law Judge
ALJD	Administrative Law Judge Decision
APA	Administrative Procedure Act
Authority or FLRA	Federal Labor Relations Authority
CA	Charge against Agency
Chief ALJ	Chief Administrative Law Judge
CO	Charge against Labor Organization
Fed. R. Evid.	Federal Rules of Evidence
FRCP	Federal Rules of Civil Procedure
FSIP	Federal Service Impasses Panel
GC	General Counsel
LMI	Litigation Manual
MOU	Memorandum of Understanding
MSPB	Merit Systems Protections Board
NLRB	National Labor Relations Board
OALJ	Office of Administrative Law Judges
OGC	Office of General Counsel
OPM	Office of Personnel Management
PSIWOC	Party Settlement Involving Withdrawal of Charge
RA	Regional Attorney
Region or RO	Regional Office
RD	Regional Director
Regulations	Authority's Rules and Regulations
Statute	Federal Service Labor-Management Relations Statute
ULP	Unfair Labor Practice

***Note: Unless otherwise indicated, all references to sections in the Manual are to a section of the Regulations.***


6. **Use of the symbol** :

 is a symbol that is used throughout the Manual to indicate that what follows (in italics) are “practice pointers” or tips for the Trial Attorney.

7. **OGC Policy:**

Any reference to OGC policy is in bold print.

8. **Use of the symbol**  :

 is a symbol that is used throughout the Manual at the end of most Chapters to indicate cross-references, where appropriate. Cross-references to specific pages are indicated where the same or similar subject matter is covered elsewhere in the Manual with respect to another stage in the trial process.

9. **Index:**

A subject matter index is located at the back of the Manual. At the end of the index is a list of examples or models of documents and oral presentations that illustrate matters covered in the Manual.

10. **Table of Authorities:**

The Table of Authorities is divided into 6 parts: (1) FLRA cases; (2) FLRA ALJD cases; (3) United States Supreme Court cases; (4) United States Court of Appeals cases; (5) United States District Court cases; and (6) NLRB cases. This section is located after the Index.

**11. ATTACHMENTS:**

The ATTACHMENTS section of the Manual is a compilation of forms, policies, models or examples of matters referred to in a particular Chapter. The number of the ATTACHMENT corresponds with the number of the Part and Chapter where it is referenced, e.g., ATTACHMENT 1M is referred to in Part 1, Chapter M. This section of the Manual, which has a TAB, is located after the Table of Authorities. To the extent that the ATTACHMENTS section of the Manual contains actual documents that have been prepared by staff in the ROs, the document has been sanitized.

**12. References:**

The References section, which is located after the ATTACHMENTS, contains the [Statute](#), the [Back Pay Act](#), and Subparts B, C, and D of Part 2423 of the [Regulations](#) concerning post-complaint matters.

**13. Resources:**

This section, which is located after the ATTACHMENTS, contains additional resources consulted in the drafting of certain sections of the Manual. For more in-depth discussion of a particular topic, the user may consult these materials.

**14. Computer accessibility:**

For ease of use, the Manual is comprehensively hyperlinked throughout the entire document. Use the hyperlink function of Word Perfect 8 to move throughout the Manual and Attachments with ease. For ease of access, each Attachment has been placed on the X-Drive as a separate document. The substantive part of the Manual is on the Regions' R-Drive as well as the X-Drive (accessible to all OGC employees) and all links to an Attachment are to the Attachment that resides on the X-Drive. **Unlike the hard copy of the Attachments, the Attachments on the X-Drive are regular page size but they do not contain page numbers.** The Manual is also accessible via the FLRA home page at [www.flra.gov](http://www.flra.gov). [Volume 55](#) and later FLRA cases that are cited in the Manual are accessible by computer by clicking on the case citation which will take you to the FLRA home page where the decision appears. Click on Volume 55 in the preceding sentence and you will go directly to the FLRA Decisions Navigator. In addition, references to various Federal Rules of Evidence, Federal Rules of Civil and Criminal Procedure, and the Federal Register, are also hyperlinked to various cites on the Internet where the full text appears.