



ARMED SERVICES BOARD OF CONTRACT APPEALS
SKYLINE 6, ROOM 703
5109 LEESBURG PIKE
FALLS CHURCH, VA 22041-3208

As Revised 1 October 2009

GUIDANCE FOR SUMMARY JUDGMENT MOTIONS

(a) A motion for summary judgment or partial summary judgment may be filed under Rule 5(b). To facilitate disposition of such a motion, the parties should be guided by the following recommended procedures: Where the parties agree that disposition by summary judgment or partial summary judgment is appropriate, they may file a stipulation of all material facts necessary for the Board to rule on the motion. Otherwise, the moving party should file with its motion a "Statement of Undisputed Material Facts," setting forth the claimed undisputed material facts in separate, numbered paragraphs. The non-moving party should file a "Statement of Genuine Issues of Material Fact," responding to each numbered paragraph proposed, demonstrating, where appropriate, the existence of material facts in dispute. The moving party and the non-moving party should submit a memorandum of law supporting or opposing summary judgment. The moving party may file a reply.

(b) In deciding motions for summary judgment, the Board looks to Rule 56 of the Federal Rules of Civil Procedure for guidance. The parties should explicitly state and support by specific evidence all facts and legal arguments necessary to sustain a party's position. Each party should cite to the Rule 4 file and attach any additional evidence upon which it relies (*e.g.*, affidavits, excerpts from depositions, answers to interrogatories, admissions). The parties should not expect the Board to search the record for evidence in support of either party's position. The Board may accept a fact properly proposed and supported by one party as undisputed, unless the opposing party properly responds and establishes that it is in dispute.