

U.S. Merit Systems Protection Board

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FOR IMMEDIATE RELEASE

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MSPB TO USE NLRB ADMINISTRATIVE LAW JUDGES

In a continuing effort to process cases in a cost-effective manner with limited staff resources, the Merit Systems Protection Board (MSPB) has entered into an agreement with the National Labor Relations Board (NLRB) for the temporary assignment of designated NLRB administrative law judges (ALJs) to hear certain MSPB cases. The assignments will be made on an intermittent and reimbursable basis through September 30, 2001.

“Certain MSPB cases must be heard by an administrative law judge,” explained MSPB Chairman Beth S. Slavet, “and MSPB has traditionally assigned other sensitive cases, such as appeals filed by MSPB employees, to its Administrative Law Judge. With the recent retirement of our Administrative Law Judge, we decided to look into the feasibility of using other available legal resources in lieu of filling the vacant full-time Administrative Law Judge position. The agreement we reached with the NLRB will allow us to test whether this arrangement can be a cost-effective solution. We are considering expanding this program to use experienced ALJs from other agencies to adjudicate MSPB cases. To ensure that these ALJs are familiar with our governing statutes, we have provided initial training, and we will continue to provide training on a regular basis.”

The number of MSPB cases decided by its Administrative Law Judge has usually been small—27 cases in FY 2000, for example—but have often involved complex issues with governmentwide implications. The designated NLRB administrative law judges will hear and decide a variety of matters such as complaints brought by the Office of Special Counsel. Special Counsel matters include, but are not limited to, complaints of unlawful political activity on the part of Federal, state or local government employees under the Hatch Act; complaints seeking corrective action for an employee who has been subject to a prohibited personnel practice and/or disciplinary action against an employee alleged to have committed a prohibited personnel practice; agency requests that the MSPB authorize certain proposed

actions (removal, suspension, reduction in grade, reduction in pay, or furlough of 30 days or less) against administrative law judges; and internal appeals filed by MSPB employees. In addition, the ALJs will hold informal hearings requested by Senior Executive Service (SES) members facing performance-based removals, although no decisions are issued in these cases. Designated NLRB ALJs will not hear cases involving their agency.

“The designated ALJs generally will issue initial decisions that either party to the case can petition the MSPB to review,” said Chairman Slavet. The ultimate responsibility for MSPB cases adjudicated by the designated ALJs remains with the 3-member Merit Systems Protection Board. We appreciate the willingness of NLRB Chief Judge Robert Giannasi to make NLRB ALJs—with their considerable experience in labor law—available to us, and we look forward to working with them.”

The MSPB is an independent, quasi-judicial agency with responsibility for deciding Federal employee appeals from personnel actions taken against them and for protecting the integrity of the civil service and other Federal merit systems. The Board also conducts studies of the civil service and other merit systems in the Executive Branch.