

United States Merit Systems

Protection Board

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MSPB REVIEWS ACCOMPLISHMENTS AS CHAIRMAN ERDREICH CONCLUDES TERM

As U.S. Merit Systems Protection Board (MSPB) Chairman Ben L. Erdreich prepares to conclude his 7-year term, the agency has released its Annual Report for FY 1999, which includes a review of accomplishments under the Chairman's leadership. The report is MSPB's twenty-first since it was established and the last to be issued under Chairman Erdreich.

Erdreich, the fourth Chairman of the Merit Systems Protection Board since it began in 1979, will leave his position March 2, 2000, and join the Washington office of the law firm of Bradley Arant Rose & White LLP, which is based in Birmingham, Alabama,

In a personal letter featured in the Annual Report, Erdreich says: "As the new century begins, I look back with pride at the changes in the Board and look forward with confidence to a Board prepared to carry out its missions of protecting the Federal merit systems through fair and impartial adjudication of personnel matters and through studies designed to ensure that human resources are well managed." The Chairman notes that the Board continues to process a workload of about 10,000 cases annually, while it has downsized its staff to about 77 percent of its 1993 level, reinvented many of its processes, and made investments in new information technology designed to lead to fully electronic case processing.

Chairman Erdreich has led the MSPB in adapting information technology to the adjudication of cases. The project currently underway is designed to produce an integrated document management and case management system that will allow the Board to offer on-line submission and acceptance of appeals, briefs, and other case-related materials. The Board also has a pilot project underway to test electronic filing with the U.S. Court of Appeals for the Federal Circuit.

Videoconferencing technology has revolutionized the MSPB hearing process. At Chairman Erdreich's urging, the MSPB is holding hearings, depositions, and other meetings by videoconference. This initiative was recognized when the Board won the Vice President's Hammer Award for its significant contribution in support of reinventing government.

Under Chairman Erdreich's leadership, the MSPB increasingly has focused its review on merits issues, dismissed fewer appeals as untimely, and made access to the Board easier for its customers. The Board extended the time limits for filing appeals and attorney fee requests, eliminated the restrictive requirements of filing only by mail or personal delivery, created a form to help appellants file petitions for review, provided 24-hour telephone access to its customers, and placed its decisions, studies, forms, regulations, and other information on its Web site. Parties to a dispute before the Board may now receive decisions in their cases faster under a policy permitting MSPB judges to issue oral decisions from the bench.

During his term, Chairman Erdreich has strongly supported alternative dispute resolution (ADR), adding new initiatives to the Board's established ADR procedures. While continuing the Board's record of settlement at the initial appeal stage, which averages about 50 percent of cases not dismissed on timeliness or jurisdictional grounds, Chairman Erdreich extended the benefits of ADR to cases decided by the three Board members (petitions for review of judges' initial decisions). That settlement initiative has been successful, with 27 percent of cases selected for the program in FY 1999 settling.

In a small regulatory change with a large impact, Chairman Erdreich encouraged agencies to include matters appealable to the MSPB in their in-house ADR programs. Because such inclusion appeared to be blocked by the MSPB time limits for filing, the Chairman took steps to implement new Board rules that automatically extend the Board's normal filing deadline to 60 days if the parties agree to engage in ADR. The agency also has initiated a formal training program to help agencies and employees resolve disputes while they are still at the agency level. Under this program, trained and certified appeals resolution advisors will intercept and resolve employment matters before they are filed as appeals to the Board. In the final year of the Chairman's term, the Board approved a pilot project to allow parties additional time to engage in ADR efforts after an appeal has been filed with MSPB.

Chairman Erdreich redirected the focus of the Board's studies of civil service Issues to meet the demands created by the increasing decentralization of personnel authorities by the Office of Personnel Management. The Board's back-to-

basics focus is intended to give agencies, managers, Congress, and the President feedback on how decentralization of personnel functions is working.

In its Annual Report, the Board reports that it closed 9,806 cases in FY 1999, 7,669 in the regional and field offices and 2,137 at headquarters. As in previous years, adverse actions (removals, demotions, suspensions, and furloughs) accounted for about 50 percent of the initial appeals decided by MSPB judges in FY 1999. Retirement appeals constituted 24 percent of the total. Of the appeals not dismissed, 53 percent were settled.

The Board also has issued its annual statistical report, *A Report On Cases Decided by the US. Merit Systems Protection Board, Fiscal Year 1999*. This report provides detailed information on initial appeals, petitions for Board review of initial decisions, and other kinds of cases decided during the fiscal year. Included are tables displaying the outcomes of cases and a table with an agency-by-agency listing of the appeals decided.

Copies of the reports may be ordered from the Clerk of the Board, U.S. Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington DC 20419, or by calling the Clerk at 202-653-7200. The reports also will be available for viewing and downloading (with the Adobe Acrobat Reader) on the MSPB World Wide Web site, www.mspb.gov

The Board 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 and reviews significant actions of the Office of Personnel Management.