

FOR IMMEDIATE RELEASE -- November 22, 2000

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## **MSPB AMENDS RULES TO ASSIST WHISTLEBLOWERS**

The Merit Systems Protection Board (MSPB or the Board) has amended its procedural rules for whistleblower appeals to assist in providing the information the Board needs to process these appeals. Under the Whistleblower Protection Act (WPA) and court rulings interpreting the Act, a person who files a complaint with the Special Counsel alleging that a personnel action was taken or threatened because of whistleblowing must exhaust Office of Special Counsel (OSC) procedures before filing an appeal with MSPB. The Board may consider *only* those matters the person raised before the Special Counsel.

"This change in our rules is the result of a cooperative effort with OSC to help whistleblowers provide both of our offices with the information we need to process their cases," explained Acting Board Chairman Beth S. Slavet. "OSC revised its complaint form in August to include a new Part 2, *Reprisal for Whistleblowing*, in which a complainant describes each whistleblowing disclosure, identifies when and to whom the disclosure was made, describes the personnel action that was taken or threatened because of the disclosure, and provides the date of any such action or threat. This is the information the Board needs to determine whether the appellant has satisfied the WPA's requirement to exhaust OSC procedures before filing with MSPB."

The amendment to the Board's rules for whistleblower appeals permits an appellant to satisfy the requirements for providing details of the disclosures and personnel actions raised in the appellant's complaint to the Special Counsel by filing a copy of Part 2 of the OSC complaint form (OSC-11, 8/00), together with any continuation sheet or

supplement to the original complaint. The amendment was published in the *Federal Register* on November 13, 2000, and became effective immediately (65 FR 67607).

"Although we are not *requiring* that Part 2 of the OSC complaint form be filed with a whistleblower appeal, we believe that appellants will find it beneficial to do so," said Acting Chairman Slavet. "The revised OSC form is an efficient way to give the Board the necessary information about disclosures and personnel actions and will help ensure that our judges can determine exactly what matters were raised before the Special Counsel, without the need for issuing show cause orders and then waiting for replies. The completed form submitted to OSC should be readily available to appellants because OSC has amended its rules to require submission of the form."

OSC amended its rules to require that complaints of prohibited personnel practices and other prohibited activity (other than an alleged Hatch Act violation) be submitted to that office on revised Form OSC-11 (8/00) effective December 1, 2000 (65 FR 64881, Oct. 31, 2000). The revised complaint form is available on the OSC web site at [www.osc.gov](http://www.osc.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 in the Executive Branch.