



Merit Systems Protection Board

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MSPB ANNOUNCES PROCEDURES FOR CASES AFFECTED BY SEPTEMBER 11 ATTACKS

The Merit Systems Protection Board (MSPB or the Board), has announced several variations from its normal case processing procedures to deal with the effects of the September 11, 2001, attacks on the World Trade Center in New York City and on the Pentagon. The announcement—in the form of a notice to be published in the *Federal Register* shortly—deals with the effects of the attacks on the ability of parties to MSPB cases to make timely filings that were due on September 11 and on parties' MSPB case files located in the World Trade Center and the Pentagon that were destroyed.

“Like all of our fellow citizens, MSPB employees throughout the country were shocked by the events of September 11. All of us at the MSPB extend our sympathy to the families and friends of the many innocent victims—including many dedicated Federal employees—in the World Trade Center and the Pentagon,” said Board Chairman Beth S. Slavet. “We want to ensure that no party to a MSPB case whose ability to pursue the case was affected by the attacks is prejudiced. We intend to accommodate parties and, where the variations from normal case processing procedures that we have put in place do not cover the circumstances in an individual case, the individual circumstances will be considered on a case-by-case basis.”

The MSPB announcement explains that filings due on September 11 by any of the filing methods permitted under the Board's regulations—regular mail, facsimile, commercial overnight delivery, or personal delivery—may have been affected by the attacks for a number of reasons. The Board's New York Field Office, located in the vicinity of the World Trade Center, was evacuated following the attack there and remains closed until further notice. The Board's Washington, DC, headquarters office and its Washington Regional Office in Alexandria, Virginia, closed shortly after the attack on the Pentagon, and other MSPB regional and field offices throughout the country closed early. Also, post offices closed throughout the country following the attacks, and many scheduled mail pickups were not made. Facsimile transmissions to the New York Field Office could not be received because of communications failures in the area, and facsimile transmissions to the Board's headquarters may have been unable to get through because of the overload of telephone circuits in the Washington area. In addition to the effects of the attacks on the ability of parties to make timely filings that were due on September 11, MSPB case files of Federal agencies located in the World Trade Center were destroyed in the attacks, and case files in the Pentagon may have been destroyed as well.

The MSPB notice to be published in the *Federal Register* will announce the following variations from normal case processing procedures, which have already been placed into effect:

1. Until further notice, filings due to the New York Field Office are to be made with the MSPB Northeastern Regional Office, U.S. Customhouse, Room 501, Second & Chestnut Streets, Philadelphia, PA 19106; telephone (215) 597-9960; facsimile (215) 597-3456; e-mail to philadelphia@mspb.gov. Questions regarding cases in the New York Field Office should be directed to the Northeastern Regional Office.

2. In MSPB regional and field offices, judges will exercise discretion in accepting filings due on September 11, 2001, that were made (by any filing method) after that date.
3. At Board headquarters, the Clerk of the Board will exercise discretion in accepting filings due on September 11, 2001, that were sent by regular mail and postmarked after that date. Normally, a show cause order is issued when a late filing is received, but the Clerk of the Board may accept certain filings, particularly from the New York City area, without issuing a show cause order.
4. At Board headquarters, the Clerk of the Board will accept as timely filings due on September 11, 2001, that were sent by facsimile if the date recorded on the facsimile transmission is September 12, 2001.
5. Where MSPB case files of parties located in the World Trade Center or the Pentagon were destroyed by the attacks, MSPB judges may grant appropriate continuances until the case files can be reconstructed or dismiss cases without prejudice to their later refiling. MSPB offices will also assist the parties in reconstructing case files.

Further developments regarding the reopening of the MSPB New York Field Office will be announced on the Board's website, www.mspb.gov.

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