U.S. Merit Systems Protection Board
Information Sheet: Motions Practice
Updated 9/3/2026

Purpose

The purpose of this information sheet is to provide general guidance and background information. It does not represent an official statement approved by the Board itself and is not intended to provide legal counsel or to be cited as legal authority. Instead, it is intended only to help the public become familiar with the MSPB and its procedures. In all instances, however, the Board's regulations and current case law control with respect to the matters discussed here.

How do I request the Administrative Judge (AJ) assigned to my appeal to take a particular action?

You would file a written motion in your appeal. A motion is a type of pleading where you are requesting the AJ to do something. You should refer to the Board's regulations in 5 C.F.R. Part 1201 for more specific information about motions.

Does a motion have to be in writing?

Yes, except those made during a prehearing or status conference or a hearing.

What should I put in a motion?

The motion should contain the caption of the appeal (parties' names and docket number), the title of your motion, an explanation of what action you are seeking the AJ to take, and the reasons the AJ should approve your motion. You should also submit any documents that support your request, such as a doctor's note or requests for discovery.

Do I have to serve a copy of my motion on the agency?

Yes, a motion must be served on all other parties by mail, facsimile, commercial or personal delivery, or by electronic filing, and a certificate of service, stating when and how service was made, must accompany each copy served.

What kinds of motions may be filed?

Anything that requests the AJ to take an action.

There are certain motions an agency may file to try to have an appeal dismissed, such as for untimeliness (the appeal was not timely filed), lack of jurisdiction (the Board has no authority to hear the appeal), failure to state a claim (you cannot obtain effective relief, even if your statements are accepted as true), or mootness (the Board cannot grant any additional relief). Motions to dismiss for untimeliness, lack of jurisdiction, and failure to state a claim, if granted, mean that the appeal is dismissed without granting you any relief. A motion to dismiss the appeal as moot, on the other hand, means that the agency believes it has totally rescinded the action you are appealing, and you received all of the relief to which you are entitled.

There are numerous other motions that may be filed by both parties, including: motion for an extension of time or postponement of conference/hearing (5 C.F.R. § 1201.55(a,c), to compel discovery (1201.73), to strike a pleading (1201.43), to quash a subpoena (1201.82), to disqualify a representative or an AJ (1201.31 and 1201.42), to intervene or serve as an amicus curiae (1201.34), to substitute a party (1201.35), to consolidate/join appeals (1201.36), for sanctions (1201.43), for a protective order (1201.55(d)), for an interlocutory appeal (1201.91-93), to suspend adjudication for 30 days (1201.28), and to dismiss the appeal without prejudice (1201.29).

Must I contact the agency prior to filing a motion?

Yes, you must for certain motions.

For motions for an extension of time, a postponement of the hearing, or any other procedural motion, you must first contact the agency to determine whether the agency objects to the motion and state in the motion whether it has an objection. Such motions are granted only for good cause shown. If you are requesting an extension or a postponement, it is helpful if you include in your motion suggested dates and times. Also, before you file a motion to compel discovery (see Information Sheet on Discovery), it is helpful to speak to the agency to see if the parties can work out any differences.

How long do I have to respond to a motion?

Unless the AJ tells you otherwise, you have 10 calendar days from the date the motion is served to file with the Board any response or objection to the motion. However, an AJ may grant or deny a motion for extension of time to file pleadings without any opportunity to respond.

What if I have other procedural questions?

(1) Call or email the regional office in which your appeal is pending and ask your question.

(2) Send email to the Clerk of the Board at mspb@mspb.gov.

(3) Go to the Board's website at www.mspb.gov to read the information contained in "The Appeals Process," access the Board's regulation in 5 C.F.R. Part 1201, and find lots of other helpful information and links.