



Director of Legal Services Neil McPhie, Esq. speaks with Bloomberg BNA about a proposed MSPB rule change

MSPB Proposes Regulations on Jurisdiction Over Appeals, Including Change in Standard

MSPB Proposed Rule on Practices and Procedures

Latest Development:

Merit Systems Protection Board issues proposed rule that would amend its regulations governing how jurisdiction is established over board appeals. Next Steps:

Comments on proposed rule are due no later than May 5. By Louis C. LaBrecque

April 3 --The Merit Systems Protection Board is proposing to amend its regulations governing how jurisdiction is established over board appeals, the MSPB said in a proposed rule published in the April 3 Federal Register (79 Fed. Reg. 18,658). According to the board, which is responsible for hearing federal employee appeals of alleged prohibited personnel practices, 5 C.F.R. § 1201.56 currently provides that "the appellant bears the burden of proving jurisdiction by preponderant evidence." The agency then bears the burden of supporting a performance-based action by substantial evidence and supporting any other action by preponderant evidence. But "the appellant will prevail if he or she can establish a successful affirmative defense under 5 U.S.C. 7701(c)(2) (specifically, that the agency action was based on a harmful procedural error, constituted a prohibited personnel practice, or was not in accordance with law)," the board said. These principles do not apply, however, in four categories of

appeals, the board said:•

He managed my expectations and explained the process very thoroughly

"Matt Hughes was excellent as my attorney. He managed my expectations and explained the process very thoroughly," L.H. on Senior Associate Matt Hughes, Esq. Prior results do not guarantee similar outcomes.

“He took on this case with vigor and ZERO FEAR of the government!”

"LITERALLY THE BEST MONEY I EVER SPENT!!!! The USAF charged my son with Article 92, Violate General Order and Article 128, Simple Assault. I spoke to many attorneys who said to me, "Your son will be convicted of the Simple Assault because putting lotion on someone's face is considered an assault as it is an unwanted touch." They all wanted me to work on a plea deal with the government that ended with my son being discharged, spending time in the brig and having a federal conviction for the rest of his life. Knowing that this just didn't warrant a federal conviction, bad conduct discharge and time in the brig, I was on a search to find an attorney who would look at this case for what it was: a couple of 19-21 year-old immature young men horse playing. I was looking for someone who would say something different: someone who would be able to look at the case from more than one view. When I spoke to Mr. Rinckey, I thought I was going to get the same ole speech, but to my surprise, I IMMEDIATELY felt at ease and I knew right then that he was going to be my attorney (not sure if he knew it at this time). He took on this case with vigor and ZERO FEAR of the government! He wanted them to know that this was NOT going to go away with any plea deal! And he went to work! Then, LITERALLY 2 DAYS BEFORE trail the government added an additional charge, which was Article 134, Unlawful Entry. Mr. Rinckey stayed focused, developed a plan, and off to trail we went. He was so prepared, calm and at ease. I remember him saying to me, "I am ready to try this case." And yesterday - 14 APR 2016 - my son was found NOT GUILTY on ALL CHARGES AND SPECIFICATIONS!!! Yesss!!! You know, it's always hard to find money for an attorney, but I learned one thing with this case. Although I thought we couldn't afford an attorney, the truth of the matter was that we couldn't afford NOT TO HAVE an attorney. I only wish I had found Mr. Rinckey sooner, but that's okay. I have found my ATTORNEY for life," Y.W. on Founding Partner on Greg Rinckey, Esq. Prior results do not guarantee similar outcomes.

“I would recommend your firm to anyone who needs legal help”

"I would like to say how pleased I was with the way your firm handled my case! From the initial intake to my phone consultation with Mr. Rinckey, I felt comfortable and confident. My case was assigned to Ms. Ozbek. I could not have been more pleased with her finished letter to the

BCNR. I would recommend your firm to anyone who needs legal help," S.M. on Senior Counsel Ferah Ozbek.
Prior results do not guarantee similar outcomes.

“He attacked my matter with the determination, attentiveness and professionalism that I would expect”

"Attorney Anthony Kuhn was able to negotiate the dismissal of involuntary administrative separation proceedings against me and arrange for me to voluntarily retire. After a second GOMOR was permanently filed in my personnel file, the Army informed me that I was facing involuntary separation. After missing my window to rebut the proceedings, I called Anthony Kuhn for assistance and he assured me that he would do everything in his power to negotiate a dismissal and voluntary retirement. He attacked my matter with the determination, attentiveness and professionalism that I would expect from a seasoned attorney and fellow combative Veteran. He made it clear from the start that he was personally vested in my matter. As a Sergeant Major and former client, I enthusiastically and unequivocally recommend Attorney and Veteran Anthony Kuhn to any fellow service member or Veteran with a pending Military Law matter," P.W. on Attorney Anthony Kuhn

. Prior results do not guarantee similar outcomes.

“Mr. Greiner's professional demeanor, intelligence, and attention to detail certainly made the difference”

"Anyone facing a life altering dilemma has two choices: give up or carry on. Mr. Greiner not only helped me carry on, but professionally fought for my wellbeing above and beyond what was required of him. He represented me in my Defense Office of Hearings and Appeals (DOHA) court hearing recently. Not only did Mr. Greiner take over my case on short notice, but quickly gathered and reviewed all necessary documentation and information. In addition he arranged to meet with me in person and go over all the facts. He provided me with sound professional advice on moving forward in resolving my case. I am an industrial security professional with over 15 years of experience in handling security matters for the government. My security clearance provides me the access required, and without it I would be unable to continue in my career. As a single mother of two children that is a frightening thought. Mr. Greiner's professional demeanor, intelligence, and attention to detail certainly made the difference in the final ruling of my case. I was particularly impressed with his ability to deflect opposing counsel's arguments or mitigate them altogether. His years of experience and expertise shined through not only in court, but also during follow up communications with additional documentation requested by the administrative judge. He was a pleasure to work with and I highly recommend him, and have, to those seeking legal navigation in security clearance matters. My security clearance was granted thanks to his efforts. In closing, Mr. Greiner is not only an asset to Tully Rinckey law firm, but a leader in his field that exceeded my expectations," J.L. on Attorney Gregory F. Greiner, Esq.

Prior results do not guarantee similar outcomes.

“You reassured me that we were a team”

"Thank You.' The words seem so very simple, but they carry with them all my appreciation! Thank you so much for everything! I have and always will remember what you've done for me and how you've touched my professional career. I was very uncertain if I would be able to keep my security clearance to remain employed, but with your expertise and knowledge you helped me overcome a difficult battle. You reassured me that we were a team and that you would be with me every step of the way. What looked so dim became a bright light at the end of the tunnel. Statement of Reasons you walked me through. I highly recommend Mr. Gregory Greiner to anyone who is looking for a true fighter in winning employment cases as complex as mine. P.S. Tully Rinckey does not leave you hanging, they work to win your case. Try them, V.H. on Attorney Gregory F. Greiner, Esq.

Prior results do not guarantee similar outcomes.

“You are an outstanding legal representative”

"Thank you for your superior legal services. Congratulations on winning my case against DOL! You are an outstanding legal representative! K.M. on Partner Rachelle Young, Esq.

Prior results do not guarantee similar outcomes.

Your advice has been spot on at every stage

"We really cannot thank you enough for your assistance in this situation. Your advice has been spot on at every stage, and your work in putting together our son's submittal was very impressive. I know that we would not have achieved this outcome without your help. You also have great skills in managing overly anxious parents!" C.L. on Founding Partner Mathew B. Tully, Esq.

Prior results do not guarantee similar outcomes

"Great Customer Service" – C.R.

"Great customer service, thoroughly explained all aspects of my case. Thank you." - C.R.

“Great Service” – E.S.

I want to thank you all for the great service rendered [to] myself and family. - E.S. on Client Relations Attorney Derrick Hogan

“High Regard” – R.E.M.

“Your firm held my best interests with high regard... I thank you for your efforts.” - R.E.M.

“Prompt and Efficient” – K.B.

“Prompt and efficient in processing claim, all correspondence handled in prompt and efficient manner.” – K.B.

“Impressed” – W.W.

“As a retired heavy user of attorneys, I’m impressed with your concerns and your efforts to stay in touch with your clients. Its damned good management aligned with top notch expertise.” – W.W.

“Excellent Service” – J.R.

“Excellent service, very professional, and understanding and considerate of clients needs. Attorney was very approachable and there was a very good comfort level.” – J.R.

“Professional and Informative” – J.H.

“Professional and informative... I was pleased with the handling of the case. I was treated as a person, and kept abreast of all aspects of the case. Thank you all.” – J.H.

“Thanks So Much” – J.D.

“Without your firm, I would not have known of my claim. Thanks so much!” – J.D.

“Gets Results” – F.P.

“Most certainly – The firm gets results!” – F.P.

“Outstanding” – M.P.

“Results are outstanding.” – M.P.

“Quite Satisfied” – R.W.

“I am quite satisfied with the services your office has provided.” – R.W.

“Exceptional Legal Services” – A.S.

“Your firm, Tully Rinckey, has provided and continues to provide me with prompt, keen, exceptional legal services. After the initial consult, I felt relieved that I had the representation from Tully Rinckey... I have found a new found hope with Tully Rinckey...” – A.S.

“Absolute Best” – R.H.

“My attorney was the absolute best I could ever have hoped for. A pure professional in every sense of the word. She was very mindful of my financial expenditure and still was able to represent me very well in my court case.” – R.H.

“Outstanding Service” – A.R.

“Outstanding service, true professional.” – A.R.

“Top Notch” – V.W.

“My attorney was top notch. Very pleasant and helpful.” – V.W.

“Very Thankful” – C.P.

“Very thankful for the help and guidance I received from your law firm. Because of your law firm I was able to return to work with all my back benefits.” – C.P.

“Ideal Choice” – D.H.

“My attorney knew exactly the approach to take and was the ideal choice. She was extremely responsive. She was clear, balanced, and open to our views and feelings. She made it clear she was there for us and ready to answer questions.” – D.H.

“Very Satisfied” – D.D.

"I was very satisfied with the services provided which were completed in a very timely and professional manner." – D.D.

"Excellent" – B.M.

"Your firm provides excellent & free service to federal workers and NG/USAR members." – B.M.

"Team of Experts" – T.W.

"Nice having a team of experts in the field of military rights. Anyone who has an issue regarding their civilian employment or the military I refer to you." – T.W.