

MSPB Targets Paychecks of Managers Who Don't Comply With Its Decisions

The most significant regulations update in the history of the Merit Systems Protection Board went into effect Tuesday, with the goal of ensuring that federal agencies enforce its rulings.

The independent, quasi-judicial agency that serves to protect federal employees, expanded its authority to crack down on agencies that fall out of compliance with its decisions.

The board issues judgments on appeals brought by federal workers who feel their employer has treated them unfairly. The new directives empower federal employees to petition MSPB to enforce settlement agreements reached between an employee and supervisor.

The regulations also grant MSPB more authority in its rulings, promoting the board's administrative judgments from "recommendations" to "initial rulings" that become final if no petitions are filed.

Agencies now are required to inform officials responsible for complying with a particular ruling that their pay can be suspended for noncompliance.

Neil McPhie, managing partner at Tully Rinckey PLLC, a law firm that provides services to federal employees, said the board may have chosen now to issue its new rules because of an increase in the number of petitions it has received in response to its judgments.

MSPB's decision to play up its ability to suspend pay will raise eyebrows, he added. "That caught everybody's eyes," said McPhie, who served as MSPB's chairman from 2004-2009. "This is new territory for the board. It remains to be seen what the board is going to do with it and how agencies will respond to whatever the board does."

MSPB has rarely used its existing ability to suspend pay.

No matter how MSPB decides to enact its new regulations, federal agencies must prepare.

"Any responsible agency's lawyer is going to discuss these provisions with their management people," McPhie said.

MSPB said the new rules are part of an ongoing process of reform, and the board is unsure of what the outcome will be.

"Today marks the culmination of a tremendous amount of work by MSPB staff with broad participation and input from our stakeholders and the public," MSPB Chairwoman Susan Tsui Grundmann said in statement when the regulations were announced. "We look forward to further improving our regulations for everyone, and we pledge to monitor and review the impact of the changes published today."

MSPB was created in 1979.

