



MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1201 and 1210

Practices and Procedures; Appeal of Removal or Transfer of Senior Executive Service Employees of the Department of Veterans Affairs; Corrections

AGENCY: Merit Systems Protection Board.

ACTION: Correcting amendments.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) published an interim final rule in the **Federal Register** on August 19, 2014, amending its rules of practice and procedure to adapt the Board's regulations to legislative changes that have created new laws applicable to the removal or transfer of Senior Executive Service employees of the Department of Veterans Affairs. This document corrects the interim final rule by revising these sections.

DATES: Effective on [INSERT DATE OF FILING WITH THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION: This interim final rule is necessary to adapt the MSPB's regulations to recent amendments to Federal law contained in section 707 of the Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014, Public Law 113-146 (the Act). The Act was signed by the President on August 7, 2014, and took effect on that same date. These are technical corrections to definitions and citations.

List of Subjects in 5 CFR Parts 1201 and 1210

Administrative practice and procedure.

Accordingly, 5 CFR part 1210 is corrected by making the following correcting amendments:

**PART 1210 - PRACTICES AND PROCEDURES FOR AN
APPEAL OF A REMOVAL OR TRANSFER OF A SENIOR
EXECUTIVE SERVICE EMPLOYEE BY THE SECRETARY OF
THE DEPARTMENT OF VETERANS AFFAIRS**

1. The authority citation for part 1210 continues to read as follows:

Authority: 5 U.S.C. 1204 and 7701, and 38 U.S.C. 713.

2. In § 1210.2, revise paragraph (a) to read as follows:

§ 1210.2 Definitions.

(a) The term *employee covered by this part* means an individual career appointee as that term is defined in 5 U.S.C. 3132(a)(4) or an individual who occupies an administrative or executive position and is appointed under 38 U.S.C. 7306(a) or 7401(1). (38 U.S.C. 713(a) and (g)).

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3. In § 1210.18, revise paragraph (b) to read as follows:

§ 1210.18 Burden of proof, standard of review, and penalty.

(b) *Appellant*. The appellant has the burden of proof, by a preponderance of the evidence, concerning:

- (1) Issues of jurisdiction;
- (2) The timeliness of the appeal; and
- (3) Affirmative defenses.

William D. Spencer,

Clerk of the Board.

[Billing Code 7400-01-P]

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