



U.S. MERIT SYSTEMS PROTECTION BOARD

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Chairman

OCT 17 2012

David Pardo
MSPB Watch
4854 Eisenhower Avenue, Unit 447
Alexandria, VA 22304

FOIA Tracking No. 2012-09-0011

Dear Mr. Pardo:

This letter responds to your September 18, 2012 appeal of the Clerk's Office's September 14, 2012 response to your Freedom of Information Act (FOIA) request. The Board received your original request on June 14, 2012.¹ For the reasons set forth below, I am granting your appeal in part and denying it in part.

Your June 14 request sought the following:

1. The names, grades, and dates of hire of all Administrative Judges (AJs) and Administrative Law Judges (ALJs) currently employed by the MSPB.
2. The names, grades (if applicable), and dates of first time services have been provided for all AJs and ALJs currently on a contract, agreement, or detail with the MSPB. If such judges are employed by other federal agencies, please provide the names of those agencies.
3. Documents identifying the criteria for appointment, hire, contracting, or detailing with the MSPB for AJ and ALJ positions.
4. The types of cases adjudicated by ALJs for the MSPB for 2002 to the present.
5. The performance standards used to evaluate AJs and ALJs that provide services for the MSPB, whether through direct employment, contract, agreement, or detail.

¹ The September 14, 2010 letter stated it was responding to a May 3, 2012 request from you; this was a typographical error.

6. Any documents evidencing discipline of AJs and ALJs who failed to meet MSPB performance standards for 2002 to the present.
7. The number and types of complaints filed against AJs and ALJs and a listing of those judges for 2002 to the present.

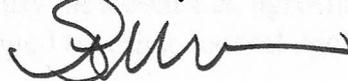
The Clerk's Office provided documents responsive to items 1 and 5 (respectively, a spreadsheet listing current administrative judges, their grades, and their dates of hire; and the performance standards used to evaluate administrative judges). The Clerk's Office informed you that it could not locate any documents responsive to items 2, 4, 6, or 7. Finally, the Clerk's Office noted that it had spoken with you regarding item 3, and had explained that OPM, not the Board, hires administrative law judges. You now challenge the Clerk's Office's determination with respect to items 2, 3, 6, and 7.

I have located additional documents responsive to items 2² and 3,³ and have enclosed them with this letter. Accordingly, I grant this portion of your appeal.

I have not located any documents responsive to items 6 or 7. The Board has not disciplined any administrative judge for failure to meet performance standards between 2002 and the present. Nor does the Board maintain disciplinary records for administrative law judges, who are not Board employees. The Board does not maintain records tracking complaints made against administrative judges or administrative law judges. The Board either adjudicates complaints against administrative judges as part of the appeal process, or informs the complainant of any applicable appeal rights from the Board's decisions. Accordingly, I am denying this portion of your appeal.

This is the Board's final decision in your appeal. Pursuant to 5 U.S.C. § 552(a)(4)(B), you have the right to seek judicial review of this decision in an appropriate United States District Court.

Sincerely,



Susan Tsui Grundmann

Enclosures: Memoranda of Understanding between MSPB and USCG; MSPB and EPA; MSPB and FTC; MSPB and NLRB

Vacancy Announcement for MSPB Administrative Judge Position, Atlanta

² The documents responsive to item 2 have been redacted of personal contact information and other sensitive information.

³ The document enclosed in response to item 3 is the most recent vacancy announcement for an administrative judge position with the Board.