

Merit Systems Protection Board

§ 1210.10

judge, or other employee designated by MSPB to decide an appeal.

(b) *Demotion* means a reduction in grade, a reduction to a lower band within the same occupational cluster, or a reduction to a lower band in a different occupational cluster under rules prescribed by the Department pursuant to 5 CFR 9701.355.

(c) *Department* means the Department of Homeland Security.

(d) *Director* means Director of the Office of Personnel Management.

(e) *Furlough* means the placement of an employee in a temporary status without duties and pay because of lack of work or funds or other non-disciplinary reasons.

(f) *Grade* means a level of work under a position classification or job grading system.

(g) *Indefinite suspension* means the placement of an employee in a temporary status without duties and pay pending investigation, inquiry, or further Department action. An indefinite suspension continues for an indeterminate period of time and usually ends with either the employee returning to duty or the completion of any subsequent administrative action.

(h) *Initial service period (ISP)* means the 1 to 2 years employees must serve after selection (on or after the date this subpart becomes applicable, as determined under 5 CFR 9701.102(b)) for a designated Department position in the competitive service for the purpose of providing an employee the opportunity to demonstrate competencies in a specific occupation. All relevant prior Federal civilian service (including non-appropriated fund service), as determined by appropriate standards established by the Department, counts toward completion of this requirement.

(i) *Mandatory removal offense (MRO)* means an offense that the Secretary determines in his or her sole, exclusive and unreviewable discretion, has a direct and substantial adverse impact on the Department's homeland security mission.

(j) *Mandatory Removal Panel (MRP)* means the three-person panel composed of officials appointed by the Secretary for fixed terms to decide appeals of removals based on a mandatory removal offense.

(k) *Pay* means the rate of basic pay fixed by law or administrative action for the position held by an employee before any deductions and exclusive of additional pay of any kind. For the purpose of this subpart, pay does not include locality-based comparability payments under 5 U.S.C. 5304, locality or special rate supplements under subpart C of 5 CFR 9701, or other similar payments.

(l) *Removal* means the involuntary separation of an employee from the Department.

(m) *Secretary* means Secretary of the Department of Homeland Security.

(n) *Suspension* means the temporary placement of an employee, for disciplinary reasons, in a nonduty/nonpay status.

§ 1210.5 Revocation, amendment and waiver of regulations in this part.

The Board or a judge may not revoke, amend or waive a regulation in this Part in a manner inconsistent with the Homeland Security Act of 2002 or 5 CFR Part 9701. Otherwise, the Board or a judge may revoke, amend or waive a regulation in this Part for good cause shown.

§ 1210.6 Savings provision.

This part does not apply to adverse actions proposed prior to the date of an affected employee's coverage under 5 CFR part 9701, subpart G.

Subpart B—Procedures for Appeals of Actions Taken Under 5 CFR Part 9701, Subpart F

§ 1210.10 Notice of appeal rights.

(a) When the Department of Homeland Security (or component thereof) issues a decision notice to an employee on a matter that is appealable to the Board, except as provided under 5 CFR 9701.707, the Department must provide the employee with the following:

(1) Notice of the time limits for appealing to the Board, the requirements of 5 CFR 1201.22(c), and the address of the appropriate Board office for filing the appeal;

(2) A copy, or access to a copy, of the Board's regulations at 5 CFR parts 1201 and 1210, and relevant Department of Homeland Security regulations;