

**§ 752.605**

must deliver the notice of decision to the appointee on or before the effective date of the action.

(h) *Applications for disability retirement.* Section 831.1204(e) of this chapter provides that an appointee's application for disability retirement need not delay any other appropriate personnel action. Section 831.1205 and § 844.202 of this chapter set forth the basis under which an agency must file an application for disability retirement on behalf of an appointee.

**§ 752.605 Appeal rights.**

(a) Under 5 U.S.C. 7543(d), a career appointee against whom an action is taken under this subpart is entitled to appeal to the Merit Systems Protection Board.

(b) A limited term or limited emergency appointee who is covered under § 752.601(c)(2) also may appeal an action taken under this subpart to the Merit Systems Protection Board.

**§ 752.606 Agency records.**

The agency must maintain copies of, and will furnish to the Merit Systems Protection Board and to the appointee upon his or her request, the following documents:

- (a) Notice of the proposed action;
- (b) Appointee's written reply, if any;
- (c) Summary of the appointee's oral reply, if any;
- (d) Notice of decision; and
- (e) Any order effecting the action, together with any supporting material.

**PART 754 [RESERVED]**

**PART 771—AGENCY ADMINISTRATIVE GRIEVANCE SYSTEM**

AUTHORITY: 5 U.S.C. 1302, 3301, 3302, 7301; E.O. 9830, 3 CFR 1945-1948 Comp., pp. 606-624; E.O. 11222, 3 CFR 1964-1969 Comp., p. 306.

**§ 771.101 Continuation of Grievance Systems.**

Each administrative grievance system in operation as of October 11, 1995, that has been established under former regulations under this part must remain in effect until the system is either modified by the agency or re-

**5 CFR Ch. I (1-1-12 Edition)**

placed with another dispute resolution process.

[60 FR 47040, Sept. 11, 1995]

**PART 772—INTERIM RELIEF**

**Subpart A—General**

Sec.

772.101 Basic authority.

772.102 Interim personnel actions.

AUTHORITY: 5 U.S.C. 1302, 3301, 3302, and 7301; Pub. L. 101-12.

SOURCE: 57 FR 3712, Jan. 31, 1992, unless otherwise noted.

**Subpart A—General**

**§ 772.101 Basic authority.**

This part establishes a mechanism for agencies to provide interim relief to employees and applicants for employment who prevail in an initial decision issued by the Merit Systems Protection Board (MSPB) as required by the *Whistleblower Protection Act of 1989*, Pub. L. 101-12 (codified at 5 U.S.C. 7701(b)(2)(A)). The interim relief provisions of the law are applicable whether or not alleged reprisal for whistleblowing is at issue in an appeal to MSPB.

**§ 772.102 Interim personnel actions.**

When an employee or applicant for employment appeals an action to MSPB and the appeal results in an initial decision by an MSPB administrative judge granting interim relief under 5 U.S.C. 7701(b)(2)(A) and a petition for review of the initial decision is filed (or will be filed) with the full Board under 5 U.S.C. 7701(e)(1)(A), the agency shall provide the relief ordered in the initial decision by taking an interim personnel action subject to the following terms:

- (a) Interim personnel actions shall be made effective upon the date of issuance of the initial decision and must be initiated on or before the date of a petition for review by the agency or within a reasonable period after the date it becomes aware of a petition for review by the appellant;
- (b) The relief provided by interim personnel actions shall end:

(1) When the full Board issues a final decision on a petition for review filed by an applicant for employment, employee, and/or agency under 5 U.S.C. 7701(e)(1)(A),

(2) When the initial decision becomes final pursuant to an action of the full Board or pursuant to a decision by an applicant for employment, employee, and/or agency to withdraw (or change intentions to file) any petition for review filed under 5 U.S.C. 7701(e)(1)(A), or

(3) When the applicant for employment or employee requests or reaches agreement with the agency that the interim relief ordered in the initial decision be cancelled;

(c) Interim relief shall entitle the applicant for employment or employee to the same compensation and benefits he or she would receive if the relief effected had not been on an interim basis except as provided in paragraph (f) of this section;

(d) An interim personnel action shall not be taken if the MSPB administrative judge, pursuant to 5 U.S.C. 7701(b)(2)(A)(i), determines that granting interim relief is not appropriate;

(e) An interim personnel action under this part shall not entitle the applicant for employment or employee to an award of back pay or attorney fees.

[57 FR 3712, Jan. 31, 1992, as amended at 59 FR 36353, July 18, 1994; 59 FR 65704, Dec. 21, 1994]

## PART 792—FEDERAL EMPLOYEES' HEALTH AND COUNSELING PROGRAMS

### Subpart A—Regulatory Requirements for Alcoholism and Drug Abuse Programs and Services for Federal Civilian Employees

Sec.

792.101 Statutory requirements.

792.102 General.

792.103 Coverage.

792.104 Responsibilities of the Office of Personnel Management.

792.105 Agency responsibilities.

### Subpart B—Agency Use of Appropriated Funds for Child Care Costs for Lower Income Employees—What Is the Child Care Subsidy Program Legislation and to Whom Does It Apply?

792.200 What are the benefits of the child care subsidy program law?

792.201 What is the purpose of the child care subsidy program law?

792.202 Do agencies have any notification responsibilities before initiating a child care subsidy program and when may agencies obligate funds for the program?

792.203 What materials are available to assist agencies with the process of establishing a child care subsidy program?

792.204 Are there any special reporting and oversight requirements related to the child care subsidy program law?

792.205 Which agency funds may be used for the purpose of child care the subsidy program?

792.206 Are agencies required to participate in this program?

792.207 When does the child care subsidy program law become effective and how may agencies take advantage of this law?

792.208 What is the definition of *executive agency*?

792.209 What is the definition of *child care subsidy program*?

792.210 What is the definition of *civilian employee*?

792.211 What is the definition of a *Federally sponsored child care center*?

792.212 What is the definition of a *child care contractor*?

792.213 What is the definition of a *child* for the purposes of this subpart?

792.214 Which children are eligible for this subsidy?

792.215 What is the definition of a *child with disabilities*?

792.216 Are Federal employees with children who are enrolled in summer programs and part-time programs eligible for the child care subsidy program?

792.217 Are part-time Federal employees eligible for the child care subsidy program?

792.218 Does the law apply only to on-site Federal child care centers that are utilized by Federal families?

792.219 Are agencies required to negotiate with their Federal labor organizations concerning the implementation of this law?

792.220 What are the requirements that child care providers must meet in order to participate in this program?

792.221 Is there a statutory cap on the amount or the percentage of child care costs that will be subsidized?

792.222 What is the definition of a *lower income Federal employee* and how is the