



# U.S. MERIT SYSTEMS PROTECTION BOARD

## APPELLANT'S PETITION FOR REVIEW FORM

### PLEASE COPY THE FOLLOWING FROM YOUR DECISION:

CASE NAME: \_\_\_\_\_ v. \_\_\_\_\_  
(Appellant Name) (Agency)

Docket No: \_\_\_\_\_

Initial or Addendum Decision Finality Date:  
(See "Notice to Appellant" section of decision for "finality" date)

### INSTRUCTIONS FOR COMPLETING PETITION FOR REVIEW FORM

The Board may grant your Petition for Review if you show that:

1. the appeal was wrongly decided based on the evidence already in the record;
2. there is new evidence, which was previously unavailable despite your due diligence, that supports a different outcome; or
3. errors in the way the appeals proceeding was handled denied you the opportunity to fairly present your case.

If you decide to file a Petition for Review, you may use this form although you are not required to do so. If you use this form, please read the instructions carefully. Before completing this form, you should read the attached copy of the Board's regulations at 5 C.F.R. § [1201.114](#) through 5 C.F.R. § [1201.120](#).

### **IT IS IMPORTANT TO FILE YOUR PETITION ON OR BEFORE THE FINALITY DATE IN THE INITIAL OR ADDENDUM DECISION. IF YOU DO NOT, THE BOARD MAY REFUSE TO CONSIDER YOUR PETITION.**

The date of filing is the date you mail (by U.S. Mail or commercial overnight delivery), fax, or hand-deliver your petition to the Board. If you will be unable to file your Petition for Review by the finality date, you must request an extension of time from the Clerk of the Board BEFORE THE FINALITY DATE. If your Petition for Review is filed after the finality date, you MUST complete Attachment B and submit it with your Petition for Review.

**YOU SHOULD NOT SUBMIT ANY EVIDENCE OR PAPERS THAT WERE SUBMITTED TO THE JUDGE BY YOU, BY YOUR REPRESENTATIVES (IF ANY), OR BY THE AGENCY.** The Board will already have that information when it considers your petition.

After you complete this form you should send it, together with any attachments, by mail, personal delivery, fax, or commercial overnight delivery to:

The Clerk of the Board  
U.S. Merit Systems Protection Board  
5th Floor Mail Room  
1615 M Street, NW  
Washington, DC 20419

TELEPHONE NUMBER: (202) 653-7200 OR (800) 209-8960

FAX NUMBER: (202) 653-7130

You must also send a copy of the form and all of the attachments to the agency and to any other party listed on Attachment A, Certificate of Service, at the addresses on the certificate. A COMPLETED COPY OF ATTACHMENT A MUST BE SENT TO THE BOARD AND TO EACH PARTY TO WHOM YOU SEND YOUR PETITION FOR REVIEW.

Please answer as many of the following questions as best you can. DO NOT DELAY FILING THIS PETITION BECAUSE YOU CANNOT ANSWER SOME OF THE QUESTIONS. Your answers to these questions will help the Board to decide whether to grant your Petition for Review. You do not have to answer "Yes" to every question for the Board to grant your Petition for Review.

The Board is interested in what you believe were errors that caused an incorrect result in your appeal, or new evidence you have discovered that would lead to a different result. If a particular question does not relate to such matters, feel free to leave it blank. Your answers should refer to the decision of the judge or to specific evidence or documents that were presented to the judge, if possible. **If the administrative judge dismissed your case because of lack of jurisdiction or because your appeal was untimely, you must only address those issues.** The other issues in your case will be addressed later, if the Board rules in your favor on the jurisdiction or timeliness issues. If you do not have enough space on the form to answer a question, or if you use a computer to print your answers, you may attach extra sheets. Please type or clearly print your answers.

NOTE: This form can be downloaded in HTML or PDF format from the Board's Website, which is located at <http://www.mspb.gov/foia/forms-pubs/forms-pubs.html>. The advantage of using an electronic form is that you are able to fill in the requested information as a regular document on your personal computer (PC). Before you begin answering any of the questions, you should save (download) the file to your PC's C drive. **NOTE:** Once you have completed filling out the form (and have saved it), you still must print out copies, sign the form(s) in the appropriate spaces, and serve the form on the Board and the other party(s) as explained above.

## QUESTIONS

1. Is this petition being filed on or before the decision finality date? (See "Notice to Appellant" section of the Initial or Addendum Decision for "finality" date.)

YES            NO

(IF YOUR ANSWER IS NO, YOU MUST COMPLETE ATTACHMENT B AND RETURN IT WITH THIS FORM.)

2. Have you been denied any procedures during your appeal to the MSPB to which you believe you were entitled? Examples of procedures include holding a hearing, submitting evidence, and calling witnesses. If so, what procedures were denied and why do you believe you were entitled to them? Did you raise this matter with the judge? Please describe how not having this procedure has harmed you.

3. Do you have any documents or evidence that are important to your appeal that were not filed with the judge before the record closed? If so, you should attach these documents and evidence. Explain why you did not submit these documents or evidence to the judge, and why it is important for the Board to consider them. Explain why you believe that these documents and evidence should change the result in your case. (The Board will not normally consider documents or evidence which were not submitted to the judge unless you can show that the evidence did not exist before the record closed or that you could not have been reasonably expected to have found the evidence before the record closed.)

4. Did the initial or addendum decision incorrectly decide any important facts or fail to consider any important facts that were presented to the judge? If so, describe what important facts were incorrectly decided or were not considered. Explain why that should change the result in your case.

5. Did the initial or addendum decision apply the wrong law or apply the law incorrectly? If so, what law should be applied and how? For example, did the decision fail to properly consider a specific law or regulation or another case that has been decided by a court or by the Board? If you answer "Yes," your explanation should refer to the specific law, regulation, or case. Explain how application of the right law should change the result in your case.

6. Are there other reasons why the initial or addendum decision was wrong? If so, what are those reasons?

7. What action (relief or remedy) do you want the Merit Systems Protection Board to order in this case? Why do you believe that you are entitled to this relief or remedy?

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Signature of Appellant or Non-Attorney Representative

DATE:

Name of Appellant or Representative (Typed or Printed)

Address

Telephone Number

Fax Number

**Attachment A**

**YOU MUST COMPLETE THIS FORM AND SUBMIT IT WITH YOUR PETITION FOR REVIEW FORM.**

**CERTIFICATE OF SERVICE**

I hereby **CERTIFY** that a copy of my Petition for Review and attachments was sent by:  
(select one)

U.S. Mail      FAX      Personal delivery      Commercial overnight delivery

Other

to each of the following on \_\_\_\_\_ (Date). If there is more than one name listed below and you used different type of delivery, please write the type used next to each name.

Office of the Clerk  
US Merit Systems Protection Board  
1615 M Street, NW, 5<sup>th</sup> Floor Mail Room  
Washington, DC 20419

**AGENCY REPRESENTATIVE** (Name and Address) Type of Delivery:

Name:

Agency Name:

Agency Address:

City, State, Zip:

**OTHER PARTIES** (IF THERE ARE ANY) Type of Delivery:

Name:

Name/Title:

Address:

City, State, Zip:

Name:

Name/Title:

Address:

City, State, Zip:

\_\_\_\_\_  
(Signature)

**Attachment B**

**YOU MUST COMPLETE AND SIGN THIS FORM IF YOU ANSWERED "NO" TO QUESTION 1**

**MOTION TO ASK THE BOARD TO ACCEPT FILING AS TIMELY OR TO SET ASIDE THE DEADLINE**

CASE NAME: \_\_\_\_\_ v. \_\_\_\_\_

DOCKET NUMBER: \_\_\_\_\_

I ask the Board to accept my document that appeared to be filed after the Board's deadline had passed. I ask the Board to allow me to submit my proof that the document was filed on time, or, I ask the Board to set aside (waive) the deadline for filing the document for the good cause (reason) shown below. I have included an exact and detailed description of the circumstances that caused the document to be filed late. I have included documents and/or other evidence that supports my request. I also have stated the reasons that I did not ask the Board, before the deadline, for more time to file the document.

(NOTE: If you are claiming that your health has affected your ability to meet filing deadlines, you must show that you suffered from an illness that affected your ability to file on time. To establish that a late filing was caused by an illness, you must:

1. Identify the time period during which you suffered from the illness;
2. Submit medical or other evidence showing that you suffered from the illness during the time since the initial decision was issued; and
3. Explain how the illness prevented you from filing your document on time or requesting an extension of time.

**DECLARATION**

I, \_\_\_\_\_, do hereby declare under the penalty of perjury under the laws of the United States of America that the statements above are true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## **Attachment C-MSPB PFR FORM**

### PART 1201 - PRACTICES AND PROCEDURES SUBPART C - PETITIONS FOR REVIEW OF INITIAL DECISIONS

[1201.114 Filing petition and cross petition for review.](#)

[1201.115 Contents of petition for review.](#)

[1201.116 Appellant requests for enforcement of interim relief.](#)

[1201.117 Procedures for review or reopening.](#)

[1201.118 Board reopening of case and reconsideration of initial decision.](#)

[1201.119 OPM petition for reconsideration.](#)

[1201.120 Judicial review.](#)