

**Merit Systems Protection Board**

**§ 1203.1**

Boise, Idaho  
Pocatello, Idaho  
Las Vegas, Nevada  
Reno, Nevada  
Medford, Oregon  
Portland, Oregon  
Seattle, Washington  
Spokane, Washington  
Richland, Kennewick, and Pasco, Wash-  
ington

*Denver Field Office*

Phoenix, Arizona  
Tucson, Arizona  
Grand Junction, Colorado  
Lakewood, Colorado  
Pueblo, Colorado  
Wichita, Kansas  
Billings, Montana  
Great Falls, Montana  
Missoula, Montana  
Omaha, Nebraska  
Albuquerque, New Mexico  
Bismarck, North Dakota  
Fargo, North Dakota  
Rapid City, South Dakota  
Sioux Falls, South Dakota  
Salt Lake City, Utah  
Casper, Wyoming

[69 FR 11503, Mar. 11, 2004, as amended at 69  
FR 61991, Oct. 22, 2004]

**APPENDIX IV TO PART 1201—SAMPLE  
DECLARATION UNDER 28 U.S.C.1746**

**Declaration**

I, \_\_\_\_\_, do hereby declare:  
I declare under penalty of perjury under  
the laws of the United States of America  
that the foregoing is true and correct.  
Executed on

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

**PART 1202—STATUTORY REVIEW  
BOARD**

AUTHORITY: 5 U.S.C. 1204.

**§ 1202.1 Designating Chairman of Stat-  
utory Review Board.**

At the written request of the Depart-  
ment of Transportation, the Chairman  
of the Board will designate a presiding  
official of the Board to serve as the  
Chairman of any Board of Review es-  
tablished by the Secretary of Transpor-  
tation under 5 U.S.C. 3383(b) to review

certain actions to remove air traffic  
controllers.

[54 FR 28658, July 6, 1989]

**PART 1203—PROCEDURES FOR RE-  
VIEW OF RULES AND REGULA-  
TIONS OF THE OFFICE OF PER-  
SONNEL MANAGEMENT**

**GENERAL**

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**ORDER OF THE BOARD**

1203.21 Final order of the Board.  
1203.22 Enforcement of order.

AUTHORITY: 5 U.S.C. 1204(a), 1204(f), and  
1204(h).

SOURCE: 54 FR 23632, June 2, 1989, unless  
otherwise noted.

**GENERAL**

**§ 1203.1 Scope; application of part  
1201, subpart B.**

(a) *General.* This part applies to the  
Board's review, under 5 U.S.C. 1204(a)(4)  
and 1204(f), of any rules or regulations  
("regulations") issued by the Office of  
Personnel Management (OPM). It ap-  
plies to the Board's review of the way  
in which an agency implements regula-  
tions, as well as to its review of the va-  
lidity of the regulations on their face.

(b) *Application of 5 CFR part 1201, sub-  
parts B and C.* (1) Where appropriate,  
and unless the Board's regulations pro-  
vide otherwise, the Board may apply  
the provisions of 5 CFR part 1201, sub-  
part B to proceedings conducted under  
this part. It may do so on its own mo-  
tion or on the motion of a party to  
these proceedings.

(2) The following provisions of 5 CFR  
part 1201, subparts B and C do not  
apply to proceedings conducted under  
this part:

## § 1203.2

(i) Sections 1201.21 through 1201.27 which concern petitions for appeal of agency actions, and the pleadings that are filed in connection with those petitions; and

(ii) Sections 1201.111 through 1201.119 which concern final decisions of presiding officials, and petitions for Board review of those decisions.

[54 FR 23632, June 2, 1989, as amended at 54 FR 28658, July 6, 1989]

### § 1203.2 Definitions.

(a) *Invalid regulation* means a regulation that has been issued by OPM, and that, on its face, would require an employee to commit a prohibited personnel practice if any agency implemented the regulation.

(b) *Invalidly implemented regulation* means a regulation, issued by OPM, whose implementation by an agency has required an employee to commit a prohibited personnel practice. A valid regulation may be invalidly implemented.

(c) *Merit system principles* are the principles stated in 5 U.S.C. 2301(b)(1) through 2301(b)(9).

(d) *Pleadings* are written submissions containing claims, allegations, arguments, or evidence. They include briefs, motions, requests for regulation review, responses, replies, and attachments that are submitted in connection with proceedings under this part.

(e) *Prohibited personnel practices* are the impermissible actions described in 5 U.S.C. 2302(b)(1) through 2302(b)(11).

(f) *Regulation review* means the procedure under which the Board, under 5 U.S.C. 1204(f), reviews regulations issued by OPM on their face, or reviews those regulations as they have been implemented, or both, in order to determine whether the regulations require any employee to commit a prohibited personnel practice.

(g) *Request for regulation review* means a request that the Board review a regulation issued by OPM.

[54 FR 23632, June 2, 1989, as amended at 54 FR 28658, July 6, 1989]

## 5 CFR Ch. II (1-1-07 Edition)

### PROCEDURES FOR REVIEW

#### § 1203.11 Request for regulation review.

(a) An interested person or the Special Counsel may submit a request for regulation review.

(b) Contents of request. (1) Each request for regulation review must include the following information:

(i) The name, address, and signature of the requester's representative or, if the requester has no representative, of the requester;

(ii) A citation identifying the regulation being challenged;

(iii) A statement (along with any relevant documents) describing in detail the reasons why the regulation would require an employee to commit a prohibited personnel practice; or the reasons why the implementation of the regulation requires an employee to commit a prohibited personnel practice;

(iv) Specific identification of the prohibited personnel practice at issue; and

(v) A description of the action the requester would like the Board to take.

(2) If the prohibited personnel practice at issue is one prohibited by 5 U.S.C. 2302(b)(12), the request must include the following additional information:

(i) Identification of the law or regulation that allegedly would be or has been violated, and how it would be or has been violated; and

(ii) Identification of the merit system principles at issue and an explanation of the way in which the law or regulation at issue implements or directly concerns those principles.

[54 FR 23632, June 2, 1989, as amended at 65 FR 57939, Sept. 27, 2000]

#### § 1203.12 Granting or denying the request for regulation review.

(a) The Board, in its sole discretion, may grant or deny an interested person's request for regulation review. It will grant a request for regulation review that the Special Counsel submits. It will not, however, review a regulation before its effective date.

(b) After considering the request for regulation review, the Board will issue an order granting or denying the request in whole or in part. Orders in