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§ 930.213 Use of administrative law judges on detail from other agencies.

(a) An agency that is occasionally or temporarily insufficiently staffed with administrative law judges may ask OPM to provide for the temporary use by the agency of the services of an administrative law judge of another agency. The agency request should—

(1) Identify and describe briefly the nature of the case(s) to be heard (including parties and representatives when available);

(2) Specify the legal authority under which the use of an administrative law judge is required; and

(3) Demonstrate that the agency has no administrative law judge available to hear the case(s).

(b) OPM, with the consent of the agency in which an administrative law judge is employed, will select the administrative law judge to be used, and will name the date or period for which the administrative law judge is to be made available for detail to the agency in need of his or her services.

(c) Such details generally will be reimbursable by the agency requesting the detail.

§ 930.214 Actions against administrative law judges.

(a) *Procedures.* An agency may remove, suspend, reduce in grade, reduce in pay, or furlough for 30 days or less, an administrative law judge only for good cause, established and determined by the Merit Systems Protection Board on the record and after opportunity for a hearing before the Board as provided in 5 U.S.C. 7521 and §§ 1201.131 through 1201.136 of this title. Procedures for adverse actions by agencies under part 752 of this chapter are not applicable to actions against administrative law judges.

(b) *Status during removal proceedings.* In exceptional cases when there are circumstances by reason of which the retention of an administrative law judge in his or her position, pending adjudication of the existence of good cause for his or her removal, would be detrimental to the interests of the Government, the agency may either:

(1) Assign the administrative law judge to duties not inconsistent with his or her normal duties in which these conditions would not exist;

(2) Place the administrative law judge on leave with his or her consent;

(3) Carry the administrative law judge on appropriate leave (annual or sick leave, leave without pay, or absence without leave) if he or she is voluntarily absent for reasons not originating with the agency; or

(4) If none of the alternatives in paragraphs (b) (1), (2) and (3) of this section is available, agencies may consider placing the administrative law judge in a paid, non-duty or administrative leave status.

(c) *Exceptions from procedures.* The procedures in this subpart governing the removal, suspension, reduction in grade, reduction in pay, or furlough of 30 days or less of administrative law judges do not apply in making dismissals or taking other actions requested by OPM under §§ 5.2 and 5.3 of this chapter; nor to dismissals or other actions made by agencies in the interest of national security under 5 U.S.C. 7532; nor to reduction-in-force action taken by agencies under 5 U.S.C. 3502; nor any action initiated by the Special Counsel of the Merit Systems Protection Board under 5 U.S.C. 1206.

§ 930.215 Reduction in force.

(a) *Retention preference regulations.* Except as modified by this section, the reduction-in-force regulations in part 351 of this chapter apply to reductions in force of administrative law judges.

(b) *Determination of retention standing.* In determining retention standing in a reduction in force, each agency will classify its administrative law judges in groups and subgroups according to tenure of employment, veteran preference, and service date in the manner prescribed in part 351 of this chapter. However, as administrative law judges are not given performance ratings, the provisions in part 351 of this chapter referring to the effect of performance ratings on retention standing are not applicable to administrative law judges.

(c) *Placement Assistance.* (1) Administrative law judges who are reached by an agency reduction in force and who are notified they are to be separated