

DEPARTMENT OF LABOR**Pension and Welfare Benefits Administration****Working Group Studying, Retirement Plan Leakage: Cashing Out Your Future From ERISA Employer-Sponsored Pension Plans Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting**

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Friday, November 13, 1998, of the Retirement Plan Leakage: Cashing Out Your Future—Working Group of the Advisory Council on Employee Welfare and Pension Benefit Plans. The group is studying pre-retirement distributions, including in-service distributions, hardship loans and participant loans from ERISA employer-sponsored pension plans.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon in Room N-4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue NW, Washington, D.C. 20210, is for Working Group members to complete their report and/or recommendations on the import of these "pension preservation" issues.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before November 5, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219-8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by November 5, 1998, at the address indicated in this notice.

Organizations or individuals also may submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before November 5.

Signed at Washington, D.C. this 9th day of October, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98-27832 Filed 10-15-98; 8:45 am]

BILLING CODE 4510-29-M

Signed at Washington, D.C. This 9th day of October, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98-27833 Filed 10-15-98; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF LABOR**Pension and Welfare Benefits Administration****Working Group on the Disclosure of the Quality of Health Care Plans, Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting**

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group established by the Advisory Council on Employee Welfare and Pension Benefit Plans to study what kind of information on the quality of care in health plans should be transmitted to fiduciaries and participants and how the information should be transmitted will hold an open public meeting on Thursday, November 12, 1998, in Room N-4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, D.C. 20210.

The purpose of the open meeting, which will run from 9:30 a.m. To approximately noon, is for Working Group members to complete their report and/or recommendations.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before November 5, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219-8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodation, should contact Sharon Morrissey by November 5, at the address indicated in this notice.

Organizations or individuals may also submit statement for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before November 5.

MERIT SYSTEMS PROTECTION BOARD**Opportunity To File Amicus Briefs in Roach v. Department of the Army, MSPB Docket No. DC-1221-97-0251-W-1, and Hesse v. Department of State, MSPB Docket No. DC-0752-97-1079-I-1**

AGENCY: Merit Systems Protection Board.

ACTION: The Merit Systems Protection Board is providing interested parties with an opportunity to submit amicus briefs on whether the Board has authority to adjudicate whistleblower retaliation claims involving an appellant's security clearance, and, if so, whether there are limits pertaining to the scope of that authority.

SUMMARY: The appellant in *Roach v. Department of the Army*, MSPB Docket No. DC-1221-97-0251-W-1 filed an individual right of action (IRA) appeal under the Whistleblower Protection Act (WPA) alleging that the agency, among other actions, suspended his security clearance in retaliation for whistleblowing activities. The appellant in *Hesse v. Department of State*, MSPB Docket No. DC-0752-97-1079-I-1, simultaneously filed a petition for appeal under 5 U.S.C. Chapter 75, and a request for corrective action with the Office of the Special Counsel after the agency indefinitely suspended his based upon the suspension of his security clearance.

In *Department of the Navy v. Egan*, 484 U.S. 518, 530-31 (1988), the Supreme Court held that, in an appeal under 5 U.S.C. § 7513 based on the denial or revocation of a security clearance, the Board does not have authority to review the substance of the underlying security clearance determination. Based upon *Egan*, as well as other considerations, the Board has previously held that the revocation of a security clearance was not included within the statutory definition of a "personnel action," under 5 U.S.C. 2302(a)(2), and that it lacked authority to review allegations of retaliation for whistleblowing when the claims pertained to the revocation of a security clearance. See *Wilson v. Department of Energy*, 63 M.S.P.R. 228, 232-32 (1994);

McCabe v. Department of the Air Force, 62 M.S.P.R. 641, 647-48 (1994), *aff'd*, 62 F.3d 1433 (Fed. Cir. 1995) (Table);

Weber v. Department of the Army, 59 M.S.P.R. 293, 297 (1993), *aff'd*, 26 F.3d 140 (Fed. Cir. 1994) (Table).

In 1994, however, Congress amended the WPA to include "any other significant change in duties, responsibilities, or working conditions" under the definition of a "personnel action." 5 U.S.C. 2302(a)(2)(A)(xi). The legislative history of the amendments discusses security clearance determinations as an element of that broad category, which tends to support a conclusion that the Board has jurisdiction over security clearance issues in an IRA appeal. In *Roach* and *Hesse*, we are considering this issue for the first time. We therefore invite interested parties to submit amicus briefs addressing this subject.

We also recognize that a conclusion that an agency decision pertaining to a security clearance is a "personnel action," that may be pursued with the Board under the WPA, raises various subsidiary issues, some of which are interrelated. These include the following: (1) May appellants raise claims of whistleblower retaliation involving security clearance determinations as affirmative defenses in Chapter 75 adverse action appeals, in addition to IRA appeals under the WPA, or are such Chapter 75 defenses precluded by *Egan*; (2) if such whistleblowing claims may be raised in both Chapter 75 and IRA appeals, should the Board continue to apply its current burden of proof and analytical framework (see e.g., *Horton v. Department of the Navy*, 66 F.3d 279, 284 (Fed. Cir. 1995), cert. denied, 516 U.S. 1176 (1996); *Caddell v. Department of Justice*, 66 M.S.P.R. 347, 351 (1995), *aff'd*, 96 F.3d 1367 (Fed. Cir. 1996)), given the Supreme Court's concern for the burden of proof issue in *Egan*, 484 U.S. at 531-32; (3) what is the relationship between a security clearance determination and a decision to permit or allow access to sensitive information, such as Sensitive Compartmented Information; (4) are there limits to the Board's authority over claims and evidence pertaining to security clearances or sensitive information; and (5) how should the Board adjudicate claims of evidentiary privilege that may arise in security clearance cases, and what effect, if any, will such privilege have on a party's burden of proof? We, therefore, invite interested parties to submit amicus briefs addressing all of these questions, as well as any related matter they deem relevant for a full examination of the

Board's authority to adjudicate security-clearance related whistleblowing claims.

Vice Chair Slavet did not participate in the issuance of this notice.

DATES: All briefs in response to this notice shall be filed with the Clerk of the Board on or before November 6, 1998.

ADDRESSES: All briefs shall include the case names and docket numbers noted above (*Roach v. Department of the Army*, MSPB Docket No. DC-1221-97-0251-W-1 and *Hesse v. Department of State*, NSPB Docket No. DC-0752-97-1079-I-1) and be entitled "Amicus Brief." Briefs should be filed with the Office of the Clerk, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, DC 20419.

FOR FURTHER INFORMATION CONTACT: Shannon McCarthy, Deputy Clerk of the Board, or Matthew Shannon, Counsel to the Clerk, (202) 653-7200.

Dated: October 8, 1998.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 98-27782 Filed 10-15-98; 8:45 am]
BILLING CODE 7400-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98-150]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Commercial Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Subcommittee.

DATES: Wednesday, October 21, 1998, 8:00 a.m. to 4:30 p.m.

ADDRESSES: NASA Headquarters, Conference Room MIC HQ7H46, 300 E Street SW, Washington DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Candace Livingston, Code UX, National Aeronautics and Space Administration, Washington, DC 20546, 202/358-0697.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room.

Advance notice of attendance to the Executive Secretary is requested. The agenda for the meeting will include the following topics:

- Discussion of National Academy of Public Administration Review of Commercial Space Centers
- Space Development and Commercial Research Performance Goals
- Status of Commercial Legislation

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: October 9, 1998.

Matthew M. Crouch,
Advisory Committee Management Officer,
National Aeronautics and Space Administration.

[FR Doc. 98-27755 Filed 10-15-98; 8:45 am]
BILLING CODE 7510-01-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98-149]

NASA Advisory Council (NAC), Technology and Commercialization Advisory Committee (TCAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Technology and Commercialization Advisory Committee.

DATES: Tuesday, October 27, 1998, 8:30 a.m. to 3:00 p.m. and Wednesday, October 28, 1998, 8:00 a.m. to 12:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room MIC-5, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory M. Reck, Code AF, National Aeronautics and Space Administration, Washington, DC 20546 (202/358-4700).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Enhance NASA Process for Technology and Commercialization
- Coordination of Advisory Groups
- NASA Center of Excellence Key Areas
- Enterprise Plans for Technology

It is imperative that the meeting be held on these dates to accommodate the