

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.

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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.

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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