

Summary Report

CONVERSATIONS ON PUBLIC SERVICE

FORUM ON THE FEDERAL APPEALS SYSTEM

ITEMS OF CONSENSUS

February 2004



National Academy of
Public Administration

National Commission
on the Public Service
Implementation Initiative

FORUM ON THE FEDERAL APPEALS SYSTEM

Hosted by the

*National Commission on the Public Service Implementation Initiative
and the
National Academy of Public Administration
Standing Panel on the Public Service*

September 26, 2003

ITEMS OF CONSENSUS AMONG THE ATTENDEES

The National Academy of Public Administration's Standing Panel on the Public Service and the National Commission on the Public Service Implementation Initiative, chaired by Paul A. Volcker, sponsored a forum on the federal appeals system on September 26, 2003.

The forum was convened in response to the ongoing debate about the federal appeals system and the difficulty policymakers were having in reaching consensus on new systems for Department of Defense civilian personnel and the Department of Homeland Security. This forum was held for the purpose of informing the current debate and educating participants as to the areas of possible consensus.

The forum began with presentations by three individuals with considerable experience with the federal appeals process:

- Chuck Hobbie—Deputy General Counsel, American Federation of Government Employees
- Ron Sanders—Associate Director, Office of Personnel Management
- Joe Swerdzewski—former General Counsel, Federal Labor Relations Authority

The presentations were followed by discussion with the audience, which was a diverse group of federal officials, congressional staff, and interested individuals from the private sector. As a result of this discussion, the forum attendees felt they had reached a consensus on some underlying issues and principles. These items of consensus follow, as recorded by the moderator.

What are the problems with the current system that need correction?

- Training of managers in dealing with employee issues is inadequate
- Lack of incentives for managers to distinguish performance levels and contributions
- Lack of sufficient resources to distinguish performance levels and contributions
- Too many steps—forum shopping—length of process
- OPM regulations are unnecessarily complicated
- The whole process is unnecessarily complicated and convoluted

What set of principles should underlie any federal employee appeals system?

- Fairness, including the perception of fairness
- Fast and final with due process
- Protection of merit system principles—to preserve the core rights of employees and the general public interest
- Consideration of protecting the agency's mission

What solutions do participants recommend as options for administrative and legislative reform?

- Train managers
- Simplify OPM regulations
- Encourage negotiation / arbitration / alternative dispute resolution (ADR)
- Distinguish between performance and misconduct



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