

indefinitely suspended from their positions pending determinations concerning whether their security clearances should be revoked. The Board has recognized that, under certain circumstances, an agency may indefinitely suspend an employee based upon the suspension of access to classified information or pending the agency's investigation regarding that access, where the access is a condition of employment. *See, e.g., Gonzalez v. Department of Homeland Security*, 114 M.S.P.R. 318, ¶ 13 (2010); *Jones v. Department of the Navy*, 48 M.S.P.R. 680, 682, 689, aff'd as modified on recons., 51 M.S.P.R. 607 (1991), aff'd, 978 F.2d 1223 (Fed. Cir. 1992). On appeal of such an action, the Board lacks the authority to review the merits of the agency's decision to suspend an employee's access to classified material. *Department of the Navy v. Egan*, 484 U.S. 518, 530–31 (1988).

The Board may determine, however, whether the agency afforded an employee minimum due process with respect to the employee's constitutionally protected property interest in employment. *See, e.g., Johnson v. Department of the Navy*, 62 M.S.P.R. 487, 490–91 (1994); *Kriner v. Department of the Navy*, 61 M.S.P.R. 526, 531–35 (1994). In *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 546 (1985), the Court held that an agency's failure to provide a tenured public employee with an opportunity to present a response, either in person or in writing, to an appealable agency action that deprives him of his property right in his employment constitutes an abridgement of his constitutional right to minimum due process of law, *i.e.*, prior notice and an opportunity to respond. In *Gilbert v. Homar*, 520 U.S. 924 (1997), the Court explained, in a case involving the suspension of a state employee, how its due process analysis would apply to discipline short of termination.

The Board may also review whether the agency provided the employee with the procedural protections set forth in 5 U.S.C. 7513 in taking an action. *Egan*, 484 U.S. at 530; *see also Cheney v. Department of Justice*, 479 F.3d 1343, 1344–45 (Fed. Cir. 2007); *King v. Alston*, 75 F.3d 657, 661–63 (Fed. Cir. 1996). The Board applies a harmful error analysis in considering statutory violations. *See, e.g., Ward v. U.S. Postal Service*, 634 F.3d 1274, 1282 (Fed. Cir. 2011); *Handy v. U.S. Postal Service*, 754 F.3d 335, 337–38 (Fed. Cir. 1985).

The cases thus present the following legal issues: (1) Should the Board apply the balancing test set forth in *Homar*, 520 U.S. 924, in determining whether an

agency violates an employee's constitutional right to due process in indefinitely suspending him or her pending a security clearance determination; (2) If so, does that right include the right to have a deciding official who has the authority to change the outcome of the proposed indefinite suspension; (3) If the Board finds that an agency did not violate an employee's constitutional right to due process in this regard, how should the Board analyze whether the agency committed harmful procedural error in light of the restrictions set forth in *Egan*, 484 U.S. 518, on the Board's authority to analyze the merits of an agency's security clearance determination.

Interested parties may submit amicus briefs or other comments on these issues no later than October 19, 2011. Amicus briefs must be filed with the Clerk of the Board. Briefs shall not exceed 30 pages in length. The text shall be double-spaced, except for quotations and footnotes, and the briefs shall be on 8½ by 11 inch paper with one inch margins on all four sides.

**DATES:** All briefs submitted in response to this notice shall be filed with the Clerk of the Board on or before October 19, 2011.

**ADDRESSES:** All briefs shall be captioned with the names of the parties and entitled "Amicus Brief." Only one copy of the brief need be submitted. Briefs must be filed with the Office of the Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419.

**FOR FURTHER INFORMATION CONTACT:** Matthew Shannon, Merit Systems Protection Board, Office of the Clerk of the Board, 1615 M Street, NW., Washington, DC 20419; (202) 653-7200; [mspb@mspb.gov](mailto:mspb@mspb.gov).

**William D. Spencer,**  
Clerk of the Board.

[FR Doc. 2011-24439 Filed 9-22-11; 8:45 am]

**BILLING CODE 7400-01-P**

## **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**[Notice (11-083)]**

### **NASA Advisory Council; Science Committee; Astrophysics Subcommittee; Meeting**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National

Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The Meeting will be held for the purpose of soliciting from the scientific community and other persons scientific and technical information relevant to program planning.

**DATES:** Wednesday, October 19, 2011, 8:30 a.m. to 5:30 p.m., and Thursday, October 20, 2011, 8:30 a.m. to 4 p.m., local time.

**ADDRESSES:** NASA Headquarters, 300 E Street, SW., Rooms 9H40 and 7H45, respectively, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358-4452, fax (202) 358-4118, or [mnorris@nasa.gov](mailto:mnorris@nasa.gov).

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the capacity of the room. This meeting will also be available telephonically and by WebEx. Any interested person may call the USA toll free conference call number 800-369-2152, pass code APS, to participate in this meeting by telephone. The WebEx link is <https://nasa.webex.com>, meeting number on October 19 is 998 444 941, and password APS@October192011; the meeting number on October 20 is 998 679 930, and password APS@October202011. The agenda for the meeting includes the following topics: —Astrophysics Division Update. —James Webb Space Telescope Follow-Up. —Wide Field Infrared Space Telescope, Science Definition Team. —Physics of the Cosmos/Cosmic Origins/Exoplanet Program Analysis Group.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide a copy of their passport, visa, or green card in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date);

employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizenship can provide identifying information 3 working days in advance by contacting Marian Norris via e-mail at [mnorris@nasa.gov](mailto:mnorris@nasa.gov) or by telephone at (202) 358-4452.

Dated: September 19, 2011.

**P. Diane Rausch,**  
Advisory Committee Management Officer,  
National Aeronautics and Space  
Administration.

[FR Doc. 2011-24491 Filed 9-22-11; 8:45 am]

**BILLING CODE P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Meetings of Humanities Panel

**AGENCY:** The National Endowment for the Humanities.

**ACTION:** Notice of additional meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held via telephone conference call from the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Voyatzis, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606-8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606-8282.

**SUPPLEMENTARY INFORMATION:** The proposed meeting is for the purpose of advising the agency, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, on the development of humanities programming and content for an upcoming *Bridging Cultures Bookshelf* project on the subject of Muslim history and cultures, including discussion of the early planning stages of the project, strategies for shaping and implementing the program, and the portion of the project focusing on Muslim art and architecture. Because the proposed meeting will consider information that is likely to disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee

meetings, dated July 19, 1993, I have determined that the meeting will be closed to the public pursuant to subsection (c)(9)(B) of section 552b of Title 5, United States Code.

1. *Date:* October 3, 2011.

*Time:* 2 p.m. to 4 p.m.

*Room:* 421.

*Place:* National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (Telephone Conference Call).

*Program:* This meeting will provide advice about the Bridging Cultures Bookshelf project on the subject of Muslim history and cultures, focusing on the portion about art and architecture.

**Elizabeth Voyatzis,**

Advisory Committee Management Officer.

[FR Doc. 2011-24401 Filed 9-22-11; 8:45 am]

**BILLING CODE 7536-01-P**

## NATIONAL SCIENCE FOUNDATION

### Advisory Panel for Integrative Activities, #1373; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

*Name:* Ad Hoc Advisory Committee on the Merit Review Process (MRPAC).

*Date/Time:* October 12, 2011; 12 p.m.-4 p.m., EDT.

*Place:* National Science Foundation, 4201 Wilson Boulevard, Room II-515, Arlington, VA.

*Type of Meeting:* Open.

*Contact Person:* Ms. Victoria Fung, National Science Foundation 4201 Wilson Boulevard, Room II-515, Arlington, VA 22230. E-mail: [vfung@nsf.gov](mailto:vfung@nsf.gov). Telephone: (703) 292-8040.

If you plan to attend the meeting, please send an e-mail with your name and affiliation to the individual listed above, by the day before the meeting, so that a visitor badge can be prepared.

*Purpose of Meeting:* To provide advice concerning issues related to NSF's merit review process.

*Agenda:*

- Welcome.
- Discussion of experiments with enhancements to the merit review process.
- Update on outreach activities.

Dated: September 20, 2011.

**Susanne Bolton,**

Committee Management Officer.

[FR Doc. 2011-24486 Filed 9-22-11; 8:45 am]

**BILLING CODE 7555-01-P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2008-0302]

### Standard Format and Content of License Applications for Conventional Uranium Mills

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory guide; withdrawal.

**SUMMARY:** On May 30, 2008 (73 FR 31152), the U.S. Nuclear Regulatory Commission (NRC) published for public comment a notice of issuance and availability of Draft Regulatory Guide (DG)-3024, "Standard Format and Content of License Applications for Conventional Uranium Mills." DG-3024 was a proposed Revision 2 of Regulatory Guide (RG) 3.5. However, upon further consideration the NRC has decided not to revise RG 3.5 at this time. For this reason, DG-3024 will be withdrawn. The comment period closed on August 4, 2008, and 6 comments were received. The comments received will be considered and incorporated as appropriate if the NRC decides to revise RG 3.5 in the future.

**ADDRESSES:** You can access publicly available documents related to this action using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

• *Federal Rulemaking Web Site:* Public comments and supporting materials related to this action can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2008-0302. Address questions about NRC dockets to Carol Gallagher, telephone: 301-492-3668; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Hector Luis Rodriguez-Luccioni, U.S.