

Brett D. Fleisch, Ph.D. FEDERAL WHISTLEBLOWER

An IPA "is deemed an employee of the agency for the purpose of [chapter 73 of this title](#)" 5 USC 3374.

Under 5 USC 3374 appointees to a **federal agency** under IPA are federal employees.

1. I told them this already in my original pleading but the Agency and judge ignored the pleading and the law 5 USC 3371-3376. They said it was an "employment pleading" when it was a "recording of time correctly" and "tabulation" pleading.
Once the time is recorded consistent with time spent at NSF, I would have made the short list in a 2014 reinstatement request, which they denied.
2. I pointed out missing data for my service time in the SF-50. Ms. Spenser gave over three years of dates of my employment. But she said I get credit for only the "expert time". This was approximately 46 days. This is incorrect calculation under 5 USC 3374.
3. The agency fails to keep the SF-50 correct with respect to 5 USC 3374 indicating federal service time at the federal records center, OPM (where involved) and NSF. This lead to hundreds of employment decisions that did not choose the best employee when they held a Ph.D. And were previously program directors, division directors or directorate directors when the policy was employed. It must have been employed in a large number of employment competitions because the SF-50 was wrong.
4. I sent the Cusik memo in my pleading. That memo states detailees or those on assignment are federal employees (when appointed to a federal agency). NSF ignored the Cusik memo in the pleading as well as the judge. They hand it out during boot camp orientation, however to all.
5. IPAs can be appointed upwards or downwards. "employee of the agency" has a meaning whether appointed federally or at the state level. 5 USC 3374 omits the words depending on the type of agency. This is NOT because employees are not federal employees as IPAs at NSF.
6. I understand this decision, under the Judge's authority cannot change the employment decision. But it was wrong to ignore the law. The pleading was that the SF-50s need to be changed for thousands of IPA employees. Thus, the title "recording and tabulation" pleading.
7. The employment practice of telling the IPA Ph.D. holders that have served at the agency and telling them after leaving they were not employees is degrading. This is accomplished by the employee being required to sign departure paperwork. The departure paperwork has some statements that they are not federal employees that deprecate their employment status; it also indicates all IPA time is not recorded on the SF-50.

Brett D. Fleisch, Ph.D.
264 Cannon Road
Riverside, CA 92506