

**UNITED STATES OF AMERICA  
MERIT SYSTEMS PROTECTION BOARD  
WASHINGTON REGIONAL OFFICE**

[REDACTED],

Appellant,

v.

U.S. AGENCY FOR  
INTERNATIONAL  
DEVELOPMENT,

Agency.

DOCKET NUMBER  
DC-0351-25-2947-I-1

DATE: July 15, 2025

**ORDER DENYING CLASS CERTIFICATION**

On July 2, 2025, the appellant filed an appeal challenging the agency's decision to subject her to a reduction in force (RIF) action. Initial Appeal File (IAF), Tab 1. The appellant also requested that a class appeal be certified on behalf of:

All career and career-candidate Foreign Service Officers and Senior Foreign Service Officers (collectively "FSOs") employed by the United States Agency for International Development ("USAID") who were subject to separation from federal service pursuant to a Reduction in Force ("RIF") with an effective date of July 1, 2025.

IAF, Tab 1 at 14.

The Board's class appeal regulations provide that, when an appellant requests class certification, "[t]he judge will hear the case as a class appeal if he or she finds that a class appeal is the fairest and most efficient way to adjudicate the appeal and that the representative of the parties will adequately protect the interests of all parties." 5 C.F.R. § 1201.27(a). They further provide that "[i]n determining whether it is appropriate to treat an appeal as a class action, the judge will be guided but not controlled by the applicable provisions of the Federal Rules of Civil

Procedure.” 5 C.F.R. § 1201.27(c); *see also Patrick v. Department of Agriculture*, 72 M.S.P.R. 509, 517 (1996), *aff’d*, 173 F.3d 434 (Fed. Cir. 1998) (citing *Timbers v. Office of Personnel Management*, 21 M.S.P.R. 129, 132 n.2 (1984)). Administrative judges are granted broad discretion regarding procedural matters including determinations regarding class actions. *Patrick*, 72 M.S.P.R. at 518 (citing *Bacon v. Department of Housing & Urban Development*, 20 M.S.P.R. 408, 416 (1984), *aff’d*, 757 F.2d 265 (Fed. Cir. 1985)).

Federal Rule of Civil Procedure 23(a) sets out the following prerequisites for a class action:

- (1) the class is so numerous that joinder of all members is impracticable;
- (2) there are questions of law or fact common to the class;
- (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and
- (4) the representative parties will fairly and adequately protect the interests of the class.

Fed. R. Civ. P. 23(a).

A class action may be maintained if Rule 23(a) is satisfied and if:

[T]he court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

Fed. R. Civ. P. 23(b)(3).

Here, I do not find that a class appeal would be an efficient way to adjudicate the appellant’s appeal, or the potential appeals of the other putative class members. Regardless of whether there are questions of law or fact common to putative class members, I do not find that a class appeal is superior to other available methods for fairly and efficiently adjudicating the appeals. The nature of RIF actions presents difficulties in managing them as part of a class appeal with respect to protecting personally identifiable information of putative class members, and RIF actions generally require an individualized review of appellants’ performance and competitive levels. Common substantive issues, including the bona fides of a RIF

action; competitive area, or subgroup determinations; assignment rights to specific positions; and transfer of function issues, can be addressed more efficiently, if later found appropriate, as a consolidation under 5 C.F.R. § 1201.36.<sup>1</sup>

Consequently, the request for class certification is **DENIED**. Pursuant to 5 C.F.R. § 1201.27(b), any putative class member affected by this decision may file an individual appeal no later than **August 19, 2025**, if they have not already done so. An acknowledgment of this individual appeal will be issued by separate order.

*Joshua Henline*

FOR THE BOARD:

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Joshua Henline  
Administrative Judge

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<sup>1</sup> I note that a significant number of other potential class members have already initiated individual appeals of their removal, indicating their interest in individually controlling their litigation. Moreover, other potential class members have already moved to consolidate their appeals with other similarly situated former employees of the agency.