

### THE “METZ FACTORS”

1. In deciding whether an employee threatened his/her supervisors or co-workers, management must consider several factors. A well known Merit Systems Protection Board (MSPB) case (*Metz v. Dept. of Treasury*, 780 F.2d 1001 (Fed. Cir. 1986)) addresses this issue in detail. The MSPB held the following evidentiary factors must be considered:

- a. listener’s reactions;
- b. listener’s apprehension of harm;
- c. speaker’s intent;
- d. any conditional nature of the statements;
- e. and attendant circumstances.

Note: *Meehan v United States Postal Service* (718 F2d 1069, 1075 (Fed. Cir 1983)) initially established these evidentiary factors.

2. Management must weigh the evidence in order to determine if a “threat” has actually occurred. Evidence of an employee’s intent in making a statement can show the statement was or was not a threat. Rumors, or fear based on rumors, cannot suffice to prove an employee threatened anyone. Management should not, however, disregard subjective evidence of fear or intent. Remember objective evidence typically bears the heaviest weight. The five “Metz Factors” provide a framework to weigh the evidence fairly and must all be considered.