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4 CFR Ch. I (1-1-19 Edition)

Administrative judge means any individual designated by the Board to preside over a hearing conducted on matters within its jurisdiction. An administrative judge may be a member of the Board, an employee of the Board, or any individual qualified by experience or training to conduct a hearing who is appointed to do so by the Board. When a panel of members or the full Board is hearing a case, the Chair shall designate one of the members to exercise the responsibilities of the administrative judge in the proceedings.

Appeal means a request filed with the full Board for review of an initial decision.

Board means the Government Accountability Office Personnel Appeals Board as established by 31 U.S.C. 751 and explained in 4 CFR 27.1.

Charge means any request filed with the PAB Office of General Counsel to investigate any matter within the jurisdiction of the Board, under the provisions of Subchapter IV of chapter 7 of Title 31, United States Code.

Charging Party means any person filing a charge with the PAB Office of General Counsel for investigation.

Clerk of the Board means the Clerk of the Personnel Appeals Board.

Comptroller General means the Comptroller General of the United States.

Days means calendar days.

Director of EEO Oversight means the Personnel Appeals Board Director of EEO Oversight.

Executive Director means the Executive Director of the Personnel Appeals Board.

GAO means the Government Accountability Office.

General Counsel means the General Counsel of the Board, as provided for under 31 U.S.C. 752.

Initial Decision means the adjudicatory statement of a case that is issued by an administrative judge who is a member of or appointed by the Board.

Notice of Appeal means a pleading requesting that the full Board review an initial decision.

Person means an employee, an applicant for employment, a former employee, a labor organization or the GAO.

Petition means any request filed with the Board for action to be taken on

matters within the jurisdiction of the Board, under the provisions of Subchapter IV of Chapter 7 of title 31, United States Code.

Petitioner means any person filing a petition for Board consideration.

Pleading means a document that initiates a cause of action before the Board, responds to a cause of action, amends a cause of action, responds to an amended cause of action, requests reconsideration of a decision, responds to such a request, requests appellate review by the full Board or responds to such a request.

Reduction in Force (RIF) means the release of an employee from a job group by separation, demotion, reassignment requiring displacement, or furlough for more than 30 days when the cause of action is lack of work, shortage of funds, insufficient personnel ceiling, reorganization or realignment, an individual's exercise of reemployment or reinstatement rights, correction of skills imbalances, or reduction of high-grade supervisory, or managerial positions.

Request for Reconsideration means a request, filed with the administrative judge who rendered the initial decision, to reconsider that decision in whole or part.

Solicitor means the attorney appointed by the Board to provide advice and assistance to the Board in carrying out its adjudicatory functions and to otherwise provide assistance as directed by the Board.

[68 FR 69298, Dec. 12, 2003]

§ 28.4 Computation of time.

(a) To compute the number of days for filing under these rules, the first day shall be the day after the event from which the time period begins to run and the last day for filing shall be included in the computation. When the last day falls on a Saturday, Sunday or federal government holiday, then the filing deadline will be the next regular federal government workday.

(b) Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him or her and the notice or paper is served by mail, five (5) days shall be added to the prescribed period. Only two (2) days shall

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be added when a document is served by express mail or other form of expedited delivery.

(c) Except as otherwise provided by law, whenever an act is required or allowed to be done at or within a specified period of time, the time fixed or the period of time prescribed may for good cause be extended or shortened by the Board or administrative judge.

(d) No written submission shall be accepted by the Clerk of the Board after 4 p.m., Monday through Friday.

[58 FR 61992, Nov. 23, 1993, as amended at 68 FR 69298, Dec. 12, 2003]

Subpart B—Procedures

§ 28.8 Informal procedural advice.

(a) Persons may seek informal advice on all aspects of the Board's procedures by contacting the Board's Executive Director, Director of EEO Oversight, Solicitor, General Counsel or the Clerk of the Board.

(b) Informal procedural advice will be supplied within the limits of available time and staff.

[58 FR 61992, Nov. 23, 1993, as amended at 68 FR 69298, Dec. 12, 2003]

§ 28.9 Procedures; general.

(a) The procedures described in this subpart are generally applicable to the processing of all matters presented for consideration by the Board. Where special procedures are to be followed, they will be prescribed in those subsequent subparts to which they are particularly applicable.

(b) No pleading, motion or supporting memorandum filed with the Board shall exceed 60 pages, exclusive of attachments. The Board or the administrative judge may waive this limitation for good cause shown. Pleadings, motions and supporting memoranda, and attachments thereto, shall be on standard letter-size paper (8½x11).

§ 28.10 Notice of petition rights.

(a) The GAO shall be responsible for ensuring that employees are routinely advised of their rights to petition the Board and that employees who are the object of an adverse or performance-based action are, at the time of the action, adequately advised of their rights

to petition the Board. The notice in adverse or performance-based actions must be accompanied by proof of service.

(b) The notice in adverse or performance-based actions shall include:

(1) Time limits for filing a petition with the Board and the address of the Board;

(2) A copy of the Board's regulations; and

(3) Notice of the right to representation, and the availability of a hearing before the Board where factual issues are in dispute.

[58 FR 61992, Nov. 23, 1993, as amended at 68 FR 69298, Dec. 12, 2003]

§ 28.11 Filing a charge with the Office of General Counsel.

(a) *Who may file.* (1) Any person claiming to be affected adversely by GAO action or inaction which is within the Board's jurisdiction under Subchapter IV of Chapter 7 of Title 31, United States Code, may file a charge with the General Counsel.

(2) Non-EEO class actions. One or more persons may file a charge as representative of a class in any matter within the Board's jurisdiction. See § 28.97 for EEO class actions.

(3) Unfair labor practice proceedings. Any person may file a charge alleging that the GAO or a labor organization has engaged or is engaging in an unfair labor practice. (The types of allegations which may be included in an unfair labor practice charge are discussed at § 28.121(a)).

(b) *When to file.* (1) Charges relating to adverse and performance-based actions must be filed within 30 days after the effective date of the action.

(2) Charges relating to other personnel actions must be filed within 30 days after the effective date of the action or 30 days after the charging party knew or should have known of the action.

(3) Charges which include an allegation of prohibited discrimination shall be filed in accordance with the special rules set forth in § 28.98.

(4) Charges relating to continuing violations may be filed at any time.

(c) *How to file.* Charges may be filed with the Office of General Counsel by