

Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§ 752. Chairman and General Counsel

(a) The General Accounting Office Personnel Appeals Board¹ shall select one of its members as Chairman. The Chairman is the chief executive and administrative officer of the Board.

(b)(1) The Comptroller General shall appoint as General Counsel of the Board an individual the Chairman selects. The General Counsel serves at the pleasure of the Chairman.

(2) The Chairman shall fix the pay of the General Counsel. The rate of basic pay of the General Counsel may be not more than the maximum rate of basic pay payable for grade GS-16 of the General Schedule.

(3) The General Counsel shall—

(A) investigate an allegation about a prohibited personnel practice under section 732(b)(2) of this title to decide if there are reasonable grounds to believe the practice has occurred, exists, or will be taken by an officer or an employee of the Government Accountability Office;

(B) investigate an allegation about a prohibited political activity under section 732(b)(3) of this title;

(C) investigate a matter under the jurisdiction of the Board if the Board or a member of the Board requests; and

(D) help the Board carry out its duties and powers.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 901; Pub. L. 100-426, title I, § 102(a), Sept. 9, 1988, 102 Stat. 1599; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
752(a)	31:52-3(e).	Feb. 15, 1980, Pub. L. 96-191, § 4(e)-(g), 94 Stat. 30.
752(b)	31:52-3(f), (g).	

In subsection (a), the words “members of the” are omitted as surplus.

In subsection (b)(1), the words “(hereinafter referred to as the ‘General Counsel’)” are omitted because of the restatement. The words “shall be eligible for re-appointment and” are omitted as surplus.

In subsection (b)(2), the word “annual” is added for clarity. The word “basic” is added for consistency in the revised title and with other titles of the United States Code. The words “payable . . . of the General Schedule” are omitted as surplus.

In subsection (b)(3)(A), the words “to the extent necessary” are omitted as surplus. The words “officer or” are added for consistency in the revised title and with other titles of the Code.

In subsection (b)(3)(D), the word “otherwise” is omitted as surplus. The words “duties and powers” are substituted for “functions” for consistency.

Editorial Notes

AMENDMENTS

2004—Subsec. (b)(3)(A). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

¹ See Change of Name note below.

1988—Subsec. (b)(2). Pub. L. 100-426 substituted “The rate of basic pay of the General Counsel may be not more than the maximum rate of basic pay payable for grade GS-16 of the General Schedule” for “The annual rate of basic pay of the General Counsel may be not more than the maximum rate for GS-15”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108-271, set out as a note under section 702 of this title.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§ 753. Duties and powers

(a) The General Accounting Office Personnel Appeals Board¹ may consider and order corrective or disciplinary action in a case arising from—

(1) an officer or employee appeal about a removal, suspension for more than 14 days, reduction in grade or pay, or furlough of not more than 30 days;

(2) a prohibited personnel practice under section 732(b)(2) of this title;

(3) a prohibited political activity under section 732(b)(3) of this title;

(4) a decision of an appropriate unit of employees for collective bargaining;

(5) an election or certification of a collective bargaining representative;

(6) a matter appealable to the Board under the labor-management relations program under section 732(e)(2) of this title, including a labor practice prohibited under section 732(e)(1) of this title;

(7) an action involving discrimination prohibited under section 732(f)(1) of this title;

(8) an issue about Office personnel the Comptroller General by regulation decides the Board shall resolve; and

(9) an action involving discrimination prohibited under section 312(e)(2)² of the Architect of the Capitol Human Resources Act.

(b) The Board has no authority to issue a stay of any reduction in force action.

(c) The Board may delegate to a member or a panel of members the authority to act under subsection (a) of this section. A decision of a member or panel under subsection (a) is deemed to be a final decision of the Board unless the Board reconsiders the decision under subsection (d) of this section.

(d) On motion of a party or on its own initiative, the Board may reconsider a decision under subsection (a) of this section by the 30th day after the decision is made.

(e) The Board shall prescribe regulations—

(1) providing for officer and employee appeals consistent with sections 7701 and 7702 of title 5; and

¹ See Change of Name note below.

² See References in Text note below.

(2) on the operating procedure of the Board. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 901; Pub. L. 103–283, title III, § 312(e)(4)(B), July 22, 1994, 108 Stat. 1446; Pub. L. 104–53, title II, § 213, Nov. 19, 1995, 109 Stat. 535.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
753(a)	31:52–3(h).	Feb. 15, 1980, Pub. L. 96–191, § 4(h), (j), (k), (m), 94 Stat. 30, 31.
753(b)	31:52–3(j).	
753(c)	31:52–3(k).	
753(d)	31:52–3(m).	

In the section, the words “officer or” are added for consistency in the revised title and with other titles of the United States Code.

In subsection (a), before clause (1), the words “decide” and “(where appropriate)” are omitted as surplus. In clause (6), the words “relations program” are substituted for “system” for consistency. In clause (8), the words “most appropriately” are omitted as surplus.

In subsection (b), the words “delegate . . . to act” are substituted for “designate . . . to take any action which the Board is authorized to take” for consistency and to eliminate unnecessary words. The words “individual” and “reopened and” are omitted as surplus.

In subsection (c), the words “reopen and” are omitted as surplus.

In subsection (d)(1), the words “the principles of” are omitted as surplus.

Editorial Notes

REFERENCES IN TEXT

Section 312(e)(2) of the Architect of the Capitol Human Resources Act, referred to in subsec. (a)(9), was classified to section 1831(e)(2) of Title 2, The Congress, and was repealed by Pub. L. 104–1, title V, § 504(c)(1), Jan. 23, 1995, 109 Stat. 41, except as provided in section 1435 of Title 2.

AMENDMENTS

1995—Subsec. (b). Pub. L. 104–53, § 213(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 104–53, § 213(1), (3), redesignated subsec. (b) as (c) and in second sentence substituted “under subsection (d)” for “under subsection (c)”. Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 104–53, § 213(1), redesignated subsecs. (c) and (d) as (d) and (e), respectively.

1994—Subsec. (a)(9). Pub. L. 103–283 added par. (9). See Application of Provisions Amended by Pub. L. 103–283 note below.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

APPLICATION OF PROVISIONS AMENDED BY
PUB. L. 103–283

Provisions of this section amended by section 312(e) of Pub. L. 103–283 to be applied and administered as if section 312(e) and the amendments made by section 312(e) had not been enacted, see section 504(c)(2) of Pub. L. 104–1, set out as a note under section 751 of this title.

§ 754. Action by the Comptroller General

When the Comptroller General has authority, the Comptroller General promptly shall carry out action the General Accounting Office Per-

sonnel Appeals Board¹ orders under section 753 of this title.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 902.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
754	31:52–3(i).	Feb. 15, 1980, Pub. L. 96–191, § 4(i), 94 Stat. 31.

The words “to do so” and “corrective” are omitted as surplus. The words “under section 753 of this title” are added for clarity.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

§ 755. Judicial review

(a) A final decision under section 753(a)(1)–(3), (6),¹ (7) or (9) of this title may be reviewed by the United States Court of Appeals for the Federal Circuit. Chapter 158 of title 28 applies to a review under this subchapter, except the petition for review shall be filed by the 30th day after the petitioner receives notice of the decision. The court shall set aside a final decision the court decides is—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(b) If an officer, employee, applicant for employment, or employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants is the prevailing party in a proceeding under this section, and the decision is based on a finding of discrimination prohibited under section 732(f) of this title or under section 312(e)(2)² of the Architect of the Capitol Human Resources Act, attorney’s fees may be allowed by the court in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 902; Pub. L. 98–216, § 1(1), Feb. 14, 1984, 98 Stat. 3; Pub. L. 100–426, title I, § 103(a), (b), Sept. 9, 1988, 102 Stat. 1599; Pub. L. 103–283, title III, § 312(e)(4)(C), July 22, 1994, 108 Stat. 1446.)

HISTORICAL AND REVISION NOTES
1982 ACT

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
755	31:52–3(l).	Feb. 15, 1980, Pub. L. 96–191, § 4(l), 94 Stat. 31.

In the section, before clause (1), the first sentence is substituted for 31:52–3(l)(1)(1st sentence) for consistency with other titles of the United States Code. The word “review” is substituted for “appeal” for consistency. The words “the procedures of”, “any other provision of law”, “of a final decision of the Board . . . the date . . .

¹ See Change of Name note below.

² So in original. Second comma probably should follow “(7)”.

³ See References in Text note below.