

General Accounting Office

of the record in the proceeding and an opportunity for rebuttal allowed. If the communication was oral, a memorandum stating the substance of the discussion shall be placed in the record.

§ 28.149 Sanctions.

The following sanctions shall be available for violations of this Subpart:

(a) The Board, a panel of Board members, a Board member or an administrative judge, as necessary, may, in the interest of justice, require the offending party to show cause why his or her claim, interest, motion or petition should not be dismissed, denied or otherwise adversely affected.

(b) The Board, a panel of Board members, a Board member or an administrative judge, as necessary, may invoke such sanctions against any offending party as may be appropriate under the circumstances.

Subpart J—Statement of Policy or Guidance

§ 28.155 Statement of policy or guidance.

Upon petition by any person, or on its own motion, the Board may issue statements of policy or guidance. In determining whether to issue such a statement, the criteria to be considered by the Board will include, but not be limited to, the following:

(a) Whether the question presented can more appropriately be resolved by other means;

(b) Where other means are available, whether a Board statement would prevent the proliferation of cases;

(c) Whether the resolution of the question presented would have general applicability;

(d) Whether the question currently confronts the parties as part of their employee-management relationship;

(e) Whether the question is presented jointly by the parties involved; and

(f) Whether the issuance by the Board of a statement of policy or guidance would promote the purposes of the General Accounting Office Personnel Act.

§ 29.2

PART 29—GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD; PROCEDURES APPLICABLE TO CLAIMS CONCERNING EMPLOYMENT PRACTICES AT THE ARCHITECT OF THE CAPITOL

Sec.

29.1 Purpose and scope.

29.2 Definitions.

29.3 Jurisdiction of the Board.

29.4 Computation of time.

29.5 Informal procedural advice.

29.6 Requirement for exhaustion of internal administrative remedies provided by the Architect of the Capitol.

29.7 Notice of appeal rights.

29.8 Filing a charge with the General Counsel.

29.9 General Counsel procedures.

29.10 Filing a petition for review with the Board.

29.11 Board procedures on petitions for review.

29.12 [Reserved]

29.13 Applicability of this part.

AUTHORITY: 31 U.S.C. 753.

SOURCE: 59 FR 59106, Nov. 16, 1994, unless otherwise noted.

§ 29.1 Purpose and scope.

(a) The purpose of this part is to implement the Board's authority under the Architect of the Capitol Human Resources Act, Public Law 103-283, sec. 312, 108 Stat. 1443 (July 22, 1994). That act authorizes the Board to adjudicate certain claims of discrimination and retaliation brought by employees of the Architect of the Capitol. The rules contained in this part establish the procedures to be followed by:

(1) Employees of the Architect of the Capitol in pursuing discrimination and retaliation claims before the Board;

(2) The Architect of the Capitol in its dealings with the Board; and

(3) The Board in carrying out its responsibilities under the Architect of the Capitol Human Resources Act.

(b) In considering any procedural matter not specifically addressed by these rules, the Board will be guided, but not bound, by the Federal Rules of Civil Procedure.

§ 29.2 Definitions.

In this part—

§ 29.3

4 CFR Ch. I (1-1-00 Edition)

Board means the General Accounting Office Personnel Appeals Board as established by 31 U.S.C. 751.

Charge means an allegation, filed with the Board's General Counsel, of an unlawful discriminatory practice that is within the Board's jurisdiction under the Architect of the Capitol Human Resources Act, Public Law 103-283, sec. 312, 108 Stat. 1443 (July 22, 1994).

Charging party means an individual filing a charge with the Board's General Counsel.

Clerk of the Board means the individual appointed by the Board to receive papers filed with the Board, to maintain the Board's official files, and to advise parties and members of the public on the Board's procedures.

Days mean calendar days.

Employee of the Architect of the Capitol means any employee of or applicant for employment with the Architect of the Capitol, the Botanic Garden, or the Senate restaurants. It also includes, within 180 days after the termination of such employment, any individual who was formerly an employee of the Architect of the Capitol, the Botanic Garden, or the Senate restaurants, and whose claim of violation arises out of such employment. The term "employee of the Architect of the Capitol" does not include any individual who is a House of Representatives garage or parking lot attendant, including the superintendent.

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

Petition for Review means any request filed with the Board for action to be taken on matters within the Board's jurisdiction pursuant to the Architect of the Capitol Human Resources Act, Public Law 103-283, sec. 312, 108 Stat. 1443 (July 22, 1994).

Petitioner means any individual filing a petition for review with the Board.

Solicitor means the attorney appointed by the Board to provide advice and assistance to the Board in carrying out its adjudicatory functions and to advise parties and members of the public on the Board's procedures.

§ 29.3 Jurisdiction of the Board.

(a) The Board has jurisdiction to hear and adjudicate claims brought by em-

ployees of the Architect of the Capitol alleging discrimination in employment based on:

(1) Race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-16;

(2) Age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 633a; or

(3) Handicap or disability, within the meaning of section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791, and sections 102 through 104 of the Americans with Disabilities Act of 1990, 42 U.S.C. 12112-12114.

(b) The Board has jurisdiction to hear and adjudicate claims brought by any individual alleging that he or she was subjected, by any employee of the Architect of the Capitol, to intimidation or reprisal because of the exercise of any right under the Architect of the Capitol Human Resources Act. This includes claims of retaliation against an individual because he or she:

(1) Opposed practices made unlawful by the Architect of the Capitol Human Resources Act;

(2) Filed a charge or petition for review with the Board;

(3) Utilized the internal procedures provided by the Architect of the Capitol for the resolution of claims of discrimination or reprisal including, but not limited to, the filing of a request for formal or informal advice or the filing of a formal complaint; or

(4) Participated in any proceedings before the Board or the Architect of the Capitol for the resolution of complaints of discrimination or reprisal.

[59 FR 59106, Nov. 16, 1994, as amended at 60 FR 35119, July 6, 1995]

§ 29.4 Computation of time.

For the purposes of this part, time will be computed in the manner described in 4 CFR 28.4.

§ 29.5 Informal procedural advice.

Any party or member of the public may seek advice on all aspects of the Board's procedures by contacting the Board's Solicitor, the Board's General Counsel or the Clerk of the Board. Informal advice will be supplied within the limits of available time and staff.