

## § 29.1

## 4 CFR Ch. I (1–1–01 Edition)

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—

*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 employees 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

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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.

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

(a) *General.* Under the provisions of the Architect of the Capitol Human Resources Act, any employee of the Architect of the Capitol who wishes to pursue a claim of discrimination or retaliation before the Board must first file an internal complaint with the Architect of the Capitol and exhaust the procedures for resolving such complaints. The procedures for filing such complaints are at present set forth in the Equal Employment Opportunity Procedures Manual issued by the Architect of the Capitol. The internal procedures for resolving complaints of

discrimination or retaliation will be considered exhausted when either of the following occurs:

- (1) The employee receives a final decision by the Architect of the Capitol on his or her complaint of discrimination or retaliation;
- (2) 150 days have passed after the filing of an internal complaint of discrimination or retaliation and the Architect of the Capitol has not issued a final decision on the complaint.

(b) *Class claims.* An employee of the Architect of the Capitol who wishes to seek relief before the Board for a class of employees shall first file an internal complaint of discrimination or retaliation with the Architect of the Capitol and exhaust the internal remedies for resolution of such complaints as described in paragraph (a) of this section. It is not necessary that the employee raise class allegations in his or her internal complaint in order to be able to pursue the matter as a class action before the Board.

(c) *Filing a charge with the Board's General Counsel following exhaustion of administrative remedies.* If, following the exhaustion of internal administrative remedies as described in paragraphs (a) or (b) of this section, an employee of the Architect of the Capitol wishes to pursue the matter before the Board, the employee may file a charge with the Board's General Counsel. The procedures for filing such a charge are set forth in § 29.8.

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

### § 29.7 Notice of appeal rights.

(a) The Architect of the Capitol shall be responsible for ensuring that employees are routinely advised of their appeal rights to the Board. Any final decision on an internal complaint of discrimination shall include a notice of the complainant's right to pursue the matter before the Board including:

- (1) The time limits for appealing to the Board;
- (2) The address of the Board;
- (3) The employee's right to representation before the Board;
- (4) The availability of a hearing before the Board where factual issues are in dispute; and