



2021

Annual Report

Personnel Appeals Board

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BIOGRAPHIES OF BOARD MEMBERS



ROSA M. KOPPEL is presently the Chair of the Board. She was appointed to the Board in April 2017 and became Vice Chair in October 2020. She became Chair in October 2021. Ms. Koppel has worked in private practice representing federal and private sector employees in employment law matters since 2014. She served as Solicitor at the U.S. Federal Labor Relations Authority (FLRA)

between 2008 and 2014, where she led the litigation team in matters before the U.S. Courts of Appeals, the U.S. District Courts, the U.S. Merit Systems Protection Board (MSPB), and the U.S. Equal Employment Opportunity Commission (EEOC). She advised FLRA managers and human resources officials on cases involving Title VII of the Civil Rights Act, the Rehabilitation Act, the Equal Pay Act, the Age Discrimination in Employment Act, and the Family and Medical Leave Act. She also worked as the Deputy General Counsel and Acting General Counsel at the MSPB between 2005 and 2008, where she led the team that handled appeals before the U.S. Court of Appeals for the Federal Circuit. Between 1984 and 2005, she worked at the Office of the Comptroller of the Currency (OCC), where she rose from trial attorney and legal advisor to the Assistant Director of the Litigation Division. She led the team that represented the OCC before federal and state courts, as well as the MSPB, EEOC, and the General Services Board of Contract Appeals. Ms. Koppel received her J.D. from New York University School of Law in 1981 and her Bachelor's degree in Biology from New York University in 1977. In December 2021, Ms. Koppel was elected to the Board of Directors of the Metropolitan Washington Employment Lawyers Association (MWELA), where she also is an active member of the Moot Court and Amicus Committees.



BARBARA S. FREDERICKS is the Vice Chair of the Board. She was appointed to the Board in January of 2019 and elected Vice Chair in October 2021.

Ms. Fredericks is currently on the faculty of the Graduate School USA in Washington, D.C. where she teaches courses on topics of administrative law.

She also is one of three members appointed by the County Council to serve on Montgomery County Maryland's Merit System Protection Board. Additionally, Ms. Fredericks is a consultant on the development of rule of law and civil service systems. Ms. Fredericks previously served as Assistant General Counsel for Administration at the U.S. Department of Commerce, responsible for advising management officials throughout the Department on labor issues and transparency. In that position she also was the Department's Chief Ethics Officer, directing the department-wide Ethics Program and providing advice to all employees on criminal and civil ethics laws and regulations. Ms. Fredericks previously served on the Montgomery County Maryland's Ethics Commission. She also served as an Adjunct Professor of Law at the Georgetown University Law Center, teaching a course in Anticorruption Law and Practices. Earlier in her career, she served as Deputy Assistant General Counsel for Administration at the Department of the Treasury, and as a senior labor counsel at the U.S. Postal Service and the National Labor Relations Board. Ms. Fredericks graduated from Boston University School of Law, after obtaining her B.A. from Case Western Reserve University, magna cum laude.



CAROL A. DE DEO was appointed to the Board in January 2017. Ms. De Deo became Vice Chair in April 2019, and she served as Chair of the Board from October 2020 through October 2021. Except for a brief period spent in private practice, she worked at the Department of Labor from 1983 to 2009, serving as Deputy Solicitor for National Operations (highest ranking non-political appointee in the Office of the Solicitor) from 2004 to 2009. Earlier she served as Associate Solicitor for Labor-Management Laws, Associate Solicitor for Employee Benefits, Deputy Associate Solicitor for Special Appellate and Supreme Court Litigation, and Deputy Associate Solicitor for Labor-Management Laws. She previously worked at the National Labor Relations Board (NLRB) in the Appellate Court Branch as a supervisor from 1978 to 1983, and as a staff attorney for several years. She earned her J.D. from George Washington University (GWU) in 1974, and she received a Bachelor of Arts degree in English from GWU in 1971.



RICHARD S. UGELOW was appointed to the Board in September 2016, and he served as the Chair of the Board from April 2019 until October 2020. Prior to serving as Chair, Mr. Ugelow served as the Vice Chair beginning in July 2017 through April 2019. Mr. Ugelow recently retired from the faculty of American University Washington College of Law, where he taught clinical legal education and employment discrimination law. Previously he served as a senior trial attorney and Deputy Section Chief in the Employment Litigation Section of the Civil Rights Division of the U.S. Department of Justice from 1973 until 2002. Prior to his employment with the Department of Justice, he served as a Captain in the U.S. Army Judge Advocate General Corps from 1969 until 1973. He also currently serves as a Complaint Examiner for the District of Columbia Office of Police Complaints. Among his publications, Mr. Ugelow authored the chapter entitled “I-O Psychology and the Department of Justice” in *Employment Discrimination Litigation, Behavioral, Quantitative, and Legal Perspectives* by Frank J. Landy. He has also served as a moderator and presenter in numerous different forums. Mr. Ugelow earned his Bachelor’s degree from Hobart

College in 1965. He received his Juris Doctor (J.D.) degree from American University in 1968 and earned his Master of Laws LL.M. from Georgetown University in 1974. Mr. Ugelow is a member of the Bars of the District of Columbia, Maryland, and Florida.



CAROLE W. WILSON was appointed to the Board in April 2019. Before her service on the Board, Ms. Wilson served as an Administrative Judge (unfair labor practice, representation, and mediation matters) for the District of Columbia Public Employee Relations Board for five years. Previously, Ms. Wilson served in various supervisory attorney positions at the U.S. Department of Housing and Urban Development, as Associate General Counsel for Litigation, Associate General Counsel for Finance and Regulatory Enforcement, Associate General Counsel for Fair Housing, Associate General Counsel for Human Resources Law, and Senior Counsel for Equal Employment Opportunity and Senior Attorney for Administrative Law from 1989 until 2011. She also served as an Associate General Counsel for the International Union of Electronic, Electrical, Salaried, Machine & Furniture Workers from 1978-1989, specializing in pay equity cases (including litigation before the Supreme Court), and co-founding the National Committee for Pay Equity. Ms. Wilson was the Executive Assistant to the Assistant Secretary for Employment Standards, U.S. Department of Labor, 1977-1978, where she worked on labor law reform for the Secretary of Labor. She also served as an Assistant General Counsel at the National Labor Relations Board for ten years. Ms. Wilson earned her J.D. from George Washington University Law School, where she was Managing Editor of the George Washington International Law Review, and her Bachelor's degree in Political Science from Vassar College (with distinction on her senior thesis), and where she founded the Vassar Civil Rights Committee.

PERSONNEL APPEALS BOARD

Rosa M. Koppel	<i>Chair</i>
Barbara S. Fredericks	<i>Vice Chair</i>
Richard S. Ugelow	<i>Member</i>
Carol A. De Deo*	<i>Member</i>
Carole W. Wilson	<i>Member</i>

PERSONNEL APPEALS BOARD STAFF

Stuart G. Melnick**	<i>Executive Director</i>
Vanessa Gallagher	<i>Director, EEO Oversight</i>
Sue S. Farley	<i>Solicitor</i>
Kevin P. Wilson	<i>Senior Staff Attorney</i>
Patricia V. Reardon-King	<i>Clerk of the Board</i>
Brian Nuterangelo***	<i>Acting General Counsel</i>
Mariama Liverpool	<i>Senior Trial Attorney</i>
Darian C. Jackson	<i>Paralegal Specialist</i>

*Carol A. De Deo's term as Chair ended in October 2021.

**Stuart G. Melnick began serving as Executive Director in June 2021.

***Brian Nuterangelo began serving as Acting General Counsel in June 2021.

CHAPTER 1: THE PERSONNEL APPEALS BOARD

Section 1: About the PAB

Under the Government Accountability Office Personnel Act of 1980 (GAOPA),¹ the Personnel Appeals Board (PAB or Board) is charged with adjudicating disputes, issuing decisions, and ordering corrective or disciplinary action, when appropriate, in cases alleging prohibited personnel practices, discrimination, prohibited political activity, negotiability and unfair labor practices involving employees of the U.S. Government Accountability Office² (GAO or the Agency), a Legislative branch agency. The GAOPA also authorizes the Board to oversee GAO's employment regulations, procedures, and practices relating to anti-discrimination laws.³

The PAB's authority combines the adjudicatory functions of its Executive branch counterparts: the U.S. Merit Systems Protection Board (MSPB);⁴ the U.S. Equal

¹ 31 U.S.C. § 731 *et seq.*

² In July 2004, the Agency's name changed from the U.S. General Accounting Office to the U.S. Government Accountability Office. Pub. L. No. 108-271 (Jul. 7, 2004).

³ 31 U.S.C. § 732(f)(2)(A).

⁴ The MSPB was "created to ensure that all Federal government agencies follow Federal merit systems practices. The Board does this by adjudicating Federal employee appeals of agency personnel actions, and by conducting special reviews and studies of Federal merit systems." 5 C.F.R. § 1200.1. The PAB has similar jurisdiction to hear and decide matters alleging prohibited personnel practices under 5 U.S.C. § 2302(b). 4 C.F.R. § 28.2(b)(2). The PAB also has similar review and study authority over GAO with regard to assessing the EEO impact of GAO's actions and/or inactions. See *supra*, n.3.

Employment Opportunity Commission (EEOC);⁵ and the U.S. Federal Labor Relations Authority (FLRA).⁶ The Board's Office of General Counsel (PAB/OGC) performs the investigatory and prosecutorial functions of its Executive branch equivalents, which are the Office of Special Counsel (OSC)⁷ and the EEOC.

The GAOPA provides for a Board comprised of five Members⁸ who serve five-year, nonrenewable terms. The system is designed to appoint a new member each year so that GAO may have an annual scheduled recruitment process and the Board may function as efficiently as possible with members' terms evenly spread over time.

Candidates for the Board are sought through a process that includes advertising and recruitment efforts that focus on organizations whose members are experienced in the adjudication or arbitration of personnel and labor matters. Applicants are expected to have expertise or litigation experience in the area of federal personnel law,

⁵ The EEOC ensures that personnel actions that affect employees or applicants for employment in the Executive branch "shall be made free from any discrimination based on race, color, religion, sex (including pregnancy), or national origin." 42 U.S.C. § 2000e-16(a) (Title VII). In addition, the EEOC enforces the Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.*, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*, as amended, and the Genetic Information Nondiscrimination Act, 42 U.S.C. § 2000ff *et seq.* The PAB has similar jurisdiction to hear and decide cases alleging discrimination. 4 C.F.R. §§ 28.95-28.99.

⁶ The FLRA protects the "rights of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them." 5 U.S.C. § 7101. The PAB also has the authority to certify collective bargaining representatives and to adjudicate unfair labor practices. 4 C.F.R. §§ 28.110-28.124.

⁷ The OSC investigates and prosecutes allegations of fourteen prohibited personnel practices, with an emphasis on protecting federal whistleblowers at GAO. 5 U.S.C. §§ 1214, 2302(b). The Board's General Counsel investigates and prosecutes allegations of prohibited personnel practices at GAO. 4 C.F.R. § 28.12.

⁸ Member will be referenced throughout the report as Board Member, Administrative Judge, or Presiding Member.

demonstrated ability to arbitrate or adjudicate complex legal matters, or experience at a senior level position in resolving complex legal matters.

GAO establishes a screening panel to review applications for Board Member positions and identify the best qualified candidates.⁹ An interview panel composed of some of the screening panel members, including one employee group member selected by the Employee Advisory Council representatives and one selected by the representatives of the GAO Employees Organization, conducts the personal interviews and reports its results to the full screening panel. The screening panel recommends one or more of the candidates to the Comptroller General, who makes an appointment to the Board after considering the recommended candidates. The Board members elect their own Chair and Vice Chair.

Section 2: Board Staff

The Board's Executive Director manages Board staff and Board operations. The Board's Solicitor and Senior Staff Attorney advise Board members and the Executive Director on legal matters and provide procedural advice to litigants before the Board. The Board's Office of Equal Employment Opportunity (EEO) Oversight reviews equal

⁹ The voting members of the screening panel are three senior management officials designated by the Comptroller General. The nonvoting members are three representatives selected by the Comptroller General's Employee Advisory Council, a representative from the Human Capital Office, and four representatives selected by the GAO Employees Organization, IFPTE, Local 1921. GAO Order 2300.4, Personnel Appeals Board Vacancies, ¶7 (Aug. 24, 2022).

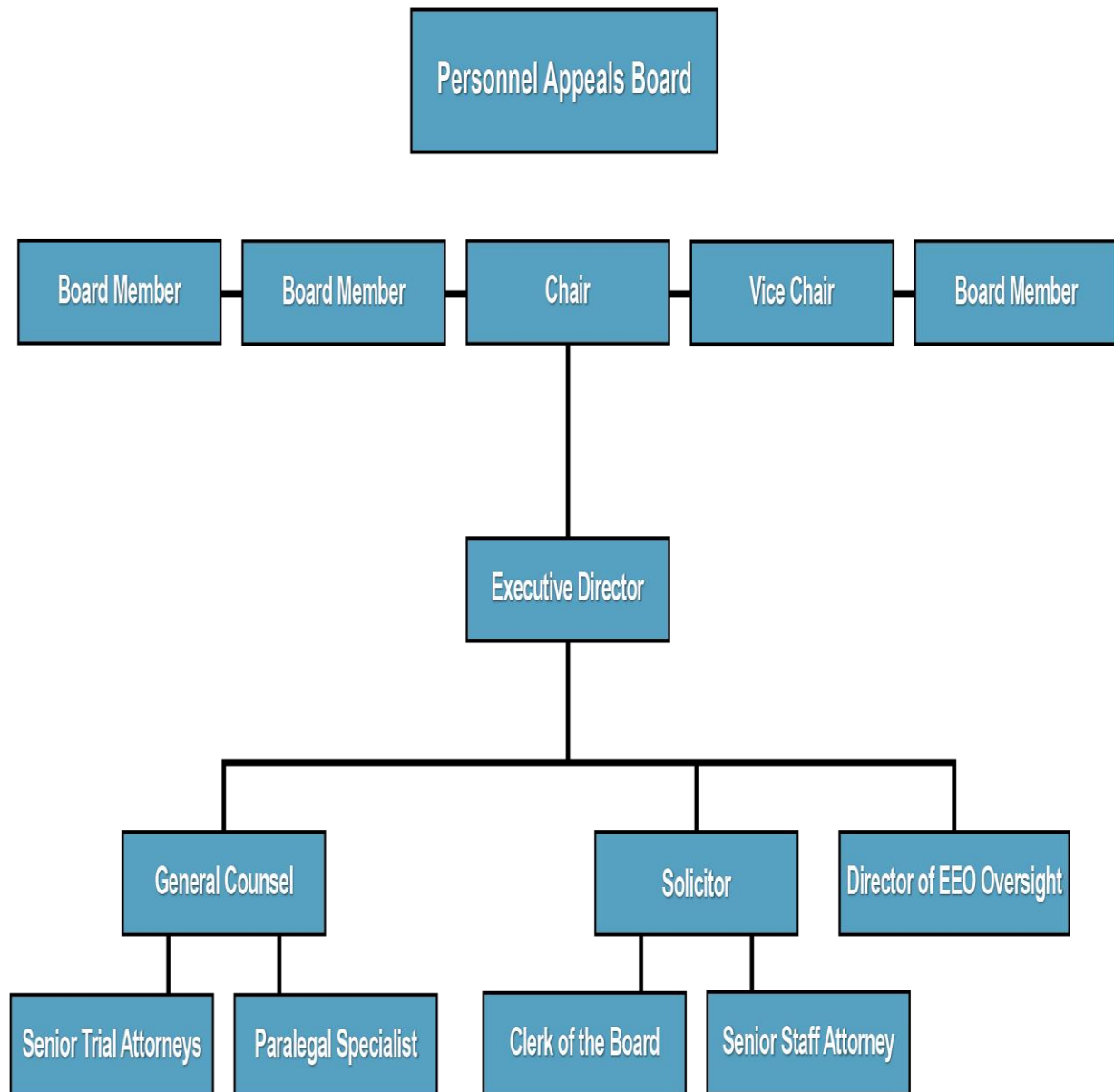
employment opportunity practices and procedures at GAO and issues evaluative reports that contain the Board's findings, conclusions, and recommendations to the Agency.¹⁰ The Clerk of the Board is responsible for receiving filings, distributing Board orders and decisions, and maintaining the Board's official records.

The PAB Office of General Counsel (PAB/OGC) investigates charges of prohibited personnel practices and unfair labor practices filed with its office and, if there is a reasonable basis to believe that a violation of law has occurred, offers to represent the charging party in litigation before the Board. The PAB General Counsel (PAB/GC) supervises the attorneys and paralegal in the conduct of investigations and litigation matters. The Senior Trial Attorneys investigate charges, consult with the General Counsel, and represent employees in litigation before the Board. The Paralegal Specialist assists the attorneys in their investigations and litigation matters.

Figure 1 on the following page shows the organizational make-up of the Personnel Appeals Board.

¹⁰ 31 U.S.C. § 732(f)(2)(A); see 4 C.F.R. §§ 28.91 and 28.92.

Figure 1: PAB Organizational Chart



CHAPTER 2: THE BOARD PROCESS

The Board's litigation process is explained in detail in the *Guide to Practice Before the Personnel Appeals Board (Guide to Practice)*.¹¹ A brief summary follows.

An employee, a group of employees,¹² a labor organization, or an applicant for employment at GAO may file a Petition with the Board seeking review of an Agency action or inaction that adversely affected them. Such a Petition may arise from:

(1) a removal, a suspension for more than 14 days, a reduction in grade or pay, or a furlough of not more than 30 days; (2) a prohibited personnel practice; (3) an unfair labor practice or other covered labor-management relations issue; (4) an action involving prohibited discrimination;¹³ (5) a prohibited political activity; and (6) any other

¹¹ The *Guide to Practice* is available on the PAB's website: <https://pab.gao.gov>.

¹² The Board can hear and decide cases filed by a group of petitioners as well as actions filed on behalf of a class.

¹³ The complete procedures for filing a discrimination complaint with the Agency may be found in GAO Order 2713.2, Discrimination Complaint Resolution Process (Dec. 3, 2021) (hereafter GAO Order 2713.2). At GAO, the discrimination complaint process begins when the employee consults with a civil rights counselor in the Agency's Office of Opportunity and Inclusiveness (O&I).

Such contact must occur within 45 calendar days of the alleged incident. If the matter cannot be resolved, the employee may file a formal written complaint with O&I within 15 days of receipt of notice of the right to file a complaint from the counselor. The Director of O&I can either accept or dismiss the complaint. (See GAO Order 2713.2, ch. 3, ¶4, for reasons why a complaint may be dismissed).

If the complaint is accepted, it is investigated and a report of the investigation is submitted to the Director of O&I. If the complaint cannot be resolved through negotiation with GAO management, the Director submits a recommended decision to the Comptroller General who issues a final Agency decision.

personnel issues that the Comptroller General, by regulation, determines that the Board should hear.

In addition to its litigation activity, the Board is authorized to conduct representation proceedings at GAO, including determining appropriate bargaining units of GAO employees, conducting elections to determine whether employees in any such units wish to select a labor organization to represent them in collective bargaining, and certifying an organization so selected as the designated exclusive bargaining representative.¹⁴ The Board also plays a role in resolving impasses in collective bargaining, as well as in resolving certain negotiability issues.¹⁵

Section 1: Filing with the PAB Office of General Counsel

At GAO, an employee, group of employees, or an applicant for a job may file a charge with the PAB Office of General Counsel to initiate the Board process.¹⁶ The

An individual may seek relief from the PAB by filing a charge with the PAB Office of General Counsel within 30 days of receipt of GAO's final decision or dismissal of the complaint in whole or in part (GAO Order 2713.2, ch. 6, ¶4).

An individual may also bring their case forward to the PAB when more than 120 days have elapsed since the complaint was filed with O&I and GAO has not issued a final decision.

The PAB's review is *de novo*, which means that the PAB will review all the facts and issues and render a decision independent of the final Agency decision, if there is one. Alternatively, an individual may pursue a discrimination complaint by filing a civil action in the appropriate Federal district court instead of filing a charge with the PAB Office of General Counsel.

¹⁴ The Board's *Guide to Labor-Management Relations Practice* is available at <https://pab.gao.gov>.

¹⁵ See GAO Order 2711.1, Labor-Management Relations (Aug. 14, 2013); 4 C.F.R. §§ 28.110–28.124.

PAB/OGC has the authority to investigate charges. The PAB/OGC also may represent employees where the General Counsel finds reasonable grounds to believe a charging party's rights have been violated regarding alleged violations of law over which the Board has jurisdiction.

A charge that does not involve discrimination may be filed with the PAB/OGC within 30 calendar days after the effective date of the underlying personnel action or within 30 calendar days after the charging party knew, or should have known, of the action.

An individual may file a charge involving alleged discrimination with the PAB/OGC either within 30 calendar days after receipt of the Agency's rejection of the complaint in whole or in part, within 30 calendar days after receipt of the Agency's final decision, or when more than 120 days have elapsed since the complaint was filed and GAO has not issued a final decision.¹⁷

Once an individual charge is filed with the PAB/OGC, the charging party is advised of his/her rights and informed of the Board's mediation program.¹⁸ The PAB/OGC then conducts an independent investigation of the matters raised in the charge to determine whether there are reasonable grounds to believe that the employee's rights under the GAOPA have been violated. This process may include

¹⁶ See <https://pab.gao.gov> under the link to Charges/Filing.

¹⁷ See *supra*, n.13.

¹⁸ Information about the Board's mediation program can be found on the PAB website at <https://pab.gao.gov>.

obtaining documents and taking oral statements from persons with knowledge of the circumstances that are involved in the allegations.

Following the investigation, if no settlement occurs, the PAB/OGC issues a Right to Petition Letter notifying the charging party that the investigation has been completed and that the individual has the right to file a Petition with the Board seeking a review of the Agency action or inaction. The PAB/OGC also issues to the charging party alone a confidential Statement of Investigation that includes the results of the investigation and the PAB/OGC's conclusions regarding the legal and factual issues.

If the General Counsel concludes that reasonable grounds exist to believe that a violation of the law has occurred, the General Counsel will offer to represent the charging party in an evidentiary hearing before the Board at no expense to the employee. If the offer of representation is accepted, the PAB/OGC assumes responsibility for the entire case even if the employee has retained private counsel.

If the PAB General Counsel concludes that there are no reasonable grounds to support a claim, the charging party retains the right to file a Petition with the Board and request an evidentiary hearing. A Petitioner may appear *pro se*, or retain private counsel before the Board.

Section 2: The Board Case Process

A Petition must be filed with the Board within 30 calendar days after service of the Right to Petition Letter from the PAB/OGC. Alternatively, if 180 days have elapsed from the filing of a charge with the PAB/OGC and no Right to Petition Letter has been issued by the General Counsel, the employee may “opt out” of the investigation and file a Petition with the Board. An employee who chooses that route foregoes the opportunity to have the General Counsel present the case to the Board.

Upon receipt of a Petition, either a single Board member will be appointed to hear and decide the case or the Board will hear the case *en banc* (by all Board members). The Petition to the Board is not a challenge to, or review of, the conclusions of the PAB/OGC, but a fresh consideration of the Petitioner’s claims. The Board does not have access to the investigative work and conclusions of the PAB/OGC; the Administrative Judge may not know whether the PAB/OGC found reasonable grounds to believe a violation of law existed in a given case.¹⁹

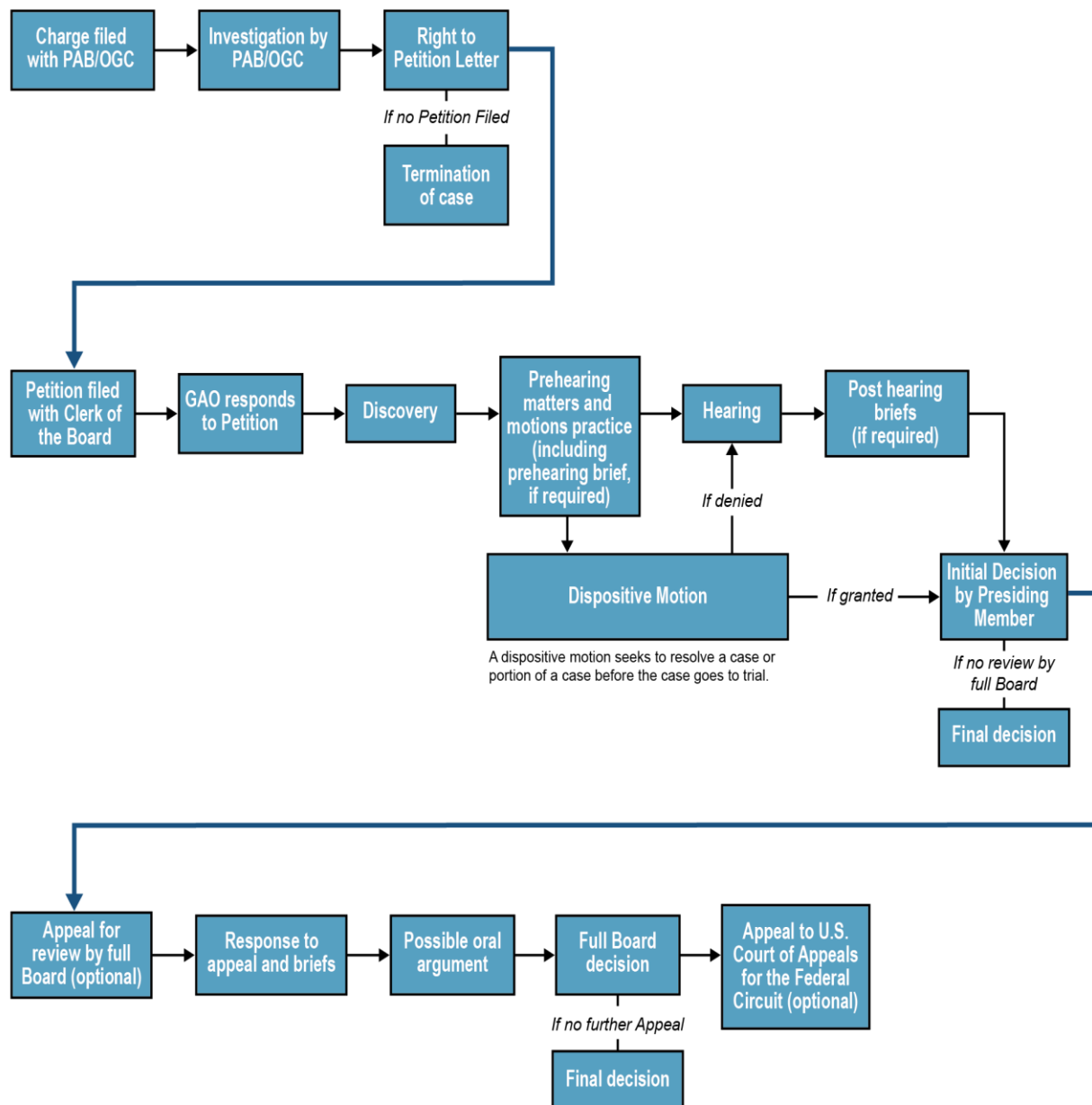
A Board Member’s decision is final unless: (1) the Board Member grants a party’s motion to reconsider; (2) the Board, on its own motion, decides to review the initial decision; or (3) a party timely appeals to the Board for full Board review. Final

¹⁹ If a Petition is filed *pro se*, or Petitioner is represented by outside counsel, the Board has no information regarding why the PAB/OGC is not representing Petitioner. However, if Petitioner is represented by the PAB/OGC, presumably under the regulations, the General Counsel has determined that there is/are reasonable ground(s) for representation. In any event, Petitioner’s representation is not a factor in the Board’s final decision.

decisions of the Board, with few exceptions, may be appealed to the U.S. Court of Appeals for the Federal Circuit.

The following chart describes the Board process from the time a charge is filed through the completion of all adjudication.

Figure 2: Board Process Illustrated



Section 3: PAB Office of General Counsel Authority

a. PAB/OGC Investigative Authority

As discussed above, the PAB/OGC is authorized to conduct independent investigations into matters raised and presented in charges filed by GAO employees or applicants for employment. This investigative authority represents the vast majority of investigations conducted by the PAB/OGC. In addition to investigations generated by individual or class charges, the PAB/OGC may initiate its own investigations, otherwise known as “corrective actions.”²⁰ The General Counsel’s office may initiate an investigation when information comes to the General Counsel’s attention suggesting that a prohibited personnel practice has occurred, is occurring, or will occur, regardless of whether a charge has been filed. Under this procedure, if an individual brings an allegation to the attention of the PAB/OGC, that individual may remain anonymous.

If, during the informational investigation, it is determined that there are sufficient grounds to believe that a violation of the law has occurred, or is about to occur, the PAB/OGC will contact the Agency with its findings and recommendation. If the recommendation is not followed within a reasonable period, the PAB/OGC may petition the Board to order corrective action.

b. PAB/GC Stay Requests

The PAB/GC may request that the Board issue an *ex parte* temporary stay, not to exceed 30 calendar days, of any proposed personnel action that, in the PAB/GC’s

²⁰ 4 C.F.R. § 28.131.

judgment, may constitute a prohibited personnel practice.²¹ If the request for an *ex parte* stay is granted, the General Counsel may later request either a further temporary stay, or a permanent stay, of the proposed action. A further temporary stay may be granted if the Board Member designated by the Chair, or the Board *en banc*, determines that, under all of the circumstances, the interests of justice would be served by providing more time for the PAB/GC to pursue the investigation.²² In considering a request for a permanent stay, the Board balances the evidence as to whether the proposed personnel action arises out of a prohibited personnel practice against the nature and gravity of any harm that could flow to each side from granting or denying the stay. The Board may grant or deny the requested stay based upon the pleadings, require further briefing and/or oral argument, or conduct an evidentiary hearing on the request for further stay.

c. Disciplinary Proceedings

The PAB General Counsel is authorized to initiate disciplinary action against an employee when it is determined, after an investigation, that such action is warranted. In such cases, the PAB/GC will provide a written complaint of the determination and facts to the employee and the Board.²³ The authority to propose disciplinary action includes action for engaging in prohibited political activity.

²¹ The Board's stay authority does not extend to any reduction in force action. 31 U.S.C. § 753(b).

²² 4 C.F.R. § 28.133(d).

²³ 4 C.F.R. § 28.132.

If, after a hearing, the Board decides discipline is warranted and punishment is appropriate, the Board may order removal, reduction in grade, debarment from GAO employment, reprimand, or an assessment of civil penalty not to exceed \$1,000. Judicial review of the Board's final order may be obtained in the U.S. Court of Appeals for the Federal Circuit.

d. Labor-Management Relations

Through the Board's regulations and GAO Order 2711.1 (Labor-Management Relations), the PAB/OGC is authorized to play a major role in the process when a labor organization, an employee or group of employees, or GAO files a representation petition. The General Counsel reviews the representation petition and coordinates with the parties before preparing a report for the Board, which may recommend approval of appropriate agreements reached during consultation with the parties, dismissal of the petition as being without merit, or issuance of a notice of hearing to dispose of unresolved issues raised in the petition. In addition, the PAB/OGC is responsible for investigating unfair labor practice charges filed with the Board.

CHAPTER 3: ACTIVITY OF THE PAB

Section 1: Labor-Management Relations

There were no labor-management relations matters before the Board in 2021.

Section 2: Employment Case Activity

a. Petitions Before the Board

The following Petition was presented to the Board in 2021. On May 14, 2021, Petitioner, through outside legal counsel, timely filed a Petition with the Board after receiving her Right to Petition letter from the PAB/OGC. Petitioner alleged that GAO discriminated against her based on her race (African-American) and age (45) by not selecting her for a promotion to a Senior Analyst position. Petitioner also alleged the non-selection was made in retaliation for her previous EEO activity. After she made the “Best Qualified” list for the Senior Analyst position, Petitioner claimed GAO promoted employees substantially younger than her. During the discovery process of the case, the parties filed a Joint Request for Mediation and Motion to Stay Proceedings in an effort to resolve the matter through settlement negotiations. The Administrative Judge granted the Joint Request for Mediation and Motion to Stay Proceedings until mediation is completed. The parties were still participating in mediation at the close of calendar year 2021.

b. Stay Requests

The PAB/GC did not file any Stay Requests with the Board in 2021.

Section 3: PAB Office of General Counsel Activity

a. Case Activity

(1) Charges

From January 1, 2021, through December 31, 2021, nine (9) charges were filed with the Personnel Appeals Board Office of General Counsel. Those charges involved forty-five (45) different allegations. Figures 3a and 3b below illustrate a breakdown of the different allegations presented in the charges filed with the PAB/OGC.

Figure 3a: Legal Allegations Presented in Charges

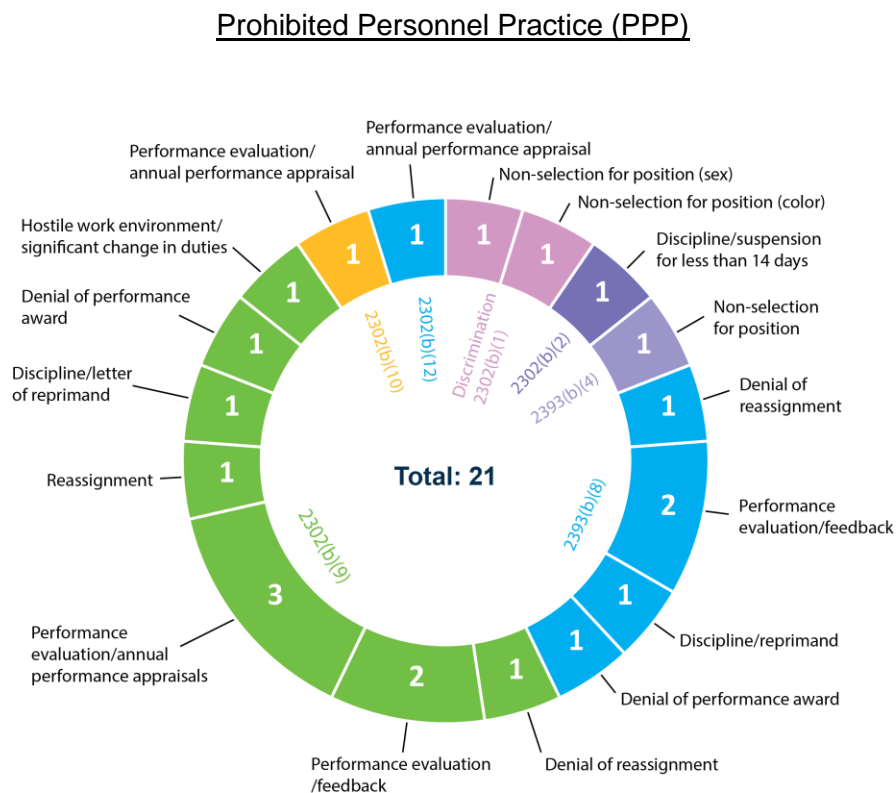
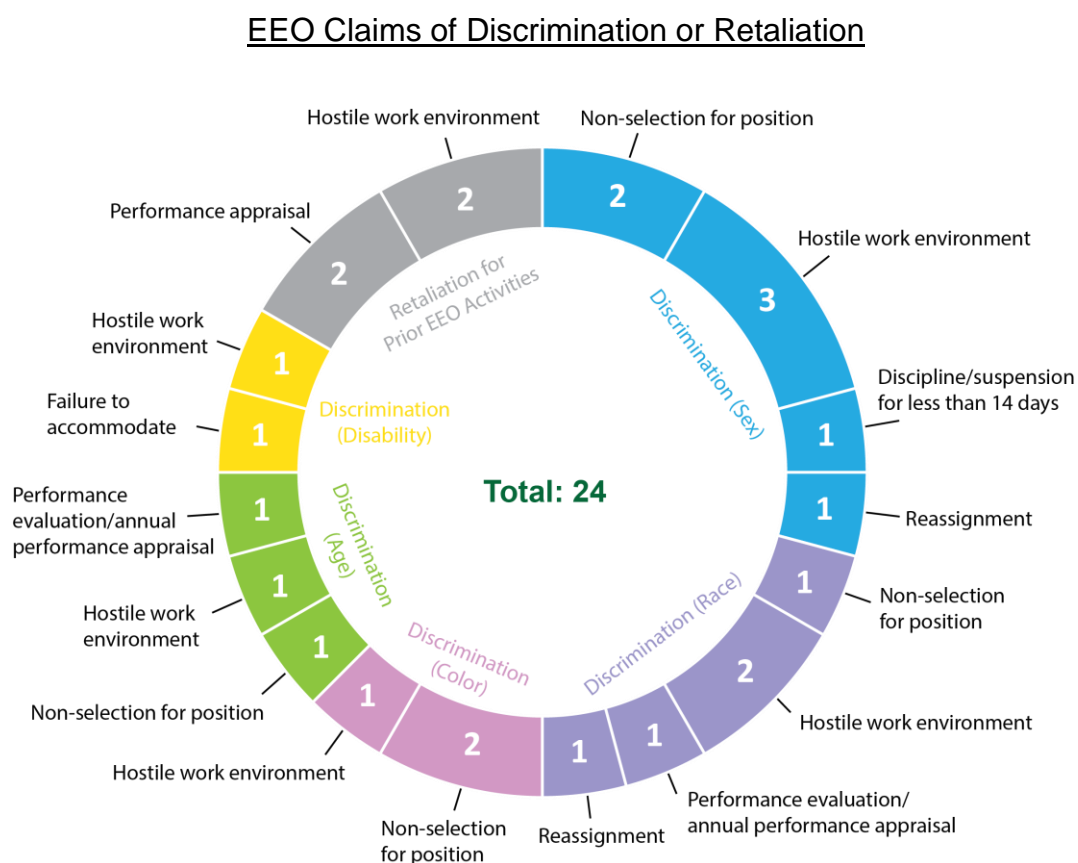


Figure 3b: Legal Allegations Presented in Charges



During 2021, the PAB/OGC had a total of eighteen (18) open cases, including investigation and litigation matters, on its case docket. The PAB/OGC closed a total of thirteen (13) cases by the end of the year, all of which were investigations. At the close of 2021, five (5) cases remained open on the PAB/OGC case docket. During the course of the year, the PAB/OGC also participated in settlement or helped facilitate settlement between the parties at the investigative stage in eight (8) cases.

(2) *Litigation*

During calendar year 2021, many of the charges filed with the PAB/OGC were resolved through the settlement negotiations referenced above. Therefore, the PAB/OGC did not file any Petitions with the Board.

The PAB/OGC had one (1) corrective action matter on its case docket in 2021 which involved a prohibited personnel practice. The corrective action had been initiated regarding staffing decisions within a GAO mission team and whether they violated 5 U.S.C. § 2302(b)(1) or (b)(12). The parties negotiated a settlement related to the corrective action and the investigation was closed in October 2021. The PAB/OGC did not initiate any informational investigations or seek any disciplinary action during the calendar year.

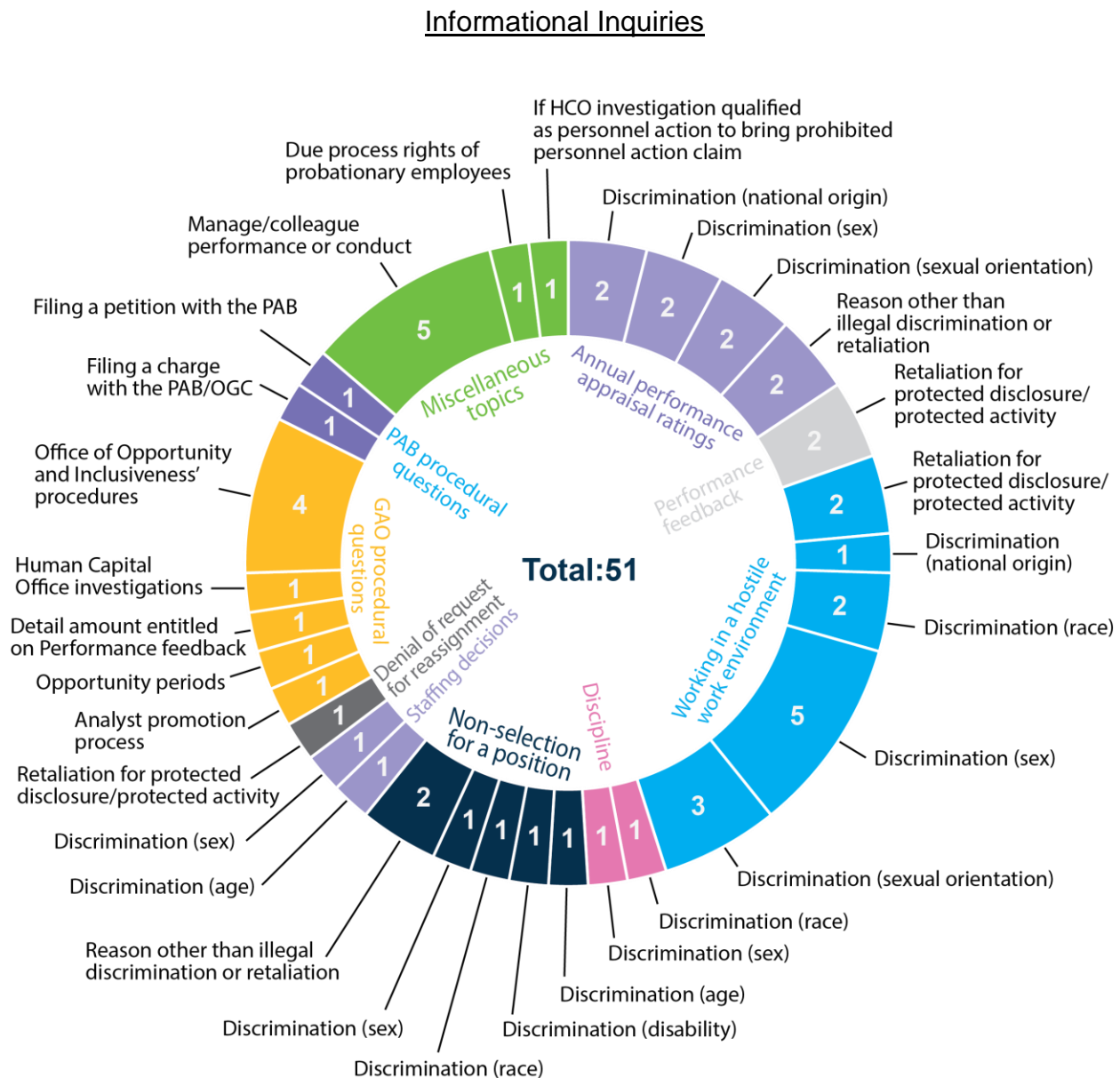
b. Other Activity

In April 2021, the PAB's General Counsel submitted comments to GAO Order 2713.2, Discrimination Complaint Resolution Process. In September 2021, the PAB's Acting General Counsel submitted comments to the proposed revisions to GAO Order 2306.1, Reasonable Accommodations.

The PAB/OGC regularly provides information or informal advice to GAO employees about their personnel, labor, and equal employment opportunity rights. This is accomplished by responding to informational inquiries received by phone, email, or through an in-person meeting. The General Counsel's office fielded thirty-two (32) informational inquiries during calendar year 2021. Those informational inquiries

covered fifty-one (51) topics. The types of inquiries and the topics are shown below in Figure 4.

Figure 4: Types of Inquiries



Section 4: Office of EEO Oversight Activity

The GAOPA authorizes the Personnel Appeals Board to oversee equal employment opportunity at GAO through review and evaluation of GAO's procedures, policies, and practices.²⁴ To fulfill this mandate, the Board established an Office of EEO Oversight to conduct studies of selected issues and prepare evaluative reports of the Board's findings and conclusions, as well as its recommendations to the Agency.²⁵

In 2021, the Board continued its assessment of potential EEO Oversight topics for study. Upon completion of its assessment, the Board voted to conduct its next study on the structure, operations, and actions of GAO's Office of Opportunity & Inclusiveness (O&I) and O&I's implementation of GAO procedures, policies, and practices that allow for compliance with the requirements of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Pub. L. 107-174, as amended by the Elijah E. Cummings Federal Employee Anti-Discrimination Act of 2020 (Cummings Act), Pub. L. 116-283, contained in Title XI, Subtitle B, Sect. 1131-1138 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (NDAA).

²⁴ 31 U.S.C. § 732(f)(2)(A); see applicable regulations at 4 C.F.R. §§ 28.91, 28.92.

²⁵ The Board's oversight reports can be found at <https://pab.gao.gov> under the link to EEO Oversight.

Section 5: Administrative and Outreach Activity

a. Mediation Program

The Board's mediation program was established to provide employees, applicants, and the Agency another avenue for handling disputes.²⁶ The parties that participate in mediation are given the option to meet separately and/or jointly with a mediator, *i.e.*, a skilled neutral trained to assist them in resolving their disputes. The mediator is a facilitator who has no power or role to impose a specific resolution. Parties to the mediation explore and discuss alternatives to continuing their dispute, including the goal of reaching a voluntary, mutually satisfactory resolution. Further information about the mediation program can be found on the Board's website. The Board received one mediation request during calendar year 2021 and that matter was still in the negotiation stage at the close of the year.

b. Website Developments

The Board's website continues to be a valuable resource for information about the PAB.²⁷ The website allows individuals to research Board decisions by search terms within a decision. The PAB's Annual Report and EEO Oversight Reports are available exclusively on the website. The website also includes information regarding the

²⁶ See the Board's *Practice Guide to Mediation of Disputes at the Personnel Appeals Board*. The mediation guidelines can also be found on the PAB's website at <https://pab.gao.gov>.

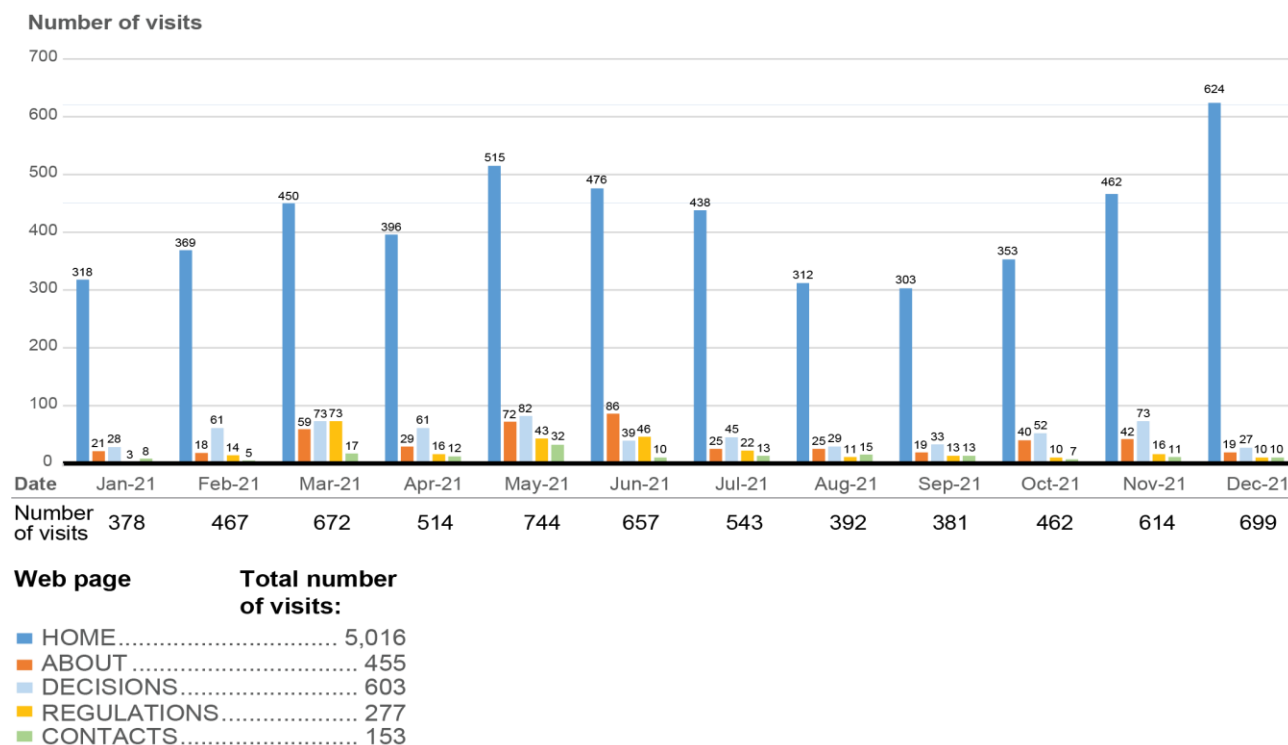
²⁷ The website can be found at <https://pab.gao.gov>.

procedures for filing documents with the Board, and filing charges with the PAB Office of General Counsel.

This year the Board began the process of redesigning and modernizing its website to make it more user-friendly and accessible while continuing to provide necessary and helpful information to visitors. The existing PAB website will continue to provide updates, announcements, and new decisions until the redesigned website is completed.

The Board tracks usage of the website for informational purposes only. It does not gather personal data in doing so. The data in the chart below captures the usage of the PAB website for 2021.

Figure 5: Number of Website Visits



c. Other Activity

With Board operations pivoting to full-time telework as a result of the COVID-19 pandemic, Board staff worked on administrative and organizational projects designed to facilitate internal research and referencing of Board history moving forward. The Board staff also worked on overhauling its case and administrative files.

