PERSONNEL APPEALS BOARD FOR THE
GOVERNMENT ACCOUNTABILITY OFFICE

# Local Rules of the Personnel Appeals Board

*Effective August 1, 2026*

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# I. INTRODUCTION

These Local Rules provide amplifying requirements and guidance to the procedures applicable to cases before the Personnel Appeals Board (PAB or Board) of the United States Government Accountability Office (GAO). These Local Rules do not supersede the Board regulations as stated in 4 C.F.R. Part 28. These Local Rules are promulgated following a majority vote by the PAB and issued via a Board order signed by the Board Chair. Additionally, the orders of the administrative judge may deviate from these Rules and must be adhered to by the parties.

It is the duty and responsibility of every party practicing before the Board to be familiar with and follow these rules and the orders of the administrative judge(s).

Any amendment to these Rules will be published on the PAB's website at www.pab.gao.gov before its adoption. The notice shall state that the proposed amendment will be adopted unless modified or withdrawn after receiving comments from members of the public or stakeholder organizations. Such comments shall be submitted in writing within 45 days of publication to the Clerk of the Board at pab@gao.gov. If the PAB determines there is an immediate need for a particular local rule or amendment to an existing local rule, it may proceed without public notice and opportunity for comment, but the PAB will promptly thereafter afford such notice and opportunity for comment.

These Rules shall be cited as "PAB Local Rule" followed by the rule number and subsection(s), i.e. PAB Local Rule 103.1.b..

# II. THE PERSONNEL APPEAL BOARD'S AUTHORITY & JURISDICTION

The PAB is an independent entity established by the General Accounting Office Personnel Act of 1980 (GAOPA) to adjudicate disputes, issue decisions and order corrective or disciplinary action, as appropriate, involving employees (and applicants for employment) at GAO. The Board also is charged by statute with oversight of equal employment opportunity at GAO.

Establishment of the Board stemmed in large part from concern over the inherent conflict of interest in GAO's role as auditor of executive branch agencies while some of those agencies maintained regulatory responsibility over GAO's personnel system.

The GAOPA specifically provided that the Board "may consider and order corrective or disciplinary action" in cases involving:

- an appeal from a removal
- suspension for more than 14 days
- reduction in grade or pay
- furlough of not more than 30 days
- a prohibited personnel practice
- a prohibited political activity
- a decision concerning the appropriateness of a unit of employees for collective bargaining

- an election or certification of a collective bargaining representative
- certain labor-management relations issues
- an action involving prohibited discrimination, and
- personnel-related issues designated by the Comptroller General in regulations for PAB resolution (31 U.S.C. §753(a)).

The PAB hears and decides employee appeals from Agency actions. The Board consists of a maximum of five members, appointed by the Comptroller General and serve for a non-renewable term of five years. Board members may not have ever been employed by GAO. Board members select a chair and vice chair from the members. The members all serve as administrative judges to hear and decide cases brought to the Board.

## III. PERSONNEL APPEAL BOARD REGULATIONS

Any individual appearing before the Board, whether on a *pro se* basis, as an attorney, or as a representative for another person, should consult the Code of Federal Regulations (4 C.F.R., Chapter I, Parts 27 and 28). References to the regulations are normally listed as, for example, 4 C.F.R. § 28 *et seq*. The Regulations govern all proceedings before the Board; they apply whether or not an individual is represented by counsel. A copy of the Rules in the Code of Federal Regulations may be obtained on the PAB website (www.pab.gao.gov).

The Regulations contain important information concerning procedures and practice before the Board. These Rules contain additional and clarifying information to assist practitioners on procedural compliance. In the absence of a PAB rule on a particular question, guidance may be found in the Federal Rules of Civil Procedure (FRCP). *See* 4 C.F.R. § 28.1(d). The FRCP, however, are not binding on the PAB.

## IV. PROCEDURAL GUIDANCE

The Board's regulations at 4 C.F.R. Part 28 and these Local Rules will explain all aspects of administrative and case procedure at the Board. The PAB also publishes a Discovery Guide and a Guide to Labor Practice (available at www.pab.gao.gov). Procedural questions may be directed to the Clerk of the Board. The Clerk does not provide legal advice. Parties may also direct questions to the Administrative Judge(s) presiding over their case via the Clerk of the Court.

If any party requires an accommodation to participate in the Board process due to a disability, parties are strongly encouraged to contact the Clerk of the Board as soon as possible to discuss. The Clerk of the Board can be reached at pab@gao.gov, (202) 512-6137, or via U.S. Mail or commercial delivery service (i.e. Fed Ex, UPS, DHL, etc.) to Personnel Appeal Board Rm 1566, 441 G. Street, NW, Washington, DC 20548.

## V. LABOR RELATIONS MATTERS

Parties filing labor relations petitions should consult both these rules and the Board's Guide to Labor Relations Practice on the PAB Website. Questions regarding filing representation petitions, negotiability determinations, bargaining impasses, and review of arbitration awards should be directed to the Clerk of the Board at pab@gao.gov, (202) 512-6137. Questions about allegations of unfair labor practices should be directed to the PAB Office of General Counsel at pabogc@gao.gov, (202) 512-7507.

## VI. RULES

### Rule 101 – Representation

**1. Who May Represent.** A petitioner bringing a case before the Personnel Appeals Board may be represented in any matter relating to the petition by anyone willing and able to serve. The representative need not be an attorney. The opposing party may challenge the representative and/or the administrative judge may disqualify a representative on the grounds of conflict of interest or conflict of position. The challenge must be made by motion to the administrative judge assigned to the case within ten (10) days of service of notice of the representation. The administrative judge may also disqualify a representative for conflicts of interest or position.

**2. Entry and Withdrawal of Appearance.** Parties shall designate representatives in writing. Entry of appearance can be included in the petition or the response to the petition form or via a separate pleading filed with the Board and properly served upon the parties to the case. Representatives can only be withdrawn via written pleading properly filed with the Board and served on the parties.

If a representative has been designated by a party, the Board will release an updated service list including the representatives' names and contact information. The representatives on the service list must be served with all case documents. Parties are required to notify all parties and the Board of any changes in their contact information.

### Rule 102 – Filing a Petition with the Board

**1. Who May File**. A GAO employee, group of employees, or an applicant for employment may file a petition with the Board after receiving a Right to Petition Letter from the PAB Office of General Counsel or if 180 days have passed since filing a charge with PAB/OGC. Situations that may give rise to a petition include removals, suspensions for more than 14 days, reductions in force,[1] reductions in grade or pay, or furloughs up to 30 days; prohibited personnel practices;[2] unfair labor practices or other covered labor relations issues; actions involving unlawful discrimination; and prohibited political activity.

Any person wishing to request a statement by the Board on a question of policy or general guidance may file a petition for such a statement directly with the Board at any time. *See* 4 C.F.R. § 28.155.

GAO and labor organizations may file petitions pursuant to 4 C.F.R. §§ 28.112, 28.121, 28.124, 28.155.

**2. When to File.** Petitions must be filed within 30 days after service upon the charging party of the Right to Petition Letter. If a charging party's claim is still being investigated after 180 days, the party may file a petition with the Board at any time before the investigation is completed, but without the assistance of the PAB/OGC. For individuals who are appealing a separation action resulting from a Reduction in Force, who choose to bypass the PAB Office of General Counsel, the petition must be filed with the Board within 30 days after the effective date of the RIF.

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[1] GAO employees subject to a RIF have the option of filing directly with the Board without consulting PAB/OGC or individuals raising discrimination issues in connection with a RIF action need not file a complaint with GAO's Equal Employment Opportunity Office.

[2] Please consult Appendix A to these rules for a list of prohibited personal practices.

Petitions are subject to the timelines discussed in 4 C.F.R. § 28.18(b) or § 28.121 as applicable and may be filed in the manner directed by PAB Local Rules 102.3, 102.4 and 103, by 11:59pm Eastern Time on the applicable due date.

Petitions filed by U.S. Mail or commercial delivery service will be deemed filed on the date the filing is postmarked or sent via commercial delivery service.

**3. How to File.** Generally, it is required to file electronically. Electronic filings and petitions are filed electronically by sending them as email attachments to pab@gao.gov. *See* 4 C.F.R. § 28.18.

If a petitioner wishes to file by mail, they shall include a statement with their petition that expressly states the reasons the petition cannot be filed electronically and shall be sent via U.S. Mail or commercial delivery service (i.e. Fed Ex, UPS, etc.) to Personnel Appeal Board Rm 1566, 441 G Street, NW, Washington, DC 20548.

The Board will not accept in-person delivery at Rm 1566. The Board will not accept classified information as part of a petition. Any party who believes their petition or documents related to their petition may contain classified information must contact the Clerk of the Board immediately for guidance prior to filing.

**4. What to File.** Every petition except those filed pursuant to 4 C.F.R. § 28.110-124, § 28.132-133, and § 28.155 (labor matters, stay requests, and requests for statement of policy or guidance), shall include a completed Petition Form which is available on the PAB website: https://pab.gao.gov/.

For Class Petitions it is not required to use a Petition Form for EEO or non-EEO class petitions, but all class petitions must conform to either 4 C.F.R. § 28.28(f) or 4 C.F.R. § 28.97, as applicable.

The petitioner may also include and/or attach additional documents to the Petition Form as part of the petition. The petition must include the following information:

a. Name of the petitioner or a clear description of the group or class of persons on whose behalf the petition is being filed;
b. Petitioner's mailing address, phone number, email address;
c. Petitioner's current employment status with GAO;
d. Date petitioner filed charges with PAB/OGC;
e. Date of Right to Petition Letter (if provided by PAB/OGC) and a copy attached to the Petition;
f. The names and titles of persons, if any, responsible for actions the petitioner wishes to have the Board review;
g. The actions being complained about, including dates, reasons given and internal appeals taken;
h. Petitioner's reasons for believing the actions to be improper;
i. Remedies sought by the petitioner;
j. Name and address of the representative, if any, who will act for the petitioner in any further stages of the matter, and a designation of representative signed by the petitioner; and
k. Signature of the petitioner and/or petitioner's representative. Signatures shall conform to the requirements laid out in 4 C.F.R. § 28.20(e).

**5. Amendments to Petition.** Petitioners may file motions to amend their petition after it is filed by following the procedures for filing a motion outlined in these Local Rules and in 4 C.F.R. Part 28. The Board or the assigned administrative judge may, at their discretion, allow amendments so long as the amendment is not prejudicial to the opposing party(ies) or would not cause undue delay to the proceedings.

**6. Affirmative Defenses.** Affirmative defenses are ways that an employee can defend oneself against wrongful discipline or agency action. An affirmative defense raises a set of facts that, if proven, can negate the agency's action. *See* Petition Form, Appendix A. A petitioner can raise an affirmative defense in a petition appealing an agency action either by checking the appropriate box in the Petition Form, identifying an affirmative defense by name such as "race discrimination," "harmful procedural error," etc., or by alleging facts that reasonably raise such an affirmative defense. If the petitioner raises an affirmative defense, the administrative judge shall advise the petitioner of applicable burdens of proving a particular affirmative defense, as well as the kind of evidence the petitioner is required to produce to meet their burden. If the petitioner fails to raise an affirmative defense by the close of the prehearing conference, the affirmative defense shall be waived. A list of affirmative defenses and additional claims that can be raised in PAB employment matters is included in Appendix A to these Local Rules.

**7. Stay Requests.** PAB/OGC may submit an *ex parte* request for a 30-day initial stay of a personnel action if it has reason to believe the proposed action arises out of a prohibited personnel practice. PAB/OGC must file the request prior to the effective date of the personnel action. If PAB/OGC is submitting the request within 72 hours or less of the effective date of the personnel action, PAB/OGC must also contact the Clerk of the Board directly by phone and/or by email at pab@gao.gov.

Stay requests must be in writing and shall clearly state the nature of the action to be stayed, and the basis for PAB/OGC's belief that the action arises out of a prohibited personnel action. PAB/OGC must also include a certificate of service with the request and must serve GAO with a copy of the request.

No less than 10 days prior to the expiration of the initial stay, PAB/OGC may file for additional stays. PAB/OGC's request may be either:

a. Pursuant to 4 C.F.R. § 28.133(c)(1), a stay to request additional time to investigate the matter, which may not exceed 60 days or

b. Pursuant to 4 C.F.R. § 28.133(c)(2) an indefinite stay due to a challenge to the proposed personnel action in a petition filed before the Board.

## Rule 103 – Board Process

**1. General Process and Service Requirements**. It is required for parties to file and serve electronically, unless the Administrative Judge has permitted another method. A party wishing to be excepted from electronic filing and service requirements shall include a statement with their petition per LR 102.3.

The sole method for electronic filing is via email to pab@gao.gov. Parties will include case title, docket number, and title of filing in the subject line of each email.

**ONLY EMAILS SENT TO PAB@GAO.GOV WILL BE CONSIDERED PROPERLY FILED.**

**EMAILS SENT ONLY TO BOARD STAFF OR TO THE ADMINISTRATIVE JUDGE ARE NOT CONSIDERED PROPERLY FILED.**

**a. Signatures.** Petitions, pleadings, affidavits, discovery responses, and all submissions to the Board must contain a valid signature. The signature must be that of the party submitting the filing or that party's designated representative and must originate from the email address that has been registered with the Board and appears on the Service List.

A valid signature must conform to one of the three following requirements: (1) An electronic signature using a government or other private secure electronic signature, such as a government CAC or PIV card, e-signature, Docu-Sign or another service that has confirmed the identity of the signer, or (2) "/s/" in the signature block, followed by the typed name of the signer, or (3) a scanned pen/ink signature of the signer in the signature block of the filing.

Issuances by the Board may contain the signature of the administrative judge or the Clerk of the Board.

**b. Service List.** After a petition has been filed and accepted by the Board, the Board will create a Service List that will notify the parties of the email addresses that must be used for serving the opposing parties with all filings, submissions to the Board, exchanging discovery-related materials, and case-related communications.

If the petitioner has designated a representative on the Petition Form, the representative's name, email address, phone number, and address will be on the service list. The Board will also include the same information for GAO and any other party to the case. These are the people who must be served with a copy of all pleadings, discovery requests, and official issuances of the Board. Each party shall designate their representative(s) for purposes of service and for inclusion on the Service List.

All parties have a duty to promptly notify the Board in writing of any changes to their contact information or change of representatives so that the official Service List can be updated by the Clerk of the Board and distributed to the parties.

**c. Format of Filing.** Filings shall include the case caption at the top which includes the heading. Headings contain the name of the Board, name of the petitioner, the Agency and any other applicable parties, the case number, a short title describing the nature of the filing. Parties may refer to the Notice or the Service List or Appendix B for an example of a proper caption.

The Board prefers Portable Document Format (PDF) for all submissions. However, the Board accepts numerous electronic formats, including word-processing and spreadsheet formats, and image files (files created by scanning). Pleadings must be formatted so that they will print on 8 1/2-inch by 11-inch paper with 1-inch margins. Parties are responsible for reviewing all pleadings to confirm legibility and to minimize the inclusion of non-relevant personally identifiable information.

Filings shall conform to page limitations contained in LR 103.7 unless the party has obtained permission from the administrative judge or the Board. If the party has not obtained permission and files a submission in excess of the page limit, the Board will not accept or consider material contained on subsequent pages over the limit. The page limit does not apply to exhibits, tables of authorities, tables of contents, title pages, tabs, or certificates of service that are included with the filing.

Parties may include relevant attachments or exhibits to their pleadings. Exhibits should be bookmarked within the document and clearly labeled and numbered using the bookmark function or similarly labeled and numbered.

Filings that request some type of action or order by the Board shall include a proposed order.

Every filing shall include a certificate of service specifying how and when service was accomplished and including all parties as indicated by and in accordance with the Service List.

**d. Methods of Service.** Service shall be via e-mail to the parties listed in the Service List unless the Administrative Judge has directed otherwise.

**e. Evidence of Service.** In the event evidence of service is needed, the sent email showing the served party as the email recipient and showing the filing as an attachment shall suffice. When applicable, a signed USPS certified mail receipt or a signed receipt from a delivery carrier (UPS, FedEx, DHL, etc.) are also acceptable.

**2. Notice of Filing of Petition.** After the petition is filed with the Board, the Board shall issue a Notice of Filing of Petition or Notice. The Notice will acknowledge receipt of the petition; it will provide the petition to all parties named in the petition and it will set a schedule for the opposing party(ies) response to the petition. Otherwise, discovery shall commence in accordance with these Local Rules and §§28.40-28.45.

**3. Settlement.** Many cases are settled by mutual agreement of parties without need of a hearing. Settlement and engagement in the settlement negotiation process is always encouraged by the Board. Parties should be prepared to brief the administrative judge periodically as to the status of their attempts to settle the matter at hand. The parties are encouraged to work together towards settlement.

If parties reach a settlement, they should notify the administrative judge as soon as practicable, even if the settlement agreement is not yet signed.

Parties shall file an official notice of settlement and request for dismissal (with/without prejudice) with the Board when the agreement is finalized and signed. In accordance with §28.88(e)-(f), if the parties enter into a settlement agreement that has been reviewed and approved by the administrative judge, the Board retains jurisdiction to enforce the terms of such settlement agreement. Any party to a settlement agreement over which the Board retains jurisdiction may petition the Board for enforcement of the terms of such settlement agreement.

**a. Mediation Request.** After a petition has been filed with the PAB, parties may request mediation of the claims raised in the petition. The requesting party shall confer with all other parties prior to filing the request and state the position of those parties on the request. The request need not be filed as part of the case docket, but it must be in writing and submitted to the administrative judge assigned to the case via pab@gao.gov and shall include a copy to all parties. The administrative judge, at their discretion, may also recommend that the parties engage in mediation before the adjudication of the claims. Participation in mediation is entirely optional.

**b. Mediation Process.** When the parties agree to engage in mediation, the Executive Director will initiate the process to obtain a mediator within seven (7) days of the request. If a party objects to the proposed mediator, they will notify the opposing party and the Executive Director, and the Executive Director will contact the mediation vendor to request a new mediator be assigned to the parties.

**4. Response to Petition.** The Respondent to the petition will have twenty (20) days from the date of issuance of the Notice of Petition to file a response with the Board. At a minimum, the response must include a statement of the Respondent's position and defenses to the allegations and descriptions of claims contained in the petition. The response shall also contain a designation and signature of the representative(s) authorized to act for the Respondent. Additionally, the Notice of Petition may contain additional requirements from the administrative judge for Respondent to submit documents to the Board or provide procedural background information,

**5. Status Conferences**. The administrative judge may order status conferences as needed and at their discretion. The status conferences will be set via an order setting the date, time, and method. Participants

should come to every conference prepared to discuss schedule, settlement, discovery, dispositive motions, and any other matters directed by the Status Conference Order.

**6. Computation of Time/Deadlines.** In computing the number of days allotted to submit a filing to the Board, apply the following steps:

**a.** exclude the day of the event that triggers the filing period;

**b.** count every day, including intermediate Saturdays, Sundays, and legal holidays; and

**c.** include the last day of the filing period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

Legal holidays are defined by 5 U.S.C. § 6103. Unless the administrative judge provides otherwise, all responses to pleadings must be filed within 20 days of service upon the opposing party. Discovery motions, however, must be answered within 10 days of service. *See* § 28.4. (*Example: The Administrative Judge releases an order on December 5, 2025, instructing the Agency that a filing is due in 20 days. The Agency counts 20 days starting on December 6, 2025, and finds that Day 20 is a Federal holiday, December 25, 2025. Therefore, the Agency's filing is due on December 26, 2025*.)

**7. Motions Practice.** Any motion and opposition to a motion shall be filed electronically (unless granted an exception by the administrative judge) and in accordance with the procedures adopted by the Board. Each motion and opposition to a motion must be accompanied by a memorandum setting forth reasoning and authorities in support of it and a proposed order. (*See* PAB Local Rule 104 .6 for procedures related to Motions to Compel Discovery). Ordinarily, responses to motions must be filed within 20 days of service upon the opposing party, unless the administrative judge directs otherwise. Unless ordered by the administrative judge, a party need not respond to any motion filed. *See* 4 C.F.R. § 28.21.

**a. Replies.** A reply is a written submission addressing issues raised in the opposing party's response that were not addressed by the moving party's initial filing. Replies to responses, pleadings or other documents may be filed only with permission of the administrative judge or the Board.

**b. Motions for Extension of Time, Postponement, and Other Procedural Motions.** Any party requesting an extension of time or postponement must first contact all other parties to determine whether the other party objects.

A request for an extension of time or postponement must be submitted in writing as a Motion for Extension of Time or Motion for Postponement and must be supported by a showing of good cause for the extension. 4 C.F.R. § 28.21(b)(3).

In addition, the motion must contain a statement representing that all other parties have been contacted and whether the parties involved object or consent to the extension. If the party filing the motion cannot reach the other parties, despite due diligence, a statement noting such effort should be included.

**c. Motion for Protective Order.** Requests to limit access to private or otherwise sensitive information may be filed with the Administrative Judge. Requests should clearly identify the nature of the sensitive information and state the factual and legal reasons that the information should be protected and shall be accompanied by a proposed protective order. If either party believes there may be classified information there is relevant to the case, that party must contact the Clerk of the Board as soon as possible to discuss proper handling.

**d. Motion to Reconsider.** Any motion to reconsider shall be filed not less than fourteen (14) days after entry of the order.

**e. Dispositive Motions.** A dispositive motion is an attempt to decide all or part of the case, prior to an evidentiary hearing by limiting or eliminating the issues that need to be decided. Such a motion is filed only if the particular case is suitable for resolution in whole or in part without a hearing. Dispositive motions and responses to dispositive motions shall not exceed 35 pages, inclusive of footnotes but exclusive of caption, certificate of service, affidavits and exhibits, tables of contents, tables of authorities, and addenda containing statutes, rules, regulations, and similar material. Reply memoranda, if permitted by the AJ per PAB Local Rule 103.7.a., shall not exceed 10 pages. Memoranda and briefs in excess of 20 pages shall include a table of contents.

**i. Motion to Dismiss.** A Motion to Dismiss argues that, even if the facts stated by the opposing party are true, there is no claim entitling that party to relief. Such a motion may be filed at any time after the petition has been filed. The moving party bears the burden to establish that dismissal is warranted. The administrative judge, for purposes of the Motion to Dismiss, shall accept all facts alleged by the other party as true in determining whether the moving party has met the burden.

**ii. Motion for Summary Judgment.** A Motion for Summary Judgment proposes that there are no material facts in dispute, that a decision can be issued without need of a fact-finding hearing, and that the moving party is entitled to judgment as a matter of law. The moving party bears the burden and may include documents, affidavits, and other evidence in support of the brief. Motions for Summary Judgment shall comply with these Local Rules and 4 C.F.R. § 28.21(c). A motion for summary judgment may be filed by the deadline directed by the administrative judge or if no deadline has been set, after the discovery period ends but not later than 14 days prior to commencement of the hearing. 4 C.F.R. § 28.21(c).

**f. Length and Format.** Excluding dispositive motions and unless otherwise ordered by the administrative judge, memoranda in support of a motion shall not exceed 10 pages, and reply memoranda shall not exceed 10 pages, inclusive of footnotes but exclusive of, affidavits and exhibits, tables of contents, tables of authorities, and addenda containing statutes, rules, regulations, and similar material. Reply memoranda shall not exceed 10 pages. Memoranda and briefs in excess of 20 pages shall include a table of contents.

**g. Exhibits.** Parties are responsible for ensuring all exhibits are clear and well organized. When appropriate, parties should facilitate the Board's review of exhibits to include, for example, highlighting key language. Exhibits shall be labeled, tabbed, and indexed, with cross-references to the page numbers that relate to each exhibit.

**h. Oral Argument on Motions.** The parties are not entitled to oral arguments on motions as a matter of right. However, a party may request an oral argument be scheduled on a motion. To do so the party must include the words "Oral Argument Requested" next to the case caption, in the title of the document, or other conspicuous place on the first page of the filing. The Board or administrative judge may direct the parties to provide oral argument on motions as deemed necessary. Motions may also be discussed during status conferences.

**8. Sanctions.** The administrative judge may impose sanctions upon a party as necessary in the interest of justice. For example, if a party fails to comply with an order of the administrative judge, the party may be restricted in its ability to use evidence or to prove allegations related to the dispute. If a party fails to

prosecute or defend a case, the action may be dismissed with prejudice, or the administrative judge may rule in favor of the other party. The administrative judge may also refuse to consider any motion or other action that is not filed in a timely manner. *See* 4 C.F.R. §28.24.

The Board expects that motions for sanctions will not be filed as a matter of course and only in situations where they may be reasonably warranted. A motion for sanctions must be made separately from any other motion and must describe the specific conduct that warrants the imposition of sanctions. The Board will consider, in appropriate cases, imposing sanctions upon parties who file unjustified sanctions motions. Any party seeking to file a motion for sanctions must meet and confer with the opposing party both in writing and verbally prior to filing the motion. The motion for sanctions must include an affidavit under oath from the filing party, or their attorney, setting forth all meet and confer efforts as well as the good faith basis for the imposition of sanctions.

**9. Intervention & Amicus Briefs.** Any person or organization wishing to participate in a proceeding as an intervenor must obtain permission from the administrative judge to do so. Motions to Intervene shall state the reasons why the party should be permitted to intervene. Motions to Intervene will be granted when the requestor shows they will be affected directly by the outcome of the proceeding. Denials to intervene can be appealed to the full Board and must be filed within 10 days of the denial.

Intervenors may only participate in the portions of the proceedings affecting them, as determined by the administrative judge or Board.

Amicus Briefs may be filed when accompanied by a Motion for Leave to File that states: (1) the movant's interest; (2) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case;(3) which party's filing the movant's brief supports, if any. The Amicus Brief shall be no more than 15 pages and shall otherwise comply with these Local Rules. The motion and accompanying proposed brief must be filed, except with permission of the Board, no later than seven days after the filing of the principal brief of the party being supported, or, if it is not filed in support of a party's filing, then within seven days of the filing of the opening brief. Amici may not participate in oral arguments, hearings, or conferences unless directed by the Board or administrative judge.

## Rule 104 – Discovery

**1. Discovery Generally.** Discovery is the process parties will use to obtain relevant information needed for preparation of the case. Relevant information means information or evidence that makes a fact more or less likely to be true and that fact is important in determining the outcome of the case. Relevant information includes any information that is reasonably calculated to lead to the discovery of relevant evidence that may be admitted in an evidentiary hearing.

Discovery may be used to obtain information from any person regarding any non-privileged matter relevant to the issues before the Board, including the existence, description, nature, custody, condition, and location of documents or other tangible items, and the identity and location of persons having knowledge of relevant facts.

Parties are expected to initiate and complete discovery with no or minimal Board intervention. The Board and the administrative judge do not receive copies of discovery requests between the parties unless a discovery dispute requires Board intervention. The party propounding written discovery or taking a deposition shall be responsible for retaining the original copies of the discovery materials (including the certificates of service) and shall make them available for inspection by any other party.

Parties and their representatives are expected to cooperate with each other in good faith, consistent with the interests of their clients, in all phases of the discovery process and to be courteous in their dealings with each other, including in matters relating to scheduling and timing of various discovery procedures and being reasonably available for discussions related to discovery.

If either party believes there may be classified information there is relevant to the case, that party must contact the Clerk of the Board as soon as possible to discuss proper handling.

**2. Initiation of Discovery.** The administrative judge shall notify the parties of the commencement and time limits to initiate discovery.

**3. Limitations on Discovery Requests.** Unless otherwise ordered by the administrative judge, or agreed upon by the parties, no party shall serve upon any other party more than thirty (30) interrogatories, thirty (30) requests for production, or more than thirty (30) requests for admission (other than requests propounded for the purpose of establishing the authenticity of documents or the fact that documents constitute business records), including all parts and sub-parts.

**4. Timely Written Discovery Requests Required.** Interrogatories, requests for production, motions for physical and mental examination, and written deposition questions must be made at a sufficiently early time to assure that they are answered before the expiration of the discovery deadline set by the administrative judge. Unless otherwise ordered by the Court, no discovery deadline will be extended because written discovery requests remain unanswered at its expiration.

**5. Requests for Medical Information.** Parties shall not request medical records without written approval of the Administrative Judge.

**6. Methods of Discovery.** Discovery can be accomplished by the following methods: written interrogatories, depositions, production of documents or things for inspection or copying, and requests for admission or any other method provided under the FRCP. *See* Appendix B for examples of format for discovery requests.

Appendix B to these Local Rules sets forth full text of instructions and definitions for Interrogatories, Requests for Admissions, and Requests for Production of Documents. Parties may use these standard instructions, definitions or rules of construction or they may use their own, so long as they are consistent with 4 C.F.R. Part 4 and with the FRCP (where applicable). Unreasonable definitions may render interrogatories so burdensome that objections to such definitions or the entire series should be sustained. The general purpose of the discovery instructions and definitions provided in the Standard Forms in Appendix B is to provide a rebuttable presumption that the instructions and definitions are valid. These instructions and definitions are purely and wholly optional and may not be appropriate in all cases; parties are required to exercise independent and professional judgment in propounding discovery. If the standard instructions and definitions are used, the Board will likely consider them presumptively proper and a party objecting to them will have the burden of demonstrating that they are not proper.

**a. Depositions.** Depositions may be taken before any person not interested in the outcome of the proceedings who is authorized by law to administer oaths. See Appendix B for a model notice of deposition.

**7. Responses to Discovery.** Responses to interrogatories and requests for production shall set forth each interrogatory or request followed by the answer and/or a brief statement of the grounds for objection, including a citation of the main applicable authorities (if any).

Time limits shall conform to 4 C.F.R. § 28.42(d) and these rules, unless otherwise directed by the administrative judge. Responses to discovery requests are due 20 days after service of the request.

Each page produced pursuant to document production shall be numbered in the bottom right corner of the page. The preferred method for page identification will be Bates Numbers having three letters identifying the producing party and a sequential number. For example, the first page of document production by the Agency is numbered GAO000001, the second; GAO000002 and so on, the petitioner will use PET000001 and so on.

**8. Discovery Process to Proceed Despite the Existence of Disputes**. Unless otherwise ordered by the administrative judge, the existence of a discovery dispute as to one or more matters does not justify delay in taking any other discovery.

**9. Procedures for Motions to Compel.** If a party fails or refuses to respond fully to a discovery request, the requesting party may file a motion to compel discovery. Prior to filing a motion to compel, the requesting party is required to confer with the opposing party to discuss the manner in which the response is lacking and make good faith attempts to resolve the matter.

A motion to compel must be accompanied by a copy of the original discovery request served on the party from whom discovery was sought and a statement showing the relevancy and materiality of the information sought, as well as a copy of the objections to discovery or a verified statement that no response was received. The motion should also contain a statement by the moving party that describes the attempts by the parties to resolve the matter prior to filing.

A motion to compel should be filed within 10 days of the opposing party's service of objections to the discovery request or within 10 days of the expiration of the time for responding to the discovery request when no response or an inadequate response is received, or within 10 days of when the parties reasonably know of a discovery deficiency. Normally the opposing party is accorded a 10-day time period in which to respond to a motion to compel, unless the administrative judge rules otherwise. In ruling on a motion to compel, the judge may set conditions or limitations on the conduct or scope of the discovery at issue. The rules governing this procedure are set forth at 4 C.F.R. §§28.42 and 28.43.

The parties ordinarily have wide latitude to obtain relevant information necessary to prove their cases. The FRCP may provide guidance for discovery where Board rules are silent; however, they are not controlling of Board procedures.

**10. Fees and Costs.**

**a. Witness Fees**. GAO shall make all GAO employees available to participate in depositions and hearings. GAO will pay for the costs associated with witness travel and arrange for their appearance. Parties are encouraged to employ use of cost-cutting methods when reasonable, including use of video teleconferencing.

GAO shall make all witnesses who are Federal employees not employed at GAO available for depositions and hearings with the approval of the witness' employers and shall arrange for their appearance. GAO is responsible for notifying the administrative judge if an agency does not agree to make the witness available.

**b. Other Costs.** For non-Federal employee witnesses, the party requesting the testimony shall be responsible for arranging the appearance and for the cost of the court reporter, travel and other witness fees for their respective depositions.

## Rule 105 – Prehearing Procedure

**1. Prehearing Submissions.** On the date directed by the administrative judge, parties will be required to submit prehearing submissions. A prehearing submission shall include a prehearing statement, a proposed witness list, and all proposed exhibits consistent with the manner prescribed in PAB Local Rules 105.1.a-c below.

**a. Prehearing Statement.** A statement of facts that each party proposes to establish in support of their position and a citation to the exhibit(s) or witness(es) that will serve to establish each fact at hearing, together with a listing of the legal theories that support each claim or defense.

**b. Proposed Witness List.** Both parties shall submit a list of each proposed witness, other than those expected to be called solely for impeachment, separately identifying those whom the party expects to present and those whom the party may call if the need arises and a brief summary of expected testimony for each witness.

**c. Proposed Exhibits and List.** Parties shall submit a listing of each document or other exhibit, including summaries of other evidence, other than those expected to be used solely for impeachment, separately identifying those which each party expects to offer and those which each party may offer if the need arises along with the proposed exhibits, as well. Respondents shall label its exhibits using the alphabet (exhibit a, exhibit b, etc.). Petitioners shall identify their exhibits numerically (exhibit 1, exhibit 2, etc.).

**d. Stipulations of Fact.** Both parties shall file a stipulation of facts or an affirmative statement stating that there are no facts stipulated to by both parties. A stipulation of facts is a list that the parties have agreed upon to be true and need not be proven at hearing.

**e. Damages.** The details of the damages claimed, or any other relief sought (if any).

**2. Prehearing Conference.** The prehearing conference shall be attended by at least one (1) of the representatives for each of the parties who will actually participate in the hearing or the parties themselves if unrepresented. Conference participants shall be familiar with all aspects of the case and shall confer with their clients before the conference to obtain authority from them to enter into stipulations. If the case involves numerous exhibits, parties shall be prepared to discuss proposals for the orderly presentation of the exhibits at hearing. At the conference the parties will raise their objections to proposed witnesses and/or exhibits.

**a. Affirmative Defenses.** Affirmative defenses not raised by the close of the prehearing conference are waived.

**3. Prehearing Order.** Following the Prehearing Conference, the administrative judge will issue the prehearing order which will provide the parties with the list of accepted witnesses and admitted exhibits and a list of the issues that will be addressed at the hearing.

**4. Video Teleconference Hearings.** Administrative judges, at their discretion, may decide to hold a hearing or a portion of a hearing through video teleconference. In the event that a hearing is held virtually, the Prehearing Order will provide parties with instructions and logistics for the presentation of exhibits and the appearance of witnesses.

## Rule 106 – Hearing Procedure

**1. Submission and Marking of Exhibits.** Upon receipt of the final list of accepted exhibits in the prehearing order, parties shall prepare their exhibits and a list of their exhibits for the administrative judge and for the opposing party. Respondents shall label their exhibits using the alphabet (exhibit a, exhibit b, etc.). Petitioners shall identify their exhibits numerically (exhibit 1, exhibit 2, etc.). Parties shall prepare an electronic version of their exhibits labeled and marked, preferably in PDF and send them to the Clerk of the Board at least two full business days prior to the start of the hearing.

**a. Exhibits at Hearing.** Parties should come to hearing with their exhibits prepared as directed by the administrative judge but at a minimum, they should have four (4) binders containing hard copies (one for the administrative judge, one for witness use, one for the opposing party, and one for their own use) containing their admitted exhibits with clear labels and tabbed to allow them to be located and accessed with ease throughout the hearing. Parties should also use best efforts to come prepared with multiple copies of any document anticipated using for recollection or impeachment purposes.

**b. Exhibits for Video Teleconference Hearing.** For hearings that are all or partially virtual, parties shall compile their exhibits in a document file that is bookmarked with labels that clearly identify each exhibit. Parties should be prepared to be able to use the virtual meeting platform directed by the administrative judge to be able to share their screen to show and refer to exhibits. Parties should also be prepared to access any files they anticipate using for recollection or impeachment purposes as well.

**2. Examination of Witnesses.** Parties are responsible for the appearance of witnesses as laid out in PAB Local Rule 104.10. They should ensure that witnesses have location information, authorized access to the GAO building and hearing room, and are ready to appear in the order they will be called. Other than the petitioner, witnesses will not be permitted to view the testimony of other witnesses unless they have completed their testimony and are not subject to recall.

**3. Opening/Closing Statements.** At the discretion of the administrative judge, parties may be ordered to prepare opening and/or closing statements verbally or in writing.

## Rule 107 – Post-hearing Procedure

**1. Initial Decision.** At the conclusion of the presentation of relevant evidence, which may or may not have required a hearing, the administrative judge shall issue an initial decision that will be served upon the parties. The initial decision will contain a notice of appeal rights.

**2. Request for Reconsideration.** A request for reconsideration, which must be filed within 10 days of service of the initial decision, is a request filed with the administrative judge who rendered the initial decision or if the decision was issued by the full Board, the reconsideration request shall be made to the Board. The request can be to reconsider the decision in whole or in part. A request for reconsideration should be supported by a written memorandum outlining the reason for seeking a different result. The opposing party may file a response at its own option or may be ordered to do so by the administrative judge if he or she determines a response is necessary. A request for reconsideration will not be granted without providing an opportunity for response. *See* 4 C.F.R. § 28.87(b).

**3. Appeal Rights.** If an initial decision was issued by an administrative judge, a party wishing to challenge the decision may do so by filing a notice of appeal with the Board within 15 days of issuance. *See* 4 C.F.R. § 28.87(c).

After filing the notice of appeal, the appellant will have twenty-five (25) days to file a brief supporting the reasons for the appeal and identify with particularity those findings or conclusions in the initial decision that are challenged and shall refer specifically to the portions of the record and the provisions of statutes or regulations that assertedly support each assignment of error.

The appellee shall have twenty-five (25) days following receipt of service of the appellant's brief to file a response.

**4. Board Review.** In conducting its examination of the initial decision, the Board may substitute its own findings of fact and conclusions of law, but the Board generally will defer to demeanor-based credibility determinations made in the initial decision. In determining whether some action other than affirmance of the initial decision is required, the Board will also consider whether:

a. New and material evidence is available that, despite due diligence, was not available when the record was closed;

b. The initial decision is based on an erroneous interpretation of statute or regulation;

c. The initial decision is arbitrary, capricious or an abuse of discretion, or otherwise not consistent with law;

d. The initial decision is not issued consistent with required procedures and results in harmful error.

**5. Final Decision.** The initial decision shall become the final decision of the Board 30 days following its issuance or the date of the administrative judge's or panel's disposition of a request for reconsideration (whichever comes later) unless, prior to the expiration of the 30-day period, the parties are notified in writing that the full Board intends to review the initial decision in whole or in part on its own motion. Such review *sua sponte* will normally be conducted only if a majority of the Board concludes that one or more issues of law addressed in the initial decision are of such importance as to warrant consideration by the full Board notwithstanding the absence of appeal. Issues so qualifying shall be identified in the Board's notice and the parties shall be provided with an opportunity to brief them prior to the Board's decision.

Initial decisions that become final without review by the full Board will not be binding precedent in any other case.

**6. Damages, Remedies.** The Board has the same authority to order corrective action as that of its counterparts in the executive branch. However, the types and amount of damages and remedies can vary based on the individual case. Therefore, the administrative judge presiding over each matter will provide parties with specific instructions as to claims for any type of remedy. *See* 31 U.S.C. § 732.

**7. Attorney's Fees, Costs.** Within 20 days after service of a final decision by the Board, or within 20 days after the date on which an initial decision becomes final pursuant to § 28.87(d), the petitioner, if they are the prevailing party, may submit a request for the award of reasonable attorney's fees and costs. *See* §§ 28.25, 28.89.

## Rule 108 – Judicial Review

A final decision by the Board under 31 U.S.C. § 753(a) (1), (2), (3), (6), (7) or (9) may be appealed to the United States Court of Appeals for the Federal Circuit within 30 days after the petitioner receives notice of the Board's decision.

## VII. APPENDIX A

**Additional Claims Regularly Raised in Personnel Action Appeals**

**Harmful Error:** Error by GAO in the application of its procedures that is likely to have caused GAO to reach a conclusion different from the one it would have reached in the absence or cure of the error. The burden is upon the petitioner to show that the error was harmful, i.e., that it caused substantial harm or prejudice to his or her rights.

**Prohibited Personnel Practice (PPP):** A claim that GAO's action or decision the petitioner is challenging was the result of one of the personnel practices prohibited by 5 U.S.C. § 2302(b). Among the prohibited personnel practices most likely to be relevant as an affirmative defense are: unlawful discrimination under subsection (b)(1) (see below); retaliation for protected whistleblowing under subsection (b)(8); and retaliation for other protected activity under subsection (b)(9).

**Unlawful Discrimination:** A claim that the agency action was the result of prohibited discrimination based on race, color, religion, sex, national origin, disability, age, marital status, political affiliation, genetic information, and retaliation for prior equal employment opportunity (EEO) activity. See 5 U.S.C. §§ 2302(b)(1), 7702; 4 C.F.R. Part 28. If you filed a formal discrimination complaint, give the date on which you did so, state whether and when the agency issued a final decision on your discrimination complaint, and provide copies of both.

**Retaliation for whistleblowing** activity under 5 U.S.C. § 2302(b)(8) and (b)(9)(A)(i), (B),(C), or (D): A claim that the agency action was taken in retaliation for the disclosure of information the individual reasonably believes demonstrates a violation of law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; or substantial and specific danger to public health or safety; or in retaliation for the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation with regard to remedying a violation of subsection (b)(8); for testifying or otherwise lawfully assisting any individual in the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation; for cooperating with or disclosing information to the Inspector General (or any other component responsible for internal investigation or review) of an agency, or any government oversight group, or PAB/OGC, in accordance with applicable provisions of law; or for refusing to obey an order that would require a violation of law, rule, or regulation. See 5 U.S.C. § 2302(b)(8), (b)(9)(A)(i),(B), (C), and (D).

**Retaliation for other protected activity** under 5 U.S.C. § 2302(b)(9)(A)(ii): A claim that the agency action was taken in retaliation for the exercise of any appeal, complaint, or grievance right, other than with regard to remedying a violation of 5 U.S.C. § 2302(b)(8).

**Inappropriate Recommendations:** If GAO requested or considered recommendations about an employee or applicant unless the recommendation was based on the personal knowledge of the employee or records of the person providing it, that is a PPP. Put another way, this means that a recommendation to hire or promote someone in the federal workplace must be ignored unless the person making the recommendation has actual knowledge of the person's abilities as they would apply to the position in question. 5 U.S.C. § 2302(b).

**Political Coercion:** A claim that an agency official coerced or attempted to coerce the political activity of any person or retaliated against an employee for refusing to engage in political activity. 5 U.S.C. § 2302(b)(3).

**Obstructing/Influencing Competition for Employment:** A claim that an agency official intentionally deceived or obstructed anyone from competing for employment or influenced a person to withdraw from competition for employment to improve the prospects of another person or gave unauthorized advantage to the employment prospects of another person. 5 U.S.C. § 2302(b)(4)-(6).

**Nepotism:** A claim that a government employee influenced the hiring, promotion, or employment advantages of a relative (father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother or half-sister). 5 U.S.C. § 2302(b)(7).

**Discrimination for Nonperformance-related Reasons:** A claim that the agency discriminated for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others. 5 U.S.C. § 2302(10).

**Violation of Rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA):** A claim that the agency action violated rights and benefits under 38 U.S.C. Chapter 43 by denying initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership,

application for membership, performance of service, application for service, or obligation to perform service in a uniformed service. GAO Order 3253.1.

**Violation of a Law or Regulation relating to Veterans' Preference** pursuant to the Veterans Employment Opportunities Act (VEOA): A claim that the agency action violated rights related to veterans' preference under any statute or regulation. 5 U.S.C. § 2302(b)(11).

**Violation of Merit System Principles:** A claim that the agency took or failed to take a personnel action if doing so would violate a law, rule or regulation implementing or directly concerning the merit system principles. This PPP prohibits agency officials from taking, or failing to take, a personnel action that violates any other civil service law, rule, or regulation that was designed to uphold the merit system principles. 5 U.S.C. § 2302(b)(12).

**Improper Nondisclosure Policies:** The agency shall not in any way impede the whistleblowing rights of others and is required to inform employees who are subject to non-disclosure agreements that the agreement does not supersede employees' whistleblowing rights, such as reporting wrongdoing to OSC or Congress. 5 U.S.C. § 2302(b)(13).

**Unlawful access to medical records:** A claim that the agency accessed the medical records of another employee or an applicant for employment as a part of any PPP. 5 U.S.C. § 2302(14).

United States Government Accountability Office

# Personnel Appeals Board Petition Form

**Instructions for filling out Petition Form**

The Personnel Appeals Board (PAB) is an independent entity within GAO (an agency in the legislative branch of government). The PAB performs the combined functions of its executive branch counterparts: the Equal Employment Opportunity Commission; the Federal Labor Relations Authority; the Merit Systems Protection Board; and the Office of Special Counsel. Established by the GAO Personnel Act of 1980, the PAB protects against potential or perceived conflicts of interest arising from GAO's oversight of the executive branch.

The purpose of this form is to assist you and/or your representative in providing the PAB with all information that may be relevant to your claim(s) and to facilitate the efficient processing of your case. Please take time to read this form carefully and to answer all questions to the best of your knowledge. Failure to provide the information or to complete this form could result in delay or dismissal of your case.

**Note to representatives, throughout this Form "you" and "your" refer to the Petitioner and Petitioner's claims.**

You should use this form only if:[1]

- You work for PAB/OGC and are representing a party with a right to petition the PAB for redress, OR
- You are (or you are representing) a person who meets the following criteria:
    - You work(ed) for the Government Accountability Office (GAO) or applied for employment with GAO; AND
    - You believe GAO discriminated against you because of your race, color, sex, religion, national origin, age (40 years or older), pregnancy, genetic information or disability, or in retaliation for participating in the EEO complaint process or opposing unlawful discrimination; AND you contacted and received counseling from GAO's Office of Opportunity and Inclusiveness on the claims you raise in this petition AND you received a Right to Petition Letter from PAB/OGC within 30 days of filing this petition OR 180 days have lapsed since you filed a charge with PAB/OGC and you have not received a Right to Petition Letter.[2]

AND/OR

- You have been removed, suspended for 14 days or more, reduced in grade or pay, furloughed for 30 days or less, involuntarily resigned, involuntarily retired, furloughed for more than 30 days by a reduction in force AND you received a Right to Petition Letter from PAB/OGC within 30 days of filing this petition OR 180 days have lapsed since you filed a charge with PAB/OGC and you have not received a Right to Petition Letter.

AND/OR

***Instructions continued on next page***

[1] If you intend to file a petition related to labor-management relations, please visit the GAO-PAB website Resources and follow the procedures laid out in the Guide to Labor-Management Relations Practice before the PAB: https://pab.gao.gov/wp-content/upoads/2022/06/mediationpamphlet.pdf.

[2] Right to Petition Letter: The PAB Office of General Counsel (PAB/OGC) will investigate your allegations to determine whether your rights under the GAO Personnel Act (31 U.S.C. §§ 731, 752 *et. seq.*) have been violated. At the conclusion of the PAB/OGC's investigation, you will be issued a Right to Petition Letter which will inform you that PAB/OGC has completed the investigation. Upon receipt of the letter, you will have to decide how you wish to proceed. You may have PAB/OGC represent you (if they have offered to do so) and argue your claim(s) on your behalf before the PAB. You may wish to proceed with representation of your own choosing, you may wish to proceed *pro se* (representing yourself), or you may wish not to pursue your claim(s) further. If you decide to pursue your claims before the PAB, you must do so within t30 days of receiving the Right to Petition Letter.

- You believe that GAO action was taken in retaliation for your protected disclosure of information you reasonably believe demonstrates a violation of law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; or substantial and specific danger to public health or safety; or in retaliation for the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation with regard to remedying a violation of subsection (b)(8); for testifying or otherwise lawfully assisting any individual in the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation; for cooperating with or disclosing information to the Inspector General (or any other component responsible for internal investigation or review) of an agency, in accordance with applicable provisions of law; or for refusing to obey an order that would require a violation of law, rule, regulation or policy, (*See* 5 U.S.C. § 2302(b)(8), (b)(9)(A)(i),(B), (C), and (D) and Appendix A) AND you received a Right to Petition Letter from PAB/OGC within 30 days of filing this petition OR 180 days have lapsed since you filed a charge with PAB/OGC and you have not received a Right to Petition Letter. *See* Appendix A.

AND/OR

- You believe that GAO action was taken in retaliation for the exercise of any appeal, complaint, or grievance right other than with regard to remedying a violation of 5 U.S.C. § 2302(b)(8) (*See* Appendix A), AND you received a Right to Petition Letter from PAB/OGC within 30 days of filing this petition OR 180 days have lapsed since you filed a charge with PAB/OGC and you have not received a Right to Petition Letter.

AND/OR

- You believe you have experienced any other prohibited personnel practice undertaken by GAO, as outlined in Appendix A, AND you received a Right to Petition Letter from PAB/OGC within 30 days of filing this petition OR 180 days have lapsed since you filed a charge with PAB/OGC and you have not received a Right to Petition Letter. *See* Appendix A.

AND/OR

- You have been separated by a reduction in force (RIF). (You do not have to first obtain a Right to Petition letter from PAB/OGC or wait 180 days in this instance.)

**For more information on filing a petition with the PAB please go to the *Resources* section of the PAB website, https://pab.gao.gov and download a copy of the Local Rules of the Personnel Appeals Board.**

**Part 1. Petitioner Information** (to be completed by petitioner or petitioner's representative)

**Privacy Statement:** As a legislative branch agency, GAO is not subject to the privacy and information security laws applicable to executive branch agencies, such as the Privacy Act of 1974, Federal Information Security Management Act of 2002, and E-Government Act of 2002; or Office of Management and Budget (OMB) and National Institute of Standards and Technology (NIST) guidance issued under those laws. However, it is GAO policy to protect personal privacy consistent with laws applicable to executive branch agencies and related best practices, in accordance with GAO's duties, functions, and responsibilities to Congress, including the responsibility to prevent unwarranted invasions of personal privacy, as required by 31 U.S.C. § 716(e)(2). GAO Order 0450.1 establishes GAO's privacy program and maintains privacy policies and procedures for GAO that are generally consistent with similar laws and guidance applicable to agencies of the executive branch.

GAO Order 0450.1 authorizes collection of personal identifiable information (PII). The information furnished will be used to process your petition. Furnishing your own PII, including medical information, is voluntary and therefore Petitioner is deemed to waive privacy protection for all PII they provide. Failure to provide such information can impede the processing of your case. All other PII should be properly redacted prior to filing.

***Petitioners and representatives must promptly notify the PAB of any change in email, mailing address, and/or telephone numbers while this case is pending.***

**Registered Email:** The email address you provide here for yourself, and your representative will be your Registered Email(s) for the duration of this case. You will be required to use this email account to file your pleadings and receive service of the pleadings of other parties. This email will also be the primary means of communication for important case information and scheduling. Therefore, you are required to check this email account regularly to ensure you are up to date on all relevant matters related to the processing of your case. If you or your representative need to change your registered email address, you must file a written and signed notification to the PAB and all parties to this proceeding.

1. Name (Please list your name exactly as it appears in your personnel records):
2. Present Address: City: State: Zip:
3. Email Address:
4. Telephone Number (list your primary number):
5. Your Federal employment status at the time of the events at issue in your petition:
   a. Permanent ○
   b. Temporary ○
   c. Term ○
   d. Seasonal ○
   e. Applicant ○
   f. Retired ○
   g. None ◉
6. Type of appointment:
   a. Competitive ○
   b. Excepted ○
   c. SES ○
   d. Other: ◉ _____
7. Your position, title, grade, and duty station at the time of the events at issue in your case (if applicable):
   a. Occupational Series or Cluster:
   b. Position Title:
   c. Grade or Pay Band:
   d. Duty Station:

8. Prior to filing this petition, did Petitioner and GAO participate in any sort of mediation or alternate dispute resolution (ADR) process? ☐ Yes ☐ No. If yes, please state what the result was:
9. Have you filed a charge with PAB/OGC? ☐ Yes ☐ No
   If yes, please provide the date you filed a charge with PAB/OGC:
10. Have you received a Right to Petition Letter from PAB/OGC? ☐ Yes ☐ No
    If yes, please provide the date you receive the right to Petitioner Letter from PAB/OGC and attach a copy of the Letter with this petition form:
11. Are you entitled to Veterans Preference (see 5 U.S.C. § 2108)? ☐ Yes ☐ No
12. Length of Federal Service (if applicable): Years Months Start Date
13. Were you serving a probationary, trial, or initial service period at the time of the events at issue in your petition? ☐ Yes ☐ No
14. You have the right to request a hearing before an administrative judge. If you elect not to have a hearing, the administrative judge will make a decision on the basis of the submissions of the parties. Do you want a hearing? ☐ Yes ☐ No
15. Does petitioner wish to have a representative in this matter? ☐ Yes ☐ No
    (If yes, petitioner must name the desired representative and provide the contact information below):
16. Representative's Name:
17. Representative's Address:
18. Representative's Email:
19. Representative's Telephone Number:
    **Note:** Representative must promptly notify PAB if there are any changes to address, email, or telephone number.
20. Is representative with PAB/OGC? ☐ Yes ☐ No
21. Is representative an attorney? ☐ Yes ☐ No
22. Is representative associated with petitioner's union? ☐ Yes ☐ No

Petitioner hereby designates the above-named individual to serve as their representative during the course of this matter before the PAB. Petitioner authorizes this representative to act on their behalf, to serve, and receive service from all parties to this matter. In addition, Petitioner specifically delegates their representative to settle this appeal on their behalf. Petitioner understands they must promptly notify PAB if there are any changes to the representative or if petitioner ceases to be represented. If you do not have a representative at this time but wish to designate one at a later date, you may do so by submitting a written and signed designation letter to the PAB containing your representative's name and contact information.

**Petitioner** Must Sign Here to Designate Representative:

Sign: _____ Date: _____

**Part 2. Claims of Equal Employment Opportunity (EEO) Discrimination**

Complete this part if you believe GAO discriminated against you because of your race, color, sex, religion, national origin, age (40 years or older), pregnancy, genetic information, or disability, or in retaliation for participating in the EEO complaint process or opposing unlawful discrimination:

1. What do you believe was (were) the reason(s) for the alleged discrimination? Check all the appropriate boxes that apply and identify your class (i.e. specify your race, religion, etc.) in the space provided. If you allege retaliation for EEO activity, please give the date and type of your previous EEO activity.

- ☐ Race
- ☐ Color
- ☐ Religion
- ☐ Sex/Sexual Orientation/Gender
- ☐ Identity Genetic Information
- ☐ Age
- ☐ National Origin
- ☐ Disability
- ☐ Retaliation
- ☐ Pregnancy/Child Birth

2. Please list the date and a brief description of each instance of discrimination or harassment you wish to claim in this matter (You may attach additional claims in a separate document if you require more space than what is allotted in this form):

| DATE | BRIEF DESCRIPTION |
|---|---|
| | |
| | |
| | |

3. What remedy(ies) do you seek for the alleged discrimination? If you need additional space, attach an additional page.

| BRIEF DESCRIPTION |
|---|
| |

**Part 3. Personnel Action Appeals and Prohibited Personnel Actions**

Complete this part if you are appealing a GAO personnel action or decision other than a decision directly addressing your retirement rights or benefits. An explanation of these types of appeals and claims of Prohibited Personnel Practices is provided in Appendix A.

1. Select which best describes the personnel action or decision you are appealing. (If you are appealing more than one action or decision, select each action that applies:

   ☐ Removal (termination after completion of probationary or initial service period)
   ☐ Termination during probationary or initial service period
   ☐ Reduction in grade, pay, or band
   ☐ Suspension for more than 14 days
   ☐ Failure to restore/reemploy/reinstate or improper restoration/reemployment/reinstatement
   ☐ Negative suitability determination
   ☐ Involuntary resignation
   ☐ Involuntary retirement
   ☐ Furlough of 30 days or less
   ☐ Separation, demotion, or furlough for more than 30 days by reduction in force (RIF)
   ☐ Other (*See* Appendix A)

2. Date you received the final decision or action (if any):

3. Effective date of the action or decision:

4. Explain briefly why you think GAO was wrong in taking this action, including whether you believe GAO engaged in harmful procedural error, committed a prohibited personnel practice, or engaged in one of the other claims listed in Appendix A. Attach GAO proposal letter, decision letter, and SF-50, if applicable. Attach additional pages if necessary (bearing in mind there will be later opportunities to supplement your filings).

5. What remedy(ies) do you seek for this alleged action?

6. With respect to the GAO personnel action or decision you are appealing, have you, or has anyone on your behalf, filed a grievance under a negotiated grievance procedure provided by a collective bargaining agreement? ◯ Yes ◯ No
   If yes, please provide the date that the grievance was filed and attach a copy of the grievance with this form. Date:

***PLEASE READ THIS SECTION VERY CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ON HOW TO FILE YOUR PETITION WITH PAB AND HOW YOUR CASE WILL BE PROCESSED.***

**By signing and submitting this Petition Form to the PAB you agree, understand, and consent to the following:**

I, _____ and my representative (if applicable) , _____
**Petitioner's Name** **Representative's Name**
understand that I/we must adhere to the PAB's procedure for electronically filing (e-filing) documents in matters before the PAB as laid out below.

**E-Filing Procedures:**

These procedures are governed by 4 C.F.R. Part 28 and PAB Local Rules and while this form provides general guidance on those procedures, you are responsible for complying with the regulations, rules, and procedures applicable to your case.

The Board will serve copies of the petition upon the parties to the proceeding by mail and/or by email. The Board will attach a Service List indicating the names, addresses, and email addresses of the parties to the proceeding and/or their designated representatives. The Board will not serve copies of any pleadings, motions, or other submissions by the parties after the initial petition. See 4 C.F.R. § 28.20

The email address that you provided above will be your registered email address for the duration of this case and will be placed on the Service List. It will be the primary means of communication and service of process throughout the processing of your case. This email account must be maintained and must be able to receive and send emails. If you or your representative need to change registered email addresses, you may do so by filing written and signed notice to the PAB and you must serve all parties a copy of this notice.

Generally, all pleadings, motions, briefs and other filings, are to be filed electronically unless specifically exempted by law, regulation, or PAB order. To file this Petition Form and all other pleadings in your case, they must be sent from your registered email address to PAB@GAO.GOV.

**Formatting Documents for E-Filing:**

As an initial matter, documents filed electronically are just like paper files and must still comply with the Federal Rules of Civil Procedure, 4 C.F.R. Part 28, and PAB Local Rules addressing the form, size, and formatting of pleadings and other legal documents.

In order to e-file a document, it is the preference of the Board that it be converted into portable document format (PDF) before being sent to PAB@GAO.GOV. Exhibits to a filing should be numbered and made part of the filed pleading document, separated and labeled with bookmarks wherever possible. However, the Board accepts numerous electronic formats, including word-processing and spreadsheet formats, and image files (files created by scanning). Pleadings must be formatted so that they will print on 8 1/2-inch by 11-inch paper with 1" margins. Parties are responsible for reviewing all pleadings to confirm legibility and to minimize the inclusion of nonrelevant personally identifiable information.

E-filed documents must contain a signature block. You can either:

- Use an electronic government signature using your CAC/PIV or GAO secure electronic signature.
- Use an electronic signature by typing "/s/" followed by the typed name of the signer. For example, "/s/ John Smith"
- Scan a signed pen/ink signature page and include in the PDF document.

If you have a submission that does not lend itself to PDF format (e.g., a video recording or audio recording), please contact the Clerk of the Board for instructions on how to submit the item.

**Classified Materials or Other Protected Material**

Our PAB email account is secure and approved to receive documents containing PII and medical information, however, if you wish to file documents that are classified or otherwise cannot, by law, be transmitted via email, please contact the Clerk of the Board for more information on how to submit these materials to the Board.

**Encountering IT Issues:**

If for some reason, you encounter difficulties sending your pleadings to pab@gao.gov when you are attempting to file documents with the PAB, you must first contact the Clerk of the Board. If outside of 8am to 4pm Eastern Time and you are unable to reach the Clerk of Board, you may submit your filing via email directly to the Clerk of the Board, with a written explanation in the body of the email as to why the filing was not submitted and **YOU MUST ALSO cc the opposing party's registered email address, and the AJ assigned to your case.**

**Serving Documents Electronically:**

After the submission and service of this petition, each party must provide the opposing party with a copy of all correspondence sent to the Administrative Judge, including service of filings. Each filing must contain a Certificate of Service attached as the last page which is a signed and dated declaration by the filer confirming that the opposing party was provided a copy of the filing and the manner in which it was provided. Failure to provide a copy of submissions to the opposing party may result in return of such submissions without consideration. To comply with service requirements, parties must serve the email address contained on the service list.

The parties and their representatives are reminded of their ongoing obligation to keep the PAB informed of their current phone number, mailing, and email address.

Other than to clarify a procedural issue or during alternative dispute resolution, it is inappropriate for the parties to engage in ex parte communication with the Administrative Judge. This means that the opposing party must be present on a call or cc-ed on every email that includes the Administrative Judge. This also includes anything officially filed for the case. The filing party is responsible for making sure that all filed documents have been served to all parties in accordance with the instructions contained herein.

Service must be completed in one of the two ways described below:

- Email: Parties may send the document as an email attachment to the email addresses of all the parties to the case, including the Clerk of the Board and the Administrative Judge at pab@gao.gov.
- USPS: Permission to serve opposing parties via USPS mail, will only be granted in extraordinary circumstances and upon a showing of good cause. Please contact the Clerk of the Board for more information.

**I certify that I have read and understood all the instructions in this form related to e-filing, e-service, and communications with the Administrative Judge. I further certify that all the statements made in this form and any attachments are true, complete, and correct to the best of my knowledge and belief.**

_____ _____

Signature of Petitioner Date

_____ _____

Signature of Petitioner's Representative Date

## Additional Claims Regularly Raised in Personnel Action Appeals

**Harmful Error:** Error by GAO in the application of its procedures that is likely to have caused GAO to reach a conclusion different from the one it would have reached in the absence or cure of the error. The burden is upon the Petitioner to show that the error was harmful, i.e., that it caused substantial harm or prejudice to his or her rights.

**Prohibited Personnel Practice (PPP):** A claim that GAO's action or decision the Petitioner is challenging was the result of one of the personnel practices prohibited by 5 U.S.C. § 2302(b). Among the prohibited personnel practices most likely to be relevant as an affirmative defense are: unlawful discrimination under subsection (b)(1) (see below); retaliation for protected whistleblowing under subsection (b)(8); and retaliation for other protected activity under subsection (b)(9).

**Unlawful Discrimination:** A claim that the agency action was the result of prohibited discrimination based on race, color, religion, sex, national origin, disability, age, marital status, political affiliation, genetic information, and retaliation for prior equal employment opportunity (EEO) activity. See 5 U.S.C. §§ 2302(b)(1), 7702; 4 C.F.R. Part 28. If you filed a formal discrimination complaint, give the date on which you did so, state whether and when the agency issued a final decision on your discrimination complaint, and provide copies of both.

**Retaliation for whistleblowing** activity under 5 U.S.C. § 2302(b)(8) and (b)(9)(A)(i), (B), (C), or (D): A claim that the agency action was taken in retaliation for the disclosure of information the individual reasonably believes demonstrates a violation of law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; or substantial and specific danger to public health or safety; or in retaliation for the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation with regard to remedying a violation of subsection (b)(8); for testifying or otherwise lawfully assisting any individual in the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation; for cooperating with or disclosing information to the Inspector General (or any other component responsible for internal investigation or review) of an agency, or any government oversight group, or PAB/OGC, in accordance with applicable provisions of law; or for refusing to obey an order that would require a violation of law, rule, or regulation. See 5 U.S.C. § 2302(b)(8), (b)(9)(A)(i), (B), (C), and (D).

**Retaliation for other protected activity** under 5 U.S.C. § 2302(b)(9)(A)(ii): A claim that the agency action was taken in retaliation for the exercise of any appeal, complaint, or grievance right, other than with regard to remedying a violation of 5 U.S.C. §2302(b)(8).

**Inappropriate Recommendations:** If GAO requested or considered recommendations about an employee or applicant unless the recommendation was based on the personal knowledge of the employee or records of the person providing it, that is a PPP. Put another way, this means that a recommendation to hire or promote someone in the federal workplace must be ignored unless the person making the recommendation has actual knowledge of the person's abilities as they would apply to the position in question. 5 U.S.C. § 2302(b).

**Political Coercion:** A claim that an agency official coerced or attempted to coerce the political activity of any person or retaliated against an employee for refusing to engage in political activity. 5 U.S.C. § 2302(b)(3).

**Obstructing/Influencing Competition for Employment:** A claim that an agency official intentionally deceived or obstructed anyone from competing for employment or influenced a person to withdraw from competition for employment to improve the prospects of another person or gave unauthorized advantage to the employment prospects of another person. 5 U.S.C. § (b)(4)-(6).

**Nepotism:** A claim that a government employee influenced the hiring, promotion, or employment advantages of a relative (father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister). 5 U.S.C. 2302(b)(7).

**Discrimination for Nonperformance-related Reasons:** A claim that the agency discriminated for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others. 5 U.S.C. § 2302(10).

**Violation of Rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA):** A claim that the agency action violated rights and benefits under 38 U.S.C. Chapter 43 by denying initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership, application for membership, performance of service, application for service, or obligation to perform service in a uniformed service. GAO Order 2353.1.

**Violation of a Law or Regulation relating to Veterans' Preference** pursuant to the Veterans Employment Opportunities Act (VEOA): A claim that the agency action violated rights related to veterans' preference under any statute or regulation. 5 U.S.C. 2302(b)(11).

**Violation of Merit System Principles:** A claim that the agency took or failed to take a personnel action if doing so would violate a law, rule or regulation implementing or directly concerning the merit system principles. This PPP prohibits agency officials from taking, or failing to take, a personnel action that violates any other civil service law, rule, or regulation that was designed to uphold the merit system principles. 5 U.S.C. § 2302(b)(12).

**Improper Nondisclosure Policies:** The agency shall not in any way impede the whistleblower rights of others and is required to inform employees who are subject to non-disclosure agreements that the agreement does not supersede employees' whistleblowing rights, such as reporting wrongdoing to OSC or Congress. 5 U.S.C. § 2302(b)(13).

**Unlawful access to medical records:** A claim that the agency accessed the medical records of another employee or an applicant for employment as a part of any PPP. 5 U.S.C. 2302(14).

# END OF PETITION FORM

## Designation of Representative(s):

**PERSONNEL APPEALS BOARD**
**U.S. GOVERNMENT ACCOUNTABILITY OFFICE**
**WASHINGTON, D.C.**

| | | |
|---|---|---|
| **JANE DOE,** | ) | **Docket No. [YY-##]** |
| **Petitioner** | ) | |
| **v.** | ) | **Administrative Judge [Name]** |
| **UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE,** | ) | |
| **Respondent** | ) | [**DATE]** |

**DESIGNATION OF REPRESENTATIVE**

Pursuant to 4 C.F.R. § 28.25, [PARTY] hereby files this Designation of Representative.

**DESIGNATION:**

I, [PARTY] hereby designate [NAME OF REPRESENTATIVE] to serve as my representative during the course of this appeal. I understand that my representative is authorized to act on my behalf. I specifically delegate to my representative the authority to settle this appeal on my behalf. I understand that any limitation on this settlement authority must be filed in writing with the Board.

_____
Signature of [PARTY]
[PRINT NAME OF PARTY]

Respectfully Submitted,

[SIGNATURE OF REPRESENTATIVE]
[PRINT NAME OF REPRESENTATIVE]
[EMAIL ADDRESS]
[PHONE NUMBER]

## Motion (followed by Proposed Order):

**PERSONNEL APPEALS BOARD**
**U.S. GOVERNMENT ACCOUNTABILITY OFFICE**
**WASHINGTON, D.C.**

| | | |
|---|---|---|
| **JANE DOE,** | ) | **Docket No. [YY-##]** |
| **Petitioner** | ) | |
| **v.** | ) | **Administrative Judge [Name]** |
| **UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE,** | ) | |
| **Respondent** | ) | **[DATE]** |

**MOTION FOR [STATE REQUEST]**

Pursuant to 4 C.F.R. § 28.21, [PARTY] hereby files this Motion for [CLEARLY EXPLAIN WHAT IS REQUESTED]. I have conferred with the opposing party on [DATE] and they [DO/DO NOT] object to this motion.

**BACKGROUND**

[CLEARY STATE REASON(S) PARTY IS MAKING REQUEST. IF WARRANTED, EXHIBITS THAT ARE RELEVANT AND PROVIDE FACTUAL SUPPORT TO THE MOTION MAY BE INCLUDED FOR CONSIDERATION]

Respectfully Submitted,

Jane Doe [NAME OF AUTHOR OF MOTION]
[EMAIL ADDRESS]
[PHONE NUMBER]

## Proposed Order:

**PERSONNEL APPEALS BOARD**
**U.S. GOVERNMENT ACCOUNTABILITY OFFICE**
**WASHINGTON, D.C.**

| | | |
|---|---|---|
| **JANE DOE,** | ) | **Docket No. [YY-##]** |
| **Petitioner** | ) | |
| **v.** | ) | **Administrative Judge [Name]** |
| **UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE,** | ) | |
| **Respondent** | ) | **[DATE]** |

**PROPOSED ORDER**

Petitioner has filed a Motion for [STATE REASON] on [DATE]. The Respondent [DOES/DOES NOT] object to this Motion. Upon consideration of the Petitioner's Motion, 4 C.F.R. § 28.21, and for good cause shown, Petitioner's Motion is GRANTED.

SO ORDERED.

Date: _____

_____
I. M. JUDGE
Administrative Judge

## Certificate of Service:

**CERTIFICATE OF SERVICE**

This is to certify that on [DATE], the foregoing Motion in the case of *[CASE TITLE]*, Docket No. [YY-##], was sent to the parties listed below in the manner indicated.

**VIA EMAIL:**

Representative for Petitioner:
NAME
ORGANIZATION
PHONE NO.
email@email.com

Petitioner:
Jane Doe
email@email.com

Representatives for Respondent:
NAME, Esq.
U.S. Government Accountability Office
Office of General Counsel
PHONE
email@gao.gov

Date:

_____
NAME OF FILER

## Sample Discovery Instructions & Definitions to Include with Discovery Requests:

**PERSONNEL APPEALS BOARD**
**U.S. GOVERNMENT ACCOUNTABILITY OFFICE**
**WASHINGTON, D.C.**

| | | |
|---|---|---|
| **JANE DOE,** | ) | **Docket No. [YY-##]** |
| **Petitioner** | ) | |
| **v.** | ) | **Administrative Judge [Name]** |
| **UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE,** | ) | |
| **Respondent** | ) | **[DATE]** |

**[PARTY]'S FIRST SET OF DISCOVERY**

**PLEASE TAKE NOTICE** that, pursuant to 4 C.F.R. §§ 28.40-28.45 and the [DATE] Discovery and Scheduling Order issued in the above-captioned matter, the [REQUESTING PARTY] hereby requests that [OPPOSING PARTY] answer the following [interrogatories/requests for admissions/requests for production of documents] (collectively, the [REQUESTING PARTY]'s discovery requests), separately and fully in writing, under oath, and serve these responses upon the undersigned representative within twenty (20) calendar days from receipt of this request. Each document shall be organized and labeled in a manner that clearly indicates the particular request to which the document is responsive.

The interrogatories, requests for admissions, and document requests shall be deemed continuing in nature, so as to require supplemental responses if Appellant obtains further or different information than that now contained in the responses to the following between the time in which the responses are served and the date of the hearing, if any.

## IX. DEFINITIONS

Notwithstanding any definition below, each word, term, or phrase used in these [interrogatories, requests for admissions/requests for production of documents] is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure. As used herein, the terms listed below shall be defined as follows:

1. *Concerning*: This term means relating to, referring to, describing, evidencing, or constituting.

2. *Communication*: Means the transmittal of information by any means.

3. *Describe in detail or State in detail*: requires you to provide a complete description of all facts known to you that are pertinent to the acts, occurrences, or events in question, including, where applicable, the date, time, place, circumstance, nature, substance, description, or explanation of the act, event, or occurrence, and the identity of all persons or entities involved in the act, event, or occurrence.

4. *Document(s)*: Is defined to be synonymous in meaning and equal in scope to the term "items" in Fed. R. Civ. P. 34(a)(1) and include(s), but is not limited to electronically stored information. The terms "writings" "recordings" and "photographs" are defined as synonymous in meaning, equal in scope to the usage of those terms in Fed. R. Evid. 1001. A draft or non-identical copy is a separate document within the meaning of the term "documents."

5. *Exhibit*: shall include, unless otherwise indicated, all documents, as defined above, of any kind or character, within or without your possession, custody, or control, which may be used at administrative hearing to prove any claims or defenses.

6. *Identify (with respect to persons)*: When referring to a person "identify" means to state the person's full name, present or last known address, and when referring to a natural person, the last known place of employment. If the business, home telephone numbers, and email are known to the answering party, and if the person is not a party or present employee of a party, said telephone numbers and emails shall be provided. Once a person has been identified in accordance with this subparagraph, only the name of the person need be listed in response to subsequent discovery requesting the identification of that person.

7. *Identify (with respect to documents)*: When referring to documents to "identify" means to state the (i) type of document, (ii) general subject matter, (iii) date of documents, and (iv) author(s), addressee(s), and recipient(s) or, alternatively, to produce the document.

8. *Meeting*: Shall include any coincidence of presence of any persons, whether or not such coincidence of presence was by chance, prearranged, formal or informal, or in connection with some other activity.

9. *Occurrence/Transaction/Incident*: Means the event(s) described in Petition and other pleadings. "Pleadings" is defined in 4 C.F.R. § 28.3.

10. *Parties*: The terms "petitioner" and "respondent" and "intervenor" as well as a party's full or abbreviated name or a pronoun referring to a party, mean that party and, where applicable, its officers, directors, and employees. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation or to limit the PAB's jurisdiction to enter any appropriate order.

11. *Person*: Refers to natural persons as well as to all other entities, including, but not limited to, corporations, associations, partnerships, firms, organizations, and governmental agencies or bodies.

12. *You/Your*: Refers to the person(s) to whom these requests are addressed, and all of that person's agency, representatives, and attorneys.

13. The present tense includes the past and future tenses. The singular includes the plural, and the plural includes the singular. "All" means "any and all;" "any" means "any and all." "Including" means "including but not limited to." "And" and "or" encompass both "and" and "or." Words in the masculine, feminine, or neuter form shall include each of the other genders.

## INSTRUCTIONS

A. When information or a document is requested, the discovery request includes information or documentation in the possession, custody, or control of Appellant, Appellant's attorney(s), investigator(s), agent(s), or other representative(s) of Appellant.

B. If any of the information furnished is not from the personal knowledge of the Appellant, identify each person who provided such information to the Appellant and to whom the information is a matter of personal knowledge.

C. If a claim of privilege is asserted concerning any discovery request, identify as to each privileged communication or document: (1) its date; (2) its author(s); (3) the title or position of the author(s); (4) its recipient(s); (5) the business title(s) or position(s) of its recipients; (6) its number of pages; (7) its subject matter; (8) the legal basis upon which Appellant claims privilege; and (9) the specific portion of the request to which the communication and/or document is responsive.

D. Each discovery request, including any subpart thereof, is to be answered separately and fully.

E. Whenever necessary to provide a complete answer to any of these discovery requests or to bring within the scope of a request the broadest possible range of information, the singular form of a word shall be interpreted as plural and references to one gender shall include the other gender.

F. These discovery requests shall constitute a continuing request for information so as to require responses to be supplemented. Any supplemental responses shall be furnished to the Agency as soon as possible, but no later than fifteen (15) days after receipt of such information. In the event the Appellant obtains information within the last two (2) weeks preceding the date of the hearing, the Appellant shall provide the information as soon as possible.

G. Documents are to be labeled to indicate the discovery request to which they respond.

H. Unless otherwise indicated, these discovery requests refer to the time, place, and circumstances of the occurrence(s) mentioned or complained of in the Appeal.

I. When an exact answer to a discovery request is not known, state the best estimate available, state that it is an estimate, and state the basis for any such estimate.

J. When an Interrogatory asks for the factual basis for any contention, statement, claim, allegation, belief or conclusion, the response shall include, but not be limited to, the description of all facts relating in any way to the contention, statement, claim, allegation, belief, or conclusion, every document that relates to such facts; every statement or item or testimonial or other evidence that relates in any way to such facts; and will identify every person having knowledge for the substantiation of such contention, statement, claim, allegation, belief, or conclusion.

K. Appellant must provide transcriptions for any documents produced that are illegible.

L. If, after a reasonable and thorough investigation, using due diligence, Appellant is unable to produce a document, or any part thereof, specify in full and complete detail why the document is not available and what has been done to locate such document. In addition, specify what knowledge or belief he has concerning the unobtainable portion of any document and set forth the facts upon which such knowledge or belief is based.

M. Requests for Admissions include written statements of facts concerning the case. Appellant shall respond to each Request for Admission by stating “Admit” if he admits the assertion or “Deny” if he denies the assertion. Those statements that are admitted will be treated by the Board as having been established and need not be proved at hearing. Any denial shall meet the substance of the requested admission, and when good faith requires the Appellant to qualify his answer or deny only a part of the admission, he shall specifically admit to so much as is true and qualify or deny the remainder. Failure to specifically “Admit” or “Deny” any assertion may be deemed an admission and result in a ruling by the Administrative Judge that the assertion is admitted and that the Appellant is foreclosed from challenging the admission at hearing.

N. Concerning every statement in the following Requests for Admissions that Appellant denies, in whole or in part, state the reasons for such a denial, the facts supporting such a denial, and identify all communications or documents upon which such denial is based. If Appellant claims a lack of information or knowledge necessary to respond to any of the following Requests for Admissions, state in detail: (1) what inquiries Appellant has made to obtain the information or knowledge necessary to admit or deny the assertion; (2) how much of that information or knowledge is available; and (3) why the information or knowledge that is available to Appellant is otherwise insufficient to admit or deny the assertion.

O. Responding party may not refuse to respond to a Request for Admission simply on the belief that the assertion presents a genuine issue for hearing.

P. If, after a reasonable and thorough investigation, using due diligence, Appellant is unable to answer any discovery request, or any part thereof, on the ground of lack of information available, specify in full and complete detail why the information is not available and what has been done to locate such information. In addition, specify what knowledge or belief Appellant has concerning the unanswered portion of any discovery request, and set forth the facts upon which such knowledge or belief is based.

Respectfully Submitted,

_____
[NAME OF REQUESTER]
[PARTY REPRESENTED]

## Interrogatories:

**[PARTY]'s [FIRST] SET OF INTERROGATORIES**

STANDARD INTERROGATORY NO. 1: Identify all persons who are likely to have personal knowledge of any fact alleged in the pleadings and state the subject matter of the personal knowledge possessed by each such person.

STANDARD INTERROGATORY NO. 2: Itemize and show how you calculate any damages claimed by you in this action, whether economic, non-economic, compensatory, or other.

STANDARD INTERROGATORY NO. 3: Identify any persons or entities whom you contend are persons needed for a full development of the record and all relevant evidence, but who have not been named by either party.

STANDARD INTERROGATORY NO. 4: Identify all persons who are likely to have personal knowledge of any fact alleged in the Petition or in the Response to the Petition or any pleading and state the subject matter of the personal knowledge possessed by each such person.

STANDARD INTERROGATORY NO. 5: For each person identified by you in STANDARD INTERRGATORY 4, provide a complete statement of the opinions you expect to be expressed and basis and reasons therefore.

STANDARD INTERROGATORY NO. 6: For each witness you have retained or specially employed to provide expert testimony in this case, or employed by you whose duties regularly involve giving expert testimony and whom you expect to testify at trial, provide a complete statement of the opinions to be expressed and the basis and reasons therefore.

STANDARD INTERROGATORY NO. 7: State the facts concerning the matters alleged in [paragraph ____ of your Petition/Response to Petition].

STANDARD INTERROGATORY NO. 8: If you contend that the [OPPOSING PARTY]'s actions of _____ are a violation of law, rule or regulation, an abuse of authority, or a substantial and specific danger to public health or safety, identify with particularity the nature of such impropriety.

STANDARD INTERROGATORY NO. 9: If you contend that _____, state the facts concerning such contention.

STANDARD INTERROGATORY NO. 10: Identify with specificity any documents, recordings, and oral communications made by you or by someone else on your behalf, including medical professionals, relating to any of the allegations forming the basis for your [Petition/Response to Petition].

STANDARD INTERROGATORY NO. 11: Identify with specificity any notes, diaries, memoranda, or other written documents, reproductions, recordings, and communications made by you or by someone else on your behalf, including physicians or medical professionals that you intend to submit as an exhibit for submission into the hearing record for this proceeding.

## Requests for Admissions:

**[PARTY]'S [FIRST] SET OF REQUESTS FOR ADMISSIONS**

REQUEST FOR ADMISSION NO. 1: On or about [DATE], you attended a meeting with [NAME]

ADMIT:_____ DENY:_____

REQUEST FOR ADMISSION NO. 2: On or about [DATE] you made comments to [NAME] stating _____ or words to that effect.

ADMIT:_____ DENY:_____

REQUEST FOR ADMISSION NO. 3: On or about [DATE], you participated in a conference call with [NAMES].

ADMIT:_____ DENY:_____

## Requests for Production:

**[PARTY]'S [FIRST] SET OF DOCUMENT REQUESTS**

1. The documents referred to in your Answers to Interrogatories.

2. The documents (including, but not limited to, correspondence, notes, memoranda, and journal entries) which relate to, describe, summarize, or memorialize any communication between you and [Name], or anyone known or believed by you to have been acting under the authority of [Name], concerning the occurrence.

3. All documents (including, but not limited to, fee agreements, reports, and correspondence) provided to, received from, or prepared by each witness identified by you in connection with any witness identified in your Answers to Interrogatories.

4. All contracts or agreements entered into between the parties concerning the occurrence or transaction.

5. The documents concerning your claim for damages or the methods used to calculate such alleged damages.

6. All documents concerning any release, settlement, or other agreement, formal or informal, pursuant to which the liability of any person or any entity for damage arising out of the occurrence which is the subject matter of this lawsuit has been limited, reduced, or released in any manner. This request includes all agreements by one party or person to indemnify another party or person for claims asserted in this litigation.

7. All documents received from or provided to any other party to this action or received from any third-party since the filing of the Petition, whether provided informally or in response to a formal request.

8. All documents referred to in the Petition, Response to Petition and other pleadings, as the word "pleadings" is defined in 4 C.F.R § 28.3.

9. All documents you intend to submit as an exhibit for submission into the hearing record for this proceeding.

## Notice of Deposition:

**PERSONNEL APPEALS BOARD**
**U.S. GOVERNMENT ACCOUNTABILITY OFFICE**
**WASHINGTON, D.C.**

| | | |
|---|---|---|
| **JANE DOE,** | ) | **Docket No. [YY-##]** |
| **Petitioner** | ) | |
| **v.** | ) | **Administrative Judge [Name]** |
| **UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE,** | ) | |
| **Respondent** | ) | **[DATE]** |

**NOTICE OF DEPOSITION**

**PLEASE TAKE NOTICE** that, pursuant to 4 C.F.R. §§ 28.40-28.45, PAB Local Rule 104, and the [DATE] Discovery Order issued in the above-captioned matter, the deposition of [NAME], will be taken under oath in the presence of a court reporter by the undersigned [Representative], at the [ADDRESS] on [DATE OF DEPOSITION], commencing at [TIME].

[DEPONENT] should bring any documents, reproductions, or recordings in his custody or control relevant to the above-captioned matter not already produced in response to the [Agency/Petitioner]'s discovery requests.

Respectfully Submitted,

_____
[NAME OF REQUESTER]
[PARTY REPRESENTED]

## Request for Policy Guidance:

**PERSONNEL APPEALS BOARD**
**U.S. GOVERNMENT ACCOUNTABILITY OFFICE**
**WASHINGTON, D.C.**

| | | |
|---|---|---|
| **IN RE PETITION FOR STATEMENT OF POLICY OR GUIDANCE [NAME OF REQUESTER]** | ) | **[DATE]** |

Pursuant to 4. C.F.R. § 28.155(a)-(f), [REQUESTING PARTY] hereby files this Petition for Statement of Policy or Guidance.

[CLEARLY EXPLAIN THE BASIS FOR THE REQUEST, INCLUDING ANY APPLICABLE STATUTES, REGULATIONS, OR POLICIES THAT RELATE TO THE REQUEST. PLEASE ALSO ADDRESS THE CRITERIA THAT WILL BE CONSIDERED BY THE BOARD IN CONSIDERING THE PETITION:

(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 the 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.]

Respectfully Submitted,

[SIGNATURE OF REQUESTER]
[NAME/ORGANIZATION OF REQUESTER]
[EMAIL ADDRESS]
[PHONE NUMBER]

## Prehearing Submission:

**PERSONNEL APPEALS BOARD**
**U.S. GOVERNMENT ACCOUNTABILITY OFFICE**
**WASHINGTON, D.C.**

| | | |
|---|---|---|
| **JANE DOE,** | ) | **Docket No. [YY-##]** |
| **Petitioner** | ) | |
| **v.** | ) | **Administrative Judge [Name]** |
| **UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE,** | ) | |
| **Respondent** | ) | **[DATE]** |

I. INTRODUCTION

II. ISSUES

a. Issue #1

b. Issue #2…

III. JOINT STIPULATED FACTS

[List all facts on which the parties agree]

IV. STATEMENT OF FACTS

[List all relevant facts that pertain to the accepted claims/issues and will be established by the exhibits and testimony presented at hearing.]

V. WITNESSES

a. [NAME OF WITNESS. Give summary of expected testimony, the relevant facts that it will prove, and the claims/issues to which it pertains.]

## VI. EXHIBITS

[Describe document, give brief summary of the relevant facts that it will prove and the claims/issues to which it pertains. Petitioner should identify exhibits by number 1, 2, 3, … Respondent should identify exhibits by letter a, b, c, …]

## VII. CONCLUSION

Respectfully Submitted,

[SIGNATURE OF FILER]
[NAME OF FILER]
[EMAIL ADDRESS]
[PHONE NUMBER]

## Request for Reconsideration or Notice of Board Review:

**PERSONNEL APPEALS BOARD**
**U.S. GOVERNMENT ACCOUNTABILITY OFFICE**
**WASHINGTON, D.C.**

| | | |
|---|---|---|
| **JANE DOE,** | ) | **Docket No. [YY-##]** |
| **Petitioner** | ) | |
| **v.** | ) | **Administrative Judge [Name]** |
| **UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE,** | ) | |
| **Respondent** | ) | **[DATE]** |

**[REQUEST FOR RECONSIDERATION OR NOTICE OF APPEAL TO BOARD]**

Pursuant to 4 C.F.R. § 28.87, [REQUESTING PARTY] hereby submits this [Request for Reconsideration with the administrative judge OR Notice of Appeal to the Full Board]. The Initial Decision of this matter was issued on [DATE – MUST BE WITHIN 15 DAYS].

**[IF FILING REQUEST FOR RECONSIDERATION:]**

The [REQUESTING PARTY] respectfully requests reconsideration of the Initial Decision in this matter for the following reasons _____

[CLEARY STATE REASONS PARTY IS MAKING REQUEST AND WHY THE INITIAL DECISION SHOULD BE CHANGED.

REASONS FOR RECONSIDERATION OR APPEAL ARE THAT THE INITIAL DECISION WAS:

(1) BASED ON AN ERRONEOUS INTERPRETATION OF STATUE OR REGULATIONS,

(2) ARBITRARY, CAPRICIOUS, OR AN ABUSE OF DISCRETION OR OTHERWISE NOT CONSISTENT WITH LAW,

(3) NOT MADE CONSISTENT WITH REQUIRED PROCEDURES AND RESULTED IN HARMFUL ERROR. IF WARRANTED,

ADDITIONAL EVIDENCE NOT PREVIOUSLY IN THE RECORD MAY BE SUBMITTED ***ONLY IF*** DESPITE DUE DILIGENCE, WAS NOT AVAILABLE BEFORE THE RECORD CLOSED]

**[IF FILING NOTICE OF APPEAL TO THE FULL BOARD:]**

The [REQUESTING PARTY] intends to file their supporting brief and serve the brief upon [OPPOSING PARTY] within twenty-five (25) days of this Notice of Appeal.

Respectfully Submitted,

[SIGNATURE OF REQUESTING PARTY]
[NAME OF REQUESTING PARTY]
[EMAIL ADDRESS]
[PHONE NUMBER]