

General Accounting Office

§ 28.16

that the charging party's rights under Subchapters III and IV of Chapter 7 of Title 31, United States Code, have been violated, then the General Counsel shall not represent the charging party. If the General Counsel determines that there are reasonable grounds to believe that the charging party's rights under Subchapters III and IV of Chapter 7 of Title 31, United States Code, have been violated, then the General Counsel shall represent the charging party, unless the charging party elects not to be represented by the General Counsel. Any charging party may represent him or herself or obtain other representation.

(e) When the charging party elects to be represented by the General Counsel, the General Counsel is to direct the representation in the charging party's case. The charging party may also retain a private representative in such cases. However, the role of a private representative is limited to assisting the General Counsel as the General Counsel determines to be appropriate.

(f) When the General Counsel is not participating in a case, the General Counsel may request permission to intervene with regard to any issue in which the General Counsel finds a significant public interest with respect to the preservation of the merit system.

(g) If 180 days have elapsed since the filing of the charge, and the General Counsel has not completed the investigation and issued a Right to Appeal Letter, the charging party may bring his or her case directly to the Board by filing a petition for review in accordance with § 28.18. If a charging party exercises this option to file a petition for review with the Board without waiting for the completion of the investigation, the General Counsel shall not represent the charging party in proceedings before the Board. The charging party may represent him- or herself or obtain other representation. The General Counsel shall close the investigation of the charge upon being notified by the Clerk of the Board that the charging party has filed a petition for review with the Board under this paragraph (g).

[58 FR 61992, Nov. 23, 1993, as amended at 65 FR 80280, Dec. 21, 2000]

§ 28.13 Special procedure for Reduction in Force.

In the event of a Reduction in Force resulting in an individual's separation from employment, an aggrieved employee may choose to file an appeal directly with the Personnel Appeals Board, without first filing the charge with the PAB's Office of General Counsel pursuant to § 28.11. This option is available to individuals raising discrimination issues in connection with a RIF action. Pursuant to § 28.98, such individuals need not file a complaint with GAO's Civil Rights Office before pursuing a RIF challenge alleging discrimination, either by filing directly with the PAB or by filing a charge with the PAB's Office of General Counsel.

[61 FR 36810, July 15, 1996]

HEARING PROCEDURES FOR CASES BEFORE THE BOARD—GENERAL

§ 28.15 Scope and policy.

The rules in this subpart apply to actions brought by any person, except as otherwise provided in § 28.17 (concerning internal appeals of Board employees). These rules also apply to actions brought by the General Counsel, except as otherwise provided in subpart G (concerning corrective action, disciplinary and stay proceedings). It is the policy of the Board that these rules shall be applied in a manner which expedites the processing of each case, but with due regard to the rights of all parties.

§ 28.16 Revocation, amendment or waiver of rules.

(a) The Board may revoke or amend these regulations by publishing proposed changes within GAO and providing for a comment period of not less than 30 days. Following the comment period, any changes to the rules are final once they are published in the FEDERAL REGISTER. Notice of publication in the FEDERAL REGISTER must be published throughout GAO.

(b) An administrative judge or the Board may waive a Board regulation in an individual case for good cause shown if application of the regulation is not required by statute.