

dence may be required from any place in the United States at the designated place of hearing. In case of disobedience to a subpoena, the Board may invoke the aid of a court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. In case of contumacy or refusal to obey a subpoena issued to a person, the United States District Court within whose jurisdiction the inquiry is carried on may issue an order requiring him to appear before the Board, or to produce documentary evidence if so ordered, or to give evidence concerning the matter in question; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The Board may order testimony to be taken by deposition at any stage of a proceeding or investigation before it as a result of this chapter. Depositions may be taken before an individual designated by the Board and having the power to administer oaths. Testimony shall be reduced to writing by the individual taking the deposition, or under his direction, and shall be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Board as provided by this section.

(c) A person may not be excused from attending and testifying or from producing documentary evidence or in obedience to a subpoena on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise, before the Board in obedience to a subpoena issued by it. A person so testifying is not exempt from prosecution and punishment for perjury committed in so testifying.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 406; Pub. L. 95-454, title IX, §906(a)(6), Oct. 13, 1978, 92 Stat. 1225.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118k(d) (less 1st sentence).	July 19, 1940, ch. 640, §4 "Sec. 12(d) (less 1st sentence)", 54 Stat. 769.

In subsection (a), the word "affirmation" is omitted as included in "oath" on authority of section 1 of title 1, United States Code. The title of the court is changed to conform to title 28.

In subsection (c), the prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-454 substituted "Merit Systems Protection Board" and "Board" for "Civil Service Commission" and "Commission", respectively, wherever appearing.

Subsecs. (b), (c). Pub. L. 95-454 substituted "Board" for "Commission" wherever appearing.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

§ 1508. Judicial review

A party aggrieved by a determination or order of the Merit Systems Protection Board under section 1504, 1505, or 1506 of this title may, within 30 days after the mailing of notice of the determination or order, institute proceedings for review thereof by filing a petition in the United States District Court for the district in which the State or local officer or employee resides. The institution of the proceedings does not operate as a stay of the determination or order unless—

- (1) the court specifically orders a stay; and
- (2) the officer or employee is suspended from his office or employment while the proceedings are pending.

A copy of the petition shall immediately be served on the Board, and thereupon the Board shall certify and file in the court a transcript of the record on which the determination or order was made. The court shall review the entire record including questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that the additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce this evidence in the hearing before the Board, the court may direct that the additional evidence be taken before the Board in the manner and on the terms and conditions fixed by the court. The Board may modify its findings of fact or its determination or order in view of the additional evidence and shall file with the court the modified findings, determination, or order; and the modified findings of fact, if supported by substantial evidence, are conclusive. The court shall affirm the determination or order, or the modified determination or order, if the court determines that it is in accordance with law. If the court determines that the determination or order, or the modified determination or order, is not in accordance with law, the court shall remand the proceeding to the Board with directions either to make a determination or order determined by the court to be lawful or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court are final, subject to review by the appropriate United States Court of Appeals as in other cases, and the judgment and decree of the court of appeals are final, subject to review by the Supreme Court of the United States on certiorari or certification as provided by section 1254 of title 28. If a provision of this section is held to be invalid as applied to a party by a determination or order of the Board, the determination or order becomes final and effective as to that party as if the provision had not been enacted.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 406; Pub. L. 95-454, title IX, §906(a)(6), Oct. 13, 1978, 92 Stat. 1225.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118k(c).	July 19, 1940, ch. 640, §4 "Sec. 12(c)", 54 Stat. 768.

Sections 346 and 347 of title 28 referred to in former section 118k(c) were repealed by the Act of June 25, 1948, ch. 646, § 39, 62 Stat. 862, and are now covered by section 1254 of title 28. The titles of the courts are changed to conform to title 28.

In the reference to filing a written petition, "written" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments .....

1978—Pub. L. 95-454 substituted "Merit Systems Protection Board" and "Board" for "Civil Service Commission" and "Commission", respectively, wherever appearing.

Effective Date of 1978 Amendment ...

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

PART III—EMPLOYEES

Subpart A—General Provisions

Table with 2 columns: Chap. and Sec. listing sections 21, 23, 29.

Subpart B—Employment and Retention

Table with 2 columns: Chap. and Sec. listing sections 31, 33, 34, 35, 37. Section 37: Information Technology Exchange Program 3701

Subpart C—Employee Performance

Table with 2 columns: Chap. and Sec. listing sections 41, 43, 45, 47, 48. Section 41: Training 4101, Section 43: Performance Appraisal 4301, Section 45: Incentive Awards 4501, Section 47: Personnel Research Programs and Demonstration Projects 4701, Section 48: Agency Personnel Demonstration Project 4801

Subpart D—Pay and Allowances

Table with 2 columns: Chap. and Sec. listing sections 51, 53, 54, 55, 57, 59. Section 51: Classification 5101, Section 53: Pay Rates and Systems 5301, Section 54: Human Capital Performance Fund 5401, Section 55: Pay Administration 5501, Section 57: Travel, Transportation, and Subsistence 5701, Section 59: Allowances 5901

Subpart E—Attendance and Leave

Table with 2 columns: Chap. and Sec. listing sections 61, 63, 65. Section 61: Hours of Work 6101, Section 63: Leave 6301, Section 65: Telework 6501

Subpart F—Labor-Management and Employee Relations

Table with 2 columns: Chap. and Sec. listing section 71: Labor-Management Relations 7101

Table with 2 columns: Chap. and Sec. listing sections 72, 73, 75, 77, 79. Section 72: Antidiscrimination; Right to Petition Congress 7201, Section 73: Suitability, Security, and Conduct 7301, Section 75: Adverse Actions 7501, Section 77: Appeals 7701, Section 79: Services to Employees 7901

Subpart G—Insurance and Annuities

Table with 2 columns: Chap. and Sec. listing sections 81, 83, 84, 85, 87, 89, 89A, 89B, 90. Section 81: Compensation for Work Injuries 8101, Section 83: Retirement 8301, Section 84: Federal Employees' Retirement System 8401, Section 85: Unemployment Compensation 8501, Section 87: Life Insurance 8701, Section 89: Health Insurance 8901, Section 89A: Enhanced Dental Benefits 8951, Section 89B: Enhanced Vision Benefits 8981, Section 90: Long-Term Care Insurance 9001

Subpart H—Access to Criminal History Record Information

Table with 2 columns: Chap. and Sec. listing section 91: Access to Criminal History Records for National Security and Other Purposes 9101

Subpart I—Miscellaneous

Table with 2 columns: Chap. and Sec. listing sections 95, 97, 98, 99, 101, 102. Section 95: Personnel flexibilities<sup>2</sup> relating<sup>2</sup> to the Internal Revenue Service 9501, Section 97: Department of Homeland Security 9701, Section 98: National Aeronautics and Space Administration 9801, Section 99: Department of Defense Personnel Authorities 9901, Section 101: Federal Emergency Management Agency Personnel 10101, Section 102: United States Secret Service Uniformed Division Personnel 10201

AMENDMENTS

2011—Pub. L. 112-81, div. A, title XI, §1101(d)(2), Dec. 31, 2011, 125 Stat. 1610, added item for chapter 99 and struck out former item for chapter 99 "Department of Defense National Security Personnel System".

2010—Pub. L. 111-292, §2(b)(1), Dec. 9, 2010, 124 Stat. 3170, added item for chapter 65.

Pub. L. 111-282, §4(c)(3), Oct. 15, 2010, 124 Stat. 3044, added item for chapter 102.

2006—Pub. L. 109-295, title VI, §621(b), Oct. 4, 2006, 120 Stat. 1416, added item for chapter 101.

2004—Pub. L. 108-496, §4, Dec. 23, 2004, 118 Stat. 4010, added items for chapters 89A and 89B.

Pub. L. 108-201, §3(b), Feb. 24, 2004, 118 Stat. 477, added item for chapter 98.

2003—Pub. L. 108-136, div. A, title XI, §§1101(a)(2), 1129(b), Nov. 24, 2003, 117 Stat. 1633, 1645, added items for chapters 54 and 99.

2002—Pub. L. 107-347, title II, §209(c)(3), Dec. 17, 2002, 116 Stat. 2930, added item for chapter 37.

Pub. L. 107-296, title VIII, §841(a)(3), Nov. 25, 2002, 116 Stat. 2233, added item for chapter 97.

Pub. L. 107-123, §8(d)(1)(A), Jan. 16, 2002, 115 Stat. 2399, added item for chapter 48.

2000—Pub. L. 106-398, §1 [[div. A], title X, §1076(f)(1)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A-282, substituted "and Other Purposes" for "Purposes" in item for chapter 91.

Pub. L. 106-265, title I, §1002(b), Sept. 19, 2000, 114 Stat. 769, added item for chapter 90.

1998—Pub. L. 105-206, title I, §1201(b), July 22, 1998, 112 Stat. 719, added items for subpart I and chapter 95.

1993—Pub. L. 103-89, §3(a)(2), Sept. 30, 1993, 107 Stat. 981, struck out item for chapter 54 "Performance Management and Recognition System".

<sup>1</sup>Chapter heading amended by Pub. L. 107-296 without corresponding amendment of part analysis.

<sup>2</sup>So in original. Probably should be capitalized.