

(d) On motion of a party or on its own initiative, the Board may reconsider a decision under subsection (a) of this section by the 30th day after the decision is made.

(e) The Board shall prescribe regulations—

(1) providing for officer and employee appeals consistent with sections 7701 and 7702 of title 5; and

(2) on the operating procedure of the Board.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 901; Pub. L. 103-283, title III, §312(e)(4)(B), July 22, 1994, 108 Stat. 1446; Pub. L. 104-53, title II, §213, Nov. 19, 1995, 109 Stat. 535.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
753(a)	31:52-3(h).	Feb. 15, 1980, Pub. L. 96-191, §4(h), (j), (k), (m), 94 Stat. 30, 31.
753(b)	31:52-3(j).	
753(c)	31:52-3(k).	
753(d)	31:52-3(m).	

In the section, the words “officer or” are added for consistency in the revised title and with other titles of the United States Code.

In subsection (a), before clause (1), the words “decide” and “(where appropriate)” are omitted as surplus. In clause (6), the words “relations program” are substituted for “system” for consistency. In clause (8), the words “most appropriately” are omitted as surplus.

In subsection (b), the words “delegate . . . to act” are substituted for “designate . . . to take any action which the Board is authorized to take” for consistency and to eliminate unnecessary words. The words “individual” and “reopened and” are omitted as surplus.

In subsection (c), the words “reopen and” are omitted as surplus.

In subsection (d)(1), the words “the principles of” are omitted as surplus.

REFERENCES IN TEXT

Section 312(e)(2) of the Architect of the Capitol Human Resources Act, referred to in subsec. (a)(9), was classified to section 1831(e)(2) of Title 2, The Congress, and was repealed by Pub. L. 104-1, title V, §504(c)(1), Jan. 23, 1995, 109 Stat. 41, except as provided in section 1435 of Title 2.

AMENDMENTS

1995—Subsec. (b). Pub. L. 104-53, §213(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 104-53, §213(1), (3), redesignated subsec. (b) as (c) and in second sentence substituted “under subsection (d)” for “under subsection (c)”. Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 104-53, §213(1), redesignated subsecs. (c) and (d) as (d) and (e), respectively.

1994—Subsec. (a)(9). Pub. L. 103-283 added par. (9). See Application of Provisions Amended by Pub. L. 103-283 note below.

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108-271, set out as a note under section 702 of this title.

APPLICATION OF PROVISIONS AMENDED BY
PUB. L. 103-283

Provisions of this section amended by section 312(e) of Pub. L. 103-283 to be applied and administered as if section 312(e) and the amendments made by section 312(e) had not been enacted, see section 504(c)(2) of Pub. L. 104-1, set out as a note under section 751 of this title.

§ 754. Action by the Comptroller General

When the Comptroller General has authority, the Comptroller General promptly shall carry

out action the General Accounting Office Personnel Appeals Board¹ orders under section 753 of this title.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 902.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
754	31:52-3(i).	Feb. 15, 1980, Pub. L. 96-191, §4(i), 94 Stat. 31.

The words “to do so” and “corrective” are omitted as surplus. The words “under section 753 of this title” are added for clarity.

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108-271, set out as a note under section 702 of this title.

§ 755. Judicial review

(a) A final decision under section 753(a)(1)–(3), (6),¹ (7) or (9) of this title may be reviewed by the United States Court of Appeals for the Federal Circuit. Chapter 158 of title 28 applies to a review under this subchapter, except the petition for review shall be filed by the 30th day after the petitioner receives notice of the decision. The court shall set aside a final decision the court decides is—

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;
- (2) not made consistent with required procedures; or
- (3) unsupported by substantial evidence.

(b) If an officer, employee, applicant for employment, or employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants is the prevailing party in a proceeding under this section, and the decision is based on a finding of discrimination prohibited under section 732(f) of this title or under section 312(e)(2)² of the Architect of the Capitol Human Resources Act, attorney’s fees may be allowed by the court in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 902; Pub. L. 98-216, §1(1), Feb. 14, 1984, 98 Stat. 3; Pub. L. 100-426, title I, §103(a), (b), Sept. 9, 1988, 102 Stat. 1599; Pub. L. 103-283, title III, §312(e)(4)(C), July 22, 1994, 108 Stat. 1446.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
755	31:52-3(l).	Feb. 15, 1980, Pub. L. 96-191, §4(l), 94 Stat. 31.

In the section, before clause (1), the first sentence is substituted for 31:52-3(l)(1)(1st sentence) for consistency with other titles of the United States Code. The word “review” is substituted for “appeal” for consistency. The words “the procedures of”, “any other provision of law”, “of a final decision of the Board . . . the date . . . of the Board”, and “In any case filed under paragraph

¹ See Change of Name note below.

² So in original. Second comma probably should follow “(7)”.

³ See References in Text note below.

(1) . . . review the record and” are omitted as surplus. The words “final decision” are substituted for “agency action, findings, or conclusions” for consistency. Clause (2) is substituted for 31:52-3(l)(2)(B) to eliminate unnecessary words.

1984 ACT

This clarifies section 755 by conforming it more closely to the language of the source provision of the section.

REFERENCES IN TEXT

Section 312(e)(2) of the Architect of the Capitol Human Resources Act, referred to in subsec. (b), was classified to section 1831(e)(2) of Title 2, The Congress, and was repealed by Pub. L. 104-1, title V, §504(c)(1), Jan. 23, 1995, 109 Stat. 41, except as provided in section 1435 of Title 2.

Section 706(k) of the Civil Rights Act of 1964, referred to in subsec. (b), is classified to section 2000e-5(k) of Title 42, The Public Health and Welfare.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-283, §312(e)(4)(C)(i), substituted “, (7) or (9)” for “or (7)” in introductory provisions. See Application of Provisions Amended by Pub. L. 103-283 note below.

Subsec. (b). Pub. L. 103-283, §312(e)(4)(C)(ii), substituted “applicant for employment, or employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants” for “or applicant for employment”, and inserted “or under section 312(e)(2) of the Architect of the Capitol Human Resources Act” after “of this title”. See Application of Provisions Amended by Pub. L. 103-283 note below.

1988—Subsec. (a). Pub. L. 100-426, §103(a), (b)(1), designated existing provisions as subsec. (a) and substituted “Federal Circuit” for “District of Columbia Circuit or by the court of appeals of the United States for the circuit in which the petitioner resides”.

Subsec. (b). Pub. L. 100-426, §103(b)(2), added subsec. (b).

1984—Pub. L. 98-216 substituted “A final decision under section 753(a)(1)–(3), (6), or (7) of this title may be reviewed by the United States Court of Appeals for the District of Columbia Circuit or by the court of appeals of the United States for the circuit in which the petitioner resides” for “A person may apply for review of a final decision under section 753(a)(1)–(3), (6), or (7) of this title by filing a petition for review with the United States Court of Appeals for the District of Columbia Circuit or with the court of appeals of the United States for the circuit in which the person resides” in provisions preceding par. (1).

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-426, title I, §103(c), Sept. 9, 1988, 102 Stat. 1599, provided that: “Nothing in any of the amendments made by this section [amending this section] shall apply with respect to an appeal pending on the date of the enactment of this Act [Sept. 9, 1988].”

APPLICATION OF PROVISIONS AMENDED BY
PUB. L. 103-283

Provisions of this section amended by section 312(e) of Pub. L. 103-283 to be applied and administered as if section 312(e) and the amendments made by section 312(e) had not been enacted, see section 504(c)(2) of Pub. L. 104-1, set out as a note under section 751 of this title.

SUBCHAPTER V—ANNUITIES

§ 771. Definitions

In this subchapter—

(1) “dependent child” means an unmarried dependent child (including a stepchild or adopted child) who is—

(A) under 18 years of age;

(B) incapable of self-support because of physical or mental disability; or

(C) between 18 and 22 years of age and is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. For the purposes of this subchapter, a child whose 22nd birthday occurs before July 1 or after August 31 of a calendar year, and while such child is regularly pursuing such a course of study or training, is deemed to have become 22 years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim period between school years if the interim period is not more than 5 months and if such child shows to the satisfaction of the General Counsel of the Government Accountability Office that such child has a bona fide intention of continuing in the same or a different school during the school semester (or other period into which the school year is divided) immediately after the interim period.

(2) “surviving spouse” means a surviving spouse of an individual who was a Comptroller General or retired Comptroller General and the spouse—

(A) was married to the individual for at least 1 year immediately before the individual died; or

(B) has not remarried before age 55 and is the parent of issue by the marriage.

(3) service as a Comptroller General equals the number of years and complete months an individual is Comptroller General.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 902; Pub. L. 100-426, title II, §202, Sept. 9, 1988, 102 Stat. 1600; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
771(1), (2)	31:43b(g).	June 10, 1921, ch. 18, 42 Stat. 20, §319(g), (p); added July 13, 1959, Pub. L. 86-87, 73 Stat. 198, 200.
771(3)	31:43b(p).	

In this subchapter, the words “surviving spouse”, “spouse”, “surviving spouse’s”, and “parent” are substituted for “widow”, “wife”, “surviving widow’s”, and “mother”, respectively, because of 5:7202(c).

In clause (3), the words “or retired Comptroller General” are omitted as executed because a retired Comptroller General could elect survivor benefits and include retirement service only if the Comptroller General had retired by July 13, 1959. The word “total” is omitted as surplus. The words “complete months” are substituted for “twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any” to eliminate unnecessary words. The words “an individual is Comptroller General” are added for clarity.

AMENDMENTS

2004—Par. (1)(C). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

1988—Par. (1)(C). Pub. L. 100-426, §202(a), added subpar. (C).