

§ 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.

Editorial Notes

AMENDMENTS

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

Statutory Notes and Related Subsidiaries

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

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

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Subpart J—Enhanced Personnel Security Programs

110. Enhanced personnel² security² programs²	11001
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Editorial Notes

AMENDMENTS

2021—Pub. L. 117-81, div. E, title LIII, § 5312(c), Dec. 27, 2021, 135 Stat. 2365, which directed amendment of the table of chapters at the beginning of title 5 by inserting item for chapter 103, was executed by making the amendment in the front matter to this part to reflect the probable intent of Congress.

2019—Pub. L. 116-92, div. A, title XI, § 1122(c), Dec. 20, 2019, 133 Stat. 1608, added item for chapter 92.

2015—Pub. L. 114-113, div. M, title III, § 306(a)(2), Dec. 18, 2015, 129 Stat. 2916, added items for subpart J and chapter 110.

Pub. L. 114-47, § 2(b), Aug. 7, 2015, 129 Stat. 487, added item for chapter 96.

² So in original. Probably should be capitalized.

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”.

1986—Pub. L. 99-335, title I, § 101(b), June 6, 1986, 100 Stat. 588, added item for chapter 84.

1985—Pub. L. 99-169, title VIII, § 801(b), Dec. 4, 1985, 99 Stat. 1010, added items for subpart H and chapter 91.

1984—Pub. L. 98-615, title II, § 201(b), Nov. 8, 1984, 98 Stat. 3214, substituted “Performance Management and Recognition System” for “Merit Pay and Cash Awards” in item for chapter 54.

1978—Pub. L. 95-454, title I, § 101(b)(1), title II, § 203(b), title V, § 503(i), title VI, § 601(b), title VII, § 703(b), title IX, § 906(c)(5), Oct. 13, 1978, 92 Stat. 1118, 1134, 1184, 1188, 1217, 1227, added items for chapters 23, 34, 47, 54, and 72, substituted in item for chapter 43 “Appraisal” for “Rating” and in item for chapter 71 “Labor-Management Relations” for “Policies”, and inserted in heading of subpart F “Labor-Management and” before “Employee”.

Subpart A—General Provisions

CHAPTER 21—DEFINITIONS

Sec.	
2101.	Civil service; armed forces; uniformed services.
2101a.	The Senior Executive Service.
2102.	The competitive service.
2103.	The excepted service.
2104.	Officer.
2105.	Employee.
2106.	Member of Congress.
2107.	Congressional employee.
2108.	Veteran; disabled veteran; preference eligible.
2108a.	Treatment of certain individuals as veterans, disabled veterans, and preference eligibles.
2109.	Air traffic controller; Secretary.

Editorial Notes

AMENDMENTS

2011—Pub. L. 112-56, title II, § 235(a)(2)(B), Nov. 21, 2011, 125 Stat. 723, added item 2108a.

1980—Pub. L. 96-347, § 1(d), Sept. 12, 1980, 94 Stat. 1150, substituted “controller; Secretary” for “controller” in item 2109.