

**GS-13/14 MANAGEMENT & POLICY ADVISORY COUNCIL AND
CAREER LEVEL COUNCIL v. U.S. General Accounting Office**

Docket No. 116-600-GC-89

Date of Decision: June 12, 1990

**Cite as: GS-13/14 Management & Policy Advisory Council v. GAO,
Docket No. 2116-600-GC-89 (6/12/90)**

Before: Jonathan E. Kaufmann, Administrative Judge

Headnotes:

Jurisdiction

Motion to Dismiss

ORDER

in the Petition for Review are not ripe for adjudication; and (4) that the Petitioners lack standing to present these claims, and have failed to exhaust their administrative remedies before filing with the Board.

Petitioners have duly filed their opposition to Respondent's motion to dismiss. By leave of the undersigned, Respondent has filed a reply to Petitioners' opposition to the motion to dismiss.

In ruling on a motion to dismiss, the facts must be viewed in the light most favorable to the party opposing the motion to dismiss. Said motion shall only be granted if it appears beyond a doubt that there is no set of facts upon which the Petitioners may be entitled to relief. The Respondent, in its both its motion and reply briefs, failed to satisfy its burden under this legal standard. In this regard, the plain language of the GAO Personnel Act and underlying precedent support a finding that the Board has jurisdiction to hear this matter. Accordingly, it is hereby,

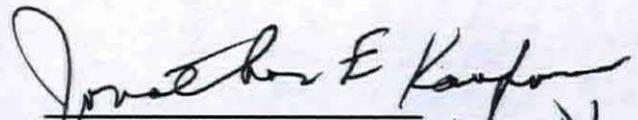
ORDERED that Respondent's motion to dismiss is denied, without prejudice. A memorandum opinion shall be issued shortly which will explicate the basis for my denial of Respondent's motion.

In the meantime, the parties are directed to commence the completion of discovery and other prehearing matters in this case. It is further

ORDERED that there will be a prehearing conference held on ~~June~~¹⁹ Monday, June ~~18~~, 1990, at 10:00 a.m. in the Office of the PAB. The parties are directed to be present at that meeting and to be prepared to set the further scheduling of the hearing and remaining prehearing matters in this case.

SO ORDERED.

Date: June 12, 1990


JONATHAN E. KAUFMANN
Administrative Judge (JED)