§ 14.504 Domestic relations questions, authority and exceptions.

(a) Regional Counsels have the same authority with respect to domestic relations questions as they do with respect to matters covered by §14.503 except as specifically excluded by the provisions of paragraph (a) of that section.

(b) In the following instances the Regional Counsel, regardless of whether State law is wholly controlling or a Department of Veterans Affairs precedent is available, will prepare a tentative opinion, researched as completely as possible with reasonably available facilities, and forward two copies thereof directly to the General Counsel for review and disposition (as provided in §14.503 respecting other than domestic relations matters):

(1) Where it is not clear under applicable State law: (i) Whether the marriage of a veteran's child or the remarriage of a veteran's widow was void without decree of annulment, or (ii) whether an annulment decree was rendered by a court with basic authority to render annulment decrees;

(2) When fraud or collusion by either party appears to have influenced the granting of an annulment decree;

(3) Cases in which there are contesting claims;

(4) Unusual situations, such as those involving proxy marriages, the law of two or more jurisdictions or of a foreign country;

(5) Cases involving difference of opinion between Regional Counsels or between a Regional Counsel and the official who submitted the question involved.

[42 FR 41411, Aug. 17, 1977]

§ 14.505 Submissions.

All submissions will set forth the question of law on which the opinion is desired, together with a complete and accurate summary of relevant facts. Files, correspondence, and other original papers will not be submitted unless pertinent portions thereof cannot practically be summarized or copies made and attached as exhibits.

[42 FR 41411, Aug. 17, 1977]

§ 14.507 Opinions.

(a) A written legal opinion of the General Counsel involving veterans' benefits under laws administered by the Department of Veterans Affairs shall be conclusive as to all Department officials and employees with respect to the matter at issue, unless there has been a material change in controlling statute or regulation, a superseding written legal opinion by the General Counsel, or the designation on its face as "advisory only" by the General Counsel or the Deputy General Counsel acting as or for the General Counsel. Written legal opinions having conclusive effect under this section and not designated as precedent opinions pursuant to paragraph (b) of this section shall be considered by the Department of Veterans Affairs to be subject to the provisions of 5 U.S.C. 552(a)(2). Advice, recommendations, or conclusions on matters of Government or Department policy, contained within a written legal opinion, shall not be binding on Department officials and employees merely because of their being contained within a written legal opinion. Written legal opinions will be maintained in the Office of the General Counsel. Written legal opinions involving veterans' benefits under laws administered by the Department of Veterans Affairs, which pertain to a particular benefit matter, in addition to being maintained in the Office of the General Counsel, will be filed in the individual claim folder.

(b) A written legal opinion of the General Counsel involving veterans' benefits under laws administered by the Department of Veterans Affairs which, in the judgment of the General Counsel or the Deputy General Counsel acting as or for the General Counsel, necessitates regulatory change, interprets a statute or regulation as a matter of first impression, clarifies or modifies a prior opinion, or is otherwise of significance beyond the matter
at issue, may be designated a “prece- 
dent opinion” for purposes of such ben- 
efits. Written legal opinions designated as precedent opinions under this sec-
tion shall be considered by Department of Veterans Affairs to be subject to the 
provisions of 5 U.S.C. 552(a)(1). An opinion designated as a precedent opinion is 
bounding on Department officials and employees in subsequent matters in-
volving a legal issue decided in the precedent opinion, unless there has 
been a material change in a controlling statute or regulation or the opinion 
has been overruled or modified by a subsequent precedent opinion or judi-
cial decision.

(c) For purposes of this section, the 
term written legal opinion of the General 
Counsel means a typed or printed 
memorandum or letter signed by the 
General Counsel or by the Deputy Gen-
eral Counsel acting as or for the Gen-
eral Counsel, addressed to an official or 
officials of the Department of Veterans 
Affairs stating a conclusion on a legal 
issue pertaining to Department of Vet-
erans Affairs activities.

(Authority: 38 U.S.C. 501)

§14.514 Suits by or against United 
States or Department of Veterans 
Affairs employees.

(a) Suits against United States or De-
partment of Veterans Affairs officials. 
When a suit involving any activities of 
the Department of Veterans Affairs is 
filed against the United States or the 
Secretary or a suit is filed against any 
employee of the Department of Vet-
erans Affairs in which is involved any 
official action of the employee, not 
covered by the provisions of §§14.800 
through 14.617, a copy of the petition 
will be forwarded to the General Coun-
el who will take necessary action to 
obtain the pertinent facts, cooperate 
with or receive the cooperation of the 
Department of Justice and, where indi-
cated, advise the Regional Counsel of 
any further action required.

(b) Counsel and representation of em-
ployees. The Department of Justice 
may afford counsel and representation 
to Government employees who are sued 
individually as a result of the perform-
ance of their official duties. A civil ac-
tion commenced in a State court 
against an employee, as the result of 
an action under color of his or her of-

(c) Indemnification. (1) The Depart-
ment of Veterans Affairs may indem-
nify a Department of Veterans Affairs 
employee, who is personally named as 
a defendant in any civil suit in state or 
Federal court or an arbitration pro-
cceeding or other proceeding seeking 
damages against the employee person-
ally, where either 28 U.S.C. 2679 or 38 
U.S.C. 7316 is not applicable, for any 
verdict, judgment, or other monetary 
award which is rendered against such 
employee; provided that: the alleged 
conduct giving rise to the verdict, 
judgment, or award was taken within 
the scope of his or her employment 
and that such indemnification is in the in-
terest of the Department of Veterans 
Affairs, as determined by the Secretary 
or his designee.

(2) The Department of Veterans Af-
fairs may settle or compromise a per-
sonal damage claim against a Depart-
ment of Veterans Affairs employee, in 
cases where the provisions of either 28 
U.S.C. 2679 or 38 U.S.C. 7316 are not ap-
plicable, by the payment of available