

Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

2018—Pub. L. 115-397 struck out “of complaints” after “Settlement” in section catchline.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115-397, set out as a note under section 1301 of this title.

§ 1415. Payments

(a) Awards and settlements

Except as provided in subsection (c), only funds which are appropriated to an account of the Office in the Treasury of the United States for the payment of awards and settlements may be used for the payment of awards and settlements under this chapter. There are appropriated for such account such sums as may be necessary to pay such awards and settlements. Funds in the account are not available for awards and settlements involving the Government Accountability Office or the Government Publishing Office.

(b) Compliance

Except as provided in subsection (c), there are authorized to be appropriated such sums as may be necessary for administrative, personnel, and similar expenses of employing offices which are needed to comply with this chapter.

(c) OSHA, accommodation, and access requirements

Funds to correct violations of section 1311(a)(3), 1331, or 1341 of this title may be paid only from funds appropriated to the employing office or entity responsible for correcting such violations. There are authorized to be appropriated such sums as may be necessary for such funds.

(d) Reimbursement by Members of Congress of amounts paid as settlements and awards

(1) Reimbursement required for certain violations

(A) In general

Subject to subparagraphs (B) and (D), if a payment is made from the account described in subsection (a) for an award or settlement in connection with a claim alleging a violation described in subparagraph (C) committed personally by an individual who, at the time of committing the violation, was a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or a Senator, the individual shall reimburse the account for the amount of the award or settlement for the claim involved.

(B) Conditions

In the case of an award made pursuant to a decision of a hearing officer under section

1405 of this title, or a court in a civil action, subparagraph (A) shall apply only if the hearing officer or court makes a separate finding that a violation described in subparagraph (C) occurred which was committed personally by an individual who, at the time of committing the violation, was a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or a Senator, and such individual shall reimburse the account for the amount of compensatory damages included in the award as would be available if awarded under section 1981a(b)(3) of title 42 irrespective of the size of the employing office. In the case of a settlement for a claim described in section 1416(d)(3) of this title, subparagraph (A) shall apply only if the conditions specified in section 1416(d)(3) of this title for requesting reimbursement are met.

(C) Violations described

A violation described in this subparagraph is—

- (i) harassment that is unlawful under section 1311(a) or 1316(a) of this title; or
- (ii) intimidation, reprisal, or discrimination that is unlawful under section 1317 of this title and is taken against a covered employee because of a claim alleging a violation described in clause (i).

(D) Multiple claims

If an award or settlement is made for multiple claims, some of which do not require reimbursement under this subsection, the individual described in subparagraph (A) shall only be required to reimburse for the amount (referred to in this chapter as the “reimbursable portion”) that is—

- (i) described in subparagraph (A), subject to subparagraph (B); and
- (ii) included in the portion of the award or settlement attributable to a claim requiring reimbursement.

(2) Withholding amounts from compensation

(A) Establishment of timetable and procedures by committees

For purposes of carrying out subparagraph (B), the applicable Committee shall establish a timetable and procedures for the withholding of amounts from the compensation of an individual who is a Member of the House of Representatives or a Senator.

(B) Deadline

The payroll administrator shall withhold from an individual's compensation and transfer to the account described in subsection (a) (after making any deposit required under section 8432(f) of title 5) such amounts as may be necessary to reimburse the account described in subsection (a) for the reimbursable portion of the award or settlement described in paragraph (1) if the individual has not reimbursed the account as required under paragraph (1) prior to the expiration of the 90-day period which begins on the date a payment is made from the account for such an award or settlement.

(C) Applicable Committee defined

In this paragraph, the term “applicable Committee” means—

(i) the Committee on House Administration of the House of Representatives, in the case of an individual who, at the time of the withholding, is a Member of the House; or

(ii) the Committee on Rules and Administration of the Senate, in the case of an individual who, at the time of the withholding, is a Senator.

(3) Use of amounts in Thrift Savings Fund as source of reimbursement**(A) In general**

If, by the expiration of the 180-day period that begins on the date a payment is made from the account described in subsection (a) for an award or settlement described in paragraph (1), an individual who is subject to a reimbursement requirement of this subsection has not reimbursed the account for the entire reimbursable portion as required under paragraph (1), withholding and transfers of amounts shall continue under paragraph (2) if the individual remains employed in the same position, and the Executive Director of the Federal Retirement Thrift Investment Board shall make a transfer described in subparagraph (B).

(B) Transfers

The transfer by such Executive Director is a transfer, from the account of the individual in the Thrift Savings Fund to the account described in subsection (a), of an amount equal to the amount of that reimbursable portion of the award or settlement, reduced by—

(i) any amount the individual has reimbursed, taking into account any amounts withheld under paragraph (2); and

(ii) if the individual remains employed in the same position, any amount that the individual is scheduled to reimburse, taking into account any amounts to be withheld under the individual’s timetable under paragraph (2).

(C) Initiation of transfer

Notwithstanding section 8435 of title 5, the Executive Director described in subparagraph (A) shall make the transfer under subparagraph (A) upon receipt of a written request to the Executive Director from the Secretary of the Treasury, in the form and manner required by the Executive Director.

(D) Coordination between payroll administrator and the Executive Director

The payroll administrator and the Executive Director described in subparagraph (A) shall carry out this paragraph in a manner that ensures the coordination of the withholding and transferring of amounts under this paragraph, in accordance with regulations promulgated by the Board under section 1383 of this title and such Executive Director.

(4) Administrative wage garnishment or other collection of wages from a subsequent position**(A) Individual subject to garnishment or other collection**

Subparagraph (B) shall apply to an individual who is subject to a reimbursement requirement of this subsection if, at any time after the expiration of the 270-day period that begins on the date a payment is made from the account described in subsection (a) for an award or settlement described in paragraph (1), the individual—

(i) has not reimbursed the account for the entire reimbursable portion as required under paragraph (1), through withholdings or transfers under paragraphs (2) and (3);

(ii) is not serving in a position as a Member of the House of Representatives or a Senator; and

(iii) is employed in a subsequent non-Federal position.

(B) Garnishment or other collection of wages

On the expiration of that 270-day period, the amount of the reimbursable portion of an award or settlement described in paragraph (1) (reduced by any amount the individual has reimbursed, taking into account any amounts withheld or transferred under paragraph (2) or (3)) shall be treated as a claim of the United States and transferred to the Secretary of the Treasury for collection. Upon that transfer, the Secretary of the Treasury shall collect the claim, in accordance with section 3711 of title 31, including by administrative wage garnishment of the wages of the individual described in subparagraph (A) from the position described in subparagraph (A)(iii). The Secretary of the Treasury shall transfer the collected amount to the account described in subsection (a).

(5) Notification to Office of Personnel Management and Secretary of the Treasury**(A) Individual subject to annuity or social security withholding**

Subparagraph (B) shall apply to an individual subject to a reimbursement requirement of this subsection if, at any time after the expiration of the 270-day period described in paragraph (4)(A), the individual—

(i) has not served in a position as a Member of the House of Representatives or a Senator during the preceding 90 days; and

(ii) is not employed in a subsequent non-Federal position.

(B) Annuity or social security withholding

If, at any time after the 270-day period described in paragraph (4)(A), the individual described in subparagraph (A) has not reimbursed the account described in subsection (a) for the entire reimbursable portion of the award or settlement described in paragraph (1) (as determined by the Secretary of the Treasury), through withholdings, transfers, or collections under paragraphs (2) through (4), the Secretary of the Treasury (after consultation with the payroll administrator)—

(i) shall notify the Director of the Office of Personnel Management, who shall take such actions as the Director considers appropriate to withhold from any annuity payable to the individual under chapter 83 or chapter 84 of title 5 and transfer to the account described in subsection (a), such amounts as may be necessary to reimburse the account for the remainder of the reimbursable portion of an award or settlement described in paragraph (1); and

(ii) shall (if necessary), notwithstanding section 207 of the Social Security Act (42 U.S.C. 407), take such actions as the Secretary of the Treasury considers appropriate to withhold from any payment to the individual under title II of the Social Security Act (42 U.S.C. 401 et seq.) and transfer to the account described in subsection (a), such amounts as may be necessary to reimburse the account for the remainder of the reimbursable portion of an award or settlement described in paragraph (1).

(6) Coordination between OPM and Treasury

The Director of the Office of Personnel Management and the Secretary of the Treasury shall carry out paragraph (5) in a manner that ensures the coordination of the withholding and transferring of amounts under such paragraph, in accordance with regulations promulgated by the Director and the Secretary.

(7) Certification

Once the Executive Director determines that an individual who is subject to a reimbursement requirement of this subsection has reimbursed the account described in subsection (a) for the entire reimbursable portion, the Executive Director shall prepare a certification that the individual has completed that reimbursement, and submit the certification to—

(A) the Committees on House Administration and Ethics of the House of Representatives, in the case of an individual who, at the time of committing the act involved, was a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress); and

(B) the Select Committee on Ethics of the Senate, in the case of an individual who, at the time of committing the act involved, was a Senator.

(8) Right to intervene

An individual who is subject to a reimbursement requirement of this subsection shall have the unconditional right to intervene in any mediation, hearing, or civil action under this subchapter to protect the interests of the individual in the determination of whether an award or settlement described in paragraph (1) should be made, and the amount of any such award or settlement, except that nothing in this paragraph may be construed to require the covered employee who filed the claim to be deposed by counsel for the individual in a deposition that is separate from any other deposition taken from the employee in connection with the hearing or civil action.

(9) Definitions

In this subsection:

(A) Non-Federal position

The term “non-Federal position” means a position other than the position of an employee, as defined in section 2105(a) of title 5.

(B) Payroll administrator

The term “payroll administrator” means—

(i) in the case of an individual who is a Member of the House of Representatives, the Chief Administrative Officer of the House of Representatives, or an employee of the Office of the Chief Administrative Officer who is designated by the Chief Administrative Officer to carry out this subsection; or

(ii) in the case of an individual who is a Senator, the Secretary of the Senate, or an employee of the Office of the Secretary of the Senate who is designated by the Secretary to carry out this subsection.

(e) Reimbursement by employing offices

(1) Notification of payments made from account

As soon as practicable after the Executive Director is made aware that a payment of an award or settlement under this chapter has been made from the account described in subsection (a) in connection with a claim alleging a violation of section 1311(a) or 1316(a) of this title by an employing office (other than an employing office of the House of Representatives or an employing office of the Senate), the Executive Director shall notify the head of the employing office that the payment has been made, and shall include in the notification a statement of the amount of the payment.

(2) Reimbursement by office

Not later than 180 days after receiving a notification from the Executive Director under paragraph (1), the head of the employing office involved shall transfer to the account described in subsection (a), out of any funds available for operating expenses of the office, a payment equal to the amount specified in the notification.

(3) Timetable and procedures for reimbursement

The head of an employing office shall transfer a payment under paragraph (2) in accordance with such timetable and procedures as may be established under regulations promulgated by the Office.

(Pub. L. 104-1, title IV, § 415, Jan. 23, 1995, 109 Stat. 38; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 113-76, div. I, title I, § 1101(a), Jan. 17, 2014, 128 Stat. 425; Pub. L. 113-235, div. H, title I, § 1301(b), Dec. 16, 2014, 128 Stat. 2537; Pub. L. 115-141, div. I, title I, § 153(a)(2)(E), Mar. 23, 2018, 132 Stat. 786; Pub. L. 115-397, title I, §§ 111(a), 115(a), Dec. 21, 2018, 132 Stat. 5306, 5314.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), (d)(1)(D), and (e)(1), was in the original “this Act”, meaning Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification

of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

The Social Security Act, referred to in subsec. (d)(5)(B)(ii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–141 substituted “or” for comma after “Government Accountability Office” and struck out “, or the Library of Congress” before period at end.

Subsec. (d). Pub. L. 115–397, § 111(a), added subsec. (d). Subsec. (e). Pub. L. 115–397, § 115(a), added subsec. (e).

2014—Subsec. (a). Pub. L. 113–76 substituted “There are appropriated for such account such sums as may be necessary to pay such awards and settlements.” for “There are authorized to be appropriated for such account such sums as may be necessary to pay such awards and settlements.”

2004—Subsec. (a). Pub. L. 108–271 substituted “Government Accountability Office” for “General Accounting Office”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“Government Publishing Office” substituted for “Government Printing Office” in subsec. (a) on authority of section 1301(b) of Pub. L. 113–235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–397, title I, § 111(c), Dec. 21, 2018, 132 Stat. 5311, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 8437 of Title 5, Government Organization and Employees] shall apply with respect to claims made on or after the date of the enactment of this Act [Dec. 21, 2018].”

Pub. L. 115–397, title I, § 115(b), Dec. 21, 2018, 132 Stat. 5314, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to payments made under section 415 of the Congressional Accountability Act of 1995 (2 U.S.C. 1415) for claims filed on or after the date of the enactment of this Act [Dec. 21, 2018].”

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–76, div. I, title I, § 1101(b), Jan. 17, 2014, 128 Stat. 425, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to fiscal year 2014 and each succeeding fiscal year.”

§ 1416. Confidentiality

(a) Mediation

All information discussed or disclosed in the course of any mediation shall be strictly confidential, and the Executive Director shall notify each person participating in the mediation of the confidentiality requirement and of the sanctions applicable to any person who violates the confidentiality requirement.

(b) Hearings and deliberations

Except as provided in subsections (c), (d), and (e), all proceedings and deliberations of hearing officers and the Board, including any related records, shall be confidential. This subsection shall not apply to proceedings under section 1341 of this title, but shall apply to the deliberations of hearing officers and the Board under that section. The Executive Director shall notify each

person participating in a proceeding or deliberation to which this subsection applies of the requirements of this subsection and of the sanctions applicable to any person who violates the requirements of this subsection.

(c) Release of records for judicial action

The records of hearing officers and the Board may be made public if required for the purpose of judicial review under section 1407 of this title.

(d) Automatic referral to Congressional Ethics Committee of dispositions of claims involving Members of Congress and senior staff

(1) Referral

Upon the final disposition under this subchapter (as described in paragraph (6)) of a claim alleging a violation described in section 1415(d)(1)(C) of this title committed personally by a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or a Senator, or by a senior staff of the House of Representatives or Senate, the Executive Director shall refer the claim to—

(A) the Committee on Ethics of the House of Representatives, in the case of a Member or senior staff of the House; or

(B) the Select Committee on Ethics of the Senate, in the case of a Senator or senior staff of the Senate.

(2) Access to records and information

If the Executive Director refers a claim to a Committee under paragraph (1), the Executive Director shall provide the Committee with access to the records of any preliminary reviews, hearings, or decisions of the hearing officers and the Board under this chapter, and any information relating to an award or settlement paid, in response to such claim.

(3) Review by Senate ethics committee of settlements of certain claims

After the receipt of a settlement agreement for a claim that includes an allegation of a violation described in section 1415(d)(1)(C) of this title committed personally by a Senator, the Select Committee on Ethics of the Senate shall—

(A) not later than 90 days after that receipt, review the settlement agreement;

(B) determine whether an investigation of the claim is warranted; and

(C) if the Select Committee determines, after the investigation, that the claim that resulted in the settlement involved an actual violation described in section 1415(d)(1)(C) of this title committed personally by the Senator, then the Select Committee shall notify the Executive Director to request the reimbursement described in section 1415(d) of this title and include the settlement in the report required by section 1381(l) of this title.

(4) Protection of personally identifiable information

If a Committee to which a claim is referred under paragraph (1) issues a report with respect to the claim, the Committee shall ensure that the report does not directly disclose the