

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

identity or position of the individual who filed the claim.

(5) Committee authority to protect identity of a claimant

(A) Authority

If a Committee to which a claim is referred under paragraph (1) issues a report as described in paragraph (4) concerning a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or a Senator, or a senior staff of the House of Representatives or Senate, the Committee may make an appropriate redaction to the information or data included in the report if the Chairman and Vice Chairman of the Committee reach agreement—

(i) that including the information or data considered for redaction may lead to the unintentional disclosure of the identity or position of a claimant; and

(ii) on the precise information or data to be redacted.

(B) Notation and statement

The report including any such redaction shall note each redaction and include a statement that the redaction was made solely for the purpose of avoiding such an unintentional disclosure of the identity or position of a claimant.

(C) Retention of reports

The Committee making a redaction in accordance with this paragraph shall retain a copy of the report, without a redaction.

(6) Final disposition described

In this subsection, the “final disposition” of a claim means any of the following:

(A) An order or agreement to pay an award or settlement, including an agreement reached pursuant to mediation under section 1403 of this title.

(B) A final decision of a hearing officer under section 1405(g) of this title that is no longer subject to review by the Board under section 1406 of this title.

(C) A final decision of the Board under section 1406(e) of this title that is no longer subject to appeal to the United States Court of Appeals for the Federal Circuit under section 1407 of this title.

(D) A final decision in a civil action under section 1408 of this title that is no longer subject to appeal.

(7) Senior staff defined

In this subsection, the term “senior staff” means any individual who, at the time a violation occurred, was required to file a report under title I of the Ethics in Government Act of 1978 (5 U.S.C. App. 101 et seq.).¹

(e) Final decisions

A final decision entered under section 1405(g) or 1406(e) of this title shall be made public if it is in favor of the complaining covered employee, or in favor of the charging party under section 1331 of this title, or if the decision reverses a de-

cision of a hearing officer which had been in favor of the covered employee or charging party. The Board may make public any other decision at its discretion.

(f) Claims

Nothing in this section may be construed to prohibit a covered employee from disclosing the factual allegations underlying the covered employee’s claim, or to prohibit an employing office from disclosing the factual allegations underlying the employing office’s defense to the claim, in the course of any proceeding under this subchapter.

(Pub. L. 104–1, title IV, §416, Jan. 23, 1995, 109 Stat. 38; Pub. L. 114–6, §2(c), Mar. 20, 2015, 129 Stat. 81; Pub. L. 115–397, title I, §§112, 114, Dec. 21, 2018, 132 Stat. 5311, 5313.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(2), 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 Ethics in Government Act of 1978, referred to in subsec. (d)(7), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824. Title I of the Act was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in subchapter I (§13101 et seq.) of chapter 131 of Title 5 by Pub. L. 117–286, §§3(c), 7, Dec. 27, 2022, 136 Stat. 4266, 4361. For complete classification of this Act to the Code, see Tables. For disposition of sections of title I of the Act into subchapter I of chapter 131 of Title 5, see Disposition Table preceding section 101 of Title 5.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–397, §114(b)(1), (2), redesignated subsec. (b) as (a) and struck out former subsec. (a). Prior to amendment, text of subsec. (a) read as follows: “All counseling shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations.”

Subsec. (b). Pub. L. 115–397, §114(b)(2), (3), redesignated subsec. (c) as (b) and substituted “subsections (c), (d), and (e)” for “subsections (d), (e), and (f)”. Former subsec. (b) redesignated (a).

Pub. L. 115–397, §114(a), substituted “All information discussed or disclosed in the course of any mediation” for “All mediation”.

Subsecs. (c), (d). Pub. L. 115–397, §114(b)(2), redesignated subsecs. (d) and (e) as (c) and (d), respectively. Former subsec. (c) redesignated (b).

Subsec. (e). Pub. L. 115–397, §114(b)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Pub. L. 115–397, §112, amended subsec. (e) generally, substituting provisions relating to automatic referral to congressional ethics committee of dispositions of claims involving Members of Congress and senior staff for provisions relating to access by committees of Congress.

Subsec. (f). Pub. L. 115–397, §114(b)(4), added subsec. (f). Former subsec. (f) redesignated (e).

2015—Subsec. (b). Pub. L. 114–6, §2(c)(1), inserted before period at end “, 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”.

Subsec. (c). Pub. L. 114–6, §2(c)(2), inserted at end “The Executive Director shall notify each person participating in a proceeding or deliberation to which this subsection applies of the requirements of this sub-

¹ See References in Text note below.

section and of the sanctions applicable to any person who violates the requirements of this subsection.”

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.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-6 applicable with respect to mediations and other proceedings first initiated after Mar. 20, 2015, see section 2(d) of Pub. L. 114-6, set out as a note under section 1403 of this title.

§ 1417. Option to request remote work assignment or paid leave of absence during pendency of procedures

(a) Options for employees

(1) Remote work assignment

At the request of a covered employee who files a claim alleging a violation of part A of subchapter II by the covered employee's employing office, during the pendency of any of the procedures available under this subchapter for consideration of the claim, the employing office may permit the covered employee to carry out the employee's responsibilities from a remote location (referred to in this section as "permitting a remote work assignment") where such relocation would have the effect of materially reducing interactions between the covered employee and any person alleged to have committed the violation, instead of from a location of the employing office.

(2) Exception for work assignments required to be carried out onsite

If, in the determination of the covered employee's employing office, a covered employee who makes a request under this subsection cannot carry out the employee's responsibilities from a remote location or such relocation would not have the effect described in paragraph (1), the employing office may during the pendency of the procedures described in paragraph (1)—

(A) grant a paid leave of absence to the covered employee;

(B) permit a remote work assignment and grant a paid leave of absence to the covered employee; or

(C) make another workplace adjustment, or permit a remote work assignment, that would have the effect of reducing interactions between the covered employee and any person alleged to have committed the violation described in paragraph (1).

(3) Ensuring no retaliation

An employing office may not grant a covered employee's request under this subsection in a manner which would constitute a violation of section 1317 of this title.

(4) No impact on vacation or personal leave

In granting leave for a paid leave of absence under this section, an employing office shall not require the covered employee to sub-

stitute, for that leave, any of the accrued paid vacation or personal leave of the covered employee.

(b) Exception for arrangements subject to collective bargaining agreements

Subsection (a) does not apply to the extent that it is inconsistent with the terms and conditions of any collective bargaining agreement which is in effect with respect to an employing office.

(Pub. L. 104-1, title IV, § 417, as added Pub. L. 115-397, title I, § 113(a), Dec. 21, 2018, 132 Stat. 5313.)

Editorial Notes

REFERENCES IN TEXT

Part A of subchapter II, referred to in subsec. (a)(1), was in the original "part A of title II", meaning part A (§§ 201-207) of title II of Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to part A of subchapter II of this chapter. For complete classification of part A to the Code, see Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2018 Amendment note under section 1301 of this title.

SUBCHAPTER V—MISCELLANEOUS PROVISIONS

§ 1431. Exercise of rulemaking powers

The provisions of sections 1302(b)(3), section¹ 1381(l), and 1384(c) of this title are enacted—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

(Pub. L. 104-1, title V, § 501, Jan. 23, 1995, 109 Stat. 39; Pub. L. 115-397, title II, § 201(c), Dec. 21, 2018, 132 Stat. 5317.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-397 inserted “, section 1381(l),” before “and 1384(c) of this title” in introductory provisions.

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,

¹So in original. The word “section” probably should not appear.