

agreements with private or public agencies or persons (including contracts for services of translators without regard to any other law), for such necessary services (including personal services) as the Secretary may consider practicable. The Secretary may also enter into contracts or agreements with private concerns or public agencies for the hiring of passenger motor vehicles or aircraft for official travel whenever, in the Secretary's judgment, such arrangements are in the interest of efficiency or economy.

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 389.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 213 of this title prior to repeal by Pub. L. 102-83, §2(a).

§ 515. Administrative settlement of tort claims

(a)(1) Notwithstanding the limitations contained in section 2672 of title 28, the Secretary may settle a claim for money damages against the United States cognizable under section 1346(b) or 2672 of title 28 or section 7316 of this title to the extent the authority to do so is delegated to the Secretary by the Attorney General. Such delegation may not exceed the authority delegated by the Attorney General to United States attorneys to settle claims for money damages against the United States.

(2) For purposes of this subsection, the term "settle", with respect to a claim, means consider, ascertain, adjust, determine, and dispose of the claim, whether by full or partial allowance or by disallowance.

(b) The Secretary may pay tort claims, in the manner authorized in the first paragraph of section 2672 of title 28, when such claims arise in foreign countries in connection with Department operations abroad. A claim may not be allowed under this subsection unless it is presented in writing to the Secretary within two years after the claim accrues.

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 389.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 224 and 236 of this title prior to repeal by Pub. L. 102-83, §2(a).

Statutory Notes and Related Subsidiaries

DEPARTMENT OF VETERANS AFFAIRS REQUIREMENT TO PROVIDE CERTAIN NOTICE TO PERSONS FILING CLAIMS FOR DAMAGE, INJURY, OR DEATH ON STANDARD FORM 95

Pub. L. 116-315, title VII, §7010, Jan. 5, 2021, 134 Stat. 5061, provided that: "Not later than 90 days after the date on which a person submits to the Secretary of Veterans Affairs a claim for damage, injury, or death on Standard Form 95, or any successor form, the Secretary shall provide to such person notice of each of the following:

"(1) The benefit of obtaining legal advice concerning such claim.

"(2) The employment status of any individual listed on the form.

"(3) If the claim involves a contractor that entered into an agreement with the Secretary, the importance of obtaining legal advice as to the statute of limitations regarding the claim in the State in which the claim arose."

§ 516. Equal employment responsibilities

(a)(1) The Secretary shall provide that the employment discrimination complaint resolution system within the Department be established and administered so as to encourage timely and fair resolution of concerns and complaints. The Secretary shall take steps to ensure that the system is administered in an objective, fair, and effective manner and in a manner that is perceived by employees and other interested parties as being objective, fair, and effective.

(2) The Secretary shall ensure that the employment discrimination complaint resolution system established under paragraph (1) requires that any manager of the Department who receives a sexual or other harassment or employment discrimination complaint reports such complaint to the Office of Resolution Management, or successor office, immediately, or if such immediate reporting is impracticable, not later than two days after the date on which the manager receives the complaint.

(b) The Secretary shall provide—

(1) that employees responsible for counseling functions associated with employment discrimination and for receiving, investigating, and processing complaints of employment discrimination shall be supervised in those functions by, and report to, an Assistant Secretary or a Deputy Assistant Secretary, in accordance with subsection (h)(2), for complaint resolution management; and

(2) that employees performing employment discrimination complaint resolution functions at a facility of the Department shall not be subject to the authority, direction, and control of the Director of the facility with respect to those functions.

(c)(1) The Secretary shall ensure that all employees of the Department receive adequate education and training for the purposes of this section and section 319 of this title.

(2)(A) Beginning not later than 180 days after the date of the enactment of the Joseph Maxwell Cleland and Robert Joseph Dole Memorial Veterans Benefits and Health Care Improvement Act of 2022, the Secretary shall provide to each employee of the Department mandatory annual training on identifying and addressing sexual and other harassment and employment discrimination, including with respect to processes under the Harassment Prevention Program of the Department, or such successor program.

(B) An employee of the Department who is hired on or after such date shall receive the first such mandatory annual training not later than 60 days after being hired.

(d) The Secretary shall, when appropriate, impose disciplinary measures, as authorized by law, in the case of employees of the Department who engage in unlawful employment discrimination, including retaliation against an employee asserting rights under an equal employment opportunity law.

(e)(1)(A) Not later than 45 days after the end of each calendar quarter, the Secretary shall sub-

mit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report summarizing the employment discrimination complaints filed against the individuals referred to in paragraph (2) during such quarter.

(B) Subparagraph (A) shall apply in the case of complaints filed against individuals on the basis of such individuals' personal conduct and shall not apply in the case of complaints filed solely on the basis of such individuals' positions as officials of the Department.

(2) Paragraph (1) applies to the following officers and employees of the Department:

(A) The Secretary.

(B) The Deputy Secretary of Veterans Affairs.

(C) The Under Secretary for Health and the Under Secretary for Benefits.

(D) Each Assistant Secretary of Veterans Affairs and each Deputy Assistant Secretary of Veterans Affairs.

(E) The Under Secretary of Veterans Affairs for Memorial Affairs.

(F) The General Counsel of the Department.

(G) The Chairman of the Board of Veterans' Appeals.

(H) The Chairman of the Board of Contract Appeals of the Department.

(I) The director and the chief of staff of each medical center of the Department.

(J) The director of each Veterans Integrated Services Network.

(K) The director of each regional office of the Department.

(L) Each program director of the Central Office of the Department.

(3) Each report under this subsection—

(A) may not disclose information which identifies the individuals filing, or the individuals who are the subject of, the complaints concerned or the facilities at which the discrimination identified in such complaints is alleged to have occurred;

(B) shall summarize such complaints by type and by equal employment opportunity field office area in which filed; and

(C) shall include copies of such complaints, with the information described in subparagraph (A) redacted.

(4) Not later than April 1 each year, the Assistant Secretary shall submit to the committees referred to in paragraph (1)(A) a report on the complaints covered by paragraph (1) during the preceding year, including the number of such complaints filed during that year and the status and resolution of the investigation of such complaints.

(f) The Secretary shall ensure that an employee of the Department who seeks counseling relating to employment discrimination may elect to receive such counseling from an employee of the Department who carries out equal employment opportunity counseling functions on a full-time basis rather than from an employee of the Department who carries out such functions on a part-time basis.

(g)(1)(A) Except as provided in paragraph (4), beginning on the date of the enactment of the Joseph Maxwell Cleland and Robert Joseph Dole Memorial Veterans Benefits and Health Care

Improvement Act of 2022 and ending on the date that is three years after the date of the enactment of such Act, the number of employees of the Department whose duties include equal employment opportunity counseling functions may not exceed 76 full-time equivalent employees.

(B) Except as provided in paragraph (4), beginning on the date that is three years after the date of enactment of the Joseph Maxwell Cleland and Robert Joseph Dole Memorial Veterans Benefits and Health Care Improvement Act of 2022, the number of employees of the Department whose duties include equal employment opportunity counseling functions may not exceed 81 full-time equivalent employees.

(2) Except as provided in paragraph (4), of the 76 full-time equivalent employees set forth in paragraph (1), the number of employees of the Department whose duties include equal employment opportunity counseling functions as well as other unrelated functions may not exceed 40 full-time equivalent employees.

(3) Except as provided in paragraph (4), any employee described in paragraph (2) whose duties include equal employment opportunity counseling functions as well as other unrelated functions may be assigned equal employment opportunity counseling functions only at Department facilities in remote geographic locations.

(4)(A) Beginning on the date that is one year after the date of enactment of the Joseph Maxwell Cleland and Robert Joseph Dole Memorial Veterans Benefits and Health Care Improvement Act of 2022, the Secretary shall promptly notify Congress if, at any point in time, the number of full-time equivalent employees of the Department specified in paragraph (1), whose duties include equal opportunity counseling functions, is insufficient for the Department to meet its required obligations under law.

(B) Notification under subparagraph (A) shall include—

(i) the specific legal obligations relating to employment discrimination, or other matters similar to those covered by regulations prescribed by the Equal Employment Opportunity Commission, that the Department is unable to meet; and

(ii) the total additional number of full-time equivalent employees of the Department that would be needed for the Department to meet such obligations.

(h)(1) The provisions of this section shall be implemented in a manner consistent with procedures applicable under regulations prescribed by the Equal Employment Opportunity Commission.

(2) Beginning not later than 90 days after the date of the enactment of the Joseph Maxwell Cleland and Robert Joseph Dole Memorial Veterans Benefits and Health Care Improvement Act of 2022, in carrying out paragraph (1), the Secretary shall ensure that the official of the Department who serves as the Equal Employment Opportunity Director of the Department—

(A) reports directly to the Deputy Secretary with respect to the functions under this section; and

(B) does not also serve in a position that has responsibility over personnel functions of the

Department or other functions that conflict with the functions under this section.

(i) In accordance with subsection (b), not later than one year after the date of the enactment of the Joseph Maxwell Cleland and Robert Joseph Dole Memorial Veterans Benefits and Health Care Improvement Act of 2022, the Secretary shall ensure that each Equal Employment Opportunity program manager of the Department at the facility level reports to the head of the Office of Resolution Management, or such successor office established pursuant to subsection (a), with respect to the equal employment functions of the program manager.

(Added Pub. L. 105-114, title I, §101(a)(1), Nov. 21, 1997, 111 Stat. 2278; amended Pub. L. 105-368, title IV, §403(d)(2), Nov. 11, 1998, 112 Stat. 3339; Pub. L. 108-170, title IV, §405(a), Dec. 6, 2003, 117 Stat. 2063; Pub. L. 117-76, §7(a), Dec. 21, 2021, 135 Stat. 1520; Pub. L. 117-328, div. U, title IV, §§402(a)-(d), 408(a)(1), Dec. 29, 2022, 136 Stat. 5484, 5485, 5495.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Joseph Maxwell Cleland and Robert Joseph Dole Memorial Veterans Benefits and Health Care Improvement Act of 2022 and the date of the enactment of such Act, referred to in subsecs. (c)(2)(A), (g)(1), (4)(A), (h)(2), and (i), is the date of enactment of div. U of Pub. L. 117-328, which was approved Dec. 29, 2022.

AMENDMENTS

2022—Subsec. (a). Pub. L. 117-328, §402(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1). Pub. L. 117-328, §402(a)(2)(A), inserted “, in accordance with subsection (h)(2),” after “an Assistant Secretary or a Deputy Assistant Secretary”.

Subsec. (c). Pub. L. 117-328, §402(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (e)(1)(A). Pub. L. 117-328, §402(a)(2)(B), substituted “the Secretary” for “the Assistant Secretary for Human Resources and Administration”.

Subsec. (g). Pub. L. 117-328, §408(a)(1)(B), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 117-328, §§402(a)(1), 408(a)(1)(A), redesignated subsec. (g) as (h), designated existing provisions as par. (1), and added par. (2).

Subsec. (i). Pub. L. 117-328, §402(b), added subsec. (i).

2021—Subsecs. (g), (h). Pub. L. 117-76 redesignated subsec. (h) as (g) and struck out former subsec. (g). Prior to amendment, text of subsec. (g) read as follows: “The number of employees of the Department whose duties include equal employment opportunity counseling functions as well as other, unrelated functions may not exceed 40 full-time equivalent employees. Any such employee may be assigned equal employment opportunity counseling functions only at Department facilities in remote geographic locations (as determined by the Secretary). The Secretary may waive the limitation in the preceding sentence in specific cases.”

2003—Subsec. (e)(1)(A). Pub. L. 108-170 substituted “45 days” for “30 days”.

1998—Subsec. (e)(2)(E). Pub. L. 105-368 substituted “Under Secretary of Veterans Affairs for Memorial Affairs” for “Director of the National Cemetery System”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 105-114, title I, §101(c), Nov. 21, 1997, 111 Stat. 2280, provided that: “Section 516 of title 38, United States Code, as added by subsection (a), shall take effect 90 days after the date of enactment of this Act

[Nov. 21, 1997]. Subsection (e) of that section shall take effect with respect to the first quarter of calendar year 1998.”

HARASSMENT AND EMPLOYMENT DISCRIMINATION POLICIES AND DIRECTIVES

Pub. L. 117-328, div. U, title IV, §402(e), Dec. 29, 2022, 136 Stat. 5485, provided that: “The Secretary of Veterans Affairs shall—

“(1) by not later than the date that is 180 days after the date of the enactment of this Act [Dec. 29, 2022], and on a regular basis thereafter, review the policies relating to sexual and other harassment and employment discrimination of the Department of Veterans Affairs to ensure that such policies are complete and in accordance with the sexual and other harassment and employment discrimination policies established by the Office of Resolution Management of the Department, or successor office; and

“(2) by not later than 180 days after the date of the enactment of this Act, issue a final directive and a handbook for the Harassment Prevention Program of the Department.”

SEMIANNUAL REPORTS

Pub. L. 117-328, div. U, title IV, §402(f), Dec. 29, 2022, 136 Stat. 5485, provided that: “Not later than 180 days after the date of the enactment of this Act [Dec. 29, 2022], and semiannually thereafter for one year, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the progress the Secretary has made in carrying out this section [amending this section and enacting provisions set out as a note above] and section 516 of title 38, United States Code, as amended by this section, including with respect to reporting sexual and other harassment and employment discrimination complaints pursuant to subsection (a)(2) of such section 516.”

ANNUAL REPORTS

Pub. L. 117-328, div. U, title IV, §408(c), Dec. 29, 2022, 136 Stat. 5497, provided that: “Not later than one year after the date of the enactment of this Act [Dec. 29, 2022] and once each year thereafter, the Secretary of Veterans Affairs shall make available to the public on an internet website of the Department an annual report that includes, for the year covered by the report, the following:

“(1) Total number of complaints filed through the employment discrimination complaint resolution system established and administered under subsection (a) of section 516 of title 38, United States Code.

“(2) Total number of such complaints completed processing by such system in a timely manner.

“(3) The percentage of all pre-complaint counseling provided under such section that led to resolution without further action.

“(4) The percentage of all pre-complaint counseling provided under such section that led to resolution via alternative dispute resolution.

“(5) The percentage of all pre-complaint counseling provided under such section that led to filing of a formal complaint via such system.

“(6) An accounting of the amounts, times, and quality of informal claims processed by employees of the Department whose duties include equal employment opportunity counseling under such section.

“(7) An estimate of the required ratio of Department employees whose duties include equal employment opportunity counseling functions relative to the number of full-time equivalent employees in the Department.”

REPORTS ON IMPLEMENTATION AND OPERATION OF EQUAL EMPLOYMENT OPPORTUNITY SYSTEM

Pub. L. 105-114, title I, §101(b), Nov. 21, 1997, 111 Stat. 2279, required the Secretary of Veterans Affairs to sub-

mit to Congress reports on the implementation and operation of the equal employment opportunity system within the Department of Veterans Affairs setting forth detailed information for each equal employment opportunity field office of the Department, with the first report due not later than Apr. 1, 1998, and subsequent reports due not later than Jan. 1, 1999, and Jan. 1, 2000.

ASSESSMENT AND REVIEW OF EMPLOYMENT
DISCRIMINATION COMPLAINT RESOLUTION SYSTEM

Pub. L. 105-114, title I, §103, Nov. 21, 1997, 111 Stat. 2281, provided that:

“(a) AGREEMENT FOR ASSESSMENT AND REVIEW.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with a qualified private entity under which agreement the entity shall carry out the assessment described in subsection (b) and the review described in subsection (c).

“(2) The Secretary shall include in the agreement provisions necessary to ensure that the entity carries out its responsibilities under the agreement (including the exercise of its judgments concerning the assessment and review) in a manner free of influence from any source, including the officials and employees of the Department of Veterans Affairs.

“(3) The Secretary may not enter into the agreement until 15 days after the date on which the Secretary notifies the Committees on Veterans' Affairs of the Senate and House of Representatives of the entity with which the Secretary proposes to enter into the agreement.

“(b) INITIAL ASSESSMENT OF SYSTEM.—(1) Under the agreement under subsection (a), the entity shall conduct an assessment of the employment discrimination complaint resolution system administered within the Department of Veterans Affairs, including the extent to which the system meets the objectives set forth in section 516(a) of title 38, United States Code, as added by section 101. The assessment shall include a comprehensive description of the system as of the time of the assessment.

“(2) Under the agreement, the entity shall submit the assessment to the committees referred to in subsection (a)(3) and to the Secretary not later than June 1, 1998.

“(c) REVIEW OF ADMINISTRATION OF SYSTEM.—(1) Under the agreement under subsection (a), the entity shall monitor and review the administration by the Secretary of the employment discrimination complaint resolution system administered within the Department.

“(2) Under the agreement, the entity shall submit to the committees referred to in subsection (a)(3) and to the Secretary a report on the results of the review under paragraph (1) not later than June 1, 1999. The report shall include an assessment of the administration of the system, including the extent to which the system meets the objectives referred to in subsection (b)(1), and the effectiveness of the following:

“(A) Programs to train and maintain a cadre of individuals who are competent to investigate claims relating to employment discrimination.

“(B) Programs to train and maintain a cadre of individuals who are competent to provide counseling to individuals who submit such claims.

“(C) Programs to provide education and training to Department employees regarding their rights and obligations under the equal employment opportunity laws.

“(D) Programs to oversee the administration of the system.

“(E) Programs to evaluate the effectiveness of the system in meeting its objectives.

“(F) Other programs, procedures, or activities of the Department relating to the equal employment opportunity laws, including any alternative dispute resolution procedures and informal dispute resolution and settlement procedures.

“(G) Any disciplinary measures imposed by the Secretary on employees determined to have violated the

equal employment opportunity laws in preventing or deterring violations of such laws by other employees of the Department.”

§ 517. Quarterly reports to Congress on conferences sponsored by the Department

(a) QUARTERLY REPORTS REQUIRED.—Not later than 30 days after the end of each fiscal quarter, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on covered conferences.

(b) MATTERS INCLUDED.—Each report under subsection (a) shall include the following:

(1) An accounting of the final costs to the Department of each covered conference occurring during the fiscal quarter preceding the date on which the report is submitted, including the costs related to—

(A) transportation and parking;

(B) per diem payments;

(C) lodging;

(D) rental of halls, auditoriums, or other spaces;

(E) rental of equipment;

(F) refreshments;

(G) entertainment;

(H) contractors; and

(I) brochures or other printed media.

(2) The total estimated costs to the Department for covered conferences occurring during the fiscal quarter in which the report is submitted.

(c) COVERED CONFERENCE DEFINED.—In this section, the term “covered conference” means a conference, meeting, or other similar forum that is sponsored or co-sponsored by the Department and is—

(1) attended by 50 or more individuals, including one or more employees of the Department; or

(2) estimated to cost the Department at least \$20,000.

(Added Pub. L. 112-154, title VII, §707(a), Aug. 6, 2012, 126 Stat.1206.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 112-154, title VII, §707(c), Aug. 6, 2012, 126 Stat. 1207, provided that: “Section 517 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 2012, and shall apply with respect to the first quarter of fiscal year 2013 and each quarter thereafter.”

SUBCHAPTER II—SPECIFIED FUNCTIONS

§ 521. Assistance to certain rehabilitation activities

(a) The Secretary may assist any organization named in or approved under section 5902 of this title in providing recreational activities which would further the rehabilitation of disabled veterans. Such assistance may be provided only if—

(1) the activities are available to disabled veterans on a national basis; and

(2) a significant percentage of the individuals participating in the activities are eligible for rehabilitative services under chapter 17 of this title.