

104(e) of the Civil Liberties Act of 1988 (Public Law 100-383; 50 U.S.C. App. 1989(b-3(e) [1989b-3(e)]) [now 50 U.S.C. 4214(e)], the maximum amount authorized under such section for any fiscal year is appropriated, from money in the Treasury not otherwise appropriated, for each fiscal year beginning on or after October 1, 1990, to the Civil Liberties Public Education Fund established by section 104(a) of the Civil Liberties Act of 1988 [50 U.S.C. 4214(a)], for payments to eligible individuals under section 105 of that Act [50 U.S.C. 4215].”

### § 4215. Restitution

#### (a) Location and payment of eligible individuals

##### (1) In general

Subject to paragraph (7), the Attorney General shall, subject to the availability of funds appropriated to the Fund for such purpose, pay out of the Fund to each eligible individual the sum of \$20,000, unless such individual refuses, in the manner described in paragraph (5), to accept the payment.

##### (2) Location of eligible individuals

The Attorney General shall identify and locate, without requiring any application for payment and using records already in the possession of the United States Government, each eligible individual. The Attorney General should use funds and resources available to the Attorney General, including those described in subsection (c), to attempt to complete such identification and location within 12 months after August 10, 1988. Any eligible individual may notify the Attorney General that such individual is an eligible individual, and may provide documentation therefor. The Attorney General shall designate an officer or employee to whom such notification and documentation may be sent, shall maintain a list of all individuals who submit such notification and documentation, and shall, subject to the availability of funds appropriated for such purpose, encourage, through a public awareness campaign, each eligible individual to submit his or her current address to such officer or employee. To the extent that resources referred to in the second sentence of this paragraph are not sufficient to complete the identification and location of all eligible individuals, there are authorized to be appropriated such sums as may be necessary for such purpose. In any case, the identification and location of all eligible individuals shall be completed within 12 months after the appropriation of funds under the preceding sentence. Failure to be identified and located by the end of the 12-month period specified in the preceding sentence shall not preclude an eligible individual from receiving payment under this section.

##### (3) Benefit of the doubt

When, after consideration of all evidence and relevant material for determining whether an individual is an eligible individual, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of eligibility, the benefit of the doubt in resolving each such issue shall be given to such individual.

##### (4) Notice from the Attorney General

The Attorney General shall, when funds are appropriated to the Fund for payments to an

eligible individual under this section, notify that eligible individual in writing of his or her eligibility for payment under this section. Such notice shall inform the eligible individual that—

(A) acceptance of payment under this section shall be in full satisfaction of all claims against the United States arising out of acts described in section 4218(2)(B) of this title, and

(B) each eligible individual who does not refuse, in the manner described in paragraph (5), to accept payment under this section within 18 months after receiving such written notice shall be deemed to have accepted payment for purposes of paragraph (6).

##### (5) Effect of refusal to accept payment

If an eligible individual refuses, in a written document filed with the Attorney General, to accept any payment under this section, the amount of such payment shall remain in the Fund and no payment may be made under this section to such individual at any time after such refusal.

##### (6) Payment in full settlement of claims against the United States

The acceptance of payment by an eligible individual under this section shall be in full satisfaction of all claims against the United States arising out of acts described in section 4218(2)(B) of this title. This paragraph shall apply to any eligible individual who does not refuse, in the manner described in paragraph (5), to accept payment under this section within 18 months after receiving the notification from the Attorney General referred to in paragraph (4).

##### (7) Exclusion of certain individuals

No payment may be made under this section to any individual who, after September 1, 1987, accepts payment pursuant to an award of a final judgment or a settlement on a claim against the United States for acts described in section 4218(2)(B) of this title, or to any surviving spouse, child, or parent of such individual to whom paragraph (8) applies.

##### (8) Payments in the case of deceased persons

(A) In the case of an eligible individual who is deceased at the time of payment under this section, such payment shall be made only as follows:

(i) If the eligible individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the eligible individual who are living at the time of payment.

(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the eligible individual who are living at the time of payment.

If there is no surviving spouse, children, or parents described in clauses (i), (ii), and (iii),

the amount of such payment shall remain in the Fund, and may be used only for the purposes set forth in section 4216(b) of this title.

(B) After the death of an eligible individual, this subsection and subsections (c) and (f) shall apply to the individual or individuals specified in subparagraph (A) to whom payment under this section will be made, to the same extent as such subsections apply to the eligible individual.

(C) For purposes of this paragraph—

(i) the “spouse” of an eligible individual means a wife or husband of an eligible individual who was married to that eligible individual for at least 1 year immediately before the death of the eligible individual;

(ii) a “child” of an eligible individual includes a recognized natural child, a stepchild who lived with the eligible individual in a regular parent-child relationship, and an adopted child; and

(iii) a “parent” of an eligible individual includes fathers and mothers through adoption.

#### (b) Order of payments

The Attorney General shall endeavor to make payments under this section to eligible individuals in the order of date of birth (with the oldest individual on August 10, 1988 (or, if applicable, that individual’s survivors under paragraph (8)) receiving full payment first), until all eligible individuals have received payment in full.

#### (c) Resources for locating eligible individuals

In attempting to locate any eligible individual, the Attorney General may use any facility or resource of any public or nonprofit organization or any other record, document, or information that may be made available to the Attorney General.

#### (d) Administrative costs not paid from the Fund

No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any eligible individual.

#### (e) Termination of duties of Attorney General

The duties of the Attorney General under this section shall cease 180 days after the Fund terminates.

#### (f) Clarification of treatment of payments under other laws

Amounts paid to an eligible individual under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31 or available under any other law administered by the Secretary of Veterans Affairs, or for purposes of determining the amount of such benefits.

#### (g) Liability of United States limited to amount in Fund

##### (1) General rule

An eligible individual may be paid under this section only from amounts in the Fund.

#### (2) Coordination with other provisions

Nothing in this subchapter shall authorize the payment to an eligible individual by the United States Government of any amount authorized by this section from any source other than the Fund.

#### (3) Order in which unpaid claims to be paid

If at any time the Fund has insufficient funds to pay all eligible individuals at such time, such eligible individuals shall, to the extent permitted under paragraph (1), be paid in full in the order specified in subsection (b).

#### (h) Judicial review

##### (1) Review by the Court of Federal Claims

A claimant may seek judicial review of a denial of compensation under this section solely in the United States Court of Federal Claims, which shall review the denial upon the administrative record and shall hold unlawful and set aside the denial if it is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

##### (2) Applicability

This subsection shall apply only to any claim filed in court on or after September 27, 1992.

(Pub. L. 100-383, title I, §105, Aug. 10, 1988, 102 Stat. 905; Pub. L. 101-162, title II, §209(b), Nov. 21, 1989, 103 Stat. 1005; Pub. L. 102-371, §§4-6(a), Sept. 27, 1992, 106 Stat. 1167, 1168; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

#### CODIFICATION

Section was formerly classified to section 1989b-4 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

#### AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102-371, §4(c)(1)(A), substituted “(7)” for “(6)” and “(5)” for “(4)”.

Subsec. (a)(3). Pub. L. 102-371, §4(a)(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 102-371, §4(a)(1), (c)(1)(B), redesignated par. (3) as (4) and in subpar. (B) substituted “(5)” for “(4)” and “(6)” for “(5)”. Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 102-371, §4(a)(1), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 102-371, §4(a)(1), (c)(1)(C), redesignated par. (5) as (6) and substituted “(5)” for “(4)” and “(4)” for “(3)”. Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 102-371, §4(a)(1), (c)(1)(D), redesignated par. (6) as (7) and substituted “(8)” for “(6)”. Former par. (7) redesignated (8).

Subsec. (a)(8). Pub. L. 102-371, §4(a)(1), redesignated par. (7) as (8).

Subsec. (b). Pub. L. 102-371, §4(c)(2), substituted “(8)” for “(6)”.

Subsec. (e). Pub. L. 102-371, §5, substituted “180 days after the Fund terminates” for “when the Fund terminates”.

Subsec. (f)(2). Pub. L. 102-371, §6(a), substituted “or available under any other law administered by the Secretary of Veterans Affairs, or for purposes of determining the” for “, or the”.

Subsec. (h). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court” in par. (1).

Pub. L. 102-371, §4(b), added subsec. (h).

1989—Subsec. (g). Pub. L. 101-162 added subsec. (g).

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note

under section 171 of Title 28, Judiciary and Judicial Procedure.

Pub. L. 102-371, §6(b), Sept. 27, 1992, 106 Stat. 1168, provided that: "The amendment made by subsection (a) [amending this section] shall be effective as of August 10, 1988."

#### § 4216. Board of Directors of the Fund

##### (a) Establishment

There is established the Civil Liberties Public Education Fund Board of Directors, which shall be responsible for making disbursements from the Fund in the manner provided in this section.

##### (b) Uses of the Fund

The Board may make disbursements from the Fund only—

(1) to sponsor research and public educational activities, and to publish and distribute the hearings, findings, and recommendations of the Commission, so that the events surrounding the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood; and

(2) for reasonable administrative expenses of the Board, including expenses incurred under subsections (c)(3), (d), and (e).

##### (c) Membership

###### (1) Appointment

The Board shall be composed of 9 members appointed by the President, by and with the advice and consent of the Senate, from individuals who are not officers or employees of the United States Government.

###### (2) Terms

(A) Except as provided in subparagraphs (B) and (C), members shall be appointed for terms of 3 years.

(B) Of the members first appointed—

(i) 5 shall be appointed for terms of 3 years, and

(ii) 4 shall be appointed for terms of 2 years,

as designated by the President at the time of appointment.

(C) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of such member's term until such member's successor has taken office. No individual may be appointed as a member for more than 2 consecutive terms.

###### (3) Compensation

Members of the Board shall serve without pay, except that members of the Board shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Board, in the same manner as persons employed intermittently in the United States Government are allowed expenses under section 5703 of title 5.

###### (4) Quorum

5 members of the Board shall constitute a quorum but a lesser number may hold hearings.

##### (5) Chair

The Chair of the Board shall be elected by the members of the Board.

##### (d) Director and staff

###### (1) Director

The Board shall have a Director who shall be appointed by the Board.

###### (2) Additional staff

The Board may appoint and fix the pay of such additional staff as it may require.

###### (3) Applicability of civil service laws

The Director and the additional staff of the Board may be appointed without regard to section 5311(b)<sup>1</sup> of title 5 and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Board may not exceed a rate equivalent to the minimum rate of basic pay payable for GS-18 of the General Schedule under section 5332(a) of such title.

##### (e) Administrative support services

The Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

##### (f) Gifts and donations

The Board may accept, use, and dispose of gifts or donations of services or property for purposes authorized under subsection (b).

##### (g) Annual reports

Not later than 12 months after the first meeting of the Board and every 12 months thereafter, the Board shall transmit to the President and to each House of the Congress a report describing the activities of the Board.

##### (h) Termination

90 days after the termination of the Fund, the Board shall terminate and all obligations of the Board under this section shall cease.

(Pub. L. 100-383, title I, §106, Aug. 10, 1988, 102 Stat. 908.)

#### REFERENCES IN TEXT

Section 5311(b) of title 5, referred to in subsec. (d)(3), was repealed by Pub. L. 101-509, title V, §529 [title I, §104(c)(1)], Nov. 5, 1990, 104 Stat. 1427, 1447.

#### CODIFICATION

Section was formerly classified to section 1989b-5 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

#### REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

<sup>1</sup> See References in Text note below.