

INAPPLICABILITY OF RESTRICTIONS

Pub. L. 101-312, June 25, 1990, 104 Stat. 271, provided: "That (a) the Secretary of Veterans Affairs may proceed with the administrative reorganization described in subsection (b) of this Act without regard to section 210(b) [see 303, 510, 711] of title 38, United States Code.

"(b) The administrative reorganization referred to in subsection (a) is the reorganization of the regional field offices of the Veterans Health Services and Research Administration of the Department of Veterans Affairs as that reorganization and related activity are described in (1) letters dated January 22, 1990, and the detailed plan and justification enclosed therewith, submitted by the Secretary to the Committees on Veterans' Affairs of the Senate and the House of Representatives pursuant to such section 210(b) [see 303, 510, 711], and (2) letters dated April 17, 1990, submitted in supplementation thereof by the Secretary to such Committees."

Section 15(b) of Pub. L. 100-527 provided that: "Section 210(b) [see 303, 510, 711] of title 38, United States Code (as amended by subsection (a)), shall not apply to a reorganization of a unit of the Central Office of the Department of Veterans' Affairs if the reorganization—

"(1) is necessary in order to carry out the provisions of or amendments made by this Act [see Tables for classification]; and

"(2) is initiated within 6 months after the effective date of this Act [Mar. 15, 1989]."

§ 511. Decisions of the Secretary; finality

(a) The Secretary shall decide all questions of law and fact necessary to a decision by the Secretary under a law that affects the provision of benefits by the Secretary to veterans or the dependents or survivors of veterans. Subject to subsection (b), the decision of the Secretary as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

(b) The second sentence of subsection (a) does not apply to—

(1) matters subject to section 502 of this title;

(2) matters covered by sections 1975 and 1984 of this title;

(3) matters arising under chapter 37 of this title; and

(4) matters covered by chapter 72 of this title.

(Added Pub. L. 102-83, §2(a), Aug. 6, 1991, 105 Stat. 388.)

PRIOR PROVISIONS

Prior section 511 was renumbered section 1511 of this title.

Provisions similar to those in this section were contained in section 211(a) of this title prior to repeal by Pub. L. 102-83, §2(a).

FEDERAL RULES OF CIVIL PROCEDURE

Writ of mandamus abolished in United States district courts, but relief available by appropriate action or motion, see rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 512. Delegation of authority; assignment of functions and duties

(a) Except as otherwise provided by law, the Secretary may assign functions and duties, and delegate, or authorize successive redelegation of, authority to act and to render decisions, with respect to all laws administered by the Depart-

ment, to such officers and employees as the Secretary may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Secretary.

(b) There shall be included on the technical and administrative staff of the Secretary such staff officers, experts, inspectors, and assistants (including legal assistants) as the Secretary may prescribe.

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

PRIOR PROVISIONS

Prior section 512 was renumbered section 1512 of this title.

Provisions similar to those in this section were contained in section 212 of this title prior to repeal by Pub. L. 102-83, §2(a).

§ 513. Contracts and personal services

The Secretary may, for purposes of all laws administered by the Department, accept uncompensated services, and enter into contracts or 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.)

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.)

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).

§ 516. Equal employment responsibilities

(a) 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.

(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 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) 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.

(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 Assistant Secretary for Human Resources and Administration shall submit 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) 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.

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

(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.)

AMENDMENTS

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".