

SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

§ 4321. Assistance in obtaining reemployment or other employment rights or benefits

The Secretary (through the Veterans' Employment and Training Service) shall provide assistance to any person with respect to the employment and reemployment rights and benefits to which such person is entitled under this chapter. In providing such assistance, the Secretary may request the assistance of existing Federal and State agencies engaged in similar or related activities and utilize the assistance of volunteers. (Added Pub. L. 103-353, §2(a), Oct. 13, 1994, 108 Stat. 3164.)

PRIOR PROVISIONS

A prior section 4321 was renumbered section 7621 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, except that provisions necessary for implementation of section 4311 of this title are effective Oct. 13, 1994, see section 8 of Pub. L. 103-353, set out as a note under section 4301 of this title.

§ 4322. Enforcement of employment or reemployment rights

(a) A person who claims that—

(1) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by an employer; and

(2)(A) such employer has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter; or

(B) in the case that the employer is a Federal executive agency, such employer or the Office of Personnel Management has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter,

may file a complaint with the Secretary in accordance with subsection (b), and the Secretary shall investigate such complaint.

(b) Such complaint shall be in writing, be in such form as the Secretary may prescribe, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

(c)(1) Not later than five days after the Secretary receives a complaint submitted by a person under subsection (a), the Secretary shall notify such person in writing of his or her rights with respect to such complaint under this section and section 4323 or 4324, as the case may be.

(2) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and when appropriate, to such claimant's employer.

(d) The Secretary shall investigate each complaint submitted pursuant to subsection (a). If the Secretary determines as a result of the investigation that the action alleged in such com-

plaint occurred, the Secretary shall attempt to resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter.

(e) If the efforts of the Secretary with respect to any complaint filed under subsection (a) do not resolve the complaint, the Secretary shall notify the person who submitted the complaint in writing of—

(1) the results of the Secretary's investigation; and

(2) the complainant's entitlement to proceed under the enforcement of rights provisions provided under section 4323 (in the case of a person submitting a complaint against a State or private employer) or section 4324 (in the case of a person submitting a complaint against a Federal executive agency or the Office of Personnel Management).

(f) Any action required by subsections (d) and (e) with respect to a complaint submitted by a person to the Secretary under subsection (a) shall be completed by the Secretary not later than 90 days after receipt of such complaint.

(g) This subchapter does not apply to any action relating to benefits to be provided under the Thrift Savings Plan under title 5.

(Added Pub. L. 103-353, §2(a), Oct. 13, 1994, 108 Stat. 3164; amended Pub. L. 104-275, title III, §311(9), Oct. 9, 1996, 110 Stat. 3335; Pub. L. 110-389, title III, §311(a)-(c), Oct. 10, 2008, 122 Stat. 4162.)

PRIOR PROVISIONS

A prior section 4322 was renumbered section 7622 of this title.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110-389, §311(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and when appropriate, to such claimant's employer."

Subsec. (e). Pub. L. 110-389, §311(b), inserted "in writing" after "submitted the complaint" in introductory provisions.

Subsecs. (f), (g). Pub. L. 110-389, §311(c), added subsec. (f) and redesignated former subsec. (f) as (g).

1996—Subsec. (d). Pub. L. 104-275, §311(9)(A), inserted "attempt to" before "resolve".

Subsec. (e). Pub. L. 104-275, §311(9)(B)(i), substituted "with respect to any complaint filed under subsection (a) do not resolve the complaint," for "with respect to a complaint under subsection (d) are unsuccessful," in introductory provisions.

Subsec. (e)(2). Pub. L. 104-275, §311(9)(B)(ii), inserted "or the Office of Personnel Management" after "Federal executive agency".

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-275 effective Oct. 13, 1994, see section 313 of Pub. L. 104-275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, except that provisions necessary for implementation of section 4311 of this title are effective Oct. 13, 1994, see section 8 of Pub. L. 103-353, set out as a note under section 4301 of this title.