

(3) *The factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further review or discovery.*

(4) *The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.*

(g) *Procedure*

Nothing in this chapter shall be construed to supersede or limit section 1361(d)(2) of this title.

See 2018 Amendment note below.

REFERENCES IN TEXT

Part A of subchapter II, referred to in text, 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.

AMENDMENTS

2018—Pub. L. 115–397 amended section generally. Prior to amendment, section related to procedure for consideration of alleged violations, consisting of three pars.

Par. (3). Pub. L. 115–141, §153(b)(1)(A), struck out “either” after “section 1404 of this title, of” in introductory provisions.

Par. (3)(C). Pub. L. 115–141, §153(b)(1)(B)–(D), added subpar. (C).

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.

§ 1402. Counseling

(a) In general

To commence a proceeding, a covered employee alleging a violation of a law made applicable under part A of subchapter II shall request counseling by the Office. The Office shall provide the employee with all relevant information with respect to the rights of the employee. A request for counseling shall be made not later than 180 days after the date of the alleged violation.

(b) Period of counseling

The period for counseling shall be 30 days unless the employee and the Office agree to reduce the period. The period shall begin on the date the request for counseling is received.

(c) Notification of end of counseling period

The Office shall notify the employee in writing when the counseling period has ended.

(Pub. L. 104–1, title IV, §402, Jan. 23, 1995, 109 Stat. 32; Pub. L. 115–397, title I, §102(a), Dec. 21, 2018, 132 Stat. 5301.)

AMENDMENT OF SECTION

Pub. L. 115–397, title I, §102(a), title IV, §401, Dec. 21, 2018, 132 Stat. 5301, 5327, provided that, effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, this section is amended to read as follows:

§ 1402. Initiation of procedures

(a) Claim

(1) Filing of claim

To commence a proceeding under this subchapter, a covered employee alleging a violation of law made applicable under part A of subchapter II shall file a claim with the Office. The Office shall not accept a claim which is filed after the deadline applicable under subsection (d).

(2) Contents of claim

The claim filed under this section shall be made in writing under oath or affirmation, shall describe the facts that form the basis of the claim and the violation that is being alleged, shall identify the employing office alleged to have committed the violation or in which the violation is alleged to have occurred, and shall be in such form as the Office requires.

(3) No effect on ability of covered employee to seek information from Office or pursue relief

Nothing in paragraph (2), or subsection (b) or (c), may be construed to limit the ability of a covered employee—

(A) to contact the Office or any other appropriate office prior to filing a claim under this section to seek information regarding the employee’s rights under this chapter and the procedures available under this chapter;

(B) in the case of a covered employee of an employing office of the House of Representatives or Senate, to refer information regarding an alleged violation of part A of subchapter II to the Committee on Ethics of the House of Representatives or the Select Committee on Ethics of the Senate (as the case may be); or

(C) to file a civil action in accordance with section 1401(b) of this title.

(b) Initial processing of claim

(1) Intake and recording; notification to employing office

Upon the filing of a claim by a covered employee under subsection (a), the Office shall take such steps as may be necessary for the initial intake and recording of the claim, including providing each party with all relevant information with respect to the rights of the party under this chapter, and shall transmit immediately a copy of the claim to the head of the employing office and the designated representative of that office.

(2) Special notification requirements for claims based on acts by members of Congress

(A) In general

In the case of a claim alleging a violation described in subparagraph (B) which consists of a violation described in section 1415(d)(1)(A) of this title by an individual, upon the filing of the claim under subsection (a), the Office shall notify immediately such individual of the claim, the possibility that the individual may be required to reimburse the account described in section 1415(a) of this title for the reimbursable portion of any award or settlement in connection with the claim, and the right of the individual under section 1415(d)(8) of this title to intervene in any mediation, hearing, or civil action under this subchapter with respect to the claim.

(B) Violations described

A violation described in this subparagraph is—

(i) harassment that is unlawful under section 1311(a) or 1316(a) of this title; or

(ii) intimidation, reprisal, or discrimination that is unlawful under section 1317 of this title and is taken against a covered employee because of a claim alleging a violation described in clause (i).

*(c) Use of secure electronic reporting and tracking system**(1) Establishment and operation of secure system*

The Office shall establish and operate a secure electronic reporting system through which a covered employee may initiate a proceeding under this subchapter, and which will keep an electronic record of the date and time at which the proceeding is initiated and will track all subsequent actions or proceedings occurring with respect to the proceeding under this subchapter.

(2) Accessibility to all parties

The system shall be accessible to all parties to such actions or proceedings, but only until the completion of such actions or proceedings.

(3) Assessment of effectiveness of procedures

The Office shall use the information contained in the system to make regular assessments of the effectiveness of the procedures under this subchapter in providing for the timely resolution of claims, and shall submit semi-annual reports on such assessments each year to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate.

(d) Deadline

A covered employee may not file a claim under this section with respect to an allegation of a violation of law after the expiration of the 180-day period which begins on the date of the alleged violation.

See 2018 Amendment note below.

REFERENCES IN TEXT

Part A of subchapter II, referred to in subsec. (a), 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.

AMENDMENTS

2018—Pub. L. 115–397 amended section generally. Prior to amendment, section related to counseling prior to commencing a proceeding.

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.

§ 1402a. Preliminary review of claims**(a) Preliminary review by hearing officer****(1) Appointment**

Not later than 7 days after transmission to the employing office of a claim pursuant to

section 1402(b) of this title, the Executive Director shall appoint a hearing officer to conduct a preliminary review of the claim.

(2) Process for appointment

The Executive Director shall appoint a hearing officer under this subsection in the same manner and in accordance with the same requirements and procedures applicable to the appointment of a hearing officer under section 1405(c) of this title.

(b) Assessments required

In conducting a preliminary review of a claim under this section, the hearing officer shall assess each of the following:

(1) Whether the claimant is a covered employee authorized to obtain relief relating to the claim under this subchapter.

(2) Whether the office which is the subject of the claim is an employing office under this chapter.

(3) Whether the individual filing the claim has met the applicable deadlines for filing the claim under this subchapter.

(4) The identification of factual and legal issues involved with respect to the claim.

(5) The specific relief sought by the individual.

(6) Whether, on the basis of the assessments made under paragraphs (1) through (5), the individual filing the claim is a covered employee who has stated a claim for which, if the allegations contained in the claim are true, relief may be granted under this subchapter.

(7) The potential for the settlement of the claim without a formal hearing as provided under section 1405 of this title or a civil action as provided under section 1408 of this title.

(c) Report on review**(1) Report**

Not later than 30 days after a claim is filed under section 1402 of this title, the hearing officer shall submit to the individual filing the claim and the office which is the subject of the claim a report on the preliminary review conducted under this section, and shall include in the report the hearing officer’s determination as to whether the individual is a covered employee who has stated a claim for which relief may be granted under this subchapter (as described in paragraph (6) of subsection (b)). The submission of the report shall conclude the preliminary review.

(2) Extension of deadline

The hearing officer may (upon notice to the individual filing the claim and the employing office which is the subject of the claim) use an additional period of not to exceed 30 days to conclude the preliminary review.

(d) Effect of determination of failure to state claim for which relief may be granted

If the hearing officer’s report on the preliminary review of a claim under subsection (c) includes the determination that the individual filing the claim is not a covered employee or has not stated a claim for which relief may be granted under this subchapter—

(1) the individual (including an individual who is a Library claimant, as defined in sec-