

to repay the amount, or a portion of the amount, paid to or on behalf of the employee under title 5 for relocation expenses, including any expenses under section 5724 or 5724a of such title, or this title if—

(1) the Secretary determines that relocation expenses were paid following an act of fraud or malfeasance that influenced the authorization of the relocation expenses;

(2) before such repayment, the employee is afforded—

(A) notice of the proposed order; and

(B) an opportunity to respond to the proposed order not later than ten business days following the receipt of such notice; and

(3) the Secretary issues the order—

(A) in the case of a proposed order to which an individual responds under paragraph (2)(B), not later than five business days after receiving the response of the individual; or

(B) in the case of a proposed order to which an individual does not respond, not later than 15 business days after the Secretary provides notice to the individual under paragraph (2)(A).

(b) **APPEAL OF ORDER OF SECRETARY.**—(1) Upon the issuance of an order by the Secretary under subsection (a) with respect to an individual, the individual shall have an opportunity to appeal the order to the Director of the Office of Personnel Management before the date that is seven business days after the date of such issuance.

(2) The Director shall make a final decision with respect to an appeal under paragraph (1) within 30 days after receiving such appeal.

(Added Pub. L. 115-41, title II, §205(a), June 23, 2017, 131 Stat. 876.)

#### **Editorial Notes**

##### **PRIOR PROVISIONS**

Prior sections 723 to 729 were renumbered sections 1923 to 1929 of this title, respectively.

#### **Statutory Notes and Related Subsidiaries**

##### **EFFECTIVE DATE**

Pub. L. 115-41, title II, §205(c), June 23, 2017, 131 Stat. 877, provided that: "Section 723 of title 38, United States Code, as added by subsection (a), shall apply with respect to an amount paid by the Secretary of Veterans Affairs to or on behalf of an employee of the Department of Veterans Affairs for relocation expenses on or after the date of the enactment of this Act [June 23, 2017]."

#### **§ 725. Annual performance plan for political appointees**

(a) **IN GENERAL.**—The Secretary shall conduct an annual performance plan for each political appointee of the Department that is similar to the annual performance plan conducted for an employee of the Department who is appointed as a career appointee (as that term is defined in section 3132(a) of title 5) within the Senior Executive Service at the Department.

(b) **ELEMENTS OF PLAN.**—Each annual performance plan conducted under subsection (a) with

respect to a political appointee of the Department shall include an assessment of whether the appointee is meeting the following goals:

(1) Recruiting, selecting, and retaining well-qualified individuals for employment at the Department.

(2) Engaging and motivating employees.

(3) Training and developing employees and preparing those employees for future leadership roles within the Department.

(4) Holding each employee of the Department that is a manager accountable for addressing issues relating to performance, in particular issues relating to the performance of employees that report to the manager.

(c) **DEFINITION OF POLITICAL APPOINTEE.**—In this section, the term "political appointee" means an employee of the Department who holds—

(1) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character; or

(2) a position in the Senior Executive Service as a noncareer appointee (as such term is defined in section 3132(a) of title 5).

(Added Pub. L. 115-46, title II, §203(a), Aug. 12, 2017, 131 Stat. 962.)

#### **§ 726. Annual report on performance awards and bonuses awarded to certain high-level employees**

(a) **IN GENERAL.**—Not later than 100 days after the end of each fiscal year, the Secretary shall submit to the appropriate committees of Congress a report that contains, for the most recent fiscal year ending before the submittal of the report, a description of all performance awards or bonuses awarded to each of the following:

(1) Regional Office Director of the Department.

(2) Director of a Medical Center of the Department.

(3) Director of a Veterans Integrated Service Network.

(4) Senior executive of the Department.

(b) **ELEMENTS.**—Each report submitted under subsection (a) shall include the following with respect to each performance award or bonus awarded to an individual described in such subsection:

(1) The amount of each award or bonus.

(2) The job title of the individual awarded the award or bonus.

(3) The location where the individual awarded the award or bonus works.

(c) **DEFINITIONS.**—In this section:

(1) The term "appropriate committees of Congress" means the Committees on Veterans' Affairs and Appropriations of the Senate and House of Representatives.

(2) The term "senior executive" means—

(A) a career appointee; or

(B) an individual—

(i) in an administrative or executive position; and

(ii) appointed under section 7306(a) or section 7401(1) of this title.

(3) The term "career appointee" has the meaning given that term in section 3132(a) of title 5.

(Added Pub. L. 115-182, title V, §501(a), June 6, 2018, 132 Stat. 1474; amended Pub. L. 115-251, title II, §211(a)(1), Sept. 29, 2018, 132 Stat. 3174.)

#### Editorial Notes

##### CODIFICATION

Section 501(a) of Pub. L. 115-182, which directed that this section be added at the end of this chapter, was executed by adding this section at the end of this subchapter, to reflect the probable intent of Congress.

##### AMENDMENTS

2018—Subsec. (c)(3). Pub. L. 115-251 struck out “, United States Code” after “of title 5”.

#### § 727. Reassignment of senior executives

(a) APPROVAL OF REASSIGNMENTS.—No individual employed in a senior executive position at the Department may be reassigned to another such position at the Department unless such reassignment is approved in writing and signed by the Secretary.

(b) SEMIANNUAL REPORTS REQUIRED.—(1) Not later than June 30 and December 31 of each year, the Secretary shall submit to Congress a report on the reassignment of individuals employed in senior executive positions at the Department to other such positions at the Department during the period covered by the report.

(2) Each report submitted under paragraph (1) shall describe the purpose of each reassignment and the costs associated with such reassignment.

(3) For purposes of paragraph (2), costs associated with a reassignment may only include the following:

- (A) A salary increase.
- (B) Temporary travel expenses for the individual or the family of the individual.
- (C) Moving expenses.
- (D) A paid incentive.

(c) SENIOR EXECUTIVE POSITION DEFINED.—In this section, the term “senior executive position” has the meaning given such term in section 713(d) of this title.

(Added Pub. L. 115-188, §2(a), June 21, 2018, 132 Stat. 1490.)

#### § 728. Misuse of Department purchase cards

(a) IN GENERAL.—(1) The Secretary shall prohibit any employee of the Department who the Secretary or the Inspector General of the Department determines has knowingly misused a purchase card from serving as a purchase card holder or approving official.

(2) Such a prohibition shall be in addition to any other applicable penalty.

(b) MISUSE.—For purposes of this section, the term “misuse” means—

- (1) splitting purchases;
- (2) exceeding applicable purchase card limits or purchase thresholds;
- (3) purchasing any unauthorized item;
- (4) using a purchase card without being an authorized purchase card holder; or
- (5) violating ethics standards.

(Added Pub. L. 115-407, title V, §501(a), Dec. 31, 2018, 132 Stat. 5376.)

#### SUBCHAPTER II—WHISTLEBLOWER COMPLAINTS

#### § 731. Adverse actions against supervisory employees who commit prohibited personnel actions relating to whistleblower complaints

(a) IN GENERAL.—(1) In accordance with paragraph (2), the Secretary shall carry out the following adverse actions against supervisory employees (as defined in section 7103(a) of title 5) whom the Secretary, an administrative judge, the Merit Systems Protection Board, the Office of Special Counsel, an adjudicating body provided under a union contract, a Federal judge, or the Inspector General of the Department determines committed a prohibited personnel action described in subsection (c):

(A) With respect to the first offense, an adverse action that is not less than a 12-day suspension and not more than removal.

(B) With respect to the second offense, removal.

(2)(A) An employee against whom an adverse action under paragraph (1) is proposed is entitled to written notice.

(B)(i) An employee who is notified under subparagraph (A) of being the subject of a proposed adverse action under paragraph (1) is entitled to 10 days following such notification to answer and furnish evidence in support of the answer.

(ii) If the employee does not furnish any such evidence as described in clause (i) or if the Secretary determines that such evidence is not sufficient to reverse the determination to propose the adverse action, the Secretary shall carry out the adverse action following such 10-day period.

(C) Paragraphs (1) and (2) of subsection (b) of section 7513 of title 5, subsection (c) of such section, paragraphs (1) and (2) of subsection (b) of section 7543 of such title, and subsection (c) of such section shall not apply with respect to an adverse action carried out under paragraph (1).

(b) LIMITATION ON OTHER ADVERSE ACTIONS.—With respect to a prohibited personnel action described in subsection (c), if the Secretary carries out an adverse action against a supervisory employee, the Secretary may carry out an additional adverse action under this section based on the same prohibited personnel action if the total severity of the adverse actions do not exceed the level specified in subsection (a).

(c) PROHIBITED PERSONNEL ACTION DESCRIBED.—A prohibited personnel action described in this subsection is any of the following actions:

(1) Taking or failing to take a personnel action in violation of section 2302 of title 5 against an employee relating to the employee—

(A) making a whistleblower disclosure to the Assistant Secretary for Accountability and Whistleblower Protection, the Inspector General of the Department, the Special Counsel, or Congress;

(B) providing information or participating as a witness in an investigation of a whistleblower disclosure made to the Assistant Secretary for Accountability and Whistleblower Protection, the Inspector General of the Department, the Special Counsel, or Congress;