

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c) and (d)(1), was in the original “this Act”, meaning Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-397 substituted “section 1401 of this title” for “section 1404 of this title” and struck out “who has completed counseling under section 1402 of this title and mediation under section 1403 of this title. A civil action may be commenced by a covered employee only to seek redress for a violation for which the employee has completed counseling and mediation” after “covered employee”.

2001—Subsec. (d). Pub. L. 107-68 added subsec. (d).

Statutory Notes and Related Subsidiaries

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.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-68, title I, §119(b), Nov. 12, 2001, 115 Stat. 574, provided that: “The amendment made by this section [amending this section] shall apply with respect to proceedings occurring on or after the date of the enactment of this Act [Nov. 12, 2001].”

§ 1409. Judicial review of regulations

In any proceeding brought under section 1407 or 1408 of this title in which the application of a regulation issued under this chapter is at issue, the court may review the validity of the regulation in accordance with the provisions of subparagraphs (A) through (D) of section 706(2) of title 5, except that with respect to regulations approved by a joint resolution under section 1384(c) of this title, only the provisions of section 706(2)(B) of title 5 shall apply. If the court determines that the regulation is invalid, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued. Except as provided in this section, the validity of regulations issued under this chapter is not subject to judicial review.

(Pub. L. 104-1, title IV, §409, Jan. 23, 1995, 109 Stat. 37.)

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§ 1410. Other judicial review prohibited

Except as expressly authorized by sections 1407, 1408, and 1409 of this title, the compliance

or noncompliance with the provisions of this chapter and any action taken pursuant to this chapter shall not be subject to judicial review.

(Pub. L. 104-1, title IV, §410, Jan. 23, 1995, 109 Stat. 37.)

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§ 1411. Effect of failure to issue regulations

In any proceeding under section 1405, 1406, 1407, or 1408 of this title, except a proceeding to enforce section 1351 of this title with respect to offices listed under section 1351(e)(2) of this title, if the Board has not issued a regulation on a matter for which this chapter requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

(Pub. L. 104-1, title IV, §411, Jan. 23, 1995, 109 Stat. 37.)

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§ 1412. Expedited review of certain appeals**(a) In general**

An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of this chapter.

(b) Jurisdiction

The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in subsection (a), advance the appeal on the docket, and expedite the appeal to the greatest extent possible.

(Pub. L. 104-1, title IV, §412, Jan. 23, 1995, 109 Stat. 38.)

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§ 1413. Privileges and immunities

The authorization to bring judicial proceedings under sections 1405(f)(3), 1407, and 1408