

temporary status without duties and pay for a period in excess of 14 days.

(3) The term “grade” has the meaning given such term in section 7511(a) of title 5.

(4) The term “misconduct” includes neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.

(5) The term “political appointee” means an individual who is—

(A) employed in a position described under sections 5312 through 5316 of title 5 (relating to the Executive Schedule);

(B) a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5; or

(C) employed in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5, Code of Federal Regulations, or successor regulation.

(6) The term “whistleblower disclosure” has the meaning given such term in section 323(g) of this title.

(Added Pub. L. 115–41, title II, §202(a), June 23, 2017, 131 Stat. 869; amended Pub. L. 116–61, §6(1), Sept. 30, 2019, 133 Stat. 1116.)

Editorial Notes

PRIOR PROVISIONS

A prior section 714 was renumbered section 1914 of this title.

AMENDMENTS

2019—Subsec. (e)(2)(B). Pub. L. 116–61 substituted “to refer” for “to the refer”.

§ 715. Congressional testimony by employees: treatment as official duty

(a) CONGRESSIONAL TESTIMONY.—An employee of the Department is performing official duty during the period with respect to which the employee is testifying in an official capacity in front of either chamber of Congress, a committee of either chamber of Congress, or a joint or select committee of Congress.

(b) TRAVEL EXPENSES.—The Secretary shall provide travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, to any employee of the Department of Veterans Affairs performing official duty described under subsection (a).

(Added Pub. L. 114–223, div. A, title II, §247(b)(1), Sept. 29, 2016, 130 Stat. 890.)

Editorial Notes

PRIOR PROVISIONS

Prior sections 715 and 716 were renumbered sections 1915 and 1916 of this title, respectively.

§ 717. Limitation on administrative leave

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may not place any covered individual on administrative leave, or any other type of paid non-duty status without

charge to leave, for more than a total of 14 days during any 365-day period.

(b) WAIVER.—The Secretary may waive the limitation under subsection (a) and extend the administrative leave or other paid non-duty status without charge to leave of a covered individual placed on such leave or status under subsection (a) if the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a detailed explanation of the reasons the individual was placed on administrative leave or other paid non-duty status without charge to leave and the reasons for the extension of such leave or status. Such explanation shall include the job title and grade of the covered individual and the location where the individual is employed.

(c) COVERED INDIVIDUAL.—In this section, the term “covered individual” means an employee of the Department—

(1) who is subject to an investigation for purposes of determining whether such individual should be subject to any disciplinary action under this title or title 5; or

(2) against whom any disciplinary action is proposed or initiated under this title or title 5.

(Added Pub. L. 114–315, title V, §503(a)(1), Dec. 16, 2016, 130 Stat. 1568.)

Editorial Notes

PRIOR PROVISIONS

Prior sections 717 and 718 were renumbered sections 1917 and 1918 of this title, respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 114–315, title V, §503(b), Dec. 16, 2016, 130 Stat. 1568, provided that: “Section 717 of title 38, United States Code, as added by subsection (a)(1), shall apply with respect to any 365-day period beginning on or after the date of enactment of this Act [Dec. 16, 2016].”

§ 719. Reduction of benefits of employees convicted of certain crimes

(a) REDUCTION OF ANNUITY FOR REMOVED EMPLOYEE.—(1) The Secretary shall order that the covered service of an employee of the Department removed from a position for performance or misconduct under section 713, 714, or 7461 of this title or any other provision of law shall not be taken into account for purposes of calculating an annuity with respect to such individual under chapter 83 or chapter 84 of title 5, if—

(A) the Secretary determines that the individual is convicted of a felony (and the conviction is final) that influenced the individual's performance while employed in the position; and

(B) before such order is made, the individual is afforded—

(i) notice of the proposed order; and

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

(C) the Secretary issues the order—

(i) in the case of a proposed order to which an individual responds under subparagraph (B)(ii), not later than five business days

after receiving the response of the individual; or

(ii) 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 subparagraph (B)(i).

(2) Any individual with respect to whom an annuity is reduced under this subsection may appeal the reduction to the Director of the Office of Personnel Management pursuant to such regulations as the Director may prescribe for purposes of this subsection.

(b) **REDUCTION OF ANNUITY FOR RETIRED EMPLOYEE.**—(1) The Secretary may order that the covered service of an individual who the Secretary proposes to remove for performance or misconduct under section 713, 714, or 7461 of this title or any other provision of law but who leaves employment at the Department prior to the issuance of a final decision with respect to such action shall not be taken into account for purposes of calculating an annuity with respect to such individual under chapter 83 or chapter 84 of title 5, if—

(A) the Secretary determines that individual is convicted of a felony (and the conviction is final) that influenced the individual's performance while employed in the position; and

(B) before such order is made, the individual is afforded—

(i) notice of the proposed order;

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

(C) the Secretary issues the order—

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

(ii) 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 subparagraph (B)(i).

(2) Upon the issuance of an order by the Secretary under paragraph (1), 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.

(3) The Director of the Office of Personnel Management shall make a final decision with respect to an appeal under paragraph (2) within 30 business days of receiving the appeal.

(c) **ADMINISTRATIVE REQUIREMENTS.**—Not later than 37 business days after the Secretary issues a final order under subsection (a) or (b) with respect to an individual, the Director of the Office of Personnel Management shall recalculate the annuity of the individual.

(d) **LUMP-SUM ANNUITY CREDIT.**—Any individual with respect to whom an annuity is reduced under subsection (a) or (b) shall be entitled to be paid so much of such individual's lump-sum credit as is attributable to the period of covered service.

(e) **SPOUSE OR CHILDREN EXCEPTION.**—(1) The Secretary, in consultation with the Director of

the Office of Personnel Management, shall prescribe regulations that may provide for the payment to the spouse or children of any individual referred to in subsection (a) or (b) of any amounts which (but for this subsection) would otherwise have been nonpayable by reason of such subsections.

(2) Regulations prescribed under paragraph (1) shall be consistent with the requirements of section 8332(o)(5) and 8411(l)(5) of title 5, as the case may be.

(f) **DEFINITIONS.**—In this section:

(1) The term “covered service” means, with respect to an individual subject to a removal for performance or misconduct under section 719 or 7461 of this title or any other provision of law, the period of service beginning on the date that the Secretary determines under such applicable provision that the individual engaged in activity that gave rise to such action and ending on the date that the individual is removed from or leaves a position of employment at the Department prior to the issuance of a final decision with respect to such action.

(2) The term “lump-sum credit” has the meaning given such term in section 8331(8) or section 8401(19) of title 5, as the case may be.

(3) The term “service” has the meaning given such term in section 8331(12) or section 8401(26) of title 5, as the case may be.

(Added Pub. L. 115–41, title II, §203(a)(1), June 23, 2017, 131 Stat. 873.)

Editorial Notes

PRIOR PROVISIONS

Prior sections 719 and 720 were renumbered sections 1919 and 1920 of this title, respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 115–41, title II, §203(b), June 23, 2017, 131 Stat. 875, provided that: “Section 719 of title 38, United States Code, as added by subsection (a)(1), shall apply to any action of removal of an employee of the Department of Veterans Affairs under section 719 or 7461 of such title or any other provision of law, commencing on or after the date of the enactment of this Act [June 23, 2017].”

§ 721. Recoupment of bonuses or awards paid to employees of Department

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary may issue an order directing an employee of the Department to repay the amount, or a portion of the amount, of any award or bonus paid to the employee under title 5, including under chapters 45 or 53 of such title, or this title if—

(1) the Secretary determines that the individual engaged in misconduct or poor performance prior to payment of the award or bonus, and that such award or bonus would not have been paid, in whole or in part, had the misconduct or poor performance been known prior to payment; and

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

(A) notice of the proposed order; and

(B) an opportunity to respond to the proposed order by not later than 10 business days after the receipt of such notice; and