

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

(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 business days after receiving such appeal.

(Added Pub. L. 115–41, title II, §204(a), June 23, 2017, 131 Stat. 875.)

Editorial Notes

PRIOR PROVISIONS

Prior sections 721 and 722 were renumbered sections 1921 and 1922 of this title, respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 115–41, title II, §204(c), June 23, 2017, 131 Stat. 876, provided that: “Section 721 of title 38, United States Code, as added by subsection (a), shall apply with respect to an award or bonus paid by the Secretary of Veterans Affairs to an employee of the Department of Veterans Affairs on or after the date of the enactment of this Act [June 23, 2017].”

§ 723. Recoupment of relocation expenses paid on behalf of 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, 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