(c) CIVIL PENALTIES AND PUNITIVE DAMAGES.—Except as otherwise provided in this chapter, no civil penalty or punitive damages may be awarded with respect to any claim under this chapter.

(d) EXCLUSIVE PROCEDURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), no person may commence an administrative or judicial proceeding to seek a remedy for the rights and protections afforded by this chapter except as provided in this chapter and in sections 1296 and 1346(g) and chapter 179 of title 28.

(2) VETERANS.—A covered employee under section 416 may also utilize any provisions of chapter 43 of title 38 that are applicable to that employee.

(e) SCOPE OF REMEDY.—Only a covered employee who has undertaken and completed the procedures described in section 452 may be granted a remedy under part A of this subchapter.

(f) CONSTRUCTION.—

(1) DEFINITIONS AND EXEMPTIONS.—Except where inconsistent with definitions and exemptions provided in this chapter, the definitions and exemptions in the laws made applicable by this chapter shall apply under this chapter.

(2) SIZE LIMITATIONS.—Notwithstanding paragraph (1), provisions in the laws made applicable under this chapter (other than paragraphs (2) and (3) of section 2(a) of the Worker Adjustment and Retraining Notification Act) determining coverage based on size, whether expressed in terms of numbers of employees, amount of business transacted, or other measure, shall not apply in determining coverage under this chapter.

(g) POLITICAL AFFILIATION.—It shall not be a violation of any provision of this chapter to consider, or make any employment decision based on, the party affiliation, or political compatibility with the employing office, of an employee who is a covered employee.

(Added Pub. L. 104–331, § 2(a), Oct. 26, 1996, 110 Stat. 4066.)

REFERENCES IN TEXT

Sections 706 and 717 of the Civil Rights Act of 1964, referred to in subsecs. (a) and (b), are classified to sections 2000e–5 and 2000e–16, respectively, of Title 42, The Public Health and Welfare.

Section 2 of the Worker Adjustment and Retraining Notification Act, referred to in subsec. (f)(2), is classified to section 2101 of Title 29, Labor.

SUBCHAPTER III—ADMINISTRATIVE AND JUDICIAL DISPUTE RESOLUTION PROCEDURES

§ 451. Procedure for consideration of alleged violations

The procedure for consideration of alleged violations of part A of subchapter II consists of—

(1) counseling and mediation as provided in section 452; and

(2) election, as provided in section 453, of either—

(A) an administrative proceeding as provided in section 453(1) and judicial review as provided in section 1296 of title 28; or

(B) a civil action in a district court of the United States as provided in section 1346(g) of title 28.

(Added Pub. L. 104–331, § 2(a), Oct. 26, 1996, 110 Stat. 4067.)

§ 452. Counseling and mediation

(a) IN GENERAL.—The President, or the designee of the President, shall by regulation establish procedures substantially similar to those under sections 402 and 403 of the Congressional Accountability Act of 1995 for the counseling and mediation of alleged violations of a law made applicable under part A of subchapter II.

(b) EXHAUSTION REQUIREMENT.—A covered employee who has not exhausted counseling and mediation under subsection (a) shall be ineligible to make any election under section 453 or otherwise pursue any further form of relief under this subchapter.

(Added Pub. L. 104–331, § 2(a), Oct. 26, 1996, 110 Stat. 4067.)

REFERENCES IN TEXT

Sections 402 and 403 of the Congressional Accountability Act of 1995, referred to in subsec. (a), are classified to sections 1402 and 1403, respectively, of Title 2, The Congress.

EFFECTIVE DATE

Section effective Oct. 1, 1997, except that subsec. (a) of this section effective Oct. 26, 1996, see section 471 of this title.

§ 453. Election of proceeding

Not later than 90 days after a covered employee receives notice of the end of the period of mediation, but no sooner than 30 days after receipt of such notification, such covered employee may either—

(1) file a complaint with the appropriate agency, as determined under section 454; or

(2) file a civil action under section 1346(g) of title 28.

(Added Pub. L. 104–331, § 2(a), Oct. 26, 1996, 110 Stat. 4067.)

§ 454. Appropriate agencies

(a) IN GENERAL.—Except as provided in subsection (b), the appropriate agency under this section with respect to an alleged violation of part A of subchapter II shall be the Board. The complaint in an action involving such an alleged violation shall be processed under the procedures specified by the President, or the designee of the President, in such regulations as the President or designee may issue.

(b) EXCEPTIONS.—

(1) DISCRIMINATION.—For purposes of any action arising under section 411 (or any action alleging intimidation, reprisal, or discrimination under section 417 relating to any practice made unlawful under section 411), the appropriate agency shall be the Equal Employment Opportunity Commission, and the complaint in any such action shall be processed under the same administrative procedures as any such complaint filed by any employee in the executive branch of the Federal Government (other than a covered employee).

(2) MIXED CASES.—In the case of any covered employee (within the meaning of section 411) who has been affected by an action which an employee of an executive agency may appeal to the Board and who alleges that a basis for the action was discrimination prohibited by section 411 (or any action alleging intimidation, reprisal, or discrimination under section 417 relating to any practice made unlawful under section 411), the initial appropriate agency shall be the Board, and such matter shall thereafter be processed in accordance with section 7702(a)–(d) (disregarding paragraph (2) of such subsection (a)) and (f) of title 5.

(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law (including any provision of law referenced in paragraph (1) or (2)), judicial review of any administrative decision under this subsection shall be by appeal to the United States Court of Appeals for the Federal Circuit under section 1296 of title 28.

(Added Pub. L. 104–331, § 2(a), Oct. 26, 1996, 110 Stat. 4067.)

EFFECTIVE DATE

Section effective Oct. 1, 1997, except that subsec. (a) of this section effective Oct. 26, 1996, see section 471 of this title.

§ 455. Effect of failure to issue regulations

In any proceeding under section 453(1), if the President, or the designee of the President, has not issued a regulation on a matter for which this chapter requires a regulation to be issued, the administrative agency 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.

(Added Pub. L. 104–331, § 2(a), Oct. 26, 1996, 110 Stat. 4068.)

§ 456. Confidentiality

(a) COUNSELING.—All counseling under section 452 shall be strictly confidential, except that, with the consent of the covered employee, the employing office may be notified.

(b) MEDIATION.—All mediation under section 452 shall be strictly confidential.

(Added Pub. L. 104–331, § 2(a), Oct. 26, 1996, 110 Stat. 4068.)

SUBCHAPTER IV—EFFECTIVE DATE

§ 471. Effective date

(a) IN GENERAL.—Except as otherwise provided in this chapter, this chapter shall take effect on October 1, 1997.

(b) REGULATIONS.—Sections 411(d), 412(c), 413(c), 414(c), 415(c), 416(c), 421(d), 425(d), 431(c), 431(d), 452(a), and 454(a) shall take effect on the date of enactment of this Act.[1]

(Added Pub. L. 104–331, § 2(a), Oct. 26, 1996, 110 Stat. 4068.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsec. (b), probably means the date of enactment of Pub. L. 104–331, which enacted this chapter and was approved Oct. 26, 1996.

[1] See References in Text note below.