

settled only after consultation with the Department of Justice when it is learned that the United States or an employee, agent or cost plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

### PART 430—PERSONNEL

AUTHORITY: Section 702(a)(5) of the Social Security Act (42 U.S.C. 902(a)(5)).

#### INDEMNIFICATION OF SSA EMPLOYEES

##### § 430.101 Policy.

(a) The Social Security Administration (SSA) may indemnify, in whole or in part, its employees (which for the purpose of this regulation includes former employees) for any verdict, judgment or other monetary award which is rendered against any such employee, provided that the conduct giving rise to the verdict, judgment or award was taken within the scope of his or her employment with SSA and that such indemnification is in the interest of the United States, as determined by the Commissioner, or his or her designee, in his or her discretion.

(b) SSA may settle or compromise a personal damage claim against its employee by the payment of available funds, at any time, provided the alleged conduct giving rise to the personal damage claim was taken within the scope of employment and that such settlement or compromise is in the interest of the United States, as determined by the Commissioner, or his or her designee, in his or her discretion.

(c) Absent exceptional circumstances, as determined by the Commissioner or his or her designee, SSA will not entertain a request either to agree to indemnify or to settle a personal damage claim before entry of an adverse verdict, judgment or monetary award.

(d) When an employee of SSA becomes aware that an action has been filed against the employee in his or her individual capacity as a result of conduct taken within the scope of his or her employment, the employee should immediately notify SSA that such an action is pending.

(e) The employee may, thereafter, request either:

(1) Indemnification to satisfy a verdict, judgment or award entered against the employee; or

(2) Payment to satisfy the requirements of a settlement proposal. The employee shall submit a written request, with documentation including copies of the verdict, judgment, award or settlement proposal, as appropriate, to the Deputy Commissioner or other designated official, who shall thereupon submit to the General Counsel, in a timely manner, a recommended disposition of the request. The General Counsel shall also seek the views of the Department of Justice. The General Counsel shall forward the request, the Deputy Commissioner's or other designated official's recommended disposition, and the General Counsel's recommendation to the Commissioner or his or her designee for decision.

(f) Any payment under this section either to indemnify an SSA employee or to settle a personal damage claim shall be contingent upon the availability of appropriated funds.

[62 FR 39935, July 25, 1997]

### PARTS 431–497 [RESERVED]

### PART 498—CIVIL MONETARY PENALTIES, ASSESSMENTS AND RECOMMENDED EXCLUSIONS

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498.106	Determinations regarding the amount or scope of penalties and assessments.
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