

## §2.7

## 38 CFR Ch. I (7-1-02 Edition)

(j) *Delegation to the Chairman, Board of Contract Appeals.* In cases where OEDCA has recused itself from a case due to an actual, apparent, or potential conflict of interest, the Chairman, Board of Contract Appeals, is delegated authority to make procedural agency decisions to dismiss, in whole or in part, EEO discrimination complaints filed by agency employees, former employees, and applicants for employment; to make substantive final agency decisions where complainants do not request an EEOC hearing; and to take agency action following a decision by an EEOC Administrative Judge.

(k) *Processing complaints involving certain officials.* A complaint alleging that the Secretary or the Deputy Secretary personally made a decision directly related to matters in dispute, or are otherwise personally involved in such matters, will be referred for procedural acceptability review, investigation, and substantive decisionmaking to another Federal agency (e.g., The Department of Justice) pursuant to a cost reimbursement agreement. Referral will not be made when the action complained of relates merely to ministerial involvement in such matters (e.g., ministerial approval of selection recommendations submitted to the Secretary by the Under Secretary for Health, the Under Secretary for Benefits, the Under Secretary for Memorial Affairs, assistant secretaries, or staff office heads).

[25 FR 11095, Nov. 23, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §2.6, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### **§2.7 Delegation of authority to provide relief on account of administrative error.**

(a) Section 503(a) of title 38 U.S.C., provides that if the Secretary determines that benefits administered by the Department of Veterans Affairs have not been provided by reason of administrative error on the part of the Federal Government or any of its employees, the Secretary is authorized to provide such relief on account of such error as the Secretary determines equitable, including the payment of mon-

eys to any person whom he determines equitably entitled thereto.

(b) Section 210(c)(3) of title 38 U.S.C., provides that if the Secretary determines that any veteran, widow, child of a veteran, or other person, has suffered loss, as a consequence of reliance upon a determination by the Department of Veterans Affairs of eligibility or entitlement to benefits, without knowledge that it was erroneously made, the Secretary is authorized to provide such relief as the Secretary determines equitable, including the payment of moneys to any person equitably entitled thereto. The Secretary is also required to submit an annual report to the Congress, containing a brief summary of each recommendation for relief and its disposition. Preparation of the report shall be the responsibility of the General Counsel.

(c) The authority to grant the equitable relief, referred to in paragraphs (a) and (b) of this section, has not been delegated and is reserved to the Secretary. Recommendation for the correction of administrative error and for appropriate equitable relief therefrom will be submitted to the Secretary, through the General Counsel. Such recommendation may be initiated by the head of the administration having responsibility for the benefit, or of any concerned staff office, or by the Chairman, Board of Veterans Appeals. When a recommendation for relief under paragraph (a) or (b) of this section is initiated by the head of a staff office, or the Chairman, Board of Veterans Appeals, the views of the head of the administration having responsibility for the benefit will be obtained and transmitted with the recommendation of the initiating office.

[37 FR 22864, Oct. 26, 1972, as amended at 49 FR 30693, Aug. 1, 1984; 54 FR 34981, Aug. 23, 1989]

### **§2.8 Delegation of authority to authorize allowances for Department of Veterans Affairs employees who are notaries public.**

(a) Employees occupying or acting in the positions designated in paragraph (b) of this section are authorized to designate those employees who are required to serve as notaries public in