

claim period was preserved in accordance with § 551.702 and of the liability of the agency and the claimant's right to payment.

(2) *Requesting confidentiality.* If the claimant wishes the claim to be treated confidentially, the claim must specifically request that the identity of the claimant not be revealed to the agency. Witnesses or other sources may also request confidentiality. OPM will make every effort to conduct its investigation in a way to maintain confidentiality. If OPM is unable to obtain sufficient information to render a decision and preserve the requested confidentiality, OPM will notify the claimant that the claim will be cancelled with no further action by OPM unless the claimant *voluntarily* provides written authorization for his or her name to be revealed.

(b) *Agency.* (1) In FLSA exemption status determination claims, the burden of proof rests with the agency that asserts the FLSA exemption.

(2) The agency must provide the claimant with a written acknowledgment of the date the claim was received.

(3) Upon a claimant's request, and subject to any Privacy Act requirements, an agency must provide a claimant with information relevant to the claim.

(4) The agency must provide any information requested by OPM within 15 workdays after the date of the request, unless the agency requests additional time and OPM grants a longer period of time in which to provide the requested information.

**§ 551.707 Withdrawal or cancellation of an FLSA claim.**

(a) *Withdrawal.* A claimant or the claimant's representative may withdraw a claim at any time prior to the issuance of an OPM FLSA claim decision by providing written notice to the OPM office where the claim was filed.

(b) *Cancellation.* OPM may, at its discretion, cancel an FLSA claim if the claimant or the claimant's designated representative fails to provide requested information within 15 workdays after the date of the request, unless the claimant or the claimant's representative requests additional time

and OPM grants a longer period of time in which to provide the requested information. OPM may, at its discretion, reconsider a cancelled claim on a showing that circumstances beyond the claimant's control prevented pursuit of the claim.

**§ 551.708 Finality and effect of OPM FLSA claim decision.**

OPM will send an FLSA claim decision to the claimant or the claimant's representative and the agency. An FLSA claim decision made by OPM is final. There is no further right of administrative appeal. At its discretion, OPM may reconsider a decision upon a showing that material information was not considered or there was a material error of law, regulation, or fact in the original decision. A decision by OPM under the Act is binding on all administrative, certifying, payroll, disbursing, and accounting officials of agencies for which OPM administers the Act. Upon receipt of a decision, the agency employing the claimant during the claim period must take all necessary steps to comply with the decision, including adherence with compliance instructions provided with the decision. All compliance actions must be completed within the time specified in the decision, unless an extension of time is requested by the agency and granted by OPM. The agency should identify all similarly situated current and, to the extent possible, former employees, ensure that they are treated in a manner consistent with the decision, and inform them in writing of their right to file an FLSA claim with the agency or OPM.

**§ 551.709 Availability of information.**

(a) Except when the claimant has requested confidentiality, the agency and the claimant must provide to each other a copy of all information submitted with respect to the claim.

(b) When a claimant has not requested confidentiality, OPM will disclose to the parties concerned the information contained in an FLSA claim file. When a claimant has requested confidentiality, OPM will delete any information identifying the claimant before disclosing the information in an

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FLSA claim file to the parties concerned. For the purposes of this subpart, *the parties concerned* means the claimant, any representative designated in writing, and any representative of the agency or OPM involved in the proceeding.

(c) Except when the claimant has requested confidentiality or the disclosure would constitute a clearly unwarranted invasion of personal privacy, OPM, upon a request which identifies the individual from whose file the information is sought, will disclose the following information from a claim file to a member of the public:

- (1) Confirmation of the name of the individual from whose file the information is sought and the names of the other parties concerned;
- (2) The remedy sought;
- (3) The status of the claim;
- (4) The decision on the claim; and
- (5) With the consent of the parties concerned, other reasonably identified information from the file.

### § 551.710 Where to file an FLSA claim with OPM.

An FLSA claim must be filed with the OPM office serving the area where the cause or basis of the claim occurred. Following are OPM addresses and service areas.

#### OPM ATLANTA OVERSIGHT DIVISION

75 Spring Street SW., Suite 972, Atlanta, GA 30303-3109  
Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Virginia (except the Virginia locations listed under the Washington, DC Oversight Division)

#### OPM CHICAGO OVERSIGHT DIVISION

230 S. Dearborn Street, DPN 30-6, Chicago, IL 60604-1687  
Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, West Virginia, Wisconsin

#### OPM DALLAS OVERSIGHT DIVISION

1100 Commerce Street, Room 4C22, Dallas, TX 75242-9968  
Arizona, Arkansas, Colorado, Louisiana, Montana, New Mexico, Oklahoma, Texas, Utah, Wyoming

#### OPM PHILADELPHIA OVERSIGHT DIVISION

600 Arch Street, Room 3400, Philadelphia, PA 19106-1596

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Connecticut, Delaware, Maine, Maryland (except the Maryland locations listed under the Washington, DC Oversight Division), Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Puerto Rico, Virgin Islands

#### OPM SAN FRANCISCO OVERSIGHT DIVISION

120 Howard Street, Room 760, San Francisco, CA 94105-0001  
Alaska, California, Hawaii, Idaho, Nevada, Oregon, Washington, Pacific Ocean Area

#### OPM WASHINGTON, DC OVERSIGHT DIVISION

1900 E Street NW., Room 7675, Washington, DC 20415-0001  
The District of Columbia  
In Maryland: the counties of Charles, Montgomery, and Prince George's.  
In Virginia: the counties of Arlington, Fairfax, King George, Loudoun, Prince William, and Stafford; the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park; and any overseas area not listed in the service area of another Oversight division.

## PART 553—REEMPLOYMENT OF MILITARY AND CIVILIAN RETIREES TO MEET EXCEPTIONAL EMPLOYMENT NEEDS

### Subpart A—General Provisions

Sec.

- 553.101 Applicability.
- 553.102 Definitions.
- 553.103 General policy.

### Subpart B—Special Provisions for Reemployment Without Penalty To Meet Exceptional Recruiting or Retention Needs

- 553.201 Requesting OPM approval for reemployment without reduction in individual cases.
- 553.202 Request for delegation of authority to approve reemployment without reduction in emergencies.
- 553.203 Status of individuals serving without reduction.

AUTHORITY: 5 U.S.C. 8344, 8468, Sec. 651, Pub. L. 106-65 (113 STAT. 664).

SOURCE: 56 FR 6206, Feb. 14, 1991, unless otherwise noted.

### Subpart A—General Provisions

#### § 553.101 Applicability.

This part applies to employment of civilian annuitants who would be subject to termination of annuity or annuity offset under 5 U.S.C. 8344 or 5 U.S.C.