



## 38 CFR Part 2

### RIN 2900-AS09

#### Update to Delegations of Authority to Certain Officials

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is amending its regulation governing the Secretary's delegations of authority to reflect relevant nomenclature changes to the names of positions and groups within the Office of General Counsel.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Michael Gibbs, Executive Director, Management, Planning, and Analysis, Office of General Counsel (026), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-4995. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** Title 38 of the Code of Federal Regulations, chapter I, part 2 governs Delegations of Authority and includes 38 CFR 2.6 "Secretary's delegations of authority to certain officials (38 U.S.C. 512)." Paragraph (e) of this regulation governs delegations of authority to certain officials within the Office of General Counsel and is amended to reflect changes to the names of certain Office of General Counsel offices and positions, including Chief Counsels, and law groups, including the Revenue Law Group and the Torts Law Group.

#### **Administrative Procedure Act**

This final rule is a rule of agency procedure and practice that does not impose new rights, duties, or obligations on affected individuals but, rather, explains that the Secretary delegates authority to certain employees occupying or acting in positions

designated in the regulation and identifies the ways in which those employees are authorized to act on behalf of the Agency. Therefore, it is exempt from the prior notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553. See 5 U.S.C. 553(b)(A) and (d)(3). This rule merely updates information regarding the delegation of authority for Office of General Counsel officials, the employees who may serve in those roles, and the names of certain offices and positions in the Office of General Counsel.

### **Paperwork Reduction Act**

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

### **Regulatory Flexibility Act**

The initial and final regulatory flexibility analyses requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601-612, are not applicable to this rule because a notice of proposed rulemaking is not required for this rule. Even so, the Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. This rule will affect only: (1) Office of General Counsel employees who are identified as officials who have been delegated authority under the regulation, and (2) VA employees seeking decisions or actions from those Office of General Counsel officials who have been delegated authority to act on behalf of the Agency as described in the regulation. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

### **Executive Orders 12866, 13563 and 14094**

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other

advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 (Executive Order on Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), and Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review). The Office of Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at [www.regulations.gov](http://www.regulations.gov).

### **Congressional Review Act**

Pursuant to subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act) (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not satisfying the criteria under 5 U.S.C. 804(2).

### **Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and Tribal governments, or on the private sector.

### **List of Subjects in 38 CFR Part 2**

Authority delegations (Government agencies).

## **Signing Authority**

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on May 20, 2024, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

**Luvenia Potts,**  
*Regulation Development Coordinator,  
Office of Regulation Policy & Management,  
Office of General Counsel,  
Department of Veterans Affairs*

For the reasons set out in the preamble, the Department of Veterans Affairs amends 38 CFR part 2 as follows:

### **PART 2—DELEGATIONS OF AUTHORITY**

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 302, 552a; 38 U.S.C. 501, 512, 515, 1729, 1729A, 5711; 44 U.S.C. 3702, and as noted in specific sections.

2. Amend § 2.6 by revising paragraphs (e)(1) through (3), (e)(4) introductory text, and (e)(5) through (11) to read as follows:

#### **§ 2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).**

\* \* \* \* \*

(e) \* \* \*

(1) The General Counsel is delegated authority to serve as the Regulatory Policy Officer for the Department in accordance with Executive Order 12866. The General Counsel, the Principal Deputy General Counsel, the Deputy General Counsels, and the Director of the Office of Regulation Policy and Management are delegated authority to manage, direct, and coordinate the Department's rulemaking activities, including the

revision and reorganization of regulations, and to perform all functions necessary or appropriate under Executive Order 12866 and other rulemaking requirements.

(Authority: 38 U.S.C. 501, 512)

(2) Under the provisions of 38 U.S.C. 515(b), the General Counsel, the Principal Deputy General Counsel, the Deputy General Counsel for Legal Operations, the Chief Counsel, Torts Law Group, or those authorized to act for them, are authorized to consider, ascertain, adjust, determine, and settle tort claims cognizable thereunder and to execute an appropriate voucher and other necessary instruments in connection with the final disposition of such claims.

(3) Under the provisions of "The Federal Medical Care Recovery Act," 42 U.S.C. 2651, *et seq.* (as implemented by 28 CFR part 43), authority is delegated to the General Counsel, the Principal Deputy General Counsel, the Deputy General Counsel for General Law, and Chief Counsel, Revenue Law Group, or those authorized to act for them, to collect in full, compromise, settle, or waive any claim and execute the release thereof; however, claims in excess of \$100,000 may be compromised, settled, or waived only with the prior approval of the Department of Justice.

(4) Under the Federal Claims Collection Act of 1966, 31 U.S.C. 3711, *et seq.*, authority is delegated to the General Counsel, the Principal Deputy General Counsel, the Deputy General Counsel for General Law and Chief Counsel, Revenue Law Group, or those authorized to act for them, to:

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(5) Pursuant to the provisions of the Military Personnel and Civilian Employees' Claim Act of 1964, 31 U.S.C. 3721, as amended, the General Counsel, the Principal Deputy General Counsel, the Deputy General Counsel for Legal Operations and Chief Counsel, Torts Law Group, or those authorized to act for them, are authorized to settle and pay a claim for not more than \$40,000 made by a civilian officer or employee of the

Department of Veterans Affairs for damage to, or loss of, personal property incident to his or her service. (Pub. L. 97-226)

(6) Under the provisions of 38 U.S.C. 7316(e), authority is delegated to the General Counsel, the Principal Deputy General Counsel, the Deputy General Counsel for Legal Operations, the Chief Counsel, Torts Law Group, to hold harmless or provide liability insurance for any person to whom the immunity provisions of section 7316 apply, for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment in the exercise of his or her duties in or for the Veterans Health Administration, if such person is assigned to a foreign country, detailed to State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, United States Code, for such damage or injury.

(7) The General Counsel, the Principal Deputy General Counsel, the Deputy General Counsels and those authorized to act for them, are authorized to conduct investigations, examine witnesses, take affidavits, administer oaths and affirmations, and certify copies of public or private documents on all matters within the jurisdiction of the General Counsel.

(8) The General Counsel or the Principal Deputy General Counsel, acting as or for the General Counsel, is authorized to designate, in accordance with established standards, those legal opinions of the General Counsel which will be considered precedent opinions involving veterans' benefits under laws administered by the Department of Veterans Affairs.

(Authority: 38 U.S.C. 501, 512)

(9) Under the provisions of 38 U.S.C. 1729(c)(1), authority is delegated to the General Counsel, the Principal Deputy General Counsel, the Deputy General Counsel

for General Law, the Chief Counsel, Revenue Law Group, or those authorized to act for them, to collect in full, compromise, settle, or waive any claim and execute the release thereof.

(Authority: 31 U.S.C. 3711(a)(2); 38 U.S.C. 501, 512).

(10) Except as prescribed in paragraph (g)(3) of this section, the General Counsel, the Principal Deputy General Counsel, the Deputy General Counsel for General Law, and the Chief Counsel, Information and Administrative Law Group, are authorized to make final Departmental decisions on appeals under the Freedom of Information Act, the Privacy Act, and 38 U.S.C. 5701, 5705 and 7332.

(Authority: 38 U.S.C. 512)

(11) All authority delegated in this paragraph to Chief Counsels will be exercised by them under the supervision of and in accordance with instructions issued by the General Counsel.

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