



OFFICE OF PERSONNEL MANAGEMENT

[Docket ID: OPM-2024-0022]

Privacy Act of 1974; System of Records

AGENCY: Workforce Policy and Innovation, Office of Personnel Management.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Office of Personnel Management (OPM) proposes to establish a new system of records titled, “OPM/Internal—31, VA Recoupment and Reduction Appeals to OPM.” OPM will use this system to process appeals from current and former civil service Department of Veterans Affairs (VA) employees who received an order by the VA to recoup or reduce their awards, bonuses, relocation expenses, or retirement benefits, and chose to appeal that order to the Director of OPM.

DATES: Submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This new system is effective upon publication in the *Federal Register*, except for the routine uses, which are effective [INSERT DATE 31 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit written comments using the Federal eRulemaking Portal at <https://www.regulations.gov>. All submissions received must include the agency name and docket number for this *Federal Register* document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <https://www.regulations.gov> without change, including any personal identifiers.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact the Tim Curry, Employee Services, Accountability and Workforce Relations, Workforce Policy and Innovation, at (202) 606-2930 or employeeaccountability@opm.gov.

SUPPLEMENTARY INFORMATION: Sections 721 and 723 of title 38, United States Code, permit the VA to order the recoupment of a VA employee's awards, bonuses, or relocation expenses if (a) the VA finds the individual engaged in misconduct, poor performance, fraud, or malfeasance and (b) if the VA had known about those actions prior to awarding the relevant benefit, it would have impacted the awarding of said benefit. Section 719 of title 38, United States Code, permits the VA to order the reduction of a VA employee's retirement benefits if they were convicted of certain crimes and removed for (or are in the process of being removed for) performance or misconduct. These statutes provide individuals who receive one of these orders the right to appeal that order to the Director of OPM. In accordance with 5 U.S.C. 552a(r), OPM has provided a report of this new system of records to the Office of Management and Budget and to Congress. This new system of records will be included in OPM's inventory of record systems.

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

SYSTEM NAME AND NUMBER: OPM/Internal—31, VA Recoupment and Reduction

Appeals to OPM.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: Records on recoupments are stored at: Workforce Policy and Innovation, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-0001.

Records on the reduction of retirement benefits are stored at: Retirement Services, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-0001.

SYSTEM MANAGER(S): Deputy Associate Director, Employee Services, Accountability and Workforce Relations, Workforce Policy and Innovation, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-0001.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 38 U.S.C. 719, Reduction of benefits of employees convicted of certain crimes; 38 U.S.C. 721, Recoupment of bonuses or awards paid to employees of Department; and 38 U.S.C. 723, Recoupment of relocation expenses paid on behalf of employees of Department.

PURPOSE(S) OF THE SYSTEM: The purpose of this system of records is to process appeals from current and former civil service Department of Veterans Affairs (VA) employees, who (a) received an order by the VA to recoup or reduce their awards, bonuses, relocation expenses, or retirement benefits and (b) appealed that order to the Director of the Office of Personnel Management (OPM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: This system of records will include information on current and former civil service VA employees (a) who received an order by the VA to recoup or reduce their awards, bonuses, relocation expenses, or retirement benefits and (b) appealed that order to the Director of OPM.

CATEGORIES OF RECORDS IN THE SYSTEM: This system of records will contain information related to an appeal of a VA order by a current or former civil service VA employee. This may include the following:

- a. The notice of proposed order received;
- b. The employee's response to the proposed order;
- c. The order received;
- d. A statement explaining why the employee believes the order received is in error;
- e. The name, mailing address, telephone number, and email address of the employee and, if applicable, their authorized representative;
- f. The name, mailing address, telephone number, and email address of the VA official who issued the order;
- g. The evidence file relied upon in proposing and deciding the VA order; and
- h. Any other evidence, information, and correspondence (between OPM, VA, and/or the current or former civil service VA employee) that is received, developed, or issued during the appeal.

RECORD SOURCE CATEGORIES: Information in this system of records may be provided by the current or former civil service VA employee (or their authorized representative).

Information in this system of records may also be provided by OPM and VA staff who are involved in adjudicating the appeal or providing information related to the appeal.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND PURPOSES OF SUCH USES: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, the records in this system may be disclosed outside OPM as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

- a. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when OPM or another agency representing OPM determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.
- b. To the Department of Justice when (a) OPM, or any component thereof; (b) any OPM employee in their official capacity; (c) any OPM employee in their individual capacity where the Department of

- Justice has agreed to represent the employee; or (d) the United States, where OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by OPM to be relevant and necessary to the litigation.
- c. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law – criminal, civil, or regulatory in nature – the relevant records may be referred to the appropriate Federal, State, local, territorial, Tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.
 - d. To a member of Congress or staff acting upon the member’s behalf, when the member or staff requests the information on behalf of, and at the request of, the individual to whom the record pertains.
 - e. To the National Archives and Records Administration (NARA) for records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.
 - f. To appropriate agencies, entities, and persons when (1) OPM suspects or has confirmed that there has been a breach of the system of records, (2) OPM has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, OPM (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OPM’s efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
 - g. To another Federal agency or Federal entity, when OPM determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and

- operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
- h. To contractors, grantees, experts, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, or other assignment for OPM to the extent necessary to accomplish an agency function related to this system of records.
 - i. To the VA for their personnel and administrative records, and to the VA Office of the Inspector General for oversight purposes.
 - j. To external parties who OPM has reason to believe possess evidence relevant to the adjudication of the appeal, to the extent necessary to elicit such evidence.
 - k. To the Department of Defense, the Office of the Director of National Intelligence, and other Federal Government agencies responsible for conducting and adjudicating background investigations, continuous evaluation, and continuous vetting to provide them with information relevant to their inquiries and investigations.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: The records in this system of records are stored electronically on servers operated by OPM or pursuant to an OPM contract, or on paper in locked file cabinets or locked offices. Access to the electronic systems or paper files is restricted to authorized users with a need to know.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records may be retrieved by name or other personal identifiers discussed in the categories of records section of this notice.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS: A records retention schedule will be established with NARA for the records about covered individuals in this system of records and, until it is finalized, records will be treated as permanent. Once that schedule is established, the method(s) for disposing of records that are no longer eligible for retention will be established.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Several administrative, technical, and physical security measures protect the records in this system from unauthorized access and misuse. These measures include encryption, limited access based on an individual's role, and assuring staff who are authorized to access the records have received the appropriate privacy and security training. All these measures comply with the Federal Information Security Modernization Act of 2002, as amended by the Federal Information Security Modernization Act of 2014, OMB policies, and standards and guidance from the National Institute of Standards and Technology (NIST). Any paper records in this system will be stored in locked file cabinets or locked offices with access restricted to those who have a need to know and the appropriate privacy and security training.

RECORD ACCESS PROCEDURES: Individuals seeking access to their records in this system may email their request to foia@opm.gov or mail their request to the Office of Personnel Management, Office of the Executive Secretariat, Privacy, and Information Management - FOIA, 1900 E Street NW, OESPIM/FOIA Room 5H35, Washington, DC 20415-0001. The email or letter should:

1. Include the words "Privacy Act Records Access Request",
2. State that the request relates to OPM/Internal—31, VA Recoupment and Reduction Appeals to OPM, and
3. Clearly describe the information requested.

The letter or email must also include the individual's:

1. Full name, and any former names,
2. Date of birth,
3. Preference for how they want to be contacted (home address, telephone number, and/or personal email), and
4. Signature.

Additional requirements regarding record access requests, including the rights of guardians and how records may be provided, may be found in 5 CFR Part 297, Privacy Procedures for Personnel Records.

CONTESTING RECORD PROCEDURES: Individuals wishing to request an amendment of records about them may email their request to foia@opm.gov or mail their request to the Office of Personnel Management, Office of the Executive Secretariat, Privacy, and Information Management - FOIA, 1900 E Street NW, OESPIM/FOIA Room 5H35, Washington, DC 20415-0001. The email or letter should:

1. Include the words “Privacy Act Amendment Request”,
2. State that the request relates to OPM/Internal—31, VA Recoupment and Reduction Appeals to OPM,
3. Clearly describe the records the individual wants to amend and why, and
4. Include any documents which could help substantiate the request.

The letter or email must also include the individual’s:

1. Full name, and any former names,
2. Date of birth,
3. Preference for how they want to be contacted (home address, telephone number, and/or personal email), and
4. Signature.

Additional requirements regarding record access requests, including the rights of guardians and how records may be provided, may be found in 5 CFR Part 297, Privacy Procedures for Personnel Records.

NOTIFICATION PROCEDURES: See “Record Access Procedures.”

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: None.