

US Code

(Unofficial compilation from the Legal Information Institute)

TITLE 5 - GOVERNMENT ORGANIZATION AND EMPLOYEES PART II—CIVIL SERVICE FUNCTIONS AND RESPONSIBILITIES

Please Note: This compilation of the US Code, current as of Jan. 7, 2011 , has been prepared by the Legal Information Institute using data from the U.S. House of Representatives, Office of the Law Revision Counsel. It is not an official U.S. government publication. For more details please see: <http://www.law.cornell.edu/uscode/uscpri.html>.

Notes on this document: The content in this document is taken directly from the US Code, with the following exceptions: page headers and footers, page numbering, and all formatting are artifacts of this presentation. Divider lines have been inserted between sections. The notes are set off by a vertical line and a larger left margin. The table of contents immediately following this title page is machine-generated from the headings in this portion of the Code. Commonly available fonts are used.

The Legal Information Institute promotes worldwide, free public access to law via the Internet. Founded in 1992, the LII created the first legal information website. It continues to be a pre-eminent "law-not-com" publisher of legal information and an important outreach activity of the Cornell Law School.

TITLE 5 - GOVERNMENT ORGANIZATION AND EMPLOYEES	1
PART II - CIVIL SERVICE FUNCTIONS AND RESPONSIBILITIES	32
CHAPTER 11 - OFFICE OF PERSONNEL MANAGEMENT	33
§ 1101. Office of Personnel Management	33
§ 1102. Director; Deputy Director; Associate Directors	49
§ 1103. Functions of the Director	50
§ 1104. Delegation of authority for personnel management	52
§ 1105. Administrative procedure	54
CHAPTER 12 - MERIT SYSTEMS PROTECTION BOARD, OFFICE OF SPECIAL COUNSEL, AND EMPLOYEE RIGHT OF ACTION	55
SUBCHAPTER I - MERIT SYSTEMS PROTECTION BOARD	56
§ 1201. Appointment of members of the Merit Systems Protection Board	56
§ 1202. Term of office; filling vacancies; removal	57
§ 1203. Chairman; Vice Chairman	58
§ 1204. Powers and functions of the Merit Systems Protection Board	58
§ 1205. Transmittal of information to Congress	62
§ 1206. Annual report	63
§§ 1207, 1208. Repealed. Pub. L. 101–12, § 3(a)(8), Apr. 10, 1989, 103 Stat. 18]	63
§ 1209. Renumbered §§ 1205 and 1206]	64
SUBCHAPTER II - OFFICE OF SPECIAL COUNSEL	65
§ 1211. Establishment	65
§ 1212. Powers and functions of the Office of Special Counsel	66
§ 1213. Provisions relating to disclosures of violations of law, gross mismanagement, and certain other matters	68
§ 1214. Investigation of prohibited personnel practices; corrective action	71
§ 1215. Disciplinary action	74
§ 1216. Other matters within the jurisdiction of the Office of Special Counsel	75
§ 1217. Transmittal of information to Congress	76
§ 1218. Annual report	76
§ 1219. Public information	77
SUBCHAPTER III - INDIVIDUAL RIGHT OF ACTION IN CERTAIN REPRISAL CASES	78
§ 1221. Individual right of action in certain reprisal cases	78
§ 1222. Availability of other remedies	80
CHAPTER 13 - SPECIAL AUTHORITY	81
§ 1301. Rules	81
§ 1302. Regulations	81
§ 1303. Investigations; reports	83
§ 1304. Loyalty investigations; reports; revolving fund	84
§ 1305. Administrative law judges	87
§ 1306. Oaths to witnesses	88
§ 1307. Minutes	89
§ 1308. Repealed. Pub. L. 105–362, title XIII, § 1302(b)(1), Nov. 10, 1998, 112 Stat. 3293]	89
CHAPTER 14 - AGENCY CHIEF HUMAN CAPITAL OFFICERS	90
§ 1401. Establishment of agency Chief Human Capital Officers	90
§ 1402. Authority and functions of agency Chief Human Capital Officers	90
CHAPTER 15 - POLITICAL ACTIVITY OF CERTAIN STATE AND LOCAL EMPLOYEES	92

§ 1501. Definitions	92
§ 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions	93
§ 1503. Nonpartisan candidacies permitted	94
§ 1504. Investigations; notice of hearing	95
§ 1505. Hearings; adjudications; notice of determinations	95
§ 1506. Orders; withholding loans or grants; limitations	96
§ 1507. Subpenas and depositions	97
§ 1508. Judicial review	98

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

This title was enacted by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378

Part ...Sec.

I. The Agencies Generally ...101

II. Civil Service Functions and Responsibilities ...1101

III. Employees ...2101

Amendments

1979—Pub. L. 96-54, § 2(a)(1), Aug. 14, 1979, 93 Stat. 381, substituted “Civil Service Functions and Responsibilities” for “The United States Civil Service Commission” in item for part II.

Table Showing Disposition of All Sections of Former Title 5

Title 5 Former Sections	Title 5 New Sections
1, 2	101
3	Rep.
4	3345
5	3346
6	3347
7	3348
8	3349
9	5535
10	2901
11, 12	2902
13-14a, 15	Rep.
16	3331
16a	2903, 2904
17, 17a	Rep.
17b, 17c	2905
18	2903
19	Rep.
20	2904
21	2906
21a	3332
21b	5507
22	301
22-1 (less 3d-5th provisos)	7532
22-1 (3d proviso)	3571, 5594
22-1 (4th and 5th provisos)	7312
22-2	7533
22-3	7531
22a	302
23-26c	Rep.
27	6106
28	6105
29, 29a, 30 to 30b-1, 30c to 30e-1, 30f-30m	Rep.
30n	6322
30n-1	T. 28 § 1823
30o	5537
30p	5515

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Title 5 Former Sections	Title 5 New Sections
30q	6321
30r(a)	6323
30r(b)	3551
30r(c)	502, 5534
30r(d)	2105
31–31b, 32	Rep.
33	7154
34–35a, 36–37a	Rep.
38	3341
39, 40	3342
41	T. 14 § 632
42, 42a	Rep.
43	3101
43a	3102
44	T. 31 § 492–1 (See Rev. T. 31 Table)
45	Rep.
46	3103
46a	5511
46b	5513
46c	T. 31 § 699a (See Rev. T. 31 Table)
46d, 46e	5514
47	3103; T. 18 § 1916
47a	8301; T. 10 § 1221
48	T. 28 § 514
49	3106
50	5501; T. 18 § 1916
51	5536
52	5502
53	3108
54	3107
55	Rep.
55a	3109
56	5503
57–59c	Rep.
60	T. 2 § 162
61	D.C. Code, § 31–1009
61a	5552
61a–1(a), (f)	5534a
61a–1(b)–(e)	Rep.
61b (1st, 2d sentences)	5551
61b (3d–5th sentences)	6306
61b (6th sentence)	5551
61c–61e	Rep.
61f	5582
61g	5581
61h	5583
61i	5581
61j	5582

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
61k	5581
62–64a	Rep.
65	T. 2 § 162
66	T. 18 § 1914
67	T. 7 § 2220
68	T. 8 § 1353c
69	5535, 5536
70	5536
70a, 70b	5945
70c	5942
71	5536
72	5535
73, 73a	Rep.
73b	5731
73b–1(a), (b)	5724
73b–1(c)	5730
73b–1(d)	5725
73b–1(e)	5726
73b–1(f)	5727
73b–2	5703
73b–3(a) (less 3d–6th provisos)	5722
73b–3(a) (3d, 4th provisos)	5728
73b–3(a) (5th, 6th provisos)	5729
73b–3 (less (a))	5723
73b–4	T. 41 § 5a
73b–4a, 73b–4b	5724a
73b–4c	5726
73b–4d	5724
73b–4e	5724a
73b–4f	5724
73b–5	5732
73c	5727
73c–1, 73c–2, 73d	Rep.
73e	5731
73f, 74–75a	Rep.
75a–1	Elim.
75b–75d, 76	Rep.
76a	T. 20 § 244a
77, 77a	Rep.
78, 78a, 78a–1, 79, 80	T. 31 §§ 638a–638e (See Rev. T. 31 Table)
81, 81a	Rep.
82	5512
83	5946
84	5505
84a	T. 4 § 111
84b, 84c	5517
84d	5518
85	5502

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Title 5 Former Sections	Title 5 New Sections
86	Rep.
86a	6104
87–87c	6103
88	T. 31 § 554 (See Rev. T. 31 Table)
89	Rep.
90	T. 28 § 414
91	T. 28 § 520
92	Rep.
92a	2903
93	303
93a	Rep.
94	304
95, 95a	503
96	304
97, 98	Rep.
99, 100	Rep. See T. 18 § 207.
101	501
102	Rep.
103	5741
103a, 103b	5742
104	T. 31 § 492–2 (See Rev. T. 31 Table)
104a, 105	Rep.
105a	2954
106	2952
107	Rep.
108	T. 44 § 121 (See Rev. T. 44 Table)
109	Rep.
110	T. 40 § 484–1 (See Rev. T. 40 Table)
111, 112	Rep.
113	7351
114	7341
114a	7342 note
115, 115a	7341
116	Elim.
116a, 117	Rep.
118	T. 31 § 686–2 (See Rev. T. 31 Table)
118a	5912
118b	T. 31 § 530a (See Rev. T. 31 Table)
118c	5943
118c–1 to 118e	Rep.
118f	5944
118g	7903
118h	5941
118i(a) (1st 4 sentences)	7324
118i(a) (5th sentence)	7327
118i(b) (less last proviso, and less last sentence)	7325
118i(b) (last proviso, last sentence)	Elim.
118i(c)	1308

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscode.html>).

Title 5 Former Sections	Title 5 New Sections
118j, 118j-1	Rep.
118k(a)	1501, 1502
118k(b)	1504, 1505, 1506
118k(c)	1508
118k(d)	1302, 1507
118k(e), (f)	1501
118k-1	1501, 7324
118k-2	1501
118k-3	7324
118l	1501, 7324
118m	7327
118n	1503, 7326
118o	7323
118p	7311
118q	3333
118r	T. 18 § 1918
119-123	Elim.
124-131a, 132-133r	Rep.
133s, 133t	Elim.
133u, 133v	Rep.
133w	Elim.
133x to 133y-16	Rep.
133z	901
133z-1	903
133z-2	904
133z-3	905
133z-4	906
133z-5, 133z-6	902
133z-7, 133z-8	907
133z-9	906
133z-10	908
133z-11 to 133z-15	909-913
134	T. 40 § 721 (See Rev. T. 40 Table)
134a	T. 40 § 722 (See Rev. T. 40 Table)
134b	T. 40 § 723 (See Rev. T. 40 Table)
134b-1	T. 40 § 724 (See Rev. T. 40 Table)
134b-2	T. 40 § 725 (See Rev. T. 40 Table)
134c	T. 40 § 726 (See Rev. T. 40 Table)
134d	T. 40 § 727 (See Rev. T. 40 Table)
134e	T. 40 § 728 (See Rev. T. 40 Table)
134f	T. 40 § 729 (See Rev. T. 40 Table)
134g, 134h	T. 40 § 721 note Rep.
135-138j	Rep.
139-139f	T. 44 §§ 421-427 (See Rev. T. 44 Table)
140, 140a	T. 31 §§ 483a, 483b (See Rev. T. 31 Table)
141-149	Rep.
150	7901
150e-150i	T. 10 § 2575

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Title 5 Former Sections	Title 5 New Sections
150j	T. 10 §§ 4712, 9712
150j-1 to 150j-3	T. 10 §§ 4713, 9713
150k	2105
150k-1(a)	8171
150k-1(b)	8172
150k-1(c)	8173
150m-150o	T. 10 § 2541
150p	T. 10 § 2572
150q-150t	T. 10 § 2601
151	T. 22 § 2651
151a	T. 22 § 2652
151b	T. 22 § 2653
151c	T. 22 § 2658
151d to 152-1	Rep.
152a	T. 22 § 2654
152b	T. 22 § 2655
152c, 152d, 153	Rep.
153a	T. 22 § 2663
154	T. 22 § 2664
154a	Rep.
155	T. 22 § 2665
156	T. 22 § 2656
157	Rep.
158	T. 22 § 2657
159, 160	Rep.
161	T. 22 § 2659
162-164	Rep.
165	T. 22 § 2660
166-168d	Rep.
169	T. 22 § 2661
170	T. 22 § 2668
170a	T. 22 § 2681
170b	T. 22 § 2682
170c	T. 22 § 2683
170d	Rep.
170e	T. 22 § 2666
170e-1	T. 22 § 2667
170f	T. 22 § 2662
170g	T. 22 § 2669
170h	T. 22 § 2670
170i	T. 22 § 2671
170j	T. 22 § 2672
170k	T. 22 § 2673
170l	T. 22 § 2674
170m	T. 22 § 2675
170n	T. 22 § 2676
170o	T. 22 § 2677
170p	T. 22 § 2678

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
170q	T. 22 § 2679
170r, 170s	Rep.
170t	T. 22 § 2680
170u	T. 22 § 2684
171	T. 10 §§ 131, 133
171-1	T. 50 § 408
171-2	T. 50 § 409
171a(a), (b)	T. 10 § 133
171a(c)	T. 10 §§ 125, 136, 141, 3010, 3012, 5011, 5031, 8010, 8012
171a(d)	T. 10 § 133
171a(e)	T. 10 § 132
171a(f)	T. 10 § 133
171a(g)-(i)	Elim.
171a(j)	T. 10 § 124
171a-1	T. 10 § 133
171b	Rep.
171c	T. 10 §§ 134-136, 718, 2358
171c-1, 171c-2, 171d to 171d-2	Rep.
171e	T. 10 § 171
171f	T. 10 §§ 141, 142
171g	T. 10 § 143
171h, 171i	Rep.
171j	T. 10 § 173
171j-1 to 171l	Rep.
171m	T. 50 § 411
171m-1	T. 10 § 2211
171n	T. 50 § 410
171o	Rep.
171p, 171q	T. 10 § 1581
171r	T. 10 § 1582
171s	T. 10 §§ 3230, 5416, 8230
171s-1	T. 31 § 700 (See Rev. T. 31 Table)
171t	T. 10 § 2571
171u	Rep.
171v	T. 10 § 1583
171w	T. 10 § 2385
171x, 171y	Rep.
171y-1	T. 10 §§ 3205, 5417, 8205
171z	T. 10 § 2661
171z-1	T. 10 § 2681
171z-2	T. 31 § 700a (See Rev. T. 31 Table)
171z-3 to 171z-5	T. 10 §§ 2673-2675
172	T. 10 § 136
172a	T. 10 §§ 3014, 5061, 8014
172b, 172c	T. 10 §§ 2203, 2204
172d	T. 10 § 2208
172d-1	T. 10 § 2210
172e	T. 10 § 2209

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
172f	T. 10 § 126
172g, 172h	T. 10 §§ 2205, 2206
172i	T. 10 § 2701
172j	T. 50 § 412
173	T. 10 § 2451
173a	Rep.
173b	T. 10 § 2451
173c–173e	T. 10 §§ 2452–2454
173f–173h	T. 10 § 2455
173i	T. 10 § 2456
174	T. 31 § 650a (See Rev. T. 31 Table)
174a	T. 37 § 412
174b	T. 10 § 2666
174c	Elim.
174d	T. 10 § 2207
174e	T. 10 § 2387
174f	Elim.
174g	T. 31 § 638f (See Rev. T. 31 Table)
174h	Elim.
174i	T. 31 § 700b (See Rev. T. 31 Table)
181	T. 10 § 3012
181–1(a)	T. 10 § 3012
181–1(b)	Elim.
181–1(c)	T. 10 § 101(5); T. 50 § 409(a)
181–1(d)	T. 10 § 3011
181–1(e)	T. 10 § 3062
181–2	T. 10 § 3012
181–3	T. 10 § 3001
181–4	T. 10 §§ 3012, 4532
181–5	T. 10 §§ 3013, 3017
181a, 182, 182a, 183, 184	Rep.
185–187	T. 10 § 3016
187a, 188, 189	Rep.
189a	T. 10 §§ 4025, 9025
189b	Rep.
189c	T. 10 § 2632
189d	Rep.
190	T. 10 § 3012
191	T. 10 § 4831
191a	T. 10 § 1552
192, 192a, 193–194a, 195–197	Rep.
198	T. 10 § 4714
199	T. 10 §§ 3693, 8693
200	T. 10 § 1551
201	Rep.
202	T. 10 §§ 4565, 9565
203–207i, 208–213	Rep.
214	Elim.

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
215–216a, 217	Rep.
218	T. 10 § 2381
219–219b, 220	Rep.
221	T. 10 §§ 4540, 9540
222	T. 31 § 649a (See Rev. T. 31 Table)
223	Rep.
224	T. 22 § 276aa
225	T. 22 § 276bb
226	T. 22 § 276cc
227	T. 22 § 276dd
228	T. 22 § 276ee
229–232	Rep.
233–233c	(See former 150q–150t)
234–234f	Rep.
235	T. 10 § 4531
235a	T. 10 § 4503
235b	T. 10 § 174
235c	T. 10 § 1584
235d	T. 10 § 2352
235e	T. 10 §§ 2353, 2357
235f, 235g	T. 10 §§ 2354, 2355
235h	T. 10 §§ 174, 2356
241–245	T. 31 §§ 1001–1005 (See Rev. T. 31 Table)
245a	Rep. and Elim.
246	T. 31 § 1006 (See Rev. T. 31 Table)
246a	Rep.
247–248a	T. 31 §§ 1007–1009 (See Rev. T. 31 Table)
248b	Rep.
248c–248e	T. 31 §§ 1010, 1011, 1013 (See Rev. T. 31 Table)
249, 249a	Rep.
249b, 250	T. 31 §§ 1014, 1015 (See Rev. T. 31 Table)
251	Rep.
252–258a, 259–265	T. 31 §§ 1016–1030 (See Rev. T. 31 Table)
266–269	Rep.
270, 271	Elim.
272–274	Rep.
275	T. 10 § 1552
276	Rep.
277	T. 31 § 1031 (See Rev. T. 31 Table)
281	T. 19 § 2071
281a	T. 19 § 2072
281b	T. 19 § 2073
281c	T. 21 § 163
281d, 281e	Rep.
281f	T. 19 § 2072
281g	T. 19 § 2074
282	T. 21 § 161
282a	T. 21 § 162

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
282b	T. 21 § 164
282c	T. 21 § 165
291	T. 28 §§ 501, 503
292	T. 28 § 502
293	T. 28 § 505
293a	Rep.
294	T. 28 § 504
295, 295-1	T. 28 § 506
295a	Rep.
295b	Rep. and Elim.
296	Rep.
297	Rep. and Elim.
297a	Rep.
298	T. 28 § 543
298a	5108
299	T. 28 § 533
300	T. 28 §§ 533, 534
300a	T. 18 §§ 3052, 3107
300b	T. 31 § 224b (See Rev. T. 31 Table)
300c, 300c-1	Rep.
300d	T. 28 § 536
300e-302	Rep.
303, 304	T. 28 §§ 511, 512
305	T. 28 § 521; T. 44 § 296a (See Rev. T. 44 Table)
306	T. 28 § 516
306a	Rep.
307	T. 28 § 513
308	Rep.
309	T. 28 § 518
310	T. 28 § 515
311	Rep.
311a	T. 28 § 535
312	T. 28 §§ 543, 547, 548
313	T. 28 § 514
314	3106
315	T. 28 § 515
316	T. 28 § 517
317	T. 28 §§ 547, 569
318	T. 28 §§ 549, 569
319	T. 28 § 523
320, 321	Rep.
322	T. 31 § 1010 (See Rev. T. 31 Table)
323, 324	T. 28 § 547
325	T. 31 § 1012 (See Rev. T. 31 Table)
326	T. 31 § 1011 (See Rev. T. 31 Table)
327	T. 28 § 547
328	T. 31 § 1013 (See Rev. T. 31 Table)
329	T. 28 §§ 547, 569

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
330, 331	T. 28 § 547
332	Rep. See Fed. Rules Civ. Proc. rule 2.
333	T. 28 § 522
334–339	Rep.
340	T. 28 § 534
341	T. 28 § 524
341a	T. 28 § 568
341b	T. 28 § 526
341c	T. 28 §§ 536, 537
341d	T. 8 § 1555
341e	T. 28 § 525
341f	T. 18 § 4010
341g	T. 18 § 4011
341h	T. 42 § 250a
342	T. 8 § 1551
342a	Elim.
342b	T. 8 § 1552
342b–1	T. 8 § 1553
342c	T. 8 § 1353a
342d	T. 8 § 1353b
342e	T. 8 § 1353d
342f	Rep.
342g	T. 8 § 1554
342h–342k	Elim.
342l	T. 8 § 1557
361	Rep. See T. 39 §§ 201, 203.
362	Rep. See T. 39 § 207.
363, 363a, 364	Rep. See T. 39 § 204.
364–1(a)	Rep. See T. 39 §§ 204, 401.
364–1(b), 364a, 364b	Rep.
365	Rep. See T. 39 § 1011.
366	Rep. See T. 39 § 401.
367	Rep. See T. 39 § 2201.
368	Rep.
369	Rep. See T. 39 §§ 202, 401, 403, 404.
370	Rep. See T. 39 §§ 1001, 1006.
371	Rep.
372, 373	Rep. See T. 39 § 407.
374	Rep. See T. 39 § 2202.
375	Rep. See T. 39 § 407.
376	Rep.
377	Rep. See T. 39 § 401.
378–382	Rep.
383, 384	Rep. See T. 39 § 2601.
385–388	Rep.
389	Rep. See T. 39 § 5213.
390, 391	Rep.
392	Rep. See T. 39 § 2603.

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
393	Rep. See T. 39 § 401.
411	T. 10 § 5031
411a(a)	T. 10 § 101(5); T. 50 § 409(b)
411a(b)	T. 10 § 5012
411a(c)	T. 10 §§ 5013, 5402
411b, 412	T. 10 § 5031
412a	T. 10 §§ 6952, 7202–7211, 7214, 7215, 7218, 7301, 7472, 7478, 7571, 7572, 7576, 7578, 7579
412b	T. 10 § 2381
413	T. 10 § 5031
414, 415, 415a	Rep.
415b	T. 10 § 7473
415c	T. 10 § 7472
415d	T. 10 § 2632
415e, 416, 417	Rep.
418	T. 10 § 7216
419	T. 10 § 7221
419a	T. 10 § 7220
419b	T. 10 § 7222
419c	T. 10 § 7202
420, 420a, 421	T. 10 § 5034
421a	Rep.
421a–1	T. 10 §§ 5034, 5036
421b	T. 10 §§ 5033, 5036
421c	T. 10 § 7211
421d	T. 10 § 7204
421e	T. 10 §§ 7203, 7205
421f	T. 10 §§ 7207–7209
421g	T. 10 §§ 6081, 7204, 7205, 7211, 7214, 7218, 7571, 7572, 7576, 7579
422, 422a, 423	Rep.
423a	T. 10 §§ 5081, 5082, 5111
423b	T. 10 § 5081
423c–423f	T. 10 §§ 5085–5088
423g, 423h	T. 10 §§ 5111, 5112
423i	T. 10 § 5082
423j	T. 10 § 5036
423k	T. 10 §§ 5085, 5086, 5088, 5111
424	T. 10 § 5081
425	Rep.
425a	T. 10 §§ 5083, 5133, 5148, 5201
426, 426a	Rep.
427	T. 10 § 5081
427a	T. 10 § 5084
428	T. 10 § 5148
429	T. 10 §§ 5131, 5132
430	T. 10 § 5132
430a	T. 10 § 7303

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

Title 5 Former Sections	Title 5 New Sections
430b	T. 10 § 5132
431	T. 10 § 5132
432	T. 10 §§ 5137, 5141, 5146, 5147
432a	T. 10 § 5135
433	T. 10 § 5147
434	T. 10 §§ 5141, 5144
435	T. 10 § 5145
436	Rep.
437	T. 10 § 5146
438	T. 10 § 5137
439	T. 10 §§ 5133, 5136
440	T. 10 §§ 5137, 5146
441	T. 10 §§ 5133, 5148
441a	T. 10 § 5133
442, 443	Rep.
444	T. 10 § 5149
445	T. 10 §§ 5135, 5147
446	T. 10 §§ 5135, 5141
447	T. 10 §§ 5135, 5144
448	T. 10 § 5145
448a	T. 10 § 5135
448b	T. 10 § 5145
449	T. 10 §§ 5135, 5146
450	Rep.
451	T. 10 § 5137
452	T. 10 §§ 5134–5136
453	T. 10 § 5149
454	Rep.
455	T. 10 § 5132
456	Rep.
456a	T. 10 § 1552
456b, 456c	T. 10 § 5138
456d	T. 10 § 6029
457	T. 10 § 7391
457a, 457b	Rep.
458	T. 10 §§ 7392, 7394
458a	T. 10 § 7393
459	T. 10 § 7394
460, 460a	Rep.
461	T. 10 § 7395
462	Rep.
463	T. 10 § 7395
464	T. 10 § 7396
465	Rep.
466	T. 10 § 7217
467, 468, 468a, 469, 470	Rep.
471	T. 10 §§ 5063, 5064
475	T. 10 §§ 5150, 5151

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
475a, 475b	T. 10 § 5150
475c	T. 10 § 5153
475d	T. 10 §§ 5151, 5152
475e	T. 10 § 7522
475f	Rep.
475g	T. 10 § 174
475h	T. 10 § 1584
475i	T. 10 § 2352
475j	T. 10 §§ 2353, 2357
475k, 475l	T. 10 §§ 2354, 2355
475m	T. 10 §§ 174, 2356
476, 476a, 476b	T. 10 §§ 1581, 1582
477–477c	(See former 150q–150t)
481	T. 43 § 1451
481a	T. 43 § 1452
482	T. 43 § 1453
482a	Rep.
483	T. 43 § 1454
483–1	Rep. and Elim.
483–2	Rep.
483a	T. 43 § 1455
484	T. 43 § 1456
485	T. 43 § 1457
486	T. 43 § 1458
487	T. 43 § 1459
488	T. 43 § 1460
489	T. 43 § 1461
490	Rep. See T. 28 § 1733.
491	T. 43 § 1462
492	T. 43 § 1463
493	T. 43 § 1464
494	Rep.
495	T. 43 § 1465
496, 496a, 497	Rep.
498	T. 43 § 1466
499, 500	Rep.
501	Elim.
502	T. 43 § 1467
503	T. 43 § 1468
511	T. 7 § 2201
512	T. 7 § 2202
513	T. 7 § 2203
514	T. 7 § 2204
514a	T. 7 § 2210
514b	T. 7 § 2211
514c	Rep.
514d (1st, 3d pars.)	Rep.
514d (2d par.)	3101

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Title 5 Former Sections	Title 5 New Sections
515	T. 7 § 2205
516	T. 7 § 2206
516a	T. 7 § 450c
516b (less 3d sentence)	T. 7 § 450d
516b (3d sentence)	5109
516c	T. 7 § 450e
516d	T. 7 § 450f
516e	T. 7 § 450g
517	T. 7 § 2212
517a	Rep.
517b	T. 7 § 2213
517c	Rep.
518	Elim.
518a	T. 7 § 2214
519	T. 7 § 2215
520	T. 7 § 2216
520a	T. 7 § 2232
521	T. 7 § 2217
522	T. 7 § 2218
523–527	Rep.
528	T. 7 § 2219
529	Rep.
530	T. 7 § 2221
531	T. 7 § 2222
532	T. 7 § 2223
533	T. 7 § 2224
534–537	Rep.
538	T. 7 § 2227
539–541b	Rep.
541c	T. 7 § 2233
541d	T. 7 § 2228
541e	T. 7 § 2229
542	T. 7 § 2234
542–1	T. 7 § 2235
542–2	T. 7 § 2236
542a	T. 7 § 2237
542b	T. 7 § 2238
542c	T. 7 § 2239
543	T. 7 § 2240
543a	T. 7 § 2230
543b	T. 7 § 2231
544–548	Rep.
549	T. 7 § 2241
550	Rep.
551	T. 7 § 2242
552	T. 7 § 2243
552a	T. 7 § 2244
553	T. 7 § 2245

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
554	T. 7 § 2246
555	T. 7 § 2247
556, 556a	Rep.
556b	T. 7 § 2248
557	T. 7 § 2207
557a	T. 7 § 2208
558	T. 7 § 2209
558a, 559–562	Rep.
563	T. 7 § 450b
564	T. 7 § 2220
564a	T. 7 § 2249
565	Rep.
565a	T. 7 § 2250
565b	T. 7 § 2250a
566	T. 7 § 2251
567	T. 7 § 2253
568	Rep.
568a	T. 7 § 2254
568b	Rep.
569	T. 7 § 2252
570	T. 7 § 2255
571	T. 7 § 2256
572	T. 7 § 2257
573	T. 7 § 2258
574	T. 7 § 2225
574a	T. 7 § 2226
575	T. 7 § 2259
576	T. 7 § 2260
577	T. 7 § 2261
578	T. 7 § 2262
579	T. 7 § 2263
591	T. 15 § 1501
591a	T. 15 § 1502
591b	T. 15 § 1503
592	T. 15 § 1504
592a	T. 15 § 1505
592a–1, 592a–2	Rep.
592a–3	T. 15 § 1506
592a–4	T. 15 § 1507
592b	T. 15 § 1508
592c, 592d, 593	Rep.
593a	T. 15 § 1509
594	T. 15 § 1510
595	Rep.
596	T. 15 § 1512
596a	T. 15 § 1514
597	T. 15 § 1511
597a, 597a–1, 597b–597d	Rep.

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

Title 5 Former Sections	Title 5 New Sections
598	T. 15 § 1515
599	T. 15 § 1513
600–600b	Rep.
601	T. 15 § 1516
601a–601d	T. 15 §§ 189, 189a, 192, 192a
602	T. 15 § 1517
603	T. 15 § 1518
604	T. 15 § 1519
605	Rep.
606	T. 15 § 1520
606a	Rep.
607	T. 15 § 1521
608	Rep.
608a	T. 15 § 1522
608b	T. 15 § 1523
608c	T. 15 § 1524
611	T. 29 § 551
611a	T. 29 § 552
611b	T. 29 § 553
611c	Rep. and Elim.
612, 613	Rep.
613a	T. 29 § 554
613b	T. 29 § 555
614	Rep.
615	T. 29 § 556
616	T. 29 § 557
617	T. 29 § 558
618	T. 29 § 559
619	Rep.
620	T. 29 § 560
621	T. 29 § 561
622	T. 29 § 562
622a	T. 29 § 563
623	T. 42 § 3501
623a	T. 42 § 3508
623b	T. 42 § 3503
623c	T. 42 § 3504
623d	T. 42 § 3505
623e	T. 42 § 3507
623f	T. 42 § 3506
623g	T. 42 § 3502
623h	T. 42 § 3501a
623i	Elim.
624	T. 42 § 3531
624a	T. 42 § 3532
624b	T. 42 § 3533
624c	T. 42 § 3534
624d	T. 42 § 3535

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscode.html>).

Title 5 Former Sections	Title 5 New Sections
624e	T. 42 § 3536
624f	T. 42 § 3537
626(a)	T. 10 § 8012
626(b)	Rep.
626(c)	T. 10 § 101(5); T. 50 § 409(c)
626(d)	T. 10 § 8013
626(e)	T. 10 § 8012
626(f)	T. 10 § 8033
626(g)	T. 10 § 8011
626-1	T. 10 § 8013, 8017
626-2	T. 10 §§ 8012, 9532
626a	T. 10 § 8012
626b	T. 10 § 8013
626c(a), (f)	T. 10 § 8062
626c(b)	T. 10 § 743
626c(c)-(e), 626c-1 to 626c-3, 626d, 626e	Rep.
626f	(See former 150p)
626g-626j	(See former 150q-150t)
626k	Rep.
626l, 626m	T. 10 § 9441
626n	T. 10 § 2632
626o	Rep.
626p	T. 10 § 9774
626q, 626r	T. 10 § 9301
626s to 626s-2	T. 10 § 2481
626s-3	T. 10 § 2667
626s-4, 626s-5	Rep.
626s-6	T. 10 § 2667
626t, 626u	T. 10 § 1581
626v-626y, 627	Rep.
627a	T. 10 §§ 8208, 8215
627b	T. 10 §§ 8071, 8208, 8297, 8299, 8305, 8504, 8685, 8888, 8915, 8916, 8927, 8962, 8991
627c	Rep.
627d	T. 10 § 8256
627e	T. 10 § 8685
627f	T. 10 §§ 8549, 8580, 8818
627g-627l	Rep.
628	T. 10 § 9531
628a	T. 10 § 9503
628b	T. 10 § 174
628c	T. 10 § 1584
628d	T. 10 § 2352
628e	T. 10 §§ 2353, 2357
628f, 628g	T. 10 §§ 2354, 2355
628h	T. 10 §§ 174, 2356
630	T. 40 § 751 (See Rev. T. 40 Table)
630a	T. 40 § 752 (See Rev. T. 40 Table)

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Title 5 Former Sections	Title 5 New Sections
630b	T. 40 § 753 (See Rev. T. 40 Table)
630c	Rep.
630d	T. 40 § 754 (See Rev. T. 40 Table)
630e	T. 40 § 755 Rep.
630f	Rep.
630g	T. 40 § 756 (See Rev. T. 40 Table)
630g-1	T. 40 § 757 (See Rev. T. 40 Table)
630g-2	T. 40 § 759 Rep.
630h	T. 40 § 758 (See Rev. T. 40 Table)
630i	Elim.
630j	Rep.
631	3301, 7301
631a, 631b(a)	Elim.
631b(b), (c)	3304
632 (1st par.)	1101
632 (2d-4th pars.)	1102
632 (5th par.)	1103
633(1)	1301, 3302
633(2)1	3304
633(2)2	3318
633(2)3	3306
633(2)4	3321
633(2)5	7321
633(2)6	7152, 7322
633(2)7	1302, 3304
633(2)8	2951, 3302
633(2)9	7153
633(3)	1302, 1307
633(4)	1303
633(5)	1308
633a-633e	Rep.
634	1306
635 (1st 5 sentences)	1104, 1105
635 (6th sentence)	1105, 3305
635 (7th sentence)	3304
636	Rep.
637	T. 18 § 1917
638	2102, 3304, 3361
638a	Rep.
638b	3307, 3322
639	Rep.
640	7352
641	3319
642	3303
642a	2953
643-645b	Rep.
645c-645e	Elim.
646-651b	Rep.

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
652(a)	7501
652(b)	5591–5593
652(c)	7101
652(d)	7102
652a–652c	5596
653, 654	Rep.
655–657	1304
658	Elim.
659	3327
661–663b, 664–669a, 670–672c, 673–673b	Rep.
673c (1st par., less provisos)	Rep.
673c (1st proviso)	6102
673c (2d, 3d provisos)	5544
673c (2d par.), 674–678b	Rep.
679	Elim.
680–684, 691, 691a, 692–692d, 693 to 693–2, 693a–693d, 694, 649a, 695, 695a, 696, 696a, 697, 697a, 698–698b, 699, 699a, 700, 700a, 701, 701a, 702, 702a, 703, 703a, 704, 704a, 705, 705a, 706, 706a, 707, 707a, 708, 708a, 709–615	Rep.
715a	3323
715b–715d, 716–718a, 719, 719–1, 719a, 719b, 720–729a, 730–736c, 737–739b, 740, 740a	Rep.
740b–740i	(See former 2281–2288)
745–745r	Rep.
751	8102
752	8117
753	8105
754	8106
755(a), (b)	8107
755(c)	8108
755(d)	8109
756(a)	8110
756(b)	8111
756(c)	8112
756(d)	8113
756a	Rep.
757	8116
758	8118
759(a)	8103
759(b)	8104
759(c)	3315a
760(A)	8133
760(B)	8101, 8133
760(C)–(G)	8133
760(H)	8101
760(I)–(K)	8133
760(L)	T. 18 § 1921

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
760(M)	8101
761	8134
762	8114
763	8115
764	8135
765–767	8119
768, 769	8121
770	8122
771, 772, 773(a)	8123
773(b)	8127; T. 18 § 292
773(c)	8125
774(a)	8120
774(b)	T. 18 § 1922
775	8130
776	8131
777	8132
778	8145
779	8120
780	8126
781	8145
782	Rep.
783	8145, 8149
784(a)	8148
784(b), (c)	7902
785	8147
786	8124
787	8128
788	8129
789	T. 18 § 1920
790	8101
791	8131
791–1 to 791–3, 791–4(a)	Rep.
791–4(b)	8150
791a	Rep.
791b	Elim.
792	Rep.
793 (1st par.)	8146
793 (2d par., 1st sentence)	8146
793 (2d par., 2d sentence)	8138
793 (2d par., 3d, 4th sentences)	8146
793 (3d par.)	8146
793 (4th par., 1st sentence)	8138
793 (4th par., 2d sentence)	8136
793 (5th par., 1st through 6th sentences)	8137
793 (5th par., 7th sentence)	8128
793 (5th par., 8th sentence)	8137
793a(a), (b)	8146a
793a(c)	8101

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

Title 5 Former Sections	Title 5 New Sections
794	8101, 8139
795–797a, 798–801	Rep.
802	8140
803(a)–(c)	8141
803(d)	Rep.
803a	8150
821–823	Rep.
823a	(See former 73c)
824–834	Rep.
835	5701
836	5702
837	5704
838	5705
839	5706
840	5707
841, 842	5708
851	1302, 2108
852 (1st 2 sentences)	3309, 3310
852 (less 1st 2 sentences)	Elim.
853	3311
854	3308, 3312, 3351, 3363, 3504
855	3306, 3319
856	3313
857	3317, 3318, 3364
858	3320
859	3305
860	1302
861	3501–3503
862	3316
863	3315, 7512, 7701
864	3315, 3318
865	3314
866, 867	Rep.
868	1302, 7701
869	3320
901(a)	5541
901(b)	Rep.
901(c)	T. 2 § 60e–2. Rep. in part.
901(d), (e)	5541
902	5541; T. 2 § 60e–2
911	5542
912	5543
912a, 912b	5542
913	5544
914	5506
921	5545
921a	5546
922	5546

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
926	5545
931	T. 2 § 60e-3
932	T. 2 § 60e-4
932a	T. 2 § 60e-5
932b	T. 2 § 60e-6
932c(a)-(c)	T. 2 § 60e-7
932c(d)	8331
932d(a)-(c)	T. 2 § 60e-8
932d(d)	8331
932d(e)	Rep.
932d(f)	T. 2 § 60e-8
932e(a)-(e)	T. 2 § 60e-9
932e(f)	8331
932f(a)-(d)	T. 2 § 60e-10
932f(e)	8331
932f(f)	T. 2 § 60e-10
932f(g)	Rep.
932g(a)-(c)	T. 2 § 60e-11
932g(d)	8331
932g(e)	T. 2 § 60e-11
932h(a), (b)	T. 2 § 60e-12
932h(c)	8331
932h(d)	T. 2 § 60e-12
932i(a), (b)	T. 2 § 60e-13
932i(c)	8331
932i(d), (e)	T. 2 § 60e-13
933	5544; T. 2 § 60e-2b
933a	T. 31 § 46a (See Rev. T. 31 Table)
934, 935	Rep.
941	5549
942-942b	Rep.
943	5547
943a	Rep.
944(a)	6101
944(b), (c)	5504
944(d)	5504, 6101
945	5504, 5548, 6101
946	5342
947-954	Rep.
955	T. 2 § 60e-4a
956-958	Rep.
1001	551
1002	552
1003	553
1004	554
1005	555
1006	556
1007	557

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
1008	558
1009	701–706
1010 (1st sentence)	3105
1010 (2d sentence)	7521
1010 (3d sentence)	4301, 5335, 5362
1010 (4th sentence)	3344
1010 (5th sentence)	1305
1011	559
1012–1014	500
1031–1040	T. 28 §§ 2341–2350
1041	T. 28 § 2352
1042	T. 28 § 2351
1045(a)–(d)	Elim.
1045(e)	571
1045a	572
1045b	573
1045c	574
1045d	575
1045e	576
1051	5352, 5353
1052	5351
1053	8144
1054	8331, 8332
1055	5354
1056	Rep.
1057	5355
1058	5356
1071	5101
1072, 1072a	5115
1073	Rep.
1074	7154
1075	Rep.
1076	Elim.
1081	5102
1082	5102, 5341, 5342
1083	5103
1084(a)	T. 2 § 60e–2a
1084(b), (c)	5102, 5103
1085	305
1091	5102
1092, 1093	5106
1094	5105
1101	5112
1102	5107, 5110
1103	5110
1104	5111
1105(a)–(l)	3324, 5108
1105(m)	Rep.

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
1105a	5114
1105b	Elim.
1106	5113
1107	5337
1111, 1112	5104
1113	5332
1114–1116	Rep.
1117	5595
1121	5335
1122	5336
1123	5335, 5336
1124, 1125	Rep.
1131	5333
1132	5334
1133	5333
1134	5545
1141, 1142	Rep.
1151	305
1152, 1153	Rep.
1161	3104, 3325, 5361
1162(a)	3325
1162(b)	5361
1162(c)	3104
1163	3104
1171	5301
1172	5302
1173	5303
1174	5304
1181	5343
1182(a)	5344, 5581
1182(b)	8331
1182(c)	5344
1183	8704
1184	Rep.
2001	4301
2002	4302
2003	4307
2004	4303
2005	4304
2006	4305
2007(a)	4308
2007(b)–(d)	4306
2061	5508, 6301, 6305
2061a	5551, 6302
2062(a), (b)	6303
2062(c), (d)	6304
2062(e)	6303
2062(f)	6305

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
2062(g)	6310
2062(h)	6302
2062(i)	6303
2062a, 2062b	Rep.
2063	6307
2064(a)–(c)	6302
2064(d)	6309
2064(e)	6308
2065	6311
2066(a)	6304
2066(b)–(d)	Rep.
2067	6301
2068–2070	Rep.
2071	6324
2091(a)	8701, 8716
2091(b)	8701
2091(c)	8706
2091(d)	8701, 8716
2092(a)–(c)	8704
2092(d)	Rep.
2093	8705
2094(a) (1st par.)	8707
2094(a) (2d par.)	8702
2094(b)	8708
2094(c), (d)	8714. Elim. in part.
2095	8706
2096	8709, 8710
2097	8711, 8712
2098	8703
2099	Elim.
2100	8716. Elim. in part.
2101	8713. Elim. in part.
2102	1308. Elim. in part.
2103	8715. Elim. in part.
2121	1308, 4506
2122	4501
2123(a)	4503
2123(b)	4504
2123(c)	4505
2123(d), (e)	4502
2123(f)	3362
2123(g)	4502
2131	5901
2132	5901, 8331
2133	5901
2134	5902
2151	T. 10 § 1481
2152, 2153	T. 10 §§ 1481, 1482

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
2154	T. 10 § 1481
2155–2160	T. 10 §§ 1483–1488
2161, 2162	T. 10 § 1482
2163	Rep.
2171	T. 42 § 1973cc–1
2172	T. 42 § 1973cc–2
2173	T. 42 § 1973cc–3
2181	T. 42 § 1973cc–11
2182	T. 42 § 1973cc–12
2183	T. 42 § 1973cc–13
2184	T. 42 § 1973cc–14
2185	T. 42 § 1973cc–15
2191	T. 42 § 1973cc–21
2192	T. 42 § 1973cc–22
2193	T. 42 § 1973cc–23
2194	T. 42 § 1973cc–24
2195	T. 42 § 1973cc–25
2196	T. 42 § 1973cc–26
2201–2209	Rep.
2210	5311
2211(a)	5312
2211(b)(1)–(14)	5313
2211(b)(15) (less proviso)	Elim.
2211(b)(15) (proviso)	5314
2211(b)(16)–(19)	5313
2211(c)(1)–(38)	5314
2211(c)(39) (less proviso)	Elim.
2211(c)(39) (proviso)	5315
2211(c)(40)–(45)	5314
2211(c)(46) (less proviso)	Elim.
2211(c)(46) (proviso)	5315
2211(c)(47)	5314
2211(d)	5315
2211(e)	5316
2211(f)	5317
2211(g)	5315, 5316
2212	5363
2213	5364
2251(a)–(g)	8331
2251(h)–(j)	8341
2251(k)–(t)	8331
2252(a)–(d)	8331
2252(e)	8347
2252(f)	8331, 8347
2252(g)	8331, 8332
2252(h)	8331, 8332, 8347
2253(a)–(e)	8332
2253(f), (g)	8333

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
2253(h)–(j)	8332
2254	8334
2255	8335
2256(a)–(e)	8336
2256(f)	8333, 8336
2257	8337
2258	8338
2259	8339
2260	8341
2261	8342
2262	8343
2263(a)	3323
2263(b), (c)	8344
2264	8345
2265	8346
2266(a)–(e)	8347
2266(f)	1308
2266(g)	8347
2267	8348
2268	8340
2281	8311
2282	8312
2283(a)	8314
2283(b), (c)	8315
2283a	8313
2284(a), (b)	8316
2284(c), (d)	8317
2284a(a)	8317
2284a(b)	8316
2285(a), (b)	8318
2285(c)	8320
2286	8321
2287	8319
2288	8322
2301(1)–(3)	Elim.
2301(4)	4117
2302	4101
2303	4102
2304	4113
2305	4118
2306	4103
2307	4104
2308	4105
2309	4109
2310	4108
2311	4106
2312, 2313	4107
2314	4114

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Title 5 Former Sections	Title 5 New Sections
2315	4115
2316	4116
2317(a)	4113
2317(b), (c)	1308
2318(a)	4111
2318(b)	4110
2318(c)	4111
2318(d)	4107
2318(e)	4117
2319	4112
2331	3343, 3581
2332	3343
2333	3582, 3583
2334	3584
2351–2356	T. 20 §§ 901–906
2357	5334
2358(a)	5541, 6301
2358(b)	T. 20 § 907
2358(c)	8331, 8701
2371–2379	T. 42 § 4271–4279
3001	8901
3002(a)–(f)	8901, 8905, 8913
3002(g)	Rep.
3003	8903
3004	8904
3005	8902
3006	8906
3007	8909
3008(a)	Rep.
3008(b)	8909
3009(a), (b)	8913
3009(c)	8908
3009(d)	8907
3010	8910
3011	1308
3012	8911
3013(a)	1104, 5109
3013(b)	Rep.
3014	8912
3031	Elim.
3032	5921
3033–3035	5922
3036	5923
3037	5924
3038	5925
3039	5913
3051–3060	Elim.
3071	5521

TITLE 5 GOVERNMENT ORGANIZATION AND EMPLOYEES

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Title 5 Former Sections	Title 5 New Sections
3072	5522
3073	5523
3074	5524
3075	5525
3076	5527
3077	Rep.
3078	5526
3101	3326, 3501, 5531, 6303. Elim. in part.
3102(a)–(e)	5532
3102(f)–(h)	Elim.
3103	3326
3104	Elim.
3105(a)–(d)	5533
3105(e)	Elim.
3105(f)	5533
3121–3127	5911

Enacting Clause

Section 1 of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 378, provided in part: “That the laws relating to the organization of the Government of the United States and to its civilian officers and employees, generally, are revised, codified, and enacted as title 5 of the United States Code, entitled ‘Government Organization and Employees’, and may be cited as ‘5 U.S.C., § ’.”

Legislative Purpose: Inconsistent Provisions

Section 7(a) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, provided that: “The legislative purpose in enacting sections 1–6 of this Act is to restate, without substantive change, the laws replaced by those sections on the effective date of this Act [Sept. 6, 1966]. Laws effective after June 30, 1965, that are inconsistent with this Act are considered as superseding it to the extent of the inconsistency.”

References to Other Laws

Section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, provided that: “A reference to a law replaced by sections 1–6 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.”

Outstanding Orders, Rules and Regulations

Section 7(c) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, provided that: “An order, rule, or regulation in effect under a law replaced by sections 1–6 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.”

Savings Provision

Section 7(d) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, provided that: “An action taken or an offense committed under a law replaced by sections 1–6 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.”

Legislative Construction

Section 7(e) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, provided that: “An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.”

Pay, Allowances, Compensation, or Annuity

Section 7(f) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, provided that: “The enactment of this Act does not increase or decrease the pay, allowances, compensation, or annuity of any person.”

Separability

Section 7(g) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, provided that: “If a provision enacted by this Act is held invalid, all valid provisions that are separable from the invalid provision remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications.”

Applicability to Commissioned Officers of Public Health Service and Coast and Geodetic Survey

Section 7(h) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 632, provided that: “Sections 1–6 of this Act shall be construed to apply to commissioned officers of the Public Health Service and commissioned officers of the Coast and Geodetic Survey [now the National Oceanic and Atmospheric Administration] to the same extent that the laws replaced by those sections applied to these officers immediately before the date of enactment of this Act [Sept. 6, 1966].”

Repeals

Section 8(a) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 632, repealed the sections or parts thereof of the Revised Statutes or Statutes at Large codified in this title, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun, before Sept. 6, 1966, and except as provided by section 7 of Pub. L. 89–554.

Section 8(c) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 632, provided that: “The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.”

Continuation of Right to Deferred Annuity

Section 8(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 632, provided that: “The right to a deferred annuity on satisfaction of the conditions attached thereto is continued notwithstanding the repeal of the law conferring the right.”

Improvement of United States Code by Pub. L. 90–83; Legislative Purpose; Inconsistent Provisions; Corresponding Provisions; Savings and Separability of Provisions

Section 9 (a)–(g) of Pub. L. 90–83, Sept. 11, 1967, 81 Stat. 222, provided that:

“(a) The legislative purpose in enacting sections 1–8 of this Act is to restate, without substantive change, the laws replaced by those sections on the effective date of this Act. Laws effective after February 21, 1967, that are inconsistent with this Act are considered as superseding it to the extent of the inconsistency.

“(b) A reference to a law replaced by sections 1–8 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

“(c) An order, rule, or regulation in effect under a law replaced by sections 1–8 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

“(d) An action taken or an offense committed under a law replaced by sections 1–8 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

“(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

“(f) The enactment of this Act does not increase or decrease the pay, allowances, compensation, or annuity of any person.

“(g) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications.”

TITLE 5 - PART II - CHAPTER 11 OFFICE OF PERSONNEL MANAGEMENT

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

PART II—CIVIL SERVICE FUNCTIONS AND RESPONSIBILITIES

Chap. ...Sec.

- 11. Office of Personnel Management ...1101
- 12. Merit Systems Protection Board, Office of Special Counsel, and Employee Right of Action ...1201
- 13. Special Authority ...1301
- 14. Agency Chief Human Capital Officers ...1401
- 15. Political Activity of Certain State and Local Employees ...1501

Amendments

2002—Pub. L. 107–296, title XIII, § 1302(b), Nov. 25, 2002, 116 Stat. 2288, added item for chapter 14.

1992—Pub. L. 102–378, § 2(1), Oct. 2, 1992, 106 Stat. 1346, substituted “Employee” for “Individual” in item for chapter 12.

1989—Pub. L. 101–12, § 3(b)(1), Apr. 10, 1989, 103 Stat. 31, substituted “, Office of Special Counsel, and Individual Right of Action” for “and Special Counsel” in item for chapter 12.

1978—Pub. L. 95–454, title II, § 201(c)(1), Oct. 13, 1978, 92 Stat. 1121, substituted “CIVIL SERVICE FUNCTIONS AND RESPONSIBILITIES” for “THE UNITED STATES CIVIL SERVICE COMMISSION” in heading for Part II.

Pub. L. 95–454, title II, § 201(c)(2), Oct. 13, 1978, 92 Stat. 1121, substituted “Office of Personnel Management” for “Organization” in item for chapter 11.

Pub. L. 95–454, title II, § 202(d), Oct. 13, 1978, 92 Stat. 1131, added item for chapter 12.

CHAPTER 11—OFFICE OF PERSONNEL MANAGEMENT

Sec.

- 1101. Office of Personnel Management.
- 1102. Director; Deputy Director; Associate Directors.
- 1103. Functions of the Director.
- 1104. Delegation of authority for personnel management.
- 1105. Administrative procedure.

Amendments

1978—Pub. L. 95–454, title II, § 201(a), Oct. 13, 1978, 92 Stat. 1119, substituted in chapter heading “OFFICE OF PERSONNEL MANAGEMENT” for “ORGANIZATION”, in item 1101 “Office of Personnel Management” for “Appointment of Commissioners”, in item 1102 “Director; Deputy Director; Associate Directors” for “Term of office; filling vacancies; removal”, in item 1103 “Functions of the Director” for “Chairman; Vice Chairman; Executive Director”, in item 1104 “Delegation of authority for personnel management” for “Functions of Chairman”, and in item 1105 “Administrative procedure” for “Boards of examiners”.

.....

§ 1101. Office of Personnel Management

The Office of Personnel Management is an independent establishment in the executive branch. The Office shall have an official seal, which shall be judicially noticed, and shall have its principal office in the District of Columbia, and may have field offices in other appropriate locations.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 398; Pub. L. 95–454, title II, § 201(a), Oct. 13, 1978, 92 Stat. 1119.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 632 (1st par.).		Jan. 16, 1883, ch. 27, § 1 (1st par.), 22 Stat. 403.

The words “official place under the United States” are changed to “another office or position in the Government” of the “United States” to conform to the present legislative use of “office” and “position”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1978—Pub. L. 95–454 substituted “Office of Personnel Management” for “Appointment of Commissioners” in section catchline, and in text provisions relating to the establishment, etc., of the Office of Personnel Management for provisions relating to the appointment of members to the United States Civil Service Commission.

Effective Date of 1978 Amendment

Section 907 of Pub. L. 95–454 provided that: “Except as otherwise expressly provided in this Act, the provisions of this Act [see Tables for classification] shall take effect 90 days after the date of the enactment of this Act [Oct. 13, 1978].”

Short Title of 1992 Amendment

Pub. L. 102–378, § 1(a), Oct. 2, 1992, 106 Stat. 1346, provided that: “This Act [see Tables for classification] may be cited as the ‘Technical and Miscellaneous Civil Service Amendments Act of 1992’.”

Short Title of 1984 Amendment

Pub. L. 98–224, § 1, Mar. 2, 1984, 98 Stat. 47, provided that: “This Act [amending sections 1304, 3323, 4108, 4109, 7104, and 7122 of this title] may be cited as the ‘Civil Service Miscellaneous Amendments Act of 1983’.”

Short Title of 1978 Amendment

Section 1 of Pub. L. 95–454 provided that: “This Act [see Tables for classification] may be cited as the ‘Civil Service Reform Act of 1978’.”

Savings Provision

Section 902 of Pub. L. 95–454 provided that:

“(a) Except as otherwise provided in this Act [see Tables for classification], all executive orders, rules, and regulations affecting the Federal service shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed by the President, the Office of Personnel Management, the Merit Systems Protection Board, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority with respect to matters within their respective jurisdictions.

“(b) No provision of this Act [see Tables for classification] shall affect any administrative proceedings pending at the time such provision takes effect. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this Act had not been enacted.

“(c) No suit, action, or other proceeding lawfully commenced by or against the Director of the Office of Personnel Management or the members of the Merit Systems Protection Board, or officers or employees thereof, in their official capacity or in relation to the discharge of their official duties, as in effect immediately before the effective date of this Act [see Effective Date of 1978 Amendment note above], shall abate by reason of the enactment of this Act [see Tables for classification]. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.”

Transmittal of Record Relating to Presidentially Appointed Positions to Presidential Candidates

Pub. L. 108–458, title VIII, § 8403(b), Dec. 17, 2004, 118 Stat. 3870, as amended by Pub. L. 111–283, § 2(c)(2), Oct. 15, 2010, 124 Stat. 3048, provided that:

“(1) Definition.—In this section, the term ‘major party’ has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986 [26 U.S.C. 9002 (6)].

“(2) Transmittal.—

“(A) In general.—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidential appointed positions.

(B) Other candidates.—After making transmittals under subparagraph (A), the Office of Personnel Management shall transmit such electronic record to any other candidate for President who is an eligible candidate described in section 3(h)(4)(B) of the Presidential Transition Act of 1963 [Pub. L. 88–277] (3 U.S.C. 102 note) and may transmit such electronic record to any other candidate for President.

“(3) Content.—The record transmitted under this subsection shall provide—

“(A) all positions which are appointed by the President, including the title and description of the duties of each position;

“(B) the name of each person holding a position described under subparagraph (A);

“(C) any vacancy in the positions described under subparagraph (A), and the period of time any such position has been vacant;

“(D) the date on which an appointment made after the applicable Presidential election for any position described under subparagraph (A) is necessary to ensure effective operation of the Government; and

“(E) any other information that the Office of Personnel Management determines is useful in making appointments.”

Transfer to Office of Personnel Management of Personnel Investigative Functions and Related Personnel of the Department of Defense

Pub. L. 108–136, div. A, title IX, § 906, Nov. 24, 2003, 117 Stat. 1561, provided that:

“(a) Transfer of Functions.—(1) Subject to subsection (b), the Secretary of Defense may transfer to the Office of Personnel Management the personnel security investigations functions that, as of the date of the enactment of this Act [Nov. 24, 2003], are performed by the Defense Security Service of the Department of Defense. Such a transfer may be made only with the concurrence of the Director of the Office of Personnel Management.

“(2) The Director of the Office of Personnel Management may accept a transfer of functions under paragraph (1).

TITLE 5 - Section 1101 - Office of Personnel Management

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscp.html>).

“(3) Any transfer of a function under this subsection is a transfer of function within the meaning of section 3503 of title 5, United States Code.

“(b) Limitation.—(1) The Secretary of Defense may not make a transfer of functions under subsection (a) unless the Secretary determines, and certifies in writing to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, that each of the conditions specified in paragraph (2) has been met. Such a transfer may then be made only after a period of 30 days has elapsed after the date on which the certification is received by those committees.

“(2) The conditions referred to in paragraph (1) are the following:

“(A) That the Office of Personnel Management is fully capable of carrying out high-priority investigations required by the Secretary of Defense within a timeframe set by the Secretary of Defense.

“(B) That the Office of Personnel Management has undertaken necessary and satisfactory steps to ensure that investigations performed on Department of Defense contract personnel will be conducted in an expeditious manner sufficient to ensure that those contract personnel are available to the Department of Defense within a timeframe set by the Secretary of Defense.

“(C) That the Department of Defense will retain capabilities in the form of Federal employees to monitor and investigate Department of Defense and contractor personnel as necessary to perform counterintelligence functions and polygraph activities of the Department.

“(D) That the authority to adjudicate background investigations will remain with the Department of Defense and that the transfer of Defense Security Service personnel to the Office of Personnel Management will improve the speed and efficiency of the adjudication process.

“(E) That the Department of Defense will retain within the Defense Security Service sufficient personnel and capabilities to improve Department of Defense industrial security programs and practices.

“(c) Transfer of Personnel.—(1) If the Director of the Office of Personnel Management accepts a transfer of functions under subsection (a), the Secretary of Defense shall also transfer to the Office of Personnel Management, and the Director shall accept—

“(A) the Defense Security Service employees who perform those functions immediately before the transfer of functions; and

“(B) the Defense Security Service employees who, as of such time, are first level supervisors of employees transferred under subparagraph (A).

“(2) The Secretary may also transfer to the Office of Personnel Management any Defense Security Service employees (including higher level supervisors) who provide support services for the performance of the functions transferred under subsection (a) or for the personnel (including supervisors) transferred under paragraph (1) if the Director—

“(A) determines that the transfer of such additional employees and the positions of such employees to the Office of Personnel Management is necessary in the interest of effective performance of the transferred functions; and

“(B) accepts the transfer of the additional employees.

“(3) In the case of an employee transferred to the Office of Personnel Management under paragraph (1) or (2), whether a full-time or part-time employee—

“(A) subsections (b) and (c) of section 5362 of title 5, United States Code, relating to grade retention, shall apply to the employee, except that—

“(i) the grade retention period shall be the one-year period beginning on the date of the transfer; and

“(ii) paragraphs (1), (2), and (3) of such subsection (c) shall not apply to the employee; and

“(B) the employee may not be separated, other than pursuant to chapter 75 of title 5, United States Code, during such one-year period.

“(d) Actions After Transfer.—(1) Not later than one year after a transfer of functions to the Office of Personnel Management under subsection (a), the Director of the Office of Personnel Management, in coordination with the Secretary of Defense, shall review all functions performed by personnel of the Defense Security Service at the time of the transfer and make a written determination regarding whether each such function is inherently governmental or is otherwise inappropriate for performance by contractor personnel.

“(2) A function performed by Defense Security Service employees as of the date of the enactment of this Act [Nov. 24, 2003] may not be converted to contractor performance by the Director of the Office of Personnel Management until—

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

“(A) the Director reviews the function in accordance with the requirements of paragraph (1) and makes a written determination that the function is not inherently governmental and is not otherwise inappropriate for contractor performance; and

“(B) the Director conducts a public-private competition regarding the performance of that function in accordance with the requirements of the Office of Management and Budget Circular A-76.”

Federal Flexible Benefits Plan Administrative Costs

Pub. L. 108-136, div. A, title XI, § 1127, Nov. 24, 2003, 117 Stat. 1640, provided that:

“(a) In General.—Notwithstanding any other provision of law, an agency or other employing entity of the Government which provides or plans to provide a flexible spending account option for its employees shall not impose any fee with respect to any of its employees in order to defray the administrative costs associated therewith.

“(b) Offset of Administrative Costs.—Each such agency or employing entity that offers a flexible spending account option under a program established or administered by the Office of Personnel Management shall periodically forward to such Office, or entity designated by such Office, the amount necessary to offset the administrative costs of such program which are attributable to such agency.

“(c) Reports.—(1) The Office shall submit a report to the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate no later than March 31, 2004, specifying the administrative costs associated with the Governmentwide program (referred to in subsection (b)) for fiscal year 2003, as well as the projected administrative costs of such program for each of the 5 fiscal years thereafter.

“(2) At the end of each of the first 3 calendar years in which an agency or other employing entity offers a flexible spending account option under this section, such agency or entity shall submit a report to the Office of Management and Budget showing the amount of its employment tax savings in such year which are attributable to such option, net of administrative fees paid under subsection (b).”

Combined Federal Campaign Brochure List and General Designation Option for International Agencies

Pub. L. 102-393, title V, § 532, Oct. 6, 1992, 106 Stat. 1763, provided that: “Notwithstanding any other provision of law, beginning October 1, 1992, and thereafter, no funds made available to the Office of Personnel Management may be used to prepare, promulgate, or implement any rules or regulations relating to the Combined Federal Campaign unless such rules or regulations include a Combined Federal Campaign brochure list and general designation option solely for international agencies, which list (listed by Federation in the case of affiliated agencies) and option shall include only those international agencies that elect in their annual application to be included under such list and option rather than under the national agencies list and option: Provided, That such limitation on the use of funds shall not apply to any activities related to the 1992 Combined Federal Campaign.”

Report on Productivity of Federal Workforce; Deadline

Pub. L. 101-509, title V, § 535, Nov. 5, 1990, 104 Stat. 1470, directed Office of Personnel Management to review and report to Congress, not later than 24 months after Nov. 5, 1990, on the productivity of the Federal workforce, such report to include recommendations with regard to (1) how productivity within the Federal workforce can be increased, the delivery of Government services improved, and the payroll costs of Government controlled through improved organization, training, advanced technology, and modern management practices, (2) the size, structure, and composition of the Federal workforce, (3) criteria for use by departments and agencies to determine the level of personnel necessary to accomplish their functions and goals, and (4) changes in Federal law, regulations, and administrative practices to promote economy, productivity, effectiveness, and managerial accountability within the Federal workforce.

Funds for Preparation, Promulgation, or Implementation of Regulations Relating to Combined Federal Campaign; Eligibility Criteria

Pub. L. 100-202, § 101(m) [title VI, § 618], Dec. 22, 1987, 101 Stat. 1329-390, 1329-423, provided that:

“(a) None of the funds appropriated by this Act, or any other Act in this or any fiscal year hereafter, may be used in preparing, promulgating, or implementing any regulations relating to the Combined Federal Campaign if such regulations are not in conformance with subsection (b).

“(b)(1)(A) Any requirements for eligibility to receive contributions through the Combined Federal Campaign shall not, to the extent that such requirements relate to litigation, public-policy advocacy, or attempting to influence legislation, be any more restrictive than any requirements established with respect to those subject matters under section 501(c)(3) or 501(h) of the Internal Revenue Code of 1986 [26 U.S.C. 501 (c)(3), (h)].

TITLE 5 - Section 1101 - Office of Personnel Management

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

“(B) Any requirements for eligibility to receive contributions through the Combined Federal Campaign shall, to the extent that such requirements relate to any subject matter other than one referred to in subparagraph (A), remain the same as the criteria in the 1984 regulations, except as otherwise provided in this section.

“(C) Notwithstanding any requirement referred to in subparagraph (A) or (B), for purposes of any Combined Federal Campaign—

“(i) any voluntary agency or federated group which was a named plaintiff as of September 1, 1987, in a case brought in the United States District Court for the District of Columbia, and designated as Civil Action No. 83–0928 or 86–1367, and

“(ii) The Federal Employee Education and Assistance Fund,
shall be considered to have national eligibility.

“(D) Public accountability standards shall remain similar to the standards which were by regulation established with respect to the 1984–1987 Combined Federal Campaigns, except that the Office of Personnel Management shall prescribe regulations under which a voluntary agency or federated group which does not exceed a certain size (as established under such regulations) may submit a copy of an appropriate Federal tax return, rather than complying with any independent auditing requirements which would otherwise apply.

“(2)(A) A voluntary agency or federated group shall, for purposes of any Combined Federal Campaign in any year, be considered to have national eligibility if such agency or group—

“(i) complies with all requirements for eligibility to receive contributions through the Combined Federal Campaign, without regard to any requirements relating to ‘local presence’; and

“(ii) demonstrates that it provided services, benefits, or assistance, or otherwise conducted program activities, in—

“(I) 15 or more different States over the 3-year period immediately preceding the start of the year involved; or

“(II) several foreign countries or several parts of a foreign country.

For purposes of this subparagraph, an agency or federated group shall be considered to have conducted program activities in the required number of States, countries, or parts of a country, over the period of years involved, if such agency or group conducted program activities in such number of States, countries, or parts either in any single year during such period or in the aggregate over the course of such period, provided that no State, country, or part of a country is counted more than once.

“(B) Notwithstanding any other provisions, eligibility requirements relating to International Services Agencies shall remain at least as inclusive as existing requirements. Any voluntary agency or federated group which attains national eligibility under subparagraph (A), and any voluntary agency which is a member of the International Services Agencies, shall be considered to have satisfied any requirements relating to ‘local presence’.

“(3)(A) If a federated group is eligible to receive donations in a Combined Federal Campaign, whether on a national level (pursuant to certification by the Office) or a local level (pursuant to certification by the local Federal coordinating committee), each voluntary agency which is a member of such group may, upon certification by the federated group, be considered eligible to participate on such national or local level, as the case may be.

“(B) Notwithstanding any provision of subparagraph (A)—

“(i) the Office may require a voluntary agency to provide information to support any certification submitted by a federated group with respect to such agency under subparagraph (A); and

“(ii) if a determination is made, in writing after notice and opportunity to submit written comments, that the information submitted by the voluntary agency does not satisfy the applicable eligibility requirements, such agency may be barred from participating in the Combined Federal Campaign on a national or local level, as the case may be, for a period not to exceed 1 campaign year.

“(4) The Office shall exercise oversight responsibility to ensure that—

“(A) regulations are uniformly and equitably implemented in all local combined Federal campaigns;

“(B) federated groups participating in a local combined Federal campaign are allowed to compete fairly for the role of principal combined fund organization;

“(C) federated groups participating in a local combined Federal campaign are afforded—

“(i) adequate opportunity to consult with the PCFO for the area involved before any plans are made final relating to the design or conduct of such campaign (including plans pertaining to any materials to be printed as part of the campaign);

“(ii) adequate opportunity to participate in campaign events and other related activities; and

TITLE 5 - Section 1101 - Office of Personnel Management

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

“(iii) timely access to all reports, budgets, audits, and other records in the possession of, or under the control of, the PCFO for the areas involved; and

“(D) a federated group or voluntary agency found by the Office, by a written decision issued after notice and opportunity to submit written comments, to have violated the regulations may be barred from serving as a PCFO for not to exceed 1 campaign year.

“(5) The Office shall prescribe regulations to ensure that PCFOs do not make inappropriate delegations of decisionmaking authority.

“(6)(A) The Office shall, in consultation with federated groups, establish a formula under which any undesignated contributions received in a local combined Federal campaign shall be allocated in any year.

“(B) Under the formula for the 1990 Combined Federal Campaign, all undesignated contributions received in a local campaign shall be allocated as follows:

“(i) 82 percent shall be allocated to the United Way.

“(ii) 7 percent shall be allocated to the International Services Agencies.

“(iii) 7 percent shall be allocated to the National Voluntary Health Agencies.

“(iv) 4 percent shall, after fair and careful consideration of all eligible federated groups and agencies, be allocated by the local Federal coordinating committee among any or all of the following:

“(I) National federated groups (other than any identified in clauses (i), (ii), or (iii)), except that a national federated group shall not be eligible under this subclause unless there are at least 15 members of such group participating in the local campaign, unless the members of such group collectively receive at least 4 percent of the designated contributions in the local campaign, and unless such group was granted national eligibility status for the 1987, 1988, 1989, or 1990 Combined Federal Campaign.

“(II) Local federated groups.

“(III) Any local, non-affiliated voluntary agency which receives at least 4 percent of the designated contributions in the local campaign.

“(C) The formula set forth in subparagraph (B)—

“(i) shall be phased in over the course of the 1988 and 1989 Combined Federal Campaigns;

“(ii) shall be fully implemented with respect to the 1990 Combined Federal Campaigns [sic]; and

“(iii) shall, with respect to any Combined Federal Campaign thereafter, be adjusted based on the experience gained in the Combined Federal Campaigns referred to in clauses (i) and (ii).

“(D) Nothing in this paragraph shall apply with respect to any campaign conducted in a foreign country.

“(E) All appropriate steps shall be taken to encourage donors to make designated contributions.

“(7) The option for a donor to write in the name of a voluntary agency or federated group not listed in the campaign brochure to receive that individual’s contribution in a local campaign shall be eliminated.

“(8) The name of any individual making a designated contribution in a campaign shall, upon request of the recipient voluntary agency or federated group, be released to such agency or group, unless the contributor indicates that his or her name is not to be released. Under no circumstance may the names of contributors be sold or otherwise released by such agency or group.

“(9)(A) The name of each participating voluntary agency and federated group, together with a brief description of their respective programs, shall be published in any information leaflet distributed to employees in a local combined Federal campaign. Agencies shall be arranged by federated group, with combined Federal campaign organization code numbers corresponding to each such agency and group.

“(B) The requirement under subparagraph (A) relating to the inclusion of program descriptions may, at the discretion of a local Federal coordinating committee, be waived for a local campaign in any year if, in the immediately preceding campaign year, contributions received through the local campaign totalled less than \$100,000.

“(10) Employee coercion is not to be tolerated in the Combined Federal Campaign, and protections against employee coercion shall be strengthened and clarified.

“(11) The Office—

“(A) may not, after the date of the enactment of this Act [Dec. 22, 1987], grant national eligibility status to any federated group unless such group has at least 15 member voluntary agencies, each of which meets the requirements for national eligibility under paragraph (2)(A); and

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

“(B) may withdraw federation status from any federated group for a period of not to exceed 1 campaign year if it is determined, on the record after opportunity for a hearing, that the federated group has not complied with the regulatory requirements.

“(12) The Office may bar from participation in the Combined Federal Campaign, for a period not to exceed 1 campaign year, any voluntary agency which the Office determines, in writing, and after notice and opportunity to submit written comments, did not comply with a reasonable request by the Office to furnish it with information relating to such agency’s campaign accounting and auditing practices.

“(c) For purposes of this section, a voluntary agency or federated group having ‘national eligibility’ is one which is eligible to participate in each local domestic combined Federal campaign.”

Civil Service Reform Act of 1978 Findings and Statement of Purpose

Section 3 of Pub. L. 95–454 provided that: “It is the policy of the United States that—

“(1) in order to provide the people of the United States with a competent, honest, and productive Federal work force reflective of the Nation’s diversity, and to improve the quality of public service, Federal personnel management should be implemented consistent with merit system principles and free from prohibited personnel practices;

“(2) the merit system principles which shall govern in the competitive service and in the executive branch of the Federal Government should be expressly stated to furnish guidance to Federal agencies in carrying out their responsibilities in administering the public business, and prohibited personnel practices should be statutorily defined to enable Federal employees to avoid conduct which undermines the merit system principles and the integrity of the merit system;

“(3) Federal employees should receive appropriate protection through increasing the authority and powers of the Merit Systems Protection Board in processing hearings and appeals affecting Federal employees;

“(4) the authority and power of the Special Counsel should be increased so that the Special Counsel may investigate allegations involving prohibited personnel practices and reprisals against Federal employees for the lawful disclosure of certain information and may file complaints against agency officials and employees who engage in such conduct;

“(5) the function of filling positions and other personnel functions in the competitive service and in the executive branch should be delegated in appropriate cases to the agencies to expedite processing appointments and other personnel actions, with the control and oversight of this delegation being maintained by the Office of Personnel Management to protect against prohibited personnel practices and the use of unsound management practices by the agencies;

“(6) a Senior Executive Service should be established to provide the flexibility needed by agencies to recruit and retain the highly competent and qualified executives needed to provide more effective management of agencies and their functions, and the more expeditious administration of the public business;

“(7) in appropriate instances, pay increases should be based on quality of performance rather than length of service;

“(8) research programs and demonstration projects should be authorized to permit Federal agencies to experiment, subject to congressional oversight, with new and different personnel management concepts in controlled situations to achieve more efficient management of the Government’s human resources and greater productivity in the delivery of service to the public;

“(9) the training program of the Government should include retraining of employees for positions in other agencies to avoid separations during reductions in force and the loss to the Government of the knowledge and experience that these employees possess; and

“(10) the right of Federal employees to organize, bargain collectively, and participate through labor organizations in decisions which affect them, with full regard for the public interest and the effective conduct of public business, should be specifically recognized in statute.”

Powers of President Unaffected Except by Express Provisions

Section 904 of Pub. L. 95–454 provided that:

“Except as otherwise expressly provided in this Act [see Tables for classification], no provision of this Act shall be construed to—

“(1) limit, curtail, abolish, or terminate any function of, or authority available to, the President which the President had immediately before the effective date of this Act [see Effective Date of 1978 Amendment note above]; or

“(2) limit, curtail, or terminate the President’s authority to delegate, redelegate, or terminate any delegation of functions.”

Reorganization Plans No. 1 and 2 of 1978 Superseded by Civil Service Reform Act of 1978

Section 905 of Pub. L. 95-454 provided that: "Any provision in either Reorganization Plan Numbered 1 [set out in the Appendix to this title] or 2 [set out below] of 1978 inconsistent with any provision in this Act [see Tables for classification] is hereby superseded."

REORGANIZATION PLAN NO. 2 OF 1978

43 F.R. 36037, 92 Stat. 3783

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 23, 1978,¹ pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

PART I. OFFICE OF PERSONNEL MANAGEMENT

Section 101. Establishment of the Office of Personnel Management and Its Director and Other Matters

There is hereby established as an independent establishment in the Executive Branch, the Office of Personnel Management (the "Office"). The head of the Office shall be the Director of the Office of Personnel Management (the "Director"), who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for level II of the Executive Schedule [5 U.S.C. 5313]. The position referred to in 5 U.S.C. 5109 (b) is hereby abolished.

Sec. 102. Transfer of Functions

Except as otherwise specified in this Plan, all functions vested by statute in the United States Civil Service Commission, or the Chairman of said Commission, or the Boards of Examiners established by 5 U.S.C. 1105 are hereby transferred to the Director of the Office of Personnel Management.

Sec. 103. Deputy Director and Associate Directors

(a) There shall be within the Office a Deputy Director who shall be appointed by the President by and with the advice and consent of the Senate and who shall be compensated at the rate now or hereafter provided for level III of the Executive Schedule [5 U.S.C. 5314]. The Deputy Director shall perform such functions as the Director may from time to time prescribe and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the Office of the Director.

(b) There shall be within the Office not more than five Associate Directors, who shall be appointed by the Director in the excepted service, shall have such titles as the Director shall from time to time determine, and shall receive compensation at the rate now or hereafter provided for level IV of the Executive Schedule [5 U.S.C. 5315].

Sec. 104. Functions of the Director

The functions of the Director shall include, but not be limited to, the following:

(a) Aiding the President, as the President may request, in preparing such rules as the President prescribes, for the administration of civilian employment now within the jurisdiction of the United States Civil Service Commission;

(b) Advising the President, as the President may request, on any matters pertaining to civilian employment now within the jurisdiction of the United States Civil Service Commission;

(c) Executing, administering and enforcing the Civil Service rules and regulations of the President and the Office and the statutes governing the same, and other activities of the Office including retirement and classification activities except to the extent such functions remain vested in the Merit Systems Protection Board pursuant to Section 202 of this Plan, or are transferred to the Special Counsel pursuant to Section 204 of this Plan. The Director shall provide the public, where appropriate, a reasonable opportunity to comment and submit written views on the implementation and interpretation of such rules and regulations;

(d) Conducting or otherwise providing for studies and research for the purpose of assuring improvements in personnel management, and recommending to the President actions to promote an efficient Civil Service and a systematic application of the merit system principles, including measures relating to the selection, promotion, transfer, performance, pay, conditions of service, tenure, and separations of employees; and

(e) Performing the training responsibilities now performed by the United States Civil Service Commission as set forth in 5 U.S.C. Chapter 41.

Sec. 105. Authority To Delegate Functions

The Director may delegate, from time to time, to the head of any agency employing persons in the competitive service, the performance of all or any part of those functions transferred under this Plan to the Director which relate to employees, or applicants for employment, of such agency.

PART II. MERIT SYSTEMS PROTECTION BOARD

Sec. 201. Merit Systems Protection Board

(a) The United States Civil Service Commission is hereby redesignated the Merit Systems Protection Board. The Commissioners of the United States Civil Service Commission are hereby redesignated as members of the Merit Systems Protection Board (the "Board").

(b) The Chairman of the Board shall be its chief executive and administrative officer. The position of Executive Director, established by 5 U.S.C. 1103 (d), is hereby abolished.

Sec. 202. Functions of the Merit Systems Protection Board and Related Matters

(a) There shall remain with the Board the hearing, adjudication, and appeals functions of the United States Civil Service Commission specified in 5 U.S.C. 1104 (b)(4) (except hearings, adjudications and appeals with respect to examination ratings), and also found in the following statutes:

(i) 5 U.S.C. 1504–1507, 7325, 5335, 7521, 7701 and 8347 (d);

(ii) 38 U.S.C. 2023

(b) There shall remain with the Board the functions vested in the United States Civil Service Commission, or its Chairman, pursuant to 5 U.S.C. 1104 (a)(5) and (b)(4) to enforce decisions rendered pursuant to the authorities described in Subsection (a) of this Section.

(c) Any member of the Board may request from the Director, in connection with a matter then pending before the Board for adjudication, an advisory opinion concerning interpretation of rules, regulations, or other policy directives promulgated by the Office of Personnel Management.

(d) Whenever the interpretation or application of a rule, regulation, or policy directive of the Office of Personnel Management is at issue in any hearing, adjudication, or appeal before the Board, the Board shall promptly notify the Director, and the Director shall have the right to intervene in such proceedings.

(e) The Board shall designate individuals to chair performance rating boards established pursuant to 5 U.S.C. 4305.

(f) The Chairman of the Board shall designate representatives to chair boards of review established pursuant to 5 U.S.C. 3383 (b).

(g) The Board may from time to time conduct special studies relating to the Civil Service, and to other merit systems in the Executive Branch and report to the President and the Congress whether the public interest in a workforce free of personnel practices prohibited by law or regulations is being adequately protected. In carrying out this function the Board shall make such inquiries as may be necessary, and, to the extent permitted by law, shall have access to personnel records or information collected by the Office of Personnel Management and may require additional reports from other agencies as needed. The Board shall make such recommendations to the President and the Congress as it deems appropriate.

(h) The Board may delegate the performance of any of its administrative functions to any officer or employee of the Board.

(i) The Board shall have the authority to prescribe such regulations as may be necessary for the performance of its functions. The Board shall not issue advisory opinions. The Board may issue rules and regulations, consistent with statutory requirements, defining its review procedures, including the time limits within which an appeal must be filed and the rights and responsibilities of the parties to an appeal. All regulations of the Board shall be published in the Federal Register.

Sec. 203. Savings Provision

The Board shall accept appeals from agency actions effected prior to the effective date of this Plan. On the effective date of Part II of this Plan, proceedings then before the Federal Employee Appeals Authority shall continue before the Board; proceedings then before the Appeals Review Board and proceedings then before the United States Civil Service Commission on appeal from decisions of the Appeals Review Board shall continue before the Board; other employee appeals before boards or other bodies pursuant to law or regulation shall continue to be processed pursuant to those laws or regulations. Nothing in this section shall affect the right of a Federal employee to judicial review under applicable law.

Sec. 204. The Special Counsel

(a) There shall be a Special Counsel to the Board appointed for a term of four years by the President by and with the advice and consent of the Senate, who shall be compensated as now or hereafter provided for level IV of the Executive Schedule [5 U.S.C. 5315].

(b) There are hereby transferred to the Special Counsel all functions with respect to investigations relating to violations of 5 U.S.C. Chapter 15; 5 U.S.C. Subchapter III of Chapter 73 (Political Activities); and 5 U.S.C. 552 (a)(4)(F) (public information).

(c) The Special Counsel may investigate, pursuant to 5 U.S.C. 1303, allegations of personnel practices which are prohibited by law or regulation.

(d) When in the judgment of the Special Counsel, such personnel practices exist, he shall report his findings and recommendations to the Chairman of the Merit Systems Protection Board, the agency affected, and to the Office of Personnel Management, and may report such findings to the President.

(e) When in the judgment of the Special Counsel, the results of an investigation would warrant the taking of disciplinary action against an employee who is within the jurisdiction of the Board, the Special Counsel shall prepare charges against such employee and present them with supporting documentation to the Board. Evidence supporting the need for disciplinary action against a Presidential appointee shall be submitted by the Special Counsel to the President.

(f) The Special Counsel may appoint personnel necessary to assist in the performance of his functions.

(g) The Special Counsel shall have the authority to prescribe rules and regulations relating to the receipt and investigation of matters under his jurisdiction. Such regulations shall be published in the Federal Register.

(h) The Special Counsel shall not issue advisory opinions.

PART III. FEDERAL LABOR RELATIONS AUTHORITY

Sec. 301. Establishment of the Federal Labor Relations Authority

(a) There is hereby established, as an independent establishment in the Executive Branch, the Federal Labor Relations Authority (the "Authority"). The Authority shall be composed of three members, one of whom shall be Chairman, not more than two of whom may be adherents of the same political party, and none of whom may hold another office or position in the Government of the United States except where provided by law or by the President.

(b) Members of the Authority shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one member to serve as Chairman of the Authority, who shall be compensated at the rate now or hereafter provided for level III of the Executive Schedule [5 U.S.C. 5314]. The other members shall be compensated at the rate now or hereafter provided for level IV of the Executive Schedule [5 U.S.C. 5315].

(c) The initial members of the Authority shall be appointed as follows: one member for a term of two years; one member for a term of three years; and the Chairman for a term of four years. Thereafter, each member shall be appointed for a term of four years. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(d) The Authority shall make an annual report on its activities to the President for transmittal to Congress.

Sec. 302. Establishment of the General Counsel of the Authority

There shall be a General Counsel of the Authority, who shall be appointed by the President, by and with the advice and consent of the Senate for a term of four years, and who shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule [5 U.S.C. 5316]. The General Counsel shall perform such duties as the Authority shall from time to time prescribe, including but not limited to the duty of determining and presenting facts required by the Authority in order to decide unfair labor practice complaints.

Sec. 303. The Federal Service Impasses Panel

The Federal Service Impasses Panel, established under Executive Order 11491, as amended [set out under 5 U.S.C. 7101], (the "Panel") shall continue, and shall be a distinct organizational entity within the Authority.

Sec. 304. Functions

Subject to the provisions of Section 306, the following functions are hereby transferred:

(a) To the Authority—

(1) The functions of the Federal Labor Relations Council pursuant to Executive Order 11491, as amended [set out under 5 U.S.C. 7101];

- (2) The functions of the Civil Service Commission under Sections 4(a) and 6(e) of Executive Order 11491, as amended;
- (3) The functions of the Assistant Secretary of Labor for Labor-Management Relations, under Executive Order 11491, as amended, except for those functions related to alleged violations of the standards of conduct for labor organizations pursuant to Section 6(a)(4) of said Executive Order; and,
- (b) to the Panel—the functions and authorities of the Federal Service Impasses Panel, pursuant to Executive Order 11491, as amended.

Sec. 305. Authority Decisions

The decisions of the Authority on any matter within its jurisdiction shall be final and not subject to judicial review.

Sec. 306. Other Provisions

Unless and until modified, revised, or revoked, all policies, regulations, and procedures established, and decisions issued, under Executive Order 11491, as amended [set out under 5 U.S.C. 7101], shall remain in full force and effect. There is hereby expressly reserved to the President the power to modify the functions transferred to the Federal Labor Relations Authority and the Federal Service Impasses Panel pursuant to Section 304 of this Plan.

Sec. 307. Savings Provision

All matters which relate to the functions transferred by Section 304 of this Plan, and which are pending on the effective date of the establishment of the Authority before the Federal Labor Relations Council, the Vice Chairman of the Civil Service Commission, or the Assistant Secretary of Labor for Labor-Management Relations shall continue before the Authority under such rules and procedures as the Authority shall prescribe. All such matters pending on the effective date of the establishment of the Authority before the Panel, shall continue before the Panel under such rules and procedures as the Panel shall prescribe.

PART IV. GENERAL PROVISIONS

Sec. 401. Incidental Transfer

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agencies abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

Sec. 402. Interim Officers

(a) The President may authorize any persons who, immediately prior to the effective date of this Plan, held positions in the Executive Branch of the Government, to act as Director of the Office of Personnel Management, the Deputy Director of the Office of Personnel Management, the Special Counsel, the Chairman and other members of the Federal Labor Relations Authority, the Chairman and other members of the Federal Service Impasses Panel, or the General Counsel of the Authority, until those offices are for the first time filled pursuant to the provisions of this Reorganization Plan or by recess appointment, as the case may be.

(b) The President may authorize any such person to receive the compensation attached to the Office in respect of which that person so serves, in lieu of other compensation from the United States.

Sec. 403. Effective Date

The provisions of this Reorganization Plan shall become effective at such time or times, on or before January 1, 1979, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5, United States Code.

[Pursuant to Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, this Reorg. Plan is generally effective Jan. 1, 1979.]

Message of the President

To the Congress of the United States:

On March 2nd I sent to Congress a Civil Service Reform proposal to enable the Federal government to improve its service to the American people.

Today I am submitting another part of my comprehensive proposal to reform the Federal personnel management system through Reorganization Plan No. 2 of 1978. The plan will reorganize the Civil Service Commission and thereby create new institutions to increase the effectiveness of management and strengthen the protection of employee rights.

The Civil Service Commission has acquired inherently conflicting responsibilities: to help manage the Federal Government and to protect the rights of Federal employees. It has done neither job well. The Plan would separate the two functions.

office of personnel management

The positive personnel management tasks of the government—such as training, productivity programs, examinations, and pay and benefits administration—would be the responsibility of an Office of Personnel Management. Its Director, appointed by the President and confirmed by the Senate, would be responsible for administering Federal personnel matters except for Presidential appointments. The Director would be the government's principal representative in Federal labor relations matters.

merit systems protection board

The adjudication and prosecution responsibilities of the Civil Service Commission will be performed by the Merit Systems Protection Board. The Board will be headed by a bipartisan panel of three members appointed to six-year, staggered terms. This Board would be the first independent and institutionally impartial Federal agency solely for the protection of Federal employees.

The Plan will create, within the Board, a Special Counsel to investigate and prosecute political abuses and merit system violations. Under the civil service reform legislation now being considered by the Congress, the Counsel would have power to investigate and prevent reprisals against employees who report illegal acts—the so-called “whistleblowers.” The Council would be appointed by the President and confirmed by the Senate.

federal labor relations authority

An Executive Order now vests existing labor-management relations in a part-time Federal Labor-Relations Council, comprised of three top government managers; other important functions are assigned to the Assistant Secretary of Labor for Labor-Management Relations. This arrangement is defective because the Council members are part-time, they come exclusively from the ranks of management and their jurisdiction is fragmented.

The Plan I submit today would consolidate the central policymaking functions in labor-management relations now divided between the Council and the Assistant Secretary into one Federal Labor Relations Authority. The Authority would be composed of three full-time members appointed by the President with the advice and consent of the Senate. Its General Counsel, also appointed by the President and confirmed by the Senate, would present unfair labor practice complaints. The Plan also provides for the continuance of the Federal Service Impasses Panel within the Authority to resolve negotiating impasses between Federal employee unions and agencies.

The cost of replacing the Civil Service Commission can be paid by our present resources. The reorganization itself would neither increase nor decrease the costs of personnel management throughout the government. But taken together with the substantive reforms I have proposed, this Plan will greatly improve the government's ability to manage programs, speed the delivery of Federal services to the public, and aid in executing other reorganizations I will propose to the Congress, by improving Federal personnel management.

Each of the provisions of this proposed reorganization would accomplish one or more of the purposes set forth in 5 U.S.C. 901 (a). No functions are abolished by the Plan, but the offices referred to in 5 U.S.C. 5109 (b) and 5 U.S.C. 1103(d) are abolished. The portions of the Plan providing for the appointment and pay for the head and one or more officers of the Office of Personnel Management, the Merit Systems Protection Board, the Federal Labor Relations Authority and the Federal Service Impasses Panel, are necessary to carry out the reorganization. The rates of compensation are comparable to those for similar positions within the Executive Branch.

I am confident that this Plan and the companion civil service reform legislation will both lead to more effective protection of Federal employees' legitimate rights and a more rewarding workplace. At the same time the American people will benefit from a better managed, more productive and more efficient Federal Government.

Jimmy Carter.

The White House, May 23, 1978.

Executive Order No. 10729

Ex. Ord. No. 10729, Sept. 16, 1957, 22 F.R. 7449, which established the position of the Special Assistant to the President for Personnel Management, was revoked by Ex. Ord. No. 11205, Mar. 15, 1965, 30 F.R. 3513.

Ex. Ord. No. 11205. Revocation of Executive Order No. 10729

Ex. Ord. No. 11205, Mar. 15, 1965, 30 F.R. 3513, provided:

By virtue of the authority vested in me as President of the United States, the position of Special Assistant to the President for Personnel Management, established by Executive Order No. 10729 of September 16, 1957, is abolished, and that Order is hereby revoked.

Lyndon B. Johnson.

Ex. Ord. No. 12107. Implementation of Reform of Personnel Management System

Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, as amended by Ex. Ord. No. 12126, Mar. 29, 1979, 44 F.R. 18923; Ex. Ord. No. 12128, Apr. 4, 1979, 44 F.R. 20625, provided:

By virtue of the authority vested in me as President by the Constitution and statutes of the United States of America, and by Section 403 of Reorganization Plan No. 2 of 1978 (43 FR 36037) [set out above], it is hereby ordered as follows:

Section 1

implementation of reorganization plan no. 2 of 1978

1-1. Office of Personnel Management

1-101. Establishment of Office of Personnel Management. The establishment of the Office of Personnel Management and of the positions of Director, Deputy Director, and Associate Directors of that Office, as provided in Sections 101 and 103 of Reorganization Plan No. 2 of 1978, shall be effective on January 1, 1979.

1-102. Transfer of Functions. Section 102 of Reorganization Plan No. 2 of 1978, transferring functions to the Director of the Office of Personnel Management, shall be effective on January 1, 1979.

1-2. Merit Systems Protection Board

1-201. Redesignation of Civil Service Commission. The redesignation of the Civil Service Commission as the Merit Systems Protection Board and of the Commissioners as Members of the Board as provided in Section 201 of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-202. Functions of the Merit Systems Protection Board. The functions of the Merit Systems Protection Board as provided in Section 202 and the savings provisions of Section 203 of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-3. The Special Counsel

1-301. Establishment of the Office of Special Counsel. The establishment of the Office of Special Counsel to the Merit Systems Protection Board as provided in Section 204(a) of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-302. Functions of the Special Counsel. The transfer of functions provided for in Section 204 (b) and the performance of functions set forth in Section 204 (c)-(g) of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-4. The Federal Labor Relations Authority

1-401. The Establishment of the Federal Labor Relations Authority and the Office of General Counsel. The establishment of the Federal Labor Relations Authority as provided in Section 301 and of the Office of General Counsel of the Authority as provided in Section 302 of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1-402. The Federal Service Impasses Panel. The continuation of the Federal Service Impasses Panel established under Executive Order No. 11491, as amended [set out as a note under section 7101 of this title], as a distinct organizational entity within the Federal Labor Relations Authority as provided in Section 303 of Reorganization Plan No. 2 of 1978, shall be effective on January 1, 1979.

1-403. Functions of the Federal Labor Relations Authority, the General Counsel, and the Federal Service Impasses Panel. The transfer of functions provided for in Section 304 of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

1–5. General

1–501. General Effective Date. All other provisions of Reorganization Plan No. 2 of 1978 shall be effective on January 1, 1979.

Section 2

redesignations, amendments to rules and executive orders and general provisions

2–1. Redesignations

2–101. Office of Personnel Management. Each of the Executive orders, as amended, listed in this Section under subsections (a) and (b), as applicable, and any other order which relates to functions or areas of responsibility delegated to the Office of Personnel Management, is amended and revised by substituting the words “Office of Personnel Management” for the words “Civil Service Commission” or “United States Civil Service Commission”; by substituting the word “Office” for the word “Commission” wherever the word “Commission” is used as a reference to United States Civil Service Commission; and by substituting the words “Director, Office of Personnel Management” for the words “Chairman, Civil Service Commission”, “Chairman, United States Civil Service Commission”, “Commissioners” or “Commissioner” wherever they appear.

(a) Executive orders relating to the Civil Service Rules, ethics and other matters of Presidential interest.

Executive Orders Numbered

8743

10577, as amended, except for Rules IV and V, as amended in this order,

10641

10717

10927

11183

11222

11315

11451

11570

11639

11648

11721

11935

12004

12014

12043

(b) Other Executive orders relating to Federal Personnel Management, and membership on Councils, Boards, and Committees.

Executive Orders Numbered

8744

9230

9712

9830

9932

9961

10000

TITLE 5 - Section 1101 - Office of Personnel Management

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

10242
10422
10450
10459
10530
10549
10550
10552
10556
10647
10763
10774, except for Section 3 (e)
10804
10826
10880
10903
10973
10982
11103
11171
11203
11219
11228
11264
11348
11355
11422
11434
11438
11490
11521
11552
11561
11579
11589
11603
11609
11639
11744
11817
11890

11895

11899

11938

11955

12008

12015

12027

12049

12067

12070

12089

12105

2–102. Merit Systems Protection Board. The provisions of Section 3(e) of Executive Order No. 10774 [set out as a note under section 2025 of Title 22, Foreign Relations and Intercourse], and Executive Order No. 11787 [formerly set out as a note under section 7701 of this title], are hereby amended and revised by substituting the words “Merit Systems Protection Board” for the words “Civil Service Commission” or “Commission” when used as a reference to the Civil Service Commission wherever such words appear.

2–103. [Amended Civil Service Rules under section 101 of Ex. Ord. No. 10577, formerly set out as a note under section 3301 of this title.]

2–104. Effectiveness of Rule Changes. The amendments to rules shall be effective on January 1, 1979, to the extent provided by law on that date.

2–2. Revocation of Executive Orders and Delegation of Functions

2–201. Revocation of Executive Orders and Delegation of Functions to the Director. Executive Orders numbered 10540 and 10561 [set out as notes under sections 6301 and 1302, respectively, of this title] are revoked and the authority vested in the President by Section 202(c)(1)(C) of the Annual Sick Leave Act of 1951, as amended [section 6301 (2)(XI) of this title], and the authority of the President, pursuant to the Civil Service Act of January 16, 1883, to designate official personnel folders in government agencies as records of the Office of Personnel Management and to prescribe regulations relating to the establishment, maintenance and transfers of official personnel folders, are delegated to the Director of the Office of Personnel Management. Any rules, regulations, directives, instructions or other actions taken pursuant to the authority delegated to the Director of the Office of Personnel Management shall remain in effect until amended, modified, or revoked pursuant to the delegations made by this Order.

2–202. Savings Provision. All personnel actions and decisions affecting employees or applicants for employment made on or before January 11, 1979 shall continue to be governed by the applicable Executive order, and the rules and regulations implementing that Order, to the same extent as if that Executive order had not been revoked effective January 11, 1979 unless amended, modified or revoked pursuant to this Order.

2–3. Labor Management Relations in the Federal Service

2–301. [Amended Ex. Ord. No. 11491, set out as a note under section 7101 of this title.]

2–4. General Provisions

2–401. Study and Report Provisions. The Director of the Office of Personnel Management is directed to conduct a study of Executive orders listed in Section 2–101 (a) and (b) and to coordinate the study with such other agencies as may be named in or affected by these orders. The Director of Personnel Management and the Director of the Office of Management and Budget are directed to submit a report on or before July 1, 1981 to the President concerning the performance of functions specified in these Executive orders and any other Executive orders affecting the functions or responsibilities of the Office of Personnel Management. The report shall contain specific detailed recommendations for the continuation, modification, revision or revocation of each Executive order.

2–402. Continuing Effect of this Order. Except as required by the Civil Service Reform Act of 1978 [Pub. L. 95–454] as its provisions become effective, in accord with Section 7135 of Title 5, United States Code, as amended, and in accord with Section 902(a) of that Act [set out as a Savings Provisions note above], the provisions of this Order shall continue in effect, according to its terms, until modified, terminated or suspended.

TITLE 5 - Section 1102 - Director; Deputy Director; Associate Directors

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

2-403. Transfers and Determinations.

(a) The records, property, personnel and positions, and unexpended balances of appropriations or funds related to Civil Service Commission functions reassigned by this Order that are available, or to be made available, and necessary to finance or discharge the reassigned functions are transferred to the Director of the Office of Personnel Management, the Federal Labor Relations Authority, or the Federal Service Impasses Panel, as appropriate.

(b) The Director of the Office of Management and Budget shall make such determinations, issue such Orders and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property and personnel.

2-404. Effective Date. Except as otherwise specifically provided in this Order, this Order shall be effective on January 1, 1979.

Jimmy Carter.

Executive Order No. 12157

Ex. Ord. No. 12157, Sept. 14, 1979, 44 F.R. 54035, which related to the President's Management Improvement Council, was revoked by Ex. Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, set out as a note under section 14 of the Appendix to this title.

.....

§ 1102. Director; Deputy Director; Associate Directors

(a) There is at the head of the Office of Personnel Management a Director of the Office of Personnel Management appointed by the President, by and with the advice and consent of the Senate. The term of office of any individual appointed as Director shall be 4 years.

(b) There is in the Office a Deputy Director of the Office of Personnel Management appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may from time to time prescribe and shall act as Director during the absence or disability of the Director or when the office of Director is vacant.

(c) No individual shall, while serving as Director or Deputy Director, serve in any other office or position in the Government of the United States except as otherwise provided by law or at the direction of the President. The Director and Deputy Director shall not recommend any individual for appointment to any position (other than Deputy Director of the Office) which requires the advice and consent of the Senate.

(d) There may be within the Office of Personnel Management not more than 5 Associate Directors, as determined from time to time by the Director. Each Associate Director shall be appointed by the Director.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 399; Pub. L. 95-454, title II, § 201(a), Oct. 13, 1978, 92 Stat. 1119.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 632 (2d-4th pars.).		Jan. 16, 1883, ch. 27, § 1 (2d, 3d pars.), 22 Stat. 403.
July 31, 1956, ch. 804, § 201(a), 70 Stat. 742.		

In subsection (a), the second sentence is substituted for original language concerning designation of Commissioners to serve six, four, and two years, respectively, as that provision is executed.

The section is reorganized to place the statutes relating to vacancies together, and redundancies are eliminated. Provisions relating to pay and travel expenses of Commissioners are omitted as superseded by the Act of Aug. 14, 1964, Pub. L. 88-426, § 303(c)(18), (d)(66), 78 Stat. 417, 419, and Act of June 9, 1949, ch. 185, 63 Stat. 166, respectively, which are carried into this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1978—Pub. L. 95–454 substituted “Director; Deputy Director; Associate Directors” for “Term of office; filling vacancies; removal” in section catchline, and in text provisions relating to the Director, Deputy Director, and Associate Directors of the Office of Personnel Management for provisions relating to the term of office, vacancies, and removal of members of the United States Civil Service Commission.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

.....

§ 1103. Functions of the Director

(a) The following functions are vested in the Director of the Office of Personnel Management, and shall be performed by the Director, or subject to section 1104 of this title, by such employees of the Office as the Director designates:

- (1) securing accuracy, uniformity, and justice in the functions of the Office;
- (2) appointing individuals to be employed by the Office;
- (3) directing and supervising employees of the Office, distributing business among employees and organizational units of the Office, and directing the internal management of the Office;
- (4) directing the preparation of requests for appropriations for the Office and the use and expenditure of funds by the Office;
- (5) executing, administering, and enforcing—
 - (A) the civil service rules and regulations of the President and the Office and the laws governing the civil service; and
 - (B) the other activities of the Office including retirement and classification activities;except with respect to functions for which the Merit Systems Protection Board or the Special Counsel is primarily responsible;
- (6) reviewing the operations under chapter 87 of this title;
- (7) aiding the President, as the President may request, in preparing such civil service rules as the President prescribes, and otherwise advising the President on actions which may be taken to promote an efficient civil service and a systematic application of the merit system principles, including recommending policies relating to the selection, promotion, transfer, performance, pay, conditions of service, tenure, and separation of employees;
- (8) conducting, or otherwise providing for the conduct of, studies and research under chapter 47 of this title into methods of assuring improvements in personnel management; and
- (9) incurring official reception and representation expenses of the Office subject to any limitation prescribed in any law.

(b) (1) The Director shall publish in the Federal Register general notice of any rule or regulation which is proposed by the Office and the application of which does not apply solely to the Office or its employees. Any such notice shall include the matter required under section 553 (b)(1), (2), and (3) of this title.

- (2) The Director shall take steps to ensure that—
 - (A) any proposed rule or regulation to which paragraph (1) of this subsection applies is posted in offices of Federal agencies maintaining copies of the Federal personnel regulations; and

- (B)** to the extent the Director determines appropriate and practical, exclusive representatives of employees affected by such proposed rule or regulation and interested members of the public are notified of such proposed rule or regulation.
- (3)** Paragraphs (1) and (2) of this subsection shall not apply to any proposed rule or regulation which is temporary in nature and which is necessary to be implemented expeditiously as a result of an emergency.
- (4)** Paragraphs (1) and (2) of this subsection and section 1105 of this title shall not apply to the establishment of any schedules or rates of basic pay or allowances under subpart D of part III of this title. The preceding sentence does not apply to the establishment of the procedures, methodology, or criteria used to establish such schedules, rates, or allowances.
- (c)**
 - (1)** The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.
 - (2)** The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—
 - (A)**
 - (i)** aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and
 - (ii)** integrating those strategies into the budget and strategic plans of those agencies;
 - (B)** closing skill gaps in mission critical occupations;
 - (C)** ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;
 - (D)** sustaining a culture that cultivates and develops a high performing workforce;
 - (E)** developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and
 - (F)** holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 399; Pub. L. 95–454, title II, § 201(a), Oct. 13, 1978, 92 Stat. 1119; Pub. L. 99–251, title III, §§ 301, 302, Feb. 27, 1986, 100 Stat. 26; Pub. L. 107–296, title XIII, § 1304, Nov. 25, 2002, 116 Stat. 2289.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
[Uncodified].		1949 Reorg. Plan No. 5, §§ 1, 2(a) (35th through 46th words), 3, eff. Aug. 20, 1949, 63 Stat. 1067, 1069.
5 U.S.C. 632 (5th par.).		July 31, 1956, ch. 804, § 201(b), 70 Stat. 742.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

- 2002—Subsec. (c). Pub. L. 107–296 added subsec. (c).
- 1986—Subsec. (a)(9). Pub. L. 99–251, § 301, added par. (9).
- Subsec. (b)(4). Pub. L. 99–251, § 302, added par. (4).

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

1978—Pub. L. 95–454 substituted “Functions of the Director” for “Chairman; Vice Chairman; Executive Director” in section catchline, and in text provisions relating to the functions of the Director of the Office of Personnel Management for provisions relating to the Chairman, Vice Chairman, and Executive Director of the United States Civil Service Commission.

Effective Date of 2002 Amendment

Pub. L. 107–296, title XIII, § 1305, Nov. 25, 2002, 116 Stat. 2289, provided that: “This subtitle [subtitle A (§§ 1301–1305) of title XIII of Pub. L. 107–296, enacting chapter 14 of this title, amending this section, and enacting provisions set out as a note under section 1401 of this title] shall take effect 180 days after the date of enactment of this Act [Nov. 25, 2002].”

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

.....

§ 1104. Delegation of authority for personnel management

- (a) Subject to subsection (b)(3) of this section—
 - (1) the President may delegate, in whole or in part, authority for personnel management functions, including authority for competitive examinations, to the Director of the Office of Personnel Management; and
 - (2) the Director may delegate, in whole or in part, any function vested in or delegated to the Director, including authority for competitive examinations (except competitive examinations for administrative law judges appointed under section 3105 of this title, the cost of which examinations shall be reimbursed by payments from the agencies employing such judges to the revolving fund established under section 1304 (e)), to the heads of agencies in the executive branch and other agencies employing persons in the competitive service.
- (b)
 - (1) The Office shall establish standards which shall apply to the activities of the Office or any other agency under authority delegated under subsection (a) of this section.
 - (2) The Office shall establish and maintain an oversight program to ensure that activities under any authority delegated under subsection (a) of this section are in accordance with the merit system principles and the standards established under paragraph (1) of this subsection.
 - (3) Nothing in subsection (a) of this section shall be construed as affecting the responsibility of the Director to prescribe regulations and to ensure compliance with the civil service laws, rules, and regulations.
 - (4) At the request of the head of an agency to whom a function has been delegated under subsection (a)(2), the Office may provide assistance to the agency in performing such function. Such assistance shall, to the extent determined appropriate by the Director of the Office, be performed on a reimbursable basis through the revolving fund established under section 1304 (e).
- (c) If the Office makes a written finding, on the basis of information obtained under the program established under subsection (b)(2) of this section or otherwise, that any action taken by an agency pursuant to authority delegated under subsection (a)(2) of this section is contrary to any law, rule, or regulation, or is contrary to any standard established under subsection (b)(1) of this section, the agency involved shall take any corrective action the Office may require.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 399; Pub. L. 90–83, § 1(2), Sept. 11, 1967, 81 Stat. 195; Pub. L. 95–454, title II, § 201(a), Oct. 13, 1978, 92 Stat. 1120; Pub. L. 104–52, title IV, § 1, Nov. 19, 1995, 109 Stat. 489.)

Historical and Revision Notes

TITLE 5 - Section 1104 - Delegation of authority for personnel management

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

1966 Act

Derivation	U.S. Code	Revised Statutes and Statutes at Large
[Uncodified].		1949 Reorg. Plan No. 5, § 2(a) (less 35th through 46th words), (b), eff. Aug. 20, 1949, 63 Stat. 1067.
5 U.S.C. 3013(a) (1st sentence, less 10th through 24th words).		Sept. 28, 1959, Pub. L. 86-382, § 14(a) (1st sentence, less 10th through 24th words), 73 Stat. 716.

In the first sentence, the word “officers” is omitted as included in “employees”.

Subsection (a)(1) is added on authority of the words “to secure accuracy, uniformity, and justice in all their proceedings” in the first sentence of former section 635, which is carried into section 1105. The function in this paragraph was transferred from the chief examiner to the Chairman of the United States Civil Service Commission by 1949 Reorg. Plan No. 5, § 2(a)(2).

In subsection (a)(4), the words “requests for appropriations” are substituted for “budget estimates” on authority of the Act of Sept. 12, 1950, ch. 946, § 102(f), 64 Stat. 833; 31 U.S.C. 22.

In subsection (b)(2), the word “prescription” is substituted for “promulgation” and the words “now vested in the Commission” are omitted as surplusage.

In subsection (b)(4), the words “as is now authorized to be taken by the Commission” are omitted as surplusage.

In subsection (b)(5), the words “civil service” are substituted for “Federal service”.

In subsection (b)(7), the words “submission of requests for appropriations” are substituted for “revision and submission . . . of budget estimates” on authority of the Act of Sept. 12, 1950, ch. 946, § 102(f), 64 Stat. 833; 31 U.S.C. 22.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
1104(a)(6)	5:8713(a).	[None.]
	[Uncodified].	1965 Reorg. Plan No. 4, §§ 11(a), (e) (as applicable to (a)), 12 (as applicable to § 11(a)), 13 (as applicable to § 11(a)), eff. July 27, 1965, 79 Stat. 1322.

The paragraph added by this section is based on 5 U.S.C. 8713 (a), and is restated to reflect the effect of sections 11-13 of 1965 Reorganization Plan No. 4, effective July 27, 1965.

Amendments

1995—Subsec. (a). Pub. L. 104-52, § 1(1)(B), struck out closing provisions which read as follows: “except that the Director may not delegate authority for competitive examinations with respect to positions that have requirements which are common to agencies in the Federal Government, other than in exceptional cases in which the interests of economy and efficiency require such delegation and in which such delegation will not weaken the application of the merit system principles.”

Subsec. (a)(2). Pub. L. 104-52, § 1(1)(A), inserted “, the cost of which examinations shall be reimbursed by payments from the agencies employing such judges to the revolving fund established under section 1304 (e)” after “title” and substituted period for semicolon at end.

Subsec. (b)(4). Pub. L. 104-52, § 1(2), added par. (4).

TITLE 5 - Section 1105 - Administrative procedure

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscp.html>).

1978—Pub. L. 95–454 substituted “Delegation of authority for personnel management” for “Functions of Chairman” in section catchline, and in text provisions relating to the delegation of authority for personnel management for provisions relating to functions of the Chairman of the United States Civil Service Commission.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

§ 1105. Administrative procedure

Subject to section 1103 (b) of this title, in the exercise of the functions assigned under this chapter, the Director shall be subject to subsections (b), (c), and (d) of section 553 of this title, notwithstanding subsection (a) of such section 553.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 400; Pub. L. 95–454, title II, § 201(a), Oct. 13, 1978, 92 Stat. 1121.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 635 (less last 24 words of 6th sentence, and less 7th sentence).		Jan. 16, 1883, ch. 27, § 3 (less last 24 words of 6th sentence, and less 7th sentence), 22 Stat. 404.
[Uncodified].		1949 Reorg. Plan No. 5, § 4, eff. Aug. 19, 1949, 63 Stat. 1069.

In subsection (a), the words “the District of Columbia” are substituted for “Washington”. The words “at least three individuals in the service of the United States” are substituted for a “a suitable number of persons, not less than three, in the official service of the United States”. So much of the first three sentences of former section 635 as related to the offices of the Chief Examiner and the Secretary are omitted because the offices were abolished by 1949 Reorg. Plan No. 5, § 4. So much of the first sentence as imposed a duty on the Chief Examiner, under the Commission’s direction, to act with the examining boards to secure accuracy, uniformity, and justice in all their proceedings is restated in section 1104 (a)(1). The fourth sentence of former section 635, authorizing the Commission to employ a stenographer and a messenger, is omitted as obsolete. The remainder is rewritten for clarity. The text of 1949 Reorg. Plan No. 5, § 4, is omitted as executed.

In subsection (b), the words “Chairman, United States Civil Service Commission” are substituted for “chief examiner” on authority of 1949 Reorg. Plan No. 5, § 2(a)(2). The words “at all times” are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1978—Pub. L. 95–454 substituted “Administrative procedure” for “Boards of examiners” in section catchline, and in text provisions relating to administrative procedure applicable to administration of this chapter for provisions relating to boards of examiners for the United States Civil Service Commission.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

**TITLE 5 - PART II - CHAPTER 12 - SUBCHAPTER
I MERIT SYSTEMS PROTECTION BOARD**

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

CHAPTER 12—MERIT SYSTEMS PROTECTION BOARD, OFFICE OF SPECIAL COUNSEL, AND EMPLOYEE RIGHT OF ACTION

SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD

Sec.

- 1201. Appointment of members of the Merit Systems Protection Board.
- 1202. Term of office; filling vacancies; removal.
- 1203. Chairman; Vice Chairman.
- 1204. Powers and functions of the Merit Systems Protection Board.
- 1205. Transmittal of information to Congress.
- 1206. Annual report.

SUBCHAPTER II—OFFICE OF SPECIAL COUNSEL

- 1211. Establishment.
- 1212. Powers and functions of the Office of Special Counsel.
- 1213. Provisions relating to disclosures of violations of law, mismanagement, and certain other matters.¹
- 1214. Investigation of prohibited personnel practices; corrective action.
- 1215. Disciplinary action.
- 1216. Other matters within the jurisdiction of the Office of Special Counsel.
- 1217. Transmittal of information to Congress.
- 1218. Annual report.
- 1219. Public information.

SUBCHAPTER III—INDIVIDUAL RIGHT OF ACTION IN CERTAIN REPRISAL CASES

- 1221. Individual right of action in certain reprisal cases.
- 1222. Availability of other remedies.

Amendments

1989—Pub. L. 101-12, § 3(b)(2), (3), Apr. 10, 1989, 103 Stat. 31, substituted “, OFFICE OF SPECIAL COUNSEL, AND EMPLOYEE RIGHT OF ACTION” for “AND SPECIAL COUNSEL” in chapter heading, and amended chapter analysis generally, inserting subchapter I heading, and in item 1204 substituting “Powers and functions of the Merit Systems Protection Board” for “Special Counsel; appointment and removal”, in item 1205 substituting “Transmittal of information to Congress” for “Powers and functions of the Merit Systems Protection Board and Special Counsel”, in item 1206 substituting “Annual report” for “Authority and responsibilities of the Special Counsel”, omitting items 1207 “Hearings and decisions on complaints filed by the Special Counsel”, 1208 “Stays of certain personnel actions”, and 1209 “Information”, and inserting subchapters II and III headings and items 1211 to 1219, 1221, and 1222.

Footnotes

¹ So in original. Does not conform to section catchline.

SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD

Amendments

1989—Pub. L. 101–12, § 3(b)(4), Apr. 10, 1989, 103 Stat. 31, inserted subchapter heading.

.....

§ 1201. Appointment of members of the Merit Systems Protection Board

The Merit Systems Protection Board is composed of 3 members appointed by the President, by and with the advice and consent of the Senate, not more than 2 of whom may be adherents of the same political party. The members of the Board shall be individuals who, by demonstrated ability, background, training, or experience are especially qualified to carry out the functions of the Board. No member of the Board may hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President. The Board shall have an official seal which shall be judicially noticed. The Board shall have its principal office in the District of Columbia and may have field offices in other appropriate locations.

(Added Pub. L. 95–454, title II, § 202(a), Oct. 13, 1978, 92 Stat. 1121; amended Pub. L. 101–12, § 3(a)(1), Apr. 10, 1989, 103 Stat. 16.)

Amendments

1989—Pub. L. 101–12 substituted “The members” for “The Chairman and members” in second sentence.

Effective Date of 1989 Amendment

Section 11 of Pub. L. 101–12 provided that: “This Act and the amendments made by this Act [see Short Title of 1989 Amendment note below] shall take effect 90 days following the date of enactment of this Act [Apr. 10, 1989].”

Effective Date

Subchapter effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

Short Title of 1989 Amendment

Section 1 of Pub. L. 101–12 provided that: “This Act [enacting subchapters II and III of this chapter and section 3352 of this title, amending this section and sections 1202 to 1206, 1209, 1211, 2302, 2303, 3393, 7502, 7512, 7521, 7542, 7701, and 7703 of this title and section 4139 of Title 22, Foreign Relations and Intercourse, repealing sections 1207 and 1208 of this title, and enacting provisions set out as notes under this section and sections 1211 and 5509 of this title] may be cited as the ‘Whistleblower Protection Act of 1989’.”

Savings Provision

Section 7 of Pub. L. 101–12 provided that:

“(a) Orders, Rules, and Regulations.—All orders, rules, and regulations issued by the Merit Systems Protection Board or the Special Counsel before the effective date of this Act [see Effective Date of 1989 Amendment note above] shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed.

“(b) Administrative Proceedings.—No provision of this Act [see Short Title of 1989 Amendment note above] shall affect any administrative proceeding pending at the time such provisions take effect. Orders shall be issued in such proceedings, and appeals shall be taken therefrom, as if this Act had not been enacted.

“(c) Suits and Other Proceedings.—No suit, action, or other proceeding lawfully commenced by or against the members of the Merit Systems Protection Board, the Special Counsel, or officers or employees thereof, in their official capacity or in relation to the discharge of their official duties, as in effect immediately before the effective date of this Act [see Effective Date of 1989 Amendment note above], shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.”

Whistleblower Protection; Congressional Statement of Findings and Purpose

Section 2 of Pub. L. 101–12 provided that:

“(a) Findings.—The Congress finds that—

“(1) Federal employees who make disclosures described in section 2302 (b)(8) of title 5, United States Code, serve the public interest by assisting in the elimination of fraud, waste, abuse, and unnecessary Government expenditures;

“(2) protecting employees who disclose Government illegality, waste, and corruption is a major step toward a more effective civil service; and

“(3) in passing the Civil Service Reform Act of 1978 [Pub. L. 95–454, see Tables for classification], Congress established the Office of Special Counsel to protect whistleblowers (those individuals who make disclosures described in such section 2302 (b)(8)) from reprisal.

“(b) Purpose.—The purpose of this Act [see Short Title of 1989 Amendment note above] is to strengthen and improve protection for the rights of Federal employees, to prevent reprisals, and to help eliminate wrongdoing within the Government by—

“(1) mandating that employees should not suffer adverse consequences as a result of prohibited personnel practices; and

“(2) establishing—

“(A) that the primary role of the Office of Special Counsel is to protect employees, especially whistleblowers, from prohibited personnel practices;

“(B) that the Office of Special Counsel shall act in the interests of employees who seek assistance from the Office of Special Counsel; and

“(C) that while disciplining those who commit prohibited personnel practices may be used as a means by which to help accomplish that goal, the protection of individuals who are the subject of prohibited personnel practices remains the paramount consideration.”

Terms of Office of Members

Section 202(b) of Pub. L. 95–454 provided that: “Any term of office of any member of the Merit Systems Protection Board serving on the effective date of this Act [see Effective Date of 1978 Amendment note set out under section 1101 of this title] shall continue in effect until the term would expire under section 1102 of title 5, United States Code, as in effect immediately before the effective date of this Act, and upon expiration of the term, appointments to such office shall be made under sections 1201 and 1202 of title 5, United States Code (as added by this section).”

.....

§ 1202. Term of office; filling vacancies; removal

- (a) The term of office of each member of the Merit Systems Protection Board is 7 years.
- (b) A member appointed to fill a vacancy occurring before the end of a term of office of the member’s predecessor serves for the remainder of that term. Any appointment to fill a vacancy is subject to the requirements of section 1201. Any new member serving only a portion of a seven-year term in office may continue to serve until a successor is appointed and has qualified, except that such member may not continue to serve for more than one year after the date on which the term of the member would otherwise expire, unless reappointed.
- (c) Any member appointed for a 7-year term may not be reappointed to any following term but may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that such member may not continue to serve for more than one year after the date on which the term of the member would otherwise expire under this section.
- (d) Any member may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

(Added Pub. L. 95–454, title II, § 202(a), Oct. 13, 1978, 92 Stat. 1122; amended Pub. L. 100–202, § 101(m) [title VI, § 620], Dec. 22, 1987, 101 Stat. 1329–390, 1329–427; Pub. L. 101–12, § 3(a)(2), (3), Apr. 10, 1989, 103 Stat. 17.)

Amendments

1989—Pub. L. 101–12, § 3(a)(2), substituted a semicolon for the comma after “office” in section catchline.

Subsec. (b). Pub. L. 101–12, § 3(a)(3), substituted “the member’s” for “his” in first sentence and struck out “of this title” after “section 1201” in second sentence.

1987—Subsec. (b). Pub. L. 100–202 inserted provision permitting any new member serving portion of seven-year term to continue serving until successor is appointed and has qualified, with exception limiting duration of such service.

Effective Date of 1989 Amendment

Amendment by Pub. L. 101–12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101–12, set out as a note under section 1201 of this title.

.....

§ 1203. Chairman; Vice Chairman

(a) The President shall from time to time appoint, by and with the advice and consent of the Senate, one of the members of the Merit Systems Protection Board as the Chairman of the Board. The Chairman is the chief executive and administrative officer of the Board.

(b) The President shall from time to time designate one of the members of the Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

(c) During the absence or disability of both the Chairman and the Vice Chairman, or when the offices of Chairman and Vice Chairman are vacant, the remaining Board member shall perform the functions vested in the Chairman.

(Added Pub. L. 95–454, title II, § 202(a), Oct. 13, 1978, 92 Stat. 1122; amended Pub. L. 101–12, § 3(a)(4), (5), Apr. 10, 1989, 103 Stat. 17.)

Amendments

1989—Subsec. (a). Pub. L. 101–12, § 3(a)(4), struck out the comma after “time” in first sentence.

Subsec. (c). Pub. L. 101–12, § 3(a)(5), substituted “the Chairman and the Vice Chairman” for “the Chairman and Vice Chairman” after “both”.

Effective Date of 1989 Amendment

Amendment by Pub. L. 101–12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101–12, set out as a note under section 1201 of this title.

.....

§ 1204. Powers and functions of the Merit Systems Protection Board

(a) The Merit Systems Protection Board shall—

(1) hear, adjudicate, or provide for the hearing or adjudication, of all matters within the jurisdiction of the Board under this title, chapter 43 of title 38, or any other law, rule, or regulation, and, subject to otherwise applicable provisions of law, take final action on any such matter;

(2) order any Federal agency or employee to comply with any order or decision issued by the Board under the authority granted under paragraph (1) of this subsection and enforce compliance with any such order;

(3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected; and

TITLE 5 - Section 1204 - Powers and functions of the Merit Systems Protection Board

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

- (4) review, as provided in subsection (f), rules and regulations of the Office of Personnel Management.
- (b) (1) Any member of the Merit Systems Protection Board, any administrative law judge appointed by the Board under section 3105 of this title, and any employee of the Board designated by the Board may administer oaths, examine witnesses, take depositions, and receive evidence.
- (2) Any member of the Board, any administrative law judge appointed by the Board under section 3105, and any employee of the Board designated by the Board may, with respect to any individual—
- (A) issue subpoenas requiring the attendance and presentation of testimony of any such individual, and the production of documentary or other evidence from any place in the United States, any territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia; and
- (B) order the taking of depositions from, and responses to written interrogatories by, any such individual.
- (3) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.
- (c) In the case of contumacy or failure to obey a subpoena issued under subsection (b)(2)(A) or section 1214 (b), upon application by the Board, the United States district court for the district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.
- (d) A subpoena referred to in subsection (b)(2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in such manner as the Federal Rules of Civil Procedure prescribe for service of a subpoena in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such individual, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance under this subsection by such individual that such court would have if such individual were personally within the jurisdiction of such court.
- (e) (1) (A) In any proceeding under subsection (a)(1), any member of the Board may request from the Director of the Office of Personnel Management an advisory opinion concerning the interpretation of any rule, regulation, or other policy directive promulgated by the Office of Personnel Management.
- (B) (i) The Merit Systems Protection Board may, during an investigation by the Office of Special Counsel or during the pendency of any proceeding before the Board, issue any order which may be necessary to protect a witness or other individual from harassment, except that an agency (other than the Office of Special Counsel) may not request any such order with regard to an investigation by the Office of Special Counsel from the Board during such investigation.
- (ii) An order issued under this subparagraph may be enforced in the same manner as provided for under paragraph (2) with respect to any order under subsection (a)(2).
- (2) (A) In enforcing compliance with any order under subsection (a)(2), the Board may order that any employee charged with complying with such order, other than an employee appointed by the President by and with the advice and consent of the Senate, shall not be entitled to receive payment for service as an employee during any period that the order has not been complied with. The Board shall certify to the Comptroller General of the United States that such an order has been issued and no payment shall be made out of the Treasury of the United States for any service specified in such order.

TITLE 5 - Section 1204 - Powers and functions of the Merit Systems Protection Board

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

- (B)** The Board shall prescribe regulations under which any employee who is aggrieved by the failure of any other employee to comply with an order of the Board may petition the Board to exercise its authority under subparagraph (A).
- (3)** In carrying out any study under subsection (a)(3), the Board shall make such inquiries as may be necessary and, unless otherwise prohibited by law, shall have access to personnel records or information collected by the Office of Personnel Management and may require additional reports from other agencies as needed.
- (f)** **(1)** At any time after the effective date of any rule or regulation issued by the Director of the Office of Personnel Management in carrying out functions under section 1103, the Board shall review any provision of such rule or regulation—
- (A)** on its own motion;
 - (B)** on the granting by the Board, in its sole discretion, of any petition for such review filed with the Board by any interested person, after consideration of the petition by the Board; or
 - (C)** on the filing of a written complaint by the Special Counsel requesting such review.
- (2)** In reviewing any provision of any rule or regulation pursuant to this subsection, the Board shall declare such provision—
- (A)** invalid on its face, if the Board determines that such provision would, if implemented by any agency, on its face, require any employee to violate section 2302 (b); or
 - (B)** invalidly implemented by any agency, if the Board determines that such provision, as it has been implemented by the agency through any personnel action taken by the agency or through any policy adopted by the agency in conformity with such provision, has required any employee to violate section 2302 (b).
- (3)** The Director of the Office of Personnel Management, and the head of any agency implementing any provision of any rule or regulation under review pursuant to this subsection, shall have the right to participate in such review.
- (4)** The Board shall require any agency—
- (A)** to cease compliance with any provisions of any rule or regulation which the Board declares under this subsection to be invalid on its face; and
 - (B)** to correct any invalid implementation by the agency of any provision of any rule or regulation which the Board declares under this subsection to have been invalidly implemented by the agency.
- (g)** The Board may delegate the performance of any of its administrative functions under this title to any employee of the Board.
- (h)** The Board shall have the authority to prescribe such regulations as may be necessary for the performance of its functions. The Board shall not issue advisory opinions. All regulations of the Board shall be published in the Federal Register.
- (i)** Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Chairman of the Board may appear for the Board, and represent the Board, in any civil action brought in connection with any function carried out by the Board pursuant to this title or as otherwise authorized by law.
- (j)** The Chairman of the Board may appoint such personnel as may be necessary to perform the functions of the Board. Any appointment made under this subsection shall comply with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33).
- (k)** The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which

TITLE 5 - Section 1204 - Powers and functions of the Merit Systems Protection Board

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

shall, as revised, be included as a separate item in the budget required to be transmitted to the Congress under section 1105 of title 31.

(l) The Board shall submit to the President, and, at the same time, to each House of the Congress, any legislative recommendations of the Board relating to any of its functions under this title.

(m) (1) Except as provided in paragraph (2) of this subsection, the Board, or an administrative law judge or other employee of the Board designated to hear a case arising under section 1215, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee (as the case may be) determines that payment by the agency is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

(2) If an employee or applicant for employment is the prevailing party of a case arising under section 1215 and the decision is based on a finding of discrimination prohibited under section 2302 (b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5 (k)).

(Added Pub. L. 95-454, title II, § 202(a), Oct. 13, 1978, 92 Stat. 1122, § 1205; amended Pub. L. 97-258, § 3(a)(2), Sept. 13, 1982, 96 Stat. 1063; renumbered § 1204 and amended Pub. L. 101-12, § 3(a)(7), Apr. 10, 1989, 103 Stat. 17; Pub. L. 102-568, title V, § 506(c)(4), Oct. 29, 1992, 106 Stat. 4341; Pub. L. 103-353, § 2(b)(2)(A), Oct. 13, 1994, 108 Stat. 3169; Pub. L. 103-424, § 2, Oct. 29, 1994, 108 Stat. 4361; Pub. L. 103-446, title XII, § 1203(c)(1), Nov. 2, 1994, 108 Stat. 4690.)

References in Text

The Federal Rules of Civil Procedure, referred to in subsec. (d), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Prior Provisions

A prior section 1204 was renumbered section 1211 (b) of this title by Pub. L. 101-12, § 3(a)(6). Pub. L. 102-378, § 2(3), Oct. 2, 1992, 106 Stat. 1346, struck out section catchline of prior section 1204.

Amendments

1994—Subsec. (a)(1). Pub. L. 103-446, which directed the amendment of par. (1) by substituting “section 4303” for “section 4323” could not be executed because the phrase “section 4323” does not appear in text subsequent to the intervening amendment by Pub. L. 103-353 substituting “chapter 43” for “section 4323”. See below.

Pub. L. 103-353 substituted “chapter 43” for “section 4323”.

Subsec. (m). Pub. L. 103-424 added subsec. (m).

1992—Subsec. (a)(1). Pub. L. 102-568 substituted “4323” for “2023”.

1989—Pub. L. 101-12, § 3(a)(7), renumbered section 1205 of this title as this section.

Pub. L. 101-12, § 3(a)(7)(A), struck out “and Special Counsel” after “Board” in section catchline.

Subsec. (a)(4). Pub. L. 101-12, § 3(a)(7)(A), (C), substituted “subsection (f)” for “subsection (e) of this section”.

Subsec. (b)(1). Pub. L. 101-12, § 3(a)(7)(A), struck out “the Special Counsel,” after “Board.”

Subsec. (b)(2). Pub. L. 101-12, § 3(a)(7)(D), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Any member of the Board, the Special Counsel, and any administrative law judge appointed by the Board under section 3105 of this title may—

“(A) issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia; and

“(B) order the taking of depositions and order responses to written interrogatories.”

TITLE 5 - Section 1205 - Transmittal of information to Congress

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

Subsec. (b)(3). Pub. L. 101–12, § 3(a)(7)(B), substituted “subpoena” for “subpena” and “subpoenaed” for “subpenaed”.

Subsec. (c). Pub. L. 101–12, § 3(a)(7)(B), (E), substituted “subpoena” for “subpena” in two places, “(b)(2)(A) or section 1214 (b), upon application by the Board” for “(b)(2) of this section”, and “for the district” for “for the judicial district”.

Subsec. (d). Pub. L. 101–12, § 3(a)(7)(F), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 101–12, § 3(a)(7)(F), redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 101–12, § 3(a)(7)(A), (G)(i), designated existing provisions as subpar. (A), struck out “of this section” after “subsection (a)(1)”, and added subpar. (B).

Subsec. (e)(2). Pub. L. 101–12, § 3(a)(7)(G)(ii), designated existing provisions as subpar. (A), struck out “of this section” after “subsection (a)(2)”, and added subpar. (B).

Subsec. (e)(3). Pub. L. 101–12, § 3(a)(7)(A), (G)(iii), struck out “of this section” after “subsection (a)(3)” and inserted “of Personnel Management” after “Office”.

Subsec. (f). Pub. L. 101–12, § 3(a)(7)(F), redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(1). Pub. L. 101–12, § 3(a)(7)(H)(i), inserted “of the Office of Personnel Management” after “Director” and struck out “of this title” after “section 1103”.

Subsec. (f)(2). Pub. L. 101–12, § 3(a)(7)(H)(ii), inserted comma after “subsection” and in subpars. (A) and (B) struck out “of this title” after “section 2302 (b)”.

Subsec. (f)(3), (4). Pub. L. 101–12, § 3(a)(7)(H)(iii), struck out “(A)” before “The Director”, struck out subpar. (B) which provided that any review conducted by the Board be limited to determining the validity on its face of the provision under review and whether the provision under review has been validly implemented, and redesignated former subpar. (C) and cls. (i) and (ii) of former subpar. (C) as par. (4) and subpars. (A) and (B), respectively, of par. (4).

Subsecs. (g) to (i). Pub. L. 101–12, § 3(a)(7)(F), redesignated former subsecs. (f) to (h) as (g) to (i), respectively. Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 101–12, § 3(a)(7)(F), (I), redesignated former subsec. (i) as (j) and substituted “chapter 33” for “chapter 33 of this title”. Former subsec. (j) redesignated (k).

Subsecs. (k), (l). Pub. L. 101–12, § 3(a)(7)(F), redesignated former subsecs. (j) and (k) as (k) and (l), respectively.

1982—Subsec. (j). Pub. L. 97–258 substituted “section 1105 of title 31” for “section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)”.

Effective Date of 1994 Amendments

Section 14 of Pub. L. 103–424 provided that: “The provisions of this Act [amending this section and sections 1211, 1212, 1214, 1218, 1221, 2105, 2302, 4313, 7121, and 8348 of this title, enacting provisions set out as notes under sections 1212 and 1214 of this title and section 1441a of Title 12, Banks and Banking, and amending provisions set out as a note under section 5509 of this title] and the amendments made by this Act shall be effective on and after the date of the enactment of this Act [Oct. 29, 1994].”

Amendment by Pub. L. 103–353 effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as an Effective Date note under section 4301 of Title 38, Veterans’ Benefits.

Effective Date of 1989 Amendment

Amendment by Pub. L. 101–12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101–12, set out as a note under section 1201 of this title.

.....

§ 1205. Transmittal of information to Congress

Notwithstanding any other provision of law or any rule, regulation or policy directive, any member of the Board, or any employee of the Board designated by the Board, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Board, without review, clearance, or approval by any other administrative authority.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscode.html>).

(Added Pub. L. 95-454, title II, § 202(a), Oct. 13, 1978, 92 Stat. 1131, § 1209(a); renumbered § 1205 and amended Pub. L. 101-12, § 3(a)(9), Apr. 10, 1989, 103 Stat. 18.)

Prior Provisions

A prior section 1205 was renumbered section 1204 of this title.

Amendments

1989—Pub. L. 101-12 renumbered section 1209 (a) of this title as this section and inserted section catchline.

Effective Date of 1989 Amendment

Amendment by Pub. L. 101-12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101-12, set out as a note under section 1201 of this title.

.....

§ 1206. Annual report

The Board shall submit an annual report to the President and the Congress on its activities, which shall include a description of significant actions taken by the Board to carry out its functions under this title. The report shall also review the significant actions of the Office of Personnel Management, including an analysis of whether the actions of the Office of Personnel Management are in accord with merit system principles and free from prohibited personnel practices.

(Added Pub. L. 95-454, title II, § 202(a), Oct. 13, 1978, 92 Stat. 1131, § 1209(b); renumbered § 1206 and amended Pub. L. 101-12, § 3(a)(10), Apr. 10, 1989, 103 Stat. 18.)

Prior Provisions

A prior section 1206, added Pub. L. 95-454, title II, § 202(a), Oct. 13, 1978, 92 Stat. 1125, which related to authority and responsibilities of Special Counsel, was repealed by Pub. L. 101-12, §§ 3(a)(8), 11, Apr. 10, 1989, 103 Stat. 18, effective 90 days following Apr. 10, 1989. See section 1212 of this title.

Amendments

1989—Pub. L. 101-12 renumbered section 1209 (b) of this title as this section and inserted section catchline.

Effective Date of 1989 Amendment

Amendment by Pub. L. 101-12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101-12, set out as a note under section 1201 of this title.

Termination of Reporting Requirements

For termination, effective May 15, 2000, of provisions in first sentence of this section relating to annual reports to Congress (formerly 5 U.S.C. 1209 (b)), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 176 of House Document No. 103-7.

.....

§§ 1207, 1208. Repealed. Pub. L. 101-12, § 3(a)(8), Apr. 10, 1989, 103 Stat. 18]

Section 1207, added Pub. L. 95-454, title II, § 202(a), Oct. 13, 1978, 92 Stat. 1130, provided for hearings and decisions on complaints filed by Special Counsel. See section 1215 (a)(2) to (5) of this title.

Section 1208, added Pub. L. 95-454, title II, § 202(a), Oct. 13, 1978, 92 Stat. 1130, related to stays of certain personnel actions. See section 1214 (b) of this title.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Effective Date of Repeal

Repeal of sections effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101–12, set out as an Effective Date of 1989 Amendment note under section 1201 of this title.

.....

§ 1209. Renumbered §§ 1205 and 1206]

Codification

Subsecs. (a) and (b) of this section were renumbered as sections 1205 and 1206, respectively, of this title by Pub. L. 101–12, § 3(a)(9), (10). Pub. L. 102–378, § 2(2), Oct. 2, 1992, 106 Stat. 1346, struck out section catchline of prior section 1209.

SUBCHAPTER II—OFFICE OF SPECIAL COUNSEL

.....

§ 1211. Establishment

(a) There is established the Office of Special Counsel, which shall be headed by the Special Counsel. The Office shall have an official seal which shall be judicially noticed. The Office shall have its principal office in the District of Columbia and shall have field offices in other appropriate locations.

(b) The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection. The Special Counsel shall be an attorney who, by demonstrated ability, background, training, or experience, is especially qualified to carry out the functions of the position. A Special Counsel appointed to fill a vacancy occurring before the end of a term of office of the Special Counsel's predecessor serves for the remainder of the term. The Special Counsel may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. The Special Counsel may not hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President.

(Added Pub. L. 101–12, § 3(a)(11), Apr. 10, 1989, 103 Stat. 19, § 1211(a), and Pub. L. 95–454, title II, § 202(a), Oct. 13, 1978, 92 Stat. 1122, § 1204; renumbered § 1211(b) and amended Pub. L. 101–12, § 3(a)(6), (12), Apr. 10, 1989, 103 Stat. 17, 19; Pub. L. 103–424, § 3(a), Oct. 29, 1994, 108 Stat. 4361.)

Amendments

1994—Subsec. (b). Pub. L. 101–424 inserted after first sentence “The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection.”

1989—Subsec. (b). Pub. L. 101–12, § 3(a)(6), (12), renumbered section 1204 of this title as subsec. (b) of this section, substituted “Special Counsel shall be appointed by the President” for “Special Counsel of the Merit Systems Protection Board shall be appointed by the President from attorneys”, substituted “The Special Counsel shall be an attorney who, by demonstrated ability, background, training, or experience, is especially qualified to carry out the functions of the position. A Special Counsel appointed to fill a vacancy occurring before the end of a term of office of the Special Counsel's predecessor serves for the remainder of the term.” for “A Special Counsel appointed to fill a vacancy occurring before the end of a term of office of his predecessor serves for the remainder of the term.”, and inserted at end “The Special Counsel may not hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President.”

Effective Date

Subchapter effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101–12, set out as a note under section 1201 of this title.

Allegations of Wrongdoing Against Special Counsel or Deputy Special Counsel

Pub. L. 110–409, § 7(b), Oct. 14, 2008, 122 Stat. 4312, provided that:

“(1) Definitions.—In this section [enacting section 11 of Pub. L. 95–452, set out in the Appendix to this title, amending sections 2, 4, and 8G of Pub. L. 95–452 and section 1105 of Title 31, Money and Finance, renumbering sections 11 and 12 of Pub. L. 95–452 as 12 and 13, respectively, of Pub. L. 95–452, enacting provisions set out as a note under section 11 of Pub. L. 95–452, and amending provisions set out as notes under section 3 of Pub. L. 95–452 and section 501 of Title 31]—

“(A) the term ‘Integrity Committee’ means the Integrity Committee established under section 11(d) of the Inspector General Act of 1978 (5 U.S.C. App), as amended by this Act; and

“(B) the term ‘Special Counsel’ refers to the Special Counsel appointed under section 1211 (b) of title 5, United States Code.

“(2) Authority of integrity committee.—

“(A) In general.—An allegation of wrongdoing against the Special Counsel or the Deputy Special Counsel may be received, reviewed, and referred for investigation by the Integrity Committee to the same extent and in the same manner as in the case of an allegation against an Inspector General (or a member of the staff of an Office of Inspector General), subject to the requirement that the Special Counsel recuse himself or herself from the consideration of any allegation brought under this paragraph.

“(B) Coordination with existing provisions of law.—This subsection does not eliminate access to the Merit Systems Protection Board for review under section 7701 of title 5, United States Code. To the extent that an allegation brought under this subsection involves section 2302(b)(8) of that title, a failure to obtain corrective action within 120 days after the date on which that allegation is received by the Integrity Committee shall, for purposes of section 1221 of such title, be considered to satisfy section 1214(a)(3)(B) of that title.

“(3) Regulations.—The Integrity Committee may prescribe any rules or regulations necessary to carry out this subsection, subject to such consultation or other requirements as might otherwise apply.”

Transfer of Funds

Section 8(c) of Pub. L. 101–12 provided that: “The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available to the Special Counsel of the Merit Systems Protection Board are, subject to section 1531 of title 31, United States Code, transferred to the Special Counsel referred to in section 1211 of title 5, United States Code (as added by section 3(a) of this Act), for appropriate allocation.”

.....

§ 1212. Powers and functions of the Office of Special Counsel

- (a) The Office of Special Counsel shall—
- (1) in accordance with section 1214 (a) and other applicable provisions of this subchapter, protect employees, former employees, and applicants for employment from prohibited personnel practices;
 - (2) receive and investigate allegations of prohibited personnel practices, and, where appropriate—
 - (A) bring petitions for stays, and petitions for corrective action, under section 1214; and
 - (B) file a complaint or make recommendations for disciplinary action under section 1215;
 - (3) receive, review, and, where appropriate, forward to the Attorney General or an agency head under section 1213, disclosures of violations of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;
 - (4) review rules and regulations issued by the Director of the Office of Personnel Management in carrying out functions under section 1103 and, where the Special Counsel finds that any such rule or regulation would, on its face or as implemented, require the commission of a prohibited personnel practice, file a written complaint with the Board; and
 - (5) investigate and, where appropriate, bring actions concerning allegations of violations of other laws within the jurisdiction of the Office of Special Counsel (as referred to in section 1216).
- (b)
- (1) The Special Counsel and any employee of the Office of Special Counsel designated by the Special Counsel may administer oaths, examine witnesses, take depositions, and receive evidence.
 - (2) The Special Counsel may—
 - (A) issue subpoenas; and
 - (B) order the taking of depositions and order responses to written interrogatories;in the same manner as provided under section 1204.
 - (3)
 - (A) In the case of contumacy or failure to obey a subpoena issued under paragraph (2)(A), the Special Counsel may apply to the Merit Systems Protection Board to enforce the subpoena in court pursuant to section 1204 (c).
 - (B) A subpoena under paragraph (2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in the manner referred

TITLE 5 - Section 1212 - Powers and functions of the Office of Special Counsel

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

- to in subsection (d) of section 1204, and the United States District Court for the District of Columbia may, with respect to any such individual, compel compliance in accordance with such subsection.
- (4) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.
- (c) (1) Except as provided in paragraph (2), the Special Counsel may as a matter of right intervene or otherwise participate in any proceeding before the Merit Systems Protection Board, except that the Special Counsel shall comply with the rules of the Board.
- (2) The Special Counsel may not intervene in an action brought by an individual under section 1221, or in an appeal brought by an individual under section 7701, without the consent of such individual.
- (d) (1) The Special Counsel may appoint the legal, administrative, and support personnel necessary to perform the functions of the Special Counsel.
- (2) Any appointment made under this subsection shall be made in accordance with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33).
- (e) The Special Counsel may prescribe such regulations as may be necessary to perform the functions of the Special Counsel. Such regulations shall be published in the Federal Register.
- (f) The Special Counsel may not issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15 or subchapter III of chapter 73).
- (g) (1) The Special Counsel may not respond to any inquiry or disclose any information from or about any person making an allegation under section 1214 (a), except in accordance with the provisions of section 552a of title 5, United States Code, or as required by any other applicable Federal law.
- (2) Notwithstanding the exception under paragraph (1), the Special Counsel may not respond to any inquiry concerning an evaluation of the work performance, ability, aptitude, general qualifications, character, loyalty, or suitability for any personnel action of any person described in paragraph (1)—
- (A) unless the consent of the individual as to whom the information pertains is obtained in advance; or
- (B) except upon request of an agency which requires such information in order to make a determination concerning an individual's having access to the information unauthorized disclosure of which could be expected to cause exceptionally grave damage to the national security.

(Added Pub. L. 101–12, § 3(a)(13), Apr. 10, 1989, 103 Stat. 19; amended Pub. L. 103–424, § 3(b), Oct. 29, 1994, 108 Stat. 4362.)

Amendments

1994—Subsec. (g)(1). Pub. L. 103–424, § 3(b)(1) substituted “disclose any information from or about” for “provide information concerning”.

Subsec. (g)(2). Pub. L. 103–424, § 3(b)(2), substituted “an evaluation of the work performance, ability, aptitude, general qualifications, character, loyalty, or suitability for any personnel action of any” for “a matter described in subparagraph (A) or (B) of section 2302 (b)(2) in connection with a”.

Policy Statement Regarding Implementation of Whistleblower Protection Act

Section 12(a) of Pub. L. 103–424 provided that: “No later than 6 months after the date of enactment of this Act [Oct. 29, 1994], the Special Counsel shall issue a policy statement regarding the implementation of the Whistleblower Protection Act of 1989 [see Short Title of 1989 Amendment note set out under section 1201 of this title]. Such policy statement

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

shall be made available to each person alleging a prohibited personnel practice described under section 2302 (b)(8) of title 5, United States Code, and shall include detailed guidelines identifying specific categories of information that may (or may not) be communicated to agency officials for an investigative purpose, or for the purpose of obtaining corrective action under section 1214 of title 5, United States Code, or disciplinary action under section 1215 of such title, the circumstances under which such information is likely to be disclosed, and whether or not the consent of any person is required in advance of any such communication.”

Annual Survey of Individuals Seeking Assistance

Section 13 of Pub. L. 103–424 provided that:

“(a) In General.—The Office of Special Counsel shall, after consulting with the Office of Policy and Evaluation of the Merit Systems Protection Board, conduct an annual survey of all individuals who contact the Office of Special Counsel for assistance. The survey shall—

“(1) determine if the individual seeking assistance was fully apprised of their rights;

“(2) determine whether the individual was successful either at the Office of Special Counsel or the Merit Systems Protection Board; and

“(3) determine if the individual, whether successful or not, was satisfied with the treatment received from the Office of Special Counsel.

“(b) Report.—The results of the survey conducted under subsection (a) shall be published in the annual report of the Office of Special Counsel.”

.....

§ 1213. Provisions relating to disclosures of violations of law, gross mismanagement, and certain other matters

(a) This section applies with respect to—

(1) any disclosure of information by an employee, former employee, or applicant for employment which the employee, former employee, or applicant reasonably believes evidences—

(A) a violation of any law, rule, or regulation; or

(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; and

(2) any disclosure by an employee, former employee, or applicant for employment to the Special Counsel or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures of information which the employee, former employee, or applicant reasonably believes evidences—

(A) a violation of any law, rule, or regulation; or

(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(b) Whenever the Special Counsel receives information of a type described in subsection (a) of this section, the Special Counsel shall review such information and, within 15 days after receiving the information, determine whether there is a substantial likelihood that the information discloses a violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety.

(c) (1) Subject to paragraph (2), if the Special Counsel makes a positive determination under subsection (b) of this section, the Special Counsel shall promptly transmit the information with respect to which the determination was made to the appropriate agency head and require that the agency head—

(A) conduct an investigation with respect to the information and any related matters transmitted by the Special Counsel to the agency head; and

concerns. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action shall be completed. The Special Counsel shall inform the individual of the report of the agency head.

(2) If the Special Counsel receives information of a type described in subsection (a) from an individual described in subparagraph (A) or (B) of subsection (c)(2), but does not make a positive determination under subsection (b), the Special Counsel may transmit the information to the head of the agency which the information concerns, except that the information may not be transmitted to the head of the agency without the consent of the individual. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action will be completed. The Special Counsel shall inform the individual of the report of the agency head.

(3) If the Special Counsel does not transmit the information to the head of the agency under paragraph (2), the Special Counsel shall inform the individual of—

(A) the reasons why the disclosure may not be further acted on under this chapter; and

(B) other offices available for receiving disclosures, should the individual wish to pursue the matter further.

(h) The identity of any individual who makes a disclosure described in subsection (a) may not be disclosed by the Special Counsel without such individual's consent unless the Special Counsel determines that the disclosure of the individual's identity is necessary because of an imminent danger to public health or safety or imminent violation of any criminal law.

(i) Except as specifically authorized under this section, the provisions of this section shall not be considered to authorize disclosure of any information by any agency or any person which is—

(1) specifically prohibited from disclosure by any other provision of law; or

(2) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

(j) With respect to any disclosure of information described in subsection (a) which involves foreign intelligence or counterintelligence information, if the disclosure is specifically prohibited by law or by Executive order, the Special Counsel shall transmit such information to the National Security Advisor, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate.

(Added Pub. L. 101–12, § 3(a)(13), Apr. 10, 1989, 103 Stat. 21; amended Pub. L. 104–316, title I, § 103(a), Oct. 19, 1996, 110 Stat. 3828; Pub. L. 107–304, § 3, Nov. 27, 2002, 116 Stat. 2364.)

Amendments

2002—Subsec. (g)(1). Pub. L. 107–304, § 3(1), struck out at end “If the Special Counsel does not transmit the information to the head of the agency, the Special Counsel shall return any documents and other matter provided by the individual who made the disclosure.”

Subsec. (g)(3). Pub. L. 107–304, § 3(2), added par. (3) and struck out former par. (3) which read as follows: “If the Special Counsel does not transmit the information to the head of the agency under paragraph (2), the Special Counsel shall—

“(A) return any documents and other matter provided by the individual who made the disclosure; and

“(B) inform the individual of—

“(i) the reasons why the disclosure may not be further acted on under this chapter; and

“(ii) other offices available for receiving disclosures, should the individual wish to pursue the matter further.”

1996—Subsec. (e)(3). Pub. L. 104–316, § 103(a)(1), substituted “President and” for “President,” and struck out “, and the Comptroller General” before period at end.

Subsec. (e)(4). Pub. L. 104-316, § 103(a)(2), substituted "President and" for "President," and struck out ", and the Comptroller General" before "together with a".

.....

§ 1214. Investigation of prohibited personnel practices; corrective action

- (a) (1) (A) The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.
(B) Within 15 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall provide written notice to the person who made the allegation that—
 - (i) the allegation has been received by the Special Counsel; and
 - (ii) shall include the name of a person at the Office of Special Counsel who shall serve as a contact with the person making the allegation.(C) Unless an investigation is terminated under paragraph (2), the Special Counsel shall—
 - (i) within 90 days after notice is provided under subparagraph (B), notify the person who made the allegation of the status of the investigation and any action taken by the Office of the Special Counsel since the filing of the allegation;
 - (ii) notify such person of the status of the investigation and any action taken by the Office of the Special Counsel since the last notice, at least every 60 days after notice is given under clause (i); and
 - (iii) notify such person of the status of the investigation and any action taken by the Special Counsel at such time as determined appropriate by the Special Counsel.(D) No later than 10 days before the Special Counsel terminates any investigation of a prohibited personnel practice, the Special Counsel shall provide a written status report to the person who made the allegation of the proposed findings of fact and legal conclusions. The person may submit written comments about the report to the Special Counsel. The Special Counsel shall not be required to provide a subsequent written status report under this subparagraph after the submission of such written comments.
- (2) (A) If the Special Counsel terminates any investigation under paragraph (1), the Special Counsel shall prepare and transmit to any person on whose allegation the investigation was initiated a written statement notifying the person of—
 - (i) the termination of the investigation;
 - (ii) a summary of relevant facts ascertained by the Special Counsel, including the facts that support, and the facts that do not support, the allegations of such person;
 - (iii) the reasons for terminating the investigation; and
 - (iv) a response to any comments submitted under paragraph (1)(D).(B) A written statement under subparagraph (A) may not be admissible as evidence in any judicial or administrative proceeding, without the consent of the person who received such statement under subparagraph (A).
- (3) Except in a case in which an employee, former employee, or applicant for employment has the right to appeal directly to the Merit Systems Protection Board under any law, rule, or regulation, any such employee, former employee, or applicant shall seek corrective action from the Special Counsel before seeking corrective action from the Board. An employee, former employee, or applicant for employment may seek corrective action from the Board under section 1221, if such employee, former employee, or applicant seeks corrective action for a prohibited personnel practice described in section 2302 (b)(8) from the Special Counsel and—

- (B)** If, in connection with any investigation, the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken which requires corrective action, the Special Counsel shall report the determination together with any findings or recommendations to the Board, the agency involved and to the Office of Personnel Management, and may report such determination, findings and recommendations to the President. The Special Counsel may include in the report recommendations for corrective action to be taken.
- (C)** If, after a reasonable period of time, the agency does not act to correct the prohibited personnel practice, the Special Counsel may petition the Board for corrective action.
- (D)** If the Special Counsel finds, in consultation with the individual subject to the prohibited personnel practice, that the agency has acted to correct the prohibited personnel practice, the Special Counsel shall file such finding with the Board, together with any written comments which the individual may provide.
- (E)** A determination by the Special Counsel under this paragraph shall not be cited or referred to in any proceeding under this paragraph or any other administrative or judicial proceeding for any purpose, without the consent of the person submitting the allegation of a prohibited personnel practice.
- (3)** Whenever the Special Counsel petitions the Board for corrective action, the Board shall provide an opportunity for—
- (A)** oral or written comments by the Special Counsel, the agency involved, and the Office of Personnel Management; and
- (B)** written comments by any individual who alleges to be the subject of the prohibited personnel practice.
- (4)** **(A)** The Board shall order such corrective action as the Board considers appropriate, if the Board determines that the Special Counsel has demonstrated that a prohibited personnel practice, other than one described in section 2302 (b)(8), has occurred, exists, or is to be taken.
- (B)** **(i)** Subject to the provisions of clause (ii), in any case involving an alleged prohibited personnel practice as described under section 2302 (b)(8), the Board shall order such corrective action as the Board considers appropriate if the Special Counsel has demonstrated that a disclosure described under section 2302 (b)(8) was a contributing factor in the personnel action which was taken or is to be taken against the individual.
- (ii)** Corrective action under clause (i) may not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.
- (c)** **(1)** Judicial review of any final order or decision of the Board under this section may be obtained by any employee, former employee, or applicant for employment adversely affected by such order or decision.
- (2)** A petition for review under this subsection shall be filed with such court, and within such time, as provided for under section 7703 (b).
- (d)** **(1)** If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that a criminal violation has occurred, the Special Counsel shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget.
- (2)** In any case in which the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken, the Special Counsel shall proceed with any investigation or proceeding unless—
- (A)** the alleged violation has been reported to the Attorney General; and

TITLE 5 - Section 1215 - Disciplinary action

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

- (B)** the Attorney General is pursuing an investigation, in which case the Special Counsel, after consultation with the Attorney General, has discretion as to whether to proceed.
- (e)** If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that any violation of any law, rule, or regulation has occurred other than one referred to in subsection (b) or (d), the Special Counsel shall report such violation to the head of the agency involved. The Special Counsel shall require, within 30 days after the receipt of the report by the agency, a certification by the head of the agency which states—
 - (1)** that the head of the agency has personally reviewed the report; and
 - (2)** what action has been or is to be taken, and when the action will be completed.
- (f)** During any investigation initiated under this subchapter, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity without the approval of the Special Counsel.
- (g)** If the Board orders corrective action under this section, such corrective action may include—
 - (1)** that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and
 - (2)** reimbursement for attorney’s fees, back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential damages.

(Added Pub. L. 101–12, § 3(a)(13), Apr. 10, 1989, 103 Stat. 23; amended Pub. L. 103–424, §§ 3(c), (d), 8 (a), Oct. 29, 1994, 108 Stat. 4362, 4364.)

Amendments

1994—Subsec. (a)(1)(D). Pub. L. 103–424, § 3(c)(1), added subpar. (D).

Subsec. (a)(2)(A)(iv). Pub. L. 103–424, § 3(c)(2), added cl. (iv).

Subsec. (b)(2). Pub. L. 103–424, § 3(d), added subpars. (A) and (E) and redesignated former subpars. (A) to (C) as (B) to (D), respectively.

Subsec. (g). Pub. L. 103–424, § 8(a), added subsec. (g).

Termination Statement

Section 12(b) of Pub. L. 103–424 provided that: “The Special Counsel shall include in any letter terminating an investigation under section 1214 (a)(2) of title 5, United States Code, the name and telephone number of an employee of the Special Counsel who is available to respond to reasonable questions from the person regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the person’s allegations.”

.....

§ 1215. Disciplinary action

- (a)**
 - (1)** Except as provided in subsection (b), if the Special Counsel determines that disciplinary action should be taken against any employee for having—
 - (A)** committed a prohibited personnel practice,
 - (B)** violated the provisions of any law, rule, or regulation, or engaged in any other conduct within the jurisdiction of the Special Counsel as described in section 1216, or
 - (C)** knowingly and willfully refused or failed to comply with an order of the Merit Systems Protection Board,the Special Counsel shall prepare a written complaint against the employee containing the Special Counsel’s determination, together with a statement of supporting facts, and present the complaint and statement to the employee and the Board, in accordance with this subsection.
 - (2)** Any employee against whom a complaint has been presented to the Merit Systems Protection Board under paragraph (1) is entitled to—

- (A) a reasonable time to answer orally and in writing, and to furnish affidavits and other documentary evidence in support of the answer;
 - (B) be represented by an attorney or other representative;
 - (C) a hearing before the Board or an administrative law judge appointed under section 3105 and designated by the Board;
 - (D) have a transcript kept of any hearing under subparagraph (C); and
 - (E) a written decision and reasons therefor at the earliest practicable date, including a copy of any final order imposing disciplinary action.
- (3) A final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed \$1,000.
- (4) There may be no administrative appeal from an order of the Board. An employee subject to a final order imposing disciplinary action under this subsection may obtain judicial review of the order by filing a petition therefor with such court, and within such time, as provided for under section 7703 (b).
- (5) In the case of any State or local officer or employee under chapter 15, the Board shall consider the case in accordance with the provisions of such chapter.
- (b) In the case of an employee in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President, by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the complaint and statement referred to in subsection (a)(1), together with any response of the employee, shall be presented to the President for appropriate action in lieu of being presented under subsection (a).
- (c)
- (1) In the case of members of the uniformed services and individuals employed by any person under contract with an agency to provide goods or services, the Special Counsel may transmit recommendations for disciplinary or other appropriate action (including the evidence on which such recommendations are based) to the head of the agency concerned.
 - (2) In any case in which the Special Counsel transmits recommendations to an agency head under paragraph (1), the agency head shall, within 60 days after receiving such recommendations, transmit a report to the Special Counsel on each recommendation and the action taken, or proposed to be taken, with respect to each such recommendation.

(Added Pub. L. 101-12, § 3(a)(13), Apr. 10, 1989, 103 Stat. 27.)

.....

§ 1216. Other matters within the jurisdiction of the Office of Special Counsel

- (a) In addition to the authority otherwise provided in this chapter, the Special Counsel shall, except as provided in subsection (b), conduct an investigation of any allegation concerning—
- (1) political activity prohibited under subchapter III of chapter 73, relating to political activities by Federal employees;
 - (2) political activity prohibited under chapter 15, relating to political activities by certain State and local officers and employees;
 - (3) arbitrary or capricious withholding of information prohibited under section 552, except that the Special Counsel shall make no investigation of any withholding of foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order;
 - (4) activities prohibited by any civil service law, rule, or regulation, including any activity relating to political intrusion in personnel decisionmaking; and
 - (5) involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

(b) The Special Counsel shall make no investigation of any allegation of any prohibited activity referred to in subsection (a)(5), if the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure.

(c) If the Special Counsel receives an allegation concerning any matter under paragraph (1), (3), (4), or (5) of subsection (a), the Special Counsel may investigate and seek corrective action under section 1214 and disciplinary action under section 1215 in the same way as if a prohibited personnel practice were involved.

(Added Pub. L. 101–12, § 3(a)(13), Apr. 10, 1989, 103 Stat. 28; amended Pub. L. 103–94, § 3, Oct. 6, 1993, 107 Stat. 1004.)

Amendments

1993—Subsec. (c). Pub. L. 103–94 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

“(1) If an investigation by the Special Counsel under subsection (a)(1) substantiates an allegation relating to any activity prohibited under section 7324, the Special Counsel may petition the Merit Systems Protection Board for any penalties provided for under section 7325.

“(2) If the Special Counsel receives an allegation concerning any matter under paragraph (3), (4), or (5) of subsection (a), the Special Counsel may investigate and seek corrective action under section 1214 in the same way as if a prohibited personnel practice were involved.”

Effective Date of 1993 Amendment; Savings Provision

Amendment by Pub. L. 103–94 effective 120 days after Oct. 6, 1993, but not to release or extinguish any penalty, forfeiture, or liability incurred under amended provision, which is to be treated as remaining in force for purpose of that penalty, forfeiture, or liability, and no provision of Pub. L. 103–94 to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103–94 had not been enacted, see section 12 of Pub. L. 103–94, set out as an Effective Date; Savings Provision note under section 7321 of this title.

.....

§ 1217. Transmittal of information to Congress

The Special Counsel or any employee of the Special Counsel designated by the Special Counsel, shall transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and the Special Counsel’s views on functions, responsibilities, or other matters relating to the Office. Such information shall be transmitted concurrently to the President and any other appropriate agency in the executive branch.

(Added Pub. L. 101–12, § 3(a)(13), Apr. 10, 1989, 103 Stat. 28.)

.....

§ 1218. Annual report

The Special Counsel shall submit an annual report to the Congress on the activities of the Special Counsel, including the number, types, and disposition of allegations of prohibited personnel practices filed with it, investigations conducted by it, cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214 (b)(2)(A)(i), and actions initiated by it before the Merit Systems Protection Board, as well as a description of the recommendations and reports made by it to other agencies pursuant to this subchapter, and the actions taken by the agencies as a result of the reports or recommendations. The report required by this section shall include whatever recommendations for legislation or other action by Congress the Special Counsel may consider appropriate.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

(Added Pub. L. 101–12, § 3(a)(13), Apr. 10, 1989, 103 Stat. 29; amended Pub. L. 103–424, § 3(e), Oct. 29, 1994, 108 Stat. 4363.)

Amendments

1994—Pub. L. 103–424 inserted “cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214 (b)(2)(A)(i),” after “investigations conducted by it.”

Termination of Reporting Requirements

For termination, effective May 15, 2000, of reporting provisions in this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 188 of House Document No. 103–7.

.....

§ 1219. Public information

- (a) The Special Counsel shall maintain and make available to the public—
- (1) a list of noncriminal matters referred to heads of agencies under subsection (c) of section 1213, together with reports from heads of agencies under subsection (c)(1)(B) of such section relating to such matters;
 - (2) a list of matters referred to heads of agencies under section 1215 (c)(2);
 - (3) a list of matters referred to heads of agencies under subsection (e) of section 1214, together with certifications from heads of agencies under such subsection; and
 - (4) reports from heads of agencies under section 1213 (g)(1).
- (b) The Special Counsel shall take steps to ensure that any list or report made available to the public under this section does not contain any information the disclosure of which is prohibited by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs.

(Added Pub. L. 101–12, § 3(a)(13), Apr. 10, 1989, 103 Stat. 29.)

SUBCHAPTER III—INDIVIDUAL RIGHT OF ACTION IN CERTAIN REPRISAL CASES

.....

§ 1221. Individual right of action in certain reprisal cases

(a) Subject to the provisions of subsection (b) of this section and subsection 1214(a)(3), an employee, former employee, or applicant for employment may, with respect to any personnel action taken, or proposed to be taken, against such employee, former employee, or applicant for employment, as a result of a prohibited personnel practice described in section 2302 (b)(8), seek corrective action from the Merit Systems Protection Board.

(b) This section may not be construed to prohibit any employee, former employee, or applicant for employment from seeking corrective action from the Merit Systems Protection Board before seeking corrective action from the Special Counsel, if such employee, former employee, or applicant for employment has the right to appeal directly to the Board under any law, rule, or regulation.

(c) (1) Any employee, former employee, or applicant for employment seeking corrective action under subsection (a) may request that the Board order a stay of the personnel action involved.

(2) Any stay requested under paragraph (1) shall be granted within 10 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date the request is made, if the Board determines that such a stay would be appropriate.

(3) (A) The Board shall allow any agency which would be subject to a stay under this subsection to comment to the Board on such stay request.

(B) Except as provided in subparagraph (C), a stay granted under this subsection shall remain in effect for such period as the Board determines to be appropriate.

(C) The Board may modify or dissolve a stay under this subsection at any time, if the Board determines that such a modification or dissolution is appropriate.

(d) (1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence.

(2) A subpoena under this subsection may be issued, and shall be enforced, in the same manner as applies in the case of subpoenas under section 1204.

(e) (1) Subject to the provisions of paragraph (2), in any case involving an alleged prohibited personnel practice as described under section 2302 (b)(8), the Board shall order such corrective action as the Board considers appropriate if the employee, former employee, or applicant for employment has demonstrated that a disclosure described under section 2302 (b)(8) was a contributing factor in the personnel action which was taken or is to be taken against such employee, former employee, or applicant. The employee may demonstrate that the disclosure was a contributing factor in the personnel action through circumstantial evidence, such as evidence that—

(A) the official taking the personnel action knew of the disclosure; and

(B) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a contributing factor in the personnel action.

(2) Corrective action under paragraph (1) may not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

(f)

- (1) A final order or decision shall be rendered by the Board as soon as practicable after the commencement of any proceeding under this section.
 - (2) A decision to terminate an investigation under subchapter II may not be considered in any action or other proceeding under this section.
 - (3) If, based on evidence presented to it under this section, the Merit Systems Protection Board determines that there is reason to believe that a current employee may have committed a prohibited personnel practice, the Board shall refer the matter to the Special Counsel to investigate and take appropriate action under section 1215.
- (g)
- (1) (A) If the Board orders corrective action under this section, such corrective action may include—
 - (i) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and
 - (ii) back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential changes.
 - (B) Corrective action shall include attorney’s fees and costs as provided for under paragraphs (2) and (3).
 - (2) If an employee, former employee, or applicant for employment is the prevailing party before the Merit Systems Protection Board, and the decision is based on a finding of a prohibited personnel practice, the agency involved shall be liable to the employee, former employee, or applicant for reasonable attorney’s fees and any other reasonable costs incurred.
 - (3) If an employee, former employee,¹ or applicant for employment is the prevailing party in an appeal from the Merit Systems Protection Board, the agency involved shall be liable to the employee, former employee, or applicant for reasonable attorney’s fees and any other reasonable costs incurred, regardless of the basis of the decision.
- (h)
- (1) An employee, former employee, or applicant for employment adversely affected or aggrieved by a final order or decision of the Board under this section may obtain judicial review of the order or decision.
 - (2) A petition for review under this subsection shall be filed with such court, and within such time, as provided for under section 7703 (b).
- (i) Subsections (a) through (h) shall apply in any proceeding brought under section 7513 (d) if, or to the extent that, a prohibited personnel practice as defined in section 2302 (b)(8) is alleged.
- (j) In determining the appealability of any case involving an allegation made by an individual under the provisions of this chapter, neither the status of an individual under any retirement system established under a Federal statute nor any election made by such individual under any such system may be taken into account.

Footnotes

¹ So in original. Probably should be “employee.”

(Added Pub. L. 101–12, § 3(a)(13), Apr. 10, 1989, 103 Stat. 29; amended Pub. L. 103–424, §§ 4, 8 (b), Oct. 29, 1994, 108 Stat. 4363, 4365.)

Amendments

1994—Subsec. (d)(1). Pub. L. 103–424, § 4(a), added par. (1) and struck out former par. (1) which read as follows: “At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board may issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that such subpoena is necessary for the development of relevant evidence.”

TITLE 5 - Section 1222 - Availability of other remedies

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Subsec. (e)(1). Pub. L. 103-424, § 4(b), which directed the amendment of section 1221 (e)(1), without specifying the Code title to be amended, by inserting at end “The employee may demonstrate that the disclosure was a contributing factor in the personnel action through circumstantial evidence, such as evidence that—

“(A) the official taking the personnel action knew of the disclosure; and

“(B) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a contributing factor in the personnel action.”, was executed to subsec. (e)(1) of this section to reflect the probable intent of Congress.

Subsec. (f)(3). Pub. L. 103-424, § 4(c), added par. (3).

Subsec. (g). Pub. L. 103-424, § 8(b), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Effective Date

Subchapter effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101-12, set out as an Effective Date of 1989 Amendment note under section 1201 of this title.

.....

§ 1222. Availability of other remedies

Except as provided in section 1221 (i), nothing in this chapter or chapter 23 shall be construed to limit any right or remedy available under a provision of statute which is outside of both this chapter and chapter 23.

(Added Pub. L. 101-12, § 3(a)(13), Apr. 10, 1989, 103 Stat. 31.)

CHAPTER 13—SPECIAL AUTHORITY

Sec.

- 1301. Rules.
- 1302. Regulations.
- 1303. Investigations; reports.
- 1304. Loyalty investigations; reports; revolving fund.
- 1305. Administrative law judges.
- 1306. Oaths to witnesses.
- 1307. Minutes.
- [1308. Repealed.]

Amendments

1998—Pub. L. 105–362, title XIII, § 1302(b)(2)(A), Nov. 10, 1998, 112 Stat. 3293, struck out item 1308 “Annual reports”.

1978—Pub. L. 95–251, § 2(c)(1), Mar. 27, 1978, 92 Stat. 183, substituted “Administrative law judges” for “Hearing examiners” in item 1305.

.....

§ 1301. Rules

The Office of Personnel Management shall aid the President, as he may request, in preparing the rules he prescribes under this title for the administration of the competitive service.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 401; Pub. L. 95–454, title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1224.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 633(1) (function of Civil Service Commission).		Jan. 16, 1883, ch. 27, § 2(1) (function of Civil Service Commission), 22 Stat. 403.

The authority of the President to prescribe rules is carried into sections 2951, 3302, 3304 (a), 3306 (a), 3321, 7152, 7153, 7321, and 7322 of this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1978—Pub. L. 95–454 substituted “Office of Personnel Management” for “Civil Service Commission”.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

.....

§ 1302. Regulations

(a) The Office of Personnel Management, subject to the rules prescribed by the President under this title for the administration of the competitive service, shall prescribe regulations for, control, supervise, and preserve the records of, examinations for the competitive service.

TITLE 5 - Section 1302 - Regulations

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(b) The Office shall prescribe and enforce regulations for the administration of the provisions of this title, and Executive orders issued in furtherance thereof, that implement the Congressional policy that preference shall be given to preference eligibles in certification for appointment, and in appointment, reinstatement, reemployment, and retention, in the competitive service in Executive agencies, permanent or temporary, and in the government of the District of Columbia.

(c) The Office shall prescribe regulations for the administration of the provisions of this title that implement the Congressional policy that preference shall be given to preference eligibles in certification for appointment, and in appointment, reinstatement, reemployment, and retention, in the excepted service in Executive agencies, permanent or temporary, and in the government of the District of Columbia.

(d) The Office may prescribe reasonable procedure and regulations for the administration of its functions under chapter 15 of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 401; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 633(2)7 (last 17 words), (3) (less last 10 words).	Jan. 16, 1883, ch. 27, §§ 2(2)7 (last 17 words), (3) (less last 10 words), 22 Stat. 404.
(b)	5 U.S.C. 851 (1st 76 words), 868 (less proviso).	June 27, 1944, ch. 287, §§ 2 (1st 76 words), 19, 58 Stat. 387, 391.
(c)	5 U.S.C. 851 (1st 76 words), 860.	June 27, 1944, ch. 287, §§ 2 (1st 76 words), 11, 58 Stat. 387, 390.
(d)	5 U.S.C. 118k(d) (1st sentence).	July 19, 1940, ch. 640 § 4 “Sec. 12(d) (1st sentence)”, 54 Stat. 769.

Subsection (a) is based on former section 633 (3) (less last 10 words). The regulation-making power conferred by that section covers the power conferred by former section 633 (2)7 (last 17 words) which is, therefore, omitted. The requirement of notice is preserved in section 3304. The words “through its members or the examiners” are omitted as unnecessary in view of section 1104. The authority of the President to prescribe rules, based on former section 633 (1) is carried into sections 2951, 3302, 3304 (a), 3306 (a), 3321, 7152, 7153, 7321, and 7322 of this title.

In subsections (b)–(d), the word “rules” is omitted as included in “regulations”.

The provisions of the Veterans’ Preference Act of 1944 (former sections 851–869) to which the regulation-making authority of subsections (b) and (c) apply are carried into sections 2108, 3305 (b), 3306 (a)(2), 3308–3320, 3351, 3363, 3364, and 7701, subchapter I of chapter 35, and subchapter II of chapter 75 of this title. The first 76 words of former section 851 are added here to preserve the general statement of policy in the light of which the substantive provisions that formerly comprised the Veterans’ Preference Act of 1944 are to be interpreted. See *Elder v. Brannan*, 241 U.S. 277, 286. In subsection (b), the words “in the competitive service in Executive agencies, permanent or temporary, and in the government of the District of Columbia”, and in subsection (c) the words “in the excepted service in Executive agencies, permanent or temporary, and in the government of the District of Columbia” are coextensive with and substituted for “in civilian positions in all establishments, agencies, bureaus, administrations, projects, and departments of the Government, permanent or temporary, and in either (a) the classified civil service; (b) the unclassified civil service; (c) any temporary or emergency establishment, agency, bureau, administration, project, and department created by Acts of Congress or Presidential Executive order”, in view of the exclusion of positions in the legislative and judicial branches by former section 869.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1978—Subsecs. (a) to (d). Pub. L. 95–454 substituted “Office of Personnel Management” for “Civil Service Commission” and “Office” for “Commission” wherever appearing.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

Executive Order No. 10561

Ex. Ord. No. 10561, Sept. 13, 1954, 19 F.R. 5963, which related to official personnel folders, was revoked by section 2–201 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out as a note under section 1101 of this title.

Executive Order No. 11397

Ex. Ord. No. 11397, Feb. 9, 1968, 33 F.R. 2833, formerly set out as a note under this section, which related to transitional appointments of veterans who served during the Vietnam Era, was revoked by Ex. Ord. No. 11521, Mar. 26, 1970, 35 F.R. 5311, set out as a note under section 3302 of this title.

.....

§ 1303. Investigations; reports

The Office of Personnel Management, Merit Systems Protection Board, and Special Counsel may investigate and report on matters concerning—

- (1) the enforcement and effect of the rules prescribed by the President under this title for the administration of the competitive service and the regulations prescribed by the Office of Personnel Management under section 1302 (a) of this title; and
- (2) the action of an examiner, a board of examiners, and other employees concerning the execution of the provisions of this title that relate to the administration of the competitive service.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 401; Pub. L. 95–454, title IX, § 906(a)(4), (11), Oct. 13, 1978, 92 Stat. 1225.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 633(4).		Jan. 16, 1883, ch. 27, § 2(4), 22 Stat. 404.

The authority of the President to prescribe rules is carried into sections 2951, 3302, 3304 (a), 3306 (a), 3321, 7152, 7153, 7321, and 7322 of this title.

In paragraph (2), the words “in respect to the execution of this act” are changed to “concerning the execution of the provisions of this title that relate to the administration of the competitive service” to avoid having to refer in the text to the sections of this title into which the Civil Service Act, the act referred to, is codified. These sections are: 1101, 1102, 1105, 1302(a), 1303, 1307, 1308(a)(1), 2102, 2951, 3302, 3303, 3304(a), (d), 3305(a), 3306, 3318(a), 3319(a), 3321, 7152, 7153, 7321, 7322, and 7352. The words “the provisions of this title that relate to the administration of the competitive service” will include some of the sections derived from the Veterans’ Preference Act of 1944 (former sections 851–869). They are based in part on former section 860 (codified in § 1302(c)). The authorization in that section to make and enforce regulations for the competitive service would include the authority to investigate and report. The words “and other

employees” are substituted for “and its own subordinates, and those in the public service” in view of the definition of “employee” in section 2105.

Standard changes are made to conform with the definition applicable and the style of this title as outlined in the preface to the report.

Amendments

1978—Pub. L. 95–454 substituted in opening par. “Office of Personnel Management, Merit Systems Protection Board, and Special Counsel” for “Civil Service Commission” and in par. (1) “Office of Personnel Management” for “Commission”.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

.....

§ 1304. Loyalty investigations; reports; revolving fund

(a) The Office of Personnel Management shall conduct the investigations and issue the reports required by the following statutes—

- (1) sections 272b, 281b (e), and 290a of title 22;
- (2) section 1874 (c) of title 42; and
- (3) section 1203 (e) of title 6, District of Columbia Code.

(b) When an investigation under subsection (a) of this section develops data indicating that the loyalty of the individual being investigated is questionable, the Office shall refer the matter to the Federal Bureau of Investigation for a full field investigation, a report of which shall be furnished to the Office for its information and appropriate action.

(c) When the President considers it in the national interest, he may have the investigations of a group or class, which are required by subsection (a) of this section, made by the Federal Bureau of Investigation rather than the Office.

(d) The investigation and report required by subsection (a) of this section shall be made by the Federal Bureau of Investigation rather than the Office for those specific positions which the Secretary of State certifies are of a high degree of importance or sensitivity.

(e) (1) A revolving fund is available, to the Office without fiscal year limitation, for financing investigations, training, and such other functions as the Office is authorized or required to perform on a reimbursable basis, including personnel management services performed at the request of individual agencies (which would otherwise be the responsibility of such agencies), or at the request of nonappropriated fund instrumentalities. However, the functions which may be financed in any fiscal year by the fund are restricted to those functions which are covered by the budget estimates submitted to the Congress for that fiscal year. To the maximum extent feasible, each individual activity shall be conducted generally on an actual cost basis over a reasonable period of time.

(2) The capital of the fund consists of the aggregate of—

(A) appropriations made to provide capital for the fund, which appropriations are hereby authorized, and

(B) the sum of the fair and reasonable value of such supplies, equipment, and other assets as the Office from time to time transfers to the fund (including the amount of the unexpended balances of appropriations or funds relating to activities the financing of which is transferred to the fund) less the amount of related liabilities, the amount of unpaid obligations, and the value of accrued annual leave of employees, which are attributable to the activities the financing of which is transferred to the fund.

TITLE 5 - Section 1304 - Loyalty investigations; reports; revolving fund

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

- (3) The fund shall be credited with—
- (A) advances and reimbursements from available funds of the Office or other agencies, or from other sources, for those services and supplies provided at rates estimated by the Office as adequate to recover expenses of operation (including provision for accrued annual leave of employees and depreciation of equipment); and
- (B) receipts from sales or exchanges of property, and payments for loss of or damage to property, accounted for under the fund.
- (4) Any unobligated and unexpended balances in the fund which the Office determines to be in excess of amounts needed for activities financed by the fund shall be deposited in the Treasury of the United States as miscellaneous receipts.
- (5) The Office shall prepare a business-type budget providing full disclosure of the results of operations for each of the functions performed by the Office and financed by the fund, and such budget shall be transmitted to the Congress and considered, in the manner prescribed by law for wholly owned Government corporations.
- (6) The Comptroller General of the United States shall, as a result of his periodic reviews of the activities financed by the fund, report and make such recommendations as he deems appropriate to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.
- (f) An agency may use available appropriations to reimburse the Office or the Federal Bureau of Investigation for the cost of investigations, training, and functions performed for them under this section, or to make advances toward their cost. These advances and reimbursements shall be credited directly to the applicable appropriations of the Office or the Federal Bureau of Investigation.
- (g) This section does not affect the responsibility of the Federal Bureau of Investigation to investigate espionage, sabotage, or subversive acts.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 401; Pub. L. 91–189, § 1, Dec. 30, 1969, 83 Stat. 851; Pub. L. 91–648, title V, § 510, Jan. 5, 1971, 84 Stat. 1928; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96–60, title II, § 203(a)(2), Aug. 15, 1979, 93 Stat. 398; Pub. L. 97–412, § 1(a), Jan. 3, 1983, 96 Stat. 2047; Pub. L. 98–224, § 5(b)(1), Mar. 2, 1984, 98 Stat. 48; Pub. L. 103–437, § 3(a), Nov. 2, 1994, 108 Stat. 4581; Pub. L. 104–66, title II, § 2182, Dec. 21, 1995, 109 Stat. 732; Pub. L. 104–208, div. A, title I, § 101(f) [title IV, § 421], Sept. 30, 1996, 110 Stat. 3009–314, 3009–343.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(b)–(d)	5 U.S.C. 655.	Apr. 5, 1952, ch. 159, § 1 (provisos), 66 Stat. 44.
		July 31, 1953, ch. 283, § 9, 67 Stat. 241.
(e)	5 U.S.C. 657.	June 5, 1952, ch. 369, § 701 (par. under “Civil Service Commission”), 66 Stat. 107.
(f)	[Uncodified].	Apr. 5, 1952, ch. 159, § 4, 66 Stat. 44.
(g)	5 U.S.C. 656.	Apr. 5, 1952, ch. 159, § 3, 66 Stat. 44.

Subsection (a) is based on section 1 of the Act of April 5, 1952, as amended, and is added for clarity. In subsection (a), the reference to section 10(b)(5)(B)(i) and (B)(ii) of the Act of August 1, 1946 (60 Stat. 766) is omitted because of the amendment of the Act of April 5, 1952, by the Act of July 31, 1953, ch. 283, 67 Stat. 240, and the reenactment of the provisions of the Act of April 5, 1952, insofar as they relate to the Atomic Energy Commission as section 145 of the Atomic Energy Act of 1954 (68 Stat. 942; 42

TITLE 5 - Section 1304 - Loyalty investigations; reports; revolving fund

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

U.S.C. 2165). The references to section 1(2) of the Act of May 22, 1947 (61 Stat. 125), section 1 of the joint resolution of May 21, 1947 (61 Stat. 125), and section 110(c) of the Act of April 3, 1948 (62 Stat. 137) are omitted as these Acts were repealed by the Act of Aug. 26, 1954, ch. 937 § 542(a) (1), (2), and (4), 68ch. 937 § 542(a) (1), (2), and (4), 68 Stat. 861. Reference to section 510 of the Mutual Security Act of 1951 (65 Stat. 381) is omitted because this section was replaced by section 531 of the Mutual Security Act of 1954 (68 Stat. 859) and the latter was repealed by the Act of Sept. 4, 1961, Pub. L. 87–195, § 642(2), 75 Stat. 460.

In subsection (d), the references to section 10(b)(5)(B)(i) and (ii) of the Atomic Energy Act of 1946, section 510 of the Mutual Security Act of 1951, a majority of the members of the Atomic Energy Commission, and the Director of Mutual Security (which was changed to Director of the International Cooperation Administration on authority of section 8 of 1953 Reorg. Plan No. 7, 67 Stat. 641, and Executive Order 10610 of May 9, 1955) are omitted because of the disposition of the two sections as explained with reference to subsection (a).

In subsection (e), the words “There is established” are omitted as executed.

In subsection (g), the reference to statutes other than this section is omitted because nothing in those statutes affect the responsibility in question.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

References in Text

Section 1874 (c) of title 42, referred to in subsec. (a)(2), which related to clearance of National Science Foundation personnel, was repealed by Pub. L. 96–516, § 21(b)(1), Dec. 12, 1980, 94 Stat. 3010.

Amendments

1996—Subsec. (e)(1). Pub. L. 104–208 inserted “, including personnel management services performed at the request of individual agencies (which would otherwise be the responsibility of such agencies), or at the request of nonappropriated fund instrumentalities” before period at end of first sentence.

1995—Subsec. (e)(6). Pub. L. 104–66 struck out before period at end “at least once every three years”.

1994—Subsec. (e)(6). Pub. L. 103–437 substituted “Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House” for “Committees on Post Office and Civil Service of the Senate and House”.

1984—Subsec. (e)(1). Pub. L. 98–224 struck out cl. (i) designation and struck out cl. (ii) which provided that participation fees imposed by the President’s Commission on Executive Exchange for private sector participation in its Executive Exchange Program be collected and credited to the fund, and be available for the costs of education and related travel of exchanged executives, for printing without regard to section 501 of title 44, and, in such amounts as specified in appropriations Acts, for entertainment expenses. See section 4109 (d) of this title.

1983—Subsec. (e)(1). Pub. L. 97–412 designated existing provisions as cl. (i) and added cl. (ii).

1979—Subsec. (a)(1). Pub. L. 96–60 struck out reference to section 1434 of title 22.

1978—Subsecs. (a) to (f). Pub. L. 95–454 substituted “Office of Personnel Management” for “Civil Service Commission” and “Office” for “Commission” wherever appearing.

1971—Subsec. (e). Pub. L. 91–648 struck out in par. (1) “of \$4,000,000” after “revolving fund” and inserted in par. (2)(A) “, which appropriations are hereby authorized”.

1969—Subsec. (e). Pub. L. 91–189, § 1(a), increased the scope of reimbursable services for which the fund may be used, restricted reimbursement to services which were included in the budget estimates submitted to Congress for that fiscal year, inserted a list of components which comprise the fund, specifically listed those items that would be credited directly to the capital fund, required that a budget be prepared by the Commission, and directed the Comptroller General as a result of the activities financed to make recommendations to the committees on Post Office and Civil Service of the Senate and House of Representatives at least once every three years.

Subsec. (f). Pub. L. 91–189, § 1(b), authorized an agency to use available appropriations to reimburse the Commission or the Federal Bureau of Investigation for the cost of training and functions performed.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Change of Name

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Effective Date of 1983 Amendment

Section 1(b) of Pub. L. 97-412 provided that: “The authority granted in subsection (a) [amending this section] shall terminate on December 31, 1983.”

Effective Date of 1979 Amendment

Amendment by Pub. L. 96-60 effective Oct. 1, 1979, see section 209 of Pub. L. 96-60, set out as a note under section 1471 of Title 22, Foreign Relations and Intercourse.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

Abolition of House Committee on Post Office and Civil Service

Committee on Post Office and Civil Service of House of Representatives abolished by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. References to Committee on Post Office and Civil Service treated as referring to Committee on Government Reform and Oversight, see section 1(b) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

.....

§ 1305. Administrative law judges

For the purpose of sections 3105, 3344, 4301 (2)(D), and 5372 of this title and the provisions of section 5335 (a)(B) of this title that relate to administrative law judges, the Office of Personnel Management may, and for the purpose of section 7521 of this title, the Merit Systems Protection Board may investigate, prescribe regulations, appoint advisory committees as necessary, recommend legislation, subpoena witnesses and records, and pay witness fees as established for the courts of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 402; Pub. L. 90-83, § 1(3), Sept. 11, 1967, 81 Stat. 196; Pub. L. 95-251, § 2(a)(1), (b)(1), Mar. 27, 1978, 92 Stat. 183; Pub. L. 95-454, title VIII, § 801(a)(3)(B)(iii), title IX, § 906(a)(12), Oct. 13, 1978, 92 Stat. 1221, 1225; Pub. L. 102-378, § 2(4), Oct. 2, 1992, 106 Stat. 1346; Pub. L. 105-362, title XIII, § 1302(a), Nov. 10, 1998, 112 Stat. 3293.)

Historical and Revision Notes

1966 Act

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 1010 (5th sentence).		June 11, 1946, ch. 324, § 11 (5th sentence), 60 Stat. 244.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

This section amends 5 U.S.C. 1305 to correct a typographical error.

Amendments

1998—Pub. L. 105–362 struck out “require reports by agencies, issue reports, including an annual report to Congress,” after “may investigate.”

1992—Pub. L. 102–378 substituted “sections 3105” for “section 3105”.

1978—Pub. L. 95–454 substituted provisions respecting functions pursuant to specified sections of this title of the Office of Personnel Management and the Merit Systems Protection Board for provisions respecting the functions pursuant to specified sections of this title of the Civil Service Commission.

Pub. L. 95–251 substituted “Administrative law judges” for “Hearing examiners” in section catchline and “administrative law judges” for “hearing examiners” in text.

Effective Date of 1978 Amendment

Amendment by section 801(a)(3)(B)(iii) of Pub. L. 95–454 substituting “5372” for “5362” effective on first day of first applicable pay period beginning on or after the 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95–454, set out as an Effective Date note under section 5361 of this title.

Amendment by section 906(a)(12) of Pub. L. 95–454 respecting functions of the Office and the Board effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

Effective Date of 1967 Amendment

Amendment by Pub. L. 90–83 effective as of Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90–83, set out as a note under section 5102 of this title.

Termination of Advisory Committees

Advisory committees in existence on Jan. 5, 1973, excluding committees composed wholly of full-time officers or employees of the Federal Government, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to this title.

.....

§ 1306. Oaths to witnesses

The Director of the Office of Personnel Management and authorized representatives of the Director may administer oaths to witnesses in matters pending before the Office.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 402; Pub. L. 95–454, title IX, § 906(a)(13), Oct. 13, 1978, 92 Stat. 1226.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 634.		Aug. 23, 1912, ch. 350, § 1 (last par. under “Civil Service Commission”), 37 Stat. 372.
[Uncodified].		1949 Reorg. Plan No. 5, § 2(c), eff. Aug. 19, 1949, 63 Stat. 1069.

The section is rewritten to reflect expansion of authority of the Commission to include its Chairman under section 2(c) of 1949 Reorg. Plan No. 5.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

TITLE 5 - Section 1307 - Minutes

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Amendments

1978—Pub. L. 95–454 substituted provisions respecting powers of the Director of the Office of Personnel Management in administering oaths in matters before the Office for provisions respecting powers of the Chairman of the Civil Service Commission and each Commissioner in administering oaths in matters before the Commission.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

.....

§ 1307. Minutes

The Civil Service Commission shall keep minutes of its proceedings.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 402.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 633(3) (last 10 words).		Jan. 16, 1883, ch. 27, § 2(3) (last 10 words), 22 Stat. 404.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Transfer of Functions

Functions vested by statute in United States Civil Service Commission transferred to Director of Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of this title, effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of this title.

.....

§ 1308. Repealed. Pub. L. 105–362, title XIII, § 1302(b)(1), Nov. 10, 1998, 112 Stat. 3293]

Section, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 402; Pub. L. 91–93, title I, § 104, Oct. 20, 1969, 83 Stat. 138; Pub. L. 93–156, Nov. 21, 1973, 87 Stat. 623; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96–54, § 2(a)(3), Aug. 14, 1979, 93 Stat. 381; Pub. L. 96–470, title I, § 121, Oct. 19, 1980, 94 Stat. 2241, required annual reports on operation of subchapter III of chapter 83 of this title and chapters 87 and 89 of this title.

CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

Sec.

1401. Establishment of agency Chief Human Capital Officers.

1402. Authority and functions of agency Chief Human Capital Officers.

.....

§ 1401. Establishment of agency Chief Human Capital Officers

The head of each agency referred to under paragraphs (1) and (2) of section 901 (b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

- (1) advise and assist the head of the agency and other agency officials in carrying out the agency’s responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;
- (2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and
- (3) carry out such functions as the primary duty of the Chief Human Capital Officer.

(Added Pub. L. 107–296, title XIII, § 1302(a), Nov. 25, 2002, 116 Stat. 2287.)

Effective Date

Chapter effective 180 days after Nov. 25, 2002, see section 1305 of Pub. L. 107–296, set out as an Effective Date of 2002 Amendment note under section 1103 of this title.

Chief Human Capital Officers Council

Pub. L. 107–296, title XIII, § 1303, Nov. 25, 2002, 116 Stat. 2288, provided that:

“(a) Establishment.—There is established a Chief Human Capital Officers Council, consisting of—

“(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

“(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

“(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

“(b) Functions.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

“(c) Employee Labor Organizations at Meetings.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

“(d) Annual Report.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.”

.....

§ 1402. Authority and functions of agency Chief Human Capital Officers

(a) The functions of each Chief Human Capital Officer shall include—

- (1) setting the workforce development strategy of the agency;
- (2) assessing workforce characteristics and future needs based on the agency’s mission and strategic plan;
- (3) aligning the agency’s human resources policies and programs with organization mission, strategic goals, and performance outcomes;
- (4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

**TITLE 5 - PART II - CHAPTER 15 POLITICAL ACTIVITY
OF CERTAIN STATE AND LOCAL EMPLOYEES**

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

- (5) identifying best practices and benchmarking studies,¹ and
- (6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.
- (b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—
 - (1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—
 - (A) are the property of the agency or are available to the agency; and
 - (B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and
 - (2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.

Footnotes

¹ So in original. The comma probably should be a semicolon.

(Added Pub. L. 107–296, title XIII, § 1302(a), Nov. 25, 2002, 116 Stat. 2288.)

CHAPTER 15—POLITICAL ACTIVITY OF CERTAIN STATE AND LOCAL EMPLOYEES

Sec.

- 1501. Definitions.
- 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions.
- 1503. Nonpartisan candidacies permitted.
- 1504. Investigations; notice of hearing.
- 1505. Hearings; adjudications; notice of determinations.
- 1506. Orders; withholding loans or grants; limitations.
- 1507. Subpenas and depositions.
- 1508. Judicial review.

Amendments

1974—Pub. L. 93–443, title IV, § 401(b)(2), Oct. 15, 1974, 88 Stat. 1290, substituted “candidacies” for “political activity” in item 1503.

.....

§ 1501. Definitions

For the purpose of this chapter—

- (1) “State” means a State or territory or possession of the United States;
- (2) “State or local agency” means the executive branch of a State, municipality, or other political subdivision of a State, or an agency or department thereof;
- (3) “Federal agency” means an Executive agency or other agency of the United States, but does not include a member bank of the Federal Reserve System; and
- (4) “State or local officer or employee” means an individual employed by a State or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency, but does not include—
 - (A) an individual who exercises no functions in connection with that activity; or
 - (B) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 403; Pub. L. 93–443, title IV, § 401(c), Oct. 15, 1974, 88 Stat. 1290.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(1)	5 U.S.C. 118k–2.	July 19, 1940, ch. 640, § 4 “Sec. 19”, 54 Stat. 772.
(2), (3)	5 U.S.C. 118k(f).	July 19, 1940, ch. 640, § 4 “Sec. 12(f)”, 54 Stat. 770.
(4)	5 U.S.C. 118k(a) (1st 41 words), (e).	July 19, 1940, ch. 640, § 4 “Sec 12(a) (1st 41 words), (e)”, 54 Stat. 767, 770.
	5 U.S.C. 118k–1 (as applicable to 5 U.S.C. 118k).	Oct. 24, 1942, ch. 620 “Sec. 21 (as applicable to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)”, 56 Stat. 986.
(5)	5 U.S.C. 118l (as applicable to 5 U.S.C. 118k).	July 19, 1940, ch. 640, § 4 “Sec. 15 (as applicable to § 12 of the Act of Aug. 2, 1939; added July 19, 1940,

Derivation	U.S. Code	Revised Statutes and Statutes at Large
		ch. 640, § 4, 54 Stat. 767", 54 Stat. 771.

In paragraph (4)(B), the words “or by any Territory or Territorial possession of the United States” are omitted in view of the definition of “State” in paragraph (1).

In paragraph (5), the words “July 19, 1940” are substituted for “at the time this section takes effect”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1974—Par. (5). Pub. L. 93–443 struck out par. (5) which defined “an active part in political management or in political campaigns”.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93–443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93–443, set out as a note under section 431 of Title 2, The Congress.

.....

§ 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions

- (a) A State or local officer or employee may not—
 - (1) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
 - (2) directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or
 - (3) be a candidate for elective office.
- (b) A State or local officer or employee retains the right to vote as he chooses and to express his opinions on political subjects and candidates.
- (c) Subsection (a)(3) of this section does not apply to—
 - (1) the Governor or Lieutenant Governor of a State or an individual authorized by law to act as Governor;
 - (2) the mayor of a city;
 - (3) a duly elected head of an executive department of a State or municipality who is not classified under a State or municipal merit or civil-service system; or
 - (4) an individual holding elective office.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 404; Pub. L. 93–443, title IV, § 401(a), Oct. 15, 1974, 88 Stat. 1290.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 118k(a) (less 1st 41 words).		July 19, 1940, ch. 640, § 4 “Sec. 12(a) (less 1st 41 words)”, 54 Stat. 767.

TITLE 5 - Section 1503 - Nonpartisan candidacies permitted

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscode.html>).

In subsection (a), the term “State or local officer or employee”, defined in section 1501, is substituted for the first 41 words of former section 118k (a). The words “any part of his salary or compensation” are omitted as included in “anything of value”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1974—Subsec. (a)(3). Pub. L. 93–443 substituted “be a candidate for elective office” for “take an active part in political management or in political campaigns”.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93–443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93–443, set out as a note under section 431 of Title 2, The Congress.

.....

§ 1503. Nonpartisan candidacies permitted

Section 1502 (a)(3) of this title does not prohibit any State or local officer or employee from being a candidate in any election if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 404; Pub. L. 93–443, title IV, § 401(b)(1), Oct. 15, 1974, 88 Stat. 1290.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 118n (as applicable to 5 U.S.C. 118k(a)).		July 19, 1940, ch. 640, § 4 “Sec. 18 (as applicable to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)”, 54 Stat. 772.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1974—Pub. L. 93–443 substituted “candidacies” for “political activity” in section catchline and provision permitting nonpartisan candidacies for prior provision permitting political activity in connection with (1) an election and the preceding campaign if none of the candidates was to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected, or (2) a question which was not specifically identified with a National or State political party and deeming questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character as not specifically identified with a National or State political party.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93–443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93–443, set out as a note under section 431 of Title 2, The Congress.

.....

§ 1504. Investigations; notice of hearing

When a Federal agency charged with the duty of making a loan or grant of funds of the United States for use in an activity by a State or local officer or employee has reason to believe that the officer or employee has violated section 1502 of this title, it shall report the matter to the Special Counsel. On receipt of the report or on receipt of other information which seems to the Special Counsel to warrant an investigation, the Special Counsel shall investigate the report and such other information and present his findings and any charges based on such findings to the Merit Systems Protection Board, which shall—

- (1) fix a time and place for a hearing; and
- (2) send, by registered or certified mail, to the officer or employee charged with the violation and to the State or local agency employing him a notice setting forth a summary of the alleged violation and giving the time and place of the hearing.

The hearing may not be held earlier than 10 days after the mailing of the notice.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 405; Pub. L. 95–454, title IX, § 906(a)(7), Oct. 13, 1978, 92 Stat. 1225.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 118k(b) (1st and 2d sentences, and 4th through 17th words of 3d sentence).		July 19, 1940, ch. 640 § 4 “Sec. 12(b) (1st and 2d sentences, and 4th through 17th words of 3d sentence)”, 54 Stat. 768.
June 11, 1960, Pub. L. 86–507, § 1(1), 74 Stat. 200.		

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1978—Pub. L. 95–454 substituted provisions respecting the functions of the Special Counsel and the Merit Systems Protection Board for provisions respecting the functions of the Civil Service Commission.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

.....

§ 1505. Hearings; adjudications; notice of determinations

Either the State or local officer or employee or the State or local agency employing him, or both, are entitled to appear with counsel at the hearing under section 1504 of this title, and be heard. After this hearing, the Merit Systems Protection Board shall—

- (1) determine whether a violation of section 1502 of this title has occurred;
- (2) determine whether the violation warrants the removal of the officer or employee from his office or employment; and
- (3) notify the officer or employee and the agency of the determination by registered or certified mail.

TITLE 5 - Section 1506 - Orders; withholding loans or grants; limitations

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 405; Pub. L. 95–454, title IX, § 906(a)(6), Oct. 13, 1978, 92 Stat. 1225.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 118k(b) (3d sentence, less 4th, through 17th words, and 4th sentence).		July 19, 1940, ch. 640, § 4 “Sec. 12(b) (3d sentence, less 4th through 17th words, and 4th sentence)”, 54 Stat. 768.
June 11, 1960, Pub. L. 86–507, § 1(1), 74 Stat. 200.		

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1978—Pub. L. 95–454 substituted “Merit Systems Protection Board” for “Civil Service Commission”.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

.....

§ 1506. Orders; withholding loans or grants; limitations

- (a) When the Merit Systems Protection Board finds—
 - (1) that a State or local officer or employee has not been removed from his office or employment within 30 days after notice of a determination by the Board that he has violated section 1502 of this title and that the violation warrants removal; or
 - (2) that the State or local officer or employee has been removed and has been appointed within 18 months after his removal to an office or employment in the same State in a State or local agency which does not receive loans or grants from a Federal agency;

the Board shall make and certify to the appropriate Federal agency an order requiring that agency to withhold from its loans or grants to the State or local agency to which notice was given an amount equal to 2 years’ pay at the rate the officer or employee was receiving at the time of the violation. When the State or local agency to which appointment within 18 months after removal has been made is one that receives loans or grants from a Federal agency, the Board order shall direct that the withholding be made from that State or local agency.

(b) Notice of the order shall be sent by registered or certified mail to the State or local agency from which the amount is ordered to be withheld. After the order becomes final, the Federal agency to which the order is certified shall withhold the amount in accordance with the terms of the order. Except as provided by section 1508 of this title, a determination or order of the Board becomes final at the end of 30 days after mailing the notice of the determination or order.

(c) The Board may not require an amount to be withheld from a loan or grant pledged by a State or local agency as security for its bonds or notes if the withholding of that amount would jeopardize the payment of the principal or interest on the bonds or notes.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 405; Pub. L. 95–454, title IX, § 906(a)(6), Oct. 13, 1978, 92 Stat. 1225.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 118k(b) (less 1st 4 sentences).		July 19, 1940, ch. 640, § 4 "Sec. 12(b) (less 1st 4 sentences)", 54 Stat. 768.
June 11, 1960, Pub. L. 86-507, § 1(1), 74 Stat. 200.		

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1978—Subsec. (a). Pub. L. 95-454 substituted "Merit Systems Protection Board" for "Civil Service Commission" and "Board" for "Commission", respectively, wherever appearing.

Subsecs. (b), (c). Pub. L. 95-454 substituted "Board" for "Commission".

Effective Date of 1978 Amendment

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

.....

§ 1507. Subpenas and depositions

(a) The Merit Systems Protection Board may require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter before it as a result of this chapter. Any member of the Board may sign subpoenas, and members of the Board and its examiners when authorized by the Board may administer oaths, examine witnesses, and receive evidence. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States at the designated place of hearing. In case of disobedience to a subpoena, the Board may invoke the aid of a court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. In case of contumacy or refusal to obey a subpoena issued to a person, the United States District Court within whose jurisdiction the inquiry is carried on may issue an order requiring him to appear before the Board, or to produce documentary evidence if so ordered, or to give evidence concerning the matter in question; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The Board may order testimony to be taken by deposition at any stage of a proceeding or investigation before it as a result of this chapter. Depositions may be taken before an individual designated by the Board and having the power to administer oaths. Testimony shall be reduced to writing by the individual taking the deposition, or under his direction, and shall be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Board as provided by this section.

(c) A person may not be excused from attending and testifying or from producing documentary evidence or in obedience to a subpoena on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise, before the Board in obedience to a subpoena issued by it. A person so testifying is not exempt from prosecution and punishment for perjury committed in so testifying.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 406; Pub. L. 95-454, title IX, § 906(a)(6), Oct. 13, 1978, 92 Stat. 1225.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 118k(d) (less 1st sentence).		July 19, 1940, ch. 640, § 4 “Sec. 12(d) (less 1st sentence)”, 54 Stat. 769.

In subsection (a), the word “affirmation” is omitted as included in “oath” on authority of section 1 of title 1, United States Code. The title of the court is changed to conform to title 28.

In subsection (c), the prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1978—Subsec. (a). Pub. L. 95–454 substituted “Merit Systems Protection Board” and “Board” for “Civil Service Commission” and “Commission”, respectively, wherever appearing.

Subsecs. (b), (c). Pub. L. 95–454 substituted “Board” for “Commission” wherever appearing.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

.....

§ 1508. Judicial review

A party aggrieved by a determination or order of the Merit Systems Protection Board under section 1504, 1505, or 1506 of this title may, within 30 days after the mailing of notice of the determination or order, institute proceedings for review thereof by filing a petition in the United States District Court for the district in which the State or local officer or employee resides. The institution of the proceedings does not operate as a stay of the determination or order unless—

- (1) the court specifically orders a stay; and
- (2) the officer or employee is suspended from his office or employment while the proceedings are pending.

A copy of the petition shall immediately be served on the Board, and thereupon the Board shall certify and file in the court a transcript of the record on which the determination or order was made. The court shall review the entire record including questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that the additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce this evidence in the hearing before the Board, the court may direct that the additional evidence be taken before the Board in the manner and on the terms and conditions fixed by the court. The Board may modify its findings of fact or its determination or order in view of the additional evidence and shall file with the court the modified findings, determination, or order; and the modified findings of fact, if supported by substantial evidence, are conclusive. The court shall affirm the determination or order, or the modified determination or order, if the court determines that it is in accordance with law. If the court determines that the determination or order, or the modified determination or order, is not in accordance with law, the court shall remand the proceeding to the Board with directions either to make a determination or order determined by the court to be lawful or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court are final, subject to review by the appropriate United States Court of Appeals as in other cases, and the judgment and decree of the court of appeals are final, subject to review by the Supreme Court of the United States on certiorari or certification as provided by section 1254 of title 28. If a provision of this section is held to be invalid as applied to a party by a

TITLE 5 - Section 1508 - Judicial review

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

determination or order of the Board, the determination or order becomes final and effective as to that party as if the provision had not been enacted.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 406; Pub. L. 95–454, title IX, § 906(a)(6), Oct. 13, 1978, 92 Stat. 1225.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
5 U.S.C. 118k(c).		July 19, 1940, ch. 640, § 4 “Sec. 12(c)”, 54 Stat. 768.

Sections 346 and 347 of title 28 referred to in former section 118k (c) were repealed by the Act of June 25, 1948, ch. 646, § 39, 62 Stat. 862, and are now covered by section 1254 of title 28. The titles of the courts are changed to conform to title 28.

In the reference to filing a written petition, “written” is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1978—Pub. L. 95–454 substituted “Merit Systems Protection Board” and “Board” for “Civil Service Commission” and “Commission”, respectively, wherever appearing.

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.