

**TITLE 5 - GOVERNMENT ORGANIZATION AND EMPLOYEES****PART III - EMPLOYEES****Subpart D - Pay and Allowances****CHAPTER 53 - PAY RATES AND SYSTEMS****SUBCHAPTER VII - MISCELLANEOUS PROVISIONS****§ 5379. Student loan repayments**

- (a) (1) For the purpose of this section—
- (A) the term “agency” means an agency under subparagraph (A), (B), (C), (D), or (E) of section 4101 (1) of this title, the Architect of the Capitol, the Botanic Garden, and the Office of Congressional Accessibility Services; and
  - (B) the term “student loan” means—
    - (i) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);
    - (ii) a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.); and
    - (iii) a health education assistance loan made or insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.).
- (2) An employee shall be ineligible for benefits under this section if the employee occupies a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.
- (b) (1) The head of an agency may, in order to recruit or retain highly qualified personnel, establish a program under which the agency may agree to repay (by direct payments on behalf of the employee) any student loan previously taken out by such employee.
- (2) Payments under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed to by the agency and employee concerned, except that the amount paid by an agency under this section may not exceed—
- (A) \$10,000 for any employee in any calendar year; or
  - (B) a total of \$60,000 in the case of any employee.
- (3) Nothing in this section shall be considered to authorize an agency to pay any amount to reimburse an employee for any repayments made by such employee prior to the agency’s entering into an agreement under this section with such employee.
- (c) (1) An employee selected to receive benefits under this section must agree in writing, before receiving any such benefit, that the employee will—
- (A) remain in the service of the agency for a period specified in the agreement (not less than 3 years), unless involuntarily separated; and
  - (B) if separated involuntarily on account of misconduct, or voluntarily, before the end of the period specified in the agreement, repay to the Government the amount of any benefits received by such employee from that agency under this section.
- (2) The payment agreed to under paragraph (1)(B) of this subsection may not be required of an employee who leaves the service of such employee’s agency voluntarily to enter into the service of any other agency unless the head of the agency that authorized the benefits notifies the employee before the effective date of such employee’s entrance into the service of the other agency that payment will be required under this subsection.
- (3) If an employee who is involuntarily separated on account of misconduct or who (excluding any employee relieved of liability under paragraph (2) of this subsection) is voluntarily separated before

completing the required period of service fails to repay the amount agreed to under paragraph (1)(B) of this subsection, a sum equal to the amount outstanding is recoverable by the Government from the employee (or such employee's estate, if applicable) by—

- (A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and
- (B) such other method as is provided by law for the recovery of amounts owing to the Government.

The head of the agency concerned may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest.

(4) Any amount repaid by, or recovered from, an individual (or an estate) under this subsection shall be credited to the appropriation account from which the amount involved was originally paid. Any amount so credited shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.

(d) An employee receiving benefits under this section from an agency shall be ineligible for continued benefits under this section from such agency if the employee—

- (1) separates from such agency; or
- (2) does not maintain an acceptable level of performance, as determined under standards and procedures which the agency head shall by regulation prescribe.

(e) In selecting employees to receive benefits under this section, an agency shall, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301 (b) of this title, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

(f) Any benefit under this section shall be in addition to basic pay and any other form of compensation otherwise payable to the employee involved.

(g) The Director of the Office of Personnel Management, after consultation with heads of a representative number and variety of agencies and any other consultation which the Director considers appropriate, shall prescribe regulations containing such standards and requirements as the Director considers necessary to provide for reasonable uniformity among programs under this section.

(h) (1) Each head of an agency shall maintain, and annually submit to the Director of the Office of Personnel Management, information with respect to the agency on—

- (A) the number of Federal employees selected to receive benefits under this section;
- (B) the job classifications for the recipients; and
- (C) the cost to the Federal Government of providing the benefits.

(2) The Director of the Office of Personnel Management shall prepare, and annually submit to Congress, a report containing the information submitted under paragraph (1), and information identifying the agencies that have provided benefits under this section.

(Added Pub. L. 101–510, div. A, title XII, § 1206(b)(1), Nov. 5, 1990, 104 Stat. 1659; amended Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(a), (b), (d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–316; Pub. L. 108–123, § 2, Nov. 11, 2003, 117 Stat. 1345; Pub. L. 108–136, div. A, title XI, § 1123(a), Nov. 24, 2003, 117 Stat. 1637; Pub. L. 110–437, title V, § 502, Oct. 20, 2008, 122 Stat. 4997.)

## References in Text

The Higher Education Act of 1965, referred to in subsec. (a)(1)(B)(i), (ii), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Parts B, D, and E of title IV of the Act are classified to parts B (§ 1071 et seq.), C (§ 1087a et seq.), and D (§ 1087aa et seq.), respectively, of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscp.html>).

The Public Health Service Act, referred to in subsec. (a)(1)(B)(iii), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part A of title VII of the Act is classified generally to part A (§ 292 et seq.) of subchapter V of chapter 6A of Title 42, The Public Health and Welfare. Part E of title VIII of the Act is classified generally to part E (§ 297a et seq.) of subchapter VI of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

## Amendments

2008—Subsec. (a)(1)(A). Pub. L. 110–437 inserted “, the Architect of the Capitol, the Botanic Garden, and the Office of Congressional Accessibility Services” after “title”.

2003—Subsec. (b)(2)(A). Pub. L. 108–123, § 2(1), and Pub. L. 108–136 amended subpar. (A) identically, substituting “\$10,000” for “\$6,000”.

Subsec. (b)(2)(B). Pub. L. 108–123, § 2(2), substituted “\$60,000” for “\$40,000”.

2000—Subsec. (a)(1)(B)(i). Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(a)(1)], inserted “(20 U.S.C. 1071 et seq.)” before semicolon.

Subsec. (a)(1)(B)(ii). Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(a)(2)], substituted “part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.)” for “part E of title IV of the Higher Education Act of 1965”.

Subsec. (a)(1)(B)(iii). Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(a)(3)], substituted “part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.)” for “part C of title VII of Public Health Service Act or under part B of title VIII of such Act”.

Subsec. (a)(2). Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(b)(1)], amended par. (2) generally. Prior to amendment, par. (2) read as follows: “An employee shall be ineligible for benefits under this section if such employee occupies a position which—

“(A) is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

“(B) is not subject to subchapter III of this chapter.”

Subsec. (b)(1). Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(b)(2)], struck out “professional, technical, or administrative” after “highly qualified”.

Subsec. (h). Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(d)], added subsec. (h).

## Effective Date of 2003 Amendment

Pub. L. 108–136, div. A, title XI, § 1123(b), Nov. 24, 2003, 117 Stat. 1637, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2004.”

## Regulations

Pub. L. 106–398, § 1 [[div. A], title XI, § 1122(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–316, provided that:

“(1) Not later than 60 days after the date of the enactment of this Act [Oct. 30, 2000], the Director of the Office of Personnel Management shall issue proposed regulations under section 5379 (g) of title 5, United States Code. The Director shall provide for a period of not less than 60 days for public comment on the regulations.

“(2) Not later than 240 days after the date of the enactment of this Act [Oct. 30, 2000], the Director shall issue final regulations.”

## Institutional Loan Forgiveness Programs

Pub. L. 110–315, title IX, § 961, Aug. 14, 2008, 122 Stat. 3473, provided that: “Notwithstanding any other provision of law—

“(1) a public or private institution of higher education may provide an officer or employee of any branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, who is a current or former student of such institution, financial assistance for the purpose of repaying a student loan or providing forbearance of student loan repayment if—

“(A) such repayment or forbearance is provided to such officer or employee in accordance with a written, published policy of the institution relating to repaying or providing forbearance, respectively, for students or former students who perform public service; and

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*NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).*

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“(B) in the case of a former student of the institution of higher education, the policy described in subparagraph (A) was in effect at the institution of higher education on the day before the date such officer or employee graduated from or otherwise ceased being a student at such institution; and

“(2) an officer or employee of any branch of the United States Government, of any independent agency of the United States, or of the District of Columbia may receive repayment or forbearance permitted under paragraph (1).”