

**TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 16 - NATIONAL SCIENCE FOUNDATION**

§ 1873. Employment of personnel

(a) Appointment; compensation; application of civil service provisions; technical and professional personnel; members of special commissions; temporary appointments; travel expenses

(1) The Director shall, in accordance with such policies as the Board shall from time to time prescribe, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter. Except as provided in section 1863 (h) ¹ of this title, such appointments shall be made and such compensation shall be fixed in accordance with the provisions of title 5 governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates: Provided, That the Director may, in accordance with such policies as the Board shall from time to time prescribe, employ such technical and professional personnel and fix their compensation, without regard to such provisions, as he may deem necessary for the discharge of the responsibilities of the Foundation under this chapter. The members of the special commissions shall be appointed without regard to the provisions of title 5 governing appointments in the competitive service.

(2) The Director may, under the authority provided by paragraph (1) of this subsection and in accordance with such policies as the Board chooses to prescribe, appoint for a limited term, or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from academic, industrial, or research institutions to work for the Foundation.

(3) The Foundation may pay, to the extent authorized for certain other Federal employees by section 5723 of title 5, travel expenses for any individual appointed for a limited term or on a temporary basis and transportation expenses of his or her immediate family and his or her household goods and personal effects from that individual's residence at the time of selection or assignment to his or her duty station. The Foundation may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Foundation may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5 to such an individual, in lieu of transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Foundation. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Foundation.

(b) Operation of laboratories and pilot plants

The Foundation shall not, itself, operate any laboratories or pilot plants.

(c) Compensation of members of Board and special commissions

The members of the Board and the members of each special commission shall be entitled to receive compensation for each day engaged in the business of the Foundation at a rate fixed by the Chairman but not exceeding the maximum rate payable under section 5376 of title 5 and shall be allowed travel expenses as authorized by section 5703 of title 5. For the purposes of determining the payment of compensation under this subsection, the time spent in travel by any member of the Board or any member of a special commission shall be deemed as time engaged in the business of the Foundation. Members of the Board and members of special commissions may waive compensation and reimbursement for traveling expenses.

(d) Federal officers as members of special commissions; compensation

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Persons holding other offices in the executive branch of the Federal Government may serve as members of special commissions, but they shall not receive remuneration for their services as such members during any period for which they receive compensation for their services in such other offices.

(e) Utilization of appropriations in making contracts

In making contracts or other arrangements for scientific or engineering research, the Foundation shall utilize appropriations available therefor in such manner as will in its discretion best realize the objectives of

- (1) having the work performed by organizations, agencies, and institutions, or individuals in the United States or foreign countries, including Government agencies of the United States and of foreign countries, qualified by training and experience to achieve the results desired,
- (2) strengthening the research staff of organizations, particularly nonprofit organizations, in the United States,
- (3) adding institutions, agencies, or organizations which, if aided, will advance scientific or engineering research, and
- (4) encouraging independent scientific or engineering research by individuals.

(f) Transfer of research and education funds of other Government departments or agencies

Funds available to any department or agency of the Government for scientific or engineering research or education, or the provision of facilities therefor, shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Foundation for such use as is consistent with the purposes for which such funds were provided, and funds so transferred shall be expendable by the Foundation for the purposes for which the transfer was made.

(g) “United States” defined

For purposes of this chapter, the term “United States” when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

(h) Expiration of authorization

Notwithstanding any other provision of law, the authorization of any appropriation to the Foundation shall expire (unless an earlier expiration is specifically provided) at the close of the second fiscal year following the fiscal year for which the authorization was enacted, to the extent that such appropriation has not theretofore actually been made.

(i) Public disclosure of information

- (1) (A) Information supplied to the Foundation or a contractor of the Foundation in survey forms, questionnaires, or similar instruments for purposes of section 1862 (a)(5) or (6) of this title by an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution when the institution has received a pledge of confidentiality from the Foundation, shall not be disclosed to the public unless the information has been transformed into statistical or abstract formats that do not allow for the identification of the supplier.
(B) Information that has not been transformed into formats described in subparagraph (A) may be used only for statistical or research purposes.
(C) The identities of individuals, organizations, and institutions supplying information described in subparagraph (A) may not be disclosed to the public.
- (2) In support of functions authorized by section 1862 (a)(5) or (6) of this title, the Foundation may designate, at its discretion, authorized persons, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies) and employees of private organizations, to have access, for statistical or research purposes only, to information collected pursuant to section 1862 (a)(5) or (6) of this title that allows for the identification of the supplier. No such person may—

- (A) publish information collected pursuant to section 1862 (a)(5) or (6) of this title in such a manner that either an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution that has received a pledge of confidentiality from the Foundation can be specifically identified;
- (B) permit anyone other than individuals authorized by the Foundation to examine data that allows for such identification relating to an individual, an industrial or commercial organization, or an academic, educational, or other nonprofit institution that has received a pledge of confidentiality from the Foundation; or
- (C) knowingly and willfully request or obtain any nondisclosable information described in paragraph (1) from the Foundation under false pretenses.
- (3) Violation of this subsection is punishable by a fine of not more than \$10,000, imprisonment for not more than 5 years, or both.

Footnotes

¹ See References in Text note below.

(May 10, 1950, ch. 171, § 14, 64 Stat. 154; renumbered § 15, Pub. L. 85-510, § 2, July 11, 1958, 72 Stat. 353; amended Pub. L. 86-232, § 8, Sept. 8, 1959, 73 Stat. 469; renumbered § 14 and amended Pub. L. 90-407, §§ 11(2), 12, July 18, 1968, 82 Stat. 365, 366; Pub. L. 91-120, § 3, Nov. 18, 1969, 83 Stat. 203; Pub. L. 95-99, § 12(c), formerly § 14(c), Aug. 15, 1977, 91 Stat. 835, renumbered § 12(c), Pub. L. 99-159, title I, § 109(h), Nov. 22, 1985, 99 Stat. 890; Pub. L. 99-159, title I, §§ 109(e)(1), 110 (a)(18), Nov. 22, 1985, 99 Stat. 889, 891; Pub. L. 100-570, title I, §§ 106, 107, Oct. 31, 1988, 102 Stat. 2868, 2869; Pub. L. 101-589, title II, § 251, Nov. 16, 1990, 104 Stat. 2894; Pub. L. 102-139, title III, Oct. 28, 1991, 105 Stat. 774; Pub. L. 104-66, title II, § 2141(b), Dec. 21, 1995, 109 Stat. 731; Pub. L. 105-207, title II, § 202(a)(3), July 29, 1998, 112 Stat. 873; Pub. L. 107-368, § 15(b), Dec. 19, 2002, 116 Stat. 3058.)

References of Text

Section 1863 (h) of this title, referred to in subsec. (a), was redesignated section 1863 (g) of this title by Pub. L. 94-282, title V, § 503, May 11, 1976, 90 Stat. 473.

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (a)(1), is set out under section 5332 of Title 5.

Amendments

2002—Subsec. (i). Pub. L. 107-368 amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: “Information supplied to the Foundation or a contractor of the Foundation by an industrial or commercial organization in survey forms, questionnaires, or similar instruments for the purposes of subsection (a)(5) or (a)(6) of section 1862 of this title may not be disclosed to the public unless such information has been transformed into statistical or aggregate formats that do not allow the identification of the supplier. The names of organizations supplying such information may not be disclosed to the public.”

1998—Subsec. (c). Pub. L. 105-207 substituted “shall be entitled to receive” for “shall receive” and “the maximum rate payable under section 5376” for “the rate specified for the daily rate for GS-18 of the General Schedule under section 5332” and inserted at end “For the purposes of determining the payment of compensation under this subsection, the time spent in travel by any member of the Board or any member of a special commission shall be deemed as time engaged in the business of the Foundation. Members of the Board and members of special commissions may waive compensation and reimbursement for traveling expenses.”

1995—Subsec. (j). Pub. L. 104-66 struck out subsec. (j) which read as follows: “Starting with fiscal year 1990, the Foundation shall submit to the Congress in each fiscal year, at the time of the release of the President’s budget, a three-year budget estimate for the Foundation. The three-year budget shall include funding estimates for each major activity, including each scientific directorate, the United States Antarctic Program, the Science and Engineering Education Directorate, and the Program Development and Management activity.”

1991—Subsec. (a)(3). Pub. L. 102-139 struck out “and when less than” after “in lieu of”.

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1990—Subsec. (f). Pub. L. 101–589 inserted “or education” after “research”.

1988—Subsec. (a). Pub. L. 100–570, § 106, designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (j). Pub. L. 100–570, § 107, added subsec. (j).

1985—Subsec. (b). Pub. L. 99–159, § 109(e)(1)(A), (B), struck out subsec. (b) relating to outside employment and activities, and redesignated subsec. (c) as (b).

Subsecs. (c), (d). Pub. L. 99–159, § 109(e)(1)(B), redesignated subsecs. (d) and (e) as (c) and (d), respectively. Former subsec. (c) redesignated (b).

Subsec. (e). Pub. L. 99–159, §§ 109(e)(1)(B), 110 (a)(18)(A), redesignated subsec. (f) as (e) and inserted “or engineering” after “scientific” wherever appearing. Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 99–159, §§ 109(e)(1)(B), 110 (a)(18)(B), redesignated subsec. (g) as (f) and substituted “engineering” for “technical”. Former subsec. (f) redesignated (e).

Subsecs. (g), (h). Pub. L. 99–159, § 109(e)(1)(B), redesignated subsecs. (h) and (i) as (g) and (h), respectively. Former subsec. (g) redesignated (f).

Subsec. (i). Pub. L. 99–159, § 109(e)(1)(B), (C), added subsec. (i). Former subsec. (i) redesignated (h).

1977—Subsec. (d). Pub. L. 95–99 substituted provisions authorizing compensation at a daily rate fixed by the chairman but not exceeding the rate specified for the daily rate for GS–18 of the General Schedule under section 5332 of title 5 for provisions authorizing a daily rate of \$100.

1969—Subsec. (i). Pub. L. 91–120 added subsec. (i).

1968—Subsec. (a). Pub. L. 90–407, § 12, substituted provisions making applicable chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates, for provisions making applicable the civil-service laws and regulations and the Classification Act of 1949, and provisions that the members of special commissions be appointed without regard to the provisions of title 5, governing appointments in the competitive service, for provisions that the Deputy Director, and members of divisional committees and special commissions be appointed without regard to the civil-service laws or regulations. Provisions this subsection, relating to outside employment and activities of certain specified officers of the Foundation, were designated as subsec. (b).

Subsec. (b). Pub. L. 90–407, § 12, redesignated provisions of former subsec. (a) as (b) and added Assistant Directors to specified officers of Foundation prohibited from engaging in outside employment and activities. Former subsec. (b), providing for the appointment of a Deputy Director, was struck out.

Subsec. (d). Pub. L. 90–407, § 12, struck out applicability to members of each divisional committee, and substituted “\$100” for “\$50” and “section 5703” for “section 73b–2”.

Subsec. (e). Pub. L. 90–407, § 12, struck out “the divisional committees and” after “may serve as members of”.

Subsec. (f). Pub. L. 90–407, § 12, redesignated subsec. (g) as (f), in cl. (2) substituted “United States” for “States, Territories, possessions, and the District of Columbia”, in cl. (3) substituted “advance scientific research” for “advance basic research”, and in cl. (4) substituted “independent scientific research” for “independent basic research”. Former subsec. (f), exempting members of Board, divisional committees, or special commissions from provisions of former sections 281, 283, or 284 of title 18 or former section 99 of title 5, unless the act made unlawful by the aforementioned former sections directly involved or directly interested the Foundation, was struck out.

Subsec. (g). Pub. L. 90–407, § 12, redesignated subsec. (h) as (g) and struck out “and, until such time as an appropriation is made available directly to the Foundation, for general administrative expenses of the Foundation without regard to limitations otherwise applicable to such funds” after “the purposes for which the transfer was made”. Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 90–407, § 12, added subsec. (h). Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L. 90–407, § 12, struck out subsec. (i) which provided for transfer of National Roster of Scientific and Specialized Personnel from United States Employment Service to Foundation.

1959—Subsec. (d). Pub. L. 86–232 increased compensation for \$25 to \$50 per diem.

Transfer of Functions

Authority of Director of National Science Foundation, from time to time, to make appropriate provisions authorizing performance by any other officer, or by any agency or employee, of National Science Foundation of any of his functions (including functions delegated to him by National Science Board), see Reorg. Plan No. 5 of 1965, eff. July 27, 1965, 30 F.R. 9355, 79 Stat. 1323, set out in the Appendix to Title 5, Government Organization and Employees.

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References to Maximum Rate Under 5 U.S.C. 5376

Except as otherwise provided, reference to maximum rate under section 5376 of Title 5, Government Organization and Employees, before first day of first pay period beginning on or after 180th day after Oct. 8, 2008, considered reference to basic pay rate for level IV of Executive Schedule (5 U.S.C. 5315) and reference to maximum rate on or after first day of first pay period beginning on or after 180th day after Oct. 8, 2008, considered reference to basic pay rate for level III of Executive Schedule (5 U.S.C. 5314), or for level II of the Executive Schedule (5 U.S.C. 5313) for certain employees, see section 2(d)(3) of Pub. L. 110-372, set out as an Effective Date of 2008 Amendment note under section 5376 of Title 5.

Employment of Minorities, Women, and Handicapped Individuals in Executive Level Positions

Pub. L. 94-471, § 7, Oct. 11, 1976, 90 Stat. 2056, provided that:

“(a) The Director of the National Science Foundation shall initiate an intensive search for qualified women, members of minority groups, and handicapped individuals to fill executive level positions in the National Science Foundation. In carrying out the requirement of this subsection, the Director shall work closely with organizations which have been active in seeking greater recognition and utilization of the scientific and technical capabilities of minorities, women, and handicapped individuals. The Director shall improve the representation of minorities, women, and handicapped individuals on advisory committees, review panels, and all other mechanisms by which the scientific community provides assistance to the Foundation. The Director of the National Science Foundation shall report quarterly to the Congress on the status of minorities, women, and handicapped individuals and activities undertaken pursuant to this section.

“(b) Notwithstanding any other provision of this or any other Act, the National Science Foundation shall, with funds available from the program “Minorities, Women, and Handicapped Individuals in Science” conduct experimental forums, conferences, workshops or other activities designed to improve scientific literacy and to encourage and assist minorities, women, and handicapped individuals to undertake and to advance in careers in scientific research and science education.

“(c)(1) In order to promote increased participation by minorities in careers in science and engineering, the National Science Foundation is authorized and directed to make available planning and study grants for programs including, but not limited to, Minority Centers for Graduate Education in Science and Engineering in accordance with this subsection.

“(2) The grants for Minority Centers for Graduate Education shall be used to determine the need for and feasibility of developing Centers to be established at geographically dispersed educational institutions which—

“(A) have substantial minority student enrollment;

“(B) are geographically located near minority population centers;

“(C) demonstrate a commitment to encouraging and assisting minority students, researchers, and faculty;

“(D) have an existing or developing capacity to offer doctoral programs in science and engineering;

“(E) will support basic research and the acquisition of necessary research facilities and equipment;

“(F) will serve as a regional resource in science and engineering for the minority community which the Center is designed to serve; and

“(G) will develop joint educational programs with nearby undergraduate institutions of higher education which have a substantial minority student enrollment.

“(3) The Director, in consultation with groups which have been active in seeking greater recognition of the scientific and technical capabilities of minorities, shall establish criteria for the award of the grants, and shall report to the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare [now Committee on Health, Education, Labor, and Pensions] of the Senate on the results of activities including an evaluation and assessment of the entire program carried out under this subsection, not later than March 1, 1977.”

Continuation of Existing Offices, Procedures, and Organization of the National Science Foundation

Amendment by Pub. L. 90-407 intended to continue in effect the existing offices, procedures, and organization of the Foundation, see section 16 of Pub. L. 90-407, set out as a note under section 1862 of this title.