

“right of Senate and other government employees” in subsec. (b) and striking out definitions of “Senate employee” and “head of employing office” in subsec. (c).

1994—Subsec. (c)(1)(B) to (D). Pub. L. 103-283, which directed the amendment of subsec. (c) by striking out subpar. (B), redesignating subpars. (C) and (D) as (B) and (C), respectively, and striking out “or (B)” after “described in subparagraph (A)” in subpars. (B) and (C), was executed by making the amendment to subsec. (c)(1) to reflect the probable intent of Congress. Prior to amendment, subpar. (B) read as follows: “any employee of the Architect of the Capitol who is assigned to the Senate Restaurants or to the Superintendent of the Senate Office Buildings;”.

#### EFFECTIVE DATE

Section effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102-166, set out as an Effective Date of 1991 Amendment note under section 1981 of this title.

### § 2000e-16b. Discriminatory practices prohibited

#### (a) Practices

All personnel actions affecting the Presidential appointees described in section 1219<sup>1</sup> of title 2 or the State employees described in section 2000e-16c of this title shall be made free from any discrimination based on—

(1) race, color, religion, sex, or national origin, within the meaning of section 2000e-16 of this title;

(2) age, within the meaning of section 633a of title 29; or

(3) disability, within the meaning of section 791 of title 29 and sections 12112 to 12114 of this title.

#### (b) Remedies

The remedies referred to in sections 1219(a)(1)<sup>1</sup> of title 2 and 2000e-16c(a) of this title—

(1) may include, in the case of a determination that a violation of subsection (a)(1) or (a)(3) of this section has occurred, such remedies as would be appropriate if awarded under sections 2000e-5(g), 2000e-5(k), and 2000e-16(d) of this title, and such compensatory damages as would be appropriate if awarded under section 1981 or sections 1981a(a) and 1981a(b)(2) of this title;

(2) may include, in the case of a determination that a violation of subsection (a)(2) of this section has occurred, such remedies as would be appropriate if awarded under section 633a(c) of title 29; and

(3) may not include punitive damages.

(Pub. L. 102-166, title III, §302, Nov. 21, 1991, 105 Stat. 1088; Pub. L. 104-1, title V, §504(a)(1), Jan. 23, 1995, 109 Stat. 40.)

#### REFERENCES IN TEXT

Section 1219 of title 2, referred to in text, was repealed by Pub. L. 104-331, §5(a), Oct. 26, 1996, 110 Stat. 4072.

#### CODIFICATION

Section was formerly classified to section 1202 of Title 2, The Congress.

#### AMENDMENTS

1994—Pub. L. 104-1 amended section generally. Prior to amendment, text read as follows: “All personnel ac-

tions affecting employees of the Senate shall be made free from any discrimination based on—

“(1) race, color, religion, sex, or national origin, within the meaning of section 2000e-16 of this title;

“(2) age, within the meaning of section 633a of title 29; or

“(3) handicap or disability, within the meaning of section 791 of title 29 and sections 12112 to 12114 of this title.”

#### EFFECTIVE DATE

Section effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102-166, set out as an Effective Date of 1991 Amendment note under section 1981 of this title.

### § 2000e-16c. Coverage of previously exempt State employees

#### (a) Application

The rights, protections, and remedies provided pursuant to section 2000e-16b of this title shall apply with respect to employment of any individual chosen or appointed, by a person elected to public office in any State or political subdivision of any State by the qualified voters thereof—

(1) to be a member of the elected official’s personal staff;

(2) to serve the elected official on the policy-making level; or

(3) to serve the elected official as an immediate advisor with respect to the exercise of the constitutional or legal powers of the office.

#### (b) Enforcement by administrative action

##### (1) In general

Any individual referred to in subsection (a) of this section may file a complaint alleging a violation, not later than 180 days after the occurrence of the alleged violation, with the Equal Employment Opportunity Commission, which, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, shall determine whether a violation has occurred and shall set forth its determination in a final order. If the Equal Employment Opportunity Commission determines that a violation has occurred, the final order shall also provide for appropriate relief.

##### (2) Referral to State and local authorities

###### (A) Application

Section 2000e-5(d) of this title shall apply with respect to any proceeding under this section.

###### (B) Definition

For purposes of the application described in subparagraph (A), the term “any charge filed by a member of the Commission alleging an unlawful employment practice” means a complaint filed under this section.

#### (c) Judicial review

Any party aggrieved by a final order under subsection (b) of this section may obtain a review of such order under chapter 158 of title 28. For the purpose of this review, the Equal Employment Opportunity Commission shall be an “agency” as that term is used in chapter 158 of title 28.

<sup>1</sup> See References in Text note below.

**(d) Standard of review**

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final order under subsection (b) of this section if it is determined that the order was—

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;
- (2) not made consistent with required procedures; or
- (3) unsupported by substantial evidence.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

**(e) Attorney's fees**

If the individual referred to in subsection (a) of this section is the prevailing party in a proceeding under this subsection,<sup>1</sup> attorney's fees may be allowed by the court in accordance with the standards prescribed under section 2000e-5(k) of this title.

(Pub. L. 102-166, title III, §304, formerly §321, Nov. 21, 1991, 105 Stat. 1097; renumbered §304 and amended Pub. L. 104-1, title V, §504(a)(3), (4), Jan. 23, 1995, 109 Stat. 41.)

## CODIFICATION

Section was formerly classified to section 1220 of Title 2, The Congress.

## PRIOR PROVISIONS

A prior section 304 of Pub. L. 102-166 was classified to section 1204 of Title 2, The Congress, prior to repeal by Pub. L. 104-1.

## AMENDMENTS

1995—Subsec. (a). Pub. L. 104-1, §504(a)(4), struck out “and 1207(h) of title 2” before “shall apply” in introductory provisions.

## EFFECTIVE DATE

Section effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102-166, set out as an Effective Date of 1991 Amendment note under section 1981 of this title.

**§ 2000e-17. Procedure for denial, withholding, termination, or suspension of Government contract subsequent to acceptance by Government of affirmative action plan of employer; time of acceptance of plan**

No Government contract, or portion thereof, with any employer, shall be denied, withheld, terminated, or suspended, by any agency or officer of the United States under any equal employment opportunity law or order, where such employer has an affirmative action plan which has previously been accepted by the Government for the same facility within the past twelve months without first according such employer full hearing and adjudication under the provisions of section 554 of title 5, and the following pertinent sections: *Provided*, That if such employer has deviated substantially from such previously agreed to affirmative action plan, this

section shall not apply: *Provided further*, That for the purposes of this section an affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate compliance agency has accepted such plan unless within forty-five days thereafter the Office of Federal Contract Compliance has disapproved such plan.

(Pub. L. 88-352, title VII, §718, as added Pub. L. 92-261, §13, Mar. 24, 1972, 86 Stat. 113.)

## SUBCHAPTER VII—REGISTRATION AND VOTING STATISTICS

**§ 2000f. Survey for compilation of registration and voting statistics; geographical areas; scope; application of census provisions; voluntary disclosure; advising of right not to furnish information**

The Secretary of Commerce shall promptly conduct a survey to compile registration and voting statistics in such geographic areas as may be recommended by the Commission on Civil Rights. Such a survey and compilation shall, to the extent recommended by the Commission on Civil Rights, only include a count of persons of voting age by race, color, and national origin, and determination of the extent to which such persons are registered to vote, and have voted in any statewide primary or general election in which the Members of the United States House of Representatives are nominated or elected, since January 1, 1960. Such information shall also be collected and compiled in connection with the Nineteenth Decennial Census, and at such other times as the Congress may prescribe. The provisions of section 9 and chapter 7 of title 13 shall apply to any survey, collection, or compilation of registration and voting statistics carried out under this subchapter: *Provided, however*, That no person shall be compelled to disclose his race, color, national origin, or questioned about his political party affiliation, how he voted, or the reasons therefore, nor shall any penalty be imposed for his failure or refusal to make such disclosure. Every person interrogated orally, by written survey or questionnaire or by any other means with respect to such information shall be fully advised with respect to his right to fail or refuse to furnish such information.

(Pub. L. 88-352, title VIII, §801, July 2, 1964, 78 Stat. 266.)

## SUBCHAPTER VIII—COMMUNITY RELATIONS SERVICE

**§ 2000g. Establishment of Service; Director of Service; appointment, term; personnel**

There is hereby established in and as a part of the Department of Commerce a Community Relations Service (hereinafter referred to as the “Service”), which shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate for a term of four years. The Director is authorized to appoint, subject to the civil service laws and regulations, such other personnel as may be necessary to enable the Service to carry out its functions and duties, and to fix their compensa-

<sup>1</sup> So in original.