

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 OF 2012 AMENDMENT

Amendment by Pub. L. 112-199 effective 30 days after Nov. 27, 2012, see section 202 of Pub. L. 112-199, set out as a note under section 1204 of this title.

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

Table listing sections 1301 through 1308 with their respective titles: 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 Repealed.]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

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: Derivation (empty), U.S. Code 5 U.S.C. 633(1) (function of Civil Service Commission), Revised Statutes and Statutes at Large 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.

(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

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: Derivation (a), U.S. Code 5 U.S.C. 633(2)7 (last 17 words), (3) (less last 10 words), Revised Statutes and Statutes at Large Jan. 16, 1883, ch. 27, §§2(2)7 (last 17 words), (3) (less last 10 words), 22 Stat. 404.

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.

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

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	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