

tional security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties.

Any reference in this memorandum to the provision of any Act shall be deemed to include references to any hereafter-enacted provision of law that is the same or substantially the same as such provision.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

### § 302. Scope of delegation of functions

The authority conferred by this chapter shall apply to any function vested in the President by law if such law does not affirmatively prohibit delegation of the performance of such function as herein provided for, or specifically designate the officer or officers to whom it may be delegated. This chapter shall not be deemed to limit or derogate from any existing or inherent right of the President to delegate the performance of functions vested in him by law, and nothing herein shall be deemed to require express authorization in any case in which such an official would be presumed in law to have acted by authority or direction of the President.

(Added Oct. 31, 1951, ch. 655, §10, 65 Stat. 712.)

SIMILAR PROVISIONS; REPEAL; SAVING CLAUSE

For similar provisions contained in prior law, and saving clause in connection therewith, see note preceding section 301 of this title.

### § 303. Definitions

As used in this chapter, the term "function" embraces any duty, power, responsibility, authority, or discretion vested in the President or other officer concerned, and the terms "perform" and "performance" may be construed to mean "exercise".

(Added Oct. 31, 1951, ch. 655, §10, 65 Stat. 712.)

SIMILAR PROVISIONS; REPEAL; SAVING CLAUSE

For similar provisions contained in prior law, and saving clause in connection therewith, see note preceding section 301 of this title.

## CHAPTER 5—EXTENSION OF CERTAIN RIGHTS AND PROTECTIONS TO PRESIDENTIAL OFFICES

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### SUBCHAPTER I—GENERAL PROVISIONS

#### § 401. Definitions

(a) IN GENERAL.—Except as otherwise specifically provided in this chapter, as used in this chapter:

(1) BOARD.—The term "Board" means the Merit Systems Protection Board under chapter 12 of title 5.

(2) COVERED EMPLOYEE.—The term "covered employee" means any employee of an employing office.

(3) EMPLOYEE.—The term "employee" includes an applicant for employment and a former employee.

(4) EMPLOYING OFFICE.—The term "employing office" means—

(A) each office, agency, or other component of the Executive Office of the President;

(B) the Executive Residence at the White House; and

(C) the official residence (temporary or otherwise) of the Vice President.

(b) DEFINITIONS RELATING TO CERTAIN MATTERS.—For purposes of applying this chapter with respect to any practice or other matter—

(1) to which section 411 relates, the terms "employing office" and "covered employee" shall each be considered to have the meaning given to the term by such section;

(2) to which section 412 relates, the term "covered employee" means a covered employee described in section 412(a)(2)(B);

<sup>1</sup> So in original. Does not conform to section catchline.

(3) to which section 413 relates, the term “covered employee” excludes interns and volunteers, as described in section 413(a)(2); and

(4) to which section 416 relates, the term “covered employee” means a covered employee described in section 416(a)(2).

(Added Pub. L. 104-331, §2(a), Oct. 26, 1996, 110 Stat. 4054.)

#### REGULATIONS

Pub. L. 104-331, §2(b), Oct. 26, 1996, 110 Stat. 4068, provided that: “Appropriate measures shall be taken to ensure that—

“(1) any regulations required to implement section 411 of title 3, United States Code, shall be in effect by October 1, 1997; and

“(2) any other regulations needed to implement chapter 5 of title 3, United States Code, shall be in effect as soon as practicable, but not later than October 1, 1998.”

#### APPLICABILITY OF FUTURE EMPLOYMENT LAWS

Pub. L. 104-331, §4, Oct. 26, 1996, 110 Stat. 4071, provided that:

“(a) IN GENERAL.—Each provision of Federal law that is made applicable to the legislative branch under section 102 of the Congressional Accountability Act of 1995 (2 U.S.C. 1302), and that is enacted later than 12 months after the date of the enactment of this Act [Oct. 26, 1996], shall be deemed to apply with respect to ‘employing offices’ and ‘covered employees’ (within the meaning of section 401 of title 3, United States Code, as added by this Act), unless such law specifically provides otherwise and expressly cites this section.

“(b) REGULATIONS.—

“(1) IN GENERAL.—The President, or the designee of the President, shall issue regulations to implement such provision.

“(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) to implement a provision shall be the same as substantive regulations promulgated by the head of the appropriate executive agency to implement the provision, except to the extent that the President or designee may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under the section.”

#### § 402. Application of laws

The following laws shall apply, as prescribed by this chapter, to all employing offices (including employing offices within the meaning of section 411, to the extent prescribed therein):

(1) The Fair Labor Standards Act of 1938.

(2) Title VII of the Civil Rights Act of 1964.

(3) The Americans with Disabilities Act of 1990.

(4) The Age Discrimination in Employment Act of 1967.

(5) The Family and Medical Leave Act of 1993.

(6) The Occupational Safety and Health Act of 1970.

(7) Chapter 71 (relating to Federal service labor-management relations) of title 5.

(8) The Employee Polygraph Protection Act of 1988.

(9) The Worker Adjustment and Retraining Notification Act.

(10) The Rehabilitation Act of 1973.

(11) Chapter 43 (relating to veterans’ employment and reemployment) of title 38.

(Added Pub. L. 104-331, §2(a), Oct. 26, 1996, 110 Stat. 4054.)

#### REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, referred to in par. (1), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Civil Rights Act of 1964, referred to in par. (2), is Pub. L. 88-352, July 2, 1964, 78 Stat. 252, as amended. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in par. (3), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Age Discrimination in Employment Act of 1967, referred to in par. (4), is Pub. L. 90-202, Dec. 15, 1967, 81 Stat. 602, as amended, which is classified generally to chapter 14 (§621 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 29 and Tables.

The Family and Medical Leave Act of 1993, referred to in par. (5), is Pub. L. 103-3, Feb. 5, 1993, 107 Stat. 6, as amended, which enacted sections 60m and 60n of Title 2, The Congress, sections 6381 to 6387 of Title 5, Government Organization and Employees, and chapter 28 (§2601 et seq.) of Title 29, amended section 2105 of Title 5, and enacted provisions set out as notes under section 2601 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

The Occupational Safety and Health Act of 1970, referred to in par. (6), is Pub. L. 91-596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§651 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

The Employee Polygraph Protection Act of 1988, referred to in par. (8), is Pub. L. 100-347, June 27, 1988, 102 Stat. 646, as amended, which is classified generally to chapter 22 (§2001 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 29 and Tables.

The Worker Adjustment and Retraining Notification Act, referred to in par. (9), is Pub. L. 100-379, Aug. 4, 1988, 102 Stat. 890, which is classified generally to chapter 23 (§2101 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of Title 29 and Tables.

The Rehabilitation Act of 1973, referred to in par. (10), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

#### SUBCHAPTER II—EXTENSION OF RIGHTS AND PROTECTIONS

PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

#### §411. Rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and title I of the Americans with Disabilities Act of 1990

(a) DISCRIMINATORY PRACTICES PROHIBITED.—All personnel actions affecting covered employ-