

employee of the Department of Defense who is a special agent of the Defense Criminal Investigative Service (or any successor to that service).

(Added Pub. L. 105-85, div. A, title X, §1071(a), Nov. 18, 1997, 111 Stat. 1897.)

§ 1586. Rotation of career-conditional and career employees assigned to duty outside the United States

(a) In order to advance the programs and activities of the Defense Establishment, it is hereby declared to be the policy of the Congress to facilitate the interchange of civilian employees of the Defense Establishment between posts of duty in the United States and posts of duty outside the United States through the establishment and operation of programs for the rotation, to the extent consistent with the missions of the Defense Establishment and sound principles of administration, of such employees who are assigned to duty outside the United States.

(b) Notwithstanding any other provision of law, the Secretary of Defense with respect to civilian employees of the Department of Defense other than employees of a military department, and the Secretary of each military department with respect to civilian employees of such military department, may, under such regulations as each such Secretary may prescribe with respect to the employees concerned and in accordance with the policy and other provisions of this section, establish and operate programs of rotation which provide for the granting of the right to return to a position in the United States to each civilian employee in the department concerned—

(1) who, while serving under a career-conditional or career appointment in the competitive civil service, is assigned at the request of the department concerned to duty outside the United States,

(2) who satisfactorily completes such duty, and

(3) who applies, not later than 30 days after his completion of such duty, for the right to return to a position in the United States as provided by subsection (c).

The Secretary of the department concerned may provide by regulation for the waiver of the provisions of paragraphs (2) and (3), or of either of such paragraphs, in those cases in which the application of such paragraphs, or either of them, would be against equity and good conscience or against the public interest.

(c) The right to return to a position in the United States granted under this section shall be without reduction in the seniority, status, and tenure held by the employee immediately before his assignment to duty outside the United States and the employee shall be placed, not later than 30 days after the date on which he is determined to be immediately available to exercise such right in accordance with the following provisions:

(1) The employee shall be placed in the position which he held immediately before his assignment to duty outside the United States, if such position exists.

(2) If such position does not exist, or with his consent, the employee shall be placed in a va-

cant existing position, or in a new continuing position, for which he is qualified, available for the purposes of this section in the department concerned, in the same geographical area as, with rights and benefits equal to the rights and benefits of, and in a grade equal to the grade of, the position which he held immediately before his assignment to duty outside the United States.

(3) If the positions described in paragraph (1) and paragraph (2) do not exist, the employee shall be placed in an additional position which shall be established by the department concerned for a period not in excess of 90 days in order to carry out the purposes of this section. Such additional position shall be in the same geographical area as, with rights and benefits not less than the rights and benefits of, and in a grade not lower than the grade of, the position held by the employee immediately before his assignment to duty outside the United States.

(4) If, within 90 days after his placement in a position under paragraph (3) a vacant existing position or new continuing position, for which the employee is qualified, is available for the purposes of this section in the department concerned, in the same geographical area as, with rights and benefits equal to the rights and benefits of, and in a grade equal to the grade of, the position which he held immediately before his assignment to duty outside the United States, the employee shall be placed in such vacant existing position or new continuing position.

(5) If, within the 90-day period referred to in paragraphs (3) and (4), the employee cannot be placed in a position under paragraph (4), he shall be reassigned or separated under the regulations prescribed by the Office of Personnel Management to carry out sections 3501-3503 of title 5.

(6) If there is a termination of or material change in the activity in which the former position of the employee (referred to in paragraph (1)) was located, he shall be placed, in the manner provided by paragraphs (2), (3), and (4), as applicable, in a position in the department concerned in a geographical area other than the geographical area in which such former position was located.

(d) Each employee who is placed in a position under paragraph (1), (2), (3), (4), or (6) of subsection (c) shall be paid at a rate of basic pay which is not less than the rate of basic pay to which he would have been entitled if he had not been assigned to duty outside the United States.

(e)(1) Each employee who is displaced from a position by reason of the exercise of a return right under subsection (c)(1) shall be placed, as of the date of such displacement, without reduction in seniority, status, and tenure, in a vacant existing position or new continuing position, for which he is qualified, available in the department concerned, in the same geographical area as, with rights and benefits equal to the rights and benefits of, in a grade equal to the grade of, and at a rate of basic pay not less than the last rate of basic pay which is not less than the last rate of basic pay to which he was entitled while in, the position from which he is displaced.

(2) If the employee cannot be placed in a position under paragraph (1), he shall be reassigned to a position other than the position from which he is displaced, or separated, under the regulations prescribed by the Office of Personnel Management to carry out sections 3501-3503 of title 5.

(f) The President may, upon his determination that such action is necessary in the national interest, declare that, for such period as he may specify, an assignment of an employee to duty in Alaska or Hawaii shall be held and considered, for the purposes of this section, to be an assignment to duty outside the United States.

(g) In this section:

(1) The term "rotation" means the assignment of civilian employees referred to in subsection (b) to duty outside the United States and the return of such employees to duty within the United States.

(2) The term "grade" means, as applicable, a grade of the General Schedule as prescribed in section 5104 of title 5 or a grade or level of the appropriate prevailing rate schedule.

(h) The Secretary of Defense may, under such regulations as he may prescribe, make the provisions of subsections (a) through (g) applicable to civilian employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico at the time of their employment by the Department of Defense in the same manner as if the references in such subsections to the United States (when used in a geographical sense) were references to Guam, the Virgin Islands, or the Commonwealth of Puerto Rico, as the case may be.

(Added Pub. L. 86-585, §1, July 5, 1960, 74 Stat. 325; amended Pub. L. 89-718, §15, Nov. 2, 1966, 80 Stat. 1117; Pub. L. 90-83, §3(3), Sept. 11, 1967, 81 Stat. 220; Pub. L. 96-513, title V, §511(61), Dec. 12, 1980, 94 Stat. 2925; Pub. L. 96-600, §1, Dec. 24, 1980, 94 Stat. 3493; Pub. L. 97-295, §1(20)(A), Oct. 12, 1982, 96 Stat. 1290; Pub. L. 98-525, title XIV, §1405(29), Oct. 19, 1984, 98 Stat. 2623; Pub. L. 101-189, div. A, title XVI, §1622(e)(4), Nov. 29, 1989, 103 Stat. 1605.)

AMENDMENTS

1989—Subsec. (g). Pub. L. 101-189, in introductory provisions, substituted "In this section:" for "For the purposes of this section—", in par. (1), inserted "The term" before "rotation" and substituted the period for "; and", and in par. (2), inserted "The term" before "grade".

1984—Subsec. (b). Pub. L. 98-525, §1405(29)(A)(iii), in provisions following par. (3) struck out "of this subsection" after "paragraphs (2) and (3)".

Subsec. (b)(3). Pub. L. 98-525, §1405(29)(A)(i), (ii), substituted "30" for "thirty" and struck out "of this section" after "subsection (c)".

Subsec. (c). Pub. L. 98-525, §1405(29)(B)(i), in provisions preceding par. (1) substituted "30" for "thirty".

Subsec. (c)(3). Pub. L. 98-525, §1405(29)(B)(ii), (iv), substituted "90 days" for "ninety days" and struck out "of this subsection" after "paragraph (2)".

Subsec. (c)(4). Pub. L. 98-525, §1405(29)(B)(ii), (iv), substituted "90 days" for "ninety days" and struck out "of this subsection" after "paragraph (3)".

Subsec. (c)(5). Pub. L. 98-525, §1405(29)(B)(iii)-(v), substituted "90-day" for "ninety-day", struck out "of this subsection" after "paragraphs (3) and (4)", and struck out "such" before "paragraph (4)".

Subsec. (c)(6). Pub. L. 98-525, §1405(29)(B)(vi), struck out "of this subsection" after "paragraph (1)" and "of this subsection," after "as applicable,".

Subsec. (d). Pub. L. 98-525, §1405(29)(C), struck out "of this section" after "subsection (c)".

Subsec. (e)(1). Pub. L. 98-525, §1405(29)(C), struck out "of this section" after "subsection (c)(1)".

Subsec. (e)(2). Pub. L. 98-525, §1405(29)(D), struck out "of this subsection" after "paragraph (1)".

Subsec. (g)(1). Pub. L. 98-525, §1405(29)(C), struck out "of this section" after "subsection (b)".

1982—Subsecs. (d), (e)(1). Pub. L. 97-295 substituted "pay" for "compensation" wherever appearing.

1980—Subsecs. (c)(5), (e)(2). Pub. L. 96-513 substituted "Office of Personnel Management" for "United States Civil Service Commission".

Subsec. (h). Pub. L. 96-600 added subsec. (h).

1967—Subsec. (g)(2). Pub. L. 90-83 substituted "General Schedule as prescribed in section 5104 of title 5" for "compensation schedule for the General Schedule of the Classification Act of 1949, as amended,".

1966—Pub. L. 89-718 substituted "sections 3501-3503 of title 5" for "section 12 of the Act of June 27, 1944 (5 U.S.C. 861)" wherever appearing.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

EX. ORD. NO. 10895. DUTY IN ALASKA OR HAWAII

Ex. Ord. No. 10895, Nov. 25, 1960, 25 F.R. 12165, provided:

By virtue of the authority vested in me by section 1586(f) of title 10 of the United States Code, and as President of the United States, and having determined that such action is necessary in the national interest, it is ordered as follows:

SECTION 1. Assignment of an employee to duty in the State of Alaska or Hawaii under regulations prescribed pursuant to section 1586 of title 10 of the United States Code shall be held and considered for the purposes of that section, to be an assignment to duty outside the United States.

SEC. 2. The Secretary of Defense shall from time to time, and at least annually, consider the need for continuing this order in effect, and he shall recommend the revocation thereof at such time as he may deem such action advisable.

DWIGHT D. EISENHOWER.

§ 1587. Employees of nonappropriated fund instrumentalities: reprisals

(a) In this section:

(1) The term "nonappropriated fund instrumentality employee" means a civilian employee who is paid from nonappropriated funds of Army and Air Force Exchange Service, Navy Exchange Service Command, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the armed forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces. Such term includes a civilian employee of a support organization within the Department of Defense or a military department, such as the Defense Finance and Accounting Service, who is paid from nonappropriated funds on account of the nature of the employee's duties.

(2) The term "civilian employee" has the meaning given the term "employee" by section 2105(a) of title 5.

(3) The term "personnel action", with respect to a nonappropriated fund instrumental-