

onstrated competence to perform the duties of a chief of mission, including, to the maximum extent practicable, a useful knowledge of the principal language or dialect of the country in which the individual is to serve, and knowledge and understanding of the history, the culture, the economic and political institutions, and the interests of that country and its people.

(2) Given the qualifications specified in paragraph (1), positions as chief of mission should normally be accorded to career members of the Service, though circumstances will warrant appointments from time to time of qualified individuals who are not career members of the Service.

(3) Contributions to political campaigns should not be a factor in the appointment of an individual as a chief of mission.

(4) The President shall provide the Committee on Foreign Relations of the Senate, with each nomination for an appointment as a chief of mission, a report on the demonstrated competence of that nominee to perform the duties of the position in which he or she is to serve.

(b) Furnishing of information by Secretary; political campaign contributions report

(1) In order to assist the President in selecting qualified candidates for appointment or assignment as chiefs of mission, the Secretary of State shall from time to time furnish the President with the names of career members of the Service who are qualified to serve as chiefs of mission, together with pertinent information about such members.

(2) Each individual nominated by the President to be a chief of mission, ambassador at large, or minister shall, at the time of nomination, file with the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report of contributions made by such individual and by members of his or her immediate family during the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination. The report shall be verified by the oath of the nominee, taken before any individual authorized to administer oaths. The chairman of the Committee on Foreign Relations of the Senate shall have each such report printed in the Congressional Record. As used in this paragraph, the term “contribution” has the same meaning given such term by section 30101(8) of title 52, and the term “immediate family” means the spouse of the nominee, and any child, parent, grandparent, brother, or sister of the nominee and the spouses of any of them.

(Pub. L. 96-465, title I, § 304, Oct. 17, 1980, 94 Stat. 2085; Pub. L. 106-113, div. B, § 1000(a)(7) [div. A, title II, § 208(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-422.)

AMENDMENTS

1999—Subsec. (c). Pub. L. 106-113 struck out subsec. (c) which read as follows: “Within 6 months after assuming the position, the chief of mission to a foreign country shall submit, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, a report describing his or her own foreign language competence and the foreign language competence of the mission staff in the principal language or other dialect of that country.”

PUBLIC AVAILABILITY OF REPORTS ON NOMINEES TO BE CHIEFS OF MISSION

Pub. L. 114-323, title VII, § 712, Dec. 16, 2016, 130 Stat. 1945, provided that: “Not later than 7 days after submitting the report required under section 304(a)(4) of the Foreign Service Act of 1980 (22 U.S.C. 3944(a)(4)) to the Committee on Foreign Relations of the Senate, the President shall make the report available to the public, including by posting the report on the website of the Department [of State] in a conspicuous manner and location.”

§ 3945. Senior Foreign Service

(a) Salary class

Appointment to the Senior Foreign Service shall be to a salary class established under section 3962 of this title, and not to a position.

(b) Limited appointment

An individual may not be given a limited appointment in the Senior Foreign Service if that appointment would cause the number of members of the Senior Foreign Service serving under limited appointments to exceed 5 percent of the total number of members of the Senior Foreign Service, except that (1) members of the Senior Foreign Service assigned to the Peace Corps shall be excluded in the calculation and application of this limitation, and (2) members of the Senior Foreign Service serving under limited appointments with reemployment rights under section 3950 of this title as career appointees in the Senior Executive Service shall be considered to be career members of the Senior Foreign Service for purposes of this subsection.

(c) Appointments by Secretary of Commerce

(1) Appointments to the Senior Foreign Service by the Secretary of Commerce shall be excluded in the calculation and application of the limitation in subsection (b).

(2) Except as provided in paragraph (3), no more than one individual (other than an individual with reemployment rights under section 3950 of this title as a career appointee in the Senior Executive Service) may serve under a limited appointment in the Senior Foreign Service in the Department of Commerce at any time.

(3) The Secretary of Commerce may appoint an individual to a limited appointment in the Senior Foreign Service for a specific position abroad if—

(A) no career member of the Service who has the necessary qualifications is available to serve in the position; and

(B) the individual appointed has unique qualifications for the specific position.

(d) Recertification process

The Secretary shall by regulation establish a recertification process for members of the Senior Foreign Service that is equivalent to the recertification process for the Senior Executive Service under section 3393a of title 5.¹

(Pub. L. 96-465, title I, § 305, Oct. 17, 1980, 94 Stat. 2086; Pub. L. 99-93, title I, § 119(a), Aug. 16, 1985, 99 Stat. 412; Pub. L. 101-194, title V, § 506(c)(1), Nov. 30, 1989, 103 Stat. 1759; Pub. L. 101-280, § 6(d)(3), May 4, 1990, 104 Stat. 160.)

¹ See References in Text note below.

REFERENCES IN TEXT

Section 3393a of title 5, referred to in subsec. (d), was repealed by Pub. L. 107-296, title XIII, §1321(a)(1)(B), Nov. 25, 2002, 116 Stat. 2296.

AMENDMENTS

1990—Subsec. (d). Pub. L. 101-280 made technical correction to Pub. L. 101-194. See 1989 Amendment note below.

1989—Subsec. (d). Pub. L. 101-194, as amended by Pub. L. 101-280, added subsec. (d).

1985—Subsec. (c). Pub. L. 99-93 added subsec. (c).

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-194 effective Jan. 1, 1991, see section 506(d) of Pub. L. 101-194, set out as a note under section 3151 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-93, title I, §119(c), Aug. 16, 1985, 99 Stat. 412, provided that: “The amendments made by subsections (a) and (b) [amending this section and provisions set out as a note under section 3901 of this title] shall take effect on October 1, 1985.”

EFFECTIVE DATE

Section effective Feb. 15, 1981, with an exception that appointments to the Senior Foreign Service by the Secretary of Commerce shall be excluded in the calculation and limitation in subsec. (b) of this section until Oct. 1, 1985, which was repealed by section 119(b) of Pub. L. 99-93, see section 2403 of Pub. L. 96-465, set out as a note under section 3901 of this title.

PLACEMENT OF SENIOR FOREIGN SERVICE PERSONNEL

Pub. L. 106-113, div. B, §1000(a)(7) [div. A, title III, §324], Nov. 29, 1999, 113 Stat. 1536, 1501A-437, required the Director General of the Foreign Service to submit a report on the first day of each fiscal quarter to the appropriate congressional committees containing the number of members of the Senior Foreign Service, the number of vacant positions designated for such members, and the number of those members not assigned to positions, prior to repeal by Pub. L. 107-228, div. A, title VI, §671(4), Sept. 30, 2002, 116 Stat. 1407.

§ 3946. Career appointments**(a) Trial period under limited appointment**

Before receiving a career appointment in the Service, an individual shall first serve under a limited appointment as a career candidate for a trial period of service prescribed by the Secretary. During such trial period of service, the Secretary shall decide whether—

(1) to offer a career appointment to the candidate under section 3943 of this title, or

(2) to recommend to the President that the candidate be given a career appointment under section 3942 of this title.

(b) Decisions by Secretary

Decisions by the Secretary under subsection (a) shall be based upon the recommendations of boards, established by the Secretary and composed entirely or primarily of career members of the Service, which shall evaluate the fitness and aptitude of career candidates for the work of the Service.

(c) Foreign Service Grievance Board decisions

Nothing in this section shall be construed to limit the authority of the Secretary or the Foreign Service Grievance Board under section 4137 of this title.

(Pub. L. 96-465, title I, §306, Oct. 17, 1980, 94 Stat. 2086; Pub. L. 100-204, title I, §181(c), Dec. 22, 1987, 101 Stat. 1363.)

AMENDMENTS

1987—Subsec. (c). Pub. L. 100-204 added subsec. (c).

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-204, title I, §181(e), Dec. 22, 1987, 101 Stat. 1364, provided that: “The amendments made by this section [amending this section and sections 4010 and 4137 of this title] shall not apply with respect to any grievance in which the Board has issued a final decision pursuant to section 1107 of the Foreign Service Act of 1980 (22 U.S.C. 4137) before the date of enactment of this Act [Dec. 22, 1987].”

§ 3947. Entry levels for Foreign Service officer candidates

A career candidate for appointment as a Foreign Service officer may not be initially assigned under section 3964 of this title to a salary class higher than class 4 in the Foreign Service Schedule unless—

(1) the Secretary determines in an individual case that assignment to a higher salary class is warranted because of the qualifications (including foreign language competence) and experience of the candidate and the needs of the Service; or

(2) at the time such initial assignment is made, the candidate is serving under a career appointment in the Service and is receiving a salary at a rate equal to or higher than the minimum rate payable for class 4 in the Foreign Service Schedule.

(Pub. L. 96-465, title I, §307, Oct. 17, 1980, 94 Stat. 2086.)

§ 3948. Recall and reappointment of career members**(a) Retired career members**

Whenever the Secretary determines that the needs of the Service so require, the Secretary may recall any retired career member of the Service for active duty in the same personnel category as that member was serving at the time of retirement. A retired career member may be recalled under this section to any appropriate salary class or rate, except that a retired career member of the Senior Foreign Service may not be recalled to a salary class higher than the one in which the member was serving at the time of retirement unless appointed to such higher class by the President, by and with the advice and consent of the Senate.

(b) Former career members

Former career members of the Service may be reappointed under section 3942(a)(1) or 3943 of this title, without regard to section 3946 of this title, in a salary class which is appropriate in light of the qualifications and experience of the individual being reappointed.

(Pub. L. 96-465, title I, §308, Oct. 17, 1980, 94 Stat. 2086.)

USAID OVERSEAS PROGRAM

Pub. L. 114-113, div. K, title VII, §7057(a)-(e), Dec. 18, 2015, 129 Stat. 2803, 2804, provided that:

“(a) AUTHORITY.—Up to \$93,000,000 of the funds made available in title III of this Act [title III of div. K of