

Department of Defense in the competitive service or the excepted service, the determination of which employees shall be separated from employment in the Department shall be made primarily on the basis of performance, as determined under any applicable performance management system.

(Added Pub. L. 101-510, div. A, title III, §322(a)(1), Nov. 5, 1990, 104 Stat. 1528; amended Pub. L. 102-484, div. A, title III, §371(a), Oct. 23, 1992, 106 Stat. 2382; Pub. L. 103-35, title II, §201(d)(1), May 31, 1993, 107 Stat. 98; Pub. L. 103-160, div. A, title III, §363, Nov. 30, 1993, 107 Stat. 1628; Pub. L. 112-81, div. A, title IX, §933(b), Dec. 31, 2011, 125 Stat. 1544; Pub. L. 114-92, div. A, title XI, §1101(a), Nov. 25, 2015, 129 Stat. 1022; Pub. L. 115-91, div. A, title X, §1051(a)(6)(A), Dec. 12, 2017, 131 Stat. 1560.)

#### AMENDMENTS

2017—Subsec. (c). Pub. L. 115-91, §1051(a)(6)(A)(iii), struck out “or a master plan prepared under subsection (c)” after “established under subsection (b)”.

Pub. L. 115-91, §1051(a)(6)(A)(ii), which directed the “striking” of subsec. (d) as (c), was executed by redesignating subsec. (d) as (c), to reflect the probable intent of Congress.

Pub. L. 115-91, §1051(a)(6)(A)(i), struck out subsec. (c) which related to civilian positions master plan.

Subsecs. (d) to (f). Pub. L. 115-91, §1051(a)(6)(A)(ii), which directed the “striking” of subsecs. (e) and (f) as (d) and (e), respectively, was executed by redesignating subsecs. (e) and (f) as (d) and (e), respectively, to reflect the probable intent of Congress.

2015—Subsec. (f). Pub. L. 114-92 added subsec. (f).

2011—Subsec. (b). Pub. L. 112-81 inserted after first sentence “In establishing the guidelines, the Secretary shall ensure that nothing in the guidelines conflicts with the requirements of section 129 of this title or the policies and procedures established under section 129a of this title.”

1993—Subsec. (a). Pub. L. 103-160, §363(a)(1), substituted “during a fiscal year” for “during fiscal year 1993”.

Subsec. (b). Pub. L. 103-160, §363(a)(2), struck out “for fiscal year 1993” after “establish guidelines” in introductory provisions.

Subsec. (c)(1). Pub. L. 103-160, §363(b)(1), substituted “for each fiscal year” for “for fiscal year 1994”.

Subsec. (c)(3)(A)(v). Pub. L. 103-35, §201(d)(1)(A)(i), substituted “Defense Agency” for “defense agency”.

Subsec. (c)(3)(A)(vii). Pub. L. 103-160, §363(b)(2), added cl. (vii).

Subsec. (c)(3)(C). Pub. L. 103-35, §201(d)(1)(A)(ii), substituted “Defense Agency” for “defense agency” after “to which the military department,” and “Defense Agency,” for “defense agency” after “for the military department,”.

Subsec. (c)(4). Pub. L. 103-160, §363(b)(3), added par. (4).

Subsec. (e). Pub. L. 103-35, §201(d)(1)(B), substituted “on the date” for “of the date”.

1992—Pub. L. 102-484 substituted “Civilian positions: guidelines for reductions” for “Employees of industrial-type or commercial-type activities: guidelines for future reductions” as section catchline and amended text generally, substituting subsecs. (a) to (e) for former subsecs. (a) to (c).

#### PILOT PROGRAM FOR PAYMENT OF RETRAINING EXPENSES

Pub. L. 107-107, div. A, title XI, §1102, Dec. 28, 2001, 115 Stat. 1235, authorized the Secretary of Defense to establish a pilot program to facilitate the reemployment of eligible employees of the Department of Defense who were involuntarily separated due to a reduction in force, relocation as a result of a transfer of function,

realignment, or change of duty station, and to pay retraining incentives to encourage non-Federal employers to hire and retain such employees, and provided that no incentive could be paid under such program for training commenced after Sept. 30, 2005.

#### NON-FEDERAL EMPLOYMENT INCENTIVE PILOT PROGRAM

Pub. L. 103-337, div. A, title III, §348, Oct. 5, 1994, 108 Stat. 2725, authorized the Secretary of Defense to establish a pilot program for the payment of incentives to facilitate the reemployment of eligible employees of the Department of Defense whose employment with the Department was being terminated by reason of the closure or realignment of the military installations where such persons were employed, to pay retraining and relocation incentives to encourage non-Federal employers to hire and retain such employees, and to pay a relocation incentive to an eligible employee if it was necessary for the employee to relocate in order to commence employment with a non-Federal employer under such program, and provided that no incentive could be paid under such program for training or relocations commenced after Sept. 30, 1999.

#### SKILL TRAINING PROGRAMS IN DEPARTMENT OF DEFENSE

Pub. L. 102-484, div. D, title XLIV, §4435, Oct. 23, 1992, 106 Stat. 2722, authorized the Secretaries of the military departments and the Secretary of Defense, during the period beginning on Oct. 1, 1992, and ending on Sept. 30, 1995, to provide not more than one year of training in training facilities of the Department of Defense to civilian employees of the Department who were separated from employment as a result of a reduction in force or a closure or realignment of a military installation, and directed the Secretary to publish a register of the skill training programs carried out by the Department not later than Feb. 1, 1993.

#### INVOLUNTARY REDUCTIONS OF CIVILIAN PERSONNEL IN FISCAL YEAR 1991

Pub. L. 101-510, div. A, title III, §322(b), Nov. 5, 1990, 104 Stat. 1529, provided that after Nov. 5, 1990, an agency or component of the Department of Defense could not implement any involuntary reductions or furloughs of civilian personnel in industrial-type or commercial-type activities in fiscal year 1991 until 45 days after the date on which the agency or component submitted a report to Congress outlining the reasons why such reductions or furloughs were required.

#### § 1598. Assistance to terminated employees to obtain certification and employment as teachers or employment as teachers' aides

(a) PLACEMENT PROGRAM.—The Secretary of Defense may establish a program—

(1) to assist eligible civilian employees of the Department of Defense and the Department of Energy after the termination of their employment to obtain—

(A) certification or licensure as elementary or secondary school teachers; or

(B) the credentials necessary to serve as teachers' aides; and

(2) to facilitate the employment of such employees by local educational agencies that—

(A) are receiving grants under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) as a result of having within their jurisdictions concentrations of children from low-income families; and

(B) are also experiencing a shortage of teachers or teachers' aides.

(b) ELIGIBLE EMPLOYEES.—(1) A civilian employee of the Department of Defense or the De-

partment of Energy shall be eligible for selection by the Secretary of Defense to participate in the placement program authorized by subsection (a) if the employee—

(A) during the five-year period beginning October 1, 1992, is terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense or the Secretary of Energy, as the case may be;

(B) has received—

(i) in the case of an employee applying for assistance for placement as an elementary or secondary school teacher, a baccalaureate or advanced degree from an accredited institution of higher education; or

(ii) in the case of an employee applying for assistance for placement as a teacher's aide in an elementary or secondary school, an associate, baccalaureate, or advanced degree from an accredited institution of higher education or a junior or community college; and

(C) satisfies such other criteria for selection as the Secretary of Defense may prescribe.

(2) The Secretary of Defense may accept an application from a civilian employee referred to in paragraph (1) who was terminated during the period beginning on October 1, 1990, and ending on October 1, 1992, if the employee otherwise satisfies the eligibility criteria specified in that paragraph.

(c) SELECTION OF PARTICIPANTS.—(1) Selection of civilian employees to participate in the placement program shall be made on the basis of applications submitted to the Secretary of Defense after the employees receive a notice of termination. An application shall be filed within such time, in such form, and contain such information as the Secretary of Defense may require.

(2) In selecting participants to receive assistance for placement as elementary or secondary school teachers, the Secretary of Defense shall give priority to civilian employees who—

(A) have educational, military, or employment experience in science, mathematics, or engineering and agree to seek employment as science, mathematics, or engineering teachers in elementary or secondary schools; or

(B) have educational, military, or employment experience in another subject area identified by the Secretary, in consultation with the Secretary of Education, as important for national educational objectives and agree to seek employment in that subject area in elementary or secondary schools.

(3) The Secretary of Defense may not select a civilian employee to participate in the program unless the Secretary has sufficient appropriations for the placement program available at the time of the selection to satisfy the obligations to be incurred by the United States under the program with respect to that member.

(d) AGREEMENT.—A civilian employee selected to participate in the placement program shall be required to enter into an agreement with the Secretary of Defense in which the employee agrees—

(1) to obtain, within such time as the Secretary may require, certification or licensure

as an elementary or secondary school teacher or the necessary credentials to serve as a teacher's aide in an elementary or secondary school; and

(2) to accept—

(A) in the case of an employee selected for assistance for placement as a teacher, an offer of full-time employment as an elementary or secondary school teacher for not less than two school years with a local educational agency identified under section 1151(b)(2)<sup>1</sup> of this title, as in effect on October 4, 1999, to begin the school year after obtaining that certification or licensure; or

(B) in the case of an employee selected for assistance for placement as a teacher's aide, an offer of full-time employment as a teacher's aide in an elementary or secondary school for not less than two school years with a local educational agency identified under section 1151(b)(3)<sup>1</sup> of this title, as in effect on October 4, 1999, to begin the school year after obtaining the necessary credentials.

(e) STIPEND FOR PARTICIPANTS.—(1) Except as provided in paragraph (2), the Secretary of Defense shall pay to each participant in the placement program a stipend in an amount equal to the lesser of—

(A) \$5,000; or

(B) the total costs of the type described in paragraphs (1), (2), (3), (8), and (9) of section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087*ll*) incurred by the participant while obtaining teacher certification or licensure or the necessary credentials to serve as a teacher's aide and employment as an elementary or secondary school teacher or teacher aide.

(2) A civilian employee selected to participate in the placement program who receives separation pay under section 5597 of title 5 shall not be paid a stipend under paragraph (1).

(3) A stipend paid under paragraph (1) shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(f) PLACEMENT OF PARTICIPANTS AS TEACHERS AND TEACHERS' AIDES.—Subsections (h) through (k) of section 1151<sup>1</sup> of this title, as in effect on October 4, 1999, shall apply with respect to the placement program authorized by this section.

(Added Pub. L. 102-484, div. D, title XLIV, §4442(a), Oct. 23, 1992, 106 Stat. 2730; amended Pub. L. 103-35, title II, §201(h)(1), May 31, 1993, 107 Stat. 100; Pub. L. 103-160, div. A, title XIII, §1331(c)(2), Nov. 30, 1993, 107 Stat. 1792; Pub. L. 103-382, title III, §391(b)(3), Oct. 20, 1994, 108 Stat. 4021; Pub. L. 104-106, div. A, title XV, §1503(a)(14), Feb. 10, 1996, 110 Stat. 511; Pub. L. 104-201, div. A, title V, §576(b), Sept. 23, 1996, 110 Stat. 2535; Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(11)], Oct. 30, 2000, 114 Stat. 1654, 1654A-290.)

#### REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), is Pub. L. 89-10,

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

Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

Section 1151 of this title, referred to in subsecs. (d)(2)(A), (B) and (f), was repealed by Pub. L. 106-65, div. A, title XVII, §1707(a)(1), Oct. 5, 1999, 113 Stat. 823, and a new section 1151 of this title was subsequently added by Pub. L. 109-364, §561(a).

The Higher Education Act of 1965, referred to in subsec. (e)(3), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

#### AMENDMENTS

2000—Subsec. (d)(2). Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(11)(A)], inserted “as in effect on October 4, 1999,” after “of this title,” in subpars. (A) and (B).

Subsec. (f). Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(11)(B)], inserted “, as in effect on October 4, 1999,” after “of this title”.

1996—Subsec. (a)(2)(A). Pub. L. 104-106 substituted “6301” for “2701”.

Subsec. (d)(2)(A), (B). Pub. L. 104-201 substituted “two school years” for “five school years”.

1994—Subsec. (a)(2)(A). Pub. L. 103-382 struck out “chapter 1 of” after “grants under”.

1993—Subsec. (d)(2)(A), (B). Pub. L. 103-160 substituted “five school years” for “two school years”.

Subsec. (e)(4). Pub. L. 103-35 struck out par. (4) which read as follows: “A person who receives a stipend under section 4436 of this title shall not be paid a stipend pursuant to paragraph (1).”

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-160, div. A, title XIII, §1331(h), Nov. 30, 1993, 107 Stat. 1793, provided that: “The amendments made by subsections (c) and (d) [amending this section and sections 1151 and 2410j of this title] shall not apply with respect to—

“(1) persons selected by the Secretary of Defense before the date of the enactment of this Act [Nov. 30, 1993] to participate in the teacher and teacher’s aide placement programs established pursuant to sections 1151, 1598, and 2410j of title 10, United States Code; or

“(2) agreements entered into by the Secretary before such date with local educational agencies under such sections.”

#### SAVINGS PROVISION

Pub. L. 104-201, div. A, title V, §576(d), Sept. 23, 1996, 110 Stat. 2535, provided that: “The amendments made by this section [amending this section and sections 1151 and 2410j of this title] do not affect obligations under agreements entered into in accordance with section 1151, 1598, or 2410j of title 10, United States Code, before the date of the enactment of this Act [Sept. 23, 1996].”

#### [§ 1599. Renumbered § 1611]

#### § 1599a. Financial assistance to certain employees in acquisition of critical skills

(a) TRAINING PROGRAM.—The Secretary of Defense shall establish an undergraduate training program with respect to civilian employees in the Military Department Civilian Intelligence Personnel Management System that is similar in purpose, conditions, content, and administration to the program established by the Secretary of Defense under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 3614) for civilian employees of the National Security Agency.

(b) USE OF FUNDS FOR TRAINING PROGRAM.—Any payment made by the Secretary to carry out the program required to be established by subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.

(Added Pub. L. 104-93, title V, §505(a), Jan. 6, 1996, 109 Stat. 973; amended Pub. L. 112-239, div. A, title X, §1076(f)(20), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 113-291, div. A, title X, §1071(c)(9), Dec. 19, 2014, 128 Stat. 3509.)

#### AMENDMENTS

2014—Subsec. (a). Pub. L. 113-291 substituted “(50 U.S.C. 3614)” for “(50 U.S.C. 402 note)”.

2013—Subsec. (a). Pub. L. 112-239 substituted “National Security Agency Act” for “National Security Act”.

#### § 1599b. Employees abroad: travel expenses; health care

(a) IN GENERAL.—The Secretary of Defense may provide civilian employees, and members of their families, abroad with benefits that are comparable to certain benefits that are provided by the Secretary of State to members of the Foreign Service and their families abroad as described in subsections (b) and (c). The Secretary may designate the employees and members of families who are eligible to receive the benefits.

(b) TRAVEL AND RELATED EXPENSES.—The Secretary of Defense may pay travel expenses and related expenses for purposes and in amounts that are comparable to the purposes for which, and the amounts in which, travel and related expenses are paid by the Secretary of State under section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081).

(c) HEALTH CARE PROGRAM.—The Secretary of Defense may establish a health care program that is comparable to the health care program established by the Secretary of State under section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4084).

(d) ASSISTANCE.—The Secretary of Defense may enter into agreements with the heads of other departments and agencies of the Government in order to facilitate the payment of expenses authorized by subsection (b) and to carry out a health care program authorized by subsection (c).

(e) ABROAD DEFINED.—In this section, the term “abroad” means outside—

(1) the United States; and

(2) the territories and possessions of the United States.

(Added Pub. L. 104-201, div. A, title XVI, §1604(a), Sept. 23, 1996, 110 Stat. 2735.)

#### § 1599c. Health care professionals: enhanced appointment and compensation authority for personnel for care and treatment of wounded and injured members of the armed forces

(a) IN GENERAL.—(1) The Secretary of Defense may, at the discretion of the Secretary, exercise any authority for the appointment and pay of health care personnel under chapter 74 of title 38 for purposes of the recruitment, employment, and retention of civilian health care professionals for the Department of Defense if the Sec-