

SUBCHAPTER VI—PROMOTION AND
RETENTION

§ 4001. Promotions

(a) Method of promotion

Career members of the Senior Foreign Service are promoted by appointment under section 3942(a) of this title to a higher salary class in the Senior Foreign Service. Members of the Senior Foreign Service serving under career candidate appointments or noncareer appointments are promoted by appointment under section 3943 of this title to a higher salary class in the Senior Foreign Service. Foreign Service officers, and Foreign Service personnel who are assigned to a class in the Foreign Service Schedule, are promoted by appointment under section 3942(a) of this title as career members of the Senior Foreign Service or by assignment under section 3964 of this title to a higher salary class in the Foreign Service Schedule.

(b) Recommendations and rankings of selection boards

Except as provided in section 4006(a) of this title, promotions of—

- (1) members of the Senior Foreign Service, and
- (2) members of the Service assigned to a salary class in the Foreign Service Schedule (including promotions of such members into the Senior Foreign Service),

shall be based upon the recommendations and rankings of selection boards established under section 4002 of this title, except that the Secretary may by regulation specify categories of career members, categories of career candidates, and other members of the Service assigned to salary classes in the Foreign Service Schedule who may receive promotions on the basis of satisfactory performance.

(c) Eligibility; request for promotion; time of consideration; withdrawal of request; basis for decision; affidavits

(1) Promotions into the Senior Foreign Service shall be recommended by selection boards only from among career members of the Service assigned to class 1 in the Foreign Service Schedule who request that they be considered for promotion into the Senior Foreign Service. The Secretary shall prescribe the length of the period after such a request is made (within any applicable time in class limitation established under section 4007(a) of this title) during which such members may be considered by selection boards for entry into the Senior Foreign Service. A request by a member for consideration for promotion into the Senior Foreign Service under this subsection may be withdrawn by the member, but if it is withdrawn, that member may not thereafter request consideration for promotion into the Senior Foreign Service.

(2) Decisions by the Secretary on the numbers of individuals to be promoted into and retained in the Senior Foreign Service shall be based upon a systematic long-term projection of personnel flows and needs designed to provide—

- (A) a regular, predictable flow of recruitment in the Service;
- (B) effective career development patterns to meet the needs of the Service; and

(C) a regular, predictable flow of talent upward through the ranks and into the Senior Foreign Service.

(3) The affidavit requirements of sections 3332 and 3333(a) of title 5 shall not apply with respect to a member of the Service who has previously complied with those requirements and who subsequently is promoted by appointment to any class in the Senior Foreign Service without a break in service.

(4), (5) Repealed. Pub. L. 114-323, title VII, § 715(b)(5), Dec. 16, 2016, 130 Stat. 1946.

(6)(A) The promotion of any individual joining the Service on or after January 1, 2017, to the Senior Foreign Service shall be contingent upon such individual completing at least one tour in—

- (i) a global affairs bureau; or
- (ii) a global affairs position.

(B) The requirements under subparagraph (A) shall not apply if the Secretary certifies that the individual proposed for promotion to the Senior Foreign Service—

- (i) has met all other requirements applicable to such promotion; and
- (ii) was unable to complete a tour in a global affairs bureau or global affairs position because there was not a reasonable opportunity for such individual to be assigned to such a position.

(C) In this paragraph—

(i) the term “global affairs bureau” means any bureau of the Department that is under the responsibility of—

- (I) the Under Secretary for Economic Growth, Energy, and Environment;
- (II) the Under Secretary for Arms Control and International Security Affairs;
- (III) the Under Secretary for Management;
- (IV) the Assistant Secretary for International Organization Affairs;
- (V) the Under Secretary for Public Diplomacy and Public Affairs; or
- (VI) the Under Secretary for Civilian, Security, Democracy, and Human Rights; and

(ii) the term “global affairs position” means any position funded with amounts appropriated to the Department under the heading “Diplomatic Policy and Support”.

(Pub. L. 96-465, title I, § 601, Oct. 17, 1980, 94 Stat. 2094; Pub. L. 100-204, title I, § 185(b), Dec. 22, 1987, 101 Stat. 1366; Pub. L. 103-236, title I, § 180(a)(6), Apr. 30, 1994, 108 Stat. 416; Pub. L. 106-113, div. B, § 1000(a)(7) [div. A, title III, § 326], Nov. 29, 1999, 113 Stat. 1536, 1501A-437; Pub. L. 114-291, § 6, Dec. 16, 2016, 130 Stat. 1498; Pub. L. 114-323, title IV, § 403, title VII, § 715(b)(5), Dec. 16, 2016, 130 Stat. 1927, 1946.)

AMENDMENTS

2016—Subsec. (c)(4). Pub. L. 114-323, § 715(b)(5), struck out par. (4) which read as follows: “Not later than March 1, 2001, and every four years thereafter, the Secretary of State shall submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate which shall include a workforce plan for the subsequent five years, including projected personnel needs, by grade and by skill. Each such plan shall include for each category the needs for foreign language proficiency, geographic and functional

expertise, and specialist technical skills. Each workforce plan shall specifically account for the training needs of Foreign Service personnel and shall delineate an intake program of generalist and specialist Foreign Service personnel to meet projected future requirements.”

Pub. L. 114-291 substituted “include a workforce plan” for “include the following:

“(A) A description of the steps taken and planned in furtherance of—

“(i) maximum compatibility among agencies utilizing the Foreign Service personnel system, as provided for in section 3923 of this title, and

“(ii) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 3924 of this title.

“(B) A workforce plan”.

Subsec. (c)(5). Pub. L. 114-323, § 715(b)(5), struck out par. (5) which read as follows: “If there are substantial modifications to any workforce plan under paragraph (4)(B) during any year in which a report under paragraph (4) is not required, a supplemental annual notification shall be submitted in the same manner as reports are required to be submitted under paragraph (4).”

Subsec. (c)(6). Pub. L. 114-323, § 403, added par. (6).

1999—Subsec. (c)(4), (5). Pub. L. 106-113 added pars. (4) and (5) and struck out former par. (4), which required report not later than Mar. 1 of each year, describing steps taken and planned in furtherance of compatibility and development of uniform procedures and consolidated personnel functions, specifying upper and lower limits planned for recruitment, retention, and advancement of members, and specifying numbers of members assigned to positions more than one grade higher or lower than the member.

1994—Subsec. (b). Pub. L. 103-236, which directed amendment of par. (2) by striking “and” the last place it appears and by inserting “and other members of the Service” after “categories of career candidates,” was executed by striking “and” after “categories of career members,” and making the insertion in concluding provisions below par. (2), to reflect the probable intent of Congress.

1987—Subsec. (c)(4). Pub. L. 100-204 added par. (4).

REPORTS ELIMINATED

Pub. L. 104-66, title II, § 2241, Dec. 21, 1995, 109 Stat. 733, which provided that reports required under section 4001(c)(4) of this title would not cover activities of the United States Information Agency, was repealed by Pub. L. 105-277, div. G, subdiv. A, title XIII, § 1336(5), Oct. 21, 1998, 112 Stat. 2681-790.

LANGUAGE TRAINING IN FOREIGN SERVICE

Pub. L. 102-138, title I, § 155, Oct. 28, 1991, 105 Stat. 675, as amended by Pub. L. 105-277, div. G, subdiv. A, title XIII, § 1335(q), Oct. 21, 1998, 112 Stat. 2681-789, provided that: “The Department of State and the Department of Commerce shall ensure that the precepts for promotion of Foreign Service employees provide that end-of-training reports for employees in full-time language training shall be weighed as heavily as the annual employee efficiency reports, in order to ensure that employees in language training are not disadvantaged in the promotion process.”

FOREIGN SERVICE PROMOTION PANELS

Pub. L. 101-246, title I, § 163, Feb. 16, 1990, 104 Stat. 47, as amended by Pub. L. 107-132, § 1(b), Jan. 16, 2002, 115 Stat. 2412, provided that: “It is the sense of the Congress that, to the greatest extent possible, Foreign Service promotion panels should—

“(1) only promote candidates to the Senior Foreign Service who have demonstrated foreign language proficiency in at least one language at the General Professional Speaking Proficiency level, as defined by the George P. Shultz National Foreign Affairs Training Center;

“(2) strive for the objective stipulated in the Foreign Service Manual ‘to be able to use two foreign languages at a minimum professional level of proficiency of S-3/R-3, which is the general professional speaking proficiency level’; and

“(3) have at least one person on each Foreign Service promotion panel who has attained at least the General Professional Speaking Proficiency level in one language level.”

LANGUAGE PROFICIENCY IN EMPLOYEE EVALUATION REPORT

Pub. L. 101-246, title I, § 164, Feb. 16, 1990, 104 Stat. 47, required revision of employee and officer evaluation reports for Foreign Service officers of Department of State and Agency for International Development to include separate assessment of employee’s effectiveness in using foreign language and required that precedence in promotion be given to officers achieving certain levels of proficiency in foreign language, prior to repeal by Pub. L. 103-236, title I, § 191(b), Apr. 30, 1994, 108 Stat. 418. See section 191(a) of Pub. L. 103-236, set out as a note under section 3926 of this title.

§ 4002. Establishment of selection boards

(a) Evaluation of performance; recommendations

The Secretary shall establish selection boards to evaluate the performance of members of the Senior Foreign Service and members of the Service assigned to a salary class in the Foreign Service Schedule. Selection boards shall, in accordance with precepts prescribed by the Secretary, rank the members of a salary class on the basis of relative performance and may make recommendations for—

(1) promotions in accordance with section 4001 of this title;

(2) awards of performance pay under section 3965(c) of this title;

(3) denials of within-class step increases under section 3966(a) of this title;

(4) offer or renewal of limited career extensions under section 4007(b) of this title; and

(5) such other actions as the Secretary may prescribe by regulation.

(b) Public members; appointment of women and minority groups

All selection boards established under this section shall include public members. The Secretary shall assure that a substantial number of women and members of minority groups are appointed to each selection board established under this section.

(c) Disqualification for service on foreign service selection boards

No public members appointed pursuant to this section may be, at the time of their appointment or during their appointment, an agent of a foreign principal (as defined by section 611(b) of this title) or a lobbyist for a foreign entity (as defined in section 1602(6) of title 2) or receive income from a government of a foreign country.

(Pub. L. 96-465, title I, § 602, Oct. 17, 1980, 94 Stat. 2095; Pub. L. 101-246, title I, § 142, Feb. 16, 1990, 104 Stat. 36; Pub. L. 104-65, § 12(c), Dec. 19, 1995, 109 Stat. 701.)

AMENDMENTS

1995—Subsec. (c). Pub. L. 104-65 inserted “or a lobbyist for a foreign entity (as defined in section 1602(6) of title 2)” before “or receive income”.