

furtherance of the objectives of maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system and compatibility between the Foreign Service personnel system and the other personnel systems of the Government. The Board of the Foreign Service shall be chaired by an individual appointed by the President and shall include one or more representatives of the Department of State, the Broadcasting Board of Governors, the Agency for International Development, the Department of Agriculture, the Department of Commerce, the Department of Labor, the Office of Personnel Management, the Office of Management and Budget, the Equal Employment Opportunity Commission, and such other agencies as the President may designate.

(Pub. L. 96-465, title I, § 210, Oct. 17, 1980, 94 Stat. 2082; Pub. L. 97-241, title III, § 303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 99-93, title I, § 153, Aug. 16, 1985, 99 Stat. 428; Pub. L. 105-277, div. G, subd. A, title XIII, § 1335(k)(2), title XIV, § 1422(b)(4)(B), Oct. 21, 1998, 112 Stat. 2681-789, 2681-793.)

#### Editorial Notes

##### AMENDMENTS

1998—Pub. L. 105-277, § 1422(b)(4)(B), substituted “Agency for International Development” for “United States International Development Cooperation Agency”.

Pub. L. 105-277, § 1335(k)(2), substituted “Broadcasting Board of Governors” for “United States Information Agency”.

1985—Pub. L. 99-93 substituted “shall be chaired by an individual appointed by the President” for “shall be chaired by a career member of the Senior Foreign Service designated by the Secretary of State”.

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

Broadcasting Board of Governors renamed United States Agency for Global Media pursuant to section 6204(a)(22) of this title. The renaming was effectuated by notice to congressional appropriations committees dated May 24, 2018, and became effective Aug. 22, 2018.

“United States Information Agency” substituted in text for “International Communication Agency” pursuant to section 303(b) of Pub. L. 97-241, set out as a note under section 1461 of this title.

##### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1335(k)(2) of Pub. L. 105-277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105-277, set out as an Effective Date note under section 6531 of this title.

Amendment by section 1422(b)(4)(B) of Pub. L. 105-277 effective Apr. 1, 1999, see section 1401 of Pub. L. 105-277, set out as an Effective Date note under section 6561 of this title.

#### Executive Documents

##### EXECUTIVE ORDER NO. 11264

Ex. Ord. No. 11264, Dec. 31, 1965, 31 F.R. 67, as amended by Ex. Ord. No. 11434, Nov. 8, 1968, 33 F.R. 16485; Ex. Ord. No. 11636, Dec. 17, 1971, 36 F.R. 24901; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967, which provided for the establishment, functions, etc., of the Board of the Foreign Service and Board of Examiners for the Foreign Service, was revoked by Ex. Ord. No. 12363, May 21, 1982, 47 F.R. 22497. See sections 6 and 9 of Ex. Ord. No. 12293, as

amended, set out as a note under section 3901 of this title.

##### EXECUTIVE ORDER NO. 11434

Ex. Ord. No. 11434, Nov. 8, 1968, 33 F.R. 16485, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967, which related to administration of foreign service personnel systems, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

#### § 3931. Board of Examiners

##### (a) Establishment; membership; chairman

The President shall establish a Board of Examiners for the Foreign Service to develop, and supervise the administration of, examinations prescribed under section 3941(b) of this title to be given to candidates for appointment in the Service. The Board shall consist of 15 members appointed by the President (no fewer than 5 of whom shall be appointed from among individuals who are not Government employees and who shall be qualified for service on the Board by virtue of their knowledge, experience, or training in the fields of testing or equal employment opportunity). The Board shall include representatives of agencies utilizing the Foreign Service personnel system and representatives of other agencies which have responsibility for employment testing. The Board shall be chaired by a member of the Board, designated by the President, who is a member of the Service.

##### (b) Review of examinations; report to Secretary of State

The Board of Examiners shall periodically review the examinations prescribed under section 3941(b) of this title in order to determine—

- (1) whether any such examination has an adverse impact on the hiring, promotion, or other employment opportunity of members of any race, sex, or ethnic group;
- (2) methods of minimizing any such adverse impact;
- (3) alternatives to any examinations which have such an adverse impact; and
- (4) whether such examinations are valid in relation to job performance.

The Board of Examiners shall annually report its findings under this subsection to the Secretary of State and shall furnish to the Secretary of State its recommendations for improvements in the development, use, and administration of the examinations prescribed under section 3941(b) of this title.

##### (c) Vacancies

Any vacancy or vacancies on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

(Pub. L. 96-465, title I, § 211, Oct. 17, 1980, 94 Stat. 2083.)

#### Executive Documents

##### ESTABLISHMENT OF BOARD OF EXAMINERS

For establishment of the Board of Examiners for the Foreign Service and appointment of its members, see section 6 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13970, set out as note under section 3901 of this title.

## SUBCHAPTER III—APPOINTMENTS

## § 3941. General provisions

## (a) Citizenship requirement

Only citizens of the United States may be appointed to the Service, other than for service abroad as a consular agent or as a foreign national employee.

## (b) Examinations

The Secretary shall prescribe, as appropriate, written, oral, physical, foreign language, and other examinations for appointment to the Service (other than as a chief of mission or ambassador at large).

## (c) Veteran or disabled veteran

The fact that an applicant for appointment as a Foreign Service officer candidate is a veteran or disabled veteran shall be considered an affirmative factor in making such appointments. As used in this subsection, the term “veteran or disabled veteran” means an individual who is a preference eligible under subparagraph (A), (B), or (C) of section 2108(3) of title 5.

## (d) Career and noncareer appointments

(1) Members of the Service serving under career appointments are career members of the Service. Members of the Service serving under limited appointments are either career candidates or noncareer members of the Service.

(2) Chiefs of mission, ambassadors at large, and ministers serve at the pleasure of the President.

(3) An appointment as a Foreign Service officer is a career appointment. Foreign Service employees serving as career candidates or career members of the Service shall not represent to the income tax authorities of the District of Columbia or any other State or locality that they are exempt from income taxation on the basis of holding a Presidential appointment subject to Senate confirmation or that they are exempt on the basis of serving in an appointment whose tenure is at the pleasure of the President.

(Pub. L. 96-465, title I, § 301, Oct. 17, 1980, 94 Stat. 2083; Pub. L. 100-204, title I, § 179(a), Dec. 22, 1987, 101 Stat. 1362.)

## Editorial Notes

## AMENDMENTS

1987—Subsec. (d)(3). Pub. L. 100-204 inserted sentence at end relating to exemption from income taxation.

## Statutory Notes and Related Subsidiaries

## EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-204, title I, § 179(b), Dec. 22, 1987, 101 Stat. 1363, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to tax years beginning after December 31, 1987.”

## STUDY OF FOREIGN SERVICE EXAMINATION

Pub. L. 101-246, title I, § 153(g), Feb. 16, 1990, 104 Stat. 44, required the Secretary of State to enter into a contract with a private organization for a comprehensive review and evaluation of the Foreign Service examination related to cultural, racial, ethnic, and sexual bias issues, and no later than 18 months after Feb. 16, 1990, submit a report to Congress containing the findings of

the review and evaluation, together with the comments of the Secretary and measures which the Secretary has initiated to respond to any adverse findings of such review.

## § 3942. Appointments by the President

(a)(1) The President may, by and with the advice and consent of the Senate, appoint an individual as a chief of mission, as an ambassador at large, as an ambassador, as a minister, as a career member of the Senior Foreign Service, or as a Foreign Service officer.

(2)(A) The President may, by and with the advice and consent of the Senate, confer the personal rank of career ambassador upon a career member of the Senior Foreign Service in recognition of especially distinguished service over a sustained period.

(B)(i) Subject to the requirement of clause (ii), the President may confer the personal rank of ambassador or minister on an individual in connection with a special mission for the President of a temporary nature not exceeding six months in duration.

(ii) The President may confer such personal rank only if, prior to such conferral, he transmits to the Committee on Foreign Relations of the Senate a written report setting forth—

(I) the necessity for conferring such rank,

(II) the dates during which such rank will be held,

(III) the justification for not submitting the proposed conferral of personal rank to the Senate as a nomination for advice and consent to appointment, and

(IV) all relevant information concerning any potential conflict of interest which the proposed recipient of such personal rank may have with regard to the special mission.

Such report shall be transmitted not less than 30 days prior to conferral of the personal rank of ambassador or minister except in cases where the President certifies in his report that urgent circumstances require the immediate conferral of such rank.

(C) An individual upon whom a personal rank is conferred under subparagraph (A) or (B) shall not receive any additional compensation solely by virtue of such personal rank.

(3) Except as provided in paragraph (2)(B) of this subsection or in clause 3, section 2, article II of the Constitution (relating to recess appointments), an individual may not be designated as ambassador or minister, or be designated to serve in any position with the title of ambassador or minister, without the advice and consent of the Senate.

(b) If a member of the Service is appointed to any position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, the period of service in that position by the member shall be regarded as an assignment under subchapter V and the member shall not, by virtue of the acceptance of such assignment, lose his or her status as a member of the Service. A member of the Senior Foreign Service who accepts such an assignment may elect to continue to receive the salary of his or her salary class, to remain eligible for performance pay under subchapter IV, and to receive the leave to which such member