

Sec.	
1612.	Merit system principles and civil service protections: applicability.
1613.	Miscellaneous provisions.
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**Editorial Notes**

## AMENDMENTS

1996—Pub. L. 104-201, div. A, title XVI, §1632(a)(3), Sept. 23, 1996, 110 Stat. 2745, added table of sections for subchapter and struck out former table of sections consisting of items 1601 “Defense Intelligence Senior Executive Service”, 1602 “Defense Intelligence Agency merit pay system”, 1603 “Limit on pay”, 1604 “Civilian personnel management”, 1605 “Benefits for certain employees of the Defense Intelligence Agency”, 1606 “Uniform allowance: civilian employees”, and 1608 “Financial assistance to certain employees in acquisition of critical skills”.

1994—Pub. L. 103-359, title V, §501(b)(1)(A), Oct. 14, 1994, 108 Stat. 3428, amended chapter heading generally, inserting “AND CENTRAL IMAGERY OFFICE”.

1989—Pub. L. 101-193, title V, §507(a)(2), Nov. 30, 1989, 103 Stat. 1710, added item 1608.

1987—Pub. L. 100-178, title VI, §601(b), Dec. 2, 1987, 101 Stat. 1015, added item 1606.

1985—Pub. L. 99-145, title XIII, §1302(a)(2), Nov. 8, 1985, 99 Stat. 737, redesignated item 192 of chapter 8 of this title as item 1605 and transferred it to this chapter.

1984—Pub. L. 98-618, title V, §501(b), Nov. 8, 1984, 98 Stat. 3302, added item 1604.

**§ 1601. Civilian intelligence personnel: general authority to establish excepted positions, appoint personnel, and fix rates of pay**

(a) GENERAL AUTHORITY.—The Secretary of Defense may—

(1) establish, as positions in the excepted service, such defense intelligence positions in the Department of Defense as the Secretary determines necessary to carry out the intelligence functions of the Department, including—

- (A) Intelligence Senior Level positions designated under section 1607 of this title; and
- (B) positions in the Defense Intelligence Senior Executive Service;

(2) appoint individuals to those positions (after taking into consideration the availability of preference eligibles for appointment to those positions); and

(3) fix the compensation of such individuals for service in those positions.

(b) CONSTRUCTION WITH OTHER LAWS.—The authority of the Secretary of Defense under subsection (a) applies without regard to the provisions of any other law relating to the appointment, number, classification, or compensation of employees.

(Added Pub. L. 104-201, div. A, title XVI, §1632(a)(3), Sept. 23, 1996, 110 Stat. 2746; amended Pub. L. 106-398, §1 [[div. A], title XI, §1141(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-318.)

**Editorial Notes**

## PRIOR PROVISIONS

A prior section 1601, added Pub. L. 97-89, title VII, §701(a)(1), Dec. 4, 1981, 95 Stat. 1159; amended Pub. L. 101-194, title V, §506(c)(3), Nov. 30, 1989, 103 Stat. 1759; Pub. L. 101-280, §6(d)(4), May 4, 1990, 104 Stat. 161; Pub. L. 101-510, div. A, title XIV, §1484(l)(5), Nov. 5, 1990, 104

Stat. 1720; Pub. L. 103-359, title V, §501(b)(1)(B), Oct. 14, 1994, 108 Stat. 3428, related to the Defense Intelligence Senior Executive Service, prior to repeal by Pub. L. 104-201, div. A, title XVI, §§1632(a)(3), 1635, Sept. 23, 1996, 110 Stat. 2745, 2752, effective Oct. 1, 1996. See section 1606 of this title.

Provisions similar to those in this section were contained in sections 1590(a) and 1604(a) of this title prior to repeal by Pub. L. 104-201, §§1632(a)(3), 1633(a).

## AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106-398, in introductory provisions, substituted “in the Department of Defense” for “in the intelligence components of the Department of Defense and the military departments” and “of the Department” for “of those components and departments”.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

## SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-201, div. A, title XVI, §1631, Sept. 23, 1996, 110 Stat. 2745, provided that: “This subtitle [subtitle B (§§1631-1635) of title XVI of div. A of Pub. L. 104-201, enacting this section and sections 1602, 1603, 1606 to 1610, and 1612 to 1614 of this title, amending sections 1593, 1596, 1605, 1611, and 1621 of this title and sections 7103 and 7511 of Title 5, Government Organization and Employees, renumbering sections 1599, 1602, 1606, and 1608 of this title as sections 1611, 1621, 1622, and 1623 of this title, respectively, repealing sections 1590, 1601, 1603, and 1604 of this title and section 833 of Title 50, War and National Defense, enacting provisions set out as a note under section 1593 of this title, and repealing provisions set out as a note under section 402 of Title 50] may be cited as the ‘Department of Defense Civilian Intelligence Personnel Policy Act of 1996’.”

## DELEGATION OF AUTHORITY

Pub. L. 97-89, title VII, §701(b), Dec. 4, 1981, 95 Stat. 1160, provided that: “The authority of the Secretary of Defense under chapter 83 of title 10, United States Code, as added by subsection (a), may be delegated in accordance with section 133(d) [now 113(d)] of title 10, United States Code.”

## PROVISIONS RELATING TO THE DEFENSE CIVILIAN INTELLIGENCE PERSONNEL SYSTEM

Pub. L. 111-84, div. A, title XI, §1114, Oct. 28, 2009, 123 Stat. 2504, provided that:

“(a) SUSPENSION OF CERTAIN PAY AUTHORITY.—Effective with respect to amounts paid during the period beginning on the date of the enactment of this Act [Oct. 28, 2009] and ending on December 31, 2010, rates of basic pay for employees and positions within any element of the intelligence community (as defined by the National Security Act of 1947 [50 U.S.C. 3001 et seq.])—

“(1) may not be fixed under the Defense Civilian Intelligence Personnel System; and

“(2) shall instead be fixed in accordance with the provisions of law that (disregarding DCIPS) would then otherwise apply.

The preceding sentence shall not apply with respect to the National Geospatial-Intelligence Agency.

“(b) RESPONSE TO GAO REPORT.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional oversight committees a written description of any actions taken or proposed to be taken by such Secretary in response to the review and recommendations of the Government Accountability Office regarding the Defense Civilian Intelligence Personnel System.

“(c) INDEPENDENT ORGANIZATION.—

“(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense, the Director of the Office of Personnel Management, and the Director of National Intelligence shall jointly designate an independent organization to review the operation of the Defense Civilian Intelligence Personnel System, including—

“(A) its impact on career progression;

“(B) its appropriateness or inappropriateness in light of the complexities of the workforce affected;

“(C) its sufficiency in terms of providing protections for diversity in promotion and retention of personnel; and

“(D) the adequacy of the training, policy guidelines, and other preparations afforded in connection with transitioning to that system.

“(2) DEADLINE.—The independent organization shall, after appropriate consultation with employees and employee organizations, submit its findings and recommendations under this section to the Secretary of Defense and the congressional oversight committees, in a written report, not later than June 1, 2010.

“(d) PROPOSED ACTIONS BASED ON REPORT.—Not later than 60 days after receiving the report of the independent organization under subsection (c), the Secretary of Defense, in coordination with the Director of the Office of Personnel Management and the Director of National Intelligence, shall submit to the congressional oversight committees a written report describing any actions that the Secretary has taken or proposes to take in response to such report.

“(e) HOLD-HARMLESS PROVISION.—No employee shall suffer any loss of or decrease in pay as a result of being converted from DCIPS in compliance with subsection (a).

“(f) DEFINITIONS.—For purposes of this section—

“(1) the terms ‘Defense Civilian Intelligence Personnel System’ and ‘DCIPS’ mean the civilian personnel system established by the Secretary of Defense under regulations—

“(A) prescribed pursuant to sections 1601 through 1614 of title 10, United States Code; and

“(B) taking effect in September 2008 or thereafter; and

“(2) the term ‘congressional oversight committees’ means—

“(A) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives; and

“(B) the Committee on Armed Services and the Select Committee on Intelligence of the Senate.”

### § 1602. Basic pay

(a) AUTHORITY TO FIX RATES OF BASIC PAY.—The Secretary of Defense (subject to the provisions of this section) shall fix the rates of basic pay for positions established under section 1601 of this title in relation to the rates of pay provided for comparable positions in the Department of Defense and subject to the same limitations on maximum rates of pay established for employees of the Department of Defense by law or regulation.

(b) PREVAILING RATE SYSTEMS.—The Secretary of Defense may, consistent with section 5341 of title 5, adopt such provisions of that title as provide for prevailing rate systems of basic pay and may apply those provisions to positions for civilian employees in or under which the Department of Defense may employ individuals described by section 5342(a)(2)(A) of that title.

(Added Pub. L. 104-201, div. A, title XVI, §1632(a)(3), Sept. 23, 1996, 110 Stat. 2746; amended Pub. L. 108-375, div. A, title XI, §1103(a), Oct. 28, 2004, 118 Stat. 2072; Pub. L. 109-364, div. A, title X, §1071(g)(12), Oct. 17, 2006, 120 Stat. 2403.)

### Editorial Notes

#### PRIOR PROVISIONS

A prior section 1602 was renumbered section 1621 of this title.

Provisions similar to those in this section were contained in sections 1590(b) and (c) and 1604(b)(1) and (c) of this title prior to repeal by Pub. L. 104-201, §§1632(a)(3), 1633(a).

#### AMENDMENTS

2006—Subsec. (a). Pub. L. 109-364 made technical correction to directory language of Pub. L. 108-375, §1103(a)(1). See 2004 Amendment note below.

2004—Subsec. (a). Pub. L. 108-375, §1103(a)(1), as amended by Pub. L. 109-364, substituted “in relation to the rates of pay provided for comparable positions in the Department of Defense and subject to the same limitations on maximum rates of pay established for employees of the Department of Defense by law or regulation” for “in relation to the rates of basic pay provided in subpart D of part III of title 5 for positions subject to that subpart which have corresponding levels of duties and responsibilities”.

Subsecs. (b), (c). Pub. L. 108-375, §1103(a)(2), (3), redesignated subsec. (c) as (b) and struck out heading and text of former subsec. (b). Text read as follows: “A rate of basic pay fixed under subsection (a) for a position established under section 1601 of this title may not (except as otherwise provided by law) exceed—

“(1) in the case of a Defense Intelligence Senior Executive Service position, the maximum rate provided in section 5382 of title 5;

“(2) in the case of an Intelligence Senior Level position, the maximum rate provided in section 5382 of title 5; and

“(3) in the case of any other position, the maximum rate provided in section 5306(e) of title 5.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title X, §1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(12) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108-375 as enacted.

##### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1635 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 1593 of this title.

### § 1603. Additional compensation, incentives, and allowances

(a) ADDITIONAL COMPENSATION BASED ON TITLE 5 AUTHORITIES.—The Secretary of Defense may provide employees in defense intelligence positions compensation (in addition to basic pay), including benefits, incentives, and allowances, consistent with, and not in excess of the level authorized for, comparable positions authorized by title 5.

(b) ALLOWANCES BASED ON LIVING COSTS AND ENVIRONMENT.—(1) In addition to basic pay, employees in defense intelligence positions who are citizens or nationals of the United States and are stationed outside the continental United States or in Alaska may be paid an allowance, in accordance with regulations prescribed by the Secretary of Defense, while they are so stationed.

(2) An allowance under this subsection shall be based on—

(A) living costs substantially higher than in the District of Columbia;