

104-65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

#### § 4003. Recommendations and rankings

(a) Recommendations and rankings by selection boards shall be based upon records of the character, ability, conduct, quality of work, industry, experience, dependability, usefulness, and general performance of members of the Service. Such records may include reports prepared by or on behalf of the Inspector General of the Department of State and the Foreign Service, performance evaluation reports of supervisors, records of commendations, reports of language test scores from the George P. Shultz National Foreign Affairs Training Center, awards, reprimands, and other disciplinary actions, and (with respect to members of the Senior Foreign Service) records of current and prospective assignments.

(b) Precepts for selection boards shall include a description of the needs of the Service for performance requirements, skills, and qualities, which are to be considered in recommendations for promotion. The precepts for selection boards responsible for recommending promotions into and within the Senior Foreign Service shall emphasize performance which demonstrates the strong policy formulation capabilities, executive leadership qualities, and highly developed functional and area expertise, which are required for the Senior Foreign Service. The precepts for selection boards shall include, whether the member of the Service or the member of the Senior Foreign Service, as the case may be, has demonstrated—

- (1) a willingness and ability to explain United States policies in person and through the media when occupying positions for which such willingness and ability is, to any degree, an element of the member's duties, or
- (2) other experience in public diplomacy.

(c)(1) A member of the Service or member of the Senior Foreign Service whose performance will be evaluated by a selection board may submit to such selection board a gap memo in advance of such evaluation.

(2) Members of a selection board may not consider as negative the submission of a gap memo by a member described in paragraph (1) when evaluating the performance of such member.

(3) In this subsection, the term “gap memo” means a written record, submitted to a selection board in a standard format established by the Director General of the Foreign Service, which indicates and explains a gap in the record of a member of the Service or member of the Senior Foreign Service whose performance will be evaluated by such selection board, which gap is due to personal circumstances, including for health, family, or other reason as determined by the Director General in consultation with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(Pub. L. 96-465, title I, § 603, Oct. 17, 1980, 94 Stat. 2095; Pub. L. 107-132, § 1(b), Jan. 16, 2002, 115 Stat. 2412; Pub. L. 108-458, title VII, § 7110(c), Dec. 17, 2004, 118 Stat. 3794; Pub. L. 117-81, div. E, title LIII, § 5325(a), Dec. 27, 2021, 135 Stat. 2370.)

#### Editorial Notes

##### AMENDMENTS

2021—Subsec. (c). Pub. L. 117-81 added subsec. (c).

2004—Subsec. (b). Pub. L. 108-458 inserted at end “The precepts for selection boards shall include, whether the member of the Service or the member of the Senior Foreign Service, as the case may be, has demonstrated—” and pars. (1) and (2).

2002—Subsec. (a). Pub. L. 107-132 substituted “George P. Shultz National Foreign Affairs Training Center” for “Foreign Service Institute”.

#### Statutory Notes and Related Subsidiaries

##### CONSULTATION AND GUIDANCE

Pub. L. 117-81, div. E, title LIII, § 5325(b), Dec. 27, 2021, 135 Stat. 2370, provided that:

“(1) CONSULTATION.—Not later than 30 days after the date of the enactment of this Act [Dec. 27, 2021], the Director General of the Foreign Service shall consult with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the development of the gap memo under subsection (c) of section 603 of the Foreign Service Act of 1980 (22 U.S.C. 4003), as added by subsection (a) of this section.

“(2) DEFINITION.—In this subsection, the term ‘gap memo’ has the meaning given such term in subsection (c) of section 603 of the Foreign Service Act of 1980 (22 U.S.C. 4003), as added by subsection (a) of this section.”

#### § 4004. Records

(a) The records described in section 4003(a) of this title shall be maintained in accordance with regulations prescribed by the Secretary. Except to the extent that they pertain to the receipt, disbursement, and accounting for public funds, such records shall be confidential and subject to inspection only by the President, the Secretary, such employees of the Government as may be authorized by law or assigned by the Secretary to work on such records, the legislative and appropriations committees of the Congress charged with considering legislation and appropriations for the Service, and representatives duly authorized by such committees. Access to such records relating to a member of the Service shall be granted to such member, upon written request.

(b) Notwithstanding subsection (a), any record of disciplinary action that includes a suspension of more than five days taken against a member of the Service, including any correction of that record under section 4137(b)(1) of this title, shall remain a part of the personnel records until the member is tenured as a career member of the Service or next promoted.

(Pub. L. 96-465, title I, § 604, Oct. 17, 1980, 94 Stat. 2096; Pub. L. 106-113, div. B, § 1000(a)(7) [div. A, title III, § 327(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A-438.)

#### Editorial Notes

##### AMENDMENTS

1999—Pub. L. 106-113, in section catchline, substituted “Records” for “Confidentiality of records”, designated existing provisions as subsec. (a), and added subsec. (b).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-113, div. B, § 1000(a)(7) [div. A, title III, § 327(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-438, provided