

and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2108a. Treatment of certain individuals as veterans, disabled veterans, and preference eligibles

(a) VETERAN.—

(1) IN GENERAL.—Except as provided under paragraph (3),¹ an individual shall be treated as a veteran defined under section 2108(1) for purposes of making an appointment in the competitive service, if the individual—

(A) meets the definition of a veteran under section 2108(1), except for the requirement that the individual has been discharged or released from active duty in the armed forces under honorable conditions; and

(B) submits a certification described under paragraph (2) to the Federal officer making the appointment.

(2) CERTIFICATION.—A certification referred to under paragraph (1) is a certification that the individual is expected to be discharged or released from active duty in the armed forces under honorable conditions not later than 120 days after the date of the submission of the certification.

(b) DISABLED VETERAN.—

(1) IN GENERAL.—Except as provided under paragraph (3),¹ an individual shall be treated as a disabled veteran defined under section 2108(2) for purposes of making an appointment in the competitive service, if the individual—

(A) meets the definition of a disabled veteran under section 2108(2), except for the requirement that the individual has been separated from active duty in the armed forces under honorable conditions; and

(B) submits a certification described under paragraph (2) to the Federal officer making the appointment.

(2) CERTIFICATION.—A certification referred to under paragraph (1) is a certification that the individual is expected to be separated from active duty in the armed forces under honorable conditions not later than 120 days after the date of the submission of the certification.

(c) PREFERENCE ELIGIBLE.—Subsections (a) and (b) shall apply with respect to determining whether an individual is a preference eligible under section 2108(3) for purposes of making an appointment in the competitive service.

(Added Pub. L. 112–56, title II, §235(a)(1), Nov. 21, 2011, 125 Stat. 722.)

§ 2109. Air traffic controller; Secretary

For the purpose of this title—

(1) “air traffic controller” or “controller” means a civilian employee of the Department of Transportation or the Department of Defense who, in an air traffic control facility or flight service station facility—

(A) is actively engaged—

(i) in the separation and control of air traffic; or

(ii) in providing preflight, inflight, or airport advisory service to aircraft operators; or

(B) is the immediate supervisor of any employee described in subparagraph (A); and

(2) “Secretary”, when used in connection with “air traffic controller” or “controller”, means the Secretary of Transportation with respect to controllers in the Department of Transportation, and the Secretary of Defense with respect to controllers in the Department of Defense.

(Added Pub. L. 92–297, §1(a), May 16, 1972, 86 Stat. 141; amended Pub. L. 96–347, §1(a), Sept. 12, 1980, 94 Stat. 1150; Pub. L. 99–335, title II, §207(b), June 6, 1986, 100 Stat. 594.)

Editorial Notes

AMENDMENTS

1986—Par. (1). Pub. L. 99–335 amended par. (1) generally including within term “air traffic controller” or “controller” references to a flight service station facility and to employment providing preflight, inflight, or airport advisory service to aircraft operators and striking out provision that regulations prescribed by the Secretary be used in determining who is an air traffic controller.

1980—Pub. L. 96–347 substituted “controller; Secretary” for “controller” in section catchline, and in text included employees of the Department of Defense within the meaning of air traffic controller or controller and defined “Secretary” to mean Secretary of Transportation with respect to controllers in the Department of Transportation and Secretary of Defense with respect to controllers in the Department of Defense.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–347, §3, Sept. 12, 1980, 94 Stat. 1151, provided that: “This Act [amending this section and sections 3307, 3381 to 3385, and 8335 of this title and enacting provisions set out as a note under section 8335 of this title] shall take effect on the later of—

“(1) October 1, 1980, or

“(2) the ninetieth day after the date of the enactment of this Act [Sept. 12, 1980].”

EFFECTIVE DATE

Section effective on 90th day after May 16, 1972, see, section 10 of Pub. L. 92–297, set out as a note under section 3381 of this title.

CHAPTER 23—MERIT SYSTEM PRINCIPLES

| | |
|-------|--------------------------------------------------------------------------------------|
| Sec. | |
| 2301. | Merit system principles. |
| 2302. | Prohibited personnel practices. |
| 2303. | Prohibited personnel practices in the Federal Bureau of Investigation. |
| 2304. | Prohibited personnel practices affecting the Transportation Security Administration. |
| 2305. | Responsibility of the Government Accountability Office. |
| 2306. | Coordination with certain other provisions of law. |

¹ So in original. Subsec. does not contain a par. (3).

Sec.
[2307. Repealed.]

Editorial Notes

AMENDMENTS

2017—Pub. L. 115-91, div. A, title X, § 1097(b)(1)(A), Dec. 12, 2017, 131 Stat. 1616, struck out item 2307 “Information on whistleblower protections”.

Pub. L. 115-73, title I, § 107(c), Oct. 26, 2017, 131 Stat. 1240, added item 2307.

2012—Pub. L. 112-199, § 109(b), Nov. 27, 2012, 126 Stat. 1471, added items 2304 to 2306 and struck out former items 2304 “Responsibility of the Government Accountability Office” and 2305 “Coordination with certain other provisions of law”.

2004—Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814, substituted “Government Accountability Office” for “General Accounting Office” in item 2304.

§ 2301. Merit system principles

(a) This section shall apply to—

- (1) an Executive agency; and
- (2) the Government Publishing Office.

(b) Federal personnel management should be implemented consistent with the following merit system principles:

(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

(5) The Federal work force should be used efficiently and effectively.

(6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

(8) Employees should be—

(A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and

(B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—

(A) a violation of any law, rule, or regulation, or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) In administering the provisions of this chapter—

(1) with respect to any agency (as defined in section 2302(a)(2)(C) of this title), the President shall, pursuant to the authority otherwise available under this title, take any action, including the issuance of rules, regulations, or directives; and

(2) with respect to any entity in the executive branch which is not such an agency or part of such an agency, the head of such entity shall, pursuant to authority otherwise available, take any action, including the issuance of rules, regulations, or directives;

which is consistent with the provisions of this title and which the President or the head, as the case may be, determines is necessary to ensure that personnel management is based on and embodies the merit system principles.

(Added Pub. L. 95-454, title I, § 101(a), Oct. 13, 1978, 92 Stat. 1113; amended Pub. L. 101-474, § 5(c), Oct. 30, 1990, 104 Stat. 1099; Pub. L. 113-235, div. H, title I, § 1301(b), Dec. 16, 2014, 128 Stat. 2537.)

Editorial Notes

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-474 redesignated par. (3) as (2) and struck out former par. (2) which provided that this section is applicable to Administrative Office of United States Courts.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“Government Publishing Office” substituted for “Government Printing Office” in subsec. (a)(2) on authority of section 1301(b) of Pub. L. 113-235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

EFFECTIVE DATE

Chapter effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

TRAINING FOR SUPERVISORS

Pub. L. 115-73, title I, § 106, Oct. 26, 2017, 131 Stat. 1238, provided that: “In consultation with the Special Counsel and the Inspector General of the agency (or senior ethics official of the agency for an agency without an Inspector General), the head of each agency shall provide training regarding how to respond to complaints alleging a violation of whistleblower protections (as defined in [former] section 2307 of title 5, United States Code, as added by section 107) available to employees of the agency—

“(1) to employees appointed to supervisory positions in the agency who have not previously served as a supervisor; and

“(2) on an annual basis, to all employees of the agency serving in a supervisory position.”

[For definitions of “agency” and “employee” as used in section 106 of Pub. L. 115-73, set out above, see sec-