(c) In computing years of service under subsection (a)(1) of this section for an individual who leaves a position in the competitive service to enter the armed forces and is reemployed in such a position within 120 days after separation under honorable conditions, the period from the date he leaves his position to the date he is reemployed is included.

(d) The Office of Personnel Management may prescribe regulations necessary for the administration of this section.

(Added Pub. L. 90–105, § 1(a), Oct. 11, 1967, 81 Stat. 273; amended Pub. L. 91–375, § 6(c)(6), Aug. 12, 1970, 84 Stat. 776; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(9)(B)], Nov. 5, 1990, 104 Stat. 1427, 1441.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–509, which directed the substitution of ''in a position classified above GS–15 pursuant to section 5108)'' for ''in GS–16, 17, or 18)'', was executed by making the substitution for ''in GS–16, GS–17, or GS–18)'', as the probable intent of Congress.

1978—Subsec. (a). Pub. L. 95–454, § 906(a)(2), (3), substituted ''Office of Personnel Management'' and ''Office'' for ''Civil Service Commission'' and ''Commission'', respectively, wherever appearing.

Subsec. (d). Pub. L. 95–454, § 906(a)(2), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

1970—Subsec. (a). Pub. L. 91–375 struck out '', in the postal field service,'' after ''limited appointment'' in introductory parenthetical text.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE

Section 4 of Pub. L. 90–105 provided that:

''(a) This section and section 3 of this Act [amending provisions set out as a note under section 3101 of this title] shall become effective on the date of enactment of this Act [Oct. 11, 1967].

''(b) Subject to subsection (c) of this section, the first section and section 2 of this Act [enacting this section and section 3303 of former Title 39, The Postal Service] shall become effective on the one hundred and twentieth day following the date of enactment of this Act [Oct. 11, 1967].

''(c) For the purpose of the application of section 3304a(b) of title 5, United States Code, as enacted by this Act, in the case of an individual who, prior to the effective date prescribed by subsection (b) of this section, shall have completed the 3-year period referred to in such section 3304a(b), such individual shall be deemed to have completed such 3-year period on such effective date.''

§ 3305. Competitive service; examinations; when held

(a) The Office of Personnel Management shall hold examinations for the competitive service at least twice a year in each State and territory or possession of the United States where there are individuals to be examined.

(b) The Office shall hold an examination for a position to which an appointment has been made within the preceding 3 years, on the application of an individual who qualifies as a preference eligible under section 2108(3)(C)–(G) of this title. The examination shall be held during the quarter following the application.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 418; Pub. L. 90–83, § 1(8), Sept. 11, 1967, 81 Stat. 197; Pub. L. 96–54, § 2(a)(14), (15), Aug. 14, 1979, 93 Stat. 382.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 635 (last 24 words of 6th sentence).	Jan. 16, 1883, ch. 27, § 3 (last 24 words of 6th sentence), 22 Stat. 404.
(b)	5 U.S.C. 859.	June 27, 1944, ch. 287, § 10, 58 Stat. 390. Jan. 19, 1948, ch. 1, § 3, 62 Stat. 3. Dec. 27, 1950, ch. 1151, § 2(b), 64 Stat. 1117.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends various sections [§§ 3305, 3309, 3318] of title 5, United States Code, to reflect the redesignation of paragraphs (3)(B) through (F) of section 2108 of title 5 as paragraphs (3)(C) through (G) by section 1(6) of this bill.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–54, § 2(a)(14), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

Subsec. (b). Pub. L. 96–54, § 2(a)(15), substituted ''Office'' for ''Commission''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

[§ 3306. Repealed. Pub. L. 95–228, § 1, Feb. 10, 1978, 92 Stat. 25]

Section, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 419, related to apportionment of appointments in the departmental service in the District of Columbia among the States, territories, etc.

§ 3307. Competitive service; maximum-age entrance requirements; exceptions

(a) Except as provided in subsections (b), (c), (d), (e), and (f) of this section appropriated funds may not be used to pay an employee who establishes a maximum-age requirement for entrance into the competitive service.

(b) The Secretary may, with the concurrence of such agent as the President may designate, determine and fix the maximum limit of age within which an original appointment to a position as an air traffic controller may be made.

(c) The Secretary of the Interior may determine and fix the minimum and maximum limits of age within which original appointments to the United States Park Police may be made.

(d) The head of any agency may determine and fix the minimum and maximum limits of age within which an original appointment may be made to a position as a law enforcement officer or firefighter, as defined by section 8331(20) and (21), respectively, of this title.

(e)(1) Except as provided in paragraph (2), the head of an agency may determine and fix the maximum age limit for an original appointment to a position as a firefighter or law enforcement officer, as defined by section 8401(14) or (17), respectively, of this title.

(2)(A) In the case of the conversion of an agency function from performance by a contractor to performance by an employee of the agency, the head of the agency, in consultation with the Director of the Office of Personnel Management, may waive any maximum limit of age, determined or fixed for positions within such agency under paragraph (1), if necessary in order to promote the recruitment or appointment of experienced personnel.

(B) For purposes of this paragraph—

(i) the term ''agency'' means the Department of Defense or a military department; and

(ii) the term ''head of the agency'' means—

(I) in the case of the Department of Defense, the Secretary of Defense; and

(II) in the case of a military department, the Secretary of such military department.

(f) The Secretary of Energy may determine and fix the maximum age limit for an original appointment to a position as a nuclear materials courier, as defined by section 8331(27) or 8401(33).

(g) The Secretary of Homeland Security may determine and fix the maximum age limit for an original appointment to a position as a customs and border protection officer, as defined by section 8401(36).

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 419; Pub. L. 92–297, § 2(a), May 16, 1972, 86 Stat. 141; Pub. L. 93–350, § 1, July 12, 1974, 88 Stat. 355; Pub. L. 96–347, § 1(b), Sept. 12, 1980, 94 Stat. 1150; Pub. L. 100–238, title I, § 103(a)(1), Jan. 8, 1988, 101 Stat. 1744; Pub. L. 105–261, div. C, title XXXI, § 3154(a), Oct. 17, 1998, 112 Stat. 2254; Pub. L. 110–161, div. E, title V, § 535(c), Dec. 26, 2007, 121 Stat. 2076; Pub. L. 112–81, div. A, title XI, § 1107, Dec. 31, 2011, 125 Stat. 1614.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 638b (less proviso).	June 27, 1956, ch. 452, § 302 (less proviso), 70 Stat. 355.

The prohibition is restated in positive form. The word ''officers'' is omitted as included in ''employees'' in view of the definition of ''employee'' in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

For definition of Secretary, referred to in subsec. (b), see section 2109 of this title.

AMENDMENTS

2011—Subsec. (e). Pub. L. 112–81 designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), the'' for ''The'', and added par. (2).

2007—Subsec. (g). Pub. L. 110–161 added subsec. (g).

1998—Subsec. (a). Pub. L. 105–261, § 3154(a)(1), substituted ''(d), (e), and (f)'' for ''and (d)''.

Subsec. (f). Pub. L. 105–261, § 3154(a)(2), added subsec. (f).

1988—Subsec. (d). Pub. L. 100–238, § 103(a)(1)(A), substituted ''may'' for ''may, with the concurrence of such agent as the President may designate,''.

Subsec. (e). Pub. L. 100–238, § 103(a)(1)(B), added subsec. (e).

1980—Subsec. (b). Pub. L. 96–347 substituted ''Secretary'' for ''Secretary of Transportation''.

1974—Subsec. (a). Pub. L. 93–350, § 1(1), inserted reference to subsec. (d).

Subsec. (d). Pub. L. 93–350, § 1(2), added subsec. (d).

1972—Pub. L. 92–297 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 2007 AMENDMENT; TRANSITION RULES

Pub. L. 110–161, div. E, title V, § 535(e), Dec. 26, 2007, 121 Stat. 2077, provided that:

''(1) EFFECTIVE DATE.—The amendments made by this section [amending this section and sections 8331, 8334 to 8336, 8401, 8412, 8415, 8422, 8423, and 8425 of this title] shall become effective on the later of June 30, 2008, or the first day of the first pay period beginning at least 6 months after the date of the enactment of this Act [Dec. 26, 2007].

''(2) TRANSITION RULES.—

''(A) NONAPPLICABILITY OF MANDATORY SEPARATION PROVISIONS TO CERTAIN INDIVIDUALS.—The amendments made by subsections (a)(3) and (b)(6) [amending sections 8335 and 8425 of this title], respectively, shall not apply to an individual first appointed as a customs and border protection officer before the effective date under paragraph (1).

''(B) TREATMENT OF PRIOR CBPO SERVICE.—

''(i) GENERAL RULE.—Except as provided in clause (ii), nothing in this section [amending this section and sections 8331, 8334 to 8336, 8401, 8412, 8415, 8422, 8423, and 8425 of this title and enacting provisions set out as a note under this section] or any amendment made by this section shall be considered to apply with respect to any service performed as a customs and border protection officer before the effective date under paragraph (1).

''(ii) EXCEPTION.—Service described in section 8331(31) or 8401(36) of title 5, United States Code (as amended by this section) rendered before the effective date under paragraph (1) may be taken into account to determine if an individual who is serving on or after such effective date then qualifies as a customs and border protection officer by virtue of holding a supervisory or administrative position in the Department of Homeland Security.

''(C) MINIMUM ANNUITY AMOUNT.—The annuity of an individual serving as a customs and border protection officer on the effective date under paragraph (1) pursuant to an appointment made before that date shall, to the extent that its computation is based on service rendered as a customs and border protection officer on or after that date, be at least equal to the amount that would be payable—

''(i) to the extent that such service is subject to the Civil Service Retirement System, by applying section 8339(d) of title 5, United States Code, with respect to such service; and

''(ii) to the extent such service is subject to the Federal Employees' Retirement System, by applying section 8415(d) of title 5, United States Code, with respect to such service.

''(D) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (c) [amending this section] shall be considered to apply with respect to

any appointment made before the effective date under paragraph (1).

''(3) ELECTION.—

''(A) INCUMBENT DEFINED.—For purposes of this paragraph, the term 'incumbent' means an individual who is serving as a customs and border protection officer on the date of the enactment of this Act.

''(B) NOTICE REQUIREMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall take measures reasonably designed to ensure that incumbents are notified as to their election rights under this paragraph, and the effect of making or not making a timely election.

''(C) ELECTION AVAILABLE TO INCUMBENTS.—

''(i) IN GENERAL.—An incumbent may elect, for all purposes, either—

''(I) to be treated in accordance with the amendments made by subsection (a) or (b) [amending sections 8331, 8334 to 8336, 8401, 8412, 8415, 8422, 8423, and 8425 of this title], as applicable; or

''(II) to be treated as if subsections (a) and (b) had never been enacted.

''Failure to make a timely election under this paragraph shall be treated in the same way as an election made under subclause (I) on the last day allowable under clause (ii).

''(ii) DEADLINE.—An election under this paragraph shall not be effective unless it is made at least 14 days before the effective date under paragraph (1).

''(4) DEFINITION.—For purposes of this subsection, the term 'customs and border protection officer' has the meaning given such term by section 8331(31) or 8401(36) of title 5, United States Code (as amended by this section).

''(5) EXCLUSION.—Nothing in this section or any amendment made by this section shall be considered to afford any election or to otherwise apply with respect to any individual who, as of the day before the date of the enactment of this Act—

''(A) holds a position within U.S. Customs and Border Protection; and

''(B) is considered a law enforcement officer for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, by virtue of such position.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 103(f) of Pub. L. 100–238 provided that: ''This section, and the amendments made by this section [amending this section and sections 8401 and 8704 of this title and enacting provisions set out as a note under section 8334 of this title], shall be effective as of January 1, 1987.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–347 effective on 90th day after Sept. 12, 1980, see section 3 of Pub. L. 96–347, set out as a note under section 2109 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 7 of Pub. L. 93–350 provided that: ''The amendments made by the first section [amending this section], and sections 2(b), 5, and 6 [amending sections 8331, 8336, and 8339 of this title], of this Act shall become effective on the date of enactment of this Act [July 12, 1974]. The amendments made by sections 2(a) and 3 [amending sections 8331 and 8334 of this title] of this Act shall become effective at the beginning of the first applicable pay period which begins after December 31, 1974. The amendment made by section 4 of this Act [amending section 8335 of this title] shall become effective on January 1, 1978.''

EFFECTIVE DATE OF 1972 AMENDMENT

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

REGULATIONS

Pub. L. 110–161, div. E, title V, § 535(d), Dec. 26, 2007, 121 Stat. 2077, provided that: ''Any regulations necessary to carry out the amendments made by this section [amending this section and sections 8331, 8334 to 8336, 8401, 8412, 8415, 8422, 8423, and 8425 of this title] shall be prescribed by the Director of the Office of Personnel Management in consultation with the Secretary of Homeland Security.''

UNITED STATES PARK POLICE; AGE LIMITS FOR ORIGINAL APPOINTMENTS

Pub. L. 91–73, Sept. 26, 1969, 83 Stat. 116, which provided for age limits for appointments to the United States Park Police, was repealed by Pub. L. 92–297, § 11, May 16, 1972, 86 Stat. 145, effective at the end of the 89th day after May 16, 1972. The Secretary of the Interior may fix age limits for appointment under subsec. (c) of this section.

EX. ORD. NO. 11817. OFFICE OF PERSONNEL MANAGEMENT DESIGNATED AGENT TO CONCUR WITH AGENCY DETERMINATION FIXING AGE LIMITS FOR MAKING ORIGINAL APPOINTMENTS RESPECTING LAW ENFORCEMENT OFFICER AND FIREFIGHTER POSITIONS

Ex. Ord. No. 11817, Nov. 5, 1974, 39 F.R. 39427, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by section 3307(d) of title 5 of the United States Code, as added by the first section of the Act of July 12, 1974 (Public Law 93–350; 88 Stat. 355), I hereby designate the Office of Personnel Management as the agency to concur with determinations made by agencies to fix the minimum and maximum limits of age within which an original appointment may be made to a position as a law enforcement officer or firefighter, as defined by section 8331(20) and (21), respectively, of title 5 of the United States Code. The designation made by this order shall be effective as of October 15, 1974.

§ 3308. Competitive service; examinations; educational requirements prohibited; exceptions

The Office of Personnel Management or other examining agency may not prescribe a minimum educational requirement for an examination for the competitive service except when the Office decides that the duties of a scientific, technical, or professional position cannot be performed by an individual who does not have a prescribed minimum education. The Office shall make the reasons for its decision under this section a part of its public records.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 419; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 854 (less 1st 2 sentences).	June 27, 1944, ch. 287, § 5 (less 1st 2 sentences), 58 Stat. 388.

The prohibition is restated in positive form. The words ''The Civil Service Commission or other examining agency'' are added because these are the only agencies to which the prohibition could apply.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Pub. L. 95–454 substituted ''Office of Personnel Management'' and ''Office'' for ''Civil Service Commis-