

§ 3396. Development for and within the Senior Executive Service

(a) The Office of Personnel Management shall establish programs for the systematic development of candidates for the Senior Executive Service and for the continuing development of senior executives, or require agencies to establish such programs which meet criteria prescribed by the Office.

(b) The Office shall assist agencies in the establishment of programs required under subsection (a) of this section and shall monitor the implementation of the programs. If the Office finds that any agency's program under subsection (a) of this section is not in compliance with the criteria prescribed under such subsection, it shall require the agency to take such corrective action as may be necessary to bring the program into compliance with the criteria.

(c)(1) The head of an agency may grant a sabbatical to any career appointee for not to exceed 11 months in order to permit the appointee to engage in study or uncompensated work experience which will contribute to the appointee's development and effectiveness. A sabbatical shall not result in loss of, or reduction in, pay, leave to which the career appointee is otherwise entitled, credit for time or service, or performance or efficiency rating. The head of the agency may authorize in accordance with chapter 57 of this title such travel expenses (including per diem allowances) as the head of the agency may determine to be essential for the study or experience.

(2) A sabbatical under this subsection may not be granted to any career appointee—

(A) more than once in any 10-year period;

(B) unless the appointee has completed 7 years of service—

(i) in one or more positions in the Senior Executive Service;

(ii) in one or more other positions in the civil service the level of duties and responsibilities of which are equivalent to the level of duties and responsibilities of positions in the Senior Executive Service; or

(iii) in any combination of such positions, except that not less than 2 years of such 7 years of service must be in the Senior Executive Service; and

(C) if the appointee is eligible for voluntary retirement with a right to an immediate annuity under section 8336 of this title.

Any period of assignment under section 3373 of this title, relating to assignments of employees to State and local governments, shall not be considered a period of service for the purpose of subparagraph (B) of this paragraph.

(3)(A) Any career appointee in an agency may be granted a sabbatical under this subsection only if the appointee agrees, as a condition of accepting the sabbatical, to serve in the civil service upon the completion of the sabbatical for a period of 2 consecutive years.

(B) Each agreement required under subparagraph (A) of this paragraph shall provide that in the event the career appointee fails to carry out the agreement (except for good and sufficient reason as determined by the head of the agency who granted the sabbatical) the appointee shall

be liable to the United States for payment of all expenses (including salary) of the sabbatical. The amount shall be treated as a debt due the United States.

(d)(1) The Office shall encourage and assist individuals to improve their skills and increase their contribution by service in a variety of agencies as well as by accepting temporary placements in State or local governments or in the private sector.

(2) In order to promote the professional development of career appointees and to assist them in achieving their maximum levels of proficiency, the Office shall, in a manner consistent with the needs of the Government provide appropriate informational services and otherwise encourage career appointees to take advantage of any opportunities relating to—

(A) sabbaticals;

(B) training; or

(C) details or other temporary assignments in other agencies, State or local governments, or the private sector.

(Added Pub. L. 95-454, title IV, §403(a), Oct. 13, 1978, 92 Stat. 1163; amended Pub. L. 102-175, §4, Dec. 2, 1991, 105 Stat. 1223.)

PRIOR PROVISIONS

A prior section 3396, added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1057, which related to issuance of regulations, was renumbered as section 3406 of this title by Pub. L. 95-454, title IX, §906(c)(1)(B), Oct. 13, 1978, 92 Stat. 1226.

AMENDMENTS

1991—Subsec. (d). Pub. L. 102-175 designated existing provisions as par. (1) and added par. (2).

§ 3397. Regulations

The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter.

(Added Pub. L. 95-454, title IV, §403(a), Oct. 13, 1978, 92 Stat. 1164.)

PRIOR PROVISIONS

A prior section 3397, added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1058, which related to reports, was renumbered as section 3407 of this title by Pub. L. 95-454, title IX, §906(c)(1)(B), Oct. 13, 1978, 92 Stat. 1226.

A prior section 3398, added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1058, which related to representation by employee organizations of employees employed on a part-time career employment basis, was renumbered as section 3408 of this title by Pub. L. 95-454, title IX, §906(c)(1)(B), Oct. 13, 1978, 92 Stat. 1226.

CHAPTER 34—PART-TIME CAREER EMPLOYMENT OPPORTUNITIES

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AMENDMENTS

1995—Pub. L. 104-66, title III, §3001(a)(2), Dec. 21, 1995, 109 Stat. 734, struck out item 3407 "Reports".

1978—Pub. L. 95-437, §3(b), Oct. 10, 1978, 92 Stat. 1058, added items 3391 to 3398, which were renumbered 3401 to 3408 by Pub. L. 95-454, title IX, §906(c)(1)(A), Oct. 13, 1978, 92 Stat. 1226, which section also substituted “CHAPTER 34” for “SUBCHAPTER VIII” in heading.

§ 3401. Definitions

For the purpose of this chapter—

- (1) “agency” means—
 - (A) an Executive agency;
 - (B) a military department;
 - (C) an agency in the judicial branch;
 - (D) the Library of Congress;
 - (E) the Botanic Garden; and
 - (F) the Office of the Architect of the Capitol; but does not include—
 - (i) a Government controlled corporation;
 - (ii) the Tennessee Valley Authority;
 - (iii) the Virgin Islands Corporation;
 - (iv) the Federal Bureau of Investigation, Department of Justice;
 - (v) the Central Intelligence Agency; and
 - (vi) the National Security Agency, Department of Defense; and

(2) “part-time career employment” means part-time employment of 16 to 32 hours a week (or 32 to 64 hours during a biweekly pay period in the case of a flexible or compressed work schedule under subchapter II of chapter 61 of this title) under a schedule consisting of an equal or varied number of hours per day, whether in a position which would be part-time without regard to this section or one established to allow job-sharing or comparable arrangements, but does not include employment on a temporary or intermittent basis.

(Added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1056, §3391; renumbered §3401 and amended Pub. L. 95-454, title IX, §906(c)(1)(B), (2)(A), Oct. 13, 1978, 92 Stat. 1226; Pub. L. 97-221, §3, July 23, 1982, 96 Stat. 233; Pub. L. 97-468, title VI, §615(b)(1)(B), Jan. 14, 1983, 96 Stat. 2578; Pub. L. 102-378, §2(15), Oct. 2, 1992, 106 Stat. 1347; Pub. L. 104-201, div. C, title XXXV, §3548(a)(1), Sept. 23, 1996, 110 Stat. 2868.)

AMENDMENTS

1996—Par. (1). Pub. L. 104-201, which directed amendment of par. (1) by striking cl. (v) and redesignating cls. (vi), (vii), and (viii) as (v), (vi), and (vii), respectively, was executed by striking cl. (iv), relating to the Panama Canal Company, and redesignating cls. (v), (vi), and (vii) as (iv), (v), and (vi), respectively, to reflect the probable intent of Congress, because par. (1) does not contain a cl. (viii) and the amendments were included in a series of conforming amendments relating to the Panama Canal.

1992—Par. (1)(iii). Pub. L. 102-378, which directed the amendment of cl. (iv) by substituting “Virgin Islands” for “Virgin Island”, was executed by making the substitution in cl. (iii) to reflect the probable intent of Congress.

1983—Par. (1)(iii) to (viii). Pub. L. 97-468 struck out cl. (iii) which excluded the Alaska Railroad, and redesignated cls. (iv) to (viii) as (iii) to (vii), respectively.

1982—Par. (2). Pub. L. 97-221 inserted “(or 32 to 64 hours during a biweekly pay period in the case of a flexible or compressed work schedule under subchapter II of chapter 61 of this title)” after “week”.

1978—Pub. L. 95-454, §906(c)(1)(B), renumbered section 3391 of this title as this section.

Pub. L. 95-454, §906(c)(2)(A), substituted “chapter” for “subchapter”.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-468 effective on date of transfer of Alaska Railroad to the State [Jan. 5, 1985], pursuant to section 1203 of Title 45, Railroads, see section 615(b) of Pub. L. 97-468.

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.

SHORT TITLE OF 1978 AMENDMENT

Section 1 of Pub. L. 95-437 provided that: “This Act [enacting this chapter, amending sections 8347, 8716, 8906, and 8913 of this title, and enacting provisions set out as notes under this section and sections 3407 and 8906 of this title] may be cited as the ‘Federal Employees Part-Time Career Employment Act of 1978.’”

CONGRESSIONAL FINDINGS AND PURPOSE

Section 2 of Pub. L. 95-437 provided that:

“(a) The Congress finds that—

“(1) many individuals in our society possess great productive potential which goes unused because they cannot meet the requirements of a standard workweek; and

“(2) part-time permanent employment—

“(A) provides older individuals with a gradual transition into retirement;

“(B) provides employment opportunities to handicapped individuals or others who require a reduced workweek;

“(C) provides parents opportunities to balance family responsibilities with the need for additional income;

“(D) benefits students who must finance their own education or vocational training;

“(E) benefits the Government, as an employer, by increasing productivity and job satisfaction, while lowering turnover rates and absenteeism, offering management more flexibility in meeting work requirements, and filling shortages in various occupations; and

“(F) benefits society by offering a needed alternative for those individuals who require or prefer shorter hours (despite the reduced income), thus increasing jobs available to reduce unemployment while retaining the skills of individuals who have training and experience.

“(b) The purpose of this Act [enacting this chapter, amending sections 8347, 8716, 8906, and 8913 of this title, and enacting provisions set out as notes under this section and sections 3407 and 8906 of this title] is to provide increased part-time career employment opportunities throughout the Federal Government.”

§ 3402. Establishment of part-time career employment programs

(a)(1) In order to promote part-time career employment opportunities in all grade levels, the head of each agency, by regulation, shall establish and maintain a program for part-time career employment within such agency. Such regulations shall provide for—

(A) the review of positions which, after such positions become vacant, may be filled on a part-time career employment basis (including the establishment of criteria to be used in identifying such positions);

(B) procedures and criteria to be used in connection with establishing or converting positions for part-time career employment, subject to the limitations of section 3403 of this title;

(C) annual goals for establishing or converting positions for part-time career employ-

ment, and a timetable setting forth interim and final deadlines for achieving such goals;

(D) a continuing review and evaluation of the part-time career employment program established under such regulations; and

(E) procedures for notifying the public of vacant part-time positions in such agency, utilizing facilities and funds otherwise available to such agency for the dissemination of information.

(2) The head of each agency shall provide for communication between, and coordination of the activities of, the individuals within such agency whose responsibilities relate to the part-time career employment program established within that agency.

(3) Regulations established under paragraph (1) of this subsection may provide for such exceptions as may be necessary to carry out the mission of the agency.

(b)(1) The Office of Personnel Management, by regulation, shall establish and maintain a program under which it shall, on the request of an agency, advise and assist such agency in the establishment and maintenance of its part-time career employment program under this chapter.

(2) The Office shall conduct a research and demonstration program with respect to part-time career employment within the Federal Government. In particular, such program shall be directed to—

(A) determining the extent to which part-time career employment may be used in filling positions which have not traditionally been open for such employment on any extensive basis, such as supervisory, managerial, and professional positions;

(B) determining the extent to which job-sharing arrangements may be established for various occupations and positions; and

(C) evaluating attitudes, benefits, costs, efficiency, and productivity associated with part-time career employment, as well as its various sociological effects as a mode of employment.

(Added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1056, §3392; renumbered §3402 and amended Pub. L. 95-454, title IX, §906(c)(1)(B), (2)(B), Oct. 13, 1978, 92 Stat. 1226.)

AMENDMENTS

1978—Pub. L. 95-454, §906(c)(1)(B), renumbered section 3392 of this title as this section.

Subsec. (a)(1)(B). Pub. L. 95-454, §906(c)(2)(B)(i), substituted “3403” for “3393”.

Subsec. (b)(1). Pub. L. 95-454, §906(c)(2)(B)(ii), substituted “Office of Personnel Management” for “Civil Service Commission” and “chapter” for “subchapter”.

Subsec. (b)(2). Pub. L. 95-454, §906(c)(2)(B)(iii), substituted “Office” for “Commission”.

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.

§ 3403. Limitations

(a) An agency shall not abolish any position occupied by an employee in order to make the duties of such position available to be performed on a part-time career employment basis.

(b) Any person who is employed on a full-time basis in an agency shall not be required to ac-

cept part-time employment as a condition of continued employment.

(Added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1057, §3393; renumbered §3403, Pub. L. 95-454, title IX, §906(c)(1)(B), Oct. 13, 1978, 92 Stat. 1226.)

AMENDMENTS

1978—Pub. L. 95-454 renumbered section 3393 of this title as this section.

§ 3404. Personnel ceilings

In administering any personnel ceiling applicable to an agency (or unit therein), an employee employed by such agency on a part-time career employment basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such employee’s regularly scheduled workweek. This section shall become effective on October 1, 1980.

(Added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1057, §3394; renumbered §3404, Pub. L. 95-454, title IX, §906(c)(1)(B), Oct. 13, 1978, 92 Stat. 1226.)

AMENDMENTS

1978—Pub. L. 95-454 renumbered section 3394 of this title as this section.

§ 3405. Nonapplicability

(a) If, on the date of enactment of this chapter, there is in effect with respect to positions within an agency a collective-bargaining agreement which establishes the number of hours of employment a week, then this chapter shall not apply to those positions.

(b) This chapter shall not require part-time career employment in positions the rate of basic pay for which is fixed at a rate equal to or greater than the minimum rate payable under section 5376.

(Added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1057, §3395; renumbered §3405 and amended Pub. L. 95-454, title IX, §906(c)(1)(B), (2)(C), Oct. 13, 1978, 92 Stat. 1226, 1227; Pub. L. 101-509, title V, §529 [title I, §101(b)(9)(D)], Nov. 5, 1990, 104 Stat. 1427, 1441.)

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in subsec. (a), is the date of the enactment of Pub. L. 95-437, which was approved Oct. 10, 1978.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-509 substituted “payable under section 5376” for “fixed for GS-16 of the General Schedule”.

1978—Pub. L. 95-454, §906(c)(1)(B), renumbered section 3395 of this title as this section.

Subsecs. (a), (b). Pub. L. 95-454, §906(c)(2)(C), substituted “chapter” for “subchapter” wherever appearing.

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.

§ 3406. Regulations

Before any regulation is prescribed under this chapter, a copy of the proposed regulation shall be published in the Federal Register and an opportunity provided to interested parties to present written comment and, where practicable, oral comment. Initial regulations shall be prescribed not later than 180 days after the date of the enactment of this chapter.

(Added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1057, §3396; renumbered §3406 and amended Pub. L. 95-454, title IX, §906(c)(1)(B), (2)(C), Oct. 13, 1978, 92 Stat. 1226, 1227.)

REFERENCES IN TEXT

The date of the enactment of this chapter, referred to in text, is the date of the enactment of Pub. L. 95-437, which was approved Oct. 10, 1978.

AMENDMENTS

1978—Pub. L. 95-453, §901(c)(1)(B), renumbered section 3396 of this title as this section.

Pub. L. 95-454, §906(c)(2)(C), substituted “chapter” for “subchapter” wherever appearing.

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.

[§ 3407. Repealed. Pub. L. 104-66, title III, § 3001(a)(1), Dec. 21, 1995, 109 Stat. 733]

Section, added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1058, §3397; renumbered §3407 and amended Pub. L. 95-454, title IX, §906(c)(1)(B), (2)(D), (E), Oct. 13, 1978, 92 Stat. 1226, 1227, related to reports.

§ 3408. Employee organization representation

If an employee organization has been accorded exclusive recognition with respect to a unit within an agency, then the employee organization shall be entitled to represent all employees within that unit employed on a part-time career employment basis.

(Added Pub. L. 95-437, §3(a), Oct. 10, 1978, 92 Stat. 1058, §3398; renumbered §3408, Pub. L. 95-454, title IX, §906(c)(1)(B), Oct. 13, 1978, 92 Stat. 1226.)

AMENDMENTS

1978—Pub. L. 95-454 renumbered section 3398 of this title as this section.

CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT

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3598. ¹	Federal Bureau of Investigation Reserve Service.

AMENDMENTS

2004—Pub. L. 108-447, div. B, title I, §114(b), Dec. 8, 2004, 118 Stat. 2869, and Pub. L. 108-458, title II, §2004(b), Dec. 17, 2004, 118 Stat. 3704, amended analysis identically, adding item for subchapter VII.

Pub. L. 108-458, title II, §2004(b), Dec. 17, 2004, 118 Stat. 3704, added item 3598, set out second.

Pub. L. 108-447, div. B, title I, §114(b), Dec. 8, 2004, 118 Stat. 2869, added item 3598, set out first.

2002—Pub. L. 107-296, title XIII, §1313(a)(1)(B), Nov. 25, 2002, 116 Stat. 2294, substituted “RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT” for “RETENTION PREFERENCE, RESTORATION, AND REEMPLOYMENT” in chapter heading and added item for subchapter II and items 3521 to 3525.

1994—Pub. L. 103-353, §2(b)(2)(C), Oct. 13, 1994, 108 Stat. 3169, struck out item for subchapter II “RESTORATION AFTER ACTIVE DUTY OR TRAINING DUTY” and item 3551 “Restoration; Reserves and National Guardsmen”.

1984—Pub. L. 98-615, title III, §306(c)(2), Nov. 8, 1984, 98 Stat. 3220, added item 3595a.

1981—Pub. L. 97-35, title XVII, §1704(a)(2), Aug. 13, 1981, 95 Stat. 757, redesignated item 3595 as 3596, and added item 3595.

1980—Pub. L. 96-465, title II, §2301(b), Oct. 17, 1980, 94 Stat. 2164, added item for subchapter VI and item 3597.

1978—Pub. L. 95-454, title IV, §404(c), Oct. 13, 1978, 92 Stat. 1167, added item for subchapter V and items 3591 to 3595.

¹ So in original. Two sections “3598” have been enacted.

² So in original. Does not conform to section catchline.