

Office of Personnel Management

Pt. 352

Subpart B—Reemployment Rights Based on Movement Between Executive Agencies During Emergencies

Sec.

- 352.201 Letter of Authority.
- 352.202 Request for Letter of Authority.
- 352.203 Standards for issuing Letters of Authority.
- 352.204 Basic eligibility for reemployment rights.
- 352.205 Appeal of losing agency.
- 352.205a Authority to return employee to his or her former or successor agency.
- 352.205b Authority to return an SES employee to his or her former or successor agency.
- 352.206 Expiration of reemployment rights.
- 352.207 Exercise or termination of reemployment rights.
- 352.208 Agency's obligation to reemploy.
- 352.209 Employee appeals to the Merit Systems Protection Board.

Subpart C—Detail and Transfer of Federal Employees to International Organizations

- 352.301 Purpose.
- 352.302 Definitions.
- 352.303 Effective date of equalization allowance.
- 352.304 International organizations covered.
- 352.305 Eligibility for detail.
- 352.306 Length of details.
- 352.307 Eligibility for transfer.
- 352.308 Effecting employment by transfer.
- 352.309 Retirement, health benefits, and group life insurance.
- 352.310 Equalization allowance.
- 352.311 Reemployment.
- 352.312 When to apply.
- 352.313 Failure to reemploy and right of appeal.
- 352.314 Consideration for promotion and pay increases.

Subpart D—Employment of Presidential Appointees and Elected Officers by the International Atomic Energy Agency

- 352.401 Purpose.
- 352.402 Coverage.
- 352.403 Definitions.
- 352.404 Retirement and insurance.
- 352.405 Resumption of Federal service.

Subpart E—Reinstatement Rights After Service Under Section 233(d) and 625(b) of the Foreign Assistance Act of 1961

- 352.501 Purpose.
- 352.502 Coverage.
- 352.503 Definitions.
- 352.504 Basic entitlement.
- 352.505 Proposed termination.
- 352.506 Application for reinstatement.
- 352.507 Reinstatement.

- 352.508 Appeals to the Merit Systems Protection Board.

Subpart F [Reserved]

Subpart G—Reemployment Rights of Former Bureau of Indian Affairs and Indian Health Service Employees After Service Under the Indian Self-Determination Act in Tribal Organizations

- 352.701 Purpose.
- 352.702 Definitions.
- 352.703 Basic entitlement to reemployment rights on leaving Federal employment.
- 352.704 Duration of reemployment rights.
- 352.705 Return to Federal employment.
- 352.706 Agency response to reemployment application.
- 352.707 Employee appeals to the Merit Systems Protection Board.

Subpart H—Reemployment Rights Under the Taiwan Relations Act

- 352.801 Purpose.
- 352.802 Definitions.
- 352.803 Basic entitlement to reemployment rights on leaving Federal employment.
- 352.804 Maximum period of entitlement to reemployment.
- 352.805 Position to which entitled on reemployment.
- 352.806 Return to Federal employment.
- 352.807 Appeals.

Subpart I—Reemployment Rights After Service With the Panama Canal Commission

- 352.901 Purpose.
- 352.902 Definitions.
- 352.903 Effecting a detail or transfer.
- 352.904 Eligibility.
- 352.905 Employees on detail.
- 352.906 Termination of transfer.
- 352.907 Exercise or termination of reemployment rights.
- 352.908 Agency obligation.
- 352.909 Appeals.

SOURCE: 33 FR 12433, Sept. 4, 1968, unless otherwise noted.

Subpart A [Reserved]

Subpart B—Reemployment Rights Based on Movement Between Executive Agencies During Emergencies

AUTHORITY: 5 U.S.C. 3101 note, 3301, 3131 et seq. 3302; E.O. 10577, 3 CFR 1954-1958 Com., p. 218; sec. 352. 209 also issued under 5 U.S.C. 7701, et seq.

§ 352.201

5 CFR Ch. I (1–1–02 Edition)

§ 352.201 Letter of Authority.

(a) *Definition.* A Letter of Authority is an authorization from OPM to an agency appointing officer to grant reemployment rights.

(b) *Scope of authority.* A Letter of Authority shall specify the conditions under which it may be used, including the types of positions covered and the organizational and geographic areas to which it is restricted.

(c) *Time limit of authority.* A Letter of Authority shall remain in force for one year from date of issuance unless earlier revoked by OPM. Renewals or extensions will not be issued unless justified by exceptional circumstances.

§ 352.202 Request for Letter of Authority.

When an agency believes that an emergency situation is so critical as to justify offers of reemployment rights, it may request OPM to issue a Letter of Authority. In submitting the request the agency shall present its justification in terms of the standards provided in § 352.203.

§ 352.203 Standards for issuing Letters of Authority.

OPM will determine the standards to be used in issuing Letters of Authority, which shall include the following:

(a) The positions to be filled must be related to emergency situations for which the usual recruiting methods are inadequate.

(b) The positions must be a part of a specific program immediately essential to the national interest.

(c) The positions must be essential to the functioning of the program.

(d) There must be substantial basis for the belief that reemployment rights will be a significant and reasonable aid in meeting the emergency situation.

§ 352.204 Basic eligibility for reemployment rights.

(a) *Employees eligible.* The following employees in the executive branch of the Government are eligible to be granted reemployment rights when they are hired by another executive agency without break in service of a full workday by transfer or reinstatement, or by excepted appointment, in a position which the agency is currently

authorized to fill with reemployment rights:

(1) An employee serving in a competitive position under a career or career-conditional appointment;

(2) An employee serving under a career appointment in the Senior Executive Service (SES); or

(3) A nontemporary excepted employee.

(b) *Employees not eligible.* The following employees are not eligible to be granted reemployment rights:

(1) An employee who is serving a probationary or trial period under an appointment to a position in the excepted or competitive service or the SES.

(2) An employee serving in an obligated position;

(3) An employee serving with reemployment rights granted under this subpart;

(4) An employee who has received a notice of involuntary separation because of reduction in force or otherwise; or

(5) An employee who has already submitted a resignation.

[33 FR 12433, Sept. 4, 1968, as amended at 51 FR 25187, July 11, 1986]

§ 352.205 Appeal of losing agency.

An appointing officer who intends to employ with reemployment rights an employee of another executive agency shall give the losing agency written notice at least 15 calendar days before the effective date of the proposed action. If the losing agency believes the grant of reemployment rights would be detrimental to the public interest, it may appeal the proposed grant to OPM within 15 calendar days after receipt of the notice. The losing agency, at the same time, shall furnish a copy of the appeal to the prospective appointing officer, who shall withhold the proposed grant pending decision on the appeal. OPM shall determine whether the employee will be given reemployment rights and notify both agencies accordingly. If the losing agency does not appeal within 15 calendar days, the employee shall be granted reemployment rights.

§ 352.205a Authority to return employee to his or her former or successor agency.

The transfer of an employee with a grant of reemployment rights under this subpart authorizes the return of the employee to his or her former or successor agency without regard to part 351, 752, or 771 of this chapter when the employee is reemployed in his or her former or successor agency—

(a) Without a break in service of 1 workday or more in a position at the same or higher grade in the same occupational field and geographical area as the position he or she last held in the former or successor agency; and

(b) At not less than the rate of pay he or she would have been receiving in the position last held in the former or successor agency if he or she had not been transferred.

[51 FR 25187, July 11, 1986]

§ 352.205b Authority to return an SES employee to his or her former or successor agency.

The transfer of a career SES appointee with a grant of reemployment rights under this subpart authorizes the return of the employee to his or her former or successor agency when the employee is reemployed in his or her former or successor agency—

(a) Without a break in service of 1 workday or more in any position in the SES for which the employee is qualified; and

(b) At not less than the SES pay level at which the employee was being paid immediately before his or her transfer.

[51 FR 25187, July 11, 1986]

§ 352.206 Expiration of reemployment rights.

Reemployment rights granted under a Letter of Authority expire at the end of 2 years following the date of the personnel action, unless exercised or otherwise terminated before that time, except that the reemployment rights of an employee serving outside the continental United States extend for an additional period of 3 months.

§ 352.207 Exercise or termination of reemployment rights.

(a) *Exercise.* The time limits for application for reemployment under this subpart are:

(1) Within 30 calendar days before the expiration of the term of reemployment rights;

(2) Within 30 calendar days after receipt of notice of involuntary separation;

(3) At least 30 calendar days in advance of the person's scheduled entry into active military duty. In this case he shall be reemployed and separated, furloughed, or granted leave of absence for military service by the reemploying agency; or

(4) At any time before the expiration of the term of reemployment rights with the written consent of the current employing agency if application for reemployment is made within 30 days after date of separation, or after receipt of advance notice of proposed demotion by the current employing agency.

(b) *Termination.* An employee's reemployment rights terminate if:

(1) He fails to apply within the time limits stated in paragraph (a) of this section;

(2) He resigns without the written consent of the current employing agency; or

(3) Within 10 calendar days, he fails to accept an offer of reemployment made under § 352.208 which is determined to be a proper offer of reemployment by the reemploying agency or by the Merit Systems Protection Board on appeal.

§ 352.208 Agency's obligation to reemploy.

(a) *Employee's right to reemployment.* An employee is entitled to be reemployed by the reemploying agency as promptly as possible but not more than 30 calendar days after receipt of his application. Except as provided in paragraph (c) of this section, the employee is entitled to reemployment in the occupational field and at the same grade or level and in the same geographical area as the position which the employee last held in that agency. If the

reemployment would cause the separation or demotion of another employee, the applicant shall then be considered an employee for the purpose of applying the reduction-in-force regulations (5 CFR part 351) to determine to what, if any, position, he or she is entitled.

(b) *Reemployment in a higher grade.* The reemploying agency may reemploy the employee in a position of higher grade than that to which he is entitled, but not if this reemployment would cause the displacement of another employee.

(c) *Reemployment in SES.* When the employee's right is to a position in the SES, reemployment or return may be to any position in the SES for which the employee is qualified.

(d) *Seniority in postal service.* On reemployment in the postal service, the employee is entitled to the seniority he would have attained had he remained in the postal service.

(e) *Basis for agency refusal to reemploy.* An agency may refuse to reemploy under this section only when the employee was last separated for serious cause evidencing his unsuitability for reemployment.

[33 FR 12433, Sept. 4, 1968, as amended at 51 FR 25187, July 11, 1986]

§ 352.209 Employee appeals to the Merit Systems Protection Board.

When an agency denies reemployment to a person claiming reemployment rights under this subpart, the agency shall inform him or her of that denial by a written notice. In the same notice, the agency shall inform him/her of his/her right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of § 1201.21 of this title.

[44 FR 48952, Aug. 21, 1979]

Subpart C—Detail and Transfer of Federal Employees to International Organizations

AUTHORITY: 5 U.S.C. 3584, E.O. 11552, 3 CFR 1966-1970 Comp., p. 954; Section 352.313 also issued under 5 U.S.C. 7701, et seq.

SOURCE: 35 FR 16525, Oct. 23, 1970, unless otherwise noted.

§ 352.301 Purpose.

The purpose of this subpart is to encourage details and transfers of employees for service with international organizations as authorized by sections 3343 and 3581-3584 of title 5, United States Code, and to provide procedures for participation in the program.

§ 352.302 Definitions.

In this subpart:

(a) *Agency, employee, international organization,* and *transfer* have the meaning given them by section 3581 of title 5, United States Code;

(b) *Detail* has the meaning given it by section 3343 of title 5, United States Code; and

(c) *Term of employment* means not more than (1) 5 consecutive years of employment, except that when the Secretary of State determines it to be in the national interest, the detail or transfer may be extended up to an additional 3 years, or (2) the period of less than 5 years specified at the time of consent to transfer or detail, beginning with entrance on duty in the international organization.

§ 352.303 Effective date of equalization allowance.

Section 352.310 applies to employment with an international organization that occurs after December 29, 1969.

§ 352.304 International organizations covered.

Without prior approval of OPM, an agency may detail or transfer an employee under this subpart to any organization which OPM has designated as an international organization. An agency may detail or transfer an employee under this subpart to any other public international organization or international organization preparatory commission, only when OPM, after consultation with the Department of State, agrees that the organization concerned could be designated as an international organization covered by sections 3343 and 3581 of title 5, United States Code.

[35 FR 16525, Oct. 23, 1970, as amended at 66 FR 66710, Dec. 27, 2001]