

§ 352.207

5 CFR Ch. I (1–12 Edition)

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 para-

graph (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]