

§ 1508. Judicial review

A party aggrieved by a determination or order of the Merit Systems Protection Board under section 1504, 1505, or 1506 of this title may, within 30 days after the mailing of notice of the determination or order, institute proceedings for review thereof by filing a petition in the United States District Court for the district in which the State or local officer or employee resides. The institution of the proceedings does not operate as a stay of the determination or order unless—

- (1) the court specifically orders a stay; and
(2) the officer or employee is suspended from his office or employment while the proceedings are pending.

A copy of the petition shall immediately be served on the Board, and thereupon the Board shall certify and file in the court a transcript of the record on which the determination or order was made. The court shall review the entire record including questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that the additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce this evidence in the hearing before the Board, the court may direct that the additional evidence be taken before the Board in the manner and on the terms and conditions fixed by the court. The Board may modify its findings of fact or its determination or order in view of the additional evidence and shall file with the court the modified findings, determination, or order; or the modified findings of fact, if supported by substantial evidence, are conclusive. The court shall affirm the determination or order, or the modified determination or order, if the court determines that it is in accordance with law. If the court determines that the determination or order, or the modified determination or order, is not in accordance with law, the court shall remand the proceeding to the Board with directions either to make a determination or order determined by the court to be lawful or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court are final, subject to review by the appropriate United States Court of Appeals as in other cases, and the judgment and decree of the court of appeals are final, subject to review by the Supreme Court of the United States on certiorari or certification as provided by section 1254 of title 28. If a provision of this section is held to be invalid as applied to a party by a determination or order of the Board, the determination or order becomes final and effective as to that party as if the provision had not been enacted.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 406; Pub. L. 95-454, title IX, §906(a)(6), Oct. 13, 1978, 92 Stat. 1225.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 118k(c), July 19, 1940, ch. 640, §4 "Sec. 12(c)", 54 Stat. 768.

Sections 346 and 347 of title 28 referred to in former section 118k(c) were repealed by the Act of June 25, 1948, ch. 646, §39, 62 Stat. 862, and are now covered by section 1254 of title 28. The titles of the courts are changed to conform to title 28.

In the reference to filing a written petition, "written" is omitted as unnecessary.

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 "Merit Systems Protection Board" and "Board" for "Civil Service Commission" and "Commission", respectively, 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1506 of this title.

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AMENDMENTS

2000—Pub. L. 106-398, §1 [[div. A], title X, §1076(f)(1)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A-282, substituted “and Other Purposes” for “Purposes” in item for chapter 91.

Pub. L. 106-265, title I, §1002(b), Sept. 19, 2000, 114 Stat. 769, added item for chapter 90.

1998—Pub. L. 105-206, title I, §1201(b), July 22, 1998, 112 Stat. 719, added items for subpart I and chapter 95.

1993—Pub. L. 103-89, §3(a)(2), Sept. 30, 1993, 107 Stat. 981, struck out item for chapter 54 “Performance Management and Recognition System”.

1986—Pub. L. 99-335, title I, §101(b), June 6, 1986, 100 Stat. 588, added item for chapter 84.

1985—Pub. L. 99-169, title VIII, §801(b), Dec. 4, 1985, 99 Stat. 1010, added items for subpart H and chapter 91.

1984—Pub. L. 98-615, title II, §201(b), Nov. 8, 1984, 98 Stat. 3214, substituted “Performance Management and Recognition System” for “Merit Pay and Cash Awards” in item for chapter 54.

1978—Pub. L. 95-454, title I, §101(b)(1), title II, §203(b), title V, §503(i), title VI, §601(b), title VII, §703(b), title IX, §906(c)(5), Oct. 13, 1978, 92 Stat. 1118, 1134, 1184, 1188, 1217, 1227, added items for chapters 23, 34, 47, 54, and 72, substituted in item for chapter 43 “Appraisal” for “Rating” and in item for chapter 71 “Labor-Management Relations” for “Policies”, and inserted in heading of subpart F “Labor-Management and” before “Employee”.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 28 section 996; title 42 section 3056b; title 44 section 2105; title 47 sections 154, 332.

**Subpart A—General Provisions**

**CHAPTER 21—DEFINITIONS**

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2101.	Civil service; armed forces; uniformed services.
2101a.	The Senior Executive Service.
2102.	The competitive service.
2103.	The excepted service.
2104.	Officer.
2105.	Employee.
2106.	Member of Congress.
2107.	Congressional employee.
2108.	Veteran; disabled veteran; preference eligible.
2109.	Air traffic controller; Secretary.

AMENDMENTS

1980—Pub. L. 96-347, §1(d), Sept. 12, 1980, 94 Stat. 1150, substituted “controller; Secretary” for “controller” in item 2109.

<sup>1</sup> So in original. Probably should be capitalized.

1978—Pub. L. 95-454, title IV, §401(e), Oct. 13, 1978, 92 Stat. 1154, added item 2101a.

1972—Pub. L. 92-297, §1(b), May 16, 1972, 86 Stat. 141, added item 2109.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 22 section 3664.

**§ 2101. Civil service; armed forces; uniformed services**

For the purpose of this title—

(1) the “civil service” consists of all appointive positions in the executive, judicial, and legislative branches of the Government of the United States, except positions in the uniformed services;

(2) “armed forces” means the Army, Navy, Air Force, Marine Corps, and Coast Guard; and

(3) “uniformed services” means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 408; Pub. L. 90-83, §1(4), Sept. 11, 1967, 81 Stat. 196; Pub. L. 96-54, §2(a)(4), Aug. 14, 1979, 93 Stat. 381.)

HISTORICAL AND REVISION NOTES

1966 ACT

The section is supplied to establish basis of reference to employees in this title.

1967 ACT

This section amends various sections [§§2101, 4102, 4109, 5541, 8101] of title 5, United States Code, to reflect 1965 Reorganization Plan No. 2 (79 Stat. 1318), effective July 13, 1965, which consolidated the Coast and Geodetic Survey and the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration.

AMENDMENTS

1979—Par. (3). Pub. L. 96-54 substituted “National Oceanic and Atmospheric” for “Environmental Science Services”.

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.

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-339, §1, Oct. 31, 1998, 112 Stat. 3182, provided that: “This Act [enacting sections 3330a to 3330c of this title, section 1316a of Title 2, The Congress, section 115 of Title 3, The President, and section 1354 of Title 31, Money and Finance, amending sections 2108, 2302, and 3304 of this title and section 4212 of Title 38, Veterans’ Benefits, repealing section 1599c of Title 10, Armed Forces, enacting provisions set out as notes under section 2302 of this title and section 601 of Title 28, Judiciary and Judicial Procedure, and amending provisions set out as a note under section 106 of Title 49, Transportation] may be cited as the ‘Veterans Employment Opportunities Act of 1998.’”

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-226, §1, Mar. 30, 1994, 108 Stat. 111, provided that: “This Act [amending sections 3381, 4101, 4103, 4105, 4107, 4108, 4113, 4118, 5597, 8351, 8433 to 8435, 8437, 8440a to 8440d of this title and section 1206 of Title 45, Railroads, repealing sections 4106 and 4114 of this title, enacting provisions set out as notes under sections 3101, 3381, 5597, 8331, and 8351 of this title, and