

## § 352.308

## 5 CFR Ch. I (1–10 Edition)

title 5, United States Code, and this subpart, except the following:

(a) A Presidential appointee (other than a postmaster, a Foreign Service officer or a Foreign Service information officer), regardless of whether his appointment was made by and with the advice and consent of the Senate.

(b) A person serving in the executive branch in a confidential or policy-determining position excepted from the competitive service under Schedule C of part 213 of this chapter.

(c) A person serving under a non-career, limited emergency, or limited term appointment in the SES.

(d) A person serving under a temporary appointment pending establishment of a register.

(e) A person serving under an appointment specifically limited to 1 year or less.

(f) A person serving on a seasonal, intermittent, or part-time basis.

[35 FR 16525, Oct. 23, 1970, as amended at 51 FR 25188, July 11, 1986; 57 FR 10124, Mar. 24, 1992]

### § 352.308 Effecting employment by transfer.

(a) *Authority to approve transfers.* On written request by an international organization for the services of an employee, the agency may authorize the transfer of the employee to the organization for any period not to exceed 5 years, except that when the Secretary of State determines it to be in the national interest, a period of employment by transfer may be extended, subject to the approval of the head of the agency, for up to an additional 3 years. A transfer or series of transfers or combination of details and transfers shall not exceed 8 years in the aggregate. Refusal by the head of the agency to authorize the transfer or the extension of the transfer is not reviewable by or appealable to OPM.

(b) *Letter of consent.* When an agency consents to the transfer of an employee, the agency shall give its consent in writing to the international organization and shall furnish the employee with a copy of the consent.

(c) *Effective date.* The agency and the international organization shall establish the effective date of transfer by mutual agreement.

(d) *Recording requirement.* The agency must furnish the employee with a leave statement, showing his or her annual and sick leave balances at the time of transfer. In addition, the notification of personnel action effecting the employee's separation for transfer must include:

(1) Identification of the international organization to which the employee is transferring,

(2) A clear statement of the period during which the employee has reemployment rights in the agency under section 3582 of title 5, United States Code, and this subpart, and

(3) The legal and regulatory conditions for reemployment.

[35 FR 16525, Oct. 23, 1970, as amended at 73 FR 64860, Oct. 31, 2008]

### § 352.309 Retirement, health benefits, and group life insurance.

(a) *Agency action.* An employee who is transferred to an international organization with the consent of the employing agency is entitled to retain coverage for retirement, health benefits, and group life insurance purposes if he or she so chooses. The period during which coverage, rights, and benefits are retained under this paragraph, during employment with the international organization, is deemed employment by the United States. At the time an employing Federal agency consents to the transfer of an employee, the agency must advise the employee in writing of the employee's right to continue retirement, health benefits, and group life insurance coverage, as applicable, for the duration of the assignment or transfer. The notice must explain the conditions for continued coverage and the employee's obligations and responsibilities with regard to continued coverage. The notice must also explain that, if the employee elects to retain coverage, the agency will continue to make the agency contributions to the funds, and the employee's coverage will continue as long as employee payments are currently deposited in the respective funds.

(b) *Employee action.* The employee must acknowledge, in writing, receipt of the notice and state whether or not he or she wishes to retain coverage under the retirement, health benefits,

and group life insurance systems or any of them by continuing the required employee payments. The employee must make a written election to retain benefits, as applicable, and make arrangements for the required employee payments. An employee who transfers to an international organization is not eligible to participate in the Thrift Savings Plan (TSP) while employed by the international organization even if he or she elects to retain Federal retirement coverage. However, upon re-employment, an employee who elected to retain Federal retirement coverage while employed by the international organization and has made all deposits required for such coverage may make contributions to the TSP which he or she missed as a result of the service with an international organization, and receive make-up agency contributions and lost earnings on the agency contributions, as provided under § 352.311(e).

(c) *Agency responsibility.* For retirement and group life insurance purposes, the employing agency is responsible for determining the applicable rate of pay in accordance with the provisions of section 3583 of title 5, United States Code. The agency is also responsible for collecting, accounting for, and depositing in the respective funds all retirement, health benefits, and group life insurance employee payments required to be made for the purpose of protecting the rights of the employee so transferred; and for accounting for and depositing in the respective funds all agency contributions. The agency must furnish the employee with specific information as to how, when, and where the payments are to be submitted.

(d) *Coverage.* Employee payments are considered to be currently deposited if received by the agency before, during, or within 3 months after the end of the pay period covered by the deposit. If the contributions are not currently deposited, coverage terminates on the last day of the pay period for which the required contributions were currently deposited, subject to a 31-day extension of group life insurance and health benefits coverage as provided in parts 870 and 890 of this chapter and to the conversion benefits provided in parts 870

and 890 of this chapter. Coverage so terminated may not be re-established before the employee actually enters on duty, on the first day in a pay status in an agency. However, terminated retirement, health benefits, and group life insurance coverage must be reinstated retroactively when, in the judgment of OPM, the failure to make the required current deposit was due to circumstances beyond the employee's control and the required payments were deposited at the first opportunity. Coverage under a system other than the Civil Service Retirement System must be reinstated retroactively if the agency which administers the retirement system determines that the failure to make the required current deposit was due to circumstances beyond the control of the employee and the required payments were deposited at the first opportunity.

[73 FR 64860, Oct. 31, 2008]

#### § 352.310 [Reserved]

#### § 352.311 Reemployment.

(a) An employee who transferred to an international organization with the consent of the employing agency is entitled to be reemployed in his or her former position, or one of like seniority, status, and pay, within 30 days of applying for reemployment if the employee:

(1) Is separated, either voluntarily or involuntarily, without cause, within the term of employment with an international organization; and

(2) Applies for reemployment with the employing agency or its successor no later than 90 days after separation from the international organization.

(b) Pay upon reemployment will be set at that to which the employee would have been entitled had the employee remained with the employing agency.

(c) When an employee's reemployment right is to a position in the SES, reemployment may be to any position in the SES for which the employee is qualified. The employee must be returned at not less than the SES rate of basic pay as determined under 5 CFR