§ 352.506 Application for reinstatement.

An employee who desires reinstatement shall apply for reinstatement, in writing, no later than 30 days after his appointment under authority of section 233(d) or section 625(b) of the Act is terminated, unless arrangement has been made for his reinstatement without a break in service under § 352.505(b).

[36 FR 13897, July 28, 1971]

§ 352.507 Reinstatement.

An employee eligible for reinstatement is entitled to be reinstated as soon as possible after his application for reinstatement, filed in accordance with § 352.506, is received. In any event, he is entitled to be reinstated (a) within 30 days after his application for reinstatement is received, or (b) on termination of the appointment made under authority of section 233(d) or section 625(b) of the act, whichever is later.

[36 FR 13897, July 28, 1971]

§ 352.508 Appeals to the Merit Systems Protection Board.

(a) If an agency determines that an employee who has applied for reinstatement is not eligible for reinstatement, it shall notify the employee as promptly as possible of its decision, of the basis therefor, and of the employee’s appeal rights under this subpart. The employee is entitled to appeal the decision 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.

(b) If an agency fails to reinstate an employee within the time limits specified in § 352.507, the employee is entitled to appeal to the Merit Systems Protection Board under the provisions of the Board’s regulations.

(c) If an employee considers that his reinstatement is not in accordance with the act and this subpart, he or she is entitled to appeal to the Merit Systems Protection Board under the provisions of the Board’s regulations.

[44 FR 48952, Aug. 21, 1979]

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


SOURCE: 41 FR 27713, July 6, 1976, unless otherwise noted.

§ 352.701 Purpose.

This subpart governs reemployment rights authorized by section 105(i) of the Indian Self-Determination Act (88 Stat. 2210; Pub. L. 93–638, the Act) and E.O. 11899 after service in an Indian tribal organization under the Act.

§ 352.702 Definitions.

In this subpart:

(a) Agency means the Bureau of Indian Affairs and the Indian Health Service. For reemployment purposes, the Public Health Service shall be considered the agency to which Indian Health Service employees may return.

(b) Competitive area is the same as defined in § 351.402 of this title.

(c) Tribal organization is defined in section 4(c) of the Indian Self-Determination Act (88 Stat. 2204).

§ 352.703 Basic entitlement to reemployment rights on leaving Federal employment.

(a) Employees entitled. The following employees of the Bureau of Indian Affairs, Department of the Interior, and the Indian Health Service, or the Public Health Service, as appropriate, if they leave their Federal employment to be employed, with no break in service following separation from their agency, by an Indian tribal organization to work in a function of their respective agency contracted under the Indian
Self-Determination Act to be performed by that tribal organization:

(a) An employee serving in a competitive position under a career or career-conditional appointment and who has satisfactorily completed at least 6 months of a probationary period; or

(b) A non-temporary excepted service employee who has satisfactorily completed at least 6 months of a trial period if one is required by the agency.

(c) An employee serving under a career appointment in the Senior Executive Service (SES) who is not serving a probationary period.

(b) Employees not entitled. The following employees are not entitled to reemployment rights under this subpart:

(1) An employee who has received a notice of involuntary separation because of reduction in force, or other cause, not directly related to contracting under the Act to a tribal organization;

(2) An employee whose resignation has been accepted for reasons other than to accept tribal employment under this subpart;

(3) An employee serving under a Schedule C excepted appointment.

(c) Not related to other benefits. Entitlement to reemployment rights does not depend on continuation of Federal employee benefits coverage during service with a tribal organization.

§ 352.706 Agency response to reemployment application.

(a) Employee’s right to reemployment. An employee is entitled to be reemployed by the reemploying agency as promptly as possible, and, in any event, within 45 calendar days after agency receipt of application.

(i) The position held immediately before leaving the agency;

(ii) One in the same competitive level; or

(iii) Another position for which qualified and eligible at the same grade or level and in the same competitive area.