Office of Personnel Management

§ 352.801 Purpose.

This subpart governs reemployment rights authorized by section 11(a)(1) and (2) of the Taiwan Relations Act (Pub. L. 96-8) after service in the American Institute in Taiwan (AIT) under the Act.

§ 352.802 Definitions.

For the purposes of this subpart:

Act refers to Taiwan Relations Act (Pub. L. 96–8).

Competitive area is the same as defined in § 351.402 of this title;

Institute means the American Institute in Taiwan.

Specified period of service shall be a period of not more than 6 years.

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

(a) This subpart applies to all executive agencies as defined in section 105 of title 5, United States Code, the U.S. Postal Service, the Postal Rate Commission, and to the employees thereof, and to those positions in the competitive civil service and the employees occupying those positions.

(b) The agency must give employees entitled to reemployment rights under this subpart written notice of these rights at the time of their separation.

(c) Employees entitled. The following employees or former employees are granted reemployment rights subject to the conditions of this subpart, if they leave their Federal employment to be employed (on the date of incorporation of AIT or within 30 calendar days following separation from their agency) by the Institute for a specified period of service.

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

(2) A non-temporary excepted service employee; or

(3) An employee serving under a career appointment in the Senior Executive Service.

(d) 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 employment with the Institute under the Act;

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

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

(4) An employee serving under a non-career, limited emergency, or limited term appointment in the Senior Executive Service.


§ 352.804 Maximum period of entitlement to reemployment.

Entitlement to reemployment terminates at the end of 6 years and 30 days, following the date employment commences in the Institute unless exercised or otherwise terminated before that time as provided in this subpart.

§ 352.805 Position to which entitled on reemployment.

(a) Basic position entitlement. (1) On reemployment, an employee is entitled to be appointed to a position in the employee’s former or successor agency in the following order:

(i) To the position last held in the former agency:

(A) If that position has been identified for transfer to a different agency, reemployment rights must be exercised with the gaining agency.

(B) If that position has been reclassified, the employee should be placed in the reclassified position;

(ii) A position in the same competitive level; or

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

(2) The employing agency determines under paragraph (a)(1) of this section the position to which the employee is entitled. Reduction-in-force procedures shall be applied when necessary in determining the position to which the employee has a right. In applying reduction-in-force procedures, the applicant shall be considered an employee of the agency.

(b) Extending the area. Responsibility for reemploying an applicant is agencywide. If the applicant is not placed under paragraph (a)(1) of this section, the agency must extend reemployment
§ 352.806 Return to Federal employment.

(a) Conditions: Reemployment rights may be exercised only under the following conditions. The employees must apply in writing to their former or successor agency:

(1) No less than 30 calendar days before completion of the specified period of service with the Institute; or

(2) No more than 30 calendar days after involuntary separation from the Institute; or

(3) No more than 30 calendar days after separation based on personal hardship or other special circumstances with the consent of Institute and former employing agency.

(b) An agency must act on the former employee’s request for reemployment within 30 calendar days of receipt thereof; i.e., the agency must provide the employee with a written notice stating the agency’s decision whether to reemploy and the position being offered, if the employee is to be reemployed.

(c) Termination of reemployment rights. A former employee’s entitlement to reemployment terminates for:

(1) Failure to apply, except for good cause shown, for reemployment within the time limits stated in paragraph (a) of this section;

(2) Resignation from the Institute without the consent of the Institute or the former employing agency; or

(3) Failure to accept, within 15 workdays of receipt thereof, an offer of reemployment under § 352.803 which is determined to be a proper offer of reemployment by the employing agency and by Merit Systems Protection Board (MSPB), if appealed.

§ 352.807 Appeals.

An employee may appeal to MSPB, under the provisions of the Board’s regulations, an agency’s decision on his or her request for reemployment which he or she believes is in violation of this subpart.

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