

§ 3524. Effect of subsequent employment with the Government

- (a) The term "employment"—
(1) in subsection (b) includes employment under a personal services contract...
(2) in subsection (c) does not include employment under such a contract.

(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States with 1 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(c)(1) If the employment under this section is with an agency, other than the Government Accountability Office, the United States Postal Service, or the Postal Regulatory Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, may 2 waive the repayment if—

- (A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or
(B) in case of an emergency involving a direct threat to life or property, the individual—
(i) has skills directly related to resolving the emergency; and
(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(Added Pub. L. 107-296, title XIII, §1313(a)(1)(A), Nov. 25, 2002, 116 Stat. 2293; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-435, title VI, §604(f), Dec. 20, 2006, 120 Stat. 3242.)

AMENDMENTS

2006—Subsec. (c)(1). Pub. L. 109-435 substituted "Postal Regulatory Commission" for "Postal Rate Commission" in introductory provisions.

2004—Subsec. (c)(1). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office" in introductory provisions.

§ 3525. Regulations

The Office of Personnel Management may prescribe regulations to carry out this subchapter.

1 So in original. Probably should be "within".
2 So in original.

(Added Pub. L. 107-296, title XIII, §1313(a)(1)(A), Nov. 25, 2002, 116 Stat. 2294.)

PRIOR PROVISIONS

A prior section 3551, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 429; Pub. L. 90-491, §2, Aug. 17, 1968, 82 Stat. 791, related to restoration of positions of Federal and District of Columbia employees upon release from duty in Reserves or National Guard, prior to repeal by Pub. L. 103-353, §§2(b)(2)(B), 8, Oct. 13, 1994, 108 Stat. 3169, 3175, effective with respect to reemployments initiated on or after first day after 60-day period beginning Oct. 13, 1994, with transition rules.

SUBCHAPTER III—REINSTATEMENT OR RESTORATION AFTER SUSPENSION OR REMOVAL FOR NATIONAL SECURITY

§ 3571. Reinstatement or restoration; individuals suspended or removed for national security

An individual suspended or removed under section 7532 of this title may be restored to duty in the discretion of the head of the agency concerned.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 429.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 22-1 (1st 31 words of 3d proviso), Aug. 26, 1950, ch. 803, §1 (1st 31 words of 3d proviso), 64 Stat. 477.

The words "suspended or removed under section 7532 of this title" are coextensive with and substituted for "whose employment is so suspended or terminated under the authority of said sections".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SUBCHAPTER IV—REEMPLOYMENT AFTER SERVICE WITH AN INTERNATIONAL ORGANIZATION

§ 3581. Definitions

For the purpose of this subchapter—

- (1) "agency" means—
(A) an Executive agency;
(B) a military department; and
(C) an employing authority in the legislative branch;

(2) "employee" means an employee in or under an agency;

(3) "international organization" means a public international organization or international-organization preparatory commission in which the Government of the United States participates;

(4) "transfer" means the change of position by an employee from an agency to an international organization; and

- (5) "reemployment" means—
(A) the reemployment of an employee under section 3582(b) of this title; or
(B) the reemployment of a Congressional employee within 90 days from his separation from an international organization;

following a term of employment not extending beyond the period named by the head of the agency at the time of consent to transfer or,

in the absence of a named period, not extending beyond the first 5 consecutive years, or any extension thereof, after entering the employ of the international organization.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 429; Pub. L. 91-175, pt. V, §502(b), Dec. 30, 1969, 83 Stat. 825; Pub. L. 94-183, §2(9), Dec. 31, 1975, 89 Stat. 1057.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2331.	Aug. 28, 1958, Pub. L. 85-795, § 2, 72 Stat. 959.

In paragraphs (1)(A) and (B), the terms "Executive agency" and "military department" are coextensive with and substituted for "any department or agency in the executive branch of the United States Government including independent establishments and Government owned or controlled corporations" in view of the definitions in sections 105 and 102.

In paragraph (2), the word "employee" is substituted for "any civilian appointive officer or employee" in view of the definition of "employee" in section 2105. The words "in or under an agency" are substituted for "in or under the executive or the legislative branch of the United States Government".

The definition of "Congressional employee" in former section 2331(4) is omitted as unnecessary because the term "Congressional employee", defined for the purpose of this title in section 2107, is coextensive with the definition in former section 2331(4).

The definition of "Detail" in former section 2331(6) is omitted from this section as inappropriate but is carried into section 3343.

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

1975—Subsec. (5)(A). Pub. L. 94-183 substituted "3582(b)" for "3582(a)".

1969—Par. (5). Pub. L. 91-175 substituted "the first 5 consecutive years, or any extension thereof, after entering the employ of the international organization" for "the first 3 consecutive years after entering the employ of the international organization".

DELEGATION OF AUTHORITY

Authority of President to extend a transfer of an employee under this section delegated to Secretary of State, see section 3 of Ex. Ord. No. 11552, Aug. 24, 1970, 35 F.R. 13569, set out as a note under section 3584 of this title.

§ 3582. Rights of transferring employees

(a) An employee serving under an appointment not limited to 1 year or less who transfers to an international organization with the consent of the head of his agency is entitled—

- (1) to retain coverage, rights, and benefits under any system established by law for the retirement of employees, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the international organization are currently deposited in the system's fund or depository; and the period during which coverage, rights, and benefits are retained under this paragraph is deemed creditable service under the system, except that such service shall not be considered creditable service for the purpose of any retirement system for transferring personnel,

if such service forms the basis, in whole or in part, for an annuity or pension under the retirement system of the international organization;

(2) to retain coverage, rights, and benefits under chapters 87 and 89 of this title, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the international organization are currently deposited in the Employees' Life Insurance Fund and the Employees' Health Benefits Fund, as applicable, and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapters 87 and 89 of this title;

(3) to retain coverage, rights, and benefits under subchapter I of chapter 81 of this title, and for this purpose his employment with the international organization is deemed employment by the United States, but if he or his dependents receive from the international organization a payment, allowance, gratuity, payment under an insurance policy for which the premium is wholly paid by the international organization, or other benefit of any kind on account of the same injury or death, the amount thereof is credited against disability or death compensation, as the case may be, payable under subchapter I of chapter 81 of this title; and

(4) to elect to retain to his credit all accumulated and current accrued annual leave to which entitled at the time of transfer which would otherwise be liquidated by a lump-sum payment. On his request at any time before reemployment, he shall be paid for the annual leave retained. If he receives a lump-sum payment and is reemployed within 6 months after transfer, he shall refund to the agency the amount of the lump-sum payment. This paragraph does not operate to cause a forfeiture of retained annual leave following reemployment or to deprive an employee of a lump-sum payment to which he would otherwise be entitled.

(b) An employee entitled to the benefits of subsection (a) of this section is entitled to be reemployed within 30 days of his application for reemployment in his former position or a position of like seniority, status, and pay in the agency from which he transferred, if—

- (1) he is separated from the international organization within 5 years, or any extension thereof, after entering on duty with the international organization or within such shorter period as may be named by the head of the agency at the time of consent to transfer; and
- (2) he applies for reemployment not later than 90 days after the separation.

On reemployment, an employee entitled to the benefits of subsection (a) is entitled to the rate of basic pay to which the employee would have been entitled had the employee remained in the civil service. On reemployment, the agency shall restore the sick leave account of the employee, by credit or charge, to its status at the time of transfer. The period of separation caused by the employment of the employee with the international organization and the period necessary

to effect reemployment are deemed creditable service for all appropriate civil service employment purposes. This subsection does not apply to a congressional employee.

(c) This section applies only with respect to so much of a period of employment with an international organization as does not exceed 5 years, or any extension thereof, or such shorter period named by the head of the agency at the time of consent to transfer, except that for retirement and insurance purposes this section continues to apply during the period after separation from the international organization in which—

(1) an employee, except a Congressional employee, is properly exercising or could exercise the reemployment right established by subsection (b) of this section; or

(2) a Congressional employee is effecting or could effect a reemployment.

During that reemployment period, the employee is deemed on leave without pay for retirement and insurance purposes.

(d) During the employee's period of service with the international organization, the agency from which the employee is transferred shall make contributions for retirement and insurance purposes from the appropriations or funds of that agency so long as contributions are made by the employee.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 430; Pub. L. 91-175, pt. V, § 502(c)-(f), Dec. 30, 1969, 83 Stat. 825, 826; Pub. L. 94-183, § 2(10), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 105-277, div. G, subdiv. B, title XXV, § 2504(a), Oct. 21, 1998, 112 Stat. 2681-837.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2333 (less (c)).	Aug. 28, 1958, Pub. L. 85-795 § 4 (less (c)), 72 Stat. 960.

In subsection (a), the words "Notwithstanding the provisions of any law, Executive order, or regulation" are omitted as unnecessary. In paragraph (2), the words "an employee under chapter 87 of this title" are substituted for "an officer or employee of the United States". In paragraph (4), the words "under no circumstances" are 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

1998—Subsec. (b). Pub. L. 105-277 inserted concluding provisions and struck out former concluding provisions which read as follows: "On reemployment, he is entitled to the rate of basic pay to which he would be entitled had he remained in the civil service. On reemployment, the agency shall restore his sick leave account, by credit or charge, to its status at the time of transfer. The period of separation caused by his employment with the international organization and the period necessary to effect reemployment are deemed creditable service for all appropriate civil service employment purposes. On reemployment, he is entitled to be paid, under such regulations as the President may prescribe and from appropriations or funds of the agency from which transferred, an amount equal to the difference between the pay, allowances, post differential, and other monetary benefits paid by the international organization and the pay, allowances, post differential, and other monetary benefits that would have been paid by the agency had he been detailed to the international

organization under section 3343 of this title. Such a payment shall be made to an employee who is unable to exercise his reemployment right because of disability incurred while on transfer to an international organization under this subchapter and, in the case of any employee who dies while on such a transfer or during the period after separation from the international organization in which he is properly exercising or could exercise his reemployment right, in accordance with subchapter VIII of chapter 55 of this title. This subsection does not apply to a congressional employee nor may any payment provided for in the preceding two sentences of this subsection be based on a period of employment with an international organization occurring before the first day of the first pay period which begins after December 29, 1969."

1975—Subsec. (b). Pub. L. 94-183 substituted "after December 29, 1969" for "on or after the date of enactment of the Foreign Assistance Act of 1969" in last sentence.

1969—Subsec. (a). Pub. L. 91-175, § 502(c), inserted provision at end of cl. (1) excepting from creditable service, for the purpose of any retirement system, an agency employee who transfers to an international organization, if such service forms the basis for an annuity or pension under the retirement system of the international organization, and, in cl. (2), inserted references to chapter 89 and Employees' Health Benefits Fund.

Subsec. (b). Pub. L. 91-175, § 502(d), struck out "except a Congressional employee," in provisions preceding cl. (1), substituted "5 years or any extension thereof," for "3 years" in cl. (1), and, in provisions following cl. (2), inserted provision dealing with pay differentials to be received by former agency employee on reemployment with agency after service with international organization.

Subsec. (c). Pub. L. 91-175, § 502(e), substituted "5 years, or any extension thereof," for "3 years".

Subsec. (d). Pub. L. 91-175, § 502(f), made contributions for retirement and insurance purposes mandatory by the agency from which employee is transferred, during employee's period of service with international organization, so long as contributions are made by employee.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. G, subdiv. B, title XXV, § 2504(b), Oct. 21, 1998, 112 Stat. 2681-837, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to transfers that take effect on or after the date of enactment of this Act [Oct. 21, 1998]."

DELEGATION OF AUTHORITY

Authority of President under subsec. (b) of this section delegated to Office of Personnel Management, and authority to define and specify pay, allowances, etc., to be paid by the agency, delegated to Secretary of State, see section 3 of Ex. Ord. No. 11552, Aug. 24, 1970, 35 F.R. 13569, set out as a note under section 3584 of this title.

§ 3583. Computations

A computation under this subchapter before reemployment is made in the same manner as if the employee had received basic pay, or basic pay plus additional pay in the case of a Congressional employee, at the rate at which it would have been payable had the employee continued in the position in which he was serving at the time of transfer.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 431.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2333(c).	Aug. 28, 1958, Pub. L. 85-795, § 4(c), 72 Stat. 961.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

**§ 3584. Regulations**

The President may prescribe regulations necessary to carry out this subchapter and section 3343 of this title and to protect and assure the retirement, insurance, leave, and reemployment rights and such other similar civil service employment rights as he finds appropriate. The regulations may provide for the exclusion of employees from the application of this subchapter and section 3343 of this title on the basis of the nature and type of employment including excepted appointments of a confidential or policy-determining character, or conditions pertaining to the employment including short-term appointments, seasonal or intermittent employment, and part-time employment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 431.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2334.	Aug. 28, 1958, Pub. L. 85-795, § 5, 72 Stat. 961.

The words “civil service employment rights” are substituted for “Federal employment rights”. The word “including” is substituted for “such as, but not limited to”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

EXECUTIVE ORDER No. 10804

Ex. Ord. No. 10804, Feb. 12, 1959, 24 F.R. 1147, which delegated to the United States Civil Service Commission the authority vested in the President by section 5 of the Federal Employees International Organization Service Act (72 Stat. 961) [now this section], was revoked by Ex. Ord. No. 11552, Aug. 24, 1970, 35 F.R. 13569, set out below.

EX. ORD. NO. 11552. PROVIDING FOR DETAILS AND TRANSFERS OF FEDERAL EMPLOYEES TO INTERNATIONAL ORGANIZATIONS

Ex. Ord. No. 11552, Aug. 24, 1970, 35 F.R. 13569, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by section 301 of title 3 and section 3584 of title 5 [this section], United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. *Leadership and coordination.* The Secretary of State shall provide leadership and coordination for the effort of the Federal Government to increase and improve its participation in international organizations through transfers and details of well-qualified Federal employees, and shall develop policies, procedures, and programs consistent with this order to advance and encourage such participation.

SEC. 2. *Federal agency cooperation.* Each agency in the executive branch of the Federal Government shall to the maximum extent feasible and with due regard to its manpower requirements assist and encourage details and transfers of employees to international organizations by observing the following policies and procedures:

(1) Vacancies in international organizations shall be brought to the notice of well-qualified agency employees whose abilities and levels of responsibility in the Federal service are commensurate with those required to fill such vacancies.

(2) Subject to prior approval of his agency, no leave shall be charged an employee who is absent for a maximum of three days for interview for a proposed detail or transfer at the formal request of an international organization of a Federal official; an agency may approve official travel for necessary travel within the United States in connection with such an interview.

(3) An agency, upon request of an appropriate authority, shall provide international organizations with detailed assessments of the technical or professional qualifications of individual employees being formally considered for details and transfers to specific positions.

(4) Upon return of an employee to his agency, the agency shall give due consideration to the employee's overall qualifications, including those which may have been acquired during his service with the international organization, in determining the position and grade in which he is reemployed.

SEC. 3. *Delegations.* (a) Except as otherwise provided in this order, there is hereby delegated to the Office of Personnel Management the authority vested in the President by sections 3582(b) and 3584 of title 5, United States Code.

(b) The following are hereby delegated to the Secretary of State:

(1) The authority vested in the President by sections 3343 and 3581 of title 5, United States Code, to determine whether it is in the national interest to extend a detail or transfer of an employee beyond five years.

(2) The authority vested in the President by section 3582(b) of title 5, United States Code, to define and specify “pay, allowances, post differential, and other monetary benefits” to be paid by the agency upon reemployment, disability, or death.

SEC. 4. *Revocation.* Executive Order No. 10804 of February 12, 1959, is hereby revoked.

SUBCHAPTER V—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT IN THE SENIOR EXECUTIVE SERVICE

**§ 3591. Definitions**

For the purpose of this subchapter, “agency”, “Senior Executive Service position”, “senior executive”, “career appointee”, “limited term appointee”, “limited emergency appointee”, “non-career appointee”, and “general position” have the meanings set forth in section 3132(a) of this title.

(Added Pub. L. 95-454, title IV, § 404(b), Oct. 13, 1978, 92 Stat. 1165.)

EFFECTIVE DATE

Subchapter effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415(a)(1), (b), of Pub. L. 95-454, set out as a note under section 3131 of this title.

**§ 3592. Removal from the Senior Executive Service**

(a) Except as provided in subsection (b) of this section, a career appointee may be removed from the Senior Executive Service to a civil service position outside of the Senior Executive Service—

(1) during the 1-year period of probation under section 3393(d) of this title, or

(2) at any time for less than fully successful executive performance as determined under subchapter II of chapter 43 of this title,

except that in the case of a removal under paragraph (2) of this subsection the career appointee