

personnel, budget, and fiscal purposes. However, this requirement does not prevent the use of organizational or other titles for internal administration, public convenience, law enforcement, or similar purposes.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 452; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1094.	Oct. 28, 1949, ch. 782, §401, 63 Stat. 957.

The section is restated for clarity.

In subsection (b), the requirement that the Commission keep the standards up to date is omitted as included in the requirement that the Commission revise, supplement, or abolish existing standards, or prepare new standards so as to keep them current as nearly as practicable.

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

#### Editorial Notes

##### AMENDMENTS

1978—Subsecs. (a), (b). Pub. L. 95-454 substituted “Office of Personnel Management” and “Office” for “Civil Service Commission” and “Commission”, respectively, wherever appearing.

#### Statutory Notes and Related Subsidiaries

##### 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.

##### PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES

Pub. L. 111-352, §12, Jan. 4, 2011, 124 Stat. 3882, provided that:

“(a) PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES.—Not later than 1 year after the date of enactment of this Act [Jan. 4, 2011], the Director of the Office of Personnel Management, in consultation with the Performance Improvement Council, shall identify the key skills and competencies needed by Federal Government personnel for developing goals, evaluating programs, and analyzing and using performance information for the purpose of improving Government efficiency and effectiveness.

“(b) POSITION CLASSIFICATIONS.—Not later than 2 years after the date of enactment of this Act, based on the identifications under subsection (a), the Director of the Office of Personnel Management shall incorporate, as appropriate, such key skills and competencies into relevant position classifications.

“(c) INCORPORATION INTO EXISTING AGENCY TRAINING.—Not later than 2 years after the enactment of this Act, the Director of the Office of Personnel Management shall work with each agency, as defined under section 306(f) of title 5, United States Code, to incorporate the key skills identified under subsection (a) into training for relevant employees at each agency.”

#### § 5106. Basis for classifying positions

(a) Each position shall be placed in its appropriate class. The basis for determining the appropriate class is the duties and responsibilities of the position and the qualifications required by the duties and responsibilities.

(b) Each class shall be placed in its appropriate grade. The basis for determining the ap-

propriate grade is the level of difficulty, responsibility, and qualification requirements of the work of the class.

(c) Appropriated funds may not be used to pay an employee who places a supervisory position in a class and grade solely on the basis of the size of the organization unit or the number of subordinates supervised. These factors may be given effect only to the extent warranted by the work load of the organization unit and then only in combination with other factors, such as the kind, difficulty, and complexity of work supervised, the degree and scope of responsibility delegated to the supervisor, and the kind, degree, and character of the supervision exercised.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 453.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a), (b) .....	5 U.S.C. 1092.	Oct. 28, 1949, ch. 782, §302, 63 Stat. 957.
(c) .....	5 U.S.C. 1093.	Oct. 28, 1949, ch. 782, §303, 63 Stat. 957.

In subsection (c), the prohibition is restated in positive form. The words “to pay” are substituted for the words “to pay the compensation of”. The words “the group, section, bureau” are omitted as included in the words “the organization unit”. The word “actually” in the phrase “of the supervision exercised” 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.

#### § 5107. Classification of positions

Except as otherwise provided by this chapter, each agency shall place each position under its jurisdiction in its appropriate class and grade in conformance with standards published by the Office of Personnel Management or, if no published standards apply directly, consistently with published standards. When facts warrant, an agency may change a position which it has placed in a class or grade under this section from that class or grade to another class or grade. Subject to subchapter VI of chapter 53 of this title, these actions of an agency are the basis for pay and personnel transactions until changed by certificate of the Office.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 453; Pub. L. 95-454, title VIII, §801(a)(3)(E), title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1222, 1224.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1102(a).	Oct. 28, 1949, ch. 782, §502(a), 63 Stat. 958.

The words “to which this chapter applies” are omitted as unnecessary in view of section 5102. The words “Subject to section 5337 of this title” are added to reflect the qualification imposed by that section.

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

#### Editorial Notes

##### AMENDMENTS

1978—Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission”, “Of-

“fice” for “Commission”, and “subchapter VI of chapter 53” for “section 5337”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 803(a)(3)(E) of Pub. L. 95-454, substituting reference to subchapter VI of chapter 53 for reference to section 5337, effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95-454, set out as an Effective Date note under section 5361 of this title.

Amendment by section 906(a)(2), (3) of Pub. L. 95-454, substituting reference to Office of Personnel Management for reference to Civil Service Commission, 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.

### § 5108. Classification of positions above GS-15

(a) The Office of Personnel Management may, for any Executive agency—

(1) establish, and from time to time revise, the maximum number of positions which may at any one time be classified above GS-15; and

(2) establish standards and procedures published by the Director of the Office of Personnel Management in such form as the Director may determine (including requiring agencies, where necessary in the judgment of the Office, to obtain the prior approval of the Office) in accordance with which positions may be classified above GS-15.

(b) The President, rather than the Office, shall exercise the authority under subsection (a) in the case of positions proposed to be placed in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

(c) The Librarian of Congress may classify positions in the Library of Congress above GS-15 pursuant to standards established by the Office in subsection (a)(2).

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 453; Pub. L. 89-632, §1(a)–(d), Oct. 8, 1966, 80 Stat. 878; Pub. L. 90-83, §1(12), Sept. 11, 1967, 81 Stat. 197; Pub. L. 91-187, §1, Dec. 30, 1969, 83 Stat. 850; Pub. L. 91-206, §5(a), Mar. 10, 1970, 84 Stat. 51; Pub. L. 91-596, §30, Dec. 29, 1970, 84 Stat. 1619; Pub. L. 91-644, title I, §11, Jan. 2, 1971, 84 Stat. 1889; Pub. L. 91-656, §9, Jan. 8, 1971, 84 Stat. 1955; Pub. L. 92-261, §12, Mar. 24, 1972, 86 Stat. 112; Pub. L. 90-351, title I, §506(c), as added Pub. L. 93-83, §2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93-282, title III, §301, May 14, 1974, 88 Stat. 137; Pub. L. 93-406, title I, §507(b), title II, §1051(b)(2), title IV, §4002(c), Sept. 2, 1974, 88 Stat. 894, 951, 1005; Pub. L. 93-415, title II, §201(g), Sept. 7, 1974, 88 Stat. 1113; Pub. L. 93-463, title IV, §410, Oct. 23, 1974, 88 Stat. 1414; Pub. L. 93-516, title II, §208(b), Dec. 7, 1974, 88 Stat. 1629; Pub. L. 93-651, title II, §208(b), Nov. 21, 1974, 89 Stat. 2-14; Pub. L. 94-183, §2(14), (15), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 94-233, §13, Mar. 15, 1976, 90 Stat. 233; Pub. L. 94-503, title II, §202(a), Oct. 15, 1976, 90 Stat. 2426; Pub. L. 95-91, title VII, §710(b), Aug. 4, 1977, 91 Stat. 609; Pub. L. 95-190, §11(a), Nov. 16, 1977, 91 Stat. 1398; Pub. L. 95-219, §3(c), Dec. 28, 1977, 91 Stat. 1614; Pub. L. 95-251, §1, Mar. 27, 1978, 92 Stat. 183; Pub. L. 95-454, title IV, §414(a)(1)(A),

(C), (D), Oct. 13, 1978, 92 Stat. 1177; Pub. L. 95-486, §10, Oct. 20, 1978, 92 Stat. 1634; Pub. L. 95-563, §14(g), Nov. 1, 1978, 92 Stat. 2390; Pub. L. 95-612, §3(b), Nov. 8, 1978, 92 Stat. 3091; Pub. L. 95-624, §22, Nov. 9, 1978, 92 Stat. 3466; Pub. L. 95-630, title V, §502(c), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 96-54, §2(a)(23), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96-191, §8(c), Feb. 15, 1980, 94 Stat. 33; Pub. L. 100-325, §2(g), May 30, 1988, 102 Stat. 581; Pub. L. 100-702, title I, §104(c)(2), Nov. 19, 1988, 102 Stat. 4645; Pub. L. 101-474, §5(i), Oct. 30, 1990, 104 Stat. 1100; Pub. L. 101-509, title V, §529 [title I, §102(b)(2)], Nov. 5, 1990, 104 Stat. 1427, 1443; Pub. L. 102-378, §2(23), Oct. 2, 1992, 106 Stat. 1348; Pub. L. 110-372, §2(c)(4), Oct. 8, 2008, 122 Stat. 4044; Pub. L. 111-68, div. A, title I, §1403, Oct. 1, 2009, 123 Stat. 2038.)

#### HISTORICAL AND REVISION NOTES 1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a), (b), (c) (1)–(7), (d).	5 U.S.C. 1105(a)–(h), (j)–(l).	Oct. 28, 1949, ch. 782, §505, 63 Stat. 959. Sept. 1, 1954, ch. 1208, §101(a), 68 Stat. 1105. June 28, 1955, ch. 189, §12(a), 69 Stat. 179. July 31, 1956, ch. 804, §502, 70 Stat. 762. Aug. 14, 1957, Pub. L. 85-136, 71 Stat. 352. June 20, 1958, Pub. L. 85-462, §§10 (less “(i)”), 11, 72 Stat. 213, 213A. Sept. 23, 1959, Pub. L. 86-370, §2(a), (b), 73 Stat. 650. Sept. 23, 1959, Pub. L. 86-377, §1(a), 73 Stat. 700. July 1, 1960, Pub. L. 86-568, §203, 74 Stat. 305. Sept. 26, 1961, Pub. L. 87-322, §1, 75 Stat. 685. Oct. 4, 1961, Pub. L. 87-367, §§102(a), (b), 103(1), 75 Stat. 786, 787. Oct. 11, 1962, Pub. L. 87-793, §606, 76 Stat. 848. Aug. 14, 1964, Pub. L. 88-426, §103(b), 78 Stat. 402. July 7, 1955, ch. 279, §201 (2d proviso on p. 273), 69 Stat. 273. Oct. 11, 1962, Pub. L. 87-793, §607(b), 76 Stat. 850. Sept. 6, 1958, Pub. L. 85-927, §3, 72 Stat. 1781.
(c)(8) .....	5 U.S.C. 298a.	
(c)(9) .....	45 U.S.C. 228j(b)(4) (4th sentence).	

The section is reorganized for clarity.

In subsection (a)(2), the date “October 4, 1961” is substituted for “the date of enactment of this subparagraph”.

Subsection (c)(6) is added on authority of section 302 of the Act of July 29, 1958, Pub. L. 85-568, 72 Stat. 433, 42 U.S.C. 2453, and Transfer Plan, effective March 15, 1960, 25 F.R. 2151, section 2(c) of which in effect transferred from the Department of Defense to the National Aeronautics and Space Administration 5 of the 372 positions authorized to be placed in GS-16, 17, and 18 pursuant to section 1(a) of the Act of Sept. 23, 1959, Pub. L. 86-377, 73 Stat. 700.

In subsection (c)(8), the words “on and after July 7, 1955” are omitted as obsolete.

In subsection (d), the words “subsequent to February 1, 1958” are omitted as obsolete and the words “of the Government” 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.