

interests and involvement of advisory committee members that are disclosed under subsection (c) but that the Secretary determines not to meet the definition of a disqualifying interest under section 208 of title 18 for the purposes of participating in a particular matter.

(June 25, 1938, ch. 675, §712, as added Pub. L. 110-85, title VII, §701(a), Sept. 27, 2007, 121 Stat. 900; amended Pub. L. 112-144, title XI, §1142(a), July 9, 2012, 126 Stat. 1127; Pub. L. 114-255, div. A, title III, §3101(a)(2)(U), Dec. 13, 2016, 130 Stat. 1155; Pub. L. 117-286, §4(a)(159), (c)(29), Dec. 27, 2022, 136 Stat. 4323, 4357.)

Editorial Notes

REFERENCES IN TEXT

The Privacy Act of 1974, referred to in subsec. (c)(3)(A), is Pub. L. 93-579, Dec. 31, 1974, 88 Stat. 1896, which enacted section 552a of Title 5, Government Organization and Employees, and provisions set out as notes under section 552a of Title 5. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 552a of Title 5 and Tables.

PRIOR PROVISIONS

A prior section 712 of act June 25, 1938, was renumbered section 711 by Pub. L. 102-571 and is classified to section 379d of this title.

AMENDMENTS

2022—Subsec. (a)(1). Pub. L. 117-286, §4(a)(159), substituted “chapter 10 of title 5” for “the Federal Advisory Committee Act”.

Subsec. (c). Pub. L. 117-286, §4(c)(29), substituted “section 13109(a)(2) of title 5,” for “section 107(a)(2) of the Ethics in Government Act of 1978,”.

2016—Subsec. (e)(1)(B). Pub. L. 114-255 substituted “service as members” for “services as members”.

2012—Subsecs. (b), (c). Pub. L. 112-144, §1142(a)(1), added subsecs. (b) and (c) and struck out former subsecs. (b) and (c) which related to appointments to advisory committees and disclosures, prohibitions on participation, and waivers.

Subsec. (d). Pub. L. 112-144, §1142(a)(2), substituted “subsection (c)” for “subsection (c)(3)”.

Subsec. (e). Pub. L. 112-144, §1142(a)(3), amended subsec. (e) generally. Prior to amendment, subsec. (e) related to annual report.

Subsec. (f). Pub. L. 112-144, §1142(a)(4), substituted “shall—” for “shall review guidance of the Food and Drug Administration regarding conflict of interest waiver determinations with respect to advisory committees and update such guidance as necessary.” and added pars. (1) and (2).

Subsec. (g). Pub. L. 112-144, §1142(a)(5), added subsec. (g).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-144, title XI, §1142(b), July 9, 2012, 126 Stat. 1130, provided that: “The amendments made by subsection (a) [amending this section] apply beginning on October 1, 2012.”

EFFECTIVE DATE

Section effective Oct. 1, 2007, see section 701(c) of Pub. L. 110-85, set out as an Effective Date of 2007 Amendment note under section 355 of this title.

§ 379d-2. Policy on the review and clearance of scientific articles published by FDA employees

(a) Definition

In this section, the term “article” means a paper, poster, abstract, book, book chapter, or other published writing.

(b) Policies

The Secretary, through the Commissioner of Food and Drugs, shall establish and make publicly available clear written policies to implement this section and govern the timely submission, review, clearance, and disclaimer requirements for articles.

(c) Timing of submission for review

If an officer or employee, including a Staff Fellow and a contractor who performs staff work, of the Food and Drug Administration is directed by the policies established under subsection (b) to submit an article to the supervisor of such officer or employee, or to some other official of the Food and Drug Administration, for review and clearance before such officer or employee may seek to publish or present such an article at a conference, such officer or employee shall submit such article for such review and clearance not less than 30 days before submitting the article for publication or presentation.

(d) Timing for review and clearance

The supervisor or other reviewing official shall review such article and provide written clearance, or written clearance on the condition of specified changes being made, to such officer or employee not later than 30 days after such officer or employee submitted such article for review.

(e) Non-timely review

If, 31 days after such submission under subsection (c), the supervisor or other reviewing official has not cleared or has not reviewed such article and provided written clearance, such officer or employee may consider such article not to have been cleared and may submit the article for publication or presentation with an appropriate disclaimer as specified in the policies established under subsection (b).

(f) Effect

Nothing in this section shall be construed as affecting any restrictions on such publication or presentation provided by other provisions of law.

(June 25, 1938, ch. 675, §713, as added Pub. L. 110-85, title XI, §1101, Sept. 27, 2007, 121 Stat. 971.)

§ 379d-3. Streamlined hiring authority

(a) In general

In addition to any other personnel authorities under other provisions of law, the Secretary may, without regard to the provisions of title 5 governing appointments in the competitive service, appoint employees to positions in the Food and Drug Administration to perform, administer, or support activities described in subsection (b), if the Secretary determines that such appointments are needed to achieve the objectives specified in subsection (c).