

(2) are free from reprisal for—

(A) a disclosure of information by a member or applicant which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency (including the Inspector General of the Department of State and the Foreign Service) or another employee designated by the head of the agency to receive such disclosures, of information which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(3) are free to submit to officials of the Service and the Department any report, evaluation, or recommendation, including the right to submit such report, evaluation, or recommendation through a separate dissent channel, whether or not the views expressed therein are in accord with approved policy, unless the report, evaluation, or recommendation was submitted with the knowledge that it was false or with willful disregard for its truth or falsity; and

(4) are free from any personnel practice prohibited by section 2302 of title 5.

(c) Withholding or disclosure of information to Congress

This section shall not be construed as authorizing the withholding of information from the Congress or the taking of any action against a member of the Service who discloses information to the Congress.

(d) Minority recruitment program

(1) The Secretary shall establish a minority recruitment program for the Service consistent with section 7201 of title 5.

(2) Omitted.

(e) Applicability to other judicial or statutory rights or remedies

This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

(1) section 2000e-16 of title 42, prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

(2) sections 631 and 633a of title 29, prohibiting discrimination on the basis of age;

(3) section 206(d) of title 29, prohibiting discrimination on the basis of sex;

(4) sections 791 and 794a of title 29, prohibiting discrimination on the basis of disability; or

(5) any provision of law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

(Pub. L. 96-465, title I, § 105, Oct. 17, 1980, 94 Stat. 2077; Pub. L. 100-204, title I, § 185(a), Dec. 22, 1987, 101 Stat. 1365; Pub. L. 101-246, title I, § 153(d), Feb. 16, 1990, 104 Stat. 43; Pub. L. 117-263, div. I, title XCII, § 9219(2), Dec. 23, 2022, 136 Stat. 3879.)

Editorial Notes

CODIFICATION

Subsec. (d)(2) of this section, which required the Secretary to transmit at least once annually to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives the Department's reports on equal employment opportunity, affirmative action, and minority recruitment programs, which reports are required by law, regulation, or directive to be submitted to the Equal Employment Opportunity Commission (EEOC) or the Office of Personnel Management (OPM), terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 129 of House Document No. 103-7.

AMENDMENTS

2022—Subsecs. (b)(1), (e)(4). Pub. L. 117-263 substituted “disability” for “handicapping condition”.

1990—Subsec. (b)(1). Pub. L. 101-246 inserted “geographic or educational affiliation within the United States,” after “marital status.”

1987—Subsec. (d)(2). Pub. L. 100-204 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Not later than January 31 of each year, the Secretary shall transmit to each House of the Congress a report, signed by the Secretary, on the activities of the Secretary under paragraph (1). Such report shall include any affirmative action plans submitted by the Secretary under section 2000e-16 of title 42 and any data necessary to evaluate the effectiveness of the program under paragraph (1) for the preceding fiscal year, together with recommendations for administrative or legislative action the Secretary considers appropriate.”

SUBCHAPTER II—MANAGEMENT OF SERVICE

§ 3921. Administration by Secretary of State

(a) Under the direction of the President, the Secretary of State shall administer and direct the Service and shall coordinate its activities with the needs of the Department of State and other agencies.

(b) The Secretary of State alone among the heads of agencies utilizing the Foreign Service personnel system shall perform the functions expressly vested in the Secretary of State by this chapter.

(Pub. L. 96-465, title I, § 201, Oct. 17, 1980, 94 Stat. 2078.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071, known as the Foreign Service Act of

1980, which is classified principally to this chapter (§3901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

Statutory Notes and Related Subsidiaries

CURTAILMENTS, REMOVALS FROM POST, AND WAIVERS OF PRIVILEGES AND IMMUNITIES

Pub. L. 117–263, div. I, title XCII, §9209, Dec. 23, 2022, 136 Stat. 3873, provided that:

“(a) CURTAILMENTS REPORT.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], and every 180 days thereafter, the Secretary [of State] shall submit a report to the appropriate congressional committees [Committee on Foreign Relations of the Senate and Committee on Foreign Affairs of the House of Representatives] regarding curtailments of Department [of State] personnel from overseas posts.

“(2) CONTENTS.—The Secretary shall include in the report required under paragraph (1)—

“(A) relevant information about any post that, during the 6-month period preceding the report—

“(i) had more than 5 curtailments; or

“(ii) had curtailments representing more than 5 percent of Department personnel at such post; and

“(B) for each post referred to in subparagraph (A), the number of curtailments, disaggregated by month of occurrence.

“(C) ADDITIONAL CONTENTS FOR INITIAL REPORT.—The initial report submitted pursuant to paragraph (1) shall identify—

“(i) the number of curtailments at the Deputy Chief of Mission or Principal Officer level for each of the previous 5 years; and

“(ii) to the extent practicable—

“(I) the number of such curtailments that were voluntary and the number of such curtailments that were involuntary; and

“(II) the number of those curtailed who left the service within 1 year after such curtailment.

“(b) REMOVAL OF DIPLOMATS.—Not later than 20 days after the date on which any United States personnel under Chief of Mission authority is declared persona non grata by a host government, the Secretary shall—

“(1) notify the Committee on Foreign Relations of the Senate, the Select Committee on Intelligence of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Permanent Select Committee on Intelligence of the House of Representatives of such declaration; and

“(2) include with such notification—

“(A) the official reason for such declaration (if provided by the host government);

“(B) the date of the declaration; and

“(C) whether the Department responded by declaring a host government’s diplomat in the United States persona non grata.

“(c) WAIVER OF PRIVILEGES AND IMMUNITIES.—Not later than 15 days after any waiver of privileges and immunities pursuant to the Vienna Convention on Diplomatic Relations, done at Vienna April 18, 1961, that is applicable to an entire diplomatic post or to the majority of United States personnel under Chief of Mission authority, the Secretary shall notify the appropriate congressional committees of such waiver and the reason for such waiver.

“(d) TERMINATION.—This section shall terminate on the date that is 5 years after the date of the enactment of this Act.”

MANAGEMENT ASSESSMENTS AT DIPLOMATIC AND CONSULAR POSTS

Pub. L. 117–263, div. I, title XCII, §9212, Dec. 23, 2022, 136 Stat. 3874, provided that:

“(a) IN GENERAL.—Beginning not later than 1 year after the date of the enactment of this Act [Dec. 23, 2022], the Secretary [of State] shall annually conduct, at each diplomatic and consular post, a voluntary survey, which shall be offered to all staff assigned to that post who are citizens of the United States (excluding the Chief of Mission) to assess the management and leadership of that post by the Chief of Mission, the Deputy Chief of Mission, and the Charge d’Affaires.

“(b) ANONYMITY.—All responses to the survey shall be—

“(1) fully anonymized; and

“(2) made available to the Director General of the Foreign Service.

“(c) SURVEY.—The survey shall seek to assess—

“(1) the general morale at post;

“(2) the presence of any hostile work environment;

“(3) the presence of any harassment, discrimination, retaliation, or other mistreatment; and

“(4) effective leadership and collegial work environment.

“(d) DIRECTOR GENERAL RECOMMENDATIONS.—Upon compilation and review of the surveys, the Director General of the Foreign Service shall issue recommendations to posts, as appropriate, based on the findings of the surveys.

“(e) REFERRAL.—If the surveys reveal any action that is grounds for referral to the Inspector General of the Department of State and the Foreign Service, the Director General of the Foreign Service may refer the matter to the Inspector General of the Department of State and the Foreign Service, who shall, as the Inspector General considers appropriate, conduct an inspection of the post in accordance with section 209(b) of the Foreign Service Act of 1980 (22 U.S.C. 3929(b)).

“(f) ANNUAL REPORT.—The Director General of the Foreign Service shall submit an annual report to the appropriate congressional committees [Committee on Foreign Relations of the Senate and Committee on Foreign Affairs of the House of Representatives] that includes—

“(1) any trends or summaries from the surveys;

“(2) the posts where corrective action was recommended or taken in response to any issues identified by the surveys; and

“(3) the number of referrals to the Inspector General of the Department of State and the Foreign Service, as applicable.

“(g) INITIAL BASIS.—The surveys and reports required under this section shall be carried out on an initial basis for the 5-year period beginning on the date of the enactment of this Act.”

THIRD PARTY VERIFICATION OF PERMANENT CHANGE OF STATION (PCS) ORDERS

Pub. L. 117–263, div. I, title XCII, §9214, Dec. 23, 2022, 136 Stat. 3875, provided that: “Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Secretary [of State] shall establish a mechanism for third parties to verify the employment of, and the validity of permanent change of station (PCS) orders received by, members of the Foreign Service, in a manner that protects the safety, security, and privacy of sensitive employee information.”

§3922. Utilization of Foreign Service personnel system by other agencies

(a)(1) The Broadcasting Board of Governors and the Administrator of the Agency for International Development may utilize the Foreign Service personnel system with respect to their respective agencies in accordance with this chapter.

(2) The Secretary of Agriculture may utilize the Foreign Service personnel system in accordance with this chapter—

(A) with respect to personnel of the Foreign Agricultural Service, and