

1055; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967, which related to administration of foreign service personnel systems, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§ 3931. Board of Examiners

(a) Establishment; membership; chairman

The President shall establish a Board of Examiners for the Foreign Service to develop, and supervise the administration of, examinations prescribed under section 3941(b) of this title to be given to candidates for appointment in the Service. The Board shall consist of 15 members appointed by the President (no fewer than 5 of whom shall be appointed from among individuals who are not Government employees and who shall be qualified for service on the Board by virtue of their knowledge, experience, or training in the fields of testing or equal employment opportunity). The Board shall include representatives of agencies utilizing the Foreign Service personnel system and representatives of other agencies which have responsibility for employment testing. The Board shall be chaired by a member of the Board, designated by the President, who is a member of the Service.

(b) Review of examinations; report to Secretary of State

The Board of Examiners shall periodically review the examinations prescribed under section 3941(b) of this title in order to determine—

- (1) whether any such examination has an adverse impact on the hiring, promotion, or other employment opportunity of members of any race, sex, or ethnic group;
- (2) methods of minimizing any such adverse impact;
- (3) alternatives to any examinations which have such an adverse impact; and
- (4) whether such examinations are valid in relation to job performance.

The Board of Examiners shall annually report its findings under this subsection to the Secretary of State and shall furnish to the Secretary of State its recommendations for improvements in the development, use, and administration of the examinations prescribed under section 3941(b) of this title.

(c) Vacancies

Any vacancy or vacancies on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

(Pub. L. 96-465, title I, §211, Oct. 17, 1980, 94 Stat. 2083.)

Executive Documents

ESTABLISHMENT OF BOARD OF EXAMINERS

For establishment of the Board of Examiners for the Foreign Service and appointment of its members, see section 6 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13970, set out as note under section 3901 of this title.

SUBCHAPTER III—APPOINTMENTS

§ 3941. General provisions

(a) Citizenship requirement

Only citizens of the United States may be appointed to the Service, other than for service

abroad as a consular agent or as a foreign national employee.

(b) Examinations

(1) The Secretary shall prescribe, as appropriate, written, oral, physical, foreign language, and other examinations for appointment to the Service (other than as a chief of mission or ambassador at large).

(2) The Secretary shall ensure that the Board of Examiners for the Foreign Service annually offers the oral assessment examinations described in paragraph (1) in cities, chosen on a rotating basis, located in at least three different time zones across the United States.

(c) Veteran or disabled veteran

The fact that an applicant for appointment as a Foreign Service officer candidate is a veteran or disabled veteran shall be considered an affirmative factor in making such appointments. As used in this subsection, the term "veteran or disabled veteran" means an individual who is a preference eligible under subparagraph (A), (B), or (C) of section 2108(3) of title 5.

(d) Career and noncareer appointments

(1) Members of the Service serving under career appointments are career members of the Service. Members of the Service serving under limited appointments are either career candidates or noncareer members of the Service.

(2) Chiefs of mission, ambassadors at large, and ministers serve at the pleasure of the President.

(3) An appointment as a Foreign Service officer is a career appointment. Foreign Service employees serving as career candidates or career members of the Service shall not represent to the income tax authorities of the District of Columbia or any other State or locality that they are exempt from income taxation on the basis of holding a Presidential appointment subject to Senate confirmation or that they are exempt on the basis of serving in an appointment whose tenure is at the pleasure of the President.

(Pub. L. 96-465, title I, §301, Oct. 17, 1980, 94 Stat. 2083; Pub. L. 100-204, title I, §179(a), Dec. 22, 1987, 101 Stat. 1362; Pub. L. 117-81, div. E, title LIV, §5406(b), Dec. 27, 2021, 135 Stat. 2374.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b). Pub. L. 117-81 designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (d)(3). Pub. L. 100-204 inserted sentence at end relating to exemption from income taxation.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-204, title I, §179(b), Dec. 22, 1987, 101 Stat. 1363, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to tax years beginning after December 31, 1987."

STUDY OF FOREIGN SERVICE EXAMINATION

Pub. L. 101-246, title I, §153(g), Feb. 16, 1990, 104 Stat. 44, required the Secretary of State to enter into a contract with a private organization for a comprehensive review and evaluation of the Foreign Service examination related to cultural, racial, ethnic, and sexual bias

issues, and no later than 18 months after Feb. 16, 1990, submit a report to Congress containing the findings of the review and evaluation, together with the comments of the Secretary and measures which the Secretary has initiated to respond to any adverse findings of such review.

§ 3942. Appointments by the President

(a)(1) The President may, by and with the advice and consent of the Senate, appoint an individual as a chief of mission, as an ambassador at large, as an ambassador, as a minister, as a career member of the Senior Foreign Service, or as a Foreign Service officer.

(2)(A) The President may, by and with the advice and consent of the Senate, confer the personal rank of career ambassador upon a career member of the Senior Foreign Service in recognition of especially distinguished service over a sustained period.

(B)(i) Subject to the requirement of clause (ii), the President may confer the personal rank of ambassador or minister on an individual in connection with a special mission for the President of a temporary nature not exceeding six months in duration.

(ii) The President may confer such personal rank only if, prior to such conferral, he transmits to the Committee on Foreign Relations of the Senate a written report setting forth—

- (I) the necessity for conferring such rank,
- (II) the dates during which such rank will be held,

(III) the justification for not submitting the proposed conferral of personal rank to the Senate as a nomination for advice and consent to appointment, and

(IV) all relevant information concerning any potential conflict of interest which the proposed recipient of such personal rank may have with regard to the special mission.

Such report shall be transmitted not less than 30 days prior to conferral of the personal rank of ambassador or minister except in cases where the President certifies in his report that urgent circumstances require the immediate conferral of such rank.

(C) An individual upon whom a personal rank is conferred under subparagraph (A) or (B) shall not receive any additional compensation solely by virtue of such personal rank.

(3) Except as provided in paragraph (2)(B) of this subsection or in clause 3, section 2, article II of the Constitution (relating to recess appointments), an individual may not be designated as ambassador or minister, or be designated to serve in any position with the title of ambassador or minister, without the advice and consent of the Senate.

(b) If a member of the Service is appointed to any position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, the period of service in that position by the member shall be regarded as an assignment under subchapter V and the member shall not, by virtue of the acceptance of such assignment, lose his or her status as a member of the Service. A member of the Senior Foreign Service who accepts such an assignment may elect to continue to receive the salary of his or her salary class, to remain eligi-

ble for performance pay under subchapter IV, and to receive the leave to which such member is entitled under subchapter I of chapter 63, title 5, as a member of the Senior Foreign Service, in lieu of receiving the salary and leave (if any) of the position to which the member is appointed by the President.

(Pub. L. 96-465, title I, §302, Oct. 17, 1980, 94 Stat. 2084; Pub. L. 100-204, title I, §177(b), Dec. 22, 1987, 101 Stat. 1362; Pub. L. 102-138, title I, §§141, 142(a), Oct. 28, 1991, 105 Stat. 667.)

Editorial Notes

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102-138, §141, inserted “as an ambassador,” after “ambassador at large.”

Subsec. (b). Pub. L. 102-138, §142(a), substituted “may elect to continue to receive the salary of his or her salary class, to remain eligible for performance pay under subchapter IV, and to receive the leave to which such member is entitled under subchapter I of chapter 63, title 5, as a member of the Senior Foreign Service, in lieu of receiving the salary and leave (if any) of the position to which the member is appointed by the President” for “shall receive the salary and leave (if any) of the position to which the member is appointed by the President and shall not be eligible for performance pay under subchapter IV of this chapter”.

1987—Subsec. (b). Pub. L. 100-204 substituted “shall receive the salary and leave (if any) of the position to which the member is appointed by the President and shall not be eligible for performance pay under subchapter IV of this chapter.” for “may elect to continue to receive the salary of his or her salary class, to remain eligible for performance pay under subchapter IV of this chapter, and to receive the leave to which such member is entitled under subchapter I of chapter 63 of title 5 as a member of the Senior Foreign Service, in lieu of receiving the salary and leave (if any) of the position to which the member is appointed by the President.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-204, title I, §177(c), Dec. 22, 1987, 101 Stat. 1362, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 3961 of this title] shall not apply to the salary of any individual serving under a Presidential appointment under section 302 of the Foreign Service Act of 1980 [this section] immediately before the date of the enactment of this Act [Dec. 22, 1987] during the period such individual continues to serve in such position.”

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under subsec. (a)(1) delegated to Secretary of State, see section 1 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13969, set out as a note under section 3901 of this title.

EXECUTIVE ORDER NO. 10062

Ex. Ord. No. 10062, June 6, 1949, 14 F.R. 2695, as amended by act Aug. 10, 1949, ch. 412, §12(a), 63 Stat. 591; Ex. Ord. No. 10144, July 21, 1950, 15 F.R. 4705, eff. June 6, 1949, which established the position of United States High Commissioner for Germany, was revoked by Ex. Ord. No. 10608, May 5, 1955, 20 F.R. 3093, set out below.

EX. ORD. NO. 10608. UNITED STATES AUTHORITY AND FUNCTIONS IN GERMANY

Ex. Ord. No. 10608, May 5, 1955, 20 F.R. 3093, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided: