

§ 4053. Reassignment and retirement of former Presidential appointees

(a) Reassignment or retirement of participants not eligible for retirement

A participant, who completes an assignment under section 3942(b) of this title in a position to which the participant was appointed by the President, and is not otherwise eligible for retirement—

(1) shall be reassigned within 90 days after the termination of such assignment and any period of authorized leave, or

(2) if the Secretary of State determines that reassignment is not in the interest of the Foreign Service, shall be retired from the Service and receive retirement benefits in accordance with section 4046 or 4071d of this title, as appropriate.

(b) Retirement of participants eligible for retirement

A participant who completes an assignment under section 3942(b) of this title in a position to which the participant was appointed by the President and is eligible for retirement and is not reassigned within 90 days after the termination of such assignment and any period of authorized leave, shall be retired from the Service and receive retirement benefits in accordance with section 4046 of this title or section 4071d of this title, as appropriate.

(c) Retirement of reemployed participants

A participant who is retired under subsection (a)(2) and is subsequently employed by the United States Government, thereafter, shall be eligible to retire only under the terms of the applicable retirement system.

(Pub. L. 96-465, title I, § 813, Oct. 17, 1980, 94 Stat. 2113; Pub. L. 102-138, title I, § 149, Oct. 28, 1991, 105 Stat. 670; Pub. L. 103-236, title I, § 174, Apr. 30, 1994, 108 Stat. 413.)

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-236 added subsecs. (a) to (c) and struck out former subsecs. (a) to (c) which read as follows:

“(a) Except as provided under subsection (b) of this section, a participant, who completes an assignment under section 3942(b) of this title in a position to which he or she was appointed by the President, shall be offered reassignment within 90 days after the termination of such assignment and any period of authorized leave.

“(b) Subsection (a) of this section shall not apply with respect to a participant, if the Secretary of State determines that reassignment of the participant is not in the interest of the United States and the Foreign Service.

“(c) A participant who is not reassigned under subsection (a) of this section shall be retired from the Service and receive retirement benefits in accordance with section 4046 or 4071d of this title, as appropriate.”

1991—Pub. L. 102-138 inserted “Reassignment and” in section catchline and amended text generally. Prior to amendment, text read as follows: “If a participant completes an assignment under section 3942(b) of this title in a position to which he or she was appointed by the President and has not been reassigned within 3 months after the termination of such assignment (plus any period of authorized leave), the participant shall be re-

tired from the Service and receive retirement benefits in accordance with section 4046 of this title.”

§ 4054. Former spouses

(a) Living Service members

(1) Unless otherwise expressly provided by any spousal agreement or court order under section 4060(b)(1) of this title, a former spouse of a participant or former participant is entitled to an annuity if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this subchapter with at least 5 of such years occurring while the participant was a member of the Foreign Service and—

(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such annuity.

For the purposes of this paragraph, the term “creditable service” means service which is creditable under part I or II.

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

(3) The annuity of a former spouse under this subsection commences on the later of the day the participant upon whose service the annuity is based becomes entitled to an annuity under this part or the first day of the month in which the divorce or annulment involved becomes final. The annuity of such former spouse and the right thereto terminate on—

(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph (5)(B)).

(4) No spousal agreement or court order under section 4060(b)(1) of this title involving any participant may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the participant, nor may any such court order relating to an annuity under this subsection be given effect if it is issued more than 24 months after the date the divorce or annulment involved becomes final.

(5)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse, or other survivor under this part, and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or section 4046(b)(3) of this title.

(B) If any annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 3948 of this title, or reinstated or reappointed in the Service in the case of a recovered disability annuitant or if any annuitant is reemployed as provided for under section 4064 of