

Statutory Notes and Related Subsidiaries

HEARING EXAMINERS APPOINTED FOR INDIAN PROBATE WORK

Hearing examiners appointed for Indian probate work pursuant to former section 372-1 of Title 25, Indians, having met qualifications required for appointment pursuant to this section, deemed to have been appointed pursuant to this section, see section 12(b) of Pub. L. 101-301, set out as a Savings Provision note under former section 372-1 of Title 25.

REFERENCES TO HEARING EXAMINER DEEMED REFERENCES TO ADMINISTRATIVE LAW JUDGE

Pub. L. 95-251, § 3, Mar. 27, 1978, 92 Stat. 184, provided that: "Any reference in any law, regulation, or order to a hearing examiner appointed under section 3105 of title 5, United States Code, shall be deemed to be a reference to an administrative law judge."

Executive Documents

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF AGRICULTURE

Functions vested by section 551 et seq. of this title in hearing examiners employed by Department of Agriculture not included in functions of officers, agencies, and employees of that Department transferred to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF COMMERCE

Functions vested by section 551 et seq. of this title in hearing examiners employed by Department of Commerce not included in functions of officers, agencies, and employees of that Department transferred to Secretary of Commerce by 1950 Reorg. Plan No. 5, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF THE INTERIOR

Functions vested by section 551 et seq. of this title in hearing examiners employed by Department of the Interior not included in functions of officers, agencies, and employees of that Department transferred to Secretary of the Interior by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, transferred set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF JUSTICE

Functions vested by section 551 et seq. of this title in hearing examiners employed by Department of Justice not included in functions of officers, agencies, and employees of that Department transferred to Attorney General by 1950 Reorg. Plan No. 2, § 1, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF LABOR

Functions vested by section 551 et seq. of this title in hearing examiners employed by Department of Labor not included in functions of officers, agencies, and employees of Department transferred to Secretary of Labor by 1950 Reorg. Plan No. 6, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF THE TREASURY

Functions vested by section 551 et seq. of this title in hearing examiners employed by Department of the Treasury not included in functions of officers, agencies, and employees of Department transferred to Secretary

of the Treasury by 1950 Reorg. Plan No. 26, § 1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to this title.

§ 3106. Employment of attorneys; restrictions

Except as otherwise authorized by law, the head of an Executive department or military department may not employ an attorney or counsel for the conduct of litigation in which the United States, an agency, or employee thereof is a party, or is interested, or for the securing of evidence therefor, but shall refer the matter to the Department of Justice. This section does not apply to the employment and payment of counsel under section 1037 of title 10.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 415.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 49.	R.S. § 189. Sept. 2, 1958, Pub. L. 85-861, § 7(a), 72 Stat. 1555.
.....	5 U.S.C. 314.	R.S. § 365. Sept. 2, 1958, Pub. L. 85-861, § 7(b), 72 Stat. 1555.

Sections 189 and 365 of the Revised Statutes, as amended, are combined and the section is revised to express the effect of the law since department heads have long employed, with the approval of Congress, attorneys to advise them in the conduct of their official duties. The law which concentrates the authority for the conduct of litigation in the Department of Justice is codified in section 516 of title 28 by this bill.

The words "Executive department" are substituted for "department" as the definition of "department" applicable to R.S. § 189 is coextensive with the definition of "Executive department" in section 101. The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

R.S. § 189 was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 1, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

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

§ 3107. Employment of publicity experts; restrictions

Appropriated funds may not be used to pay a publicity expert unless specifically appropriated for that purpose.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 416.)