

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

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–232 substituted “sections 3308 through 3319” for “sections 3308–3318”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective on the date on which the Director of the Office of Personnel Management issues final regulations for implementation, with such regulations due not later than one year after Aug. 13, 2018, see section 1107(d) of Pub. L. 115–232, set out as an Effective Date of Repeal note under section 3317 of this title.

ASSISTANCE OF UNITED STATES CIVIL SERVICE COMMISSION IN DEVELOPING MERIT SYSTEM FOR DISTRICT OF COLUMBIA

Pub. L. 93–198, title VII, §734, Dec. 24, 1973, 87 Stat. 823, authorized the United States Civil Service Commission to advise and assist the District of Columbia Mayor and Council in the further development of the merit system or systems required by the District of Columbia charter, which was approved on May 7, 1974, and authorized the Commission to enter into agreements with the District government to make available its registers of eligibles as a recruiting source to fill District positions as needed, with the costs of any specific services furnished by the Civil Service Commission to be compensated for under the provisions of section 685a of former Title 31, Money and Finance [31 U.S.C. 1537].

§ 3321. Competitive service; probationary period

(a) The President may take such action, including the issuance of rules, regulations, and directives, as shall provide as nearly as conditions of good administration warrant for a period of probation—

- (1) before an appointment in the competitive service becomes final; and
- (2) before initial appointment as a supervisor or manager becomes final.

(b) An individual—

(1) who has been transferred, assigned, or promoted from a position to a supervisory or managerial position, and

(2) who does not satisfactorily complete the probationary period under subsection (a)(2) of this section,

shall be returned to a position of no lower grade and pay than the position from which the individual was transferred, assigned, or promoted. Nothing in this section prohibits an agency from taking an action against an individual serving a probationary period under subsection (a)(2) of this section for cause unrelated to supervisory or managerial performance.

(c) Subsections (a) and (b) of this section shall not apply with respect to appointments in the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 422; Pub. L. 95–454, title III, §303(a), Oct. 13, 1978, 92 Stat. 1146; Pub. L. 100–325, §2(d), May 30, 1988, 102 Stat. 581; Pub. L. 114–92, div. A, title XI, §1105(c)(1),

Nov. 25, 2015, 129 Stat. 1024; Pub. L. 117–81, div. A, title XI, §1106(b)(2)(A), Dec. 27, 2021, 135 Stat. 1950.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 633(2)(4).	Jan. 16, 1883, ch. 27, §2(2)(4), 22 Stat. 404.

The authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302. Wording is changed because in practice an appointment is not made after probation. The words “or employment” are omitted as included within “appointment”.

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Editorial Notes

AMENDMENTS

2021—Subsec. (c). Pub. L. 117–81 struck out “, or any individual covered by section 1599e of title 10” before period at end.

2015—Subsec. (c). Pub. L. 114–92 inserted “, or any individual covered by section 1599e of title 10” before period at end.

1988—Subsec. (c). Pub. L. 100–325 inserted reference to Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

1978—Pub. L. 95–454 substituted “probationary period” for “probation; period of” in section catchline, designated existing provisions as subsec. (a), substituted provisions authorizing the President to take necessary action, for provisions authorizing the President to prescribe rules, and added subsecs. (b) and (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applied as if effective Dec. 31, 2022, to correspond to the effective date of the repeal of section 1599e of Title 10, Armed Forces, to reflect the probable intent of Congress. See Effective Date of Repeal note under section 1599e of Title 10.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

§ 3322. Voluntary separation before resolution of personnel investigation

(a) With respect to any employee occupying a position in the competitive service or the excepted service who is the subject of a personnel investigation and resigns from Government employment prior to the resolution of such investigation, the head of the agency from which such employee so resigns shall, if an adverse finding was made with respect to such employee pursuant to such investigation, make a permanent notation in the employee’s official personnel record file. The head shall make such notation not later than 40 days after the date of the resolution of such investigation.

(b) Prior to making a permanent notation in an employee’s official personnel record file under subsection (a), the head of the agency shall—

- (1) notify the employee in writing within 5 days of the resolution of the investigation and