

comply with any order of the Secretary made pursuant to a lawful investigation under this subsection and the district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

(c)(1)(A) If the Secretary of Labor determines as a result of an investigation under subsection (b) that the action alleged in a complaint under subsection (a) occurred, the Secretary shall attempt to resolve the complaint by making reasonable efforts to ensure that the agency specified in the complaint complies with applicable provisions of statute or regulation relating to veterans' preference.

(B) The Secretary of Labor shall make determinations referred to in subparagraph (A) based on a preponderance of the evidence.

(2) If the efforts of the Secretary under subsection (b) with respect to a complaint under subsection (a) do not result in the resolution of the complaint, the Secretary shall notify the person who submitted the complaint, in writing, of the results of the Secretary's investigation under subsection (b).

(d)(1) If the Secretary of Labor is unable to resolve a complaint under subsection (a) within 60 days after the date on which it is filed, the complainant may elect to appeal the alleged violation to the Merit Systems Protection Board in accordance with such procedures as the Merit Systems Protection Board shall prescribe, except that in no event may any such appeal be brought—

(A) before the 61st day after the date on which the complaint is filed; or

(B) later than 15 days after the date on which the complainant receives written notification from the Secretary under subsection (c)(2).

(2) An appeal under this subsection may not be brought unless—

(A) the complainant first provides written notification to the Secretary of such complainant's intention to bring such appeal; and

(B) appropriate evidence of compliance with subparagraph (A) is included (in such form and manner as the Merit Systems Protection Board may prescribe) with the notice of appeal under this subsection.

(3) Upon receiving notification under paragraph (2)(A), the Secretary shall not continue to investigate or further attempt to resolve the complaint to which the notification relates.

(e)(1) This section shall not be construed to prohibit a preference eligible from appealing directly to the Merit Systems Protection Board from any action which is appealable to the Board under any other law, rule, or regulation, in lieu of administrative redress under this section.

(2) A preference eligible may not pursue redress for an alleged violation described in subsection (a) under this section at the same time the preference eligible pursues redress for such violation under any other law, rule, or regulation.

(Added Pub. L. 105-339, §3(a), Oct. 31, 1998, 112 Stat. 3182; amended Pub. L. 108-454, title VIII, §804(a), Dec. 10, 2004, 118 Stat. 3626; Pub. L.

118-188, §2(a)(2)(A)(i)(II), Dec. 23, 2024, 138 Stat. 2645.)

#### Editorial Notes

##### AMENDMENTS

2024—Subsec. (a)(1)(B). Pub. L. 118-188 substituted “3304(l)(1)” for “3304(f)(1)”.

2004—Subsec. (a)(1). Pub. L. 108-454 designated existing provisions as subpar. (A) and added subpar. (B).

#### § 3330b. Preference eligibles; judicial redress

(a) In lieu of continuing the administrative redress procedure provided under section 3330a(d), a preference eligible, or a veteran described by section 3330a(a)(1)(B) with respect to a violation described by such section, may elect, in accordance with this section, to terminate those administrative proceedings and file an action with the appropriate United States district court not later than 60 days after the date of the election.

(b) An election under this section may not be made—

(1) before the 121st day after the date on which the appeal is filed with the Merit Systems Protection Board under section 3330a(d); or

(2) after the Merit Systems Protection Board has issued a judicially reviewable decision on the merits of the appeal.

(c) An election under this section shall be made, in writing, in such form and manner as the Merit Systems Protection Board shall by regulation prescribe. The election shall be effective as of the date on which it is received, and the administrative proceeding to which it relates shall terminate immediately upon the receipt of such election.

(Added Pub. L. 105-339, §3(a), Oct. 31, 1998, 112 Stat. 3182; amended Pub. L. 108-454, title VIII, §804(b), Dec. 10, 2004, 118 Stat. 3626.)

#### Editorial Notes

##### AMENDMENTS

2004—Subsec. (a). Pub. L. 108-454, which directed insertion of “, or a veteran described by section 3330a(a)(1)(B) with respect to a violation described by such section,” after “a preference eligible” in subsec. (a) of section 3330b, without specifying the Code title to be amended, was executed by making the insertion in subsec. (a) of this section, to reflect the probable intent of Congress.

#### § 3330c. Preference eligibles; remedy

(a) If the Merit Systems Protection Board (in a proceeding under section 3330a) or a court (in a proceeding under section 3330b) determines that an agency has violated a right described in section 3330a, the Board or court (as the case may be) shall order the agency to comply with such provisions and award compensation for any loss of wages or benefits suffered by the individual by reason of the violation involved. If the Board or court determines that such violation was willful, it shall award an amount equal to backpay as liquidated damages.

(b) A preference eligible who prevails in an action under section 3330a or 3330b shall be awarded reasonable attorney fees, expert witness fees, and other litigation expenses.

(Added Pub. L. 105-339, § 3(a), Oct. 31, 1998, 112 Stat. 3184.)

**§ 3330d. Appointment of military and Department of Defense, Department of State, and intelligence community spouses**

(a) DEFINITIONS.—In this section:

(1) The term “active duty”—

(A) has the meaning given that term in section 101(d)(1) of title 10;

(B) includes full-time National Guard duty (as defined in section 101(d)(5) of title 10); and

(C) for a member of a reserve component (as described in section 10101 of title 10), does not include training duties or attendance at a service school.

(2) The term “agency”—

(A) has the meaning given the term “Executive agency” in section 105 of this title; and

(B) does not include the Government Accountability Office.

(3) The term “covered spouse” means an individual who is married to an individual who—

(A)(i) is an employee of the Department of State or an element of the intelligence community; or

(ii) is a member of the Armed Forces who is assigned to an element of the intelligence community; and

(B) is transferred in the interest of the Government from one official station within the applicable agency to another within the agency (that is outside of normal commuting distance) for permanent duty.

(4) The term “intelligence community” has the meaning given the term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

(5) The term “remote work” refers to a work flexibility arrangement under which an employee—

(A) is not expected to physically report to the location from which the employee would otherwise work, considering the position of the employee; and

(B) performs the duties and responsibilities of such employee’s position, and other authorized activities, from an approved worksite—

(i) other than the location from which the employee would otherwise work;

(ii) that may be inside or outside the local commuting area of the location from which the employee would otherwise work; and

(iii) that is typically the residence of the employee.

(6) The term “spouse of a disabled or deceased member of the Armed Forces” means an individual—

(A) who is married to a member of the Armed Forces who—

(i) is retired, released, or discharged from the Armed Forces; and

(ii) on the date on which the member retires, is released, or is discharged, has a disability rating of 100 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs; or

(B) who—

(i) was married to a member of the Armed Forces on the date on which the member dies while on active duty in the Armed Forces; and

(ii) has not remarried.

(7) The term “spouse of an employee of the Department of Defense” means an individual who is married to an employee of the Department of Defense who is transferred in the interest of the Government from one official station within the Department to another within the Department (that is outside of normal commuting distance) for permanent duty.

(8) The term “telework” has the meaning given the term in section 6501.

(b) APPOINTMENT AUTHORITY.—The head of an agency may appoint noncompetitively—

(1) a spouse of a member of the Armed Forces on active duty;

(2) a spouse of a disabled or deceased member of the Armed Forces;

(3) a spouse of a member of the Armed Forces on active duty, or a spouse of a disabled or deceased member of the Armed Forces, to a position in which the spouse will engage in remote work;

(4) a spouse of an employee of the Department of Defense, including to a position in which the spouse will engage in remote work; or

(5) a covered spouse to a position in which the covered spouse will engage in remote work.

(c) SPECIAL RULES REGARDING SPOUSE OF A DISABLED OR DECEASED MEMBER OF THE ARMED FORCES.—

(1) IN GENERAL.—An appointment of an eligible spouse as described in subparagraph (A) or (B) of subsection (a)(4) is not restricted to a geographical area.

(2) SINGLE PERMANENT APPOINTMENT.—A spouse of a disabled or deceased member of the Armed Forces may not receive more than 1 permanent appointment under this section.

(Added Pub. L. 112-239, div. A, title V, § 566(a), Jan. 2, 2013, 126 Stat. 1749; amended Pub. L. 114-328, div. A, title XI, § 1131, Dec. 23, 2016, 130 Stat. 2457; Pub. L. 115-232, div. A, title V, § 573(a), (c), Aug. 13, 2018, 132 Stat. 1779; Pub. L. 118-31, div. A, title XI, §§ 1112(a), 1119(a), Dec. 22, 2023, 137 Stat. 429, 434; Pub. L. 118-159, div. A, title XI, § 1102(c)(1), div. F, title LXVI, § 6612(a), (e)(1), Dec. 23, 2024, 138 Stat. 2086, 2504, 2505.)

**AMENDMENT OF SECTION**

*For revival of section by Pub. L. 118-159, see Effective and Termination Dates of 2024 Amendment note below.*

*For expiration of amendments and revival of section by Pub. L. 118-31, see Termination Date of 2023 Amendment note below.*

**Editorial Notes**

**AMENDMENTS**

2024—Pub. L. 118-159, § 6612(a)(1), (e)(1), temporarily substituted “military and Department of Defense, Department of State, and intelligence community spouses” for “Appointment of military and