

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

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

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

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

(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)(3) 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.)

AMENDMENT OF SECTION

For expiration of amendment by Pub. L. 115-232 and revival of section, see Termination Date of 2018 Amendment note below.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-232, §573(c), (e), temporarily amended section catchline generally, substituting “Appointment of military spouses” for “Appointment of certain military spouses”. See Termination Date of 2018 Amendment note below.

Subsec. (a)(3) to (6). Pub. L. 115-232, §573(a)(1), (e), temporarily redesignated par. (6) as (3) and temporarily struck out former pars. (3) to (5) which defined geographic area of the permanent duty station, permanent change of station, and relocating spouse of a member of the Armed Forces, respectively. See Termination Date of 2018 Amendment note below.

Subsecs. (b) to (d). Pub. L. 115-232, §573(a)(2)–(4), (e), temporarily added subsec. (b) relating to appointment authority, temporarily redesignated subsec. (d) as (c) and substituted “subsection (a)(3)” for “subsection (a)(6)” in par. (1), and temporarily struck out former subsecs. (b) and (c) relating to appointment authority and special rules regarding relocating spouse, respectively. See Termination Date of 2018 Amendment note below.

2016—Subsec. (c)(3). Pub. L. 114-328 added par. (3).

Statutory Notes and Related Subsidiaries

TERMINATION DATE OF 2018 AMENDMENT

Pub. L. 115-232, div. A, title V, §573(e), Aug. 13, 2018, 132 Stat. 1779, as amended by Pub. L. 117-263, div. A, title XI, §1111(a), Dec. 23, 2022, 136 Stat. 2820, provided that: “Effective on December 31, 2028—

“(1) the authority provided by this section [amending this section and enacting provisions set out as a note below], and the amendments made by this section [amending this section], shall expire; and

“(2) the provisions of section 3330d of title 5, United States Code, amended or repealed by such section are restored or revived as if such section had not been enacted.”

REGULATIONS

Pub. L. 112-239, div. A, title V, §566(b), Jan. 2, 2013, 126 Stat. 1751, provided that: “Not later than 180 after the

date of the enactment of this Act [Jan. 2, 2013], the Director of the Office of Personnel Management shall amend section 315.612 of title 5, Code of Federal Regulations (relating to noncompetitive appointment of certain military spouses), in accordance with the amendment made by subsection (a) [enacting this section] and promulgate or amend any other regulations necessary to carry out the amendment made by subsection (a).''

OPM LIMITATION AND REPORTS

Pub. L. 115-232, div. A, title V, § 573(d), Aug. 13, 2018, 132 Stat. 1779, which related to limitations on the non-competitive appointment of relocating spouses and required reports, was repealed by Pub. L. 117-263, div. A, title XI, § 1111(b), Dec. 23, 2022, 136 Stat. 2820.

Executive Documents

EX. ORD. NO. 13832. ENHANCING NONCOMPETITIVE CIVIL SERVICE APPOINTMENTS OF MILITARY SPOUSES

Ex. Ord. No. 13832, May 9, 2018, 83 F.R. 22343, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1784 of title 10, United States Code, and sections 3301 and 3302 of title 5, United States Code, it is hereby ordered as follows:

SECTION 1. *Definitions.* (a) "Military spouse" means:

(i) the husband or wife of a member of the Armed Forces who, as determined by the Secretary of Defense, is performing active duty pursuant to orders that authorize a permanent change of station move, if such husband or wife relocates to the member's new permanent duty station;

(ii) the husband or wife of a totally disabled retired or separated member of the Armed Forces; or

(iii) the unmarried widow or widower of a member of the Armed Forces killed while performing active duty.

(b) "Member of the Armed Forces" has the meaning set forth in 5 CFR 315.612(b)(4).

(c) "Agency" has the meaning set forth in section 3330d of title 5, United States Code.

(d) "Military spouse hiring authority" shall refer to the appointment authority set forth in 5 U.S.C. 3330d and 5 CFR 315.612.

SEC. 2. *Policy.* (a) Military spouses make critical contributions to the personal and financial success of our military families. Military service of spouses, however, often impairs the spouse's ability to obtain and maintain employment, and to achieve career goals. Multiple and frequent relocations make it challenging for military spouses to maintain the home front, to comply with licensure and other job requirements, and to obtain adequate childcare.

(b) It shall be the policy of the United States to enhance employment support for military spouses. This policy will assist agencies in tapping into a pool of talented individuals and will promote the national interest of the United States and the well-being of our military families. It will also help retain members of the Armed Forces, enhance military readiness, recognize the tremendous sacrifices and service of the members of our Armed Forces and their families, and decrease the burden of regulations that can inhibit the entry of military spouses into the workforce.

SEC. 3. *Promoting Hiring for Military Spouses.* (a) To the greatest extent possible consistent with hiring needs, agencies shall, when filling vacant positions in the competitive service, indicate in job opportunity announcements (JOAs) that they will consider candidates under the military spouse hiring authority in addition to candidates identified on the competitive or merit promotion certificate for the position as well as those candidates identified through any other hiring authority a JOA indicates an agency will consider.

(b) Agencies shall actively advertise and promote the military spouse hiring authority and actively solicit applications from military spouses for posted and other agency positions (including through USAJOBS).

(c) The Office of Personnel Management (OPM) shall consider whether changes to 5 CFR 315.612 are appropriate to account for cases in which there are no agency job openings within the geographic area of the permanent duty station of the member of the Armed Forces for which the member's spouse is qualified.

(d) OPM shall also periodically circulate notifications concerning the military spouse hiring authority and its eligibility requirements to each agency's Chief Human Capital Officer or the agency's equivalent officer, for such officer to transmit to appropriate offices and to notify eligible populations. Within 180 days of the date of this order [May 9, 2018], OPM shall post to its website, and circulate to each agency's Chief Human Capital Officer or the agency's equivalent officer, information about the military spouse hiring authority. That posting shall include a discussion of section 1131 of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328, which amended 5 U.S.C. 3330d(c) to eliminate the time limitation on non-competitive appointment for a relocating spouse of a member of the Armed Forces.

(e) Within 180 days of the date of this order, OPM shall educate agencies concerning the military spouse hiring authority and ensure human resources personnel and hiring managers are briefed on techniques for its effective use. Concurrently, within 180 days of the date of this order, OPM shall provide any additional clarifying guidance it deems appropriate to agencies on provisions of the Telework Enhancement Act of 2010, Public Law 111-292 [enacting chapter 65 and section 5711 of this title and provisions set out as a note under section 6501 of this title and amending provisions set out as a note and provisions listed in a table under section 6120 of this title], and agencies shall ensure that human resources personnel and hiring managers are briefed as needed on techniques for the effective use of telework.

(f) Beginning in Fiscal Year 2019, agencies shall report annually (by December 31 of each year) to OPM and the Department of Labor the number of positions made available under the military spouse hiring authority, the number of applications submitted under the military spouse hiring authority, and the number of military spouses appointed under the military spouse hiring authority during the preceding fiscal year. Such report shall also describe actions taken during that period to advertise the military spouse hiring authority, as well as any other actions taken to promote the hiring of military spouses.

SEC. 4. *Administrative Provisions.* (a) The Director of OPM shall administer this order and shall, in coordination with the Secretary of Labor, through the Assistant to the President for Domestic Policy, provide an annual report to the President regarding the implementation of this order and any recommendations for improving the hiring of military spouses, including steps to enhance the effectiveness of the military spouse hiring authority.

(b) The annual report described in subsection (a) of this section shall also include recommendations, developed in consultation with the Secretary of Defense and the Secretary of Homeland Security, for actions that could be taken to improve license portability and remove barriers to the employment of military spouses.

SEC. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§ 3330e. Review of official personnel file of former Federal employees before rehiring

(a) If a former Government employee is a candidate for a position within the competitive service or the excepted service, prior to making any determination with respect to the appointment or reinstatement of such employee to such position, the appointing authority shall review and consider merit-based information relating to such employee's former period or periods of service such as official personnel actions, employee performance ratings, and disciplinary actions, if any, in such employee's official personnel record file.

(b) In subsection (a), the term “former Government employee” means an individual whose most recent position with the Government prior to becoming a candidate as described under subsection (a) was within the competitive service or the excepted service.

(c) The Office of Personnel Management shall prescribe regulations to carry out the purpose of this section. Such regulations may not contain provisions that would increase the time required for agency hiring actions.

(Added Pub. L. 114-328, div. A, title XI, § 1136(a), Dec. 23, 2016, 130 Stat. 2460.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 114-328, div. A, title XI, § 1136(b), Dec. 23, 2016, 130 Stat. 2460, provided that: “The amendment made by subsection (a) [enacting this section] shall apply to any former Government employee (as described in section 3330e of title 5, United States Code, as added by such subsection) appointed or reinstated on or after the date that is 180 days after the date of enactment of this Act [Dec. 23, 2016].”

§ 3330f. Government policy and supporting position data

(a) **DEFINITIONS.**—In this section:

(1) **AGENCY.**—The term “agency” means—

(A) any Executive agency, the United States Postal Service, and the Postal Regulatory Commission;

(B) the Architect of the Capitol, the Government Accountability Office, the Government Publishing Office, and the Library of Congress; and

(C) the Executive Office of the President and any component within that Office (including any successor component), including—

(i) the Council of Economic Advisors;

(ii) the Council on Environmental Quality;

(iii) the National Security Council;

(iv) the Office of the Vice President;

(v) the Office of Policy Development;

(vi) the Office of Administration;

(vii) the Office of Management and Budget;

(viii) the Office of the United States Trade Representative;

(ix) the Office of Science and Technology Policy;

(x) the Office of National Drug Control Policy; and

(xi) the White House Office, including the White House Office of Presidential Personnel.

(2) **APPOINTEE.**—The term “appointee”—

(A) means an individual serving in a policy and supporting position; and

(B) includes an individual serving in such a position temporarily in an acting capacity in accordance with—

(i) sections 3345 through 3349d (commonly referred to as the “Federal Vacancies Reform Act of 1998”);

(ii) any other statutory provision described in section 3347(a)(1); or

(iii) a Presidential appointment described in section 3347(a)(2).

(3) **COVERED WEBSITE.**—The term “covered website” means the website established and maintained by the Director under subsection (b).

(4) **DIRECTOR.**—The term “Director” means the Director of the Office of Personnel Management.

(5) **POLICY AND SUPPORTING POSITION.**—The term “policy and supporting position”—

(A) means any position at an agency, as determined by the Director, that, but for this section and section 2(b)(3) of the PLUM Act of 2022, would be included in the publication entitled “United States Government Policy and Supporting Positions”, (commonly referred to as the “Plum Book”); and

(B) may include—

(i) a position on any level of the Executive Schedule under subchapter II of chapter 53, or another position with an equivalent rate of pay;

(ii) a general position (as defined in section 3132(a)(9)) in the Senior Executive Service;

(iii) a position in the Senior Foreign Service;

(iv) a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5, Code of Federal Regulations, or any successor regulation; and

(v) any other position classified at or above level GS-14 of the General Schedule (or equivalent) that is excepted from the competitive service by law because of the confidential or policy-determining nature of the position duties.

(b) **ESTABLISHMENT OF WEBSITE.**—Not later than 1 year after the date of enactment of the PLUM Act of 2022, the Director shall establish, and thereafter the Director shall maintain, a public website containing the following information for the President in office on the date of establishment and for each subsequent President:

(1) Each policy and supporting position in the Federal Government, including any such position that is vacant.

(2) The name of each individual who—

(A) is serving in a position described in paragraph (1); or

(B) previously served in a position described in such paragraph under the applicable President.

(3) Information on—

(A) any Government-wide or agency-wide limitation on the total number of positions in the Senior Executive Service under sec-