

tion], an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section [see Effective Date of 2002 Amendment note above]—

“(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

“(2) shall continue as if such amendments had not been enacted.”

§ 3593. Reinstatement in the Senior Executive Service

(a) A former career appointee may be reinstated, without regard to section 3393(b) and (c) of this title, to any Senior Executive Service position for which the appointee is qualified if—

(1) the appointee has successfully completed the probationary period established under section 3393(d) of this title; and

(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43.

(b) A career appointee who is appointed by the President to any civil service position outside the Senior Executive Service and who leaves the position for reasons other than misconduct, neglect of duty, or malfeasance shall be entitled to be placed in the Senior Executive Service if the appointee applies to the Office of Personnel Management within 90 days after separation from the Presidential appointment.

(c)(1) A former career appointee shall be reinstated, without regard to section 3393(b) and (c) of this title, to any vacant Senior Executive Service position in an agency for which the appointee is qualified if—

(A) the individual was a career appointee on May 31, 1981;

(B) the appointee was removed from the Senior Executive Service under section 3595 of this title before October 1, 1984, due to a reduction in force in that agency;

(C) before the removal occurred, the appointee successfully completed the probationary period established under section 3393(d) of this title; and

(D) the appointee applies for that vacant position within one year after the Office receives certification regarding that appointee pursuant to section 3595(b)(3)(B) of this title.

(2) A career appointee is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title any determination by the agency that the appointee is not qualified for a position for which the appointee applies under paragraph (1) of this subsection.

(Added Pub. L. 95-454, title IV, § 404(b), Oct. 13, 1978, 92 Stat. 1166; amended Pub. L. 97-35, title XVII, § 1704(b), Aug. 13, 1981, 95 Stat. 757; Pub. L. 98-615, title III, § 303(a), Nov. 8, 1984, 98 Stat. 3217; Pub. L. 101-194, title V, § 506(b)(4), Nov. 30, 1989, 103 Stat. 1758; Pub. L. 107-296, title XIII, § 1321(a)(2)(B), Nov. 25, 2002, 116 Stat. 2297.)

Editorial Notes

AMENDMENTS

2002—Subsec. (a)(2). Pub. L. 107-296 added par. (2) and struck out former par. (2) which read as follows: “the

appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, less than fully successful executive performance as determined under subchapter II of chapter 43 of this title, or failure to be recertified as a senior executive under section 3393a.”

1989—Subsec. (a)(2). Pub. L. 101-194 struck out “or” after “malfeasance,” and inserted “, or failure to be recertified as a senior executive under section 3393a” before period at end.

1984—Subsec. (c)(1)(B). Pub. L. 98-615 inserted “before October 1, 1984.”

1981—Subsec. (c). Pub. L. 97-35 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

Pub. L. 107-296, title XIII, § 1321(c), Nov. 25, 2002, 116 Stat. 2297, provided that: “The amendment made by subsection (a)(2)(B) [amending this section] shall not apply with respect to an individual who, before the effective date of this section [see note above], leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-194 effective Jan. 1, 1991, see section 506(d) of Pub. L. 101-194, set out as a note under section 3151 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-615 effective following expiration of 90-day period beginning on Nov. 8, 1984, see section 307 of Pub. L. 98-615, set out as a note under section 3393 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective June 1, 1981, with certain exceptions and conditions, see section 1704(e) of Pub. L. 97-35, set out as an Effective Date note under section 3595 of this title.

EFFECTIVE DATE

Section effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415(a)(1), (b), of Pub. L. 95-454, set out as a note under section 3131 of this title.

§ 3594. Guaranteed placement in other personnel systems

(a) A career appointee who was appointed from a civil service position held under a career or career-conditional appointment (or an appointment of equivalent tenure, as determined by the Office of Personnel Management) and who, for reasons other than misconduct, neglect of duty, or malfeasance, is removed from the Senior Executive Service during the probationary period under section 3393(d) of this title, shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.

(b) A career appointee who has completed the probationary period under section 3393(d) of this title, and who—

(1) is removed from the Senior Executive Service for less than fully successful executive performance as determined under subchapter II of chapter 43 of this title; or

(2) is removed from the Senior Executive Service under paragraph (4) or (5) of section 3595(b) of this title;