

Executive Documents

EXECUTIVE ORDER NO. 13839

Ex. Ord. No. 13839, May 25, 2018, 83 F.R. 25343, which related to removal of employees from Federal service for misconduct or unacceptable performance, was revoked by Ex. Ord. No. 14003, §3(c), Jan. 22, 2021, 86 F.R. 7231, set out in a note under section 3301 of this title.

[Ex. Ord. No. 13839, formerly set out above, construed to be amended to the extent necessary, by Memorandum of President of the United States, Oct. 11, 2019, 84 F.R. 56095, set out as a note under section 7101 of this title.]

SUBCHAPTER I—SUSPENSION FOR 14 DAYS OR LESS

Editorial Notes

AMENDMENTS

1978—Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1134, substituted “SUSPENSION FOR 14 DAYS OR LESS” for “COMPETITIVE SERVICE” in subchapter heading.

§ 7501. Definitions

For the purpose of this subchapter—

(1) “employee” means an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less; and

(2) “suspension” means the placing of an employee, for disciplinary reasons, in a temporary status without duties and pay.

(Added Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1134; amended Pub. L. 114-92, div. A, title XI, §1105(c)(3), Nov. 25, 2015, 129 Stat. 1024; Pub. L. 117-81, div. A, title XI, §1106(b)(2)(C), Dec. 27, 2021, 135 Stat. 1950.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7501, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 527, related to removal or suspension without pay of an individual in the competitive service and procedures applicable to such removal or suspension, prior to repeal by Pub. L. 95-454, §204(a).

AMENDMENTS

2021—Par. (1). Pub. L. 117-81 struck out “, except as provided in section 1599e of title 10,” after “initial appointment or.”

2015—Par. (1). Pub. L. 114-92 substituted “or, except as provided in section 1599e of title 10, who” for “or who”.

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

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-376, §1, Aug. 17, 1990, 104 Stat. 461, provided that: “This Act [amending sections 4303, 7511, and 7701 of this title and enacting provisions set out as notes under section 4303 of this title] may be cited as the ‘Civil Service Due Process Amendments.’”

§ 7502. Actions covered

This subchapter applies to a suspension for 14 days or less, but does not apply to a suspension under section 7521 or 7532 of this title or any action initiated under section 1215 of this title.

(Added Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1135; amended Pub. L. 101-12, §9(a)(2), Apr. 10, 1989, 103 Stat. 35.)

Editorial Notes

AMENDMENTS

1989—Pub. L. 101-12 substituted “1215” for “1206”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101-12, set out as a note under section 1201 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

§ 7503. Cause and procedure

(a) Under regulations prescribed by the Office of Personnel Management, an employee may be suspended for 14 days or less for such cause as will promote the efficiency of the service (including discourteous conduct to the public confirmed by an immediate supervisor’s report of four such instances within any one-year period or any other pattern of discourteous conduct).

(b) An employee against whom a suspension for 14 days or less is proposed is entitled to—

(1) an advance written notice stating the specific reasons for the proposed action;

(2) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

(3) be represented by an attorney or other representative; and

(4) a written decision and the specific reasons therefor at the earliest practicable date.

(c) Copies of the notice of proposed action, the answer of the employee if written, a summary thereof if made orally, the notice of decision and reasons therefor, and any order effecting¹ the suspension, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee’s request.

(Added Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1135.)

¹ So in original. Probably should be “affecting”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

INFORMATION ON APPEAL RIGHTS

Pub. L. 115-91, div. A, title X, §1097(b)(2), Dec. 12, 2017, 131 Stat. 1617, provided that:

“(A) IN GENERAL.—Any notice provided to an employee under section 7503(b)(1), section 7513(b)(1), or section 7543(b)(1) of title 5, United States Code, shall include detailed information with respect to—

“(i) the right of the employee to appeal an action brought under the applicable section;

“(ii) the forums in which the employee may file an appeal described in clause (i); and

“(iii) any limitations on the rights of the employee that would apply because of the forum in which the employee decides to file an appeal.

“(B) DEVELOPMENT OF INFORMATION.—The information described in subparagraph (A) shall be developed by the Director of the Office of Personnel Management, in consultation with the Special Counsel, the Merit Systems Protection Board, and the Equal Employment Opportunity Commission.”

§ 7504. Regulations

The Office of Personnel Management may prescribe regulations to carry out the purpose of this subchapter.

(Added Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1135.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS**Editorial Notes**

AMENDMENTS

1978—Pub. L. 95-454, title II, §204(a), Oct. 13, 1978, 92 Stat. 1135, substituted “REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS” for “PREFERENCE ELIGIBLES” in subchapter heading.

§ 7511. Definitions; application

(a) For the purpose of this subchapter—

(1) “employee” means—

(A) an individual in the competitive service—

(i) who is not serving a probationary or trial period under an initial appointment; or

(ii) who has completed 1 year of current continuous service under other than a temporary appointment limited to 1 year or less;

(B) a preference eligible in the excepted service who has completed 1 year of current continuous service in the same or similar positions—

(i) in an Executive agency; or

(ii) in the United States Postal Service or Postal Regulatory Commission; and

(C) an individual in the excepted service (other than a preference eligible)—

(i) who is not serving a probationary or trial period under an initial appointment pending conversion to the competitive service; or

(ii) who has completed 2 years of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment limited to 2 years or less;

(2) “suspension” has the same meaning as set forth in section 7501(2) of this title;

(3) “grade” means a level of classification under a position classification system;

(4) “pay” means the rate of basic pay fixed by law or administrative action for the position held by an employee; and

(5) “furlough” means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.

(b) This subchapter does not apply to an employee—

(1) whose appointment is made by and with the advice and consent of the Senate;

(2) whose position has been determined to be of a confidential, policy-determining, policy-making or policy-advocating character by—

(A) the President for a position that the President has excepted from the competitive service;

(B) the Office of Personnel Management for a position that the Office has excepted from the competitive service; or

(C) the President or the head of an agency for a position excepted from the competitive service by statute;

(3) whose appointment is made by the President;

(4) who is receiving an annuity from the Civil Service Retirement and Disability Fund, or the Foreign Service Retirement and Disability Fund, based on the service of such employee;

[(5) Repealed. Pub. L. 114-328, div. A, title V, §512(c), Dec. 23, 2016, 130 Stat. 2112.]

(6) who is a member of the Foreign Service, as described in section 103 of the Foreign Service Act of 1980;

(7) whose position is within the Central Intelligence Agency or the Government Accountability Office;

(8) whose position is within the United States Postal Service, the Postal Regulatory Commission, the Panama Canal Commission, the Tennessee Valley Authority, the Federal Bureau of Investigation, an intelligence component of the Department of Defense (as defined in section 1614 of title 10), or an intelligence activity of a military department covered under subchapter I of chapter 83 of title 10, unless subsection (a)(1)(B) of this section or section 1005(a) of title 39 is the basis for this subchapter’s applicability;

(9) who is described in section 5102(c)(11) of this title; or