

## Office of Personnel Management

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right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of § 1201.21 of this title.

(b) If the agency fails to reach and issue a decision to the employee within 30 days from his/her application for re-employment, the employee is entitled to appeal the failure of the agency to the Merit Systems Protection Board under the provisions of the Board's regulations.

(c) An appeal alleging that the agency has failed to comply with any of the other provisions of sections 3343 and 3581-3584 of title 5, United States Code, or of this part may be submitted to the Merit Systems Protection Board under the provisions of the Board's regulations.

[44 FR 48952, Aug. 21, 1979]

### § 352.314 Consideration for promotion and pay increases.

(a) Each agency shall consider each employee detailed or transferred to an international organization for all promotions for which he would be considered were he not absent. A promotion based on this consideration is effective on the date it would have been made if the employee were not absent.

(b) When the position of an employee absent on detail or transfer to an international organization is regraded upward during his absence, his agency shall place him in the regraded position.

(c) Each agency shall consider each employee detailed or transferred to an international organization from an ungraded pay system for all pay increases for which the employee would be considered were the employee not absent. An increase is effective on the date it would have been made if the employee were not absent.

[35 FR 16525, Oct. 23, 1970, as amended at 58 FR 58261, Nov. 1, 1993]

## Subpart D—Employment of Presidential Appointees and Elected Officers by the International Atomic Energy Agency

AUTHORITY: Sec. 6(c), 71 Stat. 455; 22 U.S.C. 2025(c); E.O. 10774, 3 CFR, 1954-1958 Comp., p. 418, as amended by E.O. 10804, 3 CFR, 1959-1963 Comp., p. 328.

### § 352.401 Purpose.

The purpose of this subpart is to implement section 6(b) of the International Atomic Energy Agency Participation Act of 1957 and Executive Order 10774 as amended by Executive Order 10804 to protect the civil service rights and privileges, wherever appropriate, of Presidential appointees and elected officers who leave their positions and within 90 days enter employment with the International Atomic Energy Agency.

### § 352.402 Coverage.

This subpart applies to all officers, as defined in § 352.403(b), of any branch of the Federal Government.

### § 352.403 Definitions.

In this subpart:

(a) *Agency* means the International Atomic Energy Agency;

(b) *Officer* means any Presidential appointee or elected officer who leaves his position after August 27, 1957, and within 90 days enters employment with the agency; and

(c) *Term of employment* means not more than 3 consecutive years of employment beginning with entrance on duty in the agency.

### § 352.404 Retirement and insurance.

(a) *Coverage.* (1) To obtain retirement benefits for a term of employment with the agency, an officer covered by subchapter III of chapter 83 of title 5 United States Code, within 90 days after the date he is separated from the agency, shall pay to OPM all necessary employee deductions and agency contributions for coverage under that subchapter for his term of employment with the agency. Interest shall not be charged an officer on any payment of necessary employee deductions and

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agency contributions. The amount of the employee deductions so paid shall be added to the officer's lump-sum credit in the Civil Service Retirement and Disability Fund.

(2) To retain coverage under chapter 87 of title 5, United States Code, during his term of employment with the agency, an officer covered by that chapter shall currently pay employee deductions and agency contributions necessary for coverage under that chapter for his term of employment with the agency. Collections may be made under procedures which may be determined in accordance with written agreements reached between accounting representatives of OPM and the agency.

(3) All retirement and insurance benefits and obligations shall be computed in the same manner as if the rate of basic pay the officer was receiving on the last day he was in his Federal position before employment with the agency had continued without change.

(4) An officer not covered by either subchapter III of chapter 83, or chapter 87, of title 5, United States Code, in the Federal position which he last held or from which he separates to enter employment with the agency does not acquire coverage or benefits under these statutes based on employment with the agency.

(b) *Death coverage.* An officer who dies during his term of employment or within 90 days of his separation therefrom is deemed to have died in the Federal Service.

**§ 352.405 Resumption of Federal service.**

(a) *Pay increase.* Except for an employee whose right is to a position in the Senior Executive Service (SES), an officer who is reemployed in the Federal position which he or she left or one of like seniority, status, and pay within 90 days of his or her separation from the agency following a term of employment, is entitled to the rate of basic pay to which he/she would have been entitled had he or she remained in the Federal service. When the employee's right is to a position in the SES, this subpart authorizes reemployment to any position in the SES for which the employee is qualified at not less than the SES rate of basic pay as de-

termined under 5 CFR part 534, subpart D at which the employee was being paid immediately before his or her transfer.

(b) *Sick leave account.* An officer shall have any sick leave account which he may have had in his last Federal position reestablished for credit or charge, if he returns to an appropriate leave system within 52 calendar weeks after the date he is separated from his term of employment with the agency.

(c) *Service credit for agency employment.* An officer who is reemployed in the Federal service within 90 days after completion of his term of employment with the agency is entitled to credit as Federal service for his term of employment with the agency. However, OPM shall give service credit for subchapter III of chapter 83 of title 5, United States Code, purposes only if the officer complies with the requirements of § 352.404(a)(1).

[33 FR 12433, Sept. 4, 1968, as amended at 51 FR 25188, July 11, 1986]

**Subpart E—Reinstatement Rights After Service Under Section 233(d) and 625(b) of the Foreign Assistance Act of 1961**

AUTHORITY: Sec. 625, 75 Stat. 449; 22 U.S.C. 2385; E.O. 10973; 3 CFR 1959-1963 Comp., p. 493; Section 352.508 also issued under 5 U.S.C. 7701 *et seq.*

**§ 352.501 Purpose.**

This subpart governs reinstatement authorized by sections 233(d) and 625(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2193(d) and 22 U.S.C. 235(b)).

[36 FR 13897, July 28, 1971]

**§ 352.502 Coverage.**

This subpart applies to any of the following serving in a position in the Federal Government:

(a) A person serving in the competitive service under a career or career-conditional appointment.

(b) A person serving under a career appointment in the Senior Executive Service (SES).

(c) A person serving in the excepted service under an appointment without a specific time limitation.