

§ 18.20

within 30 days from the date of the hearing examiner's decision.

§ 18.20 Appeal to the Board of Appellate Review.

Within 30 days from the date of the hearing examiner's decision, either party may appeal to the Board of Appellate Review. The appeal shall be taken by filing notice of appeal, in triplicate, with the Board of Appellate Review, which shall state with particularity exceptions to the decision of the hearing examiner and reasons for such exceptions. If an appeal is by the Director General, he/she shall transmit a copy thereof to the respondent. Within 30 days after receipt of an appeal or copy thereof, the other party may file a reply brief, in triplicate, with the Board of Appellate Review. If the reply brief is filed by the Director General, he/she shall transmit a copy of it to the respondent. The Director General shall transmit the entire case record to the Board of Appellate Review within 30 days after an appeal has been taken.

§ 18.21 Decision of the Board of Appellate Review.

The Board of Appellate Review shall decide the appeal on the basis of the record. The decision of the Board shall be final, and not subject to further administrative review. Copies of the Board's decision shall be forwarded promptly to the parties by the Board.

§ 18.22 Notice of disciplinary action.

Upon the issuance of a final order suspending a former officer or employee from practice before the Department, the Director General shall give notice thereof to appropriate officers and employees of the Department. Officers and employees of the Department shall refuse to participate in any appearance by such former officer or employee or to accept any communication which constitutes the prohibited practice before the Department during the period of suspension. The Director General shall take other appropriate disciplinary action as may be required by the final order.

22 CFR Ch. I (4-1-06 Edition)

PART 19—BENEFITS FOR SPOUSES AND FORMER SPOUSES OF PARTICIPANTS IN THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

Sec.

- 19.1 Authorities.
- 19.2 Definitions.
- 19.3 Participants.
- 19.4 Special rules for computing creditable service for purposes of payments to former spouses.
- 19.5 Required notifications to department respecting spouses and former spouses.
 - 19.5-1 Notification from participant or annuitant.
 - 19.5-2 Notification to Department from former spouses.
 - 19.5-3 Residence of spouse during service at unhealthful post.
- 19.6 Court orders and divorce decrees.
 - 19.6-1 Orders by a court.
 - 19.6-2 Qualifying court order.
 - 19.6-3 Application for payment.
 - 19.6-4 Date of court orders.
 - 19.6-5 Preliminary review.
 - 19.6-6 Notification.
 - 19.6-7 Decision.
 - 19.6-8 Allotment to beneficiary.
 - 19.6-9 Limitations.
 - 19.6-10 Liability.
- 19.7 Spousal agreements.
 - 19.7-1 Purpose.
 - 19.7-2 Agreement with spouse.
 - 19.7-3 Agreement with former spouse.
 - 19.7-4 Form of agreement.
 - 19.7-5 Limitations.
 - 19.7-6 Duration and precedence of spousal agreements.
- 19.8 Obligations of members.
- 19.9 Pension benefits for former spouses.
 - 19.9-1 Entitlement.
 - 19.9-2 Commencement and termination.
 - 19.9-3 Computation and payment of pension to former spouse.
 - 19.9-4 Effect on annuitant.
- 19.10 Types of annuities to members.
 - 19.10-1 Full annuity.
 - 19.10-2 Reduced annuity with regular survivor annuity to spouse or former spouse.
 - 19.10-3 Marriage after retirement.
 - 19.10-4 Death or divorce of a spouse and remarriage after retirement.
 - 19.10-5 Reduced annuity with additional survivor annuity to spouse of former spouse.
 - 19.10-6 Benefits for recall service.
- 19.11 Survivor benefits.
 - 19.11-1 Kinds of survivor benefits.
 - 19.11-2 Regular survivor annuity for a former spouse.
 - 19.11-3 Regular survivor annuity for a spouse.
 - 19.11-4 Procedure in event a spouse or former spouse is missing.

Department of State

§ 19.2

- 19.11-5 Commencement, termination and adjustment of annuities.
- 19.11-6 Death during active duty.
- 19.11-7 Annuity payable to surviving child or children.
- 19.11-8 Required elections between survivor benefits.
- 19.12 Employment in a Government agency.
- 19.13 Lump-sum payment.
- 19.13-1 Lump-sum credit.
- 19.13-2 Share payable to a former spouse.
- 19.13-3 Payment after death of principal.
- 19.14 Waiver of annuity.

AUTHORITY: Secs. 206 and 801 of Foreign Service Act of 1980 (94 Stat. 2079, 2102); Sec. 4 of Act of May 26, 1949 (22 U.S.C. 2658).

SOURCE: 46 FR 12958, Feb. 19, 1981, unless otherwise noted. Redesignated at 46 FR 18970, Mar. 27, 1981.

§ 19.1 Authorities.

Chapter 8 of the Foreign Service Act of 1980 (Pub. L. 96-465, 94 Stat. 2102) (hereafter "the Act"), and any Executive order issued under authority of section 827 of the Act.

§ 19.2 Definitions.

(a) *Agencies* means the Department, the Agency for International Development (AID), the International Communication Agency (USICA), the Foreign Agricultural Service (FAS), and the Foreign Commercial Service (FCS).

(b) *Annuitant* means any person including a former participant or survivor who meets all requirements for an annuity from the Fund under the provisions of the Foreign Service Act of 1980, or any other law and who has filed claim therefor.

(c) *Basic salary* means the salary fixed by law or administrative action before deductions and exclusive of additional compensation of any kind. It includes the salary fixed by sections 401, 402, 403, and 406 of the Act and salary incident to assignment under section 503 of the Act. Basic salary excludes premium pay for overtime, night, Sunday and holiday work, allowances, post and special differentials, and *chargé pay*.

(d) *Chief of Mission* means a principal officer in charge of a diplomatic mission of the United States or of a United States Office abroad which has been designated diplomatic in nature or any member of the Foreign Service assigned under the terms of the Act to be

chargé d'affaires or head of such a mission or office.

(e) *Child* means, except with reference to lump-sum payments, an unmarried child, under the age of 18 years, or such unmarried child regardless of age who because of physical or mental disability incurred before age 18 is incapable of self-support. In addition to the offspring of the participant, the term includes:

(1) An adopted child;

(2) A stepchild or recognized natural child who received more than one-half support from the participant; and

(3) A child who lived with and for whom a petition of adoption was filed by a participant, and who is adopted by the surviving spouse of the participant after the latter's death. "Child" also means an unmarried student under the age of 22 years. For this purpose, a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while a student, is deemed to have become 22 years of age on the first day of July after the birthday.

(f) *Court* means any court of any State or of the District of Columbia.

(g) *Court Order* means any court decree of divorce or annulment, or any court approved property settlement agreement incident to any court decree of divorce or annulment.

(h) *Department* means the Department of State.

(i) *Divorce* means the dissolution of a marriage by a final decree of divorce or annulment.

(j) *Expressly provided for* means a direction by a court order to divide a member's Foreign Service Retirement benefits or survivor benefits and awarding a portion of such benefits to an eligible beneficiary.

(k) *Former spouse*¹ means a former wife or husband of a participant or

¹Note: Section 804(6) of the Act defines "former spouse" with respect to duration of marriage as being married to a participant "for not less than 10 years during periods of service by that participant which are creditable under section 816." The Department interprets this as necessarily implying that the marriage must have covered a period of at least one day while the member of the

Continued