
AMENDMENTS

1980—Subsec. (g). Pub. L. 96–513 substituted ”90 days” for ”ninety days” and struck out ”of this subsection” after ”paragraph (4)”, and substituted ”30” for ”thirty” and struck out ”of this subsection” after ”paragraph (2)”.

Subsec. (h)(3). Pub. L. 98–525, § 1405(29)(A)(ii), in provisions following par. (3) struck out ”of this subsection” after ”paragraphs (2) and (3)”.

Subsec. (i)(3). Pub. L. 98–525, § 1405(29)(A)(ii), (iv), substituted ”30” for ”thirty” and struck out ”of this subsection” after ”paragraph (2)”.

Subsec. (j)(3). Pub. L. 98–525, § 1405(29)(A)(ii), (vi), substituted ”90 days” for ”ninety days” and struck out ”of this subsection” after ”paragraph (2)”.

1984—Subsec. (b). Pub. L. 98–525, § 1405(29)(A)(viii), in provisions following par. (3) struck out ”of this subsection” after ”paragraph (2) and (3)”.

Subsec. (c)(3). Pub. L. 98–525, § 1405(29)(A)(i), (ii), substituted ”30” for ”thirty” and struck out ”of this subsection” after ”paragraph (3)”.

Subsec. (c)(4). Pub. L. 98–525, § 1405(29)(B)(ii), (iv), substituted ”90 days” for ”ninety days” and struck out ”of this subsection” after ”paragraph (3)”.

Subsec. (c)(5). Pub. L. 98–525, § 1405(29)(B)(iii)–(v), substituted ”90-day” for ”ninety-day”, struck out ”of this subsection” after ”paragraphs (3) and (4)”, and struck out ”of this subsection” after ”paragraphs (3) and (4)”, and struck out ”of this subsection” after ”paragraphs (3) and (4)”.

Subsec. (c)(6). Pub. L. 98–525, § 1405(29)(B)(vi), struck out ”of this subsection” after ”paragraph (1)” and ”of this subsection after ”paragraph (1)” and ”of this subsection after ”paragraph (1)”.

Subsec. (d). Pub. L. 98–525, § 1405(29)(C), struck out ”of this subsection” after ”paragraph (c)”.

Subsec. (e)(1). Pub. L. 98–525, § 1405(29)(C), struck out ”of this subsection” after ”paragraph (c)”.

Subsec. (e)(2). Pub. L. 98–525, § 1405(29)(D), struck out ”of this subsection” after ”paragraph (c)”.

Subsec. (f)(1). Pub. L. 98–525, § 1405(29)(C), struck out ”of this subsection” after ”paragraph (b)”.


1967—Subsec. (g)(2). Pub. L. 90–83 substituted “General Schedule as prescribed in section 5104 of title 5” for “compensation schedule for the General Schedule of the Classification Act of 1949, as amended.”.


EFFECTIVE DATE OF 1980 AMENDMENT


EX. ORD. NO. 10895. DUTY IN ALASKA OR HAWAII

Ex. Ord. No. 10895, Nov. 25, 1960, 25 F.R. 12165, provided:

By virtue of the authority vested in me by section 1586(f) of title 10 of the United States Code, and as President of the United States, and having determined that such action is necessary in the national interest, it is ordered as follows:

SECTION 1. Assignment of an employee to duty in the State of Alaska or Hawaii under regulations prescribed pursuant to section 1586 of title 10 of the United States Code shall be held and considered for the purposes of that section, to be an assignment to duty outside the United States.

Sec. 2. The Secretary of Defense shall from time to time, and at least annually, consider the need for continuing this order in effect, and he shall recommend the revocation thereof at such time as he may deem such action advisable.

DWIGHT D. EISENHOWER.

§ 1587. Employees of nonappropriated fund instrumentalities: reprisals

(a) In this section:

(1) The term “nonappropriated fund instrumentality employee” means a civilian employee who is paid from nonappropriated funds of Army and Air Force Exchange Service, Navy Exchange Service Command, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the armed forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces. Such term includes a civilian employee of a support organization within the Department of Defense or a military department, such as the Defense Finance and Accounting Service, who is paid from nonappropriated funds on account of the nature of the employee’s duties.

(2) The term “civilian employee” has the meaning given the term “employee” by section 2105(a) of title 5.

(3) The term “personnel action”, with respect to a nonappropriated fund instrumentality employee (or an applicant for a position as such an employee), means—

(A) an appointment;

(B) a promotion;

(C) a disciplinary or corrective action;

(D) a detail, transfer, or reassignment;

(E) a reinstatement, restoration, or reemployment;

(F) a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, or other action described in this paragraph; and

(G) any other significant change in duties or responsibilities that is inconsistent with the employee’s salary or grade level.

(b) Any civilian employee or member of the armed forces who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, take or fail to take a personnel action with respect to any nonappropriated fund instrumentality employee (or any applicant for a position as such an employee) as a reprisal for—

(1) a disclosure of information by such an employee or applicant which the employee or applicant reasonably believes evidences—

(A) a violation of any law, rule, or regulation; or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

if such disclosure is not specifically prohibited by law and if the information is not specifi-
section, a disclosure by such an employee or applicant to any civilian employee or member of the armed forces designated by law or by the Secretary of Defense to receive disclosures described in clause (1), of which information the employee or applicant reasonably believes evidences—

(A) a violation of any law, rule, or regulation;

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) This section does not apply to an employee in a position excluded from the coverage of this section by the President based upon a determination by the President that the exclusion is necessary and warranted by conditions of good administration.

(d) The Secretary of Defense shall be responsible for the prevention of actions prohibited by subsection (b) and for the correction of any such actions that are taken. The authority of the Secretary to correct such actions may not be delegated to the Secretary of a military department or to the Assistant Secretary of Defense for Manpower and Logistics.

(e) The Secretary of Defense, after consultation with the Director of the Office of Personnel Management and the Special Counsel of the Merit Systems Protection Board, shall prescribe regulations to carry out this section. Such regulations shall include provisions to protect the confidentiality of employees and applicants making disclosures described in clauses (1) and (2) of subsection (b) and to permit the reporting of alleged violations of subsection (b) directly to the Inspector General of the Department of Defense.


PROVISION OF OVERSEAS LIVING QUARTERS ALLOWANCES FOR NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEES

Subsec. (e) of Pub. L. 104–106 provided that:

"(a) CONFORMING ALLOWANCE TO ALLOWANCES FOR OTHER CIVILIAN EMPLOYEES.—Subject to subsection (b), an overseas living quarters allowance paid from nonappropriated funds and provided to a nonappropriated fund instrumentality employee after the date of the enactment of this Act [Feb. 10, 1996], receives an overseas living quarters allowance under any other authority, subsection (a) shall apply to such employee only after the earlier of—

(1) September 30, 1997; or

(2) the date on which the employee otherwise ceases to be eligible for such an allowance under such other authority.

"(b) APPLICATION TO CERTAIN CURRENT EMPLOYEES.—In the case of a nonappropriated fund instrumentality employee who, as of the date of the enactment of this Act [Feb. 10, 1996], receives an overseas living quarters allowance under any other authority, subsection (a) shall apply to such employee only after the earlier of—

(1) September 30, 1997; or

(2) the date on which the employee otherwise ceases to be eligible for such an allowance under such other authority.

"(c) NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEE DEFINED.—For purposes of this section, the term 'nonappropriated fund instrumentality employee' has the meaning given such term in section 1587(a)(1) of title 10, United States Code."

UNIFORM HEALTH BENEFITS PROGRAM FOR EMPLOYEES OF DEPARTMENT OF DEFENSE ASSIGNED TO NONAPPROPRIATED FUND INSTRUMENTALITIES


"(a) IN GENERAL.—Not later than March 15, 1995, or thereafter, the Secretary of Defense shall take such steps as may be necessary to provide a uniform health benefits program for employees of the Department of Defense assigned to a nonappropriated fund instrumentality of the Department.

"(b) PROGRESS REPORT.—Not later than March 15, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress made by the Secretary in implementing subsection (a).

"(c) TREATMENT OF PROGRAM AS FEDERAL HEALTH BENEFIT PROGRAM.—(1) No State tax, fee, other mone-

etary payment, or State health plan requirement, may be imposed, directly or indirectly, on the Nonappropriated Fund Uniform Health Benefits Program of the Department of Defense, or on a carrier or an underwriting or plan administration contractor of the Program, to the same extent as such prohibition applies to the health insurance program authorized by chapter 89 of title 5, United States Code, under section 8909(f) of such title.

"(2) Paragraph (1) shall not be construed to exempt the Nonappropriated Fund Uniform Health Benefits Program of the Department of Defense, or any carrier or underwriting or plan administration contractor of the Program from the imposition, payment, or collec-

ACCOUNTING FOR MILITARY PAYMENTS TO THE NONAPPROPRIATED FUND UNIFORM HEALTH BENEFITS PROGRAM


"(1) In general.—The Secretary shall, to the extent practicable, reduce, to the maximum extent practicable, the amounts transferred to the Nonappropriated Fund Uniform Health Benefits Program for the

credit balances without prejudice to the requirement of section 1587 of title 10, United States Code, relating to the allowance for personal protective

services and the reporting of such transfers in the financial statements of the Department of Defense.

"(2) Manner of accounting.—The Secretary shall maintain, in a manner consistent with the requirements of this title, a record of the military pay and allowances transferred to the Nonappropriated Fund Uniform Health Benefits Program and shall provide reports relating to the payment of such transfers to the Nonappropriated Fund Uniform Health Benefits Program.
tion of a tax, fee, or other monetary payment on the net income or profit accruing to, or realized by, the Program or by such carrier or contractor from business conducted under the Program, so long as the tax, fee, or payment is applicable to a broad range of business activity.

“(3) In this subsection, the term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any political subdivision or other non-Federal authority thereof.”

§ 1587a. Employees of nonappropriated fund instrumentalities: senior executive pay levels

(a) AUTHORITY.—To achieve the objective stated in subsection (b), the Secretary of Defense may regulate the amount of total compensation that is provided for senior executives of nonappropriated fund instrumentalities who, for the fixing of pay by administrative action, are under the jurisdiction of the Secretary of Defense or the Secretary of a military department.

(b) PAY PARITY.—The objective of an action taken with respect to the compensation of senior executives under subsection (a) is to provide for parity between the total compensation provided for such senior executives and total compensation that is provided for Department of Defense employees in Senior Executive Service positions or other senior executive positions.

(c) STANDARDS OF COMPARABILITY.—Subject to subsection (d), the Secretary of Defense shall prescribe the standards of comparison that are necessary to achieve the objective stated in subsection (b).

(d) ESTABLISHMENT OF PAY RATES.—The Secretary of Defense shall apply subsections (a) and (b) of section 5382 of title 5 in the regulation of compensation under this section.

(e) RELATIONSHIP TO PAY LIMITATION.—The Secretary of Defense may exercise the authority provided in subsection (a) without regard to section 5373 of title 5.

(f) DEFINITIONS.—In this section:

(1) The term “compensation” includes rate of basic pay.

(2) The term “Senior Executive Service position” has the meaning given such term in section 3132 of title 5.

(Amended Pub. L. 108-375, div. A, title XI, § 1104(a), § 1588. Authority to accept certain voluntary services

(1) To the extent authorized by subsection (a), the Secretary concerned may accept voluntary services voluntary services under subsection (a) without regard to section 5373 of title 5.

§ 1588. Authority to accept certain voluntary services

(a) AUTHORITY TO ACCEPT SERVICES.—Subject to subsection (b) and notwithstanding section 1342 of title 81, the Secretary concerned may accept from any person the following services:

(1) Voluntary medical services, dental services, nursing services, or other health-care related services.

(2) Voluntary services to be provided for a museum or a natural resources program.

(3) Voluntary services to be provided for programs providing services to members of the armed forces and the families of such members, including the following programs:

(A) Family support programs.

(B) Child development and youth services programs.

(C) Library and education programs.

(D) Religious programs.

(E) Housing referral programs.

(F) Programs providing employment assistance to spouses of such members.

(G) Morale, welfare, and recreation programs, to the extent not covered by another subparagraph of this paragraph.

(4) Voluntary services as a member of a funeral honors detail under section 1491 of this title.

(5) Legal services voluntarily provided as legal assistance under section 1044 of this title.

(6) Voluntary services as a proctor for administration to secondary school students of the test known as the “Armed Services Vocational Aptitude Battery”.

(7) Voluntary translation or interpretation services offered with respect to a foreign language by a person (A) who is registered for such foreign language on the National Foreign Language Skills Registry under section 1596b of this title, or (B) who otherwise is approved to provide voluntary translation or interpretation services for national security purposes, as determined by the Secretary of Defense.

(8) Voluntary services to support programs of a committee of the Employer Support of the Guard and Reserve as authorized by the Secretary of Defense.

(b) REQUIREMENTS AND LIMITATIONS.—(1) The Secretary concerned shall notify the person of the scope of the services accepted.

(2) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned shall:

(A) supervise the person to the same extent as the Secretary would supervise a compensated employee providing similar services; and

(B) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable law or regulations to provide such services.

(3) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned may not:

(A) place the person in a policy-making position; or

(B) except as provided in subsection (e), compensate the person for the provision of such services.

(c) AUTHORITY TO RECRUIT AND TRAIN PERSONS PROVIDING SERVICES.—The Secretary concerned may recruit and train persons to provide voluntary services accepted under subsection (a).

(d) STATUS OF PERSONS PROVIDING SERVICES.—(1) Subject to paragraph (3), while providing voluntary services accepted under subsection (a) or receiving training under subsection (c), a person, other than a person referred to in paragraph (2), shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

(A) Subchapter I of chapter 81 of title 5 (relating to compensation for work-related injuries).