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5 U.S. Code § 4301 - Definitions

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Except as otherwise expressly provided, for the purpose of this subchapter—

(1) "agency" means—

(A) an Executive agency; and

(B) the Government Publishing Office;

but does not include—

(i) a Government corporation;

(ii) the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or

(iii) the Government Accountability Office;

(2) “employee” means an individual employed in or under an agency, but does not include—

(A) an employee outside the United States who is paid in accordance with local native prevailing wage rates for the area in which employed;

(B) an individual in the Foreign Service of the United States;

(C) a physician, dentist, nurse, or other employee in the Veterans Health Administration of the Department of Veterans Affairs whose pay is fixed under chapter 73 of title 38;

(D) an administrative law judge appointed under section 3105 of this title;

(E) an individual in the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;

(F) an individual appointed by the President;

(G) an individual occupying a position not in the competitive service excluded from coverage of this subchapter by regulations of the Office of Personnel Management; or

(H) an individual who (i) is serving in a position under a temporary appointment for less than one year, (ii) agrees to serve without a performance evaluation, and (iii) will not be considered for a reappointment or for an increase in pay based in whole or in part on performance; and

(3) “unacceptable performance” means performance of an employee which fails to meet established performance standards in one or more critical elements of such employee’s position.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 440; Pub. L. 91-375, § 6(c)(8), Aug. 12, 1970, 84 Stat. 776; Pub. L. 95-251, § 2(a)(1), Mar. 27, 1978, 92 Stat. 183; Pub. L. 95-454, title II, § 203(a), Oct. 13, 1978, 92 Stat. 1131; Pub. L. 100-325, § 2(f), May 30, 1988, 102 Stat. 581; Pub. L. 101-474, § 5(e), Oct. 30, 1990, 104 Stat. 1100; Pub. L. 101-510, div. A, title XII, § 1206(e), Nov. 5, 1990, 104 Stat. 1661; Pub. L. 102-54, § 13(b)(2), June 13, 1991, 105

Stat. 274; Pub. L. 103–359, title V, § 501(e), Oct. 14, 1994, 108 Stat. 3429; Pub. L. 104–201, div. A, title XI, § 1122(a)(1), Sept. 23, 1996, 110 Stat. 2687; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–417, [div. A], title IX, § 931(a)(1), Oct. 14, 2008, 122 Stat. 4575; Pub. L. 113–235, div. H, title I, § 1301(b), Dec. 16, 2014, 128 Stat. 2537; Pub. L. 115–91, div. A, title X, § 1097(d)(4), Dec. 12, 2017, 131 Stat. 1621.)

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