Federal Employees Part-Time Career Employment Act of 1978

OVERVIEW

The Federal Employees Part-Time Career Employment Act aims to utilize the potential of persons who do not work a traditional forty-hour workweek. Having found that part-time permanent employment has a number of benefits,[1] Congress passed legislation extending part-time career employment opportunities throughout the federal government in 1978.[2]

Political Context: Former Senators Gaylord Nelson (D-WI) and Thomas Eagleton (D-MO) and former Representatives Patricia Schroeder (D-CO) and Yvonne B. Burke (D-CA) successfully sponsored this law to encourage the use of part-time career employment in the federal government.[3] In his signing statement, President Carter enumerated older workers, persons with disabilities, students, women and people with family responsibilities as among the Act's beneficiaries.[4]

Because the development of federal part-time work was less successful than anticipated,[5] Congress required the Office of Personnel Management (OPM) to establish a formal job-sharing program in 1990.[6] President Clinton strengthened the part-time initiative with a 1994 memorandum directing executive departments and agencies to establish a program to encourage and support the expansion of flexible family-friendly work arrangements.[7] In 1996, he directed them to review and further utilize flexible policies already in place.[8]

Eligible Individuals: Part-time career employment generally means regularly scheduled work of 16 to 32 hours per week under a schedule consisting of an equal or varied number of hours per day.[9] The Act applies to employees whose positions do not

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[1] *See* 5 C.F.R. § 340.101 Congressional Findings and Purpose. *See also* Office of Personnel Management, Part-Time Employment and Job Sharing Guide, at http://www.opm.gov/Employment_and_Benefits/WorkLife/OfficialDocuments/handbooksguides/PT_Employ_JobSharing/pt02.asp, for the Office of Personnel Management's list of the benefits of part-time and job sharing employment opportunities.
[2] 5 U.S.C. §§ 3401-3408.
[3] *See* S. REP. NO. 95-1116 (1978).
[4] President Jimmy Carter's Federal Employees Part-Time Career Employment Act of 1978 Statement on Signing H.R. 10126 Into Law (October 10, 1978), at http://www.presidency.ucsb.edu/ws/index.php?pid=29954.
[5] *See* U.S. MERIT SYSTEMS PROTECTION BOARD, BALANCING WORK RESPONSIBILITIES AND FAMILY NEEDS: THE FEDERAL CIVIL SERVICE RESPONSE (1991).
[6] Pub. Law 101-136, Nov. 3, 1989, 103 Stat. 783, 809.
[7] Memorandum of President William J. Clinton, Expanding Family-Friendly Work Arrangements in the Executive Branch, 30 WEEKLY COMP. PRES. DOC. 1468 (July 11, 1994).
[8] Memorandum of President William J. Clinton, Implementing Federal Family Friendly Work Arrangements in the Executive Branch, 32 WEEKLY COMP. PRES. DOC. 1119 (June 21, 1996).
[9] Part-time career employment can also mean 32 to 64 hours during a biweekly pay period in the case of a flexible or compressed work schedule. *See* 5 U.S.C. § 3401(2).

exceed the GS-15 pay rate.[10] It does not apply to employment on a temporary or intermittent basis or to positions covered under a pre-existing collective-bargaining agreement that establishes the number of employment hours per week.[11]

Covered Agencies: The Act governs part-time work at an Executive agency, a military department, an agency in the judicial branch, the Library of Congress, the Botanic Garden, and the Office of the Architect of the Capitol.[12] Government controlled corporations, the Federal Bureau of Investigation of the Department of Justice, the Central Intelligence Agency, and the National Security Agency of the Department of Defense are among the entities not included.[13]

Benefits: The Government's contribution to health and other benefits for part-time career employees is prorated on the basis of the number of hours such employees worked.[14]

The head of every federal agency must establish and maintain a program for part-time career employment.

Regulations: Each agency must promulgate regulations that provide for:

- The review of positions which, after becoming vacant, may be filled on a part-time career employment basis;
- Procedures and criteria to be used in connection with establishing or converting positions for part-time career employment;
- Annual goals for establishing or converting positions for part-time career employment, and a timetable setting forth deadlines for achieving such goals;
- A continuing review and evaluation of the program established under such regulations; and
- Procedures to notify the public of vacant part-time positions, utilizing facilities and funds otherwise available to such agency.[15]

Consultation and Technical Advice: OPM must promulgate regulations to establish and maintain a program by which it advises and assists agencies, per request, in the establishment and maintenance of their part-time career employment programs.[16]

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[10] *Id.* § 3405(b).
[11] *Id.* § 3401(2), § 3405(a).
[12] *Id.* § 3401(1)(A)-(F).
[13] *Id.* § 3401(1)(F)(i)-(vi).
[14] 5 C.F.R. § 340.101.
[15] *Id.* § 3402(a)(1).
[16] *Id.* § 3402(b)(1).

Consultation and Technical Advice (cont.): OPM must also conduct a research and demonstration program directed at various aspects of part-time career employment within the Federal government, including:

- determining the extent to which part-time employment may be used in filling positions which have not traditionally been open for such employment on any extensive basis, such as supervisory, managerial, and professional positions;
- determining the extent to which job-sharing arrangements may be established for various occupations and positions; and
- evaluating attitudes, benefits, costs, efficiency, and productivity associated with part-time career employment, as well as its various sociological effects as a mode of employment.[17]

Limitations: Agencies may not force full-time employees into part-time status nor may they abolish occupied full-time positions to make room for part-time positions. [18]

Personnel ceiling: Agencies are required to count part-time employees against personnel ceilings on a fractional basis computed by dividing 40 hours into the employee's regularly scheduled workweek.[19]

Employee Organization Representation: If an employee organization has been accorded exclusive recognition with respect to a unit within an agency, it is entitled to represent all part-time employees within that unit.[20]

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[17] *Id.* § 3402(b)(2).
[18] *Id.* § 3403.
[19] *Id.* § 3404.
[20] *Id.* § 3408.