

**FOREIGN SERVICE SPECIALIST TENURING BOARD**

**1. PURPOSE**

This Directive for the Animal and Plant Health Inspection Service (APHIS) International Services (IS) is in accordance with Volume 3 Foreign Affairs Manual (FAM) Section 4130, which provides guidelines for granting tenure to Foreign Service (FS) personnel. It also establishes an FS Tenuring Board (i.e., the Board) and, outlines the responsibilities and procedures of this Board.

**2. REPLACEMENT HIGHLIGHTS**

This Directive replaces APHIS Directive 417.13, dated 11/22/87.

**3. SUITABLE CONDUCT**

- a. Tenure is based on an employee's abilities to demonstrate initiative, creativity, and an above average performance in the execution of duties.
- b. In accordance with 3 FAM 4137, APHIS-IS will give primary consideration in evaluating suitable conduct standards by determining:
  - (1) Whether the individual's conduct reasonably can be expected to interfere with or prevent effective performance in the current or possible future positions;
  - (2) Whether the individual's conduct reasonably can be expected to interfere with effectively carrying out the policies and programs of the U.S. Government, including the responsibility to present a favorable impression abroad of the United States;
  - (3) Whether the individual's conduct reasonably can be expected to affect so adversely other employees as to prevent the efficient performance of their duties and responsibilities;
  - (4) The sensitivity of the position and the security clearance required;

- (5) The nature, seriousness, frequency, and recency of the conduct and the age of the individual at the time of the conduct;
- (6) Contributing social or environmental conditions, including the voluntariness of the individual's conduct;
- (7) The absence, presence, or sufficiency of rehabilitation or efforts toward rehabilitation. The individual's candor in discussing matters of proper concern with appropriate authorities will be considered in evaluating the sincerity of the individual's efforts toward rehabilitation. For details of the Agency's rehabilitation policies concerning alcohol and drug abuse, see 3 FAM 1900;

Whether the conduct occurred abroad or in the United States, at a post of assignment or in a third world country, and during working hours or while off-duty; and

- (9) Any other relevant circumstances pertaining to the conduct or any other relevant consideration that the employee or the Agency may wish to offer.

#### **4. DISQUALIFICATION**

APHIS-IS also will consider the following in accordance with 3 FAM 4138 in disqualifying a candidate from consideration:

- a. Misconduct in prior employment.
- b. Misconduct (either in itself or as a result of attending circumstances) impeding or preventing the performance of duties, or conduct contrary to the customs, mores, or laws of the local community.
- c. Criminal, dishonest, or disgraceful conduct (see section 3 FAM 4139.14).
- d. An intentional and material false statement, deception, or fraud in the examination or appointment process in response to a proper inquiry.
- e. Refusal to furnish testimony or information to proper authorities in response to a specific and relevant inquiry concerning the individual's job performance, conduct, or other matters such as:
  - (1) Qualifications for the position, function, or service under consideration.
  - (2) Qualifications for a security clearance.

- f. Repeated or habitual use, to excess, of intoxicating beverages affecting the ability to perform the duties and responsibilities of the employee's position (see 3 FAM section 4102.10, Explanation of Certain Issues).
- g. Trafficking in or abuse of narcotics, drugs, or any substance listed under the Controlled Substance Act (21 U. S. C. 812); and/or trafficking in or abuse of narcotics, drugs, or other controlled substances in violation of the law of the country or jurisdiction in which the individual was or is located at the time of the offense (see section 3 FAM 4139.6).
- h. Reasonable doubt as to the individual's loyalty to the U.S. Government.
- i. Conduct which furnishes substantial reason to believe that the individual may be or is being subject to coercion, improper influence, or pressure which is reasonably likely to cause the individual to act contrary to the national security or foreign relations of the United States.
- j. Conduct which, in the opinion of competent medical authority, is evidence of an unstable personality, impaired judgment, or emotional disorder, furnishing substantial reason to believe that the person is unsuited for the position in which the individual is serving.
- k. Conduct that clearly shows poor judgment or lack of discretion that may reasonably affect the individual's or the Agency's ability to carry out its responsibilities or mission.
- l. If an employee is asked to leave a country by an Ambassador or a Deputy Chief of Mission for issues of conduct or performance.

**5. TENURING BOARD**

- a. The Board will identify those employees with career candidate status, who by their demonstrated performance and conduct merit conversion to career status.
- b. The Board will be composed of three to five members (including a chairperson) designated by the IS Deputy Administrator (ISDA). Members of the Board will be employees (Foreign Service and/or Civil Service) of the same or higher class/grade as the candidates. Most members will be drawn from USDA, but employees of the Department of State or other foreign affairs agencies also may be designated to serve on the Board.

## **6. REVIEW PROCESS**

- a. After 3 years on foreign assignment in the FS as a career candidate, an employee is eligible for the first review by the Board. If the Board does not convert the employee from career candidate to career, then the employee again will be reviewed by the Board one year later. An employee may be reviewed no more than twice.
- b. If the second review does not result in conversion to career status, the employee will be returned to an agency with reinstatement rights or released from APHIS-IS. This reassignment must take place within one year after the second review and must occur while the employee is still on foreign assignment.
- c. The Board's findings regarding conversion to career status will be final and binding. Notification of the Board's decision will be carried out by the ISDA or an appointed representative.

## **7. GRIEVANCES**

In accordance with 3FAM 4412 d, an employee cannot grieve the judgment of: a selection board established under Section 602 of the Foreign Service Act, a tenure board established under Section 306(b) of the Act, or equivalent body established by laws or regulations which similarly evaluate the performance of members of the Service on a comparative basis. Alleged procedural violation of law, regulation, or collective bargaining agreement, or prohibited personnel practices arising under those procedures existed are grievable.

## **8. INQUIRIES**

- a. Direct inquiries through administrative channels to IS Administrative Services, Director of Personnel and Travel.

Director of Personnel and Travel  
USDA/APHIS/IS, Unit 65  
4700 River Road  
Riverdale, MD 20737  
USA

- b. This and all APHIS Directives are available on the Internet at [www.aphis.usda.gov/library](http://www.aphis.usda.gov/library).

/s/

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Deputy Administrator  
MRP Business Services