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(d) *Purpose requirements.* OPM will use the criminal history record information only for the purposes stated in §911.101(a).

(e) *Notice, litigation, and settlement procedures.* (1) The State or locality must give notice of any claim against it on or before the 10th day after the day on which a claim against it is received, or it has notice of such a claim.

(2) The notice must be given to the Attorney General and to the United States Attorney of the district embracing the place wherein the claim is made.

(3) The Attorney General will make all determinations regarding the settlement or defense of such claims.

PART 930—PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS)

Subpart A—Motor Vehicle Operators

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Subpart A—Motor Vehicle Operators

AUTHORITY: 5 U.S.C. 3301, 3320, 7301; 40 U.S.C. 491; E.O. 10577, 3 CFR, 1954—1958 Comp., p. 218; E.O. 11222, 3 CFR, 1964—1965 Comp., p. 306. (Separate authority is listed under §930.107).

SOURCE: 50 FR 34669, Aug. 27, 1985, unless otherwise noted.

§930.101 Purpose.

This subpart governs agencies in authorizing employees to operate Government-owned or -leased (acquired for other than short term use for which the Government does not have full control and accountability) motor vehicles for official purposes within the States of the Union, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

§930.102 Definitions.

In this subpart:

Agency means a department, independent establishment, or other unit of the executive branch of the Federal Government, including a wholly owned Government corporation, in the States of the Union, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

Employee means an employee of an agency in either the competitive or excepted service or an enrollee of the Job Corps established by section 102 of the Economic Opportunity Act of 1964 (42 U.S.C. 2712).

Identification card means the United States Government Motor Vehicle Operator's Identification Card, Optional Form 346, or an agency-issued identification card that names the types of Government-owned or -leased vehicles the holder is authorized to operate.

Identification document means an official identification form issued by an agency that properly identifies the individual as a Federal employee of the agency.

Incidental operator means an employee, other than one occupying a position officially classified as a motor vehicle operator, who is required to operate a Government-owned or -leased motor vehicle to properly carry out his or her assigned duties.

Motor vehicle means a vehicle designed and operated principally for highway transportation of property or passengers, but does not include a vehicle (a) designed or used for military field training, combat, or tactical purposes; (b) used principally within the confines of a regularly established military post, camp, or depot; or (c) regularly used by an agency in the performance of investigative, law enforcement, or intelligence duties if the head of the agency determines that exclusive control of the vehicle is essential to the effective performance of those duties.

Operator means an employee who is regularly required to operate Government-owned or -leased motor vehicles and is occupying a position officially classified as motor vehicle operator.

Road test means OPM's Test No. 544 or similar road tests developed by Federal agencies to evaluate the competency of prospective operators.

State license means a valid driver's license that would be required for the operation of similar vehicles for other than official Government business by the States, District of Columbia, Puerto Rico, or territory or possession of the United States in which the employee is domiciled or principally employed.

§930.103 Coverage.

This subpart governs agencies in authorizing their employees to operate Government-owned or -leased motor vehicles for official purposes within the States of the Union, the District of Columbia, Puerto Rico, and the territories or possessions of the United States and establishes minimum procedures to ensure the safe and efficient operation of such vehicles.

§930.104 Objectives.

This subpart requires that agencies (a) establish an efficient and effective system to identify those Federal employees who are qualified and authorized to operate Government-owned or -leased motor vehicles while on official Government business; and (b) periodically review the competence and physical qualifications of these Federal employees to operate such vehicles safely.

§930.105 Minimum requirements for competitive and excepted service positions.

(a) An agency may fill motor vehicle operator positions in the competitive or excepted services by any of the methods normally authorized for filling positions. Applicants for motor vehicle operator positions and incidental operators must meet the following requirements for these positions:

(1) Possess a safe driving record;

(2) Possess a valid State license;

(3) Except as provided in §930.107, pass a road test; and

(4) Demonstrate that they are medically qualified to operate the appropriate motor vehicle safely in accordance with the standards and procedures established in this part.

(b) Agencies may establish additional requirements to assure that the objectives of this subpart are met.

[50 FR 34669, Aug. 27, 1985, as amended at 60 FR 3067, Jan. 13, 1995]

§930.106 Details in the competitive service.

An agency may detail an employee to an operator position in the competitive service for 30 days or less when the employee possesses a State license. For details exceeding 30 days, the employee must meet all the requirements of §930.105 and any applicable OPM and agency regulations governing such details.

[60 FR 3067, Jan. 13, 1995]

§ 930.107 Waiver of road test.

Under the following conditions, OPM or an agency head or his or her designated representative may waive the road test:

(a) OPM waives the road test requirement for operators of vehicles of one ton load capacity or less who possess a current driver's license from one of the 50 States, District of Columbia, or Puerto Rico, where the employee is domiciled or principally employed, except for operators of buses and vehicles used for: (1) Transportation of dangerous materials; (2) law enforcement; or (3) emergency services.

(b) OPM waives the road test for operators, and agencies may waive the road test for incidental operators of any class of vehicle, who possess a current driver's license for the specific type of vehicle to be operated from one of the 50 States, District of Columbia, or Puerto Rico, where the employee is domiciled or principally employed.

(c) An agency head may waive the road test for operators and incidental operators not covered by paragraphs (a) and (b) of this section, but only when in his or her opinion it is impractical to apply it, and then only for an employee whose competence as a driver has been established by his or her past driving record.

(5 U.S.C. 1104; Pub. L. 95–454, sec. 3(5))

§ 930.108 Periodic medical evaluation.

At least once every 4 years, each agency will ensure that employees who operate Government-owned or leased vehicles are medically able to do so without undue risk to themselves or others. When there is a question about an employee's ability to operate a motor vehicle safely, the employee may be referred for a medical examination in accordance with the provisions of part 339 of this chapter.

[60 FR 3067, Jan. 13, 1995]

§ 930.109 Periodic review and renewal of authorization.

(a) At least once every 4 years, each agency will review each employee's authorization to operate Government-owned or -leased motor vehicles.

(b) An agency may renew the employee's authorization only after the appropriate agency official has determined that the employee is medically qualified and continues to demonstrate competence to operate the type of motor vehicle to which assigned based on a continued safe driving record.

[50 FR 34669, Aug. 27, 1985, as amended at 60 FR 3067, Jan. 13, 1995]

§ 930.110 Identification of authorized operators and incidental operators.

Agencies must have procedures to identify employees who are authorized to operate Government-owned or -leased motor vehicles. Such procedures must provide for adequate control of access to vehicles and assure that the other requirements of this subpart and the Federal Personnel Manual are met.

§ 930.111 State license in possession.

An operator or incidental operator will have a State license in his or her possession at all times while driving a Government-owned or -leased motor vehicle on a public highway.

§ 930.112 Identification card or document in possession.

The operator or incidental operator will have a valid agency identification card or document (e.g., building pass or credential) in his or her possession at all times while driving a Government-owned or -leased motor vehicle.

§ 930.113 Corrective action.

An agency will take adverse, disciplinary, or other appropriate action against an operator or an incidental operator in accordance with applicable laws and regulations. Agency orders and directives will include the following reasons among those constituting sufficient cause for such action against an operator or an incidental operator:

(a) The employee is convicted of operating under the intoxicating influence of alcohol, narcotics, or pathogenic drugs.

(b) The employee is convicted of leaving the scene of an accident without making his or her identity known.

(c) The employee is not qualified to operate a Government-owned or -leased vehicle safely because of a physical or medical condition. In making such a determination, agencies should consult

a Federal medical officer or other medical authority as appropriate.

(d) The employee's State license is revoked.

(e) The employee's State license is suspended. However, the agency may continue the employee in his or her position for operation of Government-owned or -leased motor vehicles on other than public highways for not to exceed 45 days from the date of suspension of the State license.

§ 930.114 Reports required.

An agency will submit to OPM, on request (a) a copy of agency orders and directives issued in compliance with this subpart; and (b) such other reports as OPM may require for adequate administration and evaluation of the motor vehicle operator program.

§ 930.115 Requests for waiver of requirements.

Agencies may request authority from OPM to waive requirements in this subpart or the Federal Personnel Manual. OPM may grant exceptions or waivers when it finds these waivers or exceptions are in the interest of good administration and meet the objectives of this program.

Subpart B—Appointment, Pay, and Removal of Administrative Law Judges

AUTHORITY: 5 U.S.C. 1104(a)(2), 1305, 3105, 3323(b), 3344, 4301(2)(D), 5372, 7521.

SOURCE 52 FR 34203, Sept. 10, 1987, unless otherwise noted.

GENERAL PROVISIONS

§ 930.201 Coverage.

(a) This subpart applies to people appointed under 5 U.S.C. 3105 for proceedings required to be conducted in accordance with 5 U.S.C. 556 and 557, and to administrative law judge positions.

(b) Except as otherwise provided in this subpart, the rules and regulations applicable to positions in the competitive service apply to administrative law judge positions.

(c) In accordance with 5 U.S.C. 1104(a)(2), OPM shall conduct competitive examinations for administrative law judge positions, and agencies employing judges shall reimburse OPM for the cost of developing and administering such examinations. Each employing agency's share of reimbursement shall be based on its relative number of administrative law judges as of March 31 of the preceding fiscal year. OPM will work with employing agencies to review the examination program for effectiveness and efficiency and identify needed improvements, consistent with statutory requirements. Subsequently, OPM will annually compute the cost of the examination program and notify each agency of its share, along with a full accounting of the costs, and payment procedures.

[52 FR 34203, Sept. 10, 1987, as amended at 61 FR 39267, July 29, 1996]

§ 930.202 Definitions.

In this subpart—

(a) *Agency* has the same meaning as given in 5 U.S.C. 551.

(b) *Detail* means the temporary assignment of an employee from one position to another position without change in civil service or pay status. The assignment to an administrative law judge of a case of the level of difficulty that would ordinarily be assigned to an administrative law judge of a different grade does not of itself constitute a detail within the meaning of this subpart.

(c) *Administrative law judge position* means a position in which any portion of the duties includes those which require the appointment of an administrative law judge under 5 U.S.C. 3105.

(d) *Promotion* means a change from a lower to a higher level position.

(e) *Reinstatement* means reemployment authorized on the basis of the appointee's absolute status as administrative law judge after an earlier separation from an administrative law judge position.

(f) *Removal* means discharge of an administrative law judge from the position of administrative law judge or involuntary reassignment, demotion, or promotion to a position other than that of administrative law judge.

[52 FR 34203, Sept. 10, 1987, as amended at 56 FR 6209, Feb. 14, 1991]

§ 930.203 Examination.

(a) *Periodic open competition.* Applicants for entrance into the competitive service as administrative law judges will be examined periodically in open competition as announced by OPM. Applications received by OPM during such periods of open competition will be reviewed as a group.

(b) *Minimum qualifications.* All applicants must demonstrate in their written applications and supporting materials that they meet the qualifying experience requirements in OPM Examination Announcement No. 318.

(c) *Supplemental qualifications.* Applicants who meet minimum qualification requirements will be assigned a score on the supplemental qualifications statement described in the examination announcement.

(d) *Participation in examination procedures.* Applicants who meet minimum qualification requirements and are assigned a score on the supplemental qualifications statement become eligible to compete for a final rating through participating in three additional examination procedures described in the examination announcement:

(1) A written demonstration;

(2) A panel interview; and

(3) A personal reference inquiry.

(e) *Final rating.* Applicants who complete the examination procedures described in paragraphs (c) and (d) of this section will be assigned a final numerical rating based on a weighted sum of the scores for each of the four parts, transmuted to a scale of 0 to 100, with 70 required to pass. For applicants entitled thereto, the final passing score will be augmented by 5 or 10 veteran preference points.

(f) *Preparation of certificates.* As agencies request certificates of applicants from registers to consider in filling vacant administrative law judge positions in various geographic areas, all applicants who are eligible and available for those positions will be ranked to identify the best qualified applicants to be certified. Eligible applicants who have completed the final rating process will be ranked on the basis of assigned final ratings, augmented by veteran preference points if applicable. At least three eligible applicants will be certified to the employing agency for consideration for each vacancy.

(g) *Appeal of rating.* Applicants who obtain an ineligible rating or applicants who are dissatisfied with their final rating may appeal the rating to the Administrative Law Judge Rating Appeals Panel, Office of Personnel Management, Washington, DC 20415, within 30 days after the date of final action by the Office of Administrative Law Judges or such later time as may be allowed by the Panel.

[56 FR 6209, Feb. 14, 1991]

§ 930.203a Appointment.

(a) *Prior approval.* An agency may make an appointment to an administrative law judge position only with the prior approval of OPM, except when it makes its selection from a certificate of eligibles furnished by OPM. When requesting OPM approval of an appointment to an administrative law judge position or the issuance of a certificate of eligibles, the requesting agency must demonstrate that its hearing workload requires the appointment of an additional administrative law judge(s) to get necessary work done. An appointment is subject to investigation in accordance with §§ 731.201 through 731.303 of this chapter and subject to security clearance by the agency.

(b) *Probationary and career-conditional periods.* The requirement of a probationary and career-conditional period before absolute appointment does not apply to an appointment to an administrative law judge position.

(c) *Appointment of incumbents of newly classified administrative law judge positions.* An agency may appoint as an administrative law judge an employee who is serving in a position which is classified as an administrative law judge position on the basis of legislation, Executive order, or decision of a court, if—

(1) The employee has a competitive status or was serving in an excepted position under a permanent appointment;

(2) The employee was serving in the position on the date of the legislation, Executive order, or decision of the

court, on which the classification of the position is based;

(3) OPM receives a recommendation for the employee's appointment from the agency concerned not later than 6 months after classification of the position on the basis of the legislation, Executive order, or decision of the court; and

(4) OPM finds that the employee meets the current examination requirements for the position under OPM Examination Announcement No. 318. In an emergency situation, when the needs of an agency require it, OPM may authorize the conditional appointment of an employee to an administrative law judge position pending final decision on the employee's eligibility for absolute appointment under this paragraph.

(d) *Appointment of legislative and judicial employees.* An agency may appoint a former employee of the legislative or judicial branch to an administrative law judge position if OPM finds that the employee meets current examination requirements under OPM Examination Announcement No. 318 and is otherwise eligible under the provisions of 5 U.S.C. 3304(c).

(e) *Appointment of incumbents of non-administrative law judge positions.* Except as provided in paragraphs (c) and (d) of this section, an agency may not appoint an employee who is serving in a position other than an administrative law judge position to an administrative law judge position other than by selection from a certificate of eligibles furnished by OPM from the open competitive register.

§ 930.203b Title of administrative law judge.

The title ''administrative law judge'' is the official class title for an administrative law judge position. Each agency will use only this official class title for personnel, budget, and fiscal purposes.

§ 930.204 Promotion.

(a) When OPM places an occupied administrative law judge position at a higher level, OPM will direct the promotion of the incumbent administrative law judge. The promotion will be effective on the date named by OPM.

(b) When OPM places one of an agency's administrative law judge positions at a higher level on the basis of the position's managerial and administrative nature, an agency may promote one of its administrative law judges to such a position, provided the selection and/or promotion is in accordance with regular civil service procedures.

[56 FR 6209, Feb. 14, 1991]

§ 930.205 Reassignment.

An agency may reassign an administrative law judge who is serving under absolute appointment from one administrative law judge position to another administrative law judge position at the same grade in the same agency, with the prior approval of OPM on a noncompetitive basis, provided the assignment is for bona fide management reasons and in accordance with regular civil service procedures and merit system principles.

§ 930.206 Transfer.

(a) An agency may transfer an administrative law judge from another agency with the prior approval of OPM on a noncompetitive basis in accordance with regular civil service procedures, provided the administrative law judge meets all current examination requirements for appointment as an administrative law judge under OPM Examination Announcement No. 318.

(b) An agency may not transfer a person from one administrative law judge position to another administrative law judge position under paragraph (a) of this section sooner than 1 year after the person's last appointment, unless the gaining and losing agencies agree to the transfer.

[56 FR 6209, Feb. 14, 1991]

§ 930.207 Reinstatement.

An agency may reinstate former administrative law judges who have served with absolute status under 5 U.S.C. 3105 only after they have established their eligibility in accordance with all current examination requirements of OPM Examination Announcement No. 318. Reinstatement is subject to investigation by, and the prior approval of, OPM.

[56 FR 6209, Feb. 14, 1991]

§ 930.208 Restoration.

Parts 352 and 353 of this chapter governing reemployment rights and restoration to duty after military service or recovery from compensable injury, also apply to reemployment and restoration to administrative law judge positions.

§ 930.209 Detail and assignment to other duties.

(a) An agency may not detail an employee who is not an administrative law judge to an administrative law judge position.

(b) An agency may assign an administrative law judge (by detail or otherwise) to perform duties that are not the duties of an administrative law judge without prior approval of OPM only when—

(1) The other duties are not inconsistent with the duties and responsibilities of an administrative law judge;

(2) The assignment is to last no longer than 120 days; and

(3) The administrative law judge has not had an aggregate of more than 120 days of those assignments or details within the preceding 12 months.

(c) On a showing by an agency that it is in the public interest to do so, OPM may authorize a waiver of paragraphs (b) (2) and (3) of this section.

(d) An agency may detail an administrative law judge from one administrative law judge position to another in the same agency, without the prior approval of OPM, provided the detail is in accordance with regular civil service procedures.

§ 930.210 Pay.

(a) OPM will place each administrative law judge position in one of the three grades or levels of basic pay, AL–3, AL–2 or AL–1, of the Administrative Law Pay System established for such positions under 5 U.S.C. 5372 in accordance with the regulations and procedures in this section. AL–3 will have six rates of basic pay, A, B, C, D, E, and F, ranging respectively in 5 percent intervals from 65 percent of level IV of the Executive Schedule (EX–IV) to 90 percent of EX–IV. AL–2 will have one rate of basic pay equal to 95 percent of EX–IV. AL–1 will have one rate of basic pay equal to 100 percent of EX–IV.

(b) An agency may not grant a monetary and honorary award under 5 U.S.C. 4503 for superior accomplishment by an administrative law judge in the performance of adjudicatory functions.

(c) AL–3 is the basic pay level for administrative law judge positions filled through competitive examination under OPM Examination Announcement No. 318, as provided in section 930.203 of this part.

(d) Subject to the approval of OPM, agencies may establish administrative law judge positions at pay levels AL–2 and AL–1. Administrative law judge positions may be placed at such levels when they involve significant administrative and managerial responsibilities.

(e) Judges must serve at least 1 year in each AL level, in an equivalent or higher level in positions in the Federal service, before advancing to the next higher level and may advance only one level at a time.

(f) Except as provided in paragraph (g) of this section, upon appointment to an administrative law judge position placed in AL–3, an administrative law judge shall be paid at the minimum rate A of AL–3, and shall be automatically advanced successively to rates B, C, and D of that level upon completion of 52 weeks of service in the next lower rate, and to rates E and F of that level upon completion of 104 weeks of service in the next lower rate. Time in a nonpay status is generally creditable service in the computation of a waiting period only in so far as it does not exceed 2 weeks per year for each 52 weeks of service. However, time in a nonpay status is also fully creditable if absence is due to military service, as defined in 5 U.S.C. 8331(13), or due to receipt of injury compensation under chapter 81 of title 5, United States Code.

(g) Upon appointment to a position at AL–3, an administrative law judge will be paid at the minimum rate A, unless the administrative law judge is eligible for a higher rate B, C, D, E, or F because of prior service or superior qualifications, as follows—

(1) An agency may offer an administrative law judge applicant with prior Federal service a higher than minimum rate, without obtaining the prior approval of OPM in order to pay the

rate that is next above the applicant's highest previous Federal rate of pay, up to the maximum rate F.

(2) An agency may offer an administrative law judge applicant with superior qualifications a higher than minimum rate if it first obtains approval from OPM to offer such a higher rate to an applicant who is within reach on a certificate of eligible administrative law judge applicants in order to pay that rate of pay that is next above the applicant's existing pay or earnings up to the maximum rate F. ''Superior qualifications'' for applicants includes having legal practice before the hiring agency, having practice in another forum with legal issues of concern to the hiring agency, or having an outstanding reputation among others in the field. OPM will approve such payment of higher than minimum rates for applicants with superior qualifications only when it is clearly necessary to meet the needs of the Government.

(h) Subject to the approval of OPM, and on the appropriate recommendation of the employing agency, an agency may on a one-time basis, advance an administrative law judge in a position at AL–3 with added administrative and managerial duties and responsibilities one rate beyond that allowed under current pay rates for AL–3, up to the maximum Rate F.

(i) Upon appointment to an administrative law judge position placed at AL–2 or AL–1, administrative law judges will be paid at the established rates for those levels.

(j) In making initial pay adjustments for administrative law judges from positions paid under the General Schedule to positions paid under the new pay system established under 5 U.S.C. 5372, the rate of basic pay for any such judge shall, upon conversion to the new pay system, be at least equal to the rate that was payable to that individual immediately before such conversion.

(k) Except as provided in paragraph (l) of this section, on the first day of the first applicable pay period beginning on or after February 10, 1991, administrative law judges will be converted from the General Schedule to AL–3, 2, and 1 as follows:

General schedule	AL
GS–15, Steps 1–2–3–4	AL–3, Rate A.
GS–15, Steps 5–6	AL–3, Rate B.
GS–15, Steps 7–8–9	AL–3, Rate C.
GS–15, Step 10	AL–3, Rate D.
GS–16, Steps 1–2–3	AL–3, Rate C.
GS–16, Steps 4–5–6	AL–3, Rate D.
GS–16, Steps 7–8	AL–3, Rate E.
GS–16, Step 9	AL–3, Rate F.
GS–17, Steps 1–5	AL–2.
GS–18	AL–1.

(l) In making the initial conversion from the General Schedule pay rates to the new AL pay system for administrative law judges, effective on the first day of the first applicable pay period beginning on or after February 10, 1991, those GS–15 and GS–16 administrative law judges receiving the 8 percent interim geographic adjustments authorized by Schedule 9 of Executive Order 12736 of December 12, 1990, will convert as follows:

General schedule	AL
GS–15, Steps 1–2	AL–3, Rate A.
GS–15, Steps 3–4–5	AL–3, Rate B.
GS–15, Steps 6–7	AL–3, Rate C.
GS–15, Steps 8–9–10	AL–3, Rate D.
GS–16, Steps 1–2	AL–3, Rate C.
GS–16, Steps 3–4	AL–3, Rate D.
GS–16, Steps 5–6–7	AL–3, Rate E.
GS–16, Steps 8–9	AL–3, Rate F.

(m) Agencies must document all pay changes made in accordance with this section by completing a Standard Form 50, or equivalent, in the usual manner and forwarding an extra copy directly to the Office of Administrative Law Judges, Career Entry Group, U.S. Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

[56 FR 6210, Feb. 14, 1991, as amended at 57 FR 1369, Jan. 14, 1992]

§ 930.211 Performance rating.

An agency shall not rate the performance of an administrative law judge.

§ 930.212 Rotation of administrative law judges.

Insofar as practicable, an agency shall assign its administrative law judges in rotation to cases.

§ 930.213 Use of administrative law judges on detail from other agencies.

(a) An agency that is occasionally or temporarily insufficiently staffed with administrative law judges may ask OPM to provide for the temporary use by the agency of the services of an administrative law judge of another agency. The agency request should—

(1) Identify and describe briefly the nature of the case(s) to be heard (including parties and representatives when available);

(2) Specify the legal authority under which the use of an administrative law judge is required; and

(3) Demonstrate that the agency has no administrative law judge available to hear the case(s).

(b) OPM, with the consent of the agency in which an administrative law judge is employed, will select the administrative law judge to be used, and will name the date or period for which the administrative law judge is to be made available for detail to the agency in need of his or her services.

(c) Such details generally will be reimbursable by the agency requesting the detail.

§ 930.214 Actions against administrative law judges.

(a) *Procedures.* An agency may remove, suspend, reduce in grade, reduce in pay, or furlough for 30 days or less, an administrative law judge only for good cause, established and determined by the Merit Systems Protection Board on the record and after opportunity for a hearing before the Board as provided in 5 U.S.C. 7521 and §§ 1201.131 through 1201.136 of this title. Procedures for adverse actions by agencies under part 752 of this chapter are not applicable to actions against administrative law judges.

(b) *Status during removal proceedings.* In exceptional cases when there are circumstances by reason of which the retention of an administrative law judge in his or her position, pending adjudication of the existence of good cause for his or her removal, would be detrimental to the interests of the Government, the agency may either:

(1) Assign the administrative law judge to duties not inconsistent with his or her normal duties in which these conditions would not exist;

(2) Place the administrative law judge on leave with his or her consent;

(3) Carry the administrative law judge on appropriate leave (annual or sick leave, leave without pay, or absence without leave) if he or she is voluntarily absent for reasons not originating with the agency; or

(4) If none of the alternatives in paragraphs (b) (1), (2) and (3) of this section is available, agencies may consider placing the administrative law judge in a paid, non-duty or administrative leave status.

(c) *Exceptions from procedures.* The procedures in this subpart governing the removal, suspension, reduction in grade, reduction in pay, or furlough of 30 days or less of administrative law judges do not apply in making dismissals or taking other actions requested by OPM under §§ 5.2 and 5.3 of this chapter; nor to dismissals or other actions made by agencies in the interest of national security under 5 U.S.C. 7532; nor to reduction-in-force action taken by agencies under 5 U.S.C. 3502; nor any action initiated by the Special Counsel of the Merit Systems Protection Board under 5 U.S.C. 1206.

§ 930.215 Reduction in force.

(a) *Retention preference regulations.* Except as modified by this section, the reduction-in-force regulations in part 351 of this chapter apply to reductions in force of administrative law judges.

(b) *Determination of retention standing.* In determining retention standing in a reduction in force, each agency will classify its administrative law judges in groups and subgroups according to tenure of employment, veteran preference, and service date in the manner prescribed in part 351 of this chapter. However, as administrative law judges are not given performance ratings, the provisions in part 351 of this chapter referring to the effect of performance ratings on retention standing are not applicable to administrative law judges.

(c) *Placement Assistance.* (1) Administrative law judges who are reached by an agency reduction in force and who are notified they are to be separated

are eligible for placement assistance under—

(i) Agency reemployment priority lists established and maintained by agencies under subpart J of part 351 of this chapter for all agency tenure group I career employees displaced in a reduction in force;

(ii) Agency and OPM priority placement programs under subpart C of part 330 of this chapter for all agency tenure group I, career employees displaced in a reduction in force.

(2) On request of administrative law judges who are reached by an agency in a reduction in force and who are notified they are to be separated, furloughed for more than 30 days, or demoted, OPM will place their names on OPM's priority referral list for administrative law judges displaced in a reduction in force for the grade or level in which they last served and for all lower grades or levels.

(3) An administrative law judge may file a request under paragraph (c)(2) of this section, for placement on the OPM priority referral list, at any time after the receipt of the specific reduction-in-force notice, but not later than 90 days after the date of separation, furlough for more than 30 days, or demotion. Placement assistance through the OPM priority referral list continues for 2 years from either the effective date of the reduction-in-force action, or the date assistance is requested if a timely request is made. Eligibility of the displaced administrative law judge for the OPM priority referral list is terminated earlier upon the administrative law judge's written request, acceptance of a non-temporary, full-time administrative law judge position, or declination of more than one offer of full-time employment as an administrative law judge at or above the grade level held when reached for reduction in force at geographic locations previously indicated as acceptable.

(4) The displaced administrative law judge will file with the request for priority referral by OPM a Standard Form 171, Application for Federal Employment, and a copy of the reduction-in-force notice. Also, the displaced administrative law judge may ask OPM to limit consideration for vacant positions at any grade level for which qualified to specific geographic areas.

(5) When there is no administrative law judge on the agency's reemployment priority list, but there is an administrative law judge who has been placed on the OPM priority referral list (paragraph (c)(2) of this section), the agency may fill a vacant administrative law judge position only by selection from the OPM priority referral list, unless it obtains the prior approval of OPM for filling the vacant position under §930.203a (a), (c), (d) and (e); §930.204; §930.205, §930.206; or §930.207 of this subpart. OPM will grant such approval only under the extraordinary circumstance that the candidate(s) not on the OPM priority referral list possesses experience and qualifications superior to the displaced administrative law judge(s) on the list.

(6) Referral, certification, and selection of administrative law judges from OPM's priority referral list are made without regard to selective certification or special qualification procedures which may have been applied in the original appointment in accordance with OPM Examination Announcement No. 318.

[52 FR 32403, Sept. 10, 1987, as amended at 56 FR 6210, Feb. 14, 1991]

§930.216 Temporary reemployment: senior administrative law judges.

(a)(1) Subject to the requirements and limitations of this section, the following annuitants, as defined by 5 U.S.C. 8331, who are receiving an annuity from the Civil Service Retirement and Disability Fund may be temporarily reemployed as administrative law judges by an agency that has temporary, irregular workload requirements for conducting proceedings in accordance with 5 U.S.C. 556 and 557:

(i) Annuitants who have served with absolute status as administrative law judges under 5 U.S.C. 3105; and

(ii) Annuitants who have met current examination requirements set forth in OPM Examination Announcement 318 (including the requirement to maintain a current license to practice law under the laws of a state, the District of Columbia, the Commonwealth of Puerto Rico, or any territorial court established under the Constitution).

(2) These retired administrative law judges who are so reemployed will be known as senior administrative law judges.

(b) Retired administrative law judges who meet the requirements of paragraph (a) of this section and who are available for temporary reemployment must notify OPM in writing of their availability, giving their full names, addresses, telephone numbers, names of the agencies where they served as administrative law judges, and jurisdictions in which they are currently licensed to practice law. OPM will maintain a master list of such retired administrative law judges for use in responding to agency requests for such administrative law judges.

(c) An agency that wishes to temporarily reemploy administrative law judges must submit a written request to OPM. The request will—

(1) Identify the statutory authority under which the administrative law judge is expected to conduct proceedings;

(2) Demonstrate that the agency is occasionally or temporarily understaffed;

(3) Specify the tour of duty, location, period of time, or particular case(s), for the requested reemployment; and

(4) Describe any special qualifications desired in the retired administrative law judge that it wishes to reemploy, such as experience in a particular field, agency, or substantive area of law.

(d) OPM will approve agency requests for temporary reemployment of retired administrative law judges for a specified period or periods provided—

(1) The requesting agency fully justifies the need for an administrative law judge for formal proceedings and demonstrates that it is occasionally or temporarily understaffed; and

(2) No other administrative law judge with the appropriate qualifications is available through OPM under §930.213 of this subpart to perform the occasional or temporary work for which reemployment is requested.

(e) Upon approval of an agency request to reemploy a retired administrative law judge, OPM will select from its master list of retired administrative law judges, in rotation to the extent practicable, those retired judges who it determines meet agency requirements. OPM will then provide a list of such individuals to the requesting agency and the agency must then select from that list a retired administrative law judge for reemployment.

(f) Reemployment of retired administrative law judges is subject to investigation of suitability in accordance with §§731.201 through 731.303 of this chapter. It is also subject to conflict of interest and security investigation requirements by the appointing agency.

(g) Reemployment as senior administrative law judges will be for either a specified period not to exceed 1 year; or such periods as may be necessary for the reemployed administrative law judge to conduct and complete the hearing of one or more specified cases and issue decisions therein. Upon agency request, OPM may either reduce or extend such period of reemployment, as necessary, to coincide with changing staffing requirements, but not to exceed 1 year.

(h) An agency may assign its senior administrative law judges to either (1) hear one or more specific cases; or (2) hear, in normal rotation to the extent practicable, a number of cases on its docket and issue decisions therein.

(i) Hours of duty, administrative support services, and travel reimbursement for senior administrative law judges will be determined by the employing agency in accordance with the same rules and procedures that are generally applicable to employees.

(j) A senior administrative law judge serves subject to the same limitations on performance appraisal and reduction in pay or removal as any other administrative law judge employed under this subpart and 5 U.S.C. 3105. An agency will not rate the performance of a senior administrative law judge. Reduction-in-pay or removal actions may not be taken against senior administrative law judges during the period of reemployment, except for good cause established and determined by the Merit Systems Protection Board after opportunity for a hearing on the record before the Board as provided in 5 U.S.C. 7521 and §§1201.131 through 1201.136 of this title.

(k) A senior administrative law judge will be paid by the employing agency the current rate of pay for the level at which the duties to be performed have been placed and at the lowest rate of the level that is nearest (when rounded up) to the highest previous grade and step, or level and rate, attained as an administrative law judge before retirement. An amount equal to the annuity allocable to the period of actual employment will be deducted from his or her pay and deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.

[52 FR 32403, Sept. 10, 1987, as amended at 56 FR 6210, Feb. 14, 1991]

Subpart C—Employees Responsible for the Management or Use of Federal Computer Systems

AUTHORITY: 40 U.S.C. 759 note.

SOURCE: 56 FR 63403, Dec. 4, 1991, unless otherwise noted.

§ 930.301 Definitions.

(a) The amount and type of training different groups of employees will receive will be distinguished by the following knowledge levels identified in the Computer Security Training Guidelines developed by the National Institute of Standards and Technology:

(1) *Awareness level training* creates the sensitivity to the threats and vulnerabilities and the recognition of the need to protect data, information, and the means of processing them;

(2) *Policy level training* provides the ability to understand computer security principles so that executives can make informed policy decisions about their computer and information security programs;

(3) *Implementation level training* provides the ability to recognize and assess the threats and vulnerabilities to automated information resources so that the responsible managers can set security requirements which implement agency security policies; and

(4) *Performance level training* provides the employees with the skill to design, execute, or evaluate agency computer security procedures and practices. The objective of this training is that employees will be able to apply security concepts while performing the tasks that relate to their particular positions. It may require education in basic principles and training in state-of-the-art applications.

(b) Training audiences are groups of employees with similar training needs. Consistent with the Computer Security Training Guidelines, they are defined as follows:

(1) *Executives* are those senior managers who are responsible for setting agency computer security policy, assigning responsibility for implementing the policy, determining acceptable levels of risk, and providing the resources and support for the computer security program.

(2) *Program and Functional Managers* are those managers and supervisors who have a program or functional responsibility (not in the area of computer security) within the agency. They have primary responsibility for the security of their data. This means that they designate the sensitivity and criticality of data and processes, assess the risks to those data, and identify security requirements to the supporting data processing organization, physical facilities personnel, and users of their data. Functional managers are responsible for assuring the adequacy of all contingency plans relating to the safety and continuing availability of their data.

(3) *Information Resources Managers (IRM), Security, and Audit Personnel* are all involved with the daily management of the agency's information resources, including the accuracy, availability, and safety of these resources. Each agency assigns responsibility somewhat differently, but as a group these persons issue procedures, guidelines, and standards to implement the agency's policy for information security, and to monitor its effectiveness and efficiency. They provide technical assistance to users, functional managers, and to the data processing organization in such areas as risk assessment and available security products and technologies. They review and evaluate the functional and program groups' performance in information security.

(4) *Automated Data Processing (ADP) Management, Operations, and Programming Staff* are all involved with the daily management and operations of the automated data processing services. They provide for the protection of the data in their custody and identify to the data owners what those security measures are. This group includes such diverse positions as computer operators, schedulers, tape librarians, data base administrators, and systems and applications programmers. They provide the technical expertise for implementing security-related controls within the automated environment. They have primary responsibility for all aspects of contingency planning.

(5) *End Users* are any employees who have access to an agency computer system that processes sensitive information. This is the largest and most heterogenous group of employees. It consists of everyone from the executive who has a personal computer with sensitive information to data entry clerks.

(c) The training guidelines developed by the National Institute of Standards and Technology identify five subject areas. They are:

(1) *Computer security basics* is the introduction to the basic concepts behind computer security practices and the importance of the need to protect the information from vulnerabilities to known threats;

(2) *Security planning and management* is concerned with risk analysis, the determination of security requirements, security training, and internal agency organization to carry out the computer security function;

(3) *Computer security policies and procedures* looks at Governmentwide and agency-specific security practices in the areas of physical, personnel software, communications, data, and administrative security;

(4) *Contingency planning* covers the concepts of all aspects of contingency planning, including emergency response plans, backup plans and recovery plans. It identifies the roles and responsibilities of all the players involved; and

(5) *Systems life cycle management* discusses how security is addressed during each phase of a system's life cycle (e.g. system design, development, test and evaluation, implementation, and maintenance). It addresses procurement, certification, and accreditation.

(d) The statute defines the term *sensitive information* as any information, the loss, misuse, or unauthorized access to or modification of which could adversely affect the national interest or the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

§ 930.302 Training requirement.

The head of each agency shall identify employees responsible for the management or use of computer systems that process sensitive information and provide the following training (consult ''Computer Security Training Guidelines,'' NIST Special Publication 500–172[1], for more detailed information) to each of these groups:

(a) Executives shall receive awareness training in computer security basics, computer security policy and procedures, contingency planning, and systems life cycle management; and policy level training in security planning and management.

(b) Program and functional managers shall receive awareness training in computer security basics; implementation level training in security planning and management, and computer security policy and procedures; and performance level training in contingency planning and systems life cycle management.

(c) IRM, security, and audit personnel shall receive awareness training in computer security basics; and performance level training in security planning and management, computer security policies and procedures, contingency planning, and systems life cycle management.

(d) ADP management and operations personnel shall receive awareness training in computer security basics;

[1] Copies may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402–9325.

and performance level training in security planning and management, computer security policies and procedures, contingency planning, and systems life cycle management.

(e) End users shall receive awareness training in computer security basics, security planning and management, and systems life cycle management; and performance level training in computer security policies and procedures, and contingency planning.

§ 930.303 Initial training.

The head of each agency shall provide the training outlined in § 930.302 of this subpart to all such new employees within 60 days of their appointment.

§ 930.304 Continuing training.

The head of each agency shall provide training whenever there is a significant change in the agency information security environment or procedures or when an employee enters a new position which deals with sensitive information.

§ 930.305 Refresher training.

Computer security refresher training shall be given as frequently as determined necessary by the agency based on the sensitivity of the information that the employee uses or processes.

PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICE PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATIONS

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SOURCE: 60 FR 57890, Nov. 24, 1995, unless otherwise noted.

Subpart A—General Provisions

§ 950.101 Definitions.

Administrative Expenses, PCFO Expenses, Campaign Expenses, or *CFC Expenses* means all documented expenses identified in the PCFO application relating to the conduct of a local CFC and approved by the LFCC in accordance with these regulations.

Campaign Year means the calendar year in which Federal employees are solicited for contributions to the Combined Federal Campaign.