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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