

§ 362.205

assignment of at least 9 months in duration during which time the Senior Fellow will serve with full responsibilities for accomplishing the duties of that position.

(c) *Performance and progress evaluation.* (1) Each Fellow and Senior Fellow will be placed on a performance plan, as prescribed by part 430 of this chapter or other applicable law or regulation, establishing performance elements and standards that are directly related to acquiring and demonstrating the various leadership, technical, and/or general competencies expected of the Fellow or Senior Fellow as well as the elements and standards established for the duties assigned.

(2) Each Fellow and Senior Fellow must receive an annual performance evaluation in accordance with the agency's performance management program. The rating is derived from an evaluation of the Fellow's or Senior Fellow's success in completing developmental activities designed to prepare the Fellow or Senior Fellow to meet the developmental and performance expectations described in his/her performance plan.

(3) If a Fellow or Senior Fellow does not meet expectations (set forth in the performance plan) with regard to his/her developmental progress or assignments, the agency may take appropriate action.

(d) *Promotion.* (1) An agency must establish policies and criteria for the promotion of Fellows and Senior Fellows. A Fellow may be promoted up to the GS-13 level or its equivalent. A Senior Fellow may be promoted up to the GS-15 level or its equivalent.

(2) Time-in-grade requirements in part 300 of this chapter do not apply to the promotion of Fellows or Senior Fellows while they are appointed under § 213.3102(ii) or (jj) of this chapter.

(e) *Certification of completion.* (1)(i) Upon a Fellow's or Senior Fellow's completion of the Program, the appointing agency's ERB must evaluate each Fellow or Senior Fellow, as applicable, and determine whether it can certify in writing that he/she has met all of the requirements of the Program, including the performance and developmental expectations set forth in the individual's performance plan and IDP,

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as established by this regulation, and, if so, make that certification. In the event the OPM Director, or the Director's designee, has approved a waiver of one or more of those requirements in a particular case pursuant to § 362.205, the ERB must certify that such a waiver has been granted and that any remaining requirements were met. The mentor may be consulted during this process. Any certifications are forwarded to OPM.

(ii) Once Senior Fellows have been certified by the agency ERB, they are eligible for consideration by the QRB in the same manner as a graduate of an OPM-approved SES candidate development program.

(iii) The agency must complete its evaluation, make a decision regarding certification of successful completion, and notify the Fellow or Senior Fellow, no later than 30 calendar days prior to the expiration of the Fellow's or Senior Fellow's appointment in the Program.

(2)(i) If the ERB decides not to certify a Fellow or Senior Fellow, the Fellow or Senior Fellow may request reconsideration of that determination by the OPM Director, or the Director's designee. Such reconsideration must be requested in writing, with appropriate documentation and justification, within 15 calendar days of the date of the agency's decision.

(ii) The Fellow or Senior Fellow may continue in the Program pending the outcome of his/her request for reconsideration. The agency must continue to provide appropriate developmental activities during this period.

(iii) The OPM Director's, or the Director's designee's, determination in this regard shall be final and not subject to further review or appeal.

§ 362.205 Waiver.

Under limited circumstances, the OPM Director, or the Director's designee, may approve a written request for a waiver of any of the requirements enumerated in this part.

§ 362.206 Movement between departments or agencies.

(a) A Fellow or Senior Fellow may move to another agency at any time

during his/her appointment in the Program. To move from one agency to another during the Program, the Fellow or Senior Fellow must separate from the current agency. The new employing agency must appoint the participant without a break in service under the appropriate Fellow or Senior Fellow appointing authority. The gaining agency's ERB must approve the Senior Fellow's appointment for continuation in the Program.

(b) The Fellow or Senior Fellow does not begin a new period in the Program upon appointment by the new employing agency. Because there is no break in service, time served under the previous Program appointment will apply towards the completion of the Program with the new employing agency.

(c) The new appointing agency must notify OPM when a Fellow or Senior Fellow moves to that agency from another agency.

§ 362.207 Withdrawal and readmission.

(a) *Withdrawal.* (1) A Fellow or Senior Fellow may withdraw from the Program at any time by resigning from his/her appointment. Such withdrawal will be treated as a resignation from the Federal service; however, any obligations established upon admission and appointment (for example, as a result of accepting a recruitment bonus under part 575, subpart A, of this chapter) still apply.

(2) A Fellow or Senior Fellow who held a career or career-conditional appointment in an agency immediately before entering the Program, and who withdraws from the Program for reasons that are not related to misconduct, poor performance, or suitability, may, at the employing agency's discretion, be placed in a career or career-conditional position, as appropriate, in that agency. The employing agency's determination in this regard is not subject to appeal.

(3) An agency must notify OPM when a Fellow or Senior Fellow withdraws from the Program.

(b) *Readmission.* (1) If a Fellow or Senior Fellow withdraws from the Program for reasons that are related to misconduct, poor performance, or suitability, as determined by the agency,

he/she will not be readmitted to the Program at any time.

(2) If a Fellow or Senior Fellow withdraws from the Program for reasons that are not related to misconduct, poor performance, or suitability, he/she may petition the employing agency for readmission and reappointment to the Program; such a petition must be in writing and include appropriate justification. Upon consideration of that petition, the agency may, at its discretion, submit a written request seeking OPM approval to readmit and reappoint the individual to the Program; the individual's status in the Program upon readmission and reappointment must be addressed as part of the agency's submission. The OPM Director's, or the Director's designee's, final determination regarding readmission and reappointment is not subject to appeal.

§ 362.208 Resignation, termination, reduction in force, and appeal rights.

(a) *Resignation.* A Fellow or Senior Fellow who resigns at any time prior to completion of the Program does not have reinstatement eligibility for competitive service positions based on his/her Fellow or Senior Fellow appointment.

(b) *Termination.* If an agency does not appoint a Fellow or Senior Fellow at the end of the Program, as provided in § 362.209, or extend the individual's initial appointment under § 362.203, the appointment expires when certification for Program completion is denied or when the OPM Director, or the Director's designee, denies the agency's request for an extension. The agency must provide written notification to OPM when a Fellow or Senior Fellow is terminated for this or any reason.

(c) *Reduction in force.* Fellows and Senior Fellows are in the excepted service Tenure Group II for purposes of § 351.502 of this chapter.

(d) *Appeal rights.* Fellows and Senior Fellows are excepted service employees within the meaning of chapters 43 and 75 in title 5, United States Code, and have appeal rights as provided therein. For systems not covered by 5 U.S.C. chapters 43 or 75, Fellows and Senior Fellows have appeal rights as provided by the equivalent authorities under their system, if any.