

§ 9901.203

(1) Employees and positions that would otherwise be covered by the General Schedule classification system established under 5 U.S.C. chapter 51;

(2) Employees in senior-level (SL) and scientific or professional (ST) positions who would otherwise be covered by 5 U.S.C. 5376;

(3) Members of the Senior Executive Service (SES) who would otherwise be covered by 5 U.S.C. chapter 53, subchapter VIII, subject to § 9901.102(d); and

(4) Such others designated by the Secretary as DoD may be authorized to include under 5 U.S.C. 9902.

§ 9901.203 Waivers.

(a) When a specified category of employees is covered by a classification system established under this subpart, the provisions of 5 U.S.C. chapter 51 are waived with respect to that category of employees, except as provided in paragraph (b) of this section, §§ 9901.106, and 9901.222(d) (with respect to OPM's authority to act on requests for classification decisions under 5 U.S.C. 5112(b) and review of pay plans under 5 U.S.C. 5103).

(b) Section 5108 of title 5, U.S. Code, dealing with the classification of positions above GS-15, is not waived for the purpose of defining and allocating Senior Executive Service (SES) positions under 5 U.S.C. 3132 and 3133 or applying provisions of law outside the waivable and modifiable chapters of title 5, U.S. Code—e.g., 5 U.S.C. 4507 and 4507a (regarding Presidential rank awards), 5 U.S.C. 6303(f) (regarding annual leave accrual for members of the SES and employees in SL/ST positions), and 5 U.S.C. 6304(f) (regarding annual leave ceilings for members of the SES and employees in SL/ST positions).

§ 9901.204 Definitions.

In this subpart:

Band has the meaning given that term in § 9901.103.

Basic pay has the meaning given that term in § 9901.103.

Career group has the meaning given that term in § 9901.103.

Classification, also referred to as job evaluation, means the process of analyzing and assigning a job or position to an occupational series, official title,

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career group, pay schedule, and pay band for pay and other related purposes.

Competencies has the meaning given that term in § 9901.103.

Occupational series has the meaning given that term in § 9901.103.

Official title means the position title prescribed in an NSPS classification standard or by supplemental Component guidance.

Pay band or *band* has the meaning given that term in § 9901.103.

Pay schedule has the meaning given that term in § 9901.103.

Position or *job* means the duties, responsibilities, and related competency requirements that are assigned to an employee.

CLASSIFICATION STRUCTURE

§ 9901.211 Career groups.

For the purpose of classifying positions, the Secretary may establish career groups based on factors such as mission or function; nature of work; qualifications or competencies; career or pay progression patterns; relevant labor-market features; and other characteristics of those occupations or positions. The Secretary will document in implementing issuances the criteria and rationale for grouping occupations or positions into career groups.

§ 9901.212 Pay schedules and pay bands.

(a) For purposes of identifying relative levels of work and corresponding pay ranges, the Secretary may establish one or more pay schedules within each career group.

(b) Each pay schedule may include one or more pay bands.

(c) The Secretary will document in implementing issuances the definitions for each pay band which specify the type and range of difficulty and responsibility, qualifications or competencies, or other characteristics of the work encompassed by the pay band.

(d) The Secretary will—

(1) Use qualification standards established or approved by OPM, or establish qualification standards for positions covered by NSPS, subject to § 9901.105(b)(2); and

(2) Designate qualification standards and requirements for each career group, occupational series, pay schedule, and/or pay band.

CLASSIFICATION PROCESS

§ 9901.221 Classification requirements.

(a) The Secretary will develop a methodology for describing and documenting the duties, qualifications, and other requirements of categories of jobs, and will make such descriptions and documentation available to affected employees.

(b) The Secretary will—

(1) Assign occupational series to jobs consistent with occupational series definitions established by OPM under 5 U.S.C. 5105, or by DoD; and

(2) Apply the criteria and definitions required by §§ 9901.211 and 9901.212 to assign jobs to an appropriate career group, pay schedule, and pay band.

(c) The Secretary will establish procedures for classifying jobs and may make such inquiries of the duties, responsibilities, and qualification requirements of jobs as he or she considers necessary for the purpose of this section.

(d) A classification action is implemented by a personnel action, which, for encumbered positions, must be taken within a reasonable period of time following the effective date of the position classification action. For classification actions resulting from a DoD appeal decision, the personnel action must occur within four pay periods following the effective date of the decision, except when a subsequent date is specifically provided in the decision. If a classification action results in a reduction in an employee's pay band or adjusted salary, the employee must be advised, in writing, of the action and proposed effective date of the personnel action at least 7 days before the personnel action is taken. The written notice will inform the employee of the reason for the reclassification, the right to appeal the classification decision, and the time limitations in § 9901.223 within which the appeal must be filed to preserve applicable retroactive benefits.

(e) Except as otherwise provided in this paragraph or required by law, the

effective date of a classification action is the date the authorized management official certifies the classification decision (*i.e.*, signs or electronically validates the position description).

(1) A retroactive effective date for a classification action and the implementing personnel action is permitted only if the action resulted in a reduction in pay band or adjusted salary and if that action is subsequently reversed on appeal.

(2) In order for a corrective action to be retroactive, the employee must file an initial request for review of the classification action with DoD or OPM not later than 15 calendar days after the personnel action effective date for the reduction in pay band or adjusted salary.

(3) A retroactive date may be established only if the appeal reversal is based on the duties and responsibilities performed at the time of reduction. Retroactive action is mandatory under these circumstances.

§ 9901.222 Review of classification decisions.

(a) An individual employee may request that DoD or OPM review the classification (*i.e.*, pay system, career group, occupational series, official title, pay schedule, or pay band) of his or her official position of record at any time.

(b) Under this section, an employee may not appeal to either DoD or OPM the issues designated as nonappealable to the Office of Personnel Management in 5 CFR 511.607 or the accuracy of NSPS pay schedule and pay band classification criteria. Additional nonappealable issues covered under NSPS include—

(1) Classification of a proposed position or one to which the employee is not officially assigned;

(2) Classification of a position to which an employee is detailed, temporarily reassigned, or temporarily promoted, except for employees serving under a time-limited promotion or reassignment for 2 years or more;

(3) Accuracy of the official position description, including the inclusion or exclusion of a duty (subject to paragraph (c) of this section);