§ 317.801 Retention of SES provisions.

(a) Coverage. This subpart applies to—

(1) A career appointee in the SES appointed at any time by the President to a civilian position in the executive branch with the advice and consent of the Senate at a rate of basic pay which is equal to or greater than the rate payable for Executive Level V; or

(2) A career appointee in the SES who is not covered under paragraph (a)(1) of this section and who was appointed on or after November 1, 1986, to a civilian position in the executive branch which is covered by the Executive Schedule, or the rate of basic pay for which is fixed by statute at a rate equal to one of the levels of the Executive Schedule.

(b) Election. (1) At the time of appointment, an appointee covered by paragraph (a) of this section may elect to retain some, all, or none of the following SES provisions related to basic pay (including the aggregate limitation on pay established by 5 U.S.C. 5307), performance awards, awarding of ranks, severance pay, leave, and retirement. That election will remain in effect for no less than 1 year, unless the appointee leaves the position sooner.

(2) The appointing agency is responsible for advising the appointee of the election opportunity. The election decision must be in writing.

(c) Change in election. Except as provided by paragraph (b) of this section, a career appointee is permitted to make an election for purposes of adding or dropping coverage no more than once during any twelve-month period.

§ 317.901 Reassignments.

(a) In this section, reassignment means a permanent assignment to another SES position within the employing executive agency or military department. (See 5 U.S.C. 105 for a definition of “executive agency” and 5 U.S.C. 102 for a definition of “military department.”)

(b) A career appointee may be reassigned to any SES position for which qualified in accordance with the following conditions:

(1) Reassignment within a commuting area. For reassignment within a commuting area, the appointee must receive a written notice at least 15 days before the effective date of the reassignment. This notice requirement may be waived only when the appointee consents in writing.

(2) Reassignment outside of a commuting area. For reassignment outside of a commuting area, (i) the agency must consult with the appointee on the reasons for, and the appointee’s preferences with respect to, the proposed reassignment; and (ii) following such consultation, the agency must provide the appointee a written notice, including the reasons for the reassignment, at least 60 days before the effective date of the reassignment. This notice requirement may be waived only when the appointee consents in writing.

(c) A career appointee may not be involuntarily reassigned within 120 days after the appointment of the head of an agency, or within 120 days after the appointment of the career appointee’s most immediate supervisor who is a noncareer appointee and who has the authority to make an initial appraisal of the career appointee’s performance under subpart C of part 430 of this chapter.

(1) In this paragraph—

(i) Head of an agency means the head of an executive or military department or the head of an independent establishment.

(ii) Noncareer appointee includes an SES noncareer or limited appointee, an appointee in a position filled by Schedule C, or an appointee in an Executive Schedule or equivalent position that is not required to be filled competitively.
§ 317.902 Transfers.

(a) Definition. In this section, transfer means a permanent assignment or appointment to another SES position in a different executive agency or military department.

(b) Requirements. Transfers are voluntary and cannot occur without the consent of the appointee and the gaining agency, except transfers connected with a transfer of functions to another agency.

§ 317.903 Details.

(a) Definition. In this section, detail means the temporary assignment of an SES member to another position (within or outside of the SES) or the temporary assignment of a non-SES member to an SES position, with the expectation that the employee will return to the official position of record upon expiration of the detail. For purposes of pay and benefits, the employee continues to encumber the position from which detailed. The provisions of this section cover details within or outside of the employing agency.

(b) Time limits. (1) Details within an executive agency or military department must be made in no more than 120-day increments.

(2) An agency may not detail an SES employee to unclassified duties for more than 240 days.

(3) An agency must use competitive procedures when detailing a non-SES employee to an SES position for more than 240 days unless the employee is eligible for a noncompetitive career SES appointment.

(4) An agency must obtain OPM approval for a detail of more than 240 days if the detail is of:

(i) A non-SES employee to an SES position that supervises other SES positions; or

(ii) An SES employee to a position at the GS–15 or equivalent level or below.

(c) SES career reserved positions. Only a career SES appointee or a career-type non-SES appointee may be detailed to a career reserved position.

(d) SES general positions. Any SES appointee or non-SES appointee may be detailed to a general position.

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