

## Office of Personnel Management

## § 6.3

Counsel, or to their authorized representatives, all information, testimony, documents, and material in regard to the above matters, the disclosure of which is not otherwise prohibited by law or regulation. These employees, applicants, and eligibles shall sign testimony given under oath or affirmation before an officer authorized by law to administer oaths. Employees are performing official duty when testifying or providing evidence pursuant to this section.

### PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE (RULE VI)

Sec.

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AUTHORITY: 5 U.S.C. 3301, 3302.

SOURCE: 28 FR 10025, Sept. 14, 1963, unless otherwise noted.

#### § 6.1 Authority to except positions from the competitive service.

(a) OPM may except positions from the competitive service when it determines that (A) appointments thereto through competitive examination are not practicable, or (B) recruitment from among students attending qualifying educational institutions or individuals who have recently completed qualifying educational programs can better be achieved by devising additional means for recruiting and assessing candidates that diverge from the processes generally applicable to the competitive service. These positions shall be listed in OPM's annual report for the fiscal year in which the exceptions are made.

(b) OPM shall decide whether the duties of any particular position are such that it may be filled as an excepted position under the appropriate schedule.

(c) Notice of OPM's decision granting authority to make appointments to an excepted position under the appro-

priate schedule shall be published in the FEDERAL REGISTER.

[28 FR 10025, Sept. 14, 1963, as amended by E.O. 11315, 3 CFR, 1966-1970 Comp., p. 597; E.O. 12043, 43 FR 9773, Mar. 10, 1978; E.O. 13562, 75 FR 82587, Dec. 30, 2010]

#### § 6.2 Schedules of excepted positions.

OPM shall list positions that it excepts from the competitive service in Schedules A, B, C, and D, and it shall list the position of administrative law judge in Schedule E, which schedules shall constitute parts of this rule, as follows:

Schedule A. Positions other than those of a confidential or policy-determining character for which it is not practicable to examine shall be listed in Schedule A.

Schedule B. Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination shall be listed in Schedule B. Appointments to these positions shall be subject to such noncompetitive examination as may be prescribed by OPM.

Schedule C. Positions of a confidential or policy-determining character shall be listed in Schedule C.

Schedule D. Positions other than those of a confidential or policy-determining character for which the competitive service requirements make impracticable the adequate recruitment of sufficient numbers of students attending qualifying educational institutions or individuals who have recently completed qualifying educational programs shall be listed in Schedule D. These positions are temporarily placed in the excepted service to enable more effective recruitment from all segments of society by using means of recruiting and assessing candidates that diverge from the rules generally applicable to the competitive service.

Schedule E. Positions of administrative law judge appointed under 5 U.S.C. 3105 shall be listed in Schedule E. Conditions of good administration warrant placing the position of administrative law judge in the excepted service and exempting appointment to this position from the requirements of 5 CFR, part 302, including examination and rating requirements, though each agency shall follow the principle of veteran preference as far as administratively feasible.

[E.O. 14029, 86 FR 27025, May 19, 2021]

#### § 6.3 Method of filling excepted positions and status of incumbents.

(a) The head of an agency may fill excepted positions by the appointment of