

Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213 and 315

RIN 3206-AH82

Student Educational Employment Program

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for written comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations governing the Student Educational Employment Program. The regulations make no fundamental changes to the Program. The regulations recodify the two components of the Program; implement Executive Order 13024, which permits noncompetitive conversion of certain employees of the Student Educational Employment Program to term appointments; clarify certain definitions; and make related editorial changes to part 315.

DATES: Effective date: December 2, 1997. Written comments will be considered if received on or before January 2, 1998.

FOR FURTHER INFORMATION CONTACT: Christina Gonzales Vay, 202-606-0830, FAX 202-606-0390, or TDD 202-606-0023.

SUPPLEMENTARY INFORMATION: On December 16, 1994, OPM published final regulations at 59 FR 64839 that consolidated 13 different student employment programs into one simplified program, the Student Educational Employment Program. The Student Educational Employment Program is comprised of two components, the Student Temporary Employment Program and the Student Career Experience Program. Each was assigned an excepted service appointing authority letter under Schedule B. The Student Temporary Employment

Program was listed as 5 CFR 213.3202(a); the Student Career Experience Program was listed as 5 CFR 213.3202(b). Implementing regulations for the programs were listed separately under 5 CFR 213.3202 (c) and (d), which has caused confusion when citing the appropriate appointing authority.

We propose to rearrange the authorities so that the requirements for each program are listed under the appointing authority itself. The Student Temporary Employment Program will remain under 5 CFR 213.3202(a), and the Student Career Experience Program under 5 CFR 213.3202(b). Requirements and general instructions that apply to both components appear in each authority. Paragraphs (c) and (d) in § 213.3202 are reserved.

No fundamental changes are made to the Student Educational Employment Program; we are not entertaining any suggestions to change it. The Program will continue as it has for the last 2 years, with clarifications to three definitions.

Program Clarifications

- The current definition of "student" does not clearly address the situation of students who are accepted for enrollment but are not yet taking courses, taking correspondence course, or being home-schooled. We are amending the definition to make clear that individuals who are accepted for enrollment are considered to be students for the purpose of both programs. We are also clarifying that only those students who are in actual physical attendance at the school may participate in the Student Educational Employment Program. This is similar to the definition of "student" used in the past for summer employment.

- Under the Student Career Experience Program, the authority currently classifies students as trainees in the -99 series of an occupational group and does not address wage grade positions. We did not intend to limit Student Career Experience appointments to only positions under the General Schedule. Therefore, we are clarifying that agencies may appoint Student Career Experience eligibles to positions either under the General Schedule or the Federal Wage System.

- We are clarifying the definition of "break in program" to make clear that a break in program is authorized when a student is neither attending classes nor working at the agency.

Conversion to Term Appointments

On November 7, 1996, Executive Order 13024 authorized noncompetitive conversion of Student Career

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Experience employees to term appointments in the competitive service, in addition to career and career-conditional appointments authorized by Executive Order 12015. Before the term appointment expires, agencies may noncompetitively convert the term appointments to career or career-conditional appointments. This provides agencies an additional flexibility in managing its workforce. We are including this provision in the Student Career Experience appointment authority, and making conforming changes in part 315.

Documentation on SF-50, Notification of Personnel Action

For noncompetitive conversions from the Student Educational Employment Program to term, career, and career-conditional appointments, agencies should cite Legal Authority Code ZJM on the SF-50, Notification of Personnel Action. The legal authority is Executive Order 12015.

Waiver of Notice of Proposed Rulemaking

Pursuant to 5 U.S.C. 533(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking because this document merely recodifies paragraphs for greater clarity and ease of use. Also, the Executive Order permitting noncompetitive conversion to term appointments became effective on November 7, 1996. No substantive changes have been made in these regulations.

List of Subjects in 5 CFR Parts 213 and 315

Government employees, Reporting and recordkeeping requirements.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending part 213 and part 315 of title 5, Code of Federal Regulations, as follows:

PART 213—EXCEPTED SERVICE

1. The authority for part 213 is revised to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954-1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h), and 8456; E.O. 12364,

47 FR 22931, 3 CFR 1982 Comp., p. 185; and 38 U.S.C. 4301 *et seq.*

2. In § 213.104, paragraph (b)(3)(ii) is revised to read as follows:

§ 213.104 Special provisions for temporary, intermittent, or seasonal appointments in Schedule A, B, or C.

* * * * *

(b) * * *
(3) * * *

(ii) Positions are filled under an authority established for the purpose of enabling the appointees to continue or enhance their education, or to meet academic or professional qualification requirements. These include the authorities set out in paragraphs (r) and (s) of § 213.3102 and paragraph (a) of § 213.3202, and authorities granted to individual agencies for use in connection with internship, fellowship, residency, or student programs.

* * * * *

3. In § 213.3202, paragraphs (a) and (b) are revised, and paragraphs (c) and (d) are removed and reserved, to read as follows:

§ 213.3202 Entire executive civil service.

(a) *Student Educational Employment Program—Student Temporary Employment Program.* (1) Students may be appointed to the Student Temporary Employment Program if they are pursuing any of the following educational programs:

- (i) High school diploma or General Equivalency Diploma (GED);
- (ii) Vocational/Technical certificate;
- (iii) Associate degree;
- (iv) Baccalaureate degree;
- (v) Graduate degree; or
- (vi) Professional degree.

(2) *Definition of student.* A student is an individual who has been accepted for enrollment, or who is enrolled, as a degree (diploma, certificate, etc.) seeking resident student in an accredited high school, technical or vocational school, 2-year or 4-year college or university, graduate or professional school. If the student is enrolled, the student must be taking at least a half-time academic/vocational/ or technical course load. The definition of *half-time* is the definition provided by the school in which the student is enrolled. A student must be in actual physical attendance at a school, as distinguished from a correspondence or home-schooled student. An individual who needs to complete less than the equivalent of half an academic/ vocational or technical courseload in the class enrollment period immediately prior to graduating is still considered a student for purposes of this program.

(3) *Schedules.* Students may work full-time or part-time schedules at any

time during the year. There are no limitations on the number of hours a student can work per week, but the student's work schedule should not interfere with the student's academic schedule.

(4) *Breaks in program.* A *break in program* is defined as a period of time when a program participant is working but is unable to go to school, or neither attending classes nor working at the agency. Agencies may use their discretion in either approving or denying a break in program.

(5) *Employment of minors.*

Participation in this program must be in conformance with Federal, State, or local laws and standards governing the employment of minors.

(6) *Citizenship.* Agencies may appoint non-citizens provided that:

- (i) The student is lawfully admitted to the United States as a permanent resident or otherwise authorized to be employed; and
- (ii) The agency is authorized to pay aliens under the annual appropriations act ban and any agency specific enabling and appropriation statutes.

(7) *Employment of relatives.* In accordance with part 310 of this chapter, a student may work in the same agency with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the student's appointment, employment, promotion or advancement within the agency.

(8) *Financial need.* There is no requirement for students to meet any specific economic/income criteria to be eligible. However, agencies have the option to establish and use financial need as a criteria to select students, if they wish. OPM does not develop or distribute annual economic guidelines for use in determining financial need. An agency wishing to use the Department of Health and Human Services' poverty guidelines may call the Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation.

(9) *Training expenses.* Agencies may use their training authority in 5 U.S.C. chapter 41 and 5 CFR part 410 to pay all or part of the students' training expenses.

(10) *Appointments.* (i) Students are appointed to positions not to exceed 1 year. Appointments under this authority may be extended in one-year increments as long as the individual meets the definition of a student. Agencies may establish minimum academic requirements and on the job performance requirements for continuation in the program. Students under this appointment authority are

excepted from the limitations under § 213.104.

(ii) The nature of the duties does not have to be related to the student's academic/career goals.

(iii) Students are not eligible for noncompetitive conversion to term, career, or career-conditional appointments. They may be converted to the Student Career Experience Program (refer to paragraph (a)(15) of this section).

(11) *Classification.* Classification of students is based on the occupational series for which they are hired. Grade level is to be set according to the criteria in the appropriate General Schedule (GS) or wage grade (WG) classification standard.

(12) *Qualifications.* Students may be evaluated either by agency-developed standards or by the OPM qualification requirements for the position to which appointed. Students are eligible for promotions. Promotions should be documented as a conversion to another excepted appointment, citing the same authority used for the original appointment and maintaining the original not-to-exceed (NTE) date.

(13) *Benefits.* (i) Students under this program are eligible for annual and sick leave and are generally ineligible for retirement coverage. Refer to § 831.201 and § 842.105 of this chapter for specific information.

(ii) For rules on health and life insurance coverage refer to § 870.202, § 890.102, and § 890.502 of this chapter.

(14) *Reductions-in-Force (RIF).* Students are covered by § 351.502 of this chapter for purposes of RIF. Students, provided they have completed at least 1 year of current continuous service, are in excepted service Tenure Group III.

(15) *Conversion to Student Career Experience Program.* (i) Students may be noncompetitively converted to the Student Career Experience Program whenever they meet the requirements of that program and the agency has an appropriate position available.

(ii) Work experience related to the student's academic program and career goals, gained while under the Student Temporary Employment Program, may be credited towards the 640 hour work experience necessary for noncompetitive conversion to a term, career, or career-conditional appointment.

(iii) Conversions are not subject to requirements of subparts C and D of part 302 of this chapter.

(b) *Student Educational Employment Program—Student Career Experience Program.* (1)(i) Students may be appointed to the Student Career

Experience Program if they are pursuing any of the following educational programs:

- (A) High school diploma or General Equivalency Diploma (GED);
- (B) Vocational/Technical certificate;
- (C) Associate degree;
- (D) Baccalaureate degree;
- (E) Graduate degree; or
- (F) Professional degree.

(ii) Student participants in the Harry S. Truman Foundation Scholarship Program under the provision of Public Law 93-842 are eligible for appointments under the Student Career Experience Program.

(2) *Definition of student.* A student is an individual who has been accepted for enrollment, or who is enrolled, as a degree (diploma, certificate, etc.) seeking resident student in an accredited high school, technical or vocational school, 2-year or 4-year college or university, graduate or professional school. If the student is enrolled, the student must be taking at least a half-time academic/vocational/ or technical course load. The definition of *half-time* is the definition provided by the school in which the student is enrolled. A student must be in actual physical attendance at a school, as distinguished from a correspondence or home-schooled student. An individual who needs to complete less than the equivalent of half an academic/ vocational or technical courseload in the class enrollment period immediately prior to graduating is still considered a student for purposes of this program.

(3) *Schedules.* Students may work full-time or part-time schedules at any time during the year. There are no limitations on the number of hours a student can work per week, but the student's work schedule should not interfere with the student's academic schedule.

(4) *Breaks in program.* A *break in program* is defined as a period of time when a program participant is working but is unable to go to school, or neither attending classes nor working at the agency. Agencies may use their discretion in either approving or denying a break in program.

(5) *Employment of minors.*

Participation in this program must be in conformance with Federal, State, or local laws and standards governing the employment of minors.

(6) *Citizenship.* (i) Agencies may appoint non-citizens provided that:

(A) The student is lawfully admitted to the United States as a permanent resident or otherwise authorized to be employed; and

(B) The agency is authorized to pay aliens under the annual appropriations

act ban and any agency specific enabling and appropriation statutes.

(ii) All students must be United States citizens at the time they are noncompetitively converted to a term, career, or career-conditional appointment.

(7) *Employment of relatives.* In accordance with part 310 of this chapter, a student may work in the same agency with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the student's appointment, employment, promotion or advancement within the agency.

(8) *Financial need.* There is no requirement for students to meet any specific economic/income criteria to be eligible. However, agencies have the option to establish and use financial need as a criteria to select students, if they wish. OPM does not develop or distribute annual economic guidelines for use in determining financial need. An agency wishing to use the Department of Health and Human Services' poverty guidelines may call the Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation.

(9) *Training expenses.* Agencies may use their training authority in 5 U.S.C. chapter 41 and 5 CFR part 410 of this chapter to pay all or part of the students' training expenses.

(10) *Appointments.* (i) Appointments are subject to all the requirements and conditions governing term, career, or career-conditional employment, including investigation to establish an appointee's qualifications and suitability.

(ii) Appointments of participants who have met all the requirements of the program may be noncompetitively converted to term, career, or career-conditional appointments at any time within 120 days after satisfactory completion of the requirements for his/her diploma, certificate, or degree.

(11) *Program requirements for noncompetitive conversion.* (i) Students may be noncompetitively converted from the Student Career Experience Program to a term, career or career-conditional appointment under Executive Order 12015 (as amended by Executive Order 13024) when students have:

(A) Completed within the preceding 120 days, at an accredited school, course requirements conferring a diploma, certificate, or degree;

(B) Completed at least 640 hours of career-related work (agencies have the option of increasing this requirement for some or all of its occupational fields),

before completion of, or concurrently with, the course requirements;

(C) Been recommended by the employing agency in which the career-related work was performed; and

(D) Met the qualification standards for the targeted position to which the student will be appointed.

(ii) Conversions must be to an occupation related to the student's academic training and career related work experience.

(iii) The noncompetitive conversion may be to a position within the same agency or any other agency within the Federal Government.

(iv) Agencies who noncompetitively convert Student Career Experience Program participants to term appointments may also noncompetitively convert them to career or career-conditional appointments before the term appointments expire.

(12) *Agreement by all parties.* (i) The Student Career Experience Program is a formally structured program and requires a written agreement by all parties (agency, school, student) as to the:

- (A) Nature of work assignments;
- (B) Schedule of work assignments and class attendance;
- (C) Evaluation procedures; and
- (D) Requirements for continuation and successful completion of the program.

(ii) The work experience with the agency must be related to his/her academic/career goals.

(13) *Schedule.* Agencies, participating educational institutions, and students should agree on a formally-arranged schedule of school and work to ensure that:

(i) Work responsibilities do not interfere with academic performance;

(ii) Completion of the educational program (awarding of diploma/certificate/degree) and the Student Career Experience Program are accomplished in a reasonable and appropriate timeframe;

(iii) The agency is informed and prepared for the student's periods of employment; and

(iv) Requirements for non-competitive conversion to term, career, or career-conditional employment are understood by all parties.

(14) *Classification.* Students whose positions are covered by the General Schedule will be classified as student trainees, to the -99 series of the appropriate occupational group. Students whose positions are covered by the Federal Wage System will be classified as student trainees, to the -01 series of the appropriate occupational group.

(15) *Qualifications.* Students may be evaluated by either agency-developed standards or by the OPM qualifications requirements for the target position. Any OPM test requirements are waived. Students are eligible for promotion.

(16) *Benefits.* (i) Students appointed under this program earn annual and sick leave and with no prior service or with less than 5 years of prior civilian service, are generally covered by the Federal Employees Retirement System (FERS) (see part 842 of this chapter).

(ii) For life insurance and health benefits coverage refer to § 870.202 and § 890.102 of this chapter.

(17) *Tuition assistance.* Agencies may use their training authority in 5 U.S.C. Chapter 41 and part 410 of this chapter to pay all or part of the students' training expenses.

(18) *Travel and transportation.* Agencies may pay for other expenses directly related to training, such as travel and transportation between duty station and school, for participants.

(19) *Reduction-in-force (RIF).* (i) Students are in excepted service Tenure Group II for purposes of § 351.502. They are accorded the same retention rights as excepted service employees.

(ii) They may qualify for severance pay if involuntarily separated under part 550, subpart G of this chapter.

* * * *

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

4. The authority citation for part 315 continues to read:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., page 218, unless otherwise noted.

Secs. 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652.

Secs. 315.602 and 315.604 also issued under 5 U.S.C. 1104.

Sec. 315.603 also issued under 5 U.S.C. 8151.

Sec. 315.605 also issued under E.O. 12034, 3 CFR, 1978 Comp., p. 111.

Sec. 315.606 also issued under E.O. 11219, 3 CFR, 1964–1965 Comp., p. 303.

Sec. 315.607 also issued under 22 U.S.C. 2506.

Sec. 315.608 also issued under E.O. 12721, 3 CFR, 1990 Comp., p. 293.

Sec. 315.610 also issued under 5 U.S.C. 3304(d).

Sec. 315.710 also issued under E.O. 12596, 3 CFR, 1987 Comp., p. 229.

Subpart I also issued under 5 U.S.C. 3321, E.O. 12107, 3 CFR, 1978 Comp., p. 264.

5. In § 315.201, paragraph (b)(1)(ix) is revised to read as follows:

§ 315.201 Service requirement for career tenure.

* * * *

(b) * * *

(1) * * *
 (ix) The date of nontemporary excepted appointment under § 213.3202(b) of this chapter, provided the student's appointment is converted to career or career-conditional appointment under Executive Order 12015, with or without an intervening term appointment, and without a break in service of one day.

* * * *

[FR Doc. 97-31536 Filed 12-1-97; 8:45 am]

BILLING CODE 6325-01-P

Authority: 5 U.S.C. 4101, et. seq.; E.O. 11348, 3 CFR, 1967 Comp., p. 275.

§ 410.701 (Corrected)

2. In § 410.701, remove the reference to § 410.312, and add, in its place, § 410.311.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 97-31535 Filed 12-1-97; 8:45 am]

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 591

RIN 3206-AH51

Cost-of-Living Allowance (Nonforeign Areas)—Miscellaneous Changes

Agency: Office of Personnel Management.

Action: Final rule.

Summary: This document contains a correction to the final regulations, which were published in the **Federal Register** of Tuesday, December 17, 1996 (61 FR 66189). The regulations implemented policies related to the training of Federal employees.

Dates: Effective on December 17, 1996.

FOR FURTHER INFORMATION CONTACT:

Judith Lombard, 202-606-2431, email jmlombar@opm.gov, or fax 202-606-2394.

SUPPLEMENTARY INFORMATION:

Background

The final regulations subject to this correction affect the training of Federal employees. The subsection on reports contains an inaccurate reference about records of agency training plans, expenditures, and activities. The correction removes a reference to a non-existent subsection of the final regulations and adds, in its place, a reference to the correct subsection of the final regulations.

Need for Correction

As published, the final regulations contain an error which may prove to be misleading and needs to be corrected.

List of Subjects in 5 CFR Part 410

Education, Government employees.

Accordingly, 5 CFR part 410 is corrected by making the following correcting amendment:

PART 410—TRAINING

1. The authority citation for part 410 continues to read as follows:

SUPPLEMENTARY INFORMATION: Under section 5941 of title 5, United States Code, and Executive Order 10000, as amended, certain Federal employees in nonforeign areas outside the 48 contiguous States are eligible for cost-of-living allowances (COLAs) when local living costs are substantially higher than those in the Washington, DC, area. These COLAs are paid in Alaska, Hawaii, Puerto Rico, the U.S. Virgin Islands, and Guam and the Commonwealth of the Northern Mariana Islands.