

APPENDIX NO. 2

SENIOR EXECUTIVE SERVICE

The Senior Executive Service (SES) is a personnel system covering top level policy, supervisory, and managerial positions in most Federal agencies. Positions in Government corporations, the FBI and Drug Enforcement Administration, certain intelligence agencies, certain financial regulatory agencies, and the Foreign Service are exempt from the SES.

The SES includes most Civil Service positions above grade 15 of the General Schedule. An agency may establish an SES position only within an allocation approved by the U.S. Office of Personnel Management (OPM). Currently, there are 9936 SES positions allocated by OPM to agencies.

Types of SES Positions

There are two types of SES positions: Career Reserved and General. About half of the SES positions are designated in each category. Once a position is designated by an agency, the designation may not be changed without prior OPM approval.

SES positions are designated Career Reserved when the need to ensure impartiality, or the public's confidence in the impartiality of the Government, requires that they be filled only by career employees (e.g., law enforcement and audit positions).

The remaining SES positions are designated General. A General position may be filled by a career appointee, a noncareer appointee, or, if the position meets the criteria described below, by a limited term or limited emergency appointee. Because of the limitations on the number of limited appointees, most General positions are filled by career appointees.

A given General position may be filled at one time by a career appointee and at another time by a noncareer or limited appointee, or vice versa. Because of the limitations on the number of noncareer and limited appointees, as discussed below, most General positions are filled by career appointees. This publication lists only General positions since Career Reserved positions must be filled by a career appointee.

Appointments to SES Positions

The legislation establishing the SES provides three methods of appointment. Veterans preference is not applicable in the SES.

(1) Career appointment: Career appointments are made through a Governmentwide or an "all sources" merit staffing (competitive) process, including recruitment through a published announcement, rating and ranking of eligible candidates, approval by the agency of the professional qualifications of the selected candidate, and a further review and approval of the executive/managerial qualifications of the proposed selectee by an OPM-administered SES Qualifications Review Board.

Traditionally, a career appointee serves a 1-year probationary period. Upon completion, the appointee acquires tenure rights and may be removed from the SES only for cause or for poor performance. (A performance appraisal for a career appointee may not be made, however, within 120 days after the beginning of a new Presidential Administration, i.e., one where the President changes.)

When a career appointee is reassigned within an agency, he or she must be given at least a 15-day advance written notice. If the reassignment is to another commuting area, the notice period is 60 days; the agency first must consult with the individual as to the reasons and the individual's preferences.

A career appointee may not be involuntarily reassigned within 120 days after the appointment of a new agency head, or during the same period after the appointment of a noncareer supervisor who has the authority to make an initial appraisal of the career appointee's performance. A career appointee may not be involuntarily transferred to another agency.

Like all career Federal employees, a career SES appointee is entitled to protection against retaliatory or politically motivated personnel actions and may lodge a complaint with the Office of the Special Counsel if a prohibited personnel practice has occurred.

(2) Noncareer appointment: By law, no more than 10 percent of total SES positions Governmentwide may be filled by noncareer appointees. The proportion of noncareer appointees may, however, vary from agency to agency, generally up to a limit of 25 percent of the agency's number of SES positions. OPM approves each use of a noncareer authority by an agency, and the authority reverts to OPM when the noncareer appointee leaves the position.

Noncareer appointees may be appointed to any SES General position. There is no requirement for competitive staffing, but the agency head must certify that the appointee meets the qualifications requirements for the position.

Any noncareer appointee may be removed by the appointing authority (e.g., for loss of confidence or change in policy). There is no appeal right.

(3) **Limited appointment:** Limited appointments are used in situations where the position is not continuing (e.g., to head a special project), or where the position is established to meet a bona fide, unanticipated, urgent need. Limited term appointments may not exceed 3 years; limited emergency appointments, 18 months.

By law, limited appointments Governmentwide may not exceed 5 percent of total SES positions. The appointments may be made only to General positions. Generally, OPM allocates limited appointment authorities on a case-by-case basis. However, each agency has a small pool of limited authorities equal to 3 percent of their total SES position allocation from OPM. Such pool authorities may be used only for appointment of career or career-type Federal civil service employees. Selection procedures and qualification requirements are determined by the agency, and the incumbent serves at the pleasure of the appointing authority.

By law, the appointment to or removal from any SES position in an independent regulatory commission shall not be subject, directly or indirectly, to review or approval by an officer or entity within the Executive Office of the President.