

**Editorial Notes****REFERENCES IN TEXT**

GS-11, referred to in subsecs. (b)(1), (e)(1), and (g)(2)(C), is contained in the General Schedule which is set out under section 5332 of this title.

The date of enactment of this section, referred to in subsecs. (f) and (g)(1), is the date of enactment of Pub. L. 115-232, which was approved Aug. 13, 2018.

Section 1106 of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (h), is section 1106 of Pub. L. 114-328, which is set out as a note preceding section 1580 of Title 10, Armed Forces.

**§ 3116. Expedited hiring authority for post-secondary students; competitive service**

(a) **DEFINITIONS.**—In this section:

(1) **DIRECTOR.**—The term “Director” means the Director of the Office of Personnel Management.

(2) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) **STUDENT.**—The term “student” means an individual enrolled or accepted for enrollment in an institution of higher education who is pursuing a baccalaureate or graduate degree on at least a part-time basis as determined by the institution of higher education.

(b) **APPOINTMENT.**—

(1) **IN GENERAL.**—The head of an agency may make a time-limited appointment of a student, without regard to any provision of sections 3309 through 3319 and 3330, to a position in the competitive service at the GS-11 level, or an equivalent level, or below for which the student is qualified.

(2) **RESTRICTIONS.**—An appointment under paragraph (1) shall be made in accordance with regulations prescribed by the Director.

(c) **PUBLIC NOTICE.**—

(1) **IN GENERAL.**—The head of an agency making an appointment under subsection (b) shall publicly advertise positions available under this section.

(2) **REQUIREMENTS.**—In carrying out paragraph (1), the head of an agency shall—

(A) adhere to merit system principles;

(B) advertise positions in a manner that provides for diverse and qualified applicants; and

(C) ensure potential applicants have appropriate information relevant to the positions available.

(d) **LIMITATION ON APPOINTMENTS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the total number of students that the head of an agency may appoint under this section during a fiscal year may not exceed the number equal to 15 percent of the number of students that the agency head appointed during the previous fiscal year to a position at the GS-11 level, or an equivalent level, or below.

(2) **EXCEPTIONS.**—Under a regulation prescribed under subsection (g), the Director may establish a lower limit on the number of students that may be appointed under paragraph (1) of this subsection during a fiscal year based

on any factor the Director considers appropriate.

(e) **CONVERSION.**—The head of an agency may, without regard to any provision of chapter 33 or any other provision of law relating to the examination, certification, and appointment of individuals in the competitive service, convert a student serving in an appointment under subsection (b) to a permanent appointment in the competitive service within the agency without further competition if the student—

(1) has completed the course of study leading to the baccalaureate or graduate degree;

(2) has completed not less than 640 hours of current continuous employment in an appointment under subsection (b); and

(3) meets the qualification standards for the position to which the student will be converted.

(f) **TERMINATION.**—The head of an agency shall, without regard to any provision of chapter 35 or 75, terminate the appointment of a student appointed under subsection (b) upon completion of the designated academic course of study unless the student is selected for conversion under subsection (e).

(g) **REGULATIONS.**—Not later than 180 days after the date of enactment of this section, the Director shall issue interim regulations, with an opportunity for comment, for the administration of this section.

(h) **REPORTING.**—

(1) **IN GENERAL.**—Not later than September 30 of each of the first 3 fiscal years beginning after the date of enactment of this section, the head of an agency that makes an appointment under this section shall submit a report to—

(A) Congress that assesses the impact of the use of the authority provided under this section during the fiscal year in which the report is submitted; and

(B) the Director that contains data that the Director considers necessary for the Director to assess the impact and effectiveness of the authority described in subparagraph (A).

(2) **CONTENT.**—The head of an agency shall include in each report under paragraph (1)—

(A) the total number of individuals appointed by the agency under this section, as well as the number of such individuals who are—

(i) minorities or members of other underrepresented groups; or

(ii) veterans;

(B) recruitment sources;

(C) the total number of individuals appointed by the agency during the applicable fiscal year to a position in the competitive service at the GS-11 level, or an equivalent level, or below; and

(D) any additional data specified by the Director.

(i) **SPECIAL PROVISION REGARDING THE DEPARTMENT OF DEFENSE.**—

(1) **AUTHORITY.**—Nothing in this section shall preclude the Secretary of Defense from exercising any authority to appoint a post-secondary student under section 1106 of the Na-

tional Defense Authorization Act for Fiscal Year 2017 (10 U.S.C. note prec. 1580), or any applicable successor statute.

(2) REGULATIONS.—Any regulations prescribed by the Director for the administration of this section shall not apply to the Department of Defense during the period ending on the date on which the appointment authority of the Secretary of Defense under section 1106 of the National Defense Authorization Act for Fiscal Year 2017 (10 U.S.C. note prec. 1580), or any applicable successor statute, terminates.

(Added Pub. L. 115-232, div. A, title XI, §1108(a), Aug. 13, 2018, 132 Stat. 2007; amended Pub. L. 116-92, div. A, title XI, §1115, Dec. 20, 2019, 133 Stat. 1604.)

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The date of enactment of this section, referred to in subsecs. (g) and (h)(1), is the date of enactment of Pub. L. 115-232, which was approved Aug. 13, 2018.

Section 1106 of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (i), is section 1106 of Pub. L. 114-328, which is set out as a note preceding section 1580 of Title 10, Armed Forces.

##### AMENDMENTS

2019—Subsec. (d)(1). Pub. L. 116-92 amended par. (1) generally. Prior to amendment, text read as follows: “Except as provided in paragraph (2), the total number of students that the head of an agency may appoint under this section during a fiscal year may not exceed the number equal to 15 percent of the number of students that the agency head appointed during the previous fiscal year to a position in the competitive service at the GS-11 level, or an equivalent level, or below.”

#### SUBCHAPTER II—THE SENIOR EXECUTIVE SERVICE

### § 3131. The Senior Executive Service

It is the purpose of this subchapter to establish a Senior Executive Service to ensure that the executive management of the Government of the United States is responsive to the needs, policies, and goals of the Nation and otherwise is of the highest quality. The Senior Executive Service shall be administered so as to—

(1) provide for a compensation system, including salaries, benefits, and incentives, and for other conditions of employment, designed to attract and retain highly competent senior executives;

(2) ensure that compensation, retention, and tenure are contingent on executive success which is measured on the basis of individual and organizational performance (including such factors as improvements in efficiency, productivity, quality of work or service, cost efficiency, and timeliness of performance and success in meeting equal employment opportunity goals);

(3) assure that senior executives are accountable and responsible for the effectiveness and productivity of employees under them;

(4) recognize exceptional accomplishment;

(5) enable the head of an agency to reassign senior executives to best accomplish the agency's mission;

(6) provide for severance pay, early retirement, and placement assistance for senior executives who are removed from the Senior Executive Service for nondisciplinary reasons;

(7) protect senior executives from arbitrary or capricious actions;

(8) provide for program continuity and policy advocacy in the management of public programs;

(9) maintain a merit personnel system free of prohibited personnel practices;

(10) ensure accountability for honest, economical, and efficient Government;

(11) ensure compliance with all applicable civil service laws, rules, and regulations, including those related to equal employment opportunity, political activity, and conflicts of interest;

(12) provide for the initial and continuing systematic development of highly competent senior executives;

(13) provide for an executive system which is guided by the public interest and free from improper political interference; and

(14) appoint career executives to fill Senior Executive Service positions to the extent practicable, consistent with the effective and efficient implementation of agency policies and responsibilities.

(Added Pub. L. 95-454, title IV, §402(a), Oct. 13, 1978, 92 Stat. 1154.)

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Pub. L. 95-454, title IV, §415, Oct. 13, 1978, 92 Stat. 1179, provided that:

“(a)(1) The provisions of this title, other than sections 413 and 414(a) [enacting this subchapter and sections 2101a, 3391 to 3397, 3591 to 3595, 4311 to 4315, 4507, 5381 to 5385, 5752, and 7541 to 7543 of this title, amending sections 2102, 2103, 2108, 3109, 3501, 5311, 5331, 5504, 5541, 5595, 5723, 6304, 8336, and 8339 of this title, and enacting provisions set out as a note under section 5311 of this title], shall take effect 9 months after the date of the enactment of this Act [Oct. 13, 1978].

“(2) The provisions of section 413 of this title [set out as a note under section 3133 of this title] shall take effect on the date of the enactment of this Act [Oct. 13, 1978].

“(3) The provisions of section 414(a) of this title [amending sections 3104 and 5108 of this title and enacting provisions set out as notes under sections 3104 and 5108 of this title] shall take effect 180 days after the date of the enactment of this Act [Oct. 13, 1978].

“(b)(1) The amendments made by sections 401 through 412 of this title [enacting this subchapter and sections 2101a, 3391 to 3397, 3591 to 3595, 4311 to 4315, 4507, 5381 to 5385, 5752, and 7541 to 7543 of this title, amending sections 2102, 2103, 2108, 3109, 3501, 5311, 5331, 5504, 5541, 5595, 5723, 6304, 8336, and 8339 of this title] shall continue to have effect unless, during the first period of 60 calendar days of continuous session of the Congress beginning after 5 years after the effective date of such amendments, a concurrent resolution is introduced and adopted by the Congress disapproving the continuation of the Senior Executive Service. Such amendments shall cease to have effect on the first day of the first fiscal year beginning after the date of the adoption of such concurrent resolution.

“(2) The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.