

## § 185.141

## 5 CFR Ch. I (1–1–25 Edition)

### § 185.141 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

### § 185.142 Judicial review.

Section 3805 of title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the authority head imposing penalties and/or assessments under this part and specifies the procedures for such review.

### § 185.143 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

### § 185.144 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 185.142 or § 185.143, or any amount agreed upon in a compromise or settlement under § 185.146, may be collected by administrative offset under section 3716 of title 31, United States Code, except that an administrative offset may not be made under section 3716 against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

### § 185.145 Deposit in Treasury of the United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in section 3806(g) of title 31, United States Code.

### § 185.146 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the re-

viewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 185.142 or during the pendency of any action to collect penalties and assessments under § 185.143.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 185.142 or of any action to recover penalties and assessments under section 3806 to title 31, United States Code.

(e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the authority head, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

### § 185.147 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 185.108 within 6 years after the date on which such a claim or statement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 185.110(b) shall be deemed a notice of hearing for purposes of this section.

(c) the statute of limitations may be executed by written agreement of the parties.

## PART 210—BASIC CONCEPTS AND DEFINITIONS (GENERAL)

### Subpart A—Applicability of Regulations; Definitions

Sec.

210.101 Applicability of various parts of regulations.

210.102 Definitions.

AUTHORITY: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954-1958 Comp. p. 218.

### Subpart A—Applicability of Regulations; Definitions

#### § 210.101 Applicability of various parts of regulations.

(a) *General.* In most parts, the applicability of the part is stated specifically in the part or is otherwise apparent from the substance of the part.

(b) *Parts 315 through 339.* Parts 315 through 339 of this chapter apply to all positions in the competitive service and to all incumbents of those positions; and, except as specified by or in an individual part, these parts do not apply to positions in the excepted service or to incumbents of those positions.

[33 FR 12407, Sept. 4, 1968, as amended at 44 FR 45587, Aug. 3, 1979]

#### § 210.102 Definitions.

(a) The definitions in paragraph (b) of this section apply throughout this chapter, except when a defined term is specifically modified in or specifically defined for the purpose of a particular part.

(b) In this chapter:

(1) *Appointing officer* means a person having power by law, or by lawfully delegated authority, to make appointments to positions in the service of the Federal Government or the government of the District of Columbia.

(2) *OPM* means the Office of Personnel Management.

(3) *Confidential, policy-determining, policy-making, or policy-advocating* means of a character exclusively associated with a noncareer political appointment that is identified by its close working relationship with the President, head of an agency, or other key appointed officials who are responsible for furthering the goals and policies of the President and the Administration, and that carries no expectation of continued employment beyond the presidential administration during which the appointment occurred.

(4) *Confidential or policy determining* means of a character exclusively associated with a noncareer political appointment that is identified by its close working relationship with the President, head of an agency, or other key appointed officials who are responsible for furthering the goals and poli-

cies of the President and the Administration, and that carries no expectation of continued employment beyond the presidential administration during which the appointment occurred.

(5) *Days*, unless otherwise defined or limited, means calendar days and not workdays. In computing a period of time prescribed in this chapter, the day of the action or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, a Sunday, or a legal holiday in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a legal holiday.

(6) *Demotion* means a change of an employee, while serving continuously within the same agency:

(i) To a lower grade when both the old and the new positions are under the General Schedule or under the same type graded wage schedule; or

(ii) To a position with a lower rate of pay when both the old and the new positions are under the same type ungraded wage schedule, or are in different pay method categories.

(7) *Eligible* means an applicant who meets the minimum requirements for entrance to an examination and is rated 70 or more in the examination by OPM.

(8) *Employee* means a civilian officer or employee.

(9) *Metropolitan area of Washington, DC.*, means the District of Columbia; Alexandria, Fairfax, and Falls Church Cities, Va.; Arlington, Fairfax, Loudoun, and Prince William Counties, Va.; and Charles, Montgomery, and Prince Georges Counties, Md.

(10) *Noncompetitive action* means a promotion, demotion, reassignment, transfer, reinstatement, or an appointment based on prior service.

(11) *Overseas* means outside the continental United States, but does not include Alaska, Guam, Hawaii, the Isthmus of Panama, Puerto Rico, or the Virgin Islands.

(12) *Position change* means a promotion, demotion, or reassignment.

(13) *Promotion* means a change of an employee, while serving continuously within the same agency:

(i) To a higher grade when both the old and the new positions are under the General Schedule or under the same type graded wage schedule; or

(ii) To a position with a higher rate of pay when both the old and the new positions are under the same type ungraded wage schedule, or are in different pay method categories.

(14) *Reassignment* means a change of an employee, while serving continuously within the same agency, from one position to another without promotion or demotion.

(15) *Reemployed annuitant* means an employee whose annuity under subchapter III of chapter 83 of title 5, United States Code, was continued on reemployment in an appointive position on or after October 1, 1956.

(16) *Register* means a list of qualified applicants compiled in order of relative standing for certification.

(17) *Reinstatement* means the non-competitive reemployment for service as a career or career-conditional employee of a person formerly employed in the competitive service who had a competitive status or was serving probation when he was separated from the service.

(18) *Status quo employee* means an employee who failed to acquire a competitive status when the position in which he was serving was placed in the competitive service by a statute, Executive order, or Civil Service rule, which permitted his retention without the acquisition of status.

(19) *Tenure* means the period of time an employee may reasonably expect to serve under his current appointment. It is granted and governed by the type of appointment under which an employee is currently serving without regard to whether he has a competitive status or whether his appointment is in a competitive position or in an excepted position.

(20) *Transfer* means a change of an employee, without a break in service of 1 full workday, from a position in one agency to a position in another agency.

[33 FR 12407, Sept. 4, 1968, as amended at 34 FR 19495, Dec. 10, 1969; 38 FR 22535, Aug. 22, 1973; 89 FR 25045, Apr. 9, 2024]

## PART 211—VETERAN PREFERENCE

Sec.

211.101 Purpose.

211.102 Definitions.

211.103 Administration of preference.

AUTHORITY: 5 U.S.C. 1302, 2108, 2108a.

SOURCE: 81 FR 83109, Nov. 21, 2016, unless otherwise noted.

### § 211.101 Purpose.

The purpose of this part is to define veterans' preference and the administration of preference in Federal employment. (5 U.S.C. 2108, 2108a)

### § 211.102 Definitions.

For the purposes of preference in Federal employment, the following definitions apply:

(a) *Veteran* means a person who has been discharged or released from active duty in the armed forces under honorable conditions, or who has a certification as defined in paragraph (h) of this section, if the active duty service was performed:

(1) In a war;

(2) In a campaign or expedition for which a campaign badge has been authorized;

(3) During the period beginning April 28, 1952, and ending July 1, 1955;

(4) For more than 180 consecutive days, other than for training, any part of which occurred during the period beginning February 1, 1955, and ending October 14, 1976;

(5) During the period beginning August 2, 1990, and ending January 2, 1992; or

(6) For more than 180 consecutive days, other than for training, any part of which occurred during the period beginning September 11, 2001, and ending on August 31, 2010, the last day of Operation Iraqi Freedom.

(b) *Disabled veteran* means a person who has been discharged or released from active duty in the armed forces under honorable conditions performed at any time, or who has a certification as defined in paragraph (h) of this section, and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or a pension because of a statute administered by the Department of