

§ 304.106

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§ 304.106 Pay and leave administration.

(a) The employing agency has the authority to adjust the pay of experts and consultants after initial appointment and to establish appropriate policies governing the amount and timing of any such adjustments, subject to the limitations of § 304.105. In addition to the factors listed in § 304.104(b), the agency may consider factors such as job performance, contributions to agency mission, and the general pay increases granted to other Federal employees. Experts and consultants are not entitled to receive automatic adjustments in their rates of basic pay at the time of general pay increases under 5 U.S.C. 5303 unless specifically provided for in the official appointing document. In the absence of such automatic entitlement, any pay adjustments are at the agency's discretion.

(b) Experts and consultants paid on a daily rate basis are not entitled to overtime pay under section 5542 of title 5, United States Code. Otherwise, experts and consultants qualify for premium pay under subchapter V of chapter 55 of title 5, United States Code, if they meet the applicable eligibility requirements (including the requirement that an employee have a regularly scheduled tour of duty, where applicable).

(c) Experts and consultants may be entitled to overtime pay under the Fair Labor Standards Act if they are non-exempt under OPM regulations implementing that Act for Federal employees. (See 5 CFR part 551).

(d) An expert or consultant may be paid for service on an intermittent basis in more than one expert or consultant position, provided the pay is not received for the same period of time (5 U.S.C. 5533(d)(1)).

(e) Experts and consultants are subject to the provisions of 5 U.S.C. 8344 and 8468 on reduction of basic pay by the amount of annuity received.

(f) Experts and consultants are subject to the provisions of 5 U.S.C. 5532 on reduction of retired military pay.

(g) Experts and consultants with a regularly scheduled tour of duty (*i.e.*, not intermittent) are entitled to sick and annual leave in accordance with chapter 63 of title 5, United States

Code, and to pay for any holiday occurring on a workday on which they perform no work, provided that workday is part of the basic workweek. Those employed on an intermittent basis do not earn leave and are not entitled to paid holidays.

§ 304.107 Reports.

As required by 5 U.S.C. 3109(e), each agency shall report to the Office of Personnel Management on an annual basis:

(a) The number of days the agency employed each paid expert or consultant; and

(b) The total amount the agency paid each expert or consultant so employed. (Do not include payments for travel and related expenses.)

§ 304.108 Compliance.

(a) Each agency using 5 U.S.C. 3109 must establish and maintain a system of controls and oversight necessary to assure compliance with 5 U.S.C. 3109 and these regulations. The system must include—

(1) Appropriate training and information procedures to ensure that officials and employees using the authority understand the statutory and regulatory requirements; and

(2) Appropriate provision for review of expert and consultant appointments.

(b) OPM will, as necessary—

(1) Review agency employment of experts and consultants and agency controls and oversight to determine compliance; and

(2) Issue instructions and guidance to agencies on employing experts and consultants and on reporting procedures.

PART 305 [RESERVED]

PART 307—VETERANS RECRUITMENT APPOINTMENTS

Sec.

307.101 Purpose.

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307.103 Nature of VRAs.

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307.105 Appeal rights.

AUTHORITY: 5 U.S.C. 3301, 3302; E.O. 11521, 3 CFR, 1970 Comp., p. 912; 38 U.S.C. 4214.

Office of Personnel Management

§ 307.104

SOURCE: 70 FR 72066, Dec. 1, 2005, unless otherwise noted.

§ 307.101 Purpose.

This part implements 38 U.S.C. 4214 and Executive Order 11521, which authorizes agencies to appoint *qualified covered veterans* to positions in the competitive service under Veterans Recruitment Appointments (VRAs) without regard to the competitive examining system.

§ 307.102 Definitions.

For purposes of this part—

Agency, as defined in 38 U.S.C. 4211(5), means any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5, and the United States Postal Service and Postal Rate Commission.

Covered veterans, as defined in 38 U.S.C. 4212(a)(3), means any of the following:

- (1) Disabled veterans;
- (2) Veterans who served on active duty in the Armed Forces during a war or in a campaign or expedition for which a campaign badge has been authorized;
- (3) Veterans who, while serving on active duty with the Armed Forces, participated in a United States military operation for which an Armed Forces Service Medal (AFSM) was awarded pursuant to Executive Order 12985 (61 FR 1209); and
- (4) Recently separated veterans.

Disabled veteran, as defined in 38 U.S.C. 4211 means:

- (1) A veteran who is entitled to compensation (or who, but for the receipt of military retired pay, would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or
- (2) A person who was discharged or released from active duty because of a service-connected disability.

Qualified, as defined in 38 U.S.C. 4212(a)(3) with respect to employment in a position, means having the ability to perform the essential functions of the position with or without reasonable accommodation for an individual with a disability.

Recently separated veteran, as defined in 38 U.S.C. 4211(6), means any veteran

during the three-year period beginning on the date of such veteran's discharge or release from active duty.

Substantially continuous service is defined in 5 CFR 315.201(b)(3).

War means any armed conflict declared by Congress as such.

§ 307.103 Nature of VRAs.

VRAs are excepted appointments, made without competition, to positions otherwise in the competitive service. The veterans' preference procedures of part 302 of this chapter apply when there are preference eligible candidates being considered for a VRA. *Qualified covered veterans* who were separated *under honorable conditions* may be appointed to any position in the competitive service at grade levels up to and including GS-11 or equivalent, provided they meet the qualification standards for the position. To be eligible for a VRA as a *covered veteran* under paragraph (2) or (3) of the definition of that term in § 307.102, the veteran must be in receipt of the appropriate campaign badge, expeditionary medal, or AFSM. For purposes of a VRA, any military service is qualifying at the GS-3 level or equivalent. Upon satisfactory completion of 2 years of substantially continuous service, the incumbent's VRA must be converted to a career or career conditional appointment. An individual may receive more than one VRA appointment as long as the individual meets the definition of a *covered veteran* at the time of appointment.

§ 307.104 Treatment of individuals serving under VRAs.

(a) Because VRAs are made to positions otherwise in the competitive service, the incumbents, like competitive service employees, may be reassigned, promoted, demoted, or transferred in accordance with the provisions of part 335 of this chapter.

(b) A veteran with less than 15 years of education must receive training or education prescribed by the agency.

(c) Appointments are subject to investigation by OPM. A law, Executive order, or regulation that disqualifies a person for appointment in the competitive service also disqualifies a person for a VRA.

§ 307.105

(d) The Veterans Recruitment Appointment date for a *recently separated veteran* must occur before the end of the 3-year eligibility period and may not be extended.

§ 307.105 Appeal rights.

Individuals serving under VRAs have the same appeal rights as excepted service employees under parts 432 and 752 of this chapter. In addition, as established in § 315.806 of this chapter, any individual serving under a VRA, whose employment under the appointment is terminated within 1 year after the date of such appointment, has the same right to appeal that termination as a career or career-conditional employee has during the first year of employment.

PART 308—VOLUNTEER SERVICE

Sec.

308.101 Definitions.

308.102 Eligibility and status.

308.103 Authority.

AUTHORITY: 5 U.S.C. 3111.

SOURCE: 44 FR 51183, Aug. 31, 1979, unless otherwise noted.

§ 308.101 Definitions.

In this part: *Student* is an individual who is enrolled not less than half-time in a high school, trade school, technical or vocational institute, junior college, college, university or other accredited educational institution. An individual who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if such individual shows to the satisfaction of the agency that the individual has a bona fide intention of continuing to pursue a course of study or training in the same or different educational institution during the school semester (or other period into which the school year is divided) immediately after the interim.

Volunteer Service under the Act is limited to services performed by a student, with the permission of the institution at which the student is enrolled, as part of an agency program established for the purpose of providing educational experience for the student. Such service is to be uncompensated

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and will not be used to displace any employee or to staff a position which is a normal part of the agency's work force.

§ 308.102 Eligibility and status.

(a) *Minimum Age*. The selection of students to participate under the program should be in conformance with either Federal, State, or local laws and standards governing the employment of minors.

(b) *Status*. A student participating under an agency volunteer program is not considered to be a Federal employee for any purposes other than injury compensation or laws related to the Tort Claims Act. Service is not creditable for leave accrual or any other employee benefits.

§ 308.103 Authority.

Section 301 of the Civil Service Reform Act of 1978, Public Law 95–454, authorized Federal departments and agencies to establish programs designed to provide educationally related work assignments for students in non-pay status.

PART 310—EMPLOYMENT OF RELATIVES

Sec.

310.101 Legal restrictions on public officials in the employment of relatives.

310.102 Exceptions to the legal restrictions on the employment of relatives.

AUTHORITY: 5 U.S.C. 3110.

SOURCE: 70 FR 20457, Apr. 20, 2005, unless otherwise noted.

§ 310.101 Legal restrictions on public officials in the employment of relatives.

Section 3110 of title 5, United States Code, sets forth the legal restrictions on the employment of relatives.

§ 310.102 Exceptions to the legal restrictions on the employment of relatives.

Subsection (d) of 5 U.S.C. 3110 authorizes the Office of Personnel Management to prescribe regulations authorizing the temporary employment of