

up to a total of 22 workdays. Absence (whether on or off the rolls) due to compensable injury or military duty is creditable in full upon restoration to Federal service. Nonpay time in excess of 22 workdays extends the probationary period by an equal amount.

(d) Service during a probationary period from which an employee was separated or demoted for performance or conduct reasons does not count toward completion of probation required under a subsequent appointment. In other situations in which an employee does not complete probation, service is creditable as determined by agency policy.

(e) Temporary service in a supervisory or managerial position under temporary appointment, promotion, or reassignment *prior to probation* is creditable as determined by agency policy. Prior service under a detail may be credited only when a detail to a supervisory or managerial position is made permanent without a break in service.

[44 FR 44811, July 31, 1979, as amended at 60 FR 53505, Oct. 16, 1995]

§ 315.907 Failure to complete the probationary period.

(a) Satisfactory completion of the prescribed probationary period is a prerequisite to continued service in the position. An employee who, for reasons of supervisory or managerial performance, does not satisfactorily complete the probationary period is entitled to be assigned, except as provided in paragraph (b) of this section, to a position in the agency of no lower grade and pay than the one the employee left to accept the supervisory or managerial position.

(b) A nonsupervisory or nonmanagerial employee who is demoted into a position in which probation under § 315.904 is required and who, for reasons of supervisory or managerial performance, does not satisfactorily complete the probationary period is entitled to be assigned to a position at the same grade and pay as the position in which he or she was serving probation. The employee is eligible for repromotion in accordance with agency promotion policy.

(c) The agency must notify the employee in writing that he or she is

being assigned in accordance with this section.

[49 FR 39287, Oct. 5, 1984, as amended at 60 FR 53505, Oct. 16, 1995]

§ 315.908 Appeals.

(a) An employee who, in accordance with the provisions of this subpart, is assigned to a nonmanagerial or non-supervisory position, has no appeal right.

(b) An employee who alleges that an agency action under this subpart was based on partisan political affiliation or marital status, may appeal to the Merit Systems Protection Board.

§ 315.909 Relationship to other actions.

(a) If an employee is required to concurrently serve both a probationary period under this subpart and a probationary period under subpart H of this part, the latter takes precedence and completion of the probationary period for competitive appointment and fulfills the requirements of this subpart.

(b) An action which demotes an employee to a lower grade than the one the employee left to accept the supervisory or managerial position, and an action against an employee for reasons other than supervisory or managerial performance, is governed by part 432 or part 752 procedures, whichever is applicable. If the employee believes an action under this subpart was based on improper discrimination or other prohibited practices under 5 U.S.C. 2302, he or she may appeal to the Merit Systems Protection Board or the Equal Employment Opportunity Commission, as appropriate.

PART 316—TEMPORARY AND TERM EMPLOYMENT

Subparts A–B [Reserved]

Subpart C—Term Employment

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AUTHORITY: 5 U.S.C. 3116, 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

EFFECTIVE DATE NOTE: At 87 FR 73632, Dec. 1, 2022, the authority citation to Part 316 was revised, effective January 3, 2023. For the convenience of the user, the revised text is set forth as follows:

AUTHORITY: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218; 5 CFR 2.2(c).

SOURCE: 33 FR 12423, Sept. 4, 1968, unless otherwise noted.

Subparts A–B [Reserved]

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Subpart C—Term Employment

EDITORIAL NOTE: Nomenclature changes to subpart C of part 316 appear at 70 FR 72067, Dec. 1, 2005.

§ 316.301 Purpose and duration.

(a) An agency may make a term appointment for a period of more than 1 year but not more than 4 years to positions where the need for an employee's services is not permanent. Reasons for making a term appointment include, but are not limited to: project work, extraordinary workload, scheduled abolishment, reorganization, contracting out of the function, uncertainty of future funding, or the need to maintain permanent positions for placement of employees who would otherwise be displaced from other parts of the organization. Agencies may extend appointments made for more than 1 year but less than 4 years up to the 4-year limit in increments determined by the agency. The vacancy announcement should state that the agency has the option of extending a term appointment up to the 4-year limit.

(b) OPM may authorize exceptions beyond the 4-year limit when the extension is clearly justified and is consistent with applicable statutory provisions. Requests to make and/or extend appointments beyond the 4-year limit must be initiated by the employing office and sent to the appropriate OPM service center.

[63 FR 63783, Nov. 17, 1998]

EFFECTIVE DATE NOTE: At 87 FR 73632, Dec. 1, 2022, § 316.301 was amended by adding paragraph (c), effective Jan. 3, 2023. For the convenience of the user, the added text is set forth as follows:

§ 316.301 Purpose and duration.

* * * * *

(c)(1) An agency may make a term appointment for a period of more than 1 year but not more than 10 years to a covered position defined in (2) when the need for an employee's services is not permanent. An agency may extend an appointment made for more than 1 year but fewer than 10 years up to the 10-year limit in increments determined by the agency. The vacancy announcement must state that the agency has the option of extending a term appointment under this section up to the 10-year limit. No appointment

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made under this section may last longer than 10 years from the date of the initial appointment.

(2) An agency may make a term appointment for more than 1 year but not more than 10 years to the following positions (as described in OPM's Handbook of Occupational Groups and Series):

- (i) Social Science Series, 0101;
- (ii) Economist Series, 0110;
- (iii) Psychology Series, 0180;
- (iv) Natural Resources Management and Biological Sciences Group (*i.e.*, 0400 group);
- (v) Medical, Hospital, Dental, and Public Health Group (*i.e.*, 0600 group);
- (vi) Engineering and Architecture Group (*i.e.*, 0800 group);
- (vii) Physical Science Group (*i.e.*, 1300 group);
- (viii) Mathematical Sciences Group (*i.e.*, 1500 group); and
- (ix) Information Technology Group (*i.e.*, 2200 group).

§ 316.302 Selection of term employees.

(a) *Competitive term appointment.* An agency may make a term appointment under part 332 of this chapter, by using competitive procedures, or under part 337 of this chapter, by using direct-hire procedures, as appropriate.

(b) *Noncompetitive term appointment.* An agency may give a noncompetitive term appointment, without regard to the requirements of parts 332 and 333 of this chapter, to an individual who is qualified for the position and who is eligible for:

(1) Reinstatement under § 315.401 of this chapter;

(2) Veterans recruitment appointment (VRA) under § 307.103 of this chapter. Term appointments under this section are permitted only at the grade levels authorized for VRA appointments. Such appointments are competitive service appointments not excepted VRA appointments and do not lead to conversion to career-conditional appointment;

(3) Career-conditional appointment under § 315.601, 315.604, 315.605, 315.606, 315.607, 315.608, 315.609, 315.612, or 315.711 of this chapter;

(4) Appointment under 5 U.S.C. 3112 (veterans with compensable service-connected disability of 30 percent or more). The disability must be documented by a notice of retirement or discharge due to service-connected disability from active military service dated at any time, or by a notice of

compensable disability rating from the Department of Veterans Affairs, dated 1991 or later;

(5) Appointment under 31 U.S.C. 732(g) for current and former employees of the General Accounting Office;

(6) Appointment under 28 U.S.C. 602 for current and former employees of the Administrative Office of the U.S. Courts;

(7) Reappointment on the basis of having left a term appointment prior to serving the 4-year maximum amount of time allowed under the appointment. Reappointment must be to a position in the same agency appropriate for filling under term appointment and for which the individual qualifies. Combined service under the original term appointment and reappointment must not exceed the 4-year limit; or

(8) Conversion in the same agency from a current temporary appointment when the employee is or was within reach on a certificate of eligibles for term appointment *at any time during service in the temporary position*. *Within reach* means that the person could have been selected for the position under competitive hiring procedures, including veterans' preference. The certificate must have been actually used for term appointment. The person must have been continuously employed in the position from the date found within reach to the date converted to a term appointment.

(c) Term employees are eligible for an extension of their appointment in accordance with the time limits in § 316.301 even if their eligibility for noncompetitive appointment expires or is lost during the period they are serving under term employment.

[63 FR 63783, Nov. 17, 1998, as amended at 68 FR 35268, June 13, 2003; 69 FR 33275, June 15, 2004; 73 FR 60611, Oct. 14, 2008; 74 FR 40477, Aug. 12, 2009]

EFFECTIVE DATE NOTE: At 87 FR 73632, Dec. 1, 2022, § 316.302 was amended by revising paragraph (b)(7), effective Jan. 3, 2023. For the convenience of the user, the revised text is set forth as follows:

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* * * * *

(b) * * *

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(7) Reappointment on the basis of having left a term appointment prior to serving the 4-year maximum amount of time allowed under the appointment per § 316.301(a), the maximum time allowed for an appointment authorized under this paragraph (b), or the 10-year maximum amount of time allowed under § 316.301(c). Reappointment must be to a position in the same agency for filling under the original term appointment and for which the individual qualifies. Combined service under the original term appointment and reappointment must not exceed the 4-year limit pursuant to § 316.301(a), the maximum time allowed for an appointment authorized under § 316.301(b), or the 10-year limit under § 316.301(c), as appropriate; or

* * * * *

§ 316.303 Tenure of term employees.

(a) A term employee does not acquire a competitive status on the basis of his term appointment.

(b) The employment of a term employee ends automatically on the expiration of his term appointment unless he has been separated earlier in accordance with this chapter.

§ 316.304 Trial period.

(a) The first year of service of a term employee is a trial period regardless of the method of appointment. Prior Federal civilian service is credited toward completion of the required trial period in the same manner as prescribed by § 315.802 of this chapter.

(b) The agency may terminate a term employee at any time during the trial period. The employee is entitled to the procedures set forth in § 315.804 or § 315.805 of this chapter as appropriate.

[33 FR 12423, Sept. 4, 1968, as amended at 63 FR 63783, Nov. 17, 1998]

Subpart D—Temporary Limited Employment

EDITORIAL NOTE: Nomenclature changes to subpart D of part 316 appear at 70 FR 72067, Dec. 1, 2005.

§ 316.401 Purpose and duration.

(a) *Appropriate use.* An agency may make a temporary limited appointment—

(1) To fill a short-term position (*i.e.*, one that is not expected to last longer than 1 year);

(2) To meet an employment need that is scheduled to be terminated within the timeframe set out in paragraph (c) of this section for such reasons as abolishment, reorganization, or contracting of the function, anticipated reduction in funding, or completion of a specific project or peak workload; or

(3) To fill positions on a temporary basis when the positions are expected to be needed for placement of permanent employees who would otherwise be displaced from other parts of the organization.

(b) *Certification of appropriate use.* The supervisor of each position filled by temporary appointment must certify that the employment need is truly temporary and that the proposed appointment meets the regulatory time limits. This certification may constitute appropriate documentation of compliance with the limits set out in paragraph (c) of this section. The reason(s) for making a temporary limited appointment must be stated on the form documenting each such appointment.

(c) *Time limits—general.* (1) An agency may make a temporary appointment for a specified period not to exceed 1 year. The appointment may be extended up to a maximum of 1 additional year (24 months of total service). Appointment to a successor position (*i.e.*, to a position that replaces and absorbs the position to which an individual was originally appointed) is considered to be an extension of the original appointment. Appointment to a position involving the same basic duties and in the same major subdivision of the agency and same local commuting area as the original appointment is also considered to be an extension of the original appointment.

(2) An agency may not fill a position by temporary appointment if that position has previously been filled by temporary appointment(s) for an aggregate of 2 years, or 24 months, within the preceding 3-year period.

(d) *Exceptions to general time limits.* (1) Agencies may make and extend temporary appointments to positions involving intermittent or seasonal work without regard to the requirements in paragraph (c) of this section, *provided* that:

(i) Appointments and extensions are made in increments of 1 year or less.

(ii) Employment in the same or a successor position under this and any other appointing authority totals less than 6 months (1,040 hours), excluding overtime, in a service year. The service year is the calendar year that begins on the date of the employee's initial appointment in the agency. Should employment in a position filled under this exception total 6 months or more in any service year, the provisions of paragraph (c) of this section will apply to subsequent extension or reappointment unless OPM approves continued exception under this section. An individual may be employed for training for up to 120 days following initial appointment and up to 2 weeks a year thereafter without regard to the service year limitation.

(2) OPM will authorize exceptions to the limits set out in paragraph (c) of this section only when necessitated by major reorganizations or base closings or other unusual circumstances. Requests based on major reorganization, base closing, restructuring, or other unusual circumstances that apply agencywide must be made by an official at the headquarters level of the Department or agency. Requests involving extension of appointments to a specific position or project based on other unusual circumstances may be submitted by the employing office to the appropriate OPM service center.

[59 FR 46898, Sept. 13, 1994]

§ 316.402 Procedures for making temporary appointments.

(a) *Competitive temporary appointments.* In accordance with the time limits in § 316.401, an agency may make a temporary appointment under part 332 of this chapter, by using competitive procedures, or under part 337 of this chapter, by using direct-hire procedures, as appropriate.

(b) *Noncompetitive temporary appointments.* In accordance with the time limits in § 316.401, an agency may give a noncompetitive temporary appointment, without regard to the requirements of parts 332 and 333 of this chapter, to an individual who is qualified for the position and who is eligible for:

(1) Reinstatement under § 315.401 of this chapter;

(2) Veterans recruitment appointment under § 307.103 of this chapter. Temporary limited appointments under this section are permitted only at the grade levels authorized for VRA appointments. Such appointments are not VRA appointments and do not lead to conversion to career-conditional appointment;

(3) Career-conditional appointment under § 315.601, 315.604, 315.605, 315.606, 315.607, 315.608, 315.609, 315.612, 315.703, or 315.711 of this chapter;

(4) Appointment under 5 U.S.C. 3112 (veterans with compensable service-connected disability of 30 percent or more). The disability must be documented by a notice of retirement or discharge due to service-connected disability from active military service dated at any time, or by a notice of compensable disability rating from the Department of Veterans Affairs, dated 1991 or later;

(5) Appointment under 31 U.S.C. 732(g) for current and former employees of the General Accounting Office;

(6) Appointment under 28 U.S.C. 602 for current and former employees of the Administrative Office of the U.S. Courts;

(7) Reappointment on the basis of being a former temporary employee of the agency who was originally appointed from a certificate of eligibles or under the provisions of part 333 of this chapter. An agency may not reappoint a former temporary employee if the individual has already served the maximum time allowed in § 316.401 or if the position has been filled under temporary appointment for the maximum time allowed in § 316.401. Reappointment must be to the same position or another position appropriate for temporary appointment with the same qualification requirements;

(8) Reappointment on the basis of being a former temporary employee who was originally appointed from a certificate of eligibles or under the provisions of part 333 of this chapter and who sustained a compensable injury while serving on the temporary appointment. Reappointment must be to the same position or another position appropriate for temporary appointment

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with the same qualification requirements. If the compensable injury disqualifies the former individual from performing such a position, reappointment may be to any position for which the individual is qualified. Reappointment must be for a minimum of 120 days.

(c) *Extension of temporary appointments.* An individual who receives a valid temporary appointment will be eligible for an extension in accordance with § 316.401 even if his or her eligibility for noncompetitive appointment expires or is lost during the authorized period of temporary employment.

[63 FR 63784, Nov. 17, 1998, as amended at 68 FR 35268, June 13, 2003; 69 FR 33275, June 15, 2004; 73 FR 60611, Oct. 14, 2008; 74 FR 40477, Aug. 12, 2009]

§ 316.403 Designation of provisional appointments.

(a) *Conditions for designation.* An agency may designate a temporary appointment as a provisional appointment only when all of the following conditions are met:

(1) The appointment is made to fill a continuing position by a provisional appointment leading to permanent appointment when the position must be filled more quickly than would be possible under the procedures required for nontemporary appointment or when such a provisional appointment is a requirement of the applicable authority;

(2) The agency must have current budgetary and appointing authority for the nontemporary appointment (assuming satisfactory completion of the required procedures); and

(3) The agency must have a specific intention to convert the appointee to a nontemporary appointment under appropriate authority before the expiration of the temporary appointment, must state this intention in any written offer of employment and document this intention as part of the permanent record of the initial appointment in accordance with instructions issued by OPM.

(b) *Authority for provisional appointments.* Provisional appointments must be made under an authority established by law, Executive order, or regulation or granted by OPM. Appointments which may be treated as provisional

appointments under this paragraph may be made under any appropriate authority, including, but not limited to:

(1) Noncompetitive temporary appointments of disabled veterans under § 316.402(b)(5), when the appointments are intended to afford eligibility for conversion in accordance with § 315.707 of this chapter and section 3112 of title 5, United States Code;

(2) Temporary appointments of nurses in the Department of Veterans Affairs, when the appointments are made under the provisions of section 4114 of title 38, United States Code, with the intention of converting the appointees to continuing appointments as soon as the appointees obtain required State certification or registration and/or the agency completes necessary verification of references;

(3) Temporary transitional Schedule C appointments made under § 213.3302 of this chapter, when the appointees are to be converted to nontemporary Schedule C appointments upon OPM approval and completion of necessary clearances.

(4) Senior Executive Service limited term and limited emergency appointments made under § 317.601 of this chapter, when the appointees are to be converted to nontemporary appointments in the Senior Executive Service or to nontemporary Presidential appointments, upon further action, such as OPM approval, White House clearance, and/or confirmation by the Senate; and

(5) Temporary appointments of severely physically handicapped individuals, when such appointments are required to demonstrate qualifications for nontemporary appointment under § 213.3102(u) of this chapter, and when the appointees will be converted to such nontemporary appointment upon successful performance in the trial position.

[56 FR 10142, Mar. 11, 1991, as amended at 60 FR 35120, July 6, 1995; 63 FR 63784, Nov. 17, 1998; 66 FR 66710, Dec. 27, 2001]

Subpart E [Reserved]

Subpart F—Appointment Without Competitive Examination in Rare Cases

§ 316.601 Appointment without competitive examination in rare cases.

(a) An agency may make an appointment without competitive examination when:

(1) The duties and compensation of the position are such, or qualified persons are so rare, that in the interest of good civil service administration the position cannot be filled through open competitive examination;

(2) The person to be appointed meets all applicable qualification requirements for the position; and

(3) The appointment is specifically authorized by the Office or is made under an agreement between the agency and the Office providing for such appointments.

(b) A person appointed under paragraph (a) of this section does not acquire a competitive status on the basis of that appointment.

(c) When a position filled under paragraph (a) of this section becomes vacant, the agency may fill the vacancy by another appointment under paragraph (a) of this section only if the conditions of paragraph (a)(3) of this section are again met.

[44 FR 55132, Sept. 25, 1979]

Subpart G—Retention of Incumbents of Positions Brought Into the Competitive Service

§ 316.701 Public or private enterprise taken over by Government.

(a) When the Office, or an agency acting under an agreement with the Office, finds that the Federal Government has taken over a public or private enterprise, or an identifiable unit thereof, and that a position has thereby been brought into the competitive service, the agency may retain the incumbent of the position.

(b)(1) When an agency retains an employee under paragraph (a) of this section in a position which it determines to be a continuing one, the agency gives the employee a status quo appointment and shall decide on a timely basis whether it will convert that indi-

vidual's employment to career or career-conditional under § 315.701 of this chapter.

(2) When an agency decides not to effect conversion under § 315.701 of this chapter, or the employee fails to qualify for conversion, the agency, in its discretion, may retain the employee as a status quo employee.

(c) An agency may retain an employee under paragraph (a) of this section in a position that it determines is noncontinuing under a temporary appointment. That appointment may be made for a period not to exceed 1 year and will be subject to the time limits set out in § 316.402.

[44 FR 55133, Sept. 25, 1979, as amended at 60 FR 39101, Aug. 1, 1995; 63 FR 63784, Nov. 17, 1998]

§ 316.702 Excepted positions brought into the competitive service.

(a) When the Office, or an agency acting under an agreement with the Office, finds that an excepted position has been brought into the competitive service by statute, Executive order, or the revocation of an exception under Civil Service Rule VI (§ 6.6 of this chapter), or is otherwise made subject to competitive examination, the agency may retain the incumbent of the position.

(b)(1) When an agency retains an employee under paragraph (a) of this section who was serving in an excepted position under an indefinite appointment or an appointment without time limit, the agency gives the employee a status quo appointment and may convert that employee's appointment to career or career-conditional under § 315.701 of this chapter.

(2) When the agency decides not to effect conversion under § 315.701 of this chapter, or the employee fails to qualify for conversion, the agency, in its discretion, may retain the employee as a status quo employee.

(c) An employee who was serving under an excepted appointment limited to 1 year or less may be retained as a temporary employee under paragraph (a) of this section until the scheduled expiration date of the employee's excepted appointment. Extension of the

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employee's temporary appointment beyond that date will be subject to the provisions of § 316.402.

(d) An employee who was serving under an excepted appointment with a definite time limit longer than 1 year may be retained under a term appointment. The term appointment is subject to all conditions and time limits applicable to term appointments. Service under excepted appointment does not count against the maximum time limit for term appointment in the competitive service.

[44 FR 55133, Sept. 25, 1979, as amended at 60 FR 39101, Aug. 1, 1995; 63 FR 63784, Nov. 17, 1998]

§ 316.703 Effect on tenure of position change of status quo employees.

(a) A status quo employee who is promoted, demoted, or reassigned becomes:

(1) An indefinite employee when the position change occurs while he is not serving overseas; or

(2) An overseas limited employee when the position change occurs while he is serving overseas.

(b) An employee referred to in paragraph (a) of this section who is changed back to his status quo position becomes a status quo employee.

Subpart H [Reserved]

Subpart I—Hiring Authority for Post-Secondary Students

SOURCE: 86 FR 46107, Aug. 18, 2021, unless otherwise noted.

§ 316.901 Appointment authority.

In accordance with the provisions of this section, an agency may make a time-limited appointment of an eligible and qualified post-secondary student, to any position in the competitive service, at the General Schedule (GS) 11 level or below (or equivalent), without regard to the provisions of 5 U.S.C. 3309 through 3319 and 3330. An agency may appoint an individual for an initial period not to exceed 1 year, or for an initial period expected to last more than 1 year but less than 4 years, in accordance with §§ 316.401(c)(1) and 316.301(a) and (b), respectively, to coin-

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cide with the individual's academic curriculum. In either case an agency may extend or seek extension from OPM, as appropriate in accordance with this part, of an initial appointment for a period that will allow the post-secondary student to complete his or her academic requirements leading to the awarding of a degree or certificate, as appropriate.

§ 316.902 Eligibility.

A post-secondary student means an individual who:

(a) Is enrolled or accepted for enrollment in an institution of higher education as defined by the Higher Education Act of 1965, in a section codified at 20 U.S.C.1001(a); and

(b) Is pursuing a baccalaureate or graduate degree on at least a part-time basis, as determined by the institution of higher education; and

(c) Meets the minimum qualification standards prescribed or approved by OPM for the position to which the individual is being appointed.

§ 316.903 Qualifications.

Agencies must evaluate eligible post-secondary students using the government-wide OPM prescribed minimum qualification standard or an OPM-approved agency-specific qualification standard for the position being filled.

§ 316.904 Classification.

Post-secondary student positions under the General Schedule or appropriate pay plan must be classified to the -99 series of the appropriate occupational group. Federal Wage System positions filled under the authority in this subpart must be classified to the -01 series of the appropriate occupational group. Agencies may refer to OPM's, "Introduction to the Position Classification Standards" at <https://www.opm.gov/policy-data-oversight/classification-qualifications/classifying-general-schedule-positions/positionclassificationintro.pdf> for a definition of these positions. In addition, agencies can refer to the "Handbook of Occupational Groups and Families" available at <https://www.opm.gov/policy-data-oversight/classification-qualifications/classifying-general-schedule-positions/occupationalhandbook.pdf>.

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§316.905 Public notification.

An agency must adhere to merit system principles and thus must provide public notification in a manner that recruits qualified individuals from appropriate sources in an endeavor to draw from all segments of society, before filling a position under the authority in this subpart. An agency may, but is not required to, use USAJOBS for this purpose. If the agency does not use USAJOBS to meet the requirements in this section, it must, at a minimum, publicly display information about the position to be filled on its public facing home page. An agency may, alternatively, provide an actual job announcement on its public facing home page or provide a link to the job announcement on its public facing home page. The agency should consider whether additional recruitment and advertisement activities are necessary or appropriate to further merit system principles. A job announcement must include, at a minimum, the following information:

- (a) The position title, series, grade level;
- (b) The geographic location where the position will be filled;
- (c) The starting salary of the position;
- (d) The minimum qualifications of the position;
- (e) Whether the individual in the position will be eligible for promotion to higher grade levels;
- (f) The time-limit applicable to the position, and in the case of a term appointment the vacancy announcement must state that the agency has the option of extending the term appointment up to the 4-year limit (if applicable);
- (g) The potential for conversion to the agency's permanent workforce;
- (h) Any other relevant information about the position such as telework opportunities, recruitment incentives, etc.; and
- (i) Specific information instructing applicants on how to apply for the position.

§316.906 Acquisition of competitive status.

Time spent on a time-limited appointment under this part may count

toward fulfillment of a probation period in accordance with §315.802(b) of this chapter. A student appointed under §316.901 acquires competitive status only upon completion of probationary period after any conversion, in accordance with the provisions of 5 CFR part 315, subpart H.

§316.907 Tenure upon appointment.

An individual appointed under §316.901 becomes a career-conditional employee upon completion of academic requirements and noncompetitive conversion to a permanent appointment in accordance with §316.910, unless the individual has already satisfied the requirements for career tenure or is exempt from the service requirement pursuant to §315.201 of this chapter.

§316.908 Breaks in program.

A break in program is defined as a period of time when a student is working for the agency but is unable to go to school, or is neither attending classes nor working for the agency. An agency may use its discretion in either approving or denying a request for a break in program.

§316.909 Promotion.

An agency may promote a student appointed for an initial period expected to last more than 1 year but less than 4 years provided the student meets the qualification requirements for the higher graded position, time in grade requirements in 5 CFR part 300, subpart F, and the public notification for the position filled by the student stated the potential for promotion and specified a career ladder.

§316.910 Conversion.

An agency may convert a student serving in an appointment under the authority in this subpart, prior to the expiration date of the appointment, to a permanent position in the competitive service within the agency without further competition if the student:

- (a) Has completed the course of study leading to the baccalaureate or graduate degree (or certificate as appropriate);
- (b) Has completed not less than 640 hours of current continuous employment in an appointment under §316.902;

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(c) Meets the OPM qualification standards for the position to which the student will be converted; and

(d) Meets the time-in-grade requirements in accordance with 5 CFR part 300, subpart F.

§316.911 Reduction in force.

(a) *Reduction in force.* Post-secondary students are covered by part 351 of this chapter for purposes of reduction in force (RIF).

(1) Students whose initial appointment was for a period of 1 year or less are not assigned a tenure group and do not compete with other employees in a RIF.

(2) Students whose initial appointment was for a period expected to last more than 1 year are placed in Tenure Group III for purposes of part 351 of this chapter.

(b) [Reserved]

§316.912 Termination.

(a) Any appointment made under the authority in this subpart expires on the not-to-exceed date of that appointment unless the agency extends the appointment prior to expiration.

(b) An agency must terminate any student without regard to any provision of 5 U.S.C. chapter 35 or 75, who:

(1) Does not maintain eligibility in accordance with §§316.902 and 316.910; or

(2) Is not converted in accordance with §316.910.

§316.913 Numerical limit on the number of appointments.

(a) Except as provided in paragraph (b) of this section, the total number of students that 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 the agency head appointed during the previous fiscal year to a position at the GS-11 level or below (or equivalent). An appointing agency may not count appointments made using direct hire authorities, non-competitive authorities, excepted service authorities other than Pathways Internship Program appointments under §213.3402(a) of this chapter and 5 CFR part 362, subpart B, or selections under merit promotion authorities, when establishing the limit for a given fiscal year.

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(b) OPM may establish a lower limitation on the number of students that may be appointed by an agency under paragraph (a) of this section during a fiscal year based on any factor OPM considers appropriate. OPM shall notify agencies via the OPM website and other venues (such as the Chief Human Capital Officer's Council) of any changes to the numerical limitation, applicable governmentwide. Changes to the numerical limit for an individual agency will be communicated directly to the agency.

§316.914 Reporting requirement.

(a) Not later than September 30 of each of the first three (3) fiscal years beginning after August 13, 2018, when 5 U.S.C. 3116 was enacted, an agency that makes an appointment under this subpart must submit a report to Congress and OPM on the impact of its use of the authority in this subpart during the fiscal year in which the report is submitted. OPM will provide written guidance describing the means by which agencies should collect this information, the timing of such collections, and the groups as to which information should be collected. The report must contain the following information:

(1) The total number of individuals appointed by the agency under the authority in this subpart by position title, series, grade, and geographic location of the position, and type of appointment;

(2) The number of individuals appointed under the authority in this subpart by the items identified in 5 U.S.C. 3116(h), and in OPM guidance;

(3) The number of veterans appointed, as defined in 5 U.S.C. 2108;

(4) Any numerical limitation established by the agency in accordance with §316.913;

(5) The recruitment sources and methods used by the agency to fill positions;

(6) The total number of individuals appointed by the agency during the applicable fiscal year to a position in the competitive service classified in a professional or administrative occupational category at the GS-11 level or below (or equivalent);

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(7) The number of individuals appointed under the authority that have been separated;

(8) Information on difficulties encountered when using the authority; and

(9) The number of employees converted to permanent positions under the authority in this subpart.

(b) OPM may request additional information from agencies on their use of the authority in this subpart. An agency must include in its report to Congress and OPM any additional information required by OPM under this section.

§ 316.915 Special provisions for Department of Defense.

This subpart does not preclude the Secretary of Defense from exercising authority to appoint a post-secondary student under Public Law 114-328, Section 1106. Additionally, this subpart does not apply to the Department of Defense during the period that Public Law 114-328, Section 1106, is effective.

PART 317—EMPLOYMENT IN THE SENIOR EXECUTIVE SERVICE

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AUTHORITY: 5 U.S.C. 3392, 3393, 3395, 3397, 3592, 3593, 3595, 3596, 8414, and 8421.

Subpart A [Reserved]

Subpart B—General Provisions

§ 317.201 Regulatory requirements.

This part contains the regulations of the Office of Personnel Management which implement the following provisions of law:

(a) Section 413 of title IV of the Civil Service Reform Act of 1978;

(b) Subchapter VIII of chapter 33 of title 5, U.S.C. on appointment, reassignment, and transfer in the Senior Executive Service; and