

§6.4

persons without civil service eligibility or competitive status and such persons shall not acquire competitive status by reason of such appointment: *Provided*, That OPM, in its discretion, may by regulation prescribe conditions under which excepted positions may be filled in the same manner as competitive positions are filled and conditions under which persons so appointed may acquire a competitive status in accordance with the Civil Service Rules and Regulations.

(b) To the extent permitted by law and the provisions of this part, and subject to the suitability and fitness requirements of the applicable Civil Service Rules and Regulations, appointments and position changes in the excepted service shall be made in accordance with such regulations and practices as the head of the agency concerned finds necessary. These shall include, for the position of administrative law judge appointed under 5 U.S.C. 3105, the requirement that, at the time of application and any new appointment, the individual, other than an incumbent administrative law judge, must possess a professional license to practice law and be authorized to practice law under the laws of a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territorial court established under the United States Constitution. For purposes of this requirement, judicial status is acceptable in lieu of “active” status in States that prohibit sitting judges from maintaining “active” status to practice law, and being in “good standing” is also acceptable in lieu of “active” status in States where the licensing authority considers “good standing” as having a current license to practice law. This requirement shall constitute a minimum standard for appointment to the position of administrative law judge, and such appointments may be subject to additional agency requirements where appropriate.

[28 FR 10025, Sept. 14, 1963, as amended by E.O. 13764, 82 FR 8115, Jan. 23, 2017; E.O. 13843, 83 FR 32755, July 13, 2018]

5 CFR Ch. I (1–1–25 Edition)

§ 6.4 Removal of incumbents of excepted positions.

Except as required by statute, the Civil Service Rules and Regulations shall not apply to removals from positions listed in Schedules A, C, D, or E, or from positions excepted from the competitive service by statute. The Civil Service Rules and Regulations shall apply to removals from positions listed in Schedule B of persons who have competitive status.

[E.O. 14029, 86 FR 27026, May 19, 2021]

§ 6.5 Assignment of excepted employees.

No person who is serving under an excepted appointment shall be assigned to the work of a position in the competitive service without prior approval of OPM.

§ 6.6 Revocation of exceptions.

OPM may remove any position from or may revoke in whole or in part any provision of Schedule A, B, C, or D. Notice of OPM’s decision making these changes shall be published in the FEDERAL REGISTER.

[E.O. 11315, 3 CFR, 1966–1970 Comp., p. 597, as amended by E.O. 12043, 43 FR 9773, Mar. 10, 1978; E.O. 13562, 75 FR 82587, Dec. 30, 2010]

§ 6.7 Movement of persons between the civil service system and other merit systems.

Whenever OPM and any Federal agency having an established merit system determine it to be in the interest of good administration and consistent with the intent of the civil service laws and any other applicable laws, they may enter into an agreement prescribing conditions under which persons may be moved from one system to the other and defining the status and tenure that the persons affected shall acquire upon such movement.

§ 6.8 Specified exceptions.

(a) Positions in the Department of the Interior and in the Department of Commerce whose incumbents serve as the principal representative of the Secretary in their respective regions shall be listed in Schedule C for grades not exceeding grade GS–15 of the General