

does exist, the supervisor must relieve the subordinate employee of duty and responsibility in the particular matter.

(d) The obligation to avoid conflicts of interest is upon each employee. It is a continuing obligation calling for alert vigilance.

(e) Notwithstanding any other provision of this part to the contrary, if a employee's holdings rise in value above the amount exempted by §10.735–205(c), then the statutory and regulation prohibitions apply in a conflict of interest situation.

## PART 11—APPOINTMENT OF FOREIGN SERVICE OFFICERS

Sec.

- 11.1 Junior Foreign Service officer career candidate appointments.
- 11.2 Written examination for appointment to class 7 or 8.
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AUTHORITY: 22 U.S.C. 3926, 3941.

### §11.1 Junior Foreign Service officer career candidate appointments.

(a) *General considerations*—(1) *Authority*. Pursuant to sections 302 and 306 of the Foreign Service Act of 1980 (hereinafter referred to as the Act), all Foreign Service officers shall be appointed by the President, by and with the advice and consent of the Senate. All appointments shall be made to a class and not to a particular post. No person shall be eligible for appointment as a Foreign Service officer unless that person is a citizen of the United States. Such appointment is initially to career candidate status with subsequent commissioning to career status governed by the provisions of Volume 3 (Per-

sonnel), Foreign Affairs Manual, section 570. In accordance with section 102(b) of the Act, all references in these regulations to Foreign Service officers shall, with respect to the United States Information Agency, be deemed to refer to Foreign Service information officers.

(2) *Veterans' preference*. Pursuant to section 301 of the Act, and notwithstanding the provisions of section 3320 of title 5 of the United States Code, the fact that an applicant is a veteran or disabled veteran, as defined in section 2108 (3A), (3B), or (3C) of such title, shall be considered as an affirmative factor in the selection of candidates for appointment as Foreign Service officer career candidates.

(3) *Policy*. Appointment as a Junior Foreign Service officer Career Candidate of class 6, 5, or 4, is governed by these regulations. Successful applicants will be appointed as Career Candidates for a period not to exceed 5 years. Under precepts of the Commissioning and Tenure Board, Career Candidates may be granted tenure and converted to career Foreign Service officer status. Those who are not granted tenure prior to the expiration of their Career Candidate appointments will be separated from the Career Candidate program no later than the expiration date of their appointments. Separated candidates who originally were employees of a department or agency will be entitled to reemployment rights in their former department or agency in accordance with section 310 of the Act.

(b) *Written examination*. The following regulations apply to the written examination.

(1) *Purpose*. The written examination is designed to enable the Board of Examiners for the Foreign Service to test the applicant's intelligence, breadth and quality of knowledge, and understanding in relation to the requirements of Foreign Service work.

(2) *Eligibility*. Prior to each written examination, the Board of Examiners will establish a closing date for the receipt of applications for designation to take the examination. No person will be designated to take the examination who has not, as of that closing date, filed an application with the Board. To

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be designated to take the written examination, an applicant, as of the date of the examination, must be a citizen of the United States and at least 20 years of age.

(3) *When and where given.* The written examination will be given periodically, normally at least once a year, in designated cities in the United States and at Foreign Service posts, on dates established by the Board of Examiners and publicly announced.

(4) *Grading.* The several parts of the written examination will be weighted and graded according to standards established by the Board of Examiners. The number of candidates who pass each written examination will be governed by the projected hiring needs of the participating foreign affairs departments and agencies in subsequent years.

(c) *Oral examination.* The following regulations apply to the oral examination:

(1) *Purpose.* The oral examination is designed to enable the Board of Examiners for the Foreign Service to test the candidate's competence to perform the work of a Foreign Service officer at home and abroad, potential for growth in the Foreign Service, and suitability to serve as a representative of the United States abroad. The oral examination for the Junior Career Candidate Program will consist of an assessment procedure publicly announced by the Board of Examiners and hereinafter referred to as the oral examination.

(2) *Eligibility*—(i) *Through written examination.* (A) Candidates whose weighted score on the written examination is at or above the passing level set by the Board of Examiners will be eligible for selection to take the oral examination. All eligible candidates normally will be invited to take the oral examination.

(B) Should the total number of eligible candidates substantially exceed the projected hiring needs of the Foreign Service, the Board of Examiners may establish and publicly announce a higher written examination score than the passing level as the basis for selection to take the oral examination.

(C) The Board of Examiners may authorize special consideration to be

given in the selection of candidates, from among those eligible, for the purpose of meeting language requirements, Affirmative Action goals, or for other purposes which the Board with the concurrence of the prospective hiring agencies may from time to time approve and publicly announce.

(D) The nature and applicability of all criteria utilized to select eligible candidates to take the oral examination will be developed by the Board of Examiners in consultation with the prospective hiring agencies and publicly announced in advance of each examination by the Board.

(E) Candidates who are selected to take the oral examination will be notified of the period of time after the date of the written examination, as determined by the Board of Examiners, within which the oral examination must be conducted. That period will normally be 1 year, but it may be extended or shortened in special circumstances by the Board. The candidacy of anyone whose candidacy has not been extended by the Board, and who has not again passed the written examination in the meantime, will be terminated 2 years after the end of the month in which the written examination was held. Time spent outside the United States and its territories, for reasons acceptable to the Board of Examiners, will not be counted against this 2-year period. The candidacy of anyone for whom the 2-year period is extended by the Board because of being abroad will be terminated automatically if the candidate fails to appear for the oral examination within 3 months after first returning to the United States. If a candidate fails to appear for the oral examination on an agreed date within the period of eligibility without an excuse acceptable to the Board, the candidacy will automatically terminate.

(ii) *Through affirmative action.* Members of the minority groups specified by the Equal Opportunity Act of 1972, as amended, may be selected by the Board of Examiners for admission to the oral examination in accordance with the Affirmative Action Programs of the participating departments and agencies. Such candidates must be at least 21 years of age, citizens of the

United States, and holders of at least a bachelor's degree from an accredited college or university. Affirmative Action Program applicants will be evaluated on a highly competitive basis, in accordance with criteria established by the Board in conjunction with the participating departments and agencies and publicly announced, to determine those to be selected for the oral examination.

(iii) *Through the mustang program.* (A) Employees of the Department of State in classes FS-9 through FS-4 and grades GS-1 through GS-12 who are at least 21 years of age and who have at least 3 years of service with the Department may be selected by the Board of Examiners for admission to the oral examination for the Junior Career Candidate Program in accordance with the Mustang Program of the Department. Such Mustang candidates must: (1) Complete successfully an appropriate Foreign Service Institute-sponsored or approved university or correspondence course relevant to officer-level responsibility in the chosen Foreign Service field of specialization; (2) submit an autobiography of approximately 1000 words; and (3) be recommended by a Qualifications Evaluation Panel of the Board of Examiners for selection for the oral examination.

(B) Employees of the Department of State in classes FS-3 and GS-13 and above are eligible for the Mid-Level Career Candidate Program and should apply under that program if they wish to be considered for conversion to Foreign Service officer status (see § 11.10).

(iv) *Through the upward mobility program.* Admission to the oral examination through the Upward Mobility Program of the United States Information Agency is governed by procedures established by that agency.

(3) *When and where given.* The oral examination cycle will be held each year in Washington, DC, and in selected cities in the United States. If circumstances permit, oral examinations may also be held at selected Foreign Service posts when approved by the Board of Examiners.

(4) *Examining panel.* The oral examination will be given by a panel of deputy examiners approved by the Board of Examiners from a roster of Foreign

Service officers; Foreign Service information officers; career officers from the Department of State, the United States Information Agency, and the Department of Commerce; and qualified private citizens who, by prior service as members of departmental or agency Foreign Service selection boards or other appropriate activities, have demonstrated special qualifications to serve as deputy examiners. Service as a deputy examiner shall be limited to a maximum of 5 years, unless a further period is specifically authorized by the Board. Examination panels shall be chaired by a career officer of the Foreign Service. Determinations of duly constituted panels of deputy examiners are final unless modified by specific action of the Board of Examiners.

(5) *Grading.* Candidates taking the oral examination will be graded numerically according to standards established and publicly announced by the Board of Examiners. The candidacy of anyone whose score is at or above the passing level set by the Board will be continued. The candidacy of anyone whose score is below the passing level will be terminated and may not be considered again until the candidate has passed a new written examination. An Affirmative Action, Mustang, or Upward Mobility candidate who fails the oral examination may not be considered again until 1 year after that date.

(d) *Background investigation.* Candidates who pass the oral examination will be eligible for selection by the Board for the background investigation. The background investigation shall be conducted to determine the candidate's suitability for appointment to the Foreign Service. Should the total number of eligible candidates substantially exceed the anticipated needs of the Foreign Service, the Board of Examiners may authorize priorities to be established, on the basis of combined written and oral examination scores and Affirmative Action considerations, for scheduling the background investigation.

(e) *Medical examination—(1) Eligibility.* Candidates who pass the oral examination, and their dependents, will be eligible for selection by the Board of Examiners for the medical examination.

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(2) *Purpose.* The medical examination shall be conducted to determine the candidate's physical fitness to perform the duties of a Foreign Service officer on a worldwide basis and, for candidates and dependents, to determine the presence of any physical, neurological, or mental condition of such a nature as to make it unlikely that they would be able to function on a worldwide basis.

(3) *Conduct.* The medical examination may be conducted by medical officers of the Department of State, the Armed Forces, the Public Health Service, accredited colleges and universities, or by private physicians.

(4) *Determination.* The Medical Director of the Department of State will determine, on the basis of the report of the physician(s) who conducted the medical examination, whether the candidate has met the required medical standards for appointment (see section 1930, Volume 3, Foreign Affairs Manual).

(5) *Waiver of worldwide availability requirement.* When authorized and requested by the candidate, the Director General of the Foreign Service, or the Director General's delegatee, will review the case of any Department of State Foreign Service candidate who has been denied an unlimited medical clearance for assignment worldwide, and determine whether or not the candidate should be appointed despite the medical disqualification. Decisions of the Director General of the Foreign Service, or the Director General's delegatee, are final and are not subject to further appeal by the candidate.

(f) *Final review panel.* After the results of the medical examination and background investigation are received, the candidate's entire file will be reviewed and graded by a Final Review Panel, consisting of two or more deputy examiners of the Board of Examiners. Candidates who have completed the examination process; have passed their medical examination, or have obtained a waiver from the Director General of the Foreign Service, or his or her delegatee, or the equivalent in accordance with the procedures of the other participating agencies; and on the basis of their background investigation, have been found suitable to

represent the United States abroad, will have their names placed on the functional rank-order register(s), or a special register, for the agency or agencies for which they have been found qualified. Thereafter, they will be considered for employment based on the needs of the individual foreign affairs agencies. The candidacy of any candidate who is determined by the Final Review Panel to be unqualified for appointment shall be terminated and the candidate so informed.

(g) *Certification for appointment—(1) Eligibility.* (i) A candidate will not be certified as eligible for appointment as a Foreign Service Officer Career Candidate of class FS-6 unless that candidate is at least 21 years of age and a citizen of the United States.

(ii) Career Candidate appointments shall be made before the candidate's 60th birthday. Appointments by the United States Information Agency shall be made before the candidate's 58th birthday. The maximum age for appointment under this program is based on the requirement that all career candidates shall be able to: (A) Complete at least two full tours of duty, exclusive of orientation and training, (B) complete the requisite eligibility period for tenure consideration, and (C) complete the requisite eligibility period to receive retirement benefits, prior to reaching the mandatory retirement age of 65 prescribed by the Act.

(iii) A candidate may be certified as eligible for direct appointment to classes FS-5 or FS-4 if the Board of Examiners determines in accordance with published criteria that, in addition to meeting the requirements for class FS-6, the candidate has additional special experience and skills for which there is a need in the Foreign Service.

(iv) Recommended candidates who meet the requirements of this section will be certified for appointment by the Board, in accordance with the needs of the foreign affairs agencies, in the order of their standing on their respective registers.

(2) *Functional rank-order registers.* The Board of Examiners may maintain separate rank-order registers for Career Candidates in administrative, consular, economic, and political functions of

the Department of State; for Career Candidates in the information/cultural function of the United States Information Agency; for Career Candidates in the foreign commercial function of the Department of Commerce; and for functions of other participating foreign affairs agencies. Appointments from each functional register will be made in rank order according to the needs of the relevant agency.

(3) *Special programs.* (i) Qualified minority candidates who apply and qualify under the Department of State Affirmative Action Junior Officer Program (AAJOP) may be placed on a separate register and offered appointment from that register to meet Affirmative Action hiring goals established by the Secretary.

(ii) Qualified minority candidates who apply and qualify under the Comprehensive Minority Recruitment and Training Program (COMRAT) of the United States Information Agency may be placed on a separate register and offered appointment from that register in accordance with the Affirmative Action Program established by that agency.

(iii) Mustang and Upward Mobility candidates who are career employees of the Department of State or the United States Information Agency will be certified by the Board of Examiners for direct appointment on an individual basis after satisfactorily completing all aspects of the examination process.

(4) *Postponement of entrance on duty.* Postponement of entrance on duty because of civilian Federal Government service abroad (to a maximum of 2 years of such service), including Peace Corps volunteer service, or required active regular or reserve military service (to a maximum of the limit of such required service), may be authorized by the Board.

(5) *Foreign language requirement.* A candidate may be certified for appointment to classes FS-6, FS-5, or FS-4 without first having passed an examination in a foreign language, but the appointment will be subject to the condition that the newly appointed Career Candidate may not be converted to career Foreign Service officer status unless, within a specified period of time, adequate proficiency in a foreign lan-

guage is achieved. For limitations on promotion, see section 874, Volume 3, Foreign Affairs Manual.

(h) *Termination of eligibility—(1) Time limit.* Candidates who have qualified but have not been appointed because of lack of openings will be removed from the rank-order register 18 months after the date of placement on the rank-order register. Time spent in civilian Federal Government service abroad (to a maximum of 2 years of such service), including Peace Corps volunteer service, or in required active regular or reserve military service (to a maximum of the limit of such required service), will not be counted as part of the 18-month eligibility period.

(2) *Extension.* The Board of Examiners may extend the eligibility period when such extension is, in its judgment, justified in the interest of the Foreign Service.

(i) *Travel expenses.* The travel and other personal expenses of candidates incurred in connection with the written and oral examinations will not be borne by the Government. However, the participating foreign affairs departments and agencies may issue round-trip invitational travel orders to bring candidates to Washington, DC, at Government expense, when it is determined by the agencies that this is necessary in the interest of the Foreign Service.

(Secs. 206(a) and 301(b), Foreign Service Act of 1980 (secs. 206(a) and 301(b), Pub. L. 96-465, 94 Stat. 2079 and 2083 (22 U.S.C. 3926 and 3941)))

[48 FR 13162, Mar. 30, 1983, as amended at 67 FR 46109, July 12, 2002]

### § 11.2 Written examination for appointment to class 7 or 8.

The Board of Examiners for the Foreign Service has established the following rules regarding the written examination:

(a) *When and where given.* The written examination will be given annually or semiannually, if required, in designated cities in the United States and at Foreign Service posts on dates established by the Board of Examiners for the Foreign Service. Applicants must indicate in their applications