

## Office of Personnel Management

## § 900.605

### § 900.603 Standards for a merit system of personnel administration.

The quality of public service can be improved by the development of systems of personnel administration consistent with such merit principles as—

(a) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

(b) Providing equitable and adequate compensation.

(c) Training employees, as needed, to assure high quality performance.

(d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.

(e) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This “fair treatment” principle includes compliance with the Federal equal employment opportunity and nondiscrimination laws.

(f) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

### § 900.604 Compliance.

(a) *Certification by Chief Executives.* (1) Certification of agreement by a chief executive of a State or local jurisdiction to maintain a system of personnel administration in conformance with these Standards satisfies any applicable Federal merit personnel requirements of the Federal assistance or other programs to which personnel standards on a merit basis are applicable.

(2) Chief executives will maintain these certifications and make them available to the Office of Personnel Management.

(3) In the absence of certification by the chief executive, compliance with the Standards may be certified by the

heads of those State and local agencies that are required to have merit personnel systems as a condition of Federal assistance or other intergovernmental programs.

(b) *Resolution of Compliance Issues.* (1) Chief executives of State and local jurisdictions operating covered programs are responsible for supervising compliance by personnel systems in their jurisdictions with the Standards. They shall resolve all questions regarding compliance by personnel systems in their jurisdictions with the Standards. Findings and supporting documentation with regard to specific compliance issues shall be maintained by the chief executive, or a personal designee, and shall be forwarded, on request, to the Office of Personnel Management.

(2) The merit principles apply to systems of personnel administration. The Intergovernmental Personnel Act does not authorize OPM to exercise any authority, direction or control over the selection, assignment, advancement, retention, compensation, or other personnel action with respect to any individual State or local employee.

(3) When a chief executive requests the assistance of the Office of Personnel Management, the Office will provide consultation and technical advice to aid the State or local government in complying with the Standards.

(4) The Office of Personnel Management will advise Federal agencies on application of the Standards in resolving compliance issues and will recommend actions to carry out the purposes of the Intergovernmental Personnel Act. Questions regarding interpretation of the Standards will be referred to the Office of Personnel Management.

[48 FR 9210, Mar. 4, 1983; 48 FR 10801, Mar. 15, 1983, as amended at 62 FR 33971, June 24, 1997; 62 FR 53223, Oct. 14, 1997]

### § 900.605 Establishing a merit requirement.

Federal agencies may adopt regulations that require the establishment of a merit personnel system as a condition for receiving Federal assistance or otherwise participating in an intergovernmental program only with the prior approval of the Office of Personnel Management. All existing regulations

**Pt. 900, Subpt. F, App. A**

**5 CFR Ch. I (1–1–05 Edition)**

will be submitted to the Office of Personnel Management for review.

**APPENDIX A TO SUBPART F OF PART 900—STANDARDS FOR A MERIT SYSTEM OF PERSONNEL ADMINISTRATION**

Part I: The following programs have a statutory requirement for the establishment and maintenance of personnel standards on a merit basis.

*Program, Legislation, and Statutory Reference*

Food Stamp, Food Stamp Act of 1977, as amended; 7 U.S.C. 2020(e)(6)(B).

Employment Security (Unemployment Insurance and Employment Services), Social Security Act (Title III), as amended by the Social Security Act Amendments of 1939, Section 301, on August 10, 1939, and the Wagner-Peyser Act, as amended by Pub. L. 81-775, section 2, on September 8, 1950; 42 U.S.C. 503(a)(1) and 29 U.S.C. 49d(b).

Grants to States for Old-Age Assistance for the Aged (Title I of the Social Security Act); 42 U.S.C. 302(a)(5)(A).<sup>1</sup>

Aid to Families with Dependent Children, (Title IV-A of the Social Security Act); 42 U.S.C. 602(a)(5).<sup>2</sup>

Grants to States for Aid to the Blind, (Title X of the Social Security Act); 42 U.S.C. 1202(a)(5)(A).<sup>1</sup>

Grants to States for Aid to the Permanently and Totally Disabled, (Title XIV of the Social Security Act); 42 U.S.C. 1352(a)(5)(A).<sup>1</sup>

Grants to States for Aid to the Aged, Blind or Disabled. (Title XVI of the Social Security Act); 42 U.S.C. 1382(a)(5)(A).<sup>1</sup>

Medical Assistance (Medicaid), Social Security Act (Title XIX), as amended, section 1902 (a)(4)(A); 42 U.S.C. 1396(a)(4)(A).

State and Community Programs on Aging (Older Americans), Older Americans Act of 1965 (Title III), as amended by the Comprehensive Older Americans Act Amendments of 1976, section 307 on October 18, 1978; 42 U.S.C. 3027(a)(4).

Federal Payments for Foster Care and Adoption Assistance, (Title IV-E of the Social Security Act); 42 U.S.C. 671(a)(5).

Part II: The following programs have a regulatory requirement for the establishment and maintenance of personnel standards on a merit basis.

<sup>1</sup>Public Law 92-603 repealed Titles I, X, XIV and XVI of the Social Security Act effective January 1, 1974, except that "such repeal does not apply to Puerto Rico, Guam, and the Virgin Islands."

<sup>2</sup>Public Law 104-193 repealed the Aid to Families with Dependent Children program effective July 1, 1997.

*Program, Legislation, and Regulatory Reference*

Occupational Safety and Health Standards, Williams-Steiger Occupational Safety and Health Act of 1970; Occupational Safety and Health State Plans for the Development and Enforcement of State Standards; Department of Labor, 29 CFR 1902.3(h).

Occupational Safety and Health Statistics, Williams-Steiger Occupational Safety and Health Act of 1970; BLS Grant Application Kit, May 1, 1973, Supplemental Assurance No. 15A.

Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5196b), as amended; 44 CFR 302.4.

[62 FR 33971, June 24, 1997]

**Subpart G—Nondiscrimination on the Basis of Handicap in Federally Assisted Programs of the Office of Personnel Management**

AUTHORITY: 29 U.S.C. 794.

SOURCE: 45 FR 75569, Nov. 14, 1980, unless otherwise noted.

**§ 900.701 Purpose.**

The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance from the Office of Personnel Management (OPM).

**§ 900.702 Applicability.**

This subpart applies to each activity, program or project receiving Federal financial assistance from the Office of Personnel Management from the date this subpart is approved. The duration of the applicability is the period of time for which the assistance is authorized.

**§ 900.703 Definitions.**

Unless the content requires otherwise, in this subpart:

(a) *Recipient* means any State or its political subdivisions, any instrumentality of a State or its political subdivisions, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee