

## Office of Personnel Management

§ 317.301

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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

(c) Subchapter V of chapter 35 of title 5, U.S.C. on reinstatement to the Senior Executive Service.

[45 FR 8541, Feb. 8, 1980]

### Subpart C—Conversion to the Senior Executive Service

SOURCE: 45 FR 8541, Feb. 8, 1980, unless otherwise noted.

#### § 317.301 Conversion coverage.

(a) *When applicable.* These conversion provisions apply in the following circumstances.

(1) The implementation of the Senior Executive Service effective on July 13, 1979, and the initial conversions thereto.

(2) The implementation of the Senior Executive Service in an agency following the revocation of that agency's Presidential exclusion under 5 U.S.C. 3132(e). The Office of Personnel Management shall determine the date on which conversions under this authority shall become effective. Generally, this will be no later than six months following the effective date of the revocation of the Presidential exclusion.

(3) The implementation of the Senior Executive Service in a formerly excluded agency following statutory action extending coverage under 5 U.S.C. 3132(a)(1) to that agency. Except as otherwise provided by law, the Office of Personnel Management shall determine the date on which conversions under this authority shall become effective. Generally, this will be no later than six months following the effective date of the statutory action extending coverage under 5 U.S.C. 3132(a)(1).

(4) The implementation of the SES in a formerly excluded agency when OPM determines that the agency is an "Executive agency" under 5 U.S.C. 3132(a)(1).

(5) The exercise of a reemployment right by an individual who at the time of his/her former agency's implementation of the Senior Executive Service was under a reemployment agreement to a position in that agency which meets the grade level and functional criteria for inclusion under the Senior Executive Service. The effective date of a conversion under this authority is prescribed by § 317.302(d)(5).

(b) *Employees covered.* This subpart covers:

(1) An employee serving in a position at the time it is designated a Senior Executive Service position;

(2) An individual appointed or reinstated to a position after it has been designated a Senior Executive Service position;

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(3) An employee transferred, promoted, voluntarily reassigned or voluntarily demoted to a position after it has been designated a Senior Executive Service position;

(4) An employee involuntarily reassigned or involuntarily demoted to a position after it has been designated a Senior Executive Service position; and

(5) An employee serving in a position which meets the grade level but not the functional criteria for designation as a Senior Executive Service position.

(6) An employee appointed in his/her former agency under a reemployment right provided, however, that the employee was under a reemployment agreement at the time the Senior Executive Service was implemented in his/her former agency and that the reemployment right was to a position which meets the grade level and functional criteria for inclusion under the Senior Executive Service.

(c) *Employees excluded.* The following employees are excluded from coverage of this subpart and are not entitled to conversion to the Senior Executive Service.

(1) An employee in a position designated as Senior Executive Service who is serving under a time limited appointment which will terminate before the operational date of the Senior Executive Service.

(2) An employee serving under a temporary promotion, detail, or temporary assignment in a position designated as Senior Executive Service unless the position which the employee encumbered on a permanent basis just prior to the current temporary action has been designated as Senior Executive Service.

[45 FR 8541, Feb. 8, 1980, as amended at 60 FR 6385, Feb. 2, 1995]

**§ 317.302 Conversion procedures.**

(a) *Employees appointed prior to designation; employees involuntarily reassigned or demoted after designation—(1) Notice.* Each employee covered by this subpart who was appointed prior to the designation of his/her position as a Senior Executive Service position, or who was involuntarily reassigned or involuntarily demoted to a position after it was designated a Senior Executive Service position, shall be given a writ-

ten notice which includes the following information:

(i) A statement that the employee's position has been designated as either "general" or "career reserved";

(ii) A statement that the employee is being offered an appointment under the Senior Executive Service or that the employee is not being offered an appointment under the Senior Executive Service but will be separated from the civil service pursuant to §317.305(b)(4) or §317.306(b)(4); If the employee is offered conversion, the notice shall also include:

(iii) A statement that the employee has 90 calendar days from the date of receipt of the written notice to elect either to join the Senior Executive Service or to remain in his/her current appointment system;

(iv) Identification of the position, SES pay rate, and kind of appointment which the employee will receive if the employee elects to convert to the Senior Executive Service;

(v) For excepted appointees who have reinstatement eligibility to a position in the competitive service, or, as determined by the Office of Personnel Management, have substantial career-oriented service under career-type appointments as defined in §317.304(a)(2), a statement that the employee may request conversion to career appointment;

(vi) For employees under limited executive assignment who have reinstatement eligibility to a position in the competitive service, or as determined by the Office of Personnel Management, have substantial career-oriented service under career-type appointments as defined in §317.304(a)(2), and who are covered under §317.306(b)(3), a statement that the employee may request conversion to career appointment;

(vii) A summary of the features of the Senior Executive Service (this can be accomplished by appending descriptive material prepared by the Office);

(viii) A statement that the employee must submit his/her decision with regard to paragraphs (a)(1)(iii), (v) and (vi) of this section, in writing, on or before the end of the notice period; and

(ix) A statement of the right of an employee who is aggrieved to appeal an