

AUTHORITY: 5 U.S.C. 3301, 3302, 3330; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218; 5 U.S.C. 3304 (f), and Pub.L. 106-117.

Subpart A—General Provisions

§ 335.101 Effect of position change on status and tenure.

(a) *Status.* A position change authorized by § 335.102 does not change the competitive status of an employee.

(b) *Tenure.* Except as provided in paragraph (c) of this section and § 316.703 of this chapter, a position change authorized by § 335.102 does not change the tenure of an employee.

(c) *Exceptions.* (1) A career-conditional employee who is promoted, demoted, or reassigned to a position paid under chapter 45 of title 39, United States Code, or required by law to be filled on a permanent basis becomes a career employee.

(2) A career employee who is promoted, demoted, or reassigned from a position paid under chapter 45 of title 39, United States Code, or required by law to be filled on a permanent basis to a position under the career-conditional employment system becomes a career-conditional employee unless he has completed the service requirement for career tenure.

[33 FR 12428, Sept. 4, 1968]

§ 335.102 Agency authority to promote, demote, or reassign.

Subject to § 335.103 and, when applicable, to part 319 of this chapter, an agency may:

(a) Promote, demote, or reassign a career or career-conditional employee;

(b) Reassign an employee serving under a temporary appointment pending establishment of a register to a position to which his original assignment could have been made by the same appointing officer from the same recruiting list under the same order of consideration;

(c) Promote, demote, or reassign an employee serving under an overseas limited appointment of indefinite duration or an overseas limited term appointment to another position to which an initial appointment under § 301.201, § 301.202, or § 301.203 of this chapter is authorized;

(d) Promote, demote, or reassign (1) a status quo employee and (2) an employee serving under an indefinite appointment in a competitive position, except that this authority may not be used to move an employee:

(i) From a position in which an initial overseas limited appointment is authorized to another position; or

(ii) To a position in which an initial overseas limited appointment is authorized from another position; and

(e) Promote, demote, or reassign a term employee serving on a given project to another position within the project which the agency has been authorized to fill by term appointment;

(f) Make time-limited promotions to fill temporary positions, accomplish project work, fill positions temporarily pending reorganization or downsizing, or meet other temporary needs for a specified period of not more than 5 years, unless OPM authorizes the agency to make and/or extend time-limited promotions for a longer period.

(1) The agency must give the employee advance written notice of the conditions of the time-limited promotion, including the time limit of the promotion; the reason for a time limit; the requirement for competition for promotion beyond 120 days, where applicable; and that the employee may be returned at any time to the position from which temporarily promoted, or to a different position of equivalent grade and pay, and the return is not subject to the procedures in parts 351, 432, 752, or 771 of this chapter. When an agency effects a promotion under a nondiscretionary provision and is unable to give advance notice to the employee, it must provide the notice as soon as possible after the promotion is made.

(2) This paragraph applies to a career, career-conditional, status quo, indefinite, or term employee and to an employee serving under an overseas limited appointment of indefinite duration, or an overseas limited term appointment.

[33 FR 12428, Sept. 4, 1968, as amended at 35 FR 13075, Aug. 18, 1970; 45 FR 24855, Apr. 11, 1980; 57 FR 10124, Mar. 24, 1992; 58 FR 59347, Nov. 9, 1993]