

## Office of Personnel Management

## § 351.606

(2) As permitted under § 351.607 when an employee is retained under a permissive continuing exception or under § 351.608 when an employee is retained under a permissive temporary exception.

(b) When employees in the same retention subgroup have identical service dates and are tied for release from a competitive level, the agency may select any tied employee for release.

### § 351.602 Prohibitions.

An agency may not release a competing employee from a competitive level while retaining in that level an employee with:

(a) A specifically limited temporary appointment;

(b) A specifically limited temporary or term promotion;

(c) A written decision under part 432 or 752 of this chapter of removal or demotion from the competitive level.

[51 FR 319, Jan. 3, 1986, as amended at 62 FR 62502, Nov. 24, 1997]

### § 351.603 Actions subsequent to release from competitive level.

An employee reached for release from a competitive level shall be offered assignment to another position in accordance with subpart G of this part. If the employee accepts, the employee shall be assigned to the position offered. If the employee has no assignment right or does not accept an offer under subpart G, the employee shall be furloughed or separated.

### § 351.604 Use of furlough.

(a) An agency may furlough a competing employee only when it intends within 1 year to recall the employee to duty in the position from which furloughed.

(b) An agency may not separate a competing employee under this part while an employee with lower retention standing in the same competitive level is on furlough.

(c) An agency may not furlough a competing employee for more than 1 year.

(d) When an agency recalls employees to duty in the competitive level from which furloughed, it shall recall them in the order of their retention stand-

ing, beginning with highest standing employee.

### § 351.605 Liquidation provisions.

When an agency will abolish all positions in a competitive area within 180 days, it must release employees in group and subgroup order consistent with § 351.601(a). At its discretion, the agency may release the employees in group order without regard to retention standing within a subgroup, except as provided in § 351.606. When an agency releases an employee under this section, the notice to the employee must cite this authority and give the date the liquidation will be completed. An agency may also apply §§ 351.607 and 351.608 in a liquidation.

[60 FR 2678, Jan. 11, 1995]

### § 351.606 Mandatory exceptions.

(a) *Armed Forces restoration rights.* When an agency applies § 351.601 or § 351.605, it shall give retention priorities over other employees in the same subgroup to each group I or II employee entitled under 38 U.S.C. 2021 or 2024 to retention for, as applicable, 6 months or 1 year after restoration, as provided in part 353 of this chapter.

(b) *Use of annual leave to reach initial eligibility for retirement or continuance of health benefits.* (1) An agency shall make a temporary exception under this section to retain an employee who is being involuntarily separated under this part, and who elects to use annual leave to remain on the agency's rolls after the effective date the employee would otherwise have been separated by reduction in force, in order to establish initial eligibility for immediate retirement under 5 U.S.C. 8336, 8412, or 8414, and/or to establish initial eligibility under 5 U.S.C. 8905 to continue health benefits coverage into retirement.

(2) An agency shall make a temporary exception under this section to retain an employee who is being involuntarily separated under authority of part 752 of this chapter because of the employee's decision to decline relocation (including transfer of function), and who elects to use annual leave to remain on the agency's rolls after the effective date the employee would otherwise have been separated by adverse