

## Office of Personnel Management

## § 212.101

proclamation or by law as the last day of Operation Iraqi Freedom.

(b) *Disabled Veteran* means a person who has been discharged or released from active duty in the armed forces under honorable conditions performed at any time and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a statute administered by the Department of Veterans Affairs or a military department.

(c) *Preference eligible* means veterans, spouses, widows, or mothers who meet the definition of “preference eligible” in 5 U.S.C. 2108. Preference eligibles are entitled to have 5 or 10 points added to their earned score on a civil service examination (see 5 U.S.C. 3309). They are also accorded a higher retention standing in the event of a reduction in force (see 5 U.S.C. 3502). Preference does not apply, however, to inservice placement actions such as promotions.

(d) *Armed forces* means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(e) *Uniformed services* means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(f) *Active duty or military duty*—(1) *Active duty or active military duty* for a veteran defined in paragraph (a) of this section means full-time duty with military pay and allowances in the armed forces, except for training or for determining physical fitness and except for service in the Reserves or National Guard.

(2) *Active duty or active military duty* for a disabled veteran defined in paragraph (b) of this section means active duty with military pay and allowances in the armed forces, including training or for determining physical fitness and including service in the Reserves or National Guard.

(g) *Discharged or released from active duty* means with either an honorable or general discharge from active duty in the armed forces. The Department of Defense is responsible for admin-

istering and defining military discharges.

[60 FR 3056, Jan. 13, 1995; 60 FR 6595, Feb. 2, 1995, as amended at 71 FR 33376, June 9, 2006; 72 FR 41215, July 27, 2007]

### § 211.103 Administration of preference.

Agencies are responsible for making all preference determinations except for preference based on a common law marriage. Such a claim should be referred to OPM’s General Counsel for decision.

## PART 212—COMPETITIVE SERVICE AND COMPETITIVE STATUS

### Subpart A—Competitive Service

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212.101 Definitions.

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212.301 Competitive status defined.

### Subpart D—Effect of Competitive Status on Position

212.401 Effect of competitive status on position.

AUTHORITY: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

SOURCE: 33 FR 12408, Sept. 4, 1968, unless otherwise noted.

### Subpart A—Competitive Service

#### § 212.101 Definitions.

In this chapter:

(a) *Competitive service* has the meaning given that term by section 2102 of title 5, United States Code, and includes:

(1) All civilian positions in the executive branch of the Federal Government not specifically excepted from the civil service laws by or pursuant to statute, by the President, or by the Office of Personnel Management, and not in the Senior Executive Service; and

(2) All positions in the legislative and judicial branches of the Federal Government and in the government of the District of Columbia specifically made subject to the civil service laws by statute.

## §212.102

(b) *Competitive position* means a position in the competitive service.

(5 U.S.C. 2102)

[33 FR 12408, Sept. 4, 1968, as amended at 45 FR 62413, Sept. 19, 1980]

### §212.102 Authority to make determinations.

OPM determines finally whether a position is in the competitive service.

## Subpart B [Reserved]

## Subpart C—Competitive Status

### §212.301 Competitive status defined.

In this chapter, competitive status means an individual's basic eligibility for noncompetitive assignment to a competitive position. Competitive status is acquired by completion of a probationary period under a career-conditional or career appointment, or under a career executive assignment in the former executive assignment system, following open competitive examination, or by statute, Executive order, or the Civil Service rules, without open competitive examination. An individual with competitive status may be, without open competitive examination, reinstated, transferred, promoted, reassigned, or demoted, subject to conditions prescribed by the Civil Service rules and regulations.

[33 FR 12408, Sept. 4, 1968, as amended at 57 FR 10123, Mar. 24, 1992]

## Subpart D—Effect of Competitive Status on Position

### §212.401 Effect of competitive status on position.

(a) An employee is in the competitive service when he has competitive status and is in a competitive position under a nontemporary appointment.

(b) An employee in the competitive service at the time his position is first listed under Schedule A, B, or C remains in the competitive service while he occupies that position.

## 5 CFR Ch. I (1–1–08 Edition)

## PART 213—EXCEPTED SERVICE

### Subpart A—General Provisions

Sec.

213.101 Definitions.

213.102 Identification of positions in Schedule A, B, or C.

213.103 Publication of excepted appointing authorities in Schedules A, B, and C.

213.104 Special provisions for temporary, intermittent, or seasonal appointments in Schedule A, B, or C.

### Subpart B [Reserved]

### Subpart C—Excepted Schedules

#### SCHEDULE A

213.3101 Positions other than those of a confidential or policy-determining character for which it is impracticable to examine.

213.3102 Entire executive civil service.

213.3199 Temporary organizations.

#### SCHEDULE B

213.3201 Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination.

213.3202 Entire executive civil service.

#### SCHEDULE C

213.3301 Positions of a confidential or policy-determining nature.

213.3302 Temporary transitional Schedule C positions.

AUTHORITY: 5 U.S.C. 3161, 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

Sec. 213.101 also issued under 5 U.S.C. 2103.

Sec. 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h), and 8456; E.O. 13318, 47 FR 22931, 3 CFR 1982 Comp., p. 185; 38 U.S.C. 4301 *et seq.*; Pub. L. 105–339, 112 Stat 3182–83; and E.O. 13162.

SOURCE: 46 FR 20147, Apr. 3, 1981, unless otherwise noted.

### Subpart A—General Provisions

#### §213.101 Definitions.

In this chapter:

(a) Excepted service has the meaning given that term by section 2103 of title 5, United States Code, and includes all positions in the executive branch of the Federal Government which are specifically excepted from the competitive service by or pursuant to statute, by the President, or by the Office of Personnel Management, and which are not in the Senior Executive Service.