

Office of Personnel Management

§ 3.1

act of July 6, 1945, 59 Stat. 435, as here-
tofore or hereafter amended and sup-
plemented.

(b) Under the career-conditional ap-
pointment system there shall be a
limit on the number of permanent em-
ployees in the Federal civil service
which shall be the ceiling established
by section 1310 of the Supplemental Ap-
propriation Act, 1952 (65 Stat. 757), as
amended. In the event section 1310,
supra, is repealed, OPM is authorized
to fix such limitation on the number of
permanent employees in the Federal
civil service as it finds necessary to
meet the needs of the service.

(c) OPM may determine the types,
duration, and conditions of indefinite
and temporary appointments, and may
prescribe the method for replacing per-
sons holding such appointments.

§ 2.3 Apportionment.

Subject to such modifications as
OPM finds to be necessary in the inter-
est of good administration, appoint-
ments to positions in agencies' head-
quarters offices which are located with-
in the metropolitan area of Wash-
ington, DC, shall be made so as to
maintain the apportionment of ap-
pointments among the several States,
Territories, and the District of Colum-
bia upon the basis of population.

§ 2.4 Probationary period.

Persons selected from registers of eli-
gibles for career or career-conditional
appointment and employees promoted,
transferred, or otherwise assigned, for
the first time, to supervisory or mana-
gerial positions shall be required to
serve a probationary period under
terms and conditions prescribed by the
Office.

[45 FR 4337, Jan. 22, 1980]

PART 3—NONCOMPETITIVE ACQUISITION OF STATUS (RULE III)

Sec.

3.1 Classes of persons who may noncompeti-
tively acquire status.

3.2 Appointments without competitive ex-
amination in rare cases.

3.3 Conversion of appointments.

AUTHORITY: 5 U.S.C. 3301, 3302.

SOURCE: 28 FR 10023, Sept. 14, 1963, unless
otherwise noted.

§ 3.1 Classes of persons who may non- competitively acquire status.

(a) Upon recommendation by the
agency concerned, and subject to such
noncompetitive examination, time lim-
its, or other requirements as OPM may
prescribe the following classes of per-
sons may acquire a competitive status
without competitive examination:

(1) A person holding a permanent po-
sition when it is placed in the competi-
tive service by statute or executive
order or is otherwise made subject to
competitive examination.

(2) A disabled veteran who, in a man-
ner satisfactory to OPM, has completed
a course of training in the executive
branch of the Government prescribed
by the Administrator of Veterans' Af-
fairs in accordance with the act of
March 24, 1943 (57 Stat. 43).

(3) An employee who has served at
least two years in the immediate office
of the President or on the White House
Staff and who is transferred to a com-
petitive position at the request of an
agency.

(4) An employee who was serving
when his name was reached for certifi-
cation on a civil service register appro-
priate for the position in which he was
serving: *Provided*, That the recom-
mendation for competitive status is
made prior to expiration of the register
on which his name appears or is made
during a period of continuous service
since his name was reached: *Provided
further*, That the register was being
used for appointments conferring com-
petitive status at the time his name
was reached.

(b) Upon recommendation by the em-
ploying agency, and subject to such re-
quirements as the Office of Personnel
Management may prescribe, the fol-
lowing classes of handicapped employ-
ees may acquire competitive status
without competitive examination:

(1) A severely physically handicapped
employee who completes at least two
years of satisfactory service in a posi-
tion excepted from the competitive
service.

(2) A mentally retarded employee
who completes at least two years of

§ 3.2

satisfactory service in a position excepted from the competitive service.

(3) An employee with a psychiatric disability who completes at least 2 years of satisfactory service in a position excepted from the competitive service.

[28 FR 10023, Sept. 14, 1963, as amended by E.O. 12125, 3 CFR, 1979 Comp., p. 375; 65 FR 41868, July 7, 2000]

§ 3.2 Appointments without competitive examination in rare cases.

Subject to receipt of satisfactory evidence of the qualifications of the person to be appointed, OPM may authorize an appointment in the competitive service without competitive examination whenever it finds that the duties or compensation of the position are such, or that qualified persons are so rare, that, in the interest of good civil-service administration, the position cannot be filled through open competitive examination. Any person heretofore or hereafter appointed under this section shall acquire a competitive status upon completion of at least one year of satisfactory service and compliance with such requirements as OPM may prescribe. Detailed statements of the reasons for the noncompetitive appointments made under this section shall be published in OPM's annual reports.

§ 3.3 Conversion of appointments.

Any person who acquires a competitive status under this part shall have his appointment converted to career-conditional appointment unless he meets the service requirement for career appointment prescribed under § 2.2(a) of this subchapter.

PART 4—PROHIBITED PRACTICES (RULE IV)

Sec.

- 4.1 Prohibition against political activity.
- 4.2 Prohibition against racial, political or religious discrimination.
- 4.3 Prohibition against securing withdrawal from competition.

AUTHORITY: 5 U.S.C. 3301, 3302.

5 CFR Ch. I (1–1–08 Edition)

§ 4.1 Prohibition against political activity.

No person employed in the executive branch of the Federal Government, or any agency or department thereof, shall use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No person occupying a position in the competitive service shall take any active part in political management or in political campaigns, except as may be provided by or pursuant to statute. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates.

[28 FR 10024, Sept. 14, 1963]

§ 4.2 Prohibition against racial, political or religious discrimination.

No person employed in the executive branch of the Federal Government who has authority to take or recommend any personnel action with respect to any person who is an employee in the competitive service or any eligible or applicant for a position in the competitive service shall make any inquiry concerning the race, political affiliation, or religious beliefs of any such employee, eligible, or applicant. All disclosures concerning such matters shall be ignored, except as to such membership in political parties or organizations as constitutes by law a disqualification for Government employment. No discrimination shall be exercised, threatened, or promised by any person in the executive branch of the Federal Government against or in favor of any employee in the competitive service, or any eligible or applicant for a position in the competitive service because of his race, political affiliation, or religious beliefs, except as may be authorized or required by law.

[28 FR 10024, Sept. 14, 1963]

§ 4.3 Prohibition against securing withdrawal from competition.

No person shall influence another person to withdraw from competition for any position in the competitive