

§930.211

equivalent, a list of acceptable geographical locations, and a copy of the reduction in force notice at any time after the receipt of the specific reduction in force notice, but not later than 90 days after the date of separation, furlough for more than 30 days, or demotion.

(ii) Eligibility on the OPM priority referral list expires 2 years after the effective date of the reduction in force action.

(iii) Referral and selection of administrative law judges are made without regard to selective certification or special qualification procedures.

(iv) Termination of eligibility on the OPM priority referral list takes place when an administrative law judge submits a written request to terminate eligibility, accepts a permanent full-time administrative law judge position, or declines one full-time employment offer as an administrative law judge at or above the level held when reached for reduction in force at geographic locations indicated as acceptable under paragraph (c)(2)(i) of this section.

(3) When there is no administrative law judge available on the agency's re-employment priority list, an agency may fill a vacant administrative law judge position only from OPM's priority referral list, unless the agency obtains prior approval from OPM to fill the vacant position through competitive examining, promotion, transfer, reassignment, or reinstatement procedures. OPM will grant such approvals only under extraordinary circumstances. The agency must demonstrate that the potential administrative law judge candidate possesses experience and qualifications superior to any available displaced administrative law judge on OPM's priority referral list.

§930.211 Actions against administrative law judges.

(a) *Procedures.* An agency may remove, suspend, reduce in level, reduce in pay, or furlough for 30 days or less an administrative law judge only for good cause established and determined by the Merit Systems Protection Board on the record and after opportunity for a hearing before the Board as pre-

5 CFR Ch. I (1-1-08 Edition)

scribed in 5 U.S.C. 7521 and 5 CFR part 1201. Procedures for adverse actions by agencies under part 752 of this chapter do not apply to actions against administrative law judges.

(b) *Status during removal proceedings.* In exceptional cases when there are circumstances in which the retention of an administrative law judge in his or her position, pending adjudication of the existence of good cause for his or her removal, is detrimental to the interests of the Federal Government, the agency may:

(1) Assign the administrative law judge to duties consistent with his or her normal duties in which these circumstances would not exist;

(2) Place the administrative law judge on leave with his or her consent;

(3) Carry the administrative law judge on annual leave, sick leave, leave without pay, or absence without leave, as appropriate, if he or she is voluntarily absent for reasons not originating with the agency; or

(4) If the alternatives in paragraphs (b)(1) through (b)(3) of this section are not available, the agency may consider placing the administrative law judge in a paid non-duty or administrative leave status.

(c) *Exceptions from procedures.* The procedures in paragraphs (a) and (b) of this section do not apply:

(1) In making dismissals or taking other actions under 5 CFR part 731;

(2) In making dismissals or other actions made by agencies in the interest of national security under 5 U.S.C. 7532;

(3) To reduction in force actions taken by agencies under 5 U.S.C. 3502; or

(4) In any action initiated by the Office of Special Counsel under 5 U.S.C. 1215.

Subpart C—Information Security Responsibilities for Employees who Manage or Use Federal Information Systems

AUTHORITY: 5 U.S.C. 4118; Pub. L. 107-347, 116 Stat. 2899.

SOURCE: 69 FR 32836, June 14, 2004, unless otherwise noted.