

NONCOMPETITIVE REINSTATEMENTS

OVERVIEW

The Office of Personnel Management (OPM) has issued final regulations that make changes to 5 CFR Part 335. These changes give agencies broader discretion to reinstate certain former Federal employees at any grade level for which the individual is qualified, without regard to the grade of the position the individual previously held on a permanent basis in the competitive service.

DISCUSSION

Previously, 5 CFR Part 355 allowed agencies' merit promotion plans to exclude from coverage the reinstatement of former Federal employees up to and including a grade previously held on a permanent basis. Therefore, if permitted by an organization's merit promotion plan, reinstatement of such employees could be accomplished noncompetitively. However, when organizations wished to reinstate a former employee to a grade higher than the grade he or she previously held on a permanent basis, competition under merit promotion rules was required.

Under the new rules in 5 CFR 335, merit promotion plans may now exclude from coverage the reinstatement of former Federal employees to any grade for which the former employee is qualified, including positions with promotion potential. However, when the reinstatement is to a higher grade or to a position with promotion potential to a higher grade than the grade held by the former employee on a permanent basis, specific conditions must be met.

CONDITIONS FOR NONCOMPETITIVE REINSTATEMENT TO A HIGHER GRADE

Reinstatements to a higher grade or to a position with promotion potential to a higher grade than the grade held by the former employee on a permanent basis may be made noncompetitively, where permitted by the merit promotion plan, provided that the following conditions are met:

- (1) the reinstatement eligible has been separated for at least one year prior to applying for reinstatement; and
- (2) the reinstatement eligible must have received a rating of record for his or her most recent career or career-conditional position of at least Fully Successful (or equivalent).

PURPOSE OF THE CHANGE

The intended effect of this hiring authority is to broaden the choices available to agencies when filling vacant positions and to promote a workforce in which individuals who have developed their

competencies through extended service in the Federal Government and individuals who have developed their competencies in the private or non-profit sectors can enhance each other's strengths by sharing knowledge and perspectives.

OTHER PERTINENT INFORMATION

- These changes are effective July 8, 2021.
- There is no change to 5 CFR Part 315 governing eligibility for reinstatement.
- There is no change to 5 CFR Part 335 regarding noncompetitive reinstatement to the same or lower grade.
- The decision to exclude reinstatements from merit promotion plan coverage remains entirely discretionary.
- Merit promotion plans must specify which reinstatements are excluded from coverage, if any.
- The change to 5 CFR Part 335 does not automatically change an existing merit promotion plan. If an organization elects to broaden the exclusion from coverage, merit promotion plans must be amended.
- Collective bargaining obligations may arise as a result of changes/amendments to merit promotion plans.

REFERENCES

- 5 CFR Part 315
- 5 CFR Part 335

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