

The words “in the competitive service, an Executive agency, or the government of the District of Columbia” are substituted for “in the civil service, Federal, or District of Columbia, or in any establishment, agency, bureau, administration, project, or department, temporary or permanent” on authority of former section 869.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3317. Competitive service; certification from registers

(a) The Office of Personnel Management shall certify enough names from the top of the appropriate register to permit a nominating or appointing authority who has requested a certificate of eligibles to consider at least three names for appointment to each vacancy in the competitive service.

(b) When an appointing authority, for reasons considered sufficient by the Office, has three times considered and passed over a preference eligible who was certified from a register, certification of the preference eligible for appointment may be discontinued. However, the preference eligible is entitled to advance notice of discontinuance of certification.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 421; Pub. L. 95-454, title IX, §906(a)(3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-54, §2(a)(14), (15), Aug. 14, 1979, 93 Stat. 382.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 857 (1st sentence and 2d proviso).	June 27, 1944, ch. 287, § 8 (1st sentence and 2d proviso), 58 Stat. 389.

In subsection (a), the word “authority” is substituted for “officer” in recognition of the several appointing authorities named in section 2105(a)(1). The words “in the competitive service” have been added for clarity. Application of the section to the excepted service in the executive branch and to the government of the District of Columbia, as provided in former section 858, is carried into section 3320.

In subsection (b), the word “thereafter” is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-54, §2(a)(14), substituted “Office of Personnel Management” for “Civil Service Commission”.

Subsec. (b). Pub. L. 96-54, §2(a)(15), amended subsec. (b) in same manner as amendment by Pub. L. 95-454. See 1978 Amendment note set out below.

1978—Subsec. (b). Pub. L. 95-454 which purported to amend section 3317b of this title by substituting “Office” for “Commission” was executed to subsec. (b) of this section as the probable intent of Congress.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

§ 3318. Competitive service; selection from certificates

(a) The nominating or appointing authority shall select for appointment to each vacancy from the highest three eligibles available for appointment on the certificate furnished under section 3317(a) of this title, unless objection to one or more of the individuals certified is made to, and sustained by, the Office of Personnel Management for proper and adequate reason under regulations prescribed by the Office.

(b)(1) If an appointing authority proposes to pass over a preference eligible on a certificate in order to select an individual who is not a preference eligible, such authority shall file written reasons with the Office for passing over the preference eligible. The Office shall make the reasons presented by the appointing authority part of the record of the preference eligible and may require the submission of more detailed information from the appointing authority in support of the passing over of the preference eligible. The Office shall determine the sufficiency or insufficiency of the reasons submitted by the appointing authority, taking into account any response received from the preference eligible under paragraph (2) of this subsection. When the Office has completed its review of the proposed passover, it shall send its findings to the appointing authority and to the preference eligible. The appointing authority shall comply with the findings of the Office.

(2) In the case of a preference eligible described in section 2108(3)(C) of this title who has a compensable service-connected disability of 30 percent or more, the appointing authority shall at the same time it notifies the Office under paragraph (1) of this subsection, notify the preference eligible of the proposed passover, of the reasons therefor, and of his right to respond to such reasons to the Office within 15 days of the date of such notification. The Office shall, before completing its review under paragraph (1) of this subsection, require a demonstration by the appointing authority that the passover notification was timely sent to the preference eligible’s last known address.

(3) A preference eligible not described in paragraph (2) of this subsection, or his representative, shall be entitled, on request, to a copy of—

- (A) the reasons submitted by the appointing authority in support of the proposed passover, and
- (B) the findings of the Office.

(4) In the case of a preference eligible described in paragraph (2) of this subsection, the functions of the Office under this subsection may not be delegated.

(c) When three or more names of preference eligibles are on a reemployment list appropriate for the position to be filled, a nominating or appointing authority may appoint from a register of eligibles established after examination only an individual who qualifies as a preference eligible under section 2108(3)(C)-(G) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 421; Pub. L. 90-83, §1(8), Sept. 11, 1967, 81 Stat. 197; Pub. L. 95-454, title III, §307(d), title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1148, 1224.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a), (b)	5 U.S.C. 633(2)2. 5 U.S.C. 857 (less 1st sentence, 2d proviso, and last sentence).	Jan. 16, 1883, ch. 27, §2(2)2, 22 Stat. 404. June 27, 1944, ch. 287, § 8 (less 1st sentence, 2d proviso, and last sentence), 58 Stat. 389. Aug. 14, 1953, ch. 485, § 2, 67 Stat. 582.
(c)	5 U.S.C. 864 (less 1st sentence).	June 27, 1944, ch. 287, §15 (less 1st sentence), 58 Stat. 391.

The word “authority” is substituted for “officer” in recognition of the several appointing authorities named in section 2105(a)(1).

In subsection (a), the provisions of former section 633(2)2 are merged in the requirement of former section 857, since the certificate must be of the three highest on the register and the nominating or appointing employee may select one of the three.

In subsection (c), the prohibition in former section 864 is restated in positive form. The words “an individual who qualifies as a preference eligible under section 2108(3)(B)-(F)” are substituted for “ten-point preference eligibles”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-454, §906(a)(2), (3), substituted “Office of Personnel Management” and “Office” for “Civil Service Commission” and “Commission”, respectively.

Subsec. (b). Pub. L. 95-454, §307(d), designated existing provisions as par. (1), substituted provisions respecting authority of the Office with respect to the selection procedures applicable, for provisions respecting authority of the Commission with respect to the selection procedures applicable, and added pars. (2) to (4).

1967—Subsec. (c). Pub. L. 90-83 substituted “section 2108(3)(C)-(G)” for “section 2108(3)(B)-(F).” See Historical and Revision Notes under section 3305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

§ 3319. Alternative ranking and selection procedures

(a) The Office, in exercising its authority under section 3304, or an agency to which the Office has delegated examining authority under section 1104(a)(2), may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS-9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to

the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

(1) the number of employees hired under that system;

(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and

(3) the way in which managers were trained in the administration of that system.

(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.

(Added Pub. L. 107-296, title XIII, §1312(a)(2), Nov. 25, 2002, 116 Stat. 2290.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b), is set out under section 5332 of this title.

PRIOR PROVISIONS

A prior section 3319, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 421, related to prohibitions on employment of members of same family in the competitive service, prior to repeal by Pub. L. 95-454, title III, §307(h)(1), title IX, §907, Oct. 13, 1978, 92 Stat. 1149, 1227, effective 90 days after Oct. 13, 1978.

EFFECTIVE DATE

Section effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as a note under section 101 of Title 6, Domestic Security.

§ 3320. Excepted service; government of the District of Columbia; selection

The nominating or appointing authority shall select for appointment to each vacancy in the excepted service in the executive branch and in the government of the District of Columbia from the qualified applicants in the same manner and under the same conditions required for the competitive service by sections 3308-3318 of this title. This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 422.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 858.	June 27, 1944, ch. 287, §9, 58 Stat. 389.
.....	5 U.S.C. 869.	June 27, 1944, ch. 287, §20, 58 Stat. 391.

Former sections 858 and 869 are combined and reselected for clarity and to conform to section 3318(a). The