

(iii) A temporary promotion, or detail to a higher grade position or a position with known promotion potential, of 120 days or less;

(iv) Promotion to a grade previously held on a permanent basis in the competitive service (or in another merit system with which OPM has an interchange agreement approved under §6.7 of this chapter) from which an employee was separated or demoted for other than performance or conduct reasons;

(v) Promotion, reassignment, demotion, transfer, reinstatement, or detail to a position having promotion potential no greater than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service (or in another merit system with which OPM has an interchange agreement approved under §6.7 of this chapter) and did not lose because of performance or conduct reasons; and

(vi) Consideration of a candidate not given proper consideration in a competitive promotion action.

(d) *Grievances.* Employees have the right to file a complaint relating to a promotion action. Such complaints shall be resolved under appropriate grievance procedures. The standards for adjudicating complaints are set forth in part 300, subpart A, of this chapter. While the procedures used by an agency to identify and rank qualified candidates may be proper subjects for formal complaints or grievances, nonselection from among a group of properly ranked and certified candidates is not an appropriate basis for a formal complaint or grievance. There is no right of appeal of OPM, but OPM may conduct investigations of substantial violations of OPM requirements.

[59 FR 67121, Dec. 29, 1994]

**§ 335.104 Eligibility for career ladder promotion.**

No employee shall receive a career ladder promotion unless his or her current rating of record under part 430 of this chapter is “Fully Successful” (level 3) or higher. In addition, no employee may receive a career ladder promotion who has a rating below “Fully Successful” on a critical element that

is also critical to performance at the next higher grade of the career ladder.

[51 FR 8411, Mar. 11, 1986]

**§ 335.105 Notice of job announcements to OPM.**

Under 5 U.S.C. 3330, agencies are required to report job announcements to OPM for vacancies for which an agency will accept applications from outside the agency’s work force. This requirement is implemented through § 330.102 of this chapter.

[61 FR 11501, Mar. 21, 1996]

**PART 337—EXAMINING SYSTEM**

**Subpart A—General Provisions**

Sec.

337.101 Rating applicants.

337.102 Evaluating qualifications for employees who are in a retained grade.

**Subpart A—General Provisions**

**§ 337.101 Rating applicants.**

(a) OPM shall prescribe the relative weights to be given subjects in an examination, and shall assign numerical ratings on a scale of 100. Except as provided in §930.203(a) of this chapter, each applicant who meets the minimum requirements for entrance to an examination and is rated 70 or more in the examination is eligible for appointment.

(b) OPM shall add to the earned numerical ratings of applicants who make a passing grade:

(1) Five points for applicants who are preference eligibles under section 2108(3)(A) and (B) of title 5, United States Code; and

(2) Ten points for applicants who are preference eligibles under section 2108(3)(C)-(G) of that title.

(c) When experience is a factor in determining eligibility, OPM shall credit a preference eligible with:

(1) Time spent in the military service (i) as an extension of time spent in the position in which he was employed immediately before his entrance into the military service, or (ii) on the basis of actual duties performed in the military service, or (iii) as a combination of both methods. OPM shall credit time spent in the military service according

§ 337.102

to the method that will be of most benefit to the preference eligible.

(2) All valuable experience, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether pay was received therefor.

(5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954-1958 Comp., p. 218)

[33 FR 12423, Sept. 4, 1968]

**§337.102 Evaluating qualifications for employees who are in a retained grade.**

(a) Employees who are in a retained grade must have the experience they gain subsequent to the downgrading action that placed them in a retained grade considered in the following manner. For placements during the period the employee is in a retained grade, agencies must consider the experience subsequent to the downgrading action to be either:

(1) At the level of the retained grade and in the series of the position which he or she occupied at the time of the downgrading; or

(2) At the grade and in the series of the position to which the employee is downgraded.

(b) Agencies must determine which experience to consider on the basis of which will most likely result in placement. For placements or promotions after the retained grade period, the experience is considered only at the grade level and in the series of the position to which the employee was downgraded.

(5 U.S.C. 5364)

[45 FR 18365, Mar. 21, 1980]

**PART 338—QUALIFICATION REQUIREMENTS (GENERAL)**

**Subpart A—Citizenship Requirements**

Sec.

338.101 Citizenship.

**Subpart B—Members-of-Family Requirement**

338.202 Restrictions on sons and daughters.

5 CFR Ch. I (1-1-97 Edition)

**Subparts C-E—[Reserved]**

**Subpart F—Age Requirements**

338.601 Prohibition of maximum-age requirements.

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

**Subpart A—Citizenship Requirements**

**§338.101 Citizenship.**

(a) A person may be admitted to competitive examination only if he is a citizen of or owes permanent allegiance to the United States.

(b) A person may be given an appointment in the competitive service only if he or she is a citizen of or owes permanent allegiance to the United States. However, a noncitizen may be given an appointment in rare cases under §316.601 of this chapter, unless the appointment is prohibited by statute.

(c) Paragraph (b) of this section applies to reinstatement and transfer as well as to other noncompetitive appointments, and to conversion to career or career-conditional employment.

[33 FR 12429, Sept. 4, 1968, as amended at 57 FR 10124, Mar. 24, 1992]

**Subpart B—Members-of-Family Requirement**

**§338.202 Restrictions on sons and daughters.**

(a) [Reserved]

(b) An agency (including a military department) may appoint the son or daughter of a civilian employee of that agency, or the son or daughter of a member of its uniformed service for summer employment within the United States when:

(1) The position is filled under agency-developed staffing plans not requiring a summer written test;

(2) The opportunities for employment have been publicized in the summer announcement, OPM regional and/or area office supplements, or through Federal job information centers and State Employment Services for a minimum 2-week period;