

## Office of Personnel Management

## § 317.602

unit within a department; but the individual designated may not be at a lower level than the appointing authority. The agency's written recertification procedures must indicate who is to make the decision.

(i) *Procedures.* Written reasons must be provided for any recommendation or decision to conditionally recertify or to not recertify a career appointee.

(j) *Agency responsibilities.* Each agency that has career appointees subject to recertification:

(1) Shall develop written recertification procedures in consultation with its career appointees, shall have the procedures reviewed and approved by OPM before the recertification process is initiated, and shall provide its senior executives and OPM a copy of the final procedures upon issuance and upon any change;

(2) Shall provide for a program, under guidelines issued by OPM, to train its executives who supervise SES career personnel, and members of Performance Review Boards who will be making recertification recommendations, in the objectives and procedures of the recertification process;

(3) Shall maintain such records as OPM may require;

(4) Shall report to OPM such information as OPM may request relating to recertification actions or the training of SES supervisors; and

(5) Shall take such corrective action as may be directed by OPM if OPM finds that the agency's written procedures, or any actions taken by the agency, are contrary to law or regulation.

[56 FR 170, Jan. 3, 1991]

### Subpart F—Noncareer and Limited Appointments

SOURCE: 45 FR 62414, Sept. 19, 1980, unless otherwise noted.

#### § 317.601 Authorization.

(a) An agency may make a noncareer or limited appointment only to a general position.

(b) Each use of a noncareer appointment authority must be approved individually by the Office of Personnel Management, and the authority reverts

to the Office upon departure of the incumbent, unless otherwise provided by the Office.

(c) Use of a limited appointment authority is subject to the conditions in this paragraph.

(1) Agencies are provided a pool of limited appointment authorities equal to 3 percent of their Senior Executive Service (SES) position allocation, or one authority, whichever is greater. An agency may use the pool to make a limited appointment only of an individual who has a career or career-conditional appointment (or an appointment of equivalent tenure) in a permanent civil service position outside the SES. If necessary, the Office of Personnel Management may suspend use of the pool authority.

(2) Each use of a limited appointment authority other than under paragraph (c)(1) of this section must be approved individually by the Office, and the authority reverts to the Office upon departure of the incumbent, unless otherwise provided by the Office.

[60 FR 6386, Feb. 2, 1995, as amended at 65 FR 33741, May 25, 2000]

#### § 317.602 Conditions of a limited appointment.

(a) Appointments authorized under this provision may be deemed provisional appointments for purposes of the regulations set out in parts 831, 842, 870, and 890 of this chapter if they meet the criteria set out in §§ 316.401 and 316.403 of this chapter.

(b) A limited appointment is not renewable. If an agency initially made the appointment for less than the maximum period authorized by the Office of Personnel Management, however, the agency may extend the appointment to the maximum period without the approval of the Office. The Office must be notified of the extension.

(c) A limited term or limited emergency appointee may not be appointed to, or continue to hold, a position under such an appointment if, within the preceding 48 months, the individual has served more than 36 months, in the aggregate, under any combination of

### § 317.603

limited term and limited emergency appointments.

[45 FR 62414, Sept. 19, 1980, as amended at 56 FR 10142, Mar. 11, 1991; 60 FR 6386, Feb. 2, 1995]

#### § 317.603 Selection.

An agency may make a noncareer or limited appointment without the use of merit staffing procedures. The appointee, however, must meet the qualifications requirements for the position, as determined in writing by the appointing authority.

[45 FR 62414, Sept. 19, 1980, as amended at 60 FR 6386, Feb. 2, 1995]

#### § 317.604 Reassignment.

(a) An agency may reassign a non-career appointee only with the prior approval of the Office unless otherwise provided by the Office.

(b) An agency may make the following reassignments of limited appointees to positions for which qualified without the prior approval of the Office of Personnel Management. The Office must be notified of the reassignment, however.

(1) An agency may reassign a limited emergency appointee to another general position established to meet a bona fide, unanticipated, urgent need, except that the appointee may not serve in one or more positions in the agency under such appointment in excess of 18 months.

(2) An agency may reassign a limited term appointee to another general position the duties of which will expire at the end of 3 years or less except that the appointee may not serve in one or more positions in the agency under such appointment in excess of 3 years.

[45 FR 62414, Sept. 19, 1980, as amended at 60 FR 6386, Feb. 2, 1995]

#### § 317.605 Tenure of appointees.

(a) A noncareer or limited appointee does not acquire status within the Senior Executive Service on the basis of the appointment.

(b) An agency may terminate a non-career or limited appointment at any time, unless a limited appointee is covered under 5 CFR 752.601(c)(2). The agency must give the noncareer or limited appointee a written notice at least

### 5 CFR Ch. I (1–1–02 Edition)

1 day prior to the effective date of the removal.

(c) The employment of a limited appointee ends automatically on the expiration of the appointment if the appointment has not been terminated earlier.

(d) An employee: (1) Who received a limited appointment without a break of service in the same agency as the one in which the employee held a career or career conditional appointment (or an appointment of equivalent tenure) in a permanent civil service position outside the Senior Executive Service, and

(2) Whose limited appointment is terminated for reasons other than misconduct, neglect of duty, or malfeasance, shall be entitled to be placed in his/her former position or a position of like status, tenure, and grade.

[45 FR 62414, Sept. 19, 1980, as amended at 60 FR 6386, Feb. 2, 1995]

### Subpart G—SES Career Appointment by Reinstatement

SOURCE: 54 FR 9759, Mar. 8, 1989, unless otherwise noted.

#### § 317.701 Agency authority.

As provided for in §§ 317.702 and 317.703, an agency may reinstate a former SES career appointee without regard to the merit staffing requirements established by OPM in § 317.501(c).

#### § 317.702 General reinstatement: SES career appointees.

(a) *Eligibility for general reinstatement.* A former SES career appointee who meets the following conditions is eligible for reinstatement under this section:

(1) The individual completed an SES probationary period under a previous SES career appointment or was exempted from that requirement; and

(2) The individual's separation from his or her last SES career appointment was not a removal under subpart C of part 359 of this chapter for failure to be recertified as a senior executive; or a removal under subpart E of part 359 of this chapter for less than fully successful executive performance; or under 5