

Va.; and Charles, Montgomery, and Prince Georges Counties, Md.

(8) *Noncompetitive action* means a promotion, demotion, reassignment, transfer, reinstatement, or an appointment based on prior service.

(9) *Overseas* means outside the continental United States, but does not include Alaska, Guam, Hawaii, the Isthmus of Panama, Puerto Rico, or the Virgin Islands.

(10) *Position change* means a promotion, demotion, or reassignment.

(11) *Promotion* means a change of an employee, while serving continuously within the same agency:

(i) To a higher grade when both the old and the new positions are under the General Schedule or under the same type graded wage schedule; or

(ii) To a position with a higher rate of pay when both the old and the new positions are under the same type ungraded wage schedule, or are in different pay method categories.

(12) *Reassignment* means a change of an employee, while serving continuously within the same agency, from one position to another without promotion or demotion.

(13) *Reemployed annuitant* means an employee whose annuity under subchapter III of chapter 83 of title 5, United States Code, was continued on reemployment in an appointive position on or after October 1, 1956.

(14) *Register* means a list of qualified applicants compiled in order of relative standing for certification.

(15) *Reinstatement* means the non-competitive reemployment for service as a career or career-conditional employee of a person formerly employed in the competitive service who had a competitive status or was serving probation when he was separated from the service.

(16) *Status quo employee* means an employee who failed to acquire a competitive status when the position in which he was serving was placed in the competitive service by a statute, Executive order, or Civil Service rule, which permitted his retention without the acquisition of status.

(17) *Tenure* means the period of time an employee may reasonably expect to serve under his current appointment. It is granted and governed by the type of

appointment under which an employee is currently serving without regard to whether he has a competitive status or whether his appointment is in a competitive position or in an excepted position.

(18) *Transfer* means a change of an employee, without a break in service of 1 full workday, from a position in one agency to a position in another agency.

[33 FR 12407, Sept. 4, 1968, as amended at 34 FR 19495, Dec. 10, 1969; 38 FR 22535, Aug. 22, 1973]

## PART 211—VETERAN PREFERENCE

Sec.

211.101 Purpose.

211.102 Definitions.

211.103 Administration of preference.

AUTHORITY: 5 U.S.C. 1302.

SOURCE: 60 FR 3056, Jan. 13, 1995, unless otherwise noted.

### § 211.101 Purpose.

The purpose of this part is to define veterans' preference and the administration of preference in Federal employment. (5 U.S.C. 2108)

### § 211.102 Definitions.

For purposes of preference in Federal employment the following definitions apply:

(a) *Veteran* means a person who has been discharged or released from active duty in the armed forces under honorable conditions performed—

(1) In a war; or,

(2) In a campaign or expedition for which a campaign badge has been authorized; or

(3) During the period beginning April 28, 1952, and ending July 1, 1955; or

(4) For more than 180 consecutive days, other than for training, any part of which occurred during the period beginning February 1, 1955, and ending October 14, 1976; or

(5) During the period beginning August 2, 1990, and ending January 2, 1992; or

(6) For more than 180 consecutive days, other than for training, any part of which occurred during the period beginning September 11, 2001, and ending on the date prescribed by Presidential

## Office of Personnel Management

## § 212.101

proclamation or by law as the last day of Operation Iraqi Freedom.

(b) *Disabled Veteran* means a person who has been discharged or released from active duty in the armed forces under honorable conditions performed at any time and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a statute administered by the Department of Veterans Affairs or a military department.

(c) *Preference eligible* means veterans, spouses, widows, or mothers who meet the definition of “preference eligible” in 5 U.S.C. 2108. Preference eligibles are entitled to have 5 or 10 points added to their earned score on a civil service examination (see 5 U.S.C. 3309). They are also accorded a higher retention standing in the event of a reduction in force (see 5 U.S.C. 3502). Preference does not apply, however, to inservice placement actions such as promotions.

(d) *Armed forces* means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(e) *Uniformed services* means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(f) *Active duty or active military duty*—  
(1) *Active duty or active military duty* for veterans defined in paragraphs (a)(1) through (3) and disabled veterans defined in paragraph (b) of this section means active duty with military pay and allowances in the armed forces, including training or for determining physical fitness and including service in the Reserves or National Guard.

(2) Active duty or active military duty for a veteran defined in paragraph (a)(4) through (6) of this section means full-time duty with military pay and allowances in the armed forces, except for training or for determining physical fitness and except for service in the Reserves or National Guard.

(g) *Discharged or released from active duty* means with either an honorable or general discharge from active duty in the armed forces. The Department of Defense is responsible for admin-

istering and defining military discharges.

[60 FR 3056, Jan. 13, 1995; 60 FR 6595, Feb. 2, 1995, as amended at 71 FR 33376, June 9, 2006; 72 FR 41215, July 27, 2007; 73 FR 64179, Oct. 29, 2008]

### § 211.103 Administration of preference.

Agencies are responsible for making all preference determinations except for preference based on a common law marriage. Such a claim should be referred to OPM’s General Counsel for decision.

## PART 212—COMPETITIVE SERVICE AND COMPETITIVE STATUS

### Subpart A—Competitive Service

Sec.

212.101 Definitions.

212.102 Authority to make determinations.

### Subpart B [Reserved]

### Subpart C—Competitive Status

212.301 Competitive status defined.

### Subpart D—Effect of Competitive Status on Position

212.401 Effect of competitive status on position.

AUTHORITY: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

SOURCE: 33 FR 12408, Sept. 4, 1968, unless otherwise noted.

### Subpart A—Competitive Service

#### § 212.101 Definitions.

In this chapter:

(a) *Competitive service* has the meaning given that term by section 2102 of title 5, United States Code, and includes:

(1) All civilian positions in the executive branch of the Federal Government not specifically excepted from the civil service laws by or pursuant to statute, by the President, or by the Office of Personnel Management, and not in the Senior Executive Service; and

(2) All positions in the legislative and judicial branches of the Federal Government and in the government of the District of Columbia specifically made