

§ 9901.413

(m) At any time prior to the last 90 days of the appraisal period, a supervisor or other rating official may prepare a performance assessment (e.g., close-out assessment) for the purpose of providing input on an employee's performance to a new supervisor. Such an assessment is not a rating of record (recommended or final).

§ 9901.413 Reconsideration of ratings.

(a) *Nonbargaining unit employees.* (1) A rating of record or job objective rating may be challenged by a nonbargaining unit employee only through the reconsideration process specified in this subpart and implementing issuances. This process will be the sole and exclusive agency administrative process for all nonbargaining unit employees to challenge a rating of record.

(2) Consistent with this part, Pay Pool Managers will decide job objective rating and rating of record reconsiderations.

(3) If the Pay Pool Manager decision is challenged, consistent with this part, the Performance Review Authority will make a final decision.

(4) A share assignment determination, payout distribution determination, or any other payout matter will not be subject to the reconsideration process or any other agency administrative grievance system.

(b) *Bargaining unit employees.* (1) Negotiated grievance procedures are the exclusive administrative procedures for bargaining unit employees to challenge a rating of record or job objective rating as provided for in 5 U.S.C. 7121.

(2) If a negotiated grievance procedure is not available to a bargaining unit employee or challenging a rating of record or job objective rating is outside the scope of the employee's negotiated grievance procedure, a bargaining unit employee may challenge a rating of record or job objective rating in accordance with this subpart and implementing issuances.

(c) *Recalculation based on adjusted job objective rating or rating of record.* In the event a reconsideration or negotiated grievance decision results in an adjusted job objective rating or rating of record the revised rating will be referred to the Pay Pool Manager for re-

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calculation of the employee's performance payout amount and distribution.

(1) Any adjustment to salary will be retroactive to the effective date of the performance payout.

(2) Salary adjustments will be based on the share range appropriate for the adjusted rating of record as identified in § 9901.342(f).

(3) Share values for the adjusted rating of record will reflect the share value paid to other members across the pay pool for that rating cycle.

(4) Decisions made through the reconsideration process or a negotiated grievance procedure will not result in recalculation of the payout made to other employees in the pay pool.

(d) *Alternative dispute resolution.* Alternative dispute resolution techniques, such as mediation, interest-based problem-solving, or others, may be pursued at any time during the reconsideration process consistent with the Component's policies and procedures.

Subpart E—Staffing and Employment

AUTHORITY: 5 U.S.C. 9902.

SOURCE: 74 FR 2764, Jan. 16, 2009, unless otherwise noted.

GENERAL

§ 9901.501 Purpose.

(a) This subpart sets forth policies and procedures for the recruitment for, and appointment to, positions; and assignment, reassignment, detail, transfer, or promotion of employees, consistent with 5 U.S.C. 9902(a) and (i).

(b) The Secretary will comply with merit principles set forth in 5 U.S.C. 2301 and with 5 U.S.C. 2302 (dealing with prohibited personnel practices).

(c) The Secretary will adhere to veterans' preference principles set forth in 5 U.S.C. 2302(b)(11), consistent with 5 U.S.C. 9902(i).

§ 9901.502 Scope of authority.

When a specified category of employees, applicants, and positions is covered by the system established under this subpart, the provisions of 5 U.S.C.

3301, 3302, 3304, 3317(a), 3318 and 3319 (except with respect to veterans' preference), 3321 (except 3321(a)(2)), 3324, 3325, 3327, 3330, and 3341 are modified or waived and replaced with respect to that category except as otherwise specified in this subpart. In accordance with § 9901.101, the Secretary may prescribe implementing issuances to carry out the provisions of this subpart.

§ 9901.503 Coverage.

(a) At his or her sole and exclusive discretion, the Secretary may decide to apply this subpart to a specific category or categories of eligible civilian employees in organizations and functional units of the Department at any time in accordance with the provisions of 5 U.S.C. 9902. However, no category of employee may be covered by this subpart unless that category is also covered by subpart D of this part.

(b) The following employees and positions in DoD organizational and functional units are eligible for coverage under this subpart:

(1) Employees and positions who would otherwise be covered by 5 U.S.C. chapter 33 (excluding members of the Senior Executive Service); and

(2) Such others designated by the Secretary as authorized under 5 U.S.C. 9902.

§ 9901.504 Definitions.

In this subpart—

Career conditional employee means an individual appointed without time limit to a competitive service position in NSPS who does not meet the definition of a career employee.

Career employee means an individual appointed without time limit to a competitive service position in NSPS who has served 3 years of substantially continuous service as described in 5 CFR 315.201(b).

Competencies has the meaning given that term in § 9901.103.

Detail means the temporary assignment, other than temporary reassignment or temporary promotion, of an employee to another position or set of duties with the expectation that the employee will return to the permanent position of record upon expiration of the assignment. For pay and benefits purposes and for the purpose of part 351

of this title, an employee continues to encumber the position from which the employee was detailed.

Initial probationary period means the initial period of service immediately following an employee's appointment to the competitive or excepted service, as specified in § 9901.512, during which an authorized management official determines whether the employee fulfills the requirements of the position to which assigned.

Local commuting area is the geographic area that usually constitutes one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their usual place of employment.

Promotion has the meaning given that term in § 9901.103.

Reassignment has the meaning given that term in § 9901.103. For the purpose of part 351 of this title, an official position does not include a position to which an employee is reassigned on a temporary or time-limited basis.

Reduction in band has the meaning given that term in § 9901.103.

Supervisory probationary period means the first year of service immediately following an employee's initial appointment or placement in a supervisory position, as provided in 5 U.S.C. 3321(a)(2), during which an authorized management official determines whether the employee fulfills the requirements of the position to which assigned.

Temporary employee means an individual in the competitive or excepted service who is employed for a limited period of time not to exceed 1 year. The individual's appointment may be extended, up to a maximum established under § 9901.511(d), to perform the work of a position that does not require an additional permanent employee.

Term employee means an individual in the competitive service who is employed for a period of more than 1 year up to a maximum established under § 9901.511(d).

Time-limited employee means an individual in the excepted service who is employed for a period of more than 1