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315.907 Failure to complete the probationary period.

315.908 Appeals.

315.909 Relationship to other actions.

AUTHORITY: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp. p. 218, unless otherwise noted; and E.O. 13162. Secs. 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652. Secs. 315.602 and 315.604 also issued under 5 U.S.C. 1104. Sec. 315.603 also issued under 5 U.S.C. 8151. Sec. 315.605 also issued under E.O. 12034, 3 CFR, 1978 Comp. p. 111. Sec. 315.606 also issued under E.O. 11219, 3 CFR, 1964–1965 Comp. p. 303. Sec. 315.607 also issued under 22 U.S.C. 2506. Sec. 315.608 also issued under E.O. 12721, 3 CFR, 1990 Comp. p. 293. Sec. 315.610 also issued under 5 U.S.C. 3304(c). Sec. 315.611 also issued under 5 U.S.C. 3304(f). Sec. 315.612 also issued under E.O. 13473. Sec. 315.708 also issued under E.O. 13318, 3 CFR, 2004 Comp. p. 265. Sec. 315.710 also issued under E.O. 12596, 3 CFR, 1987 Comp. p. 229. Subpart I also issued under 5 U.S.C. 3321, E.O. 12107, 3 CFR, 1978 Comp. p. 264.

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Subpart A [Reserved]

Subpart B—The Career-Conditional Employment System

§ 315.201 Service requirement for career tenure.

(a) *Service requirement.* A person employed in the competitive service for other than temporary, term, or indefinite employment is appointed as a career or career-conditional employee subject to the probationary period required by subpart H of this part. Except as provided in paragraph (c) of this section, an employee must serve 3 years of substantially continuous creditable service as defined in paragraph (b) of this section to become a career employee.

(b) *Creditable service.* Unless otherwise approved by OPM, the service required for career tenure must begin and end with nontemporary employment in the competitive service except as described in paragraph (1) of this subsection, must include service under an appointment based on or leading to competitive status, be substantially continuous, and total 3 years, as follows:

(1) *Nontemporary employment.* To be creditable, the 3-year period of service must begin with one of the following:

(i) Nontemporary appointment in the competitive service. For this purpose, nontemporary appointment includes a career-conditional appointment; career appointment; reinstatement under subpart D of this part; and transfer under subpart E of this part. The 3-year period may also begin, but not end, with status quo employment under subpart G of part 316 of this chapter, and overseas limited appointment of indefinite duration or overseas limited term appointment under part 301 of this chapter. The 3-year period also may have begun with permanent employment under now obsolete appointing authorities such as probational, war service indefinite, and emergency indefinite appointments. Determinations of whether an obsolete authority provides the basis for creditable service may be obtained from OPM;

(ii) The acquisition of competitive status on January 23, 1955, under provisions of Executive Order 10577, while serving in the excepted service;

(iii) Nontemporary appointment from a civil service register to a position in the excepted service before January 23, 1955;

(iv) Nontemporary appointment to a position in the District of Columbia Government before January 23, 1955, evidencing selection in regular order from a civil service register used to certify for probational appointment in the Federal service. Appointment from a register maintained only for District of Columbia Government would not meet this condition;

(v) Nontemporary appointment to an excepted position, *provided the employee's excepted position was brought into the competitive service* and, on that basis, the employee acquired competitive status or was converted to a career or career-conditional appointment;

(vi) Nontemporary appointment to a nonappropriated fund (NAF) position in or under the Department of Defense, *provided the employee's NAF position was brought into the competitive service* and, on that basis, the employee acquired competitive status or was converted to a career or career-conditional appointment;

(vii) Nontemporary excepted or non-appropriated fund appointment, Foreign Service appointment, or appointment in the Canal Zone Merit System, provided the employee is appointed or transferred to a competitive service position under the terms of an interchange agreement with another merit system under § 6.7 of this chapter, under Executive Order 11219 as amended by Executive Order 12292, or under Executive Order 11171;

(viii) The date of appointment to a position on the White House Staff or in the immediate office of the President or Vice President, provided the service has been continuous and the individual was appointed to a competitive service position under § 315.602 of this chapter;

(ix) The date of nontemporary excepted appointment under § 213.3202(b) of this chapter, provided the student's appointment is converted to career or career-conditional appointment under Executive Order 12015, with or without an intervening term appointment, and without a break in service of one day.

(x) The date of veterans recruitment appointment (VRA), provided the appointment is converted to career or career-conditional appointment under § 315.705 of this chapter, or the person is appointed from a civil service register without a break in service while serving under a VRA;

(xi) The date of nontemporary appointment to the Postal Career Service or the Postal Rate Commission after July 1, 1971, provided the individual is appointed to a career or career-conditional appointment under 39 U.S.C. 1006;

(xii) The date of nontemporary appointment under Schedule A, § 213.3102(u) of this chapter, of a person with mental retardation, a severe physical disability, or a psychiatric disability, provided the employee's appointment is converted to a career or career-conditional appointment under § 315.709;

(xiii) The date of appointment as a participant in the Presidential Management Fellows Program under the provisions of Executive Order 13318, provided the employee's appointment is converted without a break in service to career or career-conditional appointment under § 315.708;

(xiv) The date of temporary appointment pending establishment of a register, provided the appointment was converted to career executive assignment;

(xv) The date of temporary appointment pending establishment of a register (TAPER), provided:

(A) The employee is serving on or after February 8, 1968, and his or her TAPER employment is changed by conversion or by an appointment without a break in service of a single workday to a career or career-conditional appointment from a civil service register; and

(B) His or her TAPER service has been continuous without a break in service of more than 30 calendar days or without interruption for more than 30 calendar days by other than status quo or indefinite employment in the competitive service, or military service provided he or she is reemployed as a TAPER employee within 120 days after separation under honorable conditions from the military service;

(xvi) The starting date of National Guard technician service performed before January 1, 1969, provided the person was employed as a National Guard technician on December 31, 1968, and his or her position was brought into the competitive service on January 1, 1969;

(xvii) The starting date of active service as an administrative enrollee in the United States Merchant Marine Academy; and

(xviii) The date on which an employee became eligible for benefits under Public Law 83-121, unless an earlier date can be chosen because of prior nontemporary service.

(xix) Appointment as a career intern under Schedule B, § 213.3202(o) of this chapter, provided the employee's appointment is converted to career or career-conditional appointment under § 315.712.

(2) *Competitive status.* Career tenure is acquired only under a permanent appointment in the competitive service that provides or leads to competitive status.

(3) *Substantially continuous service.* A single break in creditable service of more than 30 calendar days will require

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the beginning of a new 3-year period, except for:

(i) Breaks incident to entry into or return from military service and return from defense transfer, provided the person is reemployed in Federal service during his or her period of statutory or regulatory restoration or re-employment rights;

(ii) Breaks incident to transfer to and from an international organization, provided the person is reemployed in Federal service under subpart C of part 352 of this chapter;

(iii) Breaks during which an employee was eligible to receive injury compensation under the Office of Workers' Compensation Programs, provided the person is reemployed under part 353 of this chapter;

(iv) Breaks incident to a restoration to correct an unjustified or unwarranted separation;

(v) Breaks following separation by reduction in force of employees who are eligible for entry on the reemployment priority list under subpart B of part 330 of this chapter, provided the person is reemployed in Federal service during the period of his or her reemployment priority;

(vi) Breaks following involuntary separation without personal cause of employees who are eligible for a non-competitive appointment based on an interchange agreement with another merit system under § 6.7 of this chapter, provided the person is employed in the competitive service under the agreement during the period of his or her eligibility;

(vii) Breaks incident to volunteer service or training required after enrollment in volunteer service provided the person is reemployed in Federal service within 90 days of the termination of volunteer service or training. This provision applies to Peace Corps, VISTA, or other ACTION full-time programs that are potentially creditable in subsequent Federal employment for length of service for leave, reduction in force, and retirement purposes;

(viii) Breaks incident to employment in a nonfederal organization that occurred because a Federal function was transferred to the organization by law, provided the employee moved as a result of the transfer of function without

a break in service of more than 3 days to the nonfederal organization and is reemployed by nontemporary appointment in the competitive service without a break in service of more than 30 calendar days after separation from the nonfederal organization;

(ix) Employment with the District of Columbia Government after January 1, 1980 (the date the District implemented an independent merit personnel system not tied to the Federal system), provided the person was a District employee on December 31, 1979, was converted to the District system on January 1, 1980, and is reemployed by nontemporary appointment in the competitive service without a break in service of more than 30 calendar days after separation from District employment; and

(x) Breaks that occur when a career-conditional employee leaves Federal employment to accompany a spouse or parent (if the employee is their unmarried child under 21 years of age) who is a member of the Armed Forces or a Federal civilian employee on official assignment to an overseas post of duty, provided the employee's separation from employment occurs no more than 90 calendar days prior to going overseas and reinstatement occurs while overseas or within 180 calendar days of return to the United States. Overseas posts of duty are duty locations outside the 50 States of the United States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(4) *Crediting service.* An employee's creditable service must total 3 years, under the following conditions.

(i) *Work schedule.* (A) Full-time service, and part-time service on or after July 1, 1962, are counted as calendar time from the date of appointment to date of separation.

(B) Intermittent service on or after July 1, 1962 is counted as 1 day for each day an employee is in pay status, regardless of the number of hours for which the employee is actually paid on a given day. For this purpose, 780 days in pay status are equivalent to 3 years' service, but the service requirement may not be satisfied in less than 3 years of calendar time.

(C) Part-time and intermittent service before July 1, 1962, is counted based

on the number of hours actually employed, including any paid leave. For this purpose, 6,240 hours of paid time are equivalent to 3 years' service, but the service requirement may not be satisfied in less than 3 years of calendar time.

(ii) *Nonpay status on the rolls and time off the rolls.* No credit is given for periods of nonpay status and time off the rolls, except under the following conditions:

(A) Credit is given for the first 30 calendar days of each period of nonpay status on the rolls during full-time employment, or during part-time employment on or after July 1, 1962. On this same basis, a seasonal employee receives credit for the first 30 calendar days of each period of nonduty/nonpay status. Nonpay status in excess of 30 days extends the 3-year waiting period by the amount of the excess;

(B) Full credit is given for periods of nonpay status and time off the rolls incident to entry into and return from military service and return from defense transfer, provided the person is reemployed in Federal service during the period of his or her statutory or regulatory restoration or reemployment rights;

(C) Full credit is given for periods of nonpay status and time off the rolls incident to transfer to and return from an international organization, provided the person is reemployed in Federal service under subpart C of part 352 of this chapter;

(D) Full credit is given for periods of nonpay status during which an employee was eligible to receive continuation of pay or injury compensation under the Office of Workers' Compensation Programs. Full credit also is given for periods of time off the rolls during which an employee was eligible to receive injury compensation under the Office of Workers' Compensation Programs, provided the person is reemployed under part 353 of this chapter.

(E) Credit is given for up to 30 calendar days for time off the rolls that follows separation by reduction in force of employees who are eligible for entry on the reemployment priority list under subpart B of part 330 of this chapter, provided the person is reemployed in Federal service during the

period of his or her reemployment priority; and

(F) Credit is given for up to 30 calendar days for time off the rolls that follow involuntary separation without personal cause of employees who are eligible for a noncompetitive appointment based on an interchange agreement with another merit system under § 6.7 of this chapter, provided the person is employed in the competitive service under the agreement during the period of his or her eligibility.

(iii) *Restoration based on unwarranted or improper actions.* (A) Based on a finding made before March 30, 1966, that a furlough, suspension, or separation was unwarranted or improper, an employee restored to duty receives full calendar time credit for the period of furlough, suspension, or separation if he or she was eligible to receive retroactive pay under 5 U.S.C. 5591-93 (formerly Pub. L. 80-623) or 5 U.S.C. 5594 (formerly Pub. L. 81-733).

(B) Based on a finding made on or after March 30, 1966, that a furlough, suspension, or separation was unwarranted or improper, an employee restored to duty receives full calendar time credit for the period of furlough, suspension, or separation for which he or she is eligible to receive back pay. If the employee is restored to duty at a date later than the original adverse action, credit for intervening periods of nonpay status or breaks in service is given in accordance with other provisions of this subsection. If the employee had been properly separated from the rolls of the agency before a finding was made that the adverse action was unwarranted or improper, the correction and additional service credit given the employee may not extend beyond the date of the proper separation.

(iv) *Intervening service.* Certain types of service that ordinarily are not creditable are counted when they intervene between two periods of creditable service without a single break in service in excess of 30 calendar days, excepted as provided in subparagraph (H) of his paragraph. Under these conditions, credit is given for periods of service:

(A) In the excepted service of the Federal executive branch, including employment in nonappropriated fund

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positions in or under any Federal agency;

(B) Under temporary, term, or other nonpermanent employment in the Federal competitive service;

(C) In the Senior Executive Service;

(D) In the Federal legislative branch;

(E) In the Federal judicial branch;

(F) In the armed forces;

(G) In the District of Columbia Government through December 31, 1979. For an employee on the District rolls on December 31, 1979, who converted on January 1, 1980, to the District independent personnel system, credit also is given for service between January 1, 1980, and September 25, 1980. Otherwise, service in the District of Columbia Government on or after January 1, 1980, is not creditable as intervening service; and

(H) Performed overseas by family members, as defined by §315.608 of this chapter. Such service is creditable toward career tenure if it intervenes between two periods of creditable service without a single break in excess of 180 days.

(c) *Exceptions from service requirement.* The service requirement for career tenure does not apply to:

(1) An appointment to a position required by law to be filled on a permanent basis, or a conversion under this part while the employee is serving in such a position;

(2) An appointment from a register of a person who once completed the service requirement for career tenure;

(3) An appointment under §315.601 of a former Canal Zone Merit System employee who completed the service requirement for career tenure under that system; or

(4) The reinstatement of a person who once completed the service requirement for career tenure.

[33 FR 12418, Sept. 4, 1968, as amended at 43 FR 34428, Aug. 4, 1978; 59 FR 68104, Dec. 30, 1994; 60 FR 53504, Oct. 16, 1995; 62 FR 63630, Dec. 2, 1997; 63 FR 57046, Oct. 26, 1998; 65 FR 78078, Dec. 14, 2000; 70 FR 28779, May 19, 2005; 70 FR 44221, Aug. 2, 2005; 71 FR 42245, July 26, 2006]

§ 315.202 Conversion from career-conditional to career tenure.

A career-conditional employee becomes a career employee automati-

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cally on completion of the service requirement for career tenure.

Subpart C—Career or Career-Conditional Employment From Registers

§ 315.301 Tenure on appointment from register.

(a) Except as provided in paragraph (b) of this section, an eligible appointed from a register for other than temporary or term employment becomes a career-conditional employee.

(b) An eligible appointed from a register for other than temporary or term employment becomes a career employee when he is excepted from the service requirement for career tenure by §315.201(c).

§ 315.302 Acquisition of competitive status.

An employee appointed as provided in §315.301 acquires a competitive status automatically on completion of probation.

Subpart D—Career or Career-Conditional Employment by Reinstatement

§ 315.401 Reinstatement.

(a) *Agency authority.* Subject to part 335 of this chapter and paragraph (b) of this section, an agency may appoint by reinstatement to a competitive service position a person who previously was employed under career or career-conditional appointment (or equivalent).

(b) *Time limit.* There is no time limit on the reinstatement eligibility of a preference eligible or a person who completed the service requirement for career tenure. Except as provided in paragraph (c) of this section, an agency may reinstate a nonpreference eligible who has not completed the service requirement for career tenure only within 3 years following the date of separation. This time limit begins to run from the date of separation from the last position in which the person served under a career appointment, career-conditioned appointment, indefinite appointment in lieu of reinstatement, or an appointment under which he or she acquired competitive status.