

Senior administrative law judge means a retired administrative law judge who is reemployed under a temporary appointment under 5 U.S.C. 3323(b)(2) and § 930.209 of this chapter.

Superior qualifications means an appointment made at a rate above the minimum rate based on such qualifications as experience practicing law before the hiring agency; experience practicing before another forum in a field of law relevant to the hiring agency; or an outstanding reputation among others in a field of law relevant to the hiring agency.

§ 930.203 Cost of competitive examination.

Each agency employing administrative law judges must reimburse OPM for the cost of developing and administering the administrative law judge examination. Each agency is charged a pro rata share of the examination cost, based on the actual number of administrative law judges the agency employs. OPM computes the cost of the examination program on an annual basis and notifies the employing agencies of their respective shares after the calculations are made.

§ 930.204 Appointments and conditions of employment.

(a) *Appointment.* An agency may appoint an individual to an administrative law judge position only with prior approval of OPM, except when it makes its selection from the list of eligibles provided by OPM. An administrative law judge receives a career appointment and is exempt from the probationary period requirements under part 315 of this chapter. An administrative law judge appointment is subject to investigation, and an administrative law judge is subject to the suitability requirements in part 731 of this chapter.

(b) *Licensure.* (1) At the time of application and any new appointment and while serving as an administrative law judge, the individual must possess a professional license to practice law and be authorized to practice law under the laws of a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territorial court established under the United States Constitution. Judicial status is acceptable in lieu of

“active” status in States that prohibit sitting judges from maintaining “active” status to practice law. Being in “good standing” is also acceptable in lieu of “active” status in States where the licensing authority considers “good standing” as having a current license to practice law.

(2) The requirements contained in paragraph (b)(1) are suspended until further notice with respect to incumbents serving as administrative law judges.

(c) *Appointment of incumbents of newly classified administrative law judge positions.* An agency may give an incumbent employee an administrative law judge career appointment if that employee is serving in the position when it is classified as an administrative law judge position on the basis of legislation, Executive order, or a decision of a court and if:

(1) The employee has competitive status or is serving in an excepted position under a permanent appointment;

(2) The employee is serving in an administrative law judge position on the day the legislation, Executive order, or decision of the court on which the classification of the position is based becomes effective;

(3) OPM receives a recommendation for the employee’s appointment from the agency concerned; and

(4) OPM determines the employee meets the qualification requirements and has passed the current examination for an administrative law judge position.

(d) *Appointment of an employee from a non-administrative law judge position.* Except as provided in paragraphs (a) and (c) of this section, an agency may not appoint an employee who is serving in a position other than an administrative law judge position to an administrative law judge position.

(e) *Promotion.* (1) Except as otherwise stated in this paragraph, 5 CFR part 335 applies in the promotion of administrative law judges.

(2) To reclassify an administrative law judge position at a higher level, the agency must submit a request to OPM. When OPM approves the higher level classification, OPM will direct the promotion of the administrative