

§315.611

5 CFR Ch. I (1–1–14 Edition)

(3) Meets the qualifications requirements of the job; and

(4) Is appointed within 1 year after separating from service as a Guard Technician.

(b) The noncompetitive appointing authority also applies to National Guard technicians separated before October 29, 1986, provided they are appointed within a year of the date of separation.

[52 FR 5431, Feb. 23, 1987]

§315.611 Appointment of certain veterans who have competed under agency merit promotion announcements.

(a) *Agency authority.* An agency may appoint a preference eligible or a veteran who has substantially completed at least 3 years of continuous active military service provided

(1) The veteran was selected from among the best qualified following competition under a merit promotion announcement open to candidates outside the agency's workforce; and

(2) The veteran's most recent separation from the military was under honorable conditions.

(b) *Definitions.* "Agency" in this context means an executive agency as defined in 5 U.S.C. 105. The agency determines in individual cases whether a candidate was released "shortly before" completing the required 3 years and should therefore be eligible for appointment.

[65 FR 14432, Mar. 17, 2000]

§315.612 Noncompetitive appointment of certain military spouses.

(a) *Agency authority.* In accordance with the provisions of this section, an agency may appoint noncompetitively a spouse of a member of the armed forces serving on active duty who has orders specifying a permanent change of station (not for training), a spouse of a 100 percent disabled service member injured while on active duty, or the un-remarried widow or widower of a service member who was killed while performing active duty.

(b) *Definitions.* (1) *Active duty* means full-time duty in the armed forces, including full-time National Guard duty, except that for Reserve Component members the term "active duty" does

not include training duties or attendance at service schools.

(2) *Armed forces* has the meaning given that term in 10 U.S.C. 101.

(3) *Duty station* means the permanent location to which a member of the armed forces is assigned for duty as specified on the individual's permanent change of station (PCS) orders.

(4) *Member of the armed forces or service member* means an individual who:

(i) Is serving on active duty in the armed forces under orders specifying the individual is called or ordered to active duty for more than 180 consecutive days, has been issued orders for a permanent change of station, and is authorized for dependent travel (*i.e.*, the travel of the service member's family members) as part of the orders specifying the individual's permanent change of station;

(ii) Retired from active duty in the armed forces with a service-connected disability rating of 100 percent as documented by a branch of the armed forces, or retired or was released or discharged from active duty in the armed forces and has a disability rating of 100 percent as documented by the Department of Veterans Affairs; or

(iii) Was killed while serving on active duty in the armed forces.

(5) *Permanent change of station* means the assignment, reassignment, or transfer of a member of the armed forces from his or her present duty station or location without return to the previous duty station or location.

(6) *Spouse* means the husband or wife of a member of the armed forces.

(c) *Eligibility.* (1) A spouse of a member of the armed forces as defined in paragraph (b)(4)(i) of this section must have:

(i) Married the member of the armed forces on, or prior to, the date of the service member's orders authorizing a permanent change of station; and

(ii) Relocated with the member of the armed forces to the new duty station specified in the documentation ordering a permanent change of station.

(2) A spouse of a member of the armed forces as defined in paragraph (b)(4)(iii) of this section must be the un-remarried widow or widower of the member of the armed forces killed on active duty in the armed forces.

(3) For spouses eligible under paragraph (b)(4)(i) of this section, non-competitive appointment under this section is limited to the geographic area, as specified on the service member's permanent change of station orders. It includes the service member's duty station and the surrounding area from which people reasonably can be expected to travel daily to and from work. The head of an agency, or his or her designee, may waive this limitation (*i.e.*, accept applications from spouses) if no Federal agency exists in the spouse's geographic area. Spouses of active duty military members who are on retirement or separation PCS orders from active duty are not eligible to be appointed using this authority unless the service member is injured with a 100 percent disability.

(4) Spouses of retired or separated active duty members who have a 100 percent disability are not restricted to a geographical location.

(d) *Conditions.* (1) In accordance with the provisions of this section, spouses are eligible for noncompetitive appointment:

(i) For a maximum of 2 years from the date of the service member's permanent change of station orders;

(ii) From the date of documentation verifying the member of the armed forces is 100 percent disabled; or

(iii) From the date of documentation verifying the member of the armed forces was killed while on active duty.

(2) A spouse may receive only one noncompetitive appointment under this section to a permanent position per the service member's orders authorizing a permanent change of station.

(3) Any law, Executive order, or regulation that disqualifies an applicant for appointment also disqualifies a spouse for appointment under this section.

(e) *Proof of eligibility.* (1) Prior to appointment, the spouse of a member of the armed forces as defined in paragraph (b)(4)(i) of this section must submit to the employing agency:

(i) A copy of the service member's active duty orders which authorize a permanent change of station. This authorization must include:

(A) A statement authorizing the service member's spouse to accompany the

member to the new permanent duty station;

(B) The specific location to which the member of the armed forces is to be assigned, reassigned, or transferred pursuant to permanent change of station orders; and

(C) The effective date of the permanent change of station; and

(ii) Documentation verifying marriage to the member of the armed forces (*i.e.*, a marriage license or other legal documentation verifying marriage).

(2) Prior to appointment, the spouse of a member of the armed forces as defined in paragraph (b)(4)(ii) of this section must submit to the employing agency copies of:

(i) Documentation showing the member of the armed forces was released or discharged from active duty due to a service-connected disability;

(ii) Documentation showing the member of the armed forces retired, or was released or discharged from active duty, with a disability rating of 100 percent; and

(iii) Documentation verifying marriage to the member of the armed forces (*i.e.*, a marriage license or other legal documentation verifying marriage).

(3) Prior to appointment, the spouse of a member of the armed forces as defined in paragraph (b)(4)(iii) of this section must submit to the employing agency copies of:

(i) Documentation showing the individual was released or discharged from active duty due to his or her death while on active duty;

(ii) Documentation verifying the member of the armed forces was killed while serving on active duty; and

(iii) Documentation verifying marriage to the member of the armed forces (*i.e.*, a marriage license or other legal documentation verifying marriage); and

(iv) A statement certifying that he or she is the un-remarried widow or widower of the service member.

(f) *Acquisition of competitive status.* A person appointed under paragraph (a) of this section acquires competitive status automatically upon completion of probation.

§ 315.701

5 CFR Ch. I (1–1–14 Edition)

(g) *Tenure on appointment.* An appointment under paragraph (a) of this section is career-conditional unless the appointee has already satisfied the requirements for career tenure or is exempt from the service requirement pursuant to § 315.201.

[74 FR 40476, Aug. 12, 2009, as amended at 76 FR 54072, Aug. 31, 2011]

Subpart G—Conversion to Career or Career-Conditional Employment From Other Types of Employment

§ 315.701 Incumbents of positions brought into the competitive service.

(a) *Employee coverage.* This section applies to an employee retained under §§ 316.701 and 316.702 of this chapter who:

(1) Was serving in a permanent excepted position under an appointment not limited to 1 year or less, or in a public or private enterprise in a position which the agency determines to be a continuing one, at the time his position was brought into the competitive service; and

(2) Performed 6 months of satisfactory service immediately before the date his position was brought into the competitive service, in a position or positions brought into the competitive service, or in the civilian executive branch of the Government, unless OPM has excepted his particular type of case from this requirement.

(b) *Eligibility for conversion.* Within the time limits set forth in paragraph (c) of this section, the employment of an employee covered by paragraph (a) of this section may be converted to career or career-conditional employment.

(c) *Time limits.* Conversion may be initiated under paragraph (b) of this section only within 6 months after the position is brought into the competitive service, except that:

(1) When it is necessary for OPM to determine that § 316.701 or § 316.702 applies to a group of positions, the recommendation shall be submitted within 6 months after OPM advises the agency of its determination; and

(2) When an employee is absent on an assignment to an organization or agen-

cy from which reemployment rights are provided under part 352 of this chapter or by statute, the conversion shall be initiated within 6 months after the employee's return from such assignment, when reemployment occurs within the time limits prescribed in the applicable statute or regulation;

(3) When an employee is absent on approved leave without pay, the conversion shall be initiated within 6 months of the employee's return to duty, when such return occurs within time limits authorized by the agency; and

(4) When an employee who is serving on military duty or who is separated and rehired during the 6-month period after the position is brought into the competitive service is eligible for conversion under the provisions of § 315.603, the conversion shall be initiated within the time limits prescribed by that section.

(d) *Tenure on approval of conversion.* Upon conversion under paragraph (b) of this section, the employee becomes:

(1) A career-conditional employee, except as provided in paragraph (b)(2) of this section;

(2) A career employee when he has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

(e) *Acquisition of competitive status.* A person whose employment is converted to career or career-conditional employment under this section acquires a competitive status automatically on completion of probation.

(f) *Review of disapproved conversions.* Agencies shall establish procedures for reviewing disapprovals of conversions under this section when such review is requested within 6 months after the date of the disapproval.

[33 FR 12418, Sept. 4, 1968, as amended at 43 FR 34428, Aug. 4, 1978; 66 FR 66710, Dec. 27, 2001]

§ 315.702 Employees serving without competitive examination in rare cases.

(a) *Recommendation by agency.* An agency may recommend to OPM that the employment of an employee who