

where the QRB has not yet acted if the agency head leaves office or announces an intention to leave office, if the President has nominated a new agency head, or if there is a Presidential transition.

(e) OPM will not submit to a QRB any action to convert a noncareer SES employee to a career SES appointment in the employee's current position or a successor to that position.

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8. Section 317.503 is amended by removing the last sentence in paragraph (b), redesignating paragraphs (c) and (d) as paragraphs (d) and (e) respectively, and adding a new paragraph (c) and paragraph (f) to read as follows:

§ 317.503 Probationary period.

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(c) The following conditions apply to crediting service towards completion of the probationary period.

(1) Time on leave with pay while in an SES position is credited. Earned leave for which the employee is compensated by lump-sum payment upon separation is not credited.

(2) Time in a nonpay status while in an SES position is credited up to a total of 30 calendar days (or 22 workdays). After 30 calendar days, the probationary period is extended by adding to it time equal to that served in a nonpay status.

(3) Time absent on military duty or due to compensable injury is credited upon restoration to the SES when no other break in SES service has occurred.

(4) Time following transfer to an SES position in another agency is credited, i.e., the individual does not have to start a new probationary period.

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(f) An individual who separated from the SES during the probationary period and who has been out of the SES more than 30 calendar days must serve a new 1-year probationary period upon reappointment and may not credit previous time in a probationary period. In the following situations, however, there is an exception and the individual is only required to complete the remainder of the previously served probationary period.

(1) The individual left the SES without a break in service for a Presidential appointment and is exercising reinstatement rights under 5 U.S.C. 3593(b).

(2) The individual left the SES without a break in service for other civilian employment that provides a statutory or regulatory reemployment right to the SES when no other break in service occurred.

(3) The break in SES service was the result of military duty or compensable

injury, and the time credited under paragraph (c)(3) of this section was not sufficient to complete the probationary period.

9. In subpart F, the heading for the subpart is revised to read as follows:

Subpart F—Noncareer and Limited Appointments

10. Section 317.601 is revised to read as follows:

§ 317.601 Authorization.

(a) An agency may make a noncareer or limited appointment only to a general position.

(b) Each use of a noncareer appointment authority must be approved individually by the Office of Personnel Management, and the authority reverts to the Office upon departure of the incumbent, unless otherwise provided by the Office.

(c) Use of a limited appointment authority is subject to the conditions in this paragraph.

(1) Agencies are provided a pool of limited appointment authorities equal to 2 percent of their Senior Executive Service (SES) position allocation, or one authority, whichever is greater. An agency may use the pool to make a limited appointment only of an individual who has a career or career-conditional appointment (or an appointment of equivalent tenure) in a permanent civil service position outside the SES. If necessary, the Office of Personnel Management may suspend use of the pool authority.

(2) Each use of a limited appointment authority other than under paragraph (c)(1) of this section must be approved individually by the Office, and the authority reverts to the Office upon departure of the incumbent, unless otherwise provided by the Office.

11. Section 317.602 is amended by revising the heading and removing the first sentence in paragraph (a) to read as follows:

§ 317.602 Conditions of a limited appointment.

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12. Section 317.603 is amended by revising the heading and the first sentence to read as follows:

§ 317.603 Selection.

An agency may make a noncareer or limited appointment without the use of merit staffing procedures. * * *

13. Section 317.604 is amended by revising the heading, redesignating paragraphs (a) and (b) as paragraphs (b)(1) and (b)(2) respectively, designating the introductory text of the section as the introductory text of

paragraph (b), and by adding a new paragraph (a) to read as follows:

§ 317.604 Reassignment.

(a) An agency may reassign a noncareer appointee only with the prior approval of the Office unless otherwise provided by the Office.

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14. Section 317.605 is amended by revising paragraphs (a) and (b) to read as follows:

§ 317.605 Tenure of appointees.

(a) A noncareer or limited appointee does not acquire status within the Senior Executive Service on the basis of the appointment.

(b) An agency may terminate a noncareer or limited appointment at any time, unless a limited appointee is covered under 5 CFR 752.601(c)(2). The agency must give the noncareer or limited appointee a written notice at least 1 day prior to the effective date of the removal.

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15. In subpart G, § 317.703 is amended by designating the text of paragraph (a) as paragraph (a)(1) and adding a new paragraph (a)(2) to read as follows:

Subpart G—SES Career Appointment by Reinstatement

§ 317.703 Guaranteed reinstatement: Presidential appointees.

(a) * * *

(2) If an individual is serving under a Presidential appointment with reinstatement entitlement and receives another Presidential appointment without a break in service between the two appointments, the individual continues to be entitled to be reinstated to the SES following termination of the second appointment. If there is an interim period between the two Presidential appointments, the individual must be reinstated as an SES career appointee before the effective date of the second appointment to preserve reinstatement entitlement following termination of the second appointment.

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16. In subpart H, § 317.801 is amended by revising the heading for paragraph (b), designating the text of paragraph (b) as paragraph (b)(1), adding paragraphs (b)(2) and (b)(3), and by removing paragraph (d) to read as follows:

Subpart H—Retention of SES Provisions

§ 317.801 Retention of SES Provisions

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