

(b) *Election.* * * *

(2) The appointing agency is responsible for advising the appointee of the election opportunity. The election decision must be in writing.

(3) If an appointee elects to retain SES basic pay, the appointee is entitled to receive locality-based comparability payments under 5 CFR, part 531, subpart F, if such pay is applicable to SES employees in the locality pay area, and any applicable special pay adjustment for a law enforcement officer under 5 CFR part 531, subpart C, even though the appointee may be in an Executive Schedule position otherwise excluded from such payments.

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17. In subpart I, § 317.901 is amended by adding paragraph (d) to read as follows:

Subpart I—Reassignments, Transfers, and Details

§ 317.901 Reassignments.

* * * * *

(d) A 15 or 60-day advance notice described in paragraph (b) of this section may be issued during the 120-day moratorium on the involuntary reassignment of a career appointee described in paragraph (c) of this section, but an involuntary reassignment may not be effected until the moratorium has ended.

18. Section 317.903 is amended by revising paragraph (b)(2) and by adding paragraphs (b)(3) and (b)(4) to read as follows:

§ 317.903 Details.

* * * * *

(b) * * *

(2) An agency may not detail an SES employee to unclassified duties for more than 240 days.

(3) An agency must use competitive procedures when detailing a non-SES employee to an SES position for more than 240 days unless the employee is eligible for a noncompetitive career SES appointment.

(4) An agency must obtain OPM approval for a detail of more than 240 days if the detail is of:

(i) a non-SES employee to an SES position that supervises other SES positions; or

(ii) An SES employee to a position at the GS-15 or equivalent level or below.

PART 319—EMPLOYMENT IN SENIOR-LEVEL AND SCIENTIFIC AND PROFESSIONAL POSITIONS

19. Part 319 is revised to read as follows:

Subpart A—General

Sec.

319.101 Coverage.

319.102 Senior-level positions.

319.103 Scientific and professional positions.

319.104 Applicable instructions.

319.105 Reporting requirements.

Subpart B—Position Allocations and Establishment

319.201 Coverage.

319.202 Allocation of positions.

319.203 Establishment of positions.

Subpart C—Qualifications Requirements

319.301 Qualifications standards.

319.302 Individual qualifications.

Subpart D—Recruitment and Examination

319.401 Senior-level positions.

319.402 Scientific and professional positions.

Authority: 5 U.S.C. 1104, 3104, 3324, 3325, 5108, and 5376.

Subpart A—General

§ 319.101 Coverage.

(a) This part covers senior-level (SL) and scientific and professional (ST) positions that are classified above GS-15 and are paid under 5 U.S.C. 5376. See 5 CFR part 534, subpart E, for pay provisions.

(b) Positions that meet the criteria for placement in the Senior Executive Service (SES) under 5 U.S.C. 3132(a) may not be placed in the SL or ST system and are not covered by this part.

§ 319.102 Senior-level positions.

(a) SL positions are positions classified above GS-15 pursuant to 5 U.S.C. 5108 that are not covered by other pay systems (e.g. the SES and ST systems).

(b) Positions in agencies that are excluded from 5 U.S.C. chapter 51 (Classification) under section 5102(a), or positions that meet one of the exclusions in section 5102(c), are excluded from the SL system.

(c) SL positions in the executive branch are in the competitive service unless the position is excepted by statute, Executive order, or the Office of Personnel Management (OPM).

§ 319.103 Scientific and professional positions.

(a) ST positions are established under 5 U.S.C. 3104 to carry out research and development functions that require the services of specially qualified personnel.

(b) Research and development functions are defined in The Guide to Personnel Data Standards under the data element "Functional Classification." The guide is available for inspection at the Office of Personnel

Management library, 1900 E Street, NW., Washington DC 20415.

(c) An ST position must be engaged in research and development in the physical, biological, medical, or engineering sciences, or a closely related field.

(d) ST positions are in the competitive service.

§ 319.104 Applicable instructions.

Provisions in statute, Executive order, or regulations that relate in general to competitive and excepted service positions and employment apply to positions and employment under the SL and ST systems unless there is a specific provision to the contrary.

§ 319.105 Reporting requirements.

Agencies shall report such information as may be requested by OPM relating to SL and ST positions and employees.

Subpart B—Position Allocations and Establishment

§ 319.201 Coverage.

This section applies to SL positions in an executive agency per 5 U.S.C. 5108 and ST positions in any agency per 5 U.S.C. 3104.

§ 319.202 Allocation of positions.

SL and ST positions may be established only under a position allocation approved by OPM.

§ 319.203 Establishment of positions.

(a) Prior approval of OPM is not required to establish individual SL and ST positions within an allocation, but the positions must be established in accordance with the standards and procedures in paragraph (b) of this section. OPM reserves the right to require the prior approval of individual positions if the agency is not in compliance with these standards and procedures.

(b) Before an SL or ST position may be established, an agency must:

(1) Prepare a description of the duties, responsibilities, and supervisory relationships of the position; and

(2) Determine, consistent with published position classification standards and guides and accepted classification principles, that the position is properly classified above GS-15. In addition, for an ST position an agency must determine that the position meets the functional research and development criteria described in § 319.103.