

OPM Policy on Political Appointees and Career Civil Service Positions

Frequently Asked Questions and Answers

Background

Q: Is this the first time OPM has put a policy in place covering the hiring of current or former political appointees for career civil service positions?

A: No. It has been OPM policy since the Carter Administration and under every President since to ensure that politics play no role when agencies hire political appointees for career Federal jobs. In the past, OPM conducted a pre-hiring review of proposed appointments to the career competitive service during the year leading up to a Presidential election.

Effective January 1, 2010, OPM expanded its pre-hiring oversight beyond the Presidential election year to ensure hiring of current or former political appointees-whenver it occurs-is fair, open, and free from political influence. The OPM Director's January 1, 2010, memorandum for Heads of Departments and Agencies communicated two changes in OPM's policy. First, as noted above, OPM now conducts pre-hiring reviews on a continuing basis, not just during the year leading up to a Presidential election. Second, we expanded the scope of our review for future hiring decisions. In the past, OPM only reviewed an agency's proposed hiring of a current or former political appointee when the career Federal job was in the competitive service or career SES. Under our revised policy, OPM reviews proposed hiring of current or former political appointees for jobs in the excepted service as well. OPM's responsibility to ensure merit-based hiring for Federal jobs includes both the excepted and competitive service.

Q: Why did OPM revise its policy in this way?

A: One of OPM's most important roles by law is to uphold the merit system principles and help agencies conduct fair and open competition for Federal jobs in order to comply with applicable civil service laws and regulations. OPM leadership is committed to upholding these principles every day of every year. Therefore, in 2010, OPM expanded its oversight to safeguard Federal hiring from political influence. The revised policy is also in line with recommendations from the Government Accountability Office.

Q: What was different about the policy revision OPM implemented on August 11, 2016, compared with previous OPM policy?

A: The policy communicated requirements of the Edward "Ted" Kaufman and Michael Leavitt Presidential Transitions Improvements Act of 2015 (Pub. L. 114-136, March 18, 2016).

The "Act" expands the definition of "political appointee" and requires OPM to report on data pertaining to agency requests to appoint current or former political appointees to covered civil service positions. OPM now requires agencies to provide information on hiring effective dates and basic rate of pay, or notification that the selectee was not appointed (refer to the Agency Pre- Appointment Checklist, Form OPM 5000 and OPM 5001). This requirement remains in effect.

Recent Policy Change

Q: What is different about this updated policy, effective February 23, 2018?

A: To comply with the reporting requirements of the Transitions Act, the updated policy communicates a change to OPM's previous policy, which excluded certain permanent appointments from OPM's pre-appointment review process. The updated policy communicates that moving forward, OPM will review proposed selections of current or former political appointees to permanent positions involving noncompetitive and direct-hire appointments, under 5 CFR 315, subpart F, and 5 CFR 337, subpart B.

Program Scope of Review

Q: Which types of political appointments are subject to OPM's pre-hiring approval?

A: Agencies must request OPM approval to appoint the following current or former (within five-years) Executive Branch political appointees to permanent competitive service, non-political excepted service, or career SES positions:

- Political appointees requiring Senate confirmation (PAS);
- Political appointees not requiring Senate confirmation (PA);
- Political appointees, as defined under 5 U.S.C. sections 5312 through 5316 (relating to the Executive Schedule);
- Political Schedule A;
 - o Appointments made by the President without confirmation by the Senate [5 CFR § 213.3102(c)].
 - o Assistants to top-level Federal officials if the position is being filled by a person designated by the President as a White House Fellow [5 CFR § 213.3102(z)].
- Schedule C [5 CFR §§ 213.3301-3302];
- Noncareer SES [5 U.S.C. § 3132(a)(7); and 5 CFR § 317, subpart F];
- Limited Term SES [5 U.S.C. § 3132(a)(5); and 5 CFR § 317, subpart F];
- Limited Emergency SES [5 U.S.C. § 3132(a)(6); and 5 CFR § 317, subpart F];
- Appointees serving in a political capacity under agency-specific authority; and
- Provisional Political Appointments [applicable to positions listed above].

Q: Will the policy change the way OPM conducts merit staffing reviews and the Qualifications Review Board for SES applications?

A: No. OPM will continue to conduct merit staffing reviews first, followed by the Qualifications Review Board.

Pre-Appointment Review Process and Procedures

Q: Why does OPM review the proposed hiring of individuals who held political positions as long as five years ago?

A: Consistent with past OPM policy, our review looks back five years to ensure we safeguard merit principles in consecutive administrations.

Q: How will OPM determine the five-year period for former political appointees?

A: We determine this period by looking back five years from the closing date of the vacancy announcement. If an applicant for a career Federal job held a political appointment covered by OPM's policy during that five-year period, OPM will review the proposed selection to ensure it meets merit system principles. We recognize that vacancy announcements are not always used for excepted service positions. In such cases, the five-year period will be determined by looking back five years from the date an agency submits its request for pm-hiring review to OPM.

Q: How long will it take OPM to complete its pre-hiring review?

A: OPM will complete its review and notify the agency of our decision within 15 business days from the date we receive all of the information needed from the agency.

Q: What will OPM look for during its pre-hiring review?

A: OPM's objective is to safeguard fair and open competition and protect against political influence in the hiring for career Federal jobs. With this in mind, the two most common reasons for OPM not to approve a proposed selection are (1) when the career job appears to have been created or tailored solely for the benefit of the current or former political appointee or, (2) when competition for the career job has been limited inappropriately.

Q: Does OPM's pre-hiring review apply to a current political appointee who held a career Federal job in the past and is eligible for reinstatement?

A: It depends. OPM will not conduct a pre-hiring review if an agency wants to non-competitively select a current or former political appointee for reinstatement to a Federal job at the same or lower grade than previously held. However, OPM will review the proposed selection of a current or former political appointee who is competing for a career Federal job at a higher grade or with greater promotion potential than the career job previously held.

Q: Does OPM's policy apply to a former political appointee who is a current career Federal employee and who applies for another Federal job?

A: No. For example, a person who was a political appointee in 2015 and was hired for a career Federal job in 2016, with OPM approval, can apply for and be selected for another career Federal job and OPM will not review the selection under the revised policy.

Q: Does OPM's pre-hiring review apply to proposed selections of current or former political appointees for Senior Level (SL) and Scientific or Professional (ST) positions?

A: Yes.

Q: Will OPM review proposed appointments under the Pathways for Students and Recent Graduates?

A: Yes. OPM will review initial appointments that may lead to non-competitive conversion.

Q: Will OPM conduct a pre-hiring review when an agency wants to select a current or former political appointee for a temporary or term position?

A: No. We will not review temporary or term appointments. However, OPM will conduct pre-hiring reviews for proposed selections to time-limited appointments that may lead to permanent positions.

Q: Will OPM review proposed hiring of a current or former political appointee selected using the direct hire authority under 5 CFR 337, subpart B?

A: Yes. To comply with the reporting requirements of the Transitions Act, OPM will now review proposed direct hire appointments of current or former political appointees to permanent Federal civil service positions. This action is a change from OPM's previous policy.

Q: Will OPM review proposed hiring of non-competitive appointments under 5 CFR 315, subpart F?

A: Yes. To comply with the reporting requirements of the Transitions Act, OPM will now review non-competitive appointments to the Federal civil service under certain conditions (e.g. the appointment of 30 percent or more disabled veterans, the appointment of Peace Corps personnel, and the appointment of certain former overseas employees). This action is a change from OPM's previous policy.