

## Career and Career-Conditional Employment

### 5 CFR 315, Subpart B

#### Questions and Answers

##### General Provisions

On November 8, 2016, the U.S. Office of Personnel Management (OPM) issued final regulations at [FR 78497](#), to remove the requirement for creditable service to be *substantially continuous* and instead allow an individual to attain career tenure after completing at least 3 years of *total* creditable service as described at 5 CFR 315.201(b).

The following questions and answers are intended to provide clarification on how to calculate creditable service for career tenure. The questions and answers listed here are not meant to be a substitute for reading the regulations and consulting with agency counsel as to their application.

##### **1. Question: What is the purpose of these final regulations?**

**Answer:** The purpose of these final regulations is to remove the current requirement for creditable service to be *substantially continuous* and allow an individual to attain career tenure after completing at least 3 years of *total* creditable service. In addition, this rule removes the basis for the 30-day break-in-service rule. Because each period of creditable service stands alone, breaks in service are now irrelevant.

##### **2. Question: Where are these new regulations found?**

**Answer:** These regulations can be found at 5 CFR, 315 subpart B (i.e., 5 CFR 315.201).

##### **3. Question: What is the new requirement to attain creditable service?**

**Answer:** Under these final rules, the new requirement for creditable service is completion of a *total* of 3 years of qualifying service. The previous requirement was that qualifying service must be 3 years of *substantially continuous* in order to be creditable service.

##### **4. Question: When is the new creditable service rule effective?**

**Answer:** The new creditable service rule became effective on December 8, 2016.

##### **5. Question: Why is OPM removing the requirement that qualifying service must be 3 years of substantially continuous service?**

**Answer:** OPM is removing the requirement of 3 years of substantially continuous service to better attune these rules with today's work environment. Individuals in today's workforce change jobs, including between the Federal and private sectors, more frequently and throughout their careers when compared to previous generations. This change will benefit individuals who choose

to or must, as circumstances require, leave Federal service before meeting the substantially continuous requirement, but want to return one or more times later.

### **Definitions**

#### **6. Question: What is the definition of *creditable service* for career tenure?**

**Answer:** Creditable service is defined as completion of 3 years of total service as described at 5 CFR 315.201(b).

### **Eligibility**

#### **7. Question: Does this new requirement apply to employment in the excepted service?**

**Answer:** Creditable service applies to non-temporary employment in the competitive service for the purposes of determining career tenure. However, if the employee's excepted service position is brought into the competitive service, on this basis, the employee will acquire status or be converted to a career-conditional appointment. In addition, if the employee's excepted service intervenes between 2 periods of creditable service, that time also counts towards career tenure.

#### **8. Question: What types of non-temporary appointments impose the new creditable service requirement?**

**Answer:** To be creditable, non-temporary appointments include a career-conditional appointment in the competitive service. The 3 years may also begin, but not end, with status quo employment, an overseas limited appointment of indefinite duration, or an overseas limited term appointment.

### **Conditions**

#### **9. Question: Which groups of employees do these provisions apply to?**

**Answer:** The new creditable service requirement applies to certain employees or former employees who have accrued 3 years of total service; and who have not yet acquired career tenure.

For example: An employee who was hired in the competitive service under a career-conditional appointment and completed two years of Federal service leaves the Federal Government for one year to go work in private industry for 3 years. If re-employed, this employee would only need one year of creditable service for career tenure.

#### **10. Question: Are these rules retroactive? That is, if an individual accrued the qualifying service based on this change prior to the effective date of the final rule, can his or her Standard Form (SF) 50, *Notification of Personnel Action*, be changed to reflect acquisition of career tenure on the date the 3 years of total qualifying service was met?**

**Answer:** Career tenure may not be acquired on a date prior to the effective date of the rule. However, qualifying service performed prior to the effective date of the final rule counts towards the 3 years of total service needed for career tenure for eligible employees. Agency human resources offices should review their current employees' Official Personnel Files (OPF) and update these records accordingly on or after the effective date of the final regulation (December 8, 2016). An individual with the requisite number of years of qualifying service who was not a Federal employee on December 8, must have obtained a new Federal appointment and been employed at a Federal agency at some point since December 8, 2016, in order to acquire career tenure.

**11. Question: Does the new requirement for creditable service affect only individuals employed by a Federal agency on or after the effective date of December 8, 2016?**

**Answer:** Yes. The new requirement applies to individuals employed in the Federal service on or after the effective date of the rule (December 8, 2016). As noted above, an individual with the requisite qualifying service must have been a current employee on December 8, 2016, or have been appointed to a new Federal position at some point thereafter in order to acquire career status.

**12. Question: If a current career-conditional employee has periods of non-continuous service prior to December 8, 2016, does this time count towards career tenure?**

**Answer:** Yes. The qualifying periods of non-continuous service performed prior to December 8, 2016, count towards career tenure for eligible current employees.

For example: An individual was hired under a career-conditional appointment in January 2008 and completed 1 year of service, and then left Federal service in January 2009. This individual was reinstated under another career-conditional appointment from January 2010 until January 2011. This individual was reinstated in June 2016 for a third time and is currently employed in the competitive service. This employee becomes eligible for career tenure in June 2017, based on this prior service.

**13. Question: What types of employees and/or appointments should agency human resource offices focus on when reviewing OPFs to see if the individual meets the 3 year total service requirement?**

**Answer:** Agency human resources offices should focus on competitive service employees who have not yet attained career tenure (i.e., individuals who have completed 3 years of total service in a permanent position, or series of positions, in the competitive service). Agency human resources offices should also focus on the following appointments that begin, but not end with: (a) an overseas limited appointment of indefinite duration, (b) an overseas limited term appointment, or (c) for these purposes only, an excepted service appointment that leads to non-competitive conversion to the competitive service.

**14. Question: What documentation is used to show proof that an individual has met the new requirements for creditable service?**

**Answer:** The dates of completion of the 3 years of total service on Standard-Form 50 (SF-50) should be used as proof for completion of creditable service.

**Miscellaneous**

**15. Question: Are there any limitations of use on the new requirements for creditable service?**

**Answer:** The new creditable service requirement is limited to non-temporary appointments, with status quo employment, an overseas limited appointment of indefinite duration, or an overseas limited term appointment.

**16. Question: When does an individual who has had multiple appointments meet the requirements for career tenure?**

**Answer:** An individual meets the requirements for career tenure after completion of 3 years of total service as described at 5 CFR 315.201(b).

For example: An individual with 2 years of previous qualifying service (2007-2009) was hired as an Information Technology (IT) Specialist under an overseas limited term appointment. This overseas limited term appointment ended in January 2013, and the individual resigned from Federal service to work in private industry for 2 years in 2015. This individual was appointed under a career-conditional appointment in the competitive service. All of the qualifying service under the appointments will count toward career tenure with “change in tenure” personnel action having become effective on December 8, 2016 (the effective date of the rule).

As another example: A military spouse is hired using the noncompetitive appointment of certain military spouses hiring authority and is employed under a career-conditional appointment for 14 months, then separates from Federal service due to the military sponsor’s Permanent Change of Station (PCS) orders. After a break-in-service, this military spouse receives another career-conditional appointment and works for 16 months, and separates again from Federal service because of the military sponsor’s PCS orders to another duty station location. The military spouse receives a third career-conditional appointment with the Federal Government. After 6 months in the third career-conditional appointment, this military spouse will acquire career tenure based on the total amount of qualifying service accrued: 14 months + 16 months + 6 months = 36 months (or 3 years of total qualifying service).

Last example: A career-conditional employee completes 1 year of service, and then separates for 2-years. This individual returns to Federal service as a Recent Graduate under a 1 year appointment in the excepted service and was converted to a career-conditional appointment on

January 1, 2017. The time spent under the previous career-conditional appointment and the Recent Graduate appointment counts towards career tenure.

**17. Question: Is the 30-day break in service rule still applicable?**

**Answer:** No. This final regulation also removes the basis for the 30-day break-in-service rule. Because each period of creditable service stands alone, breaks in service are now irrelevant.

**18. Question: What is the significance of career tenure? When is career tenure used? How do individuals use career tenure?**

**Answer:** Career tenure applies to positions in the Federal competitive service. Career tenure factors into an individual's eligibility for reinstatement and retention standing in a reduction in force (RIF). Individuals with career tenure have lifetime reinstatement eligibility. Reinstatement eligibility allows an individual to separate from a position in the competitive service and seek a future competitive service appointment without having to compete with the general public. An employee with career tenure also has higher retention standing in a RIF than a career-conditional employee. The higher an employee's retention standing, the more opportunities the employee may have to keep a Federal job under RIF procedures.

**19. Question: What is the difference between career tenure and competitive status?**

**Answer:** Career tenure impacts an individual's reinstatement eligibility (i.e., the ability to leave Federal service and return without having to compete with the general public), and retention standing during a reduction in force (RIF). Career tenure is acquired upon completion of 3 years of total qualifying service in the competitive service (usually served while in a permanent position in the competitive service). Competitive status refers to an individual's basic eligibility for noncompetitive assignment to a competitive position, and is acquired upon satisfactory completion of a probationary period while serving on a career or career-conditional appointment. A person with competitive status may be promoted, transferred, reassigned, reinstated, or changed to a lower grade without taking an open competition examination.

**20. Question: What impact does this rule change have on individuals appointed under the non-competitive hiring authority for certain military spouses?**

**Answer:** In some instances, a Federally-employed spouse of a military member may have to resign his or her appointment to accompany the military member when the military spouse must relocate under permanent change of station (PCS) orders. Many spouses are unable to obtain another Federal job within the 30-day break period. Under the old rules, this 30-day break requirement meant these military spouses were at a disadvantage in attaining career tenure because the 3-years of substantially continuous service began anew with their next Federal job. Under this change, individuals appointed under the non-competitive hiring authority for certain military spouses will no longer have to re-start the 3-year period when reemployed; time spent on previous qualifying appointments will count towards the 3 years of total service requirement.