

or disease to report for an examination to determine medical limitations that may affect placement decisions.

(d) An agency may require an employee who is released from his or her competitive level in a reduction in force to undergo a relevant medical evaluation if the position to which the employee has reassignment rights has medical standards or specific physical requirements which are different from those required in the employee's current position.

(e)(1) An agency may order a psychiatric examination (including a psychological assessment) only when:

(i) The result of a current general medical examination which the agency has the authority to order under this section indicates no physical explanation for behavior or actions which may affect the safe and efficient performance of the individual or others, or

(ii) A psychiatric examination is specifically called for in a position having medical standards or subject to a medical evaluation program established under this part.

(2) A psychiatric examination or psychological assessment authorized under (i) or (ii) above must be conducted in accordance with accepted professional standards, by a licensed practitioner or physician authorized to conduct such examinations, and may only be used to make legitimate inquiry into a person's mental fitness to successfully perform the duties of his or her position without undue hazard to the individual or others.

**§ 339.302 Authority to offer examinations.**

An agency may, at its option, offer a medical examination (including a psychiatric evaluation) in any situation where the agency needs additional medical documentation to make an informed management decision. This may include situations where an individual requests for medical reasons a change in duty status, assignment, working conditions, or any other benefit or special treatment (including reasonable accommodation or reemployment on the basis of full or partial recovery from a medical condition) or where the individual has a performance or conduct problem which may require

agency action. Reasons for offering an examination must be documented. An offer of an examination shall be carried out and used in accordance with 29 CFR 1613.706.

**§ 339.303 Examination procedures.**

(a) When an agency orders or offers a medical examination under this subpart, it must inform the applicant or employee in writing of its reasons for doing so and the consequences of failure to cooperate. (A single notification is sufficient to cover a series of regularly recurring or periodic examinations ordered under this subpart.)

(b) The agency designates the examining physician or other appropriate practitioner, but must offer the individual an opportunity to submit medical documentation from his or her personal physician or practitioner. The agency must review and consider all such documentation supplied by the individual's personal physician or practitioner.

**§ 339.304 Payment for examination.**

Agencies shall pay for all examinations ordered or offered under this subpart, whether conducted by the agency's physician or the applicant's or employee's physician. Applicants and employees must pay for a medical examination conducted by a private physician (or practitioner) where the purpose of the examination is to secure a benefit sought by the applicant or employee.

**§ 339.305 Records and reports.**

(a) Agencies will receive and maintain all medical documentation and records of examinations obtained under this part in accordance with instructions provided by OPM, under provisions of 5 CFR part 293, subpart E.

(b) The report of an examination conducted under this subpart must be made available to the applicant or employee under the provisions of part 297 of this chapter.

(c) Agencies must forward to the Office of Workers' Compensation Programs (OWCP), Department of Labor, a copy of all medical documentation and reports of examinations of individuals who are receiving or have applied for injury compensation benefits including

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continuation of pay. The agency must also report to the OWCP the failure of such individuals to report for examinations that the agency orders under this subpart. When the individual has applied for disability retirement, this information must be forwarded to OPM.

**§ 339.306 Processing medical eligibility determinations on certificates of eligibles.**

(a) In accordance with the provisions of this part, agencies are authorized to medically disqualify a nonpreference eligible. A nonpreference eligible so disqualified has a right to a higher level review of the determination within the agency.

(b) OPM must approve the sufficiency of the agency's reasons to:

(1) Medically disqualify or pass over a preference eligible on a certificate in place of a nonpreference eligible,

(2) Medically disqualify or pass over a 30 percent or more compensably disabled veteran for a position in the U.S. Postal Service in favor of a nonpreference eligible,

(3) Medically disqualify a 30 percent or more compensably disabled veteran for assignment to another position in a reduction in force, or

(4) Medically disqualify a 30 percent or more disabled veteran for non-competitive appointment.

**PART 340—OTHER THAN FULL-TIME CAREER EMPLOYMENT (PART-TIME, SEASONAL, ON-CALL, AND INTERMITTENT)**

**Subpart A—Principal Statutory Requirements—Part-Time Employment**

Sec.

340.101 Principal statutory requirements.

**Subpart B—Regulatory Requirements—Part-Time Employment**

340.201 Regulatory requirements.

340.202 General.

340.203 Technical assistance.

340.204 Agency reporting.

**Subpart C [Reserved]**

**Subpart D—Seasonal and Intermittent Employment**

340.401 Definitions.

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340.402 Seasonal employment.

340.403 Intermittent employment.

AUTHORITY: 5 U.S.C. 3401 et seq., unless otherwise noted.

SOURCE: 44 FR 57380, Oct. 5, 1979, unless otherwise noted.

**Subpart A—Principal Statutory Requirements—Part-Time Employment**

**§ 340.101 Principal statutory requirements.**

This subpart incorporates for the benefit of the user of the principal statutory requirements governing part-time career employment, as contained in 5 U.S.C. 3401–3408, and related provisions of Public Law 95–437.

**SHORT TITLE**

SEC. 1. This Act may be cited as the “Federal Employees Part-Time Career Employment Act of 1978”.

**CONGRESSIONAL FINDINGS AND PURPOSE**

SEC. 2. (a) The Congress finds that—

(1) many individuals in our society possess great productive potential which goes unused because they cannot meet the requirements of a standard workweek; and

(2) part-time permanent employment—

(A) provides older individuals with a gradual transition into retirement;

(B) provides employment opportunities to handicapped individuals or others who require a reduced workweek;

(C) provides parents opportunities to balance family responsibilities with the need for additional income;

(D) benefits students who must finance their own education or vocational training;

(E) benefits the Government, as an employer, by increasing productivity and job satisfaction, while lowering turnover rates and absenteeism, offering management more flexibility in meeting work requirements, and filling shortages in various occupations; and

(F) benefits society by offering a needed alternative for those individuals who require or prefer shorter hours (despite the reduced income), thus increasing jobs available to reduce unemployment while retaining the skills of individuals who have training and experience.

(b) The purpose of this Act is to provide increased part-time career employment opportunities throughout the Federal Government.

**“§ 3401. Definitions**

“For the purpose of this subchapter—