

<p>U.S. DEPARTMENT OF EDUCATION</p> <p>PERSONNEL MANUAL INSTRUCTION</p>	<p>PMI 920-1 (REVISED)*</p> <p>DATE: <u>1-4-05</u></p> <p>APPROVED:</p> <p>/s/ William J. Leidinger Chair, Executive Resources Board</p>
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*Supercedes PMI 920-1 dated March 14, 1994.

SUBJECT: SENIOR EXECUTIVE SERVICE MERIT STAFFING PROGRAM

I. AUTHORITY

A. The statutory basis for Senior Executive Service (SES) staffing is Title 5, United States Code (U.S.C.) 3391-3393. Applicable requirements are in Title 5, Code of Federal Regulations, Part 317.

II. POLICY

The policy of the U.S. Department of Education (ED) in filling SES positions by career appointment is to attract and retain the best qualified personnel available and to provide equity in opportunity for advancement to all qualified and interested personnel. Qualifications will be rated and positions filled without discrimination because of race, color, age, gender, sexual orientation, national origin, religion, political affiliation, marital status, disability, membership in employee organizations, or any other non-merit reason. Recruitment will include a positive effort to locate any qualified candidates from underrepresented groups.

III. APPLICABILITY

- A. This Instruction applies to all career SES appointments in ED except as noted below in paragraphs B and C.
- B. The Office of Personnel Management (OPM) regulations for the SES permit noncompetitive appointments without regard to the competitive requirements of this Instruction. Actions specifically excluded are:
 - 1. Reassignment/Transfer – A present career member of the SES may be noncompetitively reassigned or transferred to fill any vacant SES position for which the individual meets the qualifications requirements of the position.
 - 2. Reinstatement –An employee who left the SES after having successfully completed the one-year probationary period is eligible

for noncompetitive reinstatement to any position in the SES, provided the individual meets the qualifications requirements. Separation from the SES must not have been for reasons of performance or for disciplinary reasons, or a resignation in lieu of removal for these reasons. Persons who initially converted to the SES at its inception as career appointees without the requirements of serving a probationary period are also eligible for reinstatement to the SES. A person in the career SES who is appointed by the President to any civil service position outside the SES without a break in service from the career appointment, and who leaves the Presidential position for reasons other than misconduct, neglect of duty or malfeasance is also entitled to reinstatement in the career SES if that person applies to OPM within 90 days after separation from the Presidential appointment. An individual may negotiate his or her own reinstatement directly with ED, however, rather than requesting OPM assistance.

3. SES Candidate Development Program – An individual who successfully completes an OPM approved SES Candidate Development Program may be selected for an SES position without further competition, providing that the initial competition into an approved SES Candidate Development Program was in accordance with merit staffing procedures and the individual’s executive qualifications have been approved by the Qualifications Review Board (QRB) convened by OPM. The individual must meet the technical/professional qualifications of the SES position being filled.

C. In addition, the following are specifically excluded from the provisions of this Instruction:

- Positions filled by Non-Career SES appointment.
- Positions filled by Limited Term SES appointment.
- Positions filled by Limited Emergency SES appointment.
- Positions filled in the excepted service.
- Positions filled in the competitive service, GS-15 and below.

IV. DEFINITIONS

- A. Area of Consideration – The area in which vacancies are announced and posted in an agency’s search for “best qualified” candidates.
- B. Career SES Appointee – An individual in an SES position whose appointment to the position was based on approval of the executive qualifications of such individual by the QRB convened by OPM.

- C. Department – The U.S. Department of Education.
- D. Executive Resources Board (ERB) – Senior ED officials appointed by the Secretary who are delegated the responsibility for managing ED’s SES programs.
- E. Rating Panel – Senior ED officials responsible for reviewing the executive and technical qualifications of eligible candidates for a position to be filled by a career SES appointee and making written recommendations concerning such candidates.
- F. Best Qualified Candidates – Those candidates whose experience, training, and potential substantially exceed the basic qualifications requirements for the position being filled, which indicates they are likely to perform in a highly satisfactory manner. These candidates are referred to the selecting official for further consideration.
- G. Well Qualified Candidates – Those candidates whose experience, training, and potential exceed the basic qualifications requirements for the position being filled, which indicates they are likely to perform in a satisfactory manner.
- H. Qualified Candidates – Those candidates who meet the basic qualifications requirements for the position being filled.
- I. Qualifications Standard – A standard based on a job analysis to identify the technical skills, knowledge and abilities and executive core qualifications that would enable an individual to perform the duties and meet the responsibilities and performance expectations of a position.
- J. Rating Plan – An instrument used in determining the degree to which candidates, who meet minimum eligibility requirements, possess the knowledge, skills, abilities, and potential needed for successful performance of the position for which they are being considered.
- K. Selecting Official – The Senior Officer who recommends the selection from among eligible candidates listed on the selection roster(s). In some instances the immediate supervisor of the vacancy will be the selecting official with the concurrence of the Senior Officer.
- L. Selection Roster(s) – A listing of names of candidates approved by the ERB from which the selecting official makes a selection to fill a vacant position.

M. SES Position – A managerial, supervisory, or policy-making position classifiable above GS-15 of the General Schedule, or in Level IV or V of the Executive Schedule, or an equivalent position that is not required to be filled by an appointment by the President by and with the advice and consent of the Senate.

V. RESPONSIBILITIES

A. Secretary of Education – Makes decisions on recommendations received from the Principal Offices (POs) regarding selections for career SES appointments.

B. Executive Resources Board – 5 U.S.C. 3393 (b) requires that each federal agency establish one or more ERBs whose members shall be appointed by the head of the agency. Pursuant to this legal requirement, the Secretary establishes an ERB and delegates to the ERB responsibility for formulating policy impacting ED's SES programs.

The responsibility of the ERB related to the SES Merit Staffing Program requires reviewing the executive and technical qualifications of eligible candidates for a position to be filled by a career appointee and making written recommendations concerning such candidates. Through this Instruction, the ERB delegates its rating and ranking function to a panel comprised of (1) one ERB member and at least two other SES members, or (2) any three SES or equivalent members. The Chair, ERB will certify the work of the panel. In the absence of the Chair, the work of the panel will be certified by the Director, Human Resources Services (HRS).

C. Senior Officers/Selecting Officials – Are responsible for giving fair consideration to all candidates referred without regard to race, color, age, religion, gender, sexual orientation, national origin, political affiliation, marital status, disability, or membership in employee organizations, or any other non-merit reason.

D. SES Employees – Shall provide active support to objectives of the SES Merit Staffing Program; keep themselves informed to answer employees' questions on the program and its operations; participate, if necessary, in the determination of qualifications requirements for specific positions through job analysis; and participate in the evaluation process of candidates' qualifications.

E. Director, Human Resources Services – Shall provide such administrative support to the ERB as is necessary to carry out the requirements of this Instruction. As a member of the ERB, the

Director, HRS may act in the absence of the Chair, ERB in the circumstances specified in this Instruction.

VI. GENERAL REQUIREMENTS FOR RECRUITMENT

- A. Qualifications Standards - Standards which include separate descriptions of the technical and executive core qualifications requirements of a position will be prepared for each newly established SES position. A new qualifications standard will be developed for an existing position if it is substantially altered or restructured. Before SES positions are advertised, a qualifications standard must be established. Through this Instruction, the Chair, ERB delegates the responsibility of approving the qualifications standard to the Director, HRS.
- B. Area of Consideration – By law [5 U.S.C. 3393 (a)], the minimum area of consideration includes all groups of qualified individuals within the civil service. However, POs are encouraged to broaden their searches where practical and appropriate to include all groups of qualified individuals whether or not within the civil service.

Civil Service Wide Recruitment - The term “civil service” includes persons who occupy positions in the executive, judicial, and legislative branches of government except positions in the uniformed services (the Armed Forces, the Commissioned Corps of Public Health Service, the Commissioned Corps of the Health Service, and the Commissioned Corps of the National Oceanic and Atmospheric Administration). Included are Experts and Consultants who occupy appointed positions, and individuals in the Postal Service and Postal Rate Commission. The District of Columbia government is not considered part of the civil service. A person is considered in the civil service for SES recruitment purposes only if the individual occupies a civil service position at the time of application. SES reinstatement eligibles may not apply for SES competitive recruitment limited to the civil service, but may apply for noncompetitive consideration.

- C. Locating Candidates – Published vacancy announcements will be used as the primary method in locating candidates for vacant positions being filled under this plan. Additionally, POs should consider appropriate recruiting based on the type of position and the likely sources of qualified candidates, including a positive effort to locate candidates from underrepresented groups.
1. Vacancy announcements will be open for a minimum of 14 calendar days.

2. Vacancy announcements shall include the following information:
 - a. Position title
 - b. Job location
 - c. Area of consideration
 - d. Brief description of duties
 - e. General information about SES pay
 - f. Qualifications requirements
 - g. Evaluation method
 - h. Equal Employment Opportunity statement
 - i. How to apply and to request additional information
 - j. Opening and closing dates
3. Vacancy announcements will be sent to the following as applicable:
 - a. The Judicial, Legislative, and Executive branches and all federal agencies.
 - b. Special emphasis recruitment sources.
 - c. Any special recruitment sources identified at the time of recruitment.
4. Vacancy announcements will be posted within ED.
5. Vacancies must be listed in OPM's governmentwide automated SES vacancy announcement system (USAJOBS).

D. Rating Plans – The qualifications standard developed for each position will be used with the rating plan in evaluating candidates. The rating plan will be used by the rating panel as a means of distinguishing the “best qualified” candidates from all other candidates.

VII. GENERAL PROCEDURES FOR RATING AND SELECTION

A. Screening

1. All applications will be screened by the Executive Resources Team (ERT) to determine basic eligibility for the vacancy as specified in the qualifications standard. Documentation will show the reasons for those judged not qualified or ineligible.
2. Qualified candidates will be sorted into three groups:
 - a. Group I – Non-SES applicants, i.e., candidates who are not currently career SES employees or who do not have

reinstatement eligibility into the career SES but who are seeking an initial appointment into the career SES.

- b. Group II – SES applicants, i.e., candidates who are currently career SES employees or applicants eligible for reinstatement into the career SES and who are applying for reassignment, transfer, or reinstatement into the career SES.
- c. Group III – SES Candidate Development Program applicants, i.e., candidates who were competitively selected for and who have successfully completed an approved SES Candidate Development Program and whose executive qualifications have been approved by the QRB convened by OPM.

B. Rating Panel

1. A rating panel is comprised in one of two ways:

(1) **One ERB member and at least two other SES members**

The panel will consider the qualifications of all candidates who meet the basic qualifications and eligibility requirements of the position. The panel will determine whether the candidates are best qualified, well qualified, or qualified. Only the best qualified candidates will be referred to the Chair, ERB for certification to the appointing authority. In the absence of the Chair, ERB the Director, HRS will certify the list of best qualified candidates to be referred.

(2) **At least three SES or equivalent-level employees**

This panel must evaluate the candidates in the same manner as the panel comprised of one ERB member and at least two SES members. In this case, the rating sheets on all qualified candidates must be forwarded to the Chair, ERB along with written recommendations or rating sheets on the best qualified candidates. The Chair, ERB will review and certify the work of the panel and forward a certified list of best qualified candidates to the appointing authority. In the absence of the Chair, ERB the Director, HRS, will certify the work of the panel.

2. The selecting official or another person with a similar conflict of interest will not be a member of the rating panel. The ERT will ensure that subject matter experts are represented on all panels.

The panel will:

- a. Evaluate non-SES qualified applicants (Group I) using the rating plan for the specific position to determine whether the candidates are best qualified, well qualified, or qualified. Only the “best-qualified” applicants will be referred to the selecting official for further consideration.
- b. Review qualified SES applicants (Group II). All qualified SES applicants (Group II) will be referred to the selecting official.
- c. Review applications of SES Candidate Development Program applicants (Group III) to confirm that each individual meets the technical/professional qualifications of the position. Those individuals will be referred to the selecting official.

C. Evaluation and Rating Criteria

1. Applicants will be evaluated based on the executive and technical qualification requirements stated in the qualifications standard in order to determine the best qualified candidates to be referred to the selecting official.

D. Referral and Selection

1. The Chair, ERB (or Director, HRS in the Chair’s absence) will certify and refer the list of candidates for consideration by the appointing authority as well as make available written recommendations to the selecting official on all eligible candidates. The Chair, ERB will also submit a competitive roster listing of only the best qualified non-SES candidates from Group I identified by the rating panel through the evaluation process. A non-competitive roster will be prepared, if applicable, which will be a listing of all eligible SES candidates and those with reinstatement eligibility, Group II. This non-competitive roster will also include all qualified SES Candidate Development Program applicants, Group III.
2. The selecting official will normally interview all Group I candidates referred on the competitive roster. Should the selecting official not interview a candidate listed on the competitive selection roster, a written justification must be provided. After a tentative selection is made, the selecting official shall obtain the approval of the Secretary. The certification of the Chair, ERB and the selection roster with the name of the proposed appointee will be forwarded to the Secretary.

3. If the selecting official does not make a tentative selection from the competitive or noncompetitive rosters referred, the selecting official should document the reasons and submit a proposed alternative action to the Chair, ERB.
4. The Secretary will confirm the selection of the proposed appointee and will certify that the identified candidate meets the qualifications requirements of the position.
5. If appropriate, the executive qualifications of the proposed appointee will be sent to OPM for approval by the QRB (i.e., non-SES candidates).
6. Upon the approval of the executive qualifications of the proposed appointee by the QRB, the selecting official will be notified by the ERT and an entrance on duty date will be arranged with the appointee.
7. The ERT will notify the nonselected candidates when a candidate has been selected for the vacant position.

VIII. Handling Inquiries

- A. Applicants for SES positions, upon request, will be furnished with the following information:
 - Nature of the procedures used in recruiting and selecting candidates for any position.
 - Whether they were found eligible for the position.
 - Which factors were used in the rating process.
 - Which factors they met or failed to meet.
 - Whether they were referred to the selecting official for consideration for appointment.
 - Copies of qualifications questionnaires or reports of qualifications inquiries about themselves, except for information that would identify a confidential source.

Applicants have no appeal avenues to OPM on actions taken by the ERB, QRB, or appointing official other than those afforded by law or regulation (e.g., the Equal Employment Opportunity Commission or the Office of Special Counsel).

IX. Documenting Merit Staffing Actions

- A. The following items will constitute the minimum documentation required for retention of executive merit staffing actions. Such documentation will be maintained by ERT and be retained for a minimum of two years.
1. A copy of the vacancy announcement as it appeared in OPM's SES vacancy list.
 2. A copy of ED's vacancy announcement.
 3. A list of organizations to which the vacancy announcement was distributed.
 4. A copy of the qualifications standard, approved by the ERB.
 5. A copy of the approved position description.
 6. Originals of all resumes/applications received against the vacancy announcement.
 7. A copy of the rating plan, rating sheets, and names and titles of all rating panel members.
 8. Written recommendations of the ERB panel and the selection roster referred by the Chair, ERB to the selecting official.
 9. References obtained on the candidate and submitted to the QRB, if applicable.
 10. The recommendation of the proposed appointee by the selecting official to the Secretary.
 11. The approval by the Secretary of the proposed appointee.
 12. Copies of any complaints about the staffing process and agency findings and response.
 13. Record which explains why eligible candidates were not interviewed.