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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 316

RIN 3206-A145

Temporary and Term Employment

AGENCY: Office of Personnel Management.

ACTION: Final regulation.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations to allow for the possibility for promotion of employees appointed as Worker-Trainees under TAPER appointments through grade GS-4, WG-5, or equivalent grades in the Federal Wage System.

EFFECTIVE DATE: April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Diane Tyrrell on 202-606-0830, FAX 202-606-2329, or TDD 202-606-0023.

SUPPLEMENTARY INFORMATION: On November 18, 1998, [63 FR 64008] OPM published proposed regulations and received comments from six Federal agency headquarters, six agency components, one employee organization, and one individual. Following is a summary of the regulatory provision and the relevant comments.

Providing Added Advancement Opportunity for Individuals Hired as Worker-Trainees Under the TAPER (Temporary Appointment Pending the Establishment of a Register) Authority

We proposed to raise the maximum grade level for promotion to the GS-4, WG-5, or equivalent in the Federal Wage System, for employees who are serving as Worker-Trainees under the TAPER authority. In response to this proposal, one agency component suggested that the opportunity for advancement be increased to the GS-5 level, and one agency headquarters

suggested that there be no limitation on the grade level to which these employees may be promoted. These possibilities were considered during the development of the proposed regulatory change. Because these are trainee positions requiring minimal or limited skills, it would be inappropriate to permit promotions beyond the GS-4 and WG-5, or equivalent, as those levels do not reflect trainee level work. We have, therefore, not adopted these suggestions.

One agency component suggested that this regulatory provision be amended to permit initial appointments under the program be made up to the GS-3, and WG-4, or equivalent level in the Federal Wage System. This suggestion is not consistent with the intent of the Worker-Trainee program. This program is designed to provide a simple process to allow individuals with limited skills the opportunity to qualify and apply for positions in the Federal government. Those individuals who do possess skills which qualify them for higher level positions should be recruited using traditional competitive recruitment methods. We have not adopted this suggestion.

One agency requested that the regulatory change include a "grandfather clause" to enable those employees who are already employed under this program to be covered by this change. All employees serving as Worker-Trainees under the TAPER authority will be subject to the changes that are implemented in the final regulation. A grandfather clause is, therefore, unnecessary since all employees employed under the program would receive coverage under the regulatory change.

One agency component suggested modification of the Student Temporary Employment Program Authority which the agency has used in appointing welfare recipients under the President's Welfare to Work initiative. This request is outside the scope of this proposal.

One employee organization and one individual commenter expressed similar concerns about providing added advantage to those hired under the worker-trainee program as opposed to other employees who have not been afforded the same benefits. Their specific concern was with regard to the recruitment method and the perception that unfair advantage had been given to

those hired under this program while involuntarily separated federal employees had not been given the same priority in hiring. These commenters also stated that they believe agencies created positions to be filled under this initiative and that the result of this regulation will be to provide additional advantage in the promotion process. They believe these program aspects provide added benefits that other employees do not have. In addressing these concerns, we would like to point out that recruitment for positions under the welfare to work initiative has been accomplished through typical recruitment methods. Federal regulations require the application of displaced employment program procedures as well as veterans preference in the recruitment process, thus providing the opportunity for involuntarily separated federal employees and veterans to receive the same priority and preference in the hiring process as they do for any other position. Positions filled under the worker-trainee program are primarily the result of reengineering existing positions, rather than creating new ones, thus allowing recruitment at lower levels in order to provide experience and training which will help to prepare these employees to perform the higher level duties and to qualify for consideration for promotion. This is the same process that is used when hiring employees into most entry level clerical and trainee positions which have promotion potential to higher grade levels and, therefore, subjects them to the same promotion process. The additional concerns that were raised by these commenters regarding the receipt by worker-trainees of benefits from outside sources and the benefits entitlements of employees under temporary versus TAPER appointments are outside the scope of this proposal.

After considering all of the comments, we believe our original proposal represents a reasonable compromise. Therefore, the final regulation will allow promotion of Worker-Trainees under the TAPER authority to be made up to the GS-4, WG-5 or equivalent level in the Federal Wage System.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities

because the regulation pertains only to Federal employees and agencies.

List of Subjects in 5 CFR Part 316

Government employees.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending part 316 of title 5, Code of Federal Regulations, as follows:

PART 316—TEMPORARY AND TERM EMPLOYMENT

1. The authority citation for part 316 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, (3 CFR 1954–1958 Comp. Page 218).

2. Section 316.201 paragraph (b) is revised to read as follows:

§ 316.201 Purpose and duration.

* * * * *

(b) *Specific authority for Worker-Trainee positions.* Agencies may make TAPER appointments to positions at GS-1, WG-1, and WG-2 and may reassign or promote the appointees to other positions through grade GS-4, WG-5, or equivalent grades in the Federal Wage System consistent with § 330.501 of this chapter. Agencies are authorized to reassign or promote worker-trainees under this authority.

[FR Doc. 99-7789 Filed 3-30-99; 8:45 am]

BILLING CODE 6325-01-P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831, 837, 842, 846, 870, and 890

RIN 3206-A155

Retirement, Health, and Life Insurance Coverage for Certain Employees of the District of Columbia under the District of Columbia Courts and Justice Technical Corrections Act of 1998

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim regulations to implement the District of Columbia Courts and Justice Technical Corrections Act of 1998. The effect of these regulations is to extend Federal retirement, health insurance, and life insurance coverage to employees of the Public Defender Service of the District of Columbia under section 7 of the Act, and to exclude certain former

employees of the District of Columbia who are hired by the Department of Justice or by the Court Services and Offender Supervision Agency from Federal retirement coverage if they elect, under section 3 of the Act, to continue their coverage under a retirement system for employees of the District of Columbia.

DATES: Interim rules effective March 31, 1999; comments must be received on or before June 29, 1999.

ADDRESSES: Send comments to Mary Ellen Wilson, Retirement Policy Division, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street, NW., Washington DC. Comments may also be submitted by electronic mail to *combox@opm.gov*. **FOR FURTHER INFORMATION CONTACT:** For Parts 831, 837, 842, and 846: Robert Girouard, (202) 606-0299; and for Parts 870 and 890: Karen Leibach, (202) 606-0004.

SUPPLEMENTARY INFORMATION:

1. Background

The National Capital Revitalization and Self-Government Improvement Act of 1997 (the 1997 Act), title XI of Public Law 105-33, 111 Stat. 251 (August 5, 1997) provided for transfers of certain functions and liabilities from the government of the District of Columbia (DC) to the Federal Government.

Section 11201 of the 1997 Act provided for transfer of incarceration functions from the Lorton Correctional Complex, D.C. Department of Corrections, to the Bureau of Prisons, Department of Justice. Section 11202 established a Corrections Trustee to oversee the finances of the DC Department of Corrections during this transfer. Section 11232 established a Pretrial Services, Defense Services, Parole, Adult Probation and Offender Supervision Trustee to manage the reorganization and transfer of the DC government's pretrial services, parole, adult probation, and offender supervision functions and funding.

The 1997 Act provided that a former Federal employee who, after a break in service of 3 days or less, is appointed as a Trustee under section 11202 or section 11232, or who becomes employed by the Trustee, shall be treated as a Federal employee for purposes of chapter 83 (Civil Service Retirement System—CSRS); chapter 84 (Federal Employees Retirement System—FERS); chapter 87 (Federal Employees' Group Life Insurance Program—FEGLI); and chapter 89 (Federal Employees Health Benefits program—FEHB) of title 5, United States Code.

Section 11233 of the 1997 Act provided for an Offender Supervision, Defender, and Court Services Agency to be established during the period beginning August 5, 1998 and ending August 5, 2000 to supervise offenders on probation, parole, and supervised release pursuant to the DC Code, subject to a certification that the Agency is ready to assume its duties.

Section 11246 of the 1997 Act provided for nonjudicial employees of the DC courts to be treated as Federal employees for purposes of chapters 81 (relating to compensation for work injuries), 83, 84, 87, and 89 of title 5, United States Code, and for judicial employees of the D.C. courts to be treated as Federal employees only for purposes of chapters 81, 87, and 89 of title 5. On September 30, 1997, OPM published interim regulations (at 62 FR 50995) to implement the retirement, health insurance, and life insurance provisions of the 1997 Act.

The District of Columbia Courts and Justice Technical Corrections Act of 1998 (the 1998 Act), Public Law 105-274, 112 Stat. 2419, was enacted on October 21, 1998. The 1998 Act made technical changes to the 1997 Act, extended Federal employee benefits to additional groups of DC government employees, and provided certain former DC Government employees who work for the Federal Government with the opportunity to continue their DC government benefits. OPM is issuing interim regulations to implement sections 3, 7(b), 7(c), and 7(e) of the 1998 Act.

2. Renaming of Agencies That Affects These Regulations

Section 7(b) and 7(c) of the 1998 Act changes the names of two agencies established by the 1997 Act. The former "Pretrial Services, Defense Services, Parole, Adult Probation and Offender Supervision Trustee" is now known as the "Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee," and the former "Offender Supervision, Defender, and Court Services Agency" is now known as the "Court Services and Offender Supervision Agency." OPM is making technical revisions to sections 831.201, 842.107, 870.302, and 890.102 of Title 5, Code of Federal Regulations to implement these changes.

3. Retirement and Insurance Provisions for Certain Employees of the Department of Justice and the Court Services and Offender Supervision Agency

Section 3 of the 1998 Act provides that a former employee of the District of