

U.S. DEPARTMENT OF EDUCATION  
**PERSONNEL MANUAL INSTRUCTION**

PMI: 300-3

DATE: JANUARY 10, 1989

APPROVED:

Veronica D. Trietsch  
Director of Personnel

**SUBJECT:** WAIVERS OF TIME-IN GRADE RESTRICTIONS

I. AUTHORITY

- A. 5 CFR Part 300, Subpart F, Sec. 300.603(a) (4) authorizes the advancement of an employee to avoid undue hardship or inequity, in an individual case of meritorious nature.
- B. The Deputy Under Secretary for Management is authorized to approve for the Department a waiver of time-in-grade restrictions for Schedule C employees \*based on a determination of hardship or inequity to the Department or to the employee. \*
- C. The Director of Personnel is authorized to approve for the Department a waiver of time-in-grade restrictions for employees being assigned to positions in \*the competitive and the\* excepted service (excluding Schedule C), \*based on a determination of hardship or inequity to the Department or the employee. \*

II. Policy

\*Waivers approved under this authority may total no more than three grades (e.g., from GS-9 to GS-12 or from GS-5 to GS-8) for any employee whether the employee is in a one-grade or two-grade interval occupation. For positions at GS-13 and above, waivers for advancement of only one grade will be considered. Waivers to permit promotions exceeding the 3-grade limit must be approved by OPM

III. Applicability

This Instruction is a supplement to FPM Chapter 300, Subchapter 6 and sets forth Department requirements, policies and procedures for requesting a waiver of time-in-grade restrictions based on a determination of either hardship or inequity to the Department or to the employee. This

Instruction applies to positions in both the competitive and excepted service at the GS-15 level and below. This Instruction applies only to the waiver of time-in-grade requirements, not to waivers of qualifications. This Instruction does not apply to waivers of regulatory requirements related to merit staffing.

IV. Requirements

A. General

1. Waivers are authorized only for employee serving under nontemporary appointments.
2. A waiver is not required to advance a candidate beyond the grade permitted under regulations when the candidate is certified at the higher grade from the OPM register
3. Promotions made under this authority may not be made effective prior to the date of approval by the Department or OPM.
4. A statement of justification is required for all waivers of time-in-grade:
  - a. Competitive Positions – The statement of justification must show detailed evidence of either undue hardship to the Department or an inequity to the employee.
    1. \*Undue hardship must involve serious difficulty in accomplishing needed work, must result from circumstances (e.g., change in mission, unusually high turnover) beyond the organization's control, and must be uncorrectable through actions such as redistribution of work or retraining of employees that would not require accelerated promotions.
    2. Undue inequity must result from circumstances (e.g., undue hardship to the agency, issuance of a new classification standard) that require employees to be assigned work at a higher grade, or from proven discrimination or administrative error that prevented the employees from reaching grades they otherwise

would have attained. Many employees are qualified for higher grades than they hold; the fact, by itself, may not be the basis for a waiver of time-in-grade restrictions. \*

- b. Excepted Positions – Generally, the statement of justification should show evidence of either undue hardship or inequity to the Department or the individual \*as described in 4a.1. and 2.

B. Procedures for Obtaining Approval by the Deputy Under Secretary for Management or the Director of Personnel

1. The Servicing Personnel Office (SPO) must first review the documentation submitted to determine whether a waiver is warranted. If the SPO considers the request to be unwarranted, the \*requesting office should be so advised. In the event the requesting office wishes to pursue the matter further, the request will be forwarded to the Director of Personnel in accordance with B.2. below.\*
2. If after the review the SPO feels a waiver is warranted, then the request for a waiver should be addressed to the Director of Personnel and should also include the SPO's recommendation on the case. All requests must be signed by the head of the Servicing Personnel Office or his/her designee and must provide the following:
  - a. 2 copies of SF-59 "Request for Approval of Noncompetitive Action";
  - b. Candidate's SF-17'
  - c. Statement indicating grade level requested, amount of time to be waived, basis of request and justification; and
  - d. Copy of classified position description.
3. The Personnel Policy, Planning and Evaluation Staff (PPES) will review the documentation submitted to determine whether a waiver is appropriate. Upon completion of the review, the Director, PPES will make a recommendation for approval or disapproval to the Director of Personnel. A copy of the SF-59 and a corresponding

memorandum will be returned to the Personnel Office indicating the approval or disapproval.

4. The Director, Executive Resources Staff must request approval to waive time-in-grade restrictions for Schedule C employees in writing addressed to the Deputy Under Secretary for Management.

V. Record Keeping

SPOs are required to establish and maintain appropriate records on the use of this authority. The record must contain the following information:

- A. Copy of candidate's SF-171
- B. Copy of SF-59
- C. Copy of position description; and
- D. Statement indicating grade level requested, amount of time to be waived, basis of request and justification.

TABLE OF CHANGES

Remove Page	Insert Page	Explanation of Changes
Entire Instruction	Entire Instruction	<p>Revised in accordance with a Change in OPM regulation.</p> <p>Returns authority for approval Of waivers of time-in-grade Restrictions for competitive Positions to the Director of Personnel. Also provides Additional guidance on the Use of this authority by giving Examples of the most common situations that would create undue Hardship or inequity. And finally, Places a 3-grade limit on waivers For both one and two grade Intervals positions.</p>