

<p>U.S. DEPARTMENT OF EDUCATION</p> <p>PERSONNEL MANUAL INSTRUCTION</p>	<p>PMI <u>302-1</u></p> <p>DATE <u>MAY 28,1981</u></p> <p>APPROVED:</p> <p><u><i>Marsha Scialdo</i></u> for Director of Personnel</p>
---	---

SUBJECT: EXCEPTED POSITIONS IN ED

I. Authority

- A. Civil Service Rule VI, Sec 6.1 The Office of Personnel Management may except positions from the competitive service when it determines that appointments thereto through competitive examination are not practicable.
- B. Director, Office of Personnel Resource Management The OPM has delegated to the Director Office of Personnel Resource Management the authority in E.O. 10577 and CS Rule 6.1 to establish positions under Schedule C of the Excepted Service at the GS-15 and below and authority to reestablish Schedule C positions within the Department of Education quota.

II. Applicability

This Instruction supplements Chapter 302 of the Federal Personnel Manual (FPM) and sets forth Departmental policies and procedures with regard to excepted positions. This Instruction applies to all excepted positions in this Department which are excepted by OPM rules and regulations. This Instruction does not apply to positions which are excepted by Congressional legislation. Positions excepted by Congressional legislation include those positions in the Office of Assistant Secretary for Educational Research and Improvement, positions authorized under the Education of the Handicapped Act, positions in the National Institute for Handicapped Research which are covered under a special excepted appointing authority and positions on the various advisory councils and committees which are covered under the General Provisions of the Education Amendments and specific authorizing legislation, etc.

III. Definition

Excepted position – All positions in the Executive branch of the Federal Government which are specifically excepted from the competitive service by or pursuant to statute, by the President, or by the Office of Personnel Management

under section 6.1 of Civil Service Rule VI and of section 9.20 of Civil Service Rule IX.

IV. Responsibilities

The secretary (or the Secretary's designee) and the Director of the Office of Personnel Resource Management are jointly responsible for identifying excepted positions within the Department which are normally considered to be part of the permanent work force. They are also responsible for requesting authority from OPM to have positions designated as excepted and/or having them filled under competitive procedures.

V. General Requirements

- A. Types of Appointments – Appointments to excepted positions in ED will be made in one of the following ways:
1. Excepted appointment (Presidential) – Presidential appointments for which a specific term of office is not prescribed by the statute which established the position.
 2. Excepted Appointment – Career – These appointments are made upon the completion of three years of continuous creditable service of persons who are considered as being a part of the permanent work force.
 3. Excepted Appointment – Conditional – These appointments are to positions where it is normally expected that the employee will become a part of the permanent work force.
 4. Excepted Appointment – Conditional (Schedule A) – The following positions made under Schedule A authorities are considered as being part of the permanent work force. These positions are designated Excepted Conditional depending upon whether the three year service requirement has been met.
 - a. Severely handicapped persons (Sch. A. 213.3102 (u)).
 - b. Attorneys (Sch. A. 3102 (d)).
 5. Excepted Appointment – Indefinite – These appointments are made to positions for which no specific time limitation is established but which are not considered as being a part of the permanent work force.

6. Excepted Appointment – NTE (Date) – These appointments are made to positions for which a specific time limitation is set or for which a specific term of office is prescribed by statute.

B. Trial Periods

It is the policy of this Department that employees given an Excepted Appointment – Conditional will serve a one year trial period. By the end of the ninth month, the Servicing Personnel office (SPO) must obtain a written recommendation from the supervisor on whether or not the employee should be retained.

1. A trial period is not required when:
 - a. The employee has completed more than one year of current continuous service in the same line of work, under one or more appointments, either temporary or non-temporary within this Department.
 - b. The employee is rehire (after a break in service of one or more workdays) but previously completed a trial period in the same line of work in this Department. (Line of work is defined as employment in positions from which qualification requirements are basically the same.)

2. Reserved

C. Promotion and Qualification Requirements

1. Excepted positions are subject to time-in-grade restrictions.
2. OPM qualification standards apply to excepted positions of motor vehicle operator, Schedule B positions, and to positions in GS-16, 17, and 18. Agency qualifications standards applicable to excepted positions will be issued under a separate instruction. IN lieu of agency qualification standards the provisions of X-118 and FPM Chapter 302 will apply.

VI. Applicability of Various Laws And Regulations

Employees in the excepted service are subject to most of the provisions of law and regulation which apply to federal employees generally. For example, they are subject to:

- A. classification Act – (unless specifically exempted y law)

- B. Fair Employment Practices
- B. Group Life insurance Act – (unless excluded by regulation)
- C. Health Benefits – (unless excluded by regulation)
- D. Health Benefits – (unless excluded by regulation)
- E. Incentive Awards Program
- F. Annual and Sick Leave – (unless excluded by regulation)
- G. Federal Employees Pay Act – (unless excluded by regulation)
- H. Performance Rating
- I. Political Activity – (unless excepted by the Hatch Act)
- J. Retirement Act – (unless excluded by regulation)
- K. Citizenship Requirement
- L. Suitability Determinations

Appropriate chapters of the Federal Personnel and Department Policy Issuance should be referred to for an elaboration of the above citations.