

that they comply with all merit staffing requirements and are free of any impropriety. An agency shall take such action as OPM may require to correct an action contrary to any law, rule, or regulation.

[54 FR 9758, Mar. 8, 1989, as amended at 58 FR 58261, Nov. 1, 1993; 60 FR 6385, Feb. 2, 1995; 65 FR 33740, May 25, 2000; 66 FR 63906, Dec. 11, 2001]

§ 317.502 Qualifications Review Board certification.

(a) A Qualification Review Board (QRB) convened by OPM must certify the executive/managerial qualifications of a candidate before initial career appointment may be made to an SES position. More than one-half of the members of a QRB must be SES career appointees.

(b) Agency requests for certification of a candidate by a QRB must contain such information as prescribed by OPM, including evidence that merit staffing procedures were followed and that the appointing authority has certified the candidate's qualifications for the position.

(c) Qualifications Review Board certification of executive qualifications just be based on demonstrated executive experience; successful completion of an OPM-approved candidate development program; or possession of special or unique qualities that indicate a likelihood of executive success. Any existing time limit on a previously approved certification is removed.

(d) OPM may determine the disposition of agency QRB requests where the QRB has not yet acted if the agency head leaves office or announces an intention to leave office, if the President has nominated a new agency head, or if there is a Presidential transition.

(e) An action to convert a "non-career-type" employee to a career SES appointment in the employee's current position or a successor to that position will not be forwarded to a QRB. A "noncareer-type" employee includes a noncareer SES appointee, a Schedule C appointee, or equivalent.

(f) A new QRB certification is required for an individual to be reappointed as an SES career appointee following separation of the individual from an SES career appointment if:

(1) The individual was removed during the SES probationary period for performance or disciplinary reasons; or

(2) The individual completed an SES probationary period, or did not have to serve one, and was removed for a reason that made the individual ineligible for reinstatement to the SES under subpart G of this part.

[54 FR 9758, Mar. 8, 1989, as amended at 56 FR 170, Jan. 3, 1991; 60 FR 6385, Feb. 2, 1995; 61 FR 46533, Sept. 4, 1996; 65 FR 33740, May 25, 2000]

§ 317.503 Probationary period.

(a) An individual's initial appointment as an SES career appointee becomes final only after the individual has served a 1-year probationary period as a career appointee; there has been an assessment of the appointee's performance during the probationary period; and the appointing authority, or his or her designee, has certified that the appointee performed at the level of excellence expected of a senior executive during the probationary period.

(b) When a career appointee's executive qualification have been certified by a Qualifications Review Board on the basis of special or unique qualities, as described in § 317.502(c), the probationary assessment must address any executive development activities the agency identified in support of the request for QRB certification.

(c) The probationary period begins on the effective date of the personnel action initially appointing the individual to the SES as a career appointee and ends one calendar year later.

(d) The following conditions apply to crediting service towards completion of the probationary period.

(1) Time on leave with pay while in an SES position is credited. Earned leave for which the employee is compensated by lump-sum payment upon separation is not credited.

(2) Time in a nonpay status while in an SES position is credited up to a total of 30 calendar days (or 22 work-days). After 30 calendar days, the probationary period is extended by adding to it time equal to that served in a nonpay status.

(3) Time absent on military duty or due to compensable injury is credited upon restoration to the SES when no

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other break in SES service has occurred.

(4) Time following transfer to an SES position in another agency is credited, i.e., the individual does not have to start a new probationary period.

(e) Removal of a career appointee during the probationary period is covered by subpart D of part 359 of this chapter.

(f) A career appointee who resigns or is removed from the SES before completion of the probationary period may not receive another SES career appointment unless selected under SES merit staffing procedures. The individual, however, need not be recertified by a QRB unless the individual was removed for performance or disciplinary reasons.

(g) An individual who separated from the SES during the probationary period and who has been out of the SES more than 30 calendar days must serve a new 1-year probationary period upon reappointment and may not credit previous time in a probationary period. In the following situations, however, there is an exception and the individual is only required to complete the remainder of the previously served probationary period.

(1) The individual left the SES without a break in service for a Presidential appointment and is exercising reinstatement rights under 5 U.S.C. 3593(b).

(2) The individual left the SES without a break in service for other civilian employment that provides a statutory or regulatory reemployment right to the SES when no other break in service occurred.

(3) The break in SES service was the result of military duty or compensable injury, and the time credited under paragraph (c)(3) of this section was not sufficient to complete the probationary period.

[54 FR 9758, Mar. 8, 1989, as amended at 60 FR 6386, Feb. 2, 1995; 65 FR 33740, May 25, 2000]

§ 317.504 Agency recertification.

(a) *General.* (1) Section 3393a of title 5, U.S.C., provides that each career SES appointee shall be subject to recertification by his or her employing agency "to ensure that the performance of career appointees demonstrates

the excellence needed to meet the goals of the Senior Executive Service as set forth in section 3131 * * *."

(2) For purposes of this section, "agency" is an executive agency as defined in 5 U.S.C. 105 or a military department as defined in 5 U.S.C. 102.

(b) *Coverage.* (1) This section covers SES career appointees who have been continuously employed in the SES for the 156 weeks preceding the end of the recertification period. One or more breaks in SES service of a total of 6 months or less do not interrupt the 156 weeks of continuous employment.

(2) This section does not apply to SES noncareer, limited emergency, or limited term appointees. It also does not apply to former SES career appointees who took Presidential appointments with Senate confirmation and elected to retain SES benefits under subpart H of this part.

(c) *When recertification takes place.* (1) The initial recertification shall take place in calendar year 1991. Future recertifications shall take place every 3rd calendar year thereafter.

(2) The agency head shall determine when in the calendar year recertification shall take place and shall establish a date for calculating the 156-week employment period. Recertification may take place at different times during the calendar year for different components within the agency. For recertification actions in calendar year 1991, agencies must consider performance during the annual performance appraisal period ending in calendar year 1991 unless an exception is granted by OPM.

(3) If an individual is recertified in one agency and then transfers to another agency during the calendar year, the individual is not subject to recertification in the new agency. If an individual transfers to another agency during the calendar year and no recertification decision was made in the old agency, a recertification decision must be made in the new agency.

(d) *Standard for recertification.* (1) To be recertified, the career appointee must perform at the level of excellence expected of a senior executive. Excellence means that the executive has demonstrated over the recertification