

SC315. SUBCHAPTER 315

EMPLOYMENT OF SPOUSES OF ACTIVE DUTY MILITARY

TABLE OF CONTENTS

<u>SECTIONS</u>	<u>Page</u>
SC315.1. PURPOSE	2
SC315.2. APPLICABILITY	2
SC315.3. DEFINITIONS	3
SC315.4. EMPLOYMENT PRACTICES	3
SC315.5. EXCEPTIONS	4
SC315.6. CONDITIONS AND ELIGIBILITY	5
SC315.7. PROCEDURES	6
SC315.8. RESPONSIBILITIES	8
SC315.9. APPENDIX	10

SUBCHAPTER 315

EMPLOYMENT OF SPOUSES OF ACTIVE DUTY MILITARY

- References:
- (a) DoD Instruction 1404.12, "Employment of Spouses of Active Duty Military Members Stationed Worldwide," January 12, 1989 (hereby canceled)
 - (b) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," October 17, 2006
 - (c) Title 10, United States Code, Chapter 88, Subchapter I, Military Family Programs, Section 1784, "Employment Opportunities for Military Spouses"
 - (d) Executive Order 12721, "Eligibility of Overseas Employees for Noncompetitive Appointments," July 30, 1990
 - (e) through (n), see Appendix

SC315.1. PURPOSE

SC315.1.1. This Subchapter replaces Reference (a), and in accordance with References (b) through (d), DoD Priority Placement Program (PPP) Operations Manual (Reference (e)); Deputy Under Secretary of Defense (Civilian Personnel Policy) Memorandum, "Employment of Military Spouses, (Reference (f)); section 2108 of 5 United States Code (Reference (g)); Chapters 213, 310, 315, 335, 353, and 591 of 5 Code of Federal Regulations (Reference (h)); Executive Order 12568 (Reference (i)); section 806 of Public Law 99-145 (Reference (j)); DoDEA Regulation 1400.13; (Reference (k)); The Veterans Employment Opportunities Act of 1998 (Reference (l)); and DoD Instruction 1400.23 (Reference (m)), implements DoD policy, delegates authority, and prescribes procedures for improved employment opportunities for spouses of active duty military personnel stationed worldwide.

SC315.1.2. The process and procedures for applying Military Spouse Preference (MSP) for nonappropriated fund (NAF) positions can be found in Civilian Personnel Manual Subchapter 1403, Section 1403.7, "Employment Preference Requirements," Table 1 of Reference (n).

SC315.2. APPLICABILITY

This Subchapter:

SC315.2.1. Applies to the Office of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Joint Staff, the Combatant Commands, the Military Departments, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components").

SC315.2.2. Does not apply to fill actions when such actions would detract from ongoing equal opportunity programs, i.e., when programs for achievement of minority and gender

equality, programs for persons with disabilities, or programs for affirmative employment of veterans, including disabled veterans, would be adversely affected.

SC315.3. DEFINITIONS

SC315.3.1. Active Duty. For the purposes of this Subchapter, active duty is defined as full-time duty with military pay and allowances in the Armed Forces (except for training or for determining physical fitness) and full-time service in the U.S. Coast Guard, Reserves or National Guard.

SC315.3.2. Best Qualified. Candidates in this category possess knowledge, skills, abilities, and competencies comparable to others who meet the competitive referral criteria for the specific position.

SC315.3.3. Commuting Area. The geographic area that is normally considered one area for employment purposes. It includes the military sponsor's duty station and the surrounding localities where people reasonably can be expected to travel daily to and from work.

SC315.3.4. Military Spouse. The wife or husband of an active duty member of the U.S. Armed Forces, including the U.S. Coast Guard and the full-time National Guard or Reserves.

SC315.3.5. Continuing Position. Positions to which appointments are made without time limitation, and which have a fixed work schedule, i.e., part-time or full-time.

SC315.3.6. Non-continuing Position. Positions filled by temporary or term appointment regardless of the work schedule; positions filled by permanent appointment with intermittent work schedules; and any NAF position for which the employment category is identified as flexible.

SC315.3.7. Foreign Areas. Areas outside the continental United States that are not identified as nonforeign areas in, Part 591, Subpart B, of Reference (h).

SC315.3.8. Nonforeign Areas. States, commonwealths, territories, and possessions of the United States outside the 48 contiguous United States and any additional areas the Secretary of State designates. The non-foreign areas are listed in Part 591.205 of Reference (h).

SC315.4. EMPLOYMENT PRACTICES

SC315.4.1. When positions are filled in any location, MSP shall be applied equitably and reciprocally across DoD components for spouses of active duty military members of the United States Armed Forces when those spouses apply and are referred for:

SC315.4.1.1. Appropriated fund positions in the excepted and competitive services at GS-15 and below, or equivalent positions in other pay systems; and

SC315.4.1.2. NAF personnel system positions in all employment categories at NF-3 and below and equivalent positions, and for positions paid at hourly rates.

SC315.4.2. MSP shall not contravene existing statutes or regulations on veterans' preference or nepotism. Any wife or husband who meets the definition of "preference eligible" under section 2108(3)(E) of Reference (g) is entitled to veterans' preference when filling positions under competitive examining procedures. However, spouses DO NOT have priority over other veterans' preference eligibles.

SC315.4.3. To expand employment opportunities in foreign areas, Commanders shall use, to the maximum extent possible, foreign national positions for U.S. citizens as the positions become vacant for recruitment from outside the current foreign national workforce, unless such employment is contrary to treaties, other international agreements, or understandings. When U.S. citizen employment in foreign national positions is not barred, and when qualified spouses are available to fill such positions, placement for military spouses is mandatory, unless the Commander determines it is essential to mission effectiveness to retain foreign national incumbency.

SC315.4.4. MSP eligibles in the United States and overseas may accept or decline an unlimited number of non-continuing positions without loss of their military spouse preference.

SC315.4.5. Military spouses shall be referred using MSP until such time as they accept or decline a continuing position, fail to maintain eligibility in accordance with this Subchapter, or are no longer interested in being referred.

SC315.5. EXCEPTIONS

MSP does not apply to:

SC315.5.1. The National Security Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, or to those other organizations in the DoD Components that have as a primary function the areas of intelligence, or counterintelligence;

SC315.5.2. Employment of educators within the DoD Dependents' Schools system. Spouse applicants for educator positions within this system shall be given preference in accordance with Reference (k);

SC315.5.3. Placements involving full performance-level competitive service positions covered by mandatory mobility agreements;

SC315.5.4. Military spouses who apply for employment consideration under Reference (l));

SC315.5.5. Actions that would result in the change to lower grade or separation of a current permanent, term or temporary DoD employee;

SC315.5.6. Placements through the Priority Placement Program (PPP) of Priority 1 or 2 registrants or of well-qualified overseas returnees;

SC315.5.7. A permanent change of station (PCS) move that is in conjunction with the retirement or separation of the military member;

SC315.5.8. Subsequent placement actions following acceptance or refusal of any continuing position in the Federal Service at the new duty location, for which the spouse had indicated availability, in either the appropriated fund or NAF workforce, whether or not preference was applied; and

SC315.5.9. Noncompetitive promotions of current DoD employees to positions at grades previously held on a permanent basis.

SC315.6. CONDITIONS AND ELIGIBILITY

SC315.6.1. The spouse of an active duty member of the Armed Forces (including the U.S. Coast Guard and full-time Reserve or National Guard), who relocates via a PCS move to the military sponsor's new permanent duty station, is entitled to MSP for positions in the commuting area of the new duty station if he or she:

SC315.6.1.1. Married the military sponsor prior to his/her reporting date to the new geographic area;

SC315.6.1.2. Meets all pre-employment criteria and is immediately appointable under the applicable recruitment procedures;

SC315.6.1.3. Meets basic qualifications and is among the best qualified for the position;

SC315.6.1.4. Furnishes a copy of the PCS order identifying the sponsor's reporting date to the new duty location;

SC315.6.1.5. Submits a current application or resume or automated resume; and

SC315.6.1.6. For spouses with current or prior Federal service, submits a copy of the most recent performance appraisal rating and, if applicable, documentation of appointment eligibility under Reference (d).

SC315.6.2. Except as provided in SC315.6.3 and SC315.7.3.2, the time period for MSP eligibility begins 30 days before the military sponsor's reporting date to the new duty station, if accompanied, or at any time thereafter during the tour. Eligible spouses retain preference for the duration of the sponsor's tour unless preference terminates sooner under SC315.6.5.

SC315.6.3. Spouses who do not initially relocate with their sponsors are not eligible for preference until they are actually residing in the commuting area of the new duty station.

SC315.6.4. A MSP candidate may apply for the following types of positions and must notify the activity of his or her preference eligibility:

SC315.6.4.1. Positions at or below the highest permanent grade previously held in the Federal service;

SC315.6.4.2. Positions at or below the highest grade for which the spouse is eligible on an Office of Personnel Management (OPM) or other authorized delegated examining unit register; or

SC315.6.4.3. Positions at the highest grade and occupation held, down to the lowest grade and occupation for which the spouse is qualified and available, if he or she has appointment eligibility under Part 315.608 of Reference (h).

SC315.6.5. MSP eligibility for each PCS relocation terminates upon:

SC315.6.5.1. Acceptance or refusal of a continuing position in the Federal Service for which the spouse has registered or applied for employment, whether or not preference was applied;

SC315.6.5.2. Refusal to participate in established recruitment procedures (e.g., interview, responding to evaluation criteria);

SC315.6.5.3. Loss of MSP status due to divorce, death of the sponsor, or sponsor's retirement or separation from active duty; or

SC315.6.5.4. Failure to maintain immediate appointability as required under SC315.6.1.2.

SC315.6.6. MSP will remain intact until used; however, spouses of military sponsors who are within 6 months of their tour rotation date may be nonselected for permanent (continuing) positions without regard to preference.

SC315.7. PROCEDURES

SC315.7.1. General Provisions. Subject to the exceptions in SC315.5, the following procedures apply to all DoD activities and installations worldwide:

SC315.7.1.1. When a spouse is referred for a position covered by this manual that is being filled through competitive examining processes: a higher ranked military spouse is determined to be among the best qualified and may not be passed over to select a lower ranked non-military spouse provided that such an action does not contravene veterans' preference or

other laws governing selections from open competitive numerically ranked certificates. All preference eligibles must be considered, including veterans, before offering a best qualified military spouse the position.

SC315.7.1.2. When more than one military spouse is referred in the best-qualified group, spouse selections may be made in any order.

SC315.7.1.3. MSP shall be verified using PCS orders identifying the military sponsor's reporting date to the new duty location and other written evidence or documentation which verifies preference and appointment eligibility.

SC315.7.1.4. Spouses may be simultaneously referred for continuing and non-continuing positions until such time as eligibility is lost due to acceptance or refusal of an offer of a continuing position.

SC315.7.1.5. Upon acceptance of a time-limited appointment, the spouse's eligibility for preference for other non-continuing positions will be suspended until 60 days prior to the expiration of the appointment. However, eligibility for other non-continuing positions is not affected by acceptance of a permanent appointment to a position with an intermittent work schedule or any NAF position for which the employment category is identified as "flexible."

SC315.7.2. CONUS/Non-Foreign Area Spouse Preference. The following procedures apply to filling appropriated fund positions in the 50 United States, the District of Columbia, and U.S. Territories and Possessions.

SC315.7.2.1. Except as required by SC315.7.2.2., Components shall use the automated referral procedures described in Reference (e) to match immediately appointable MSP eligibles to competitive service vacancies. To meet the appointability requirement for PPP registration, spouses must be: current Federal career or career-conditional employees; be currently serving under a VRA or Schedule A appointment for the disabled; have reinstatement eligibility; have appointment eligibility under Part 315.608 of Reference (h); or have competitive service eligibility based on employment under other merit systems as prescribed by the applicable OPM interchange agreement (e.g., Defense Civilian Intelligence Personnel System, Nonappropriated Fund).

SC315.7.2.2. There are several categories of positions for which spouses may not exercise MSP by virtue of referral through the PPP. In order to receive preference for these positions, spouses must apply under procedures established by the servicing organization, request preference in writing or as otherwise instructed on the application, and provide any other documents required for consideration and verification of preference. This requirement applies to:

SC315.7.2.2.1. Excepted service positions;

SC315.7.2.2.2. Positions filled under Component career program procedures; and

SC315.7.2.2.3. Positions filled through competitive examining procedures.

SC315.7.2.3. The personnel action for a military spouse who exercises his/her MSP must also include “ZSK”, (Reference (h)), as the second authority code on the Standard Form (SF-50).

SC315.7.3. Foreign Area Spouse Preference: Eligible spouses receive MSP under procedures administered by the servicing DoD HRO. The following procedures apply to filling appropriated fund positions in foreign areas:

SC315.7.3.1. Overseas Commanders shall ensure that job information is provided in a manner reasonably designed to reach military spouses whose permanent duty stations are in the same commuting area as the area where positions are located.

SC315.7.3.2. In foreign areas, spouses do not receive preference until arrival at the overseas location.

SC315.7.3.3. Spouse preference eligibles shall be given preference when filling vacancies competitively through either internal or external placement in all positions designated for U.S. citizen occupancy.

SC315.7.3.4. Spouses may be subject to separation or reassignment if the position held is required for the placement of a current foreign national employee through reduction in force procedures.

SC315.7.3.5. Spouses who are not U.S. citizens shall be given equal consideration with U.S. citizen spouses for overseas vacancies except when doing so would conflict with host-nation law or agreements and understandings with the host nation.

SC315.7.3.6. When MSP employment is authorized for foreign national positions, such employment shall be under the authority of Schedule A, Part 213.3106 (b)(6) of Reference (h); appointment procedures in foreign areas use Reference (m).

SC315.8. RESPONSIBILITIES

SC315.8.1. The Heads of the DoD Components shall:

SC315.8.1.1. Ensure compliance with this subchapter.

SC315.8.1.2. Ensure that no DoD official, directly or indirectly, impedes or otherwise interferes with the right of a spouse of a military member to pursue and hold a job, attend school or perform volunteer services on or off a military installation. Moreover, no DoD official shall use the preferences or requirements of a DoD Component to influence, or attempt to influence, the employment, educational or volunteer service decision of a spouse.

SC315.8.1.3. Establish procedures for matching spouse preference eligibles to vacancies filled through career programs, or through OPM certificates, delegated examining or direct-hire authority.

SC315.8.1.4. Establish procedures for approving exceptions to selections based on compelling hardship to the DoD Component mission or the applicant.

SC315.8.2. The servicing HROs are responsible for:

SC315.8.2.1. Applying and verifying military spouse preference.

SC315.8.2.2. The appropriate and effective use of this subchapter.

A1. APPENDIX

REFERENCES, continued

- (e) DoD Priority Placement Program (PPP) Operations Manual, July 1998
- (f) Deputy Under Secretary of Defense (Civilian Personnel Policy) Memorandum, "Employment of Military Spouses," October 7, 2004 (hereby canceled)
- (g) Title 5, United States Code, Section 2108, "Veteran; disabled veteran; preference eligible," as amended
- (h) Title 5, Code of Federal Regulations, Chapters 213, 310, 315, 335, 353, 591, as amended
- (i) Executive Order 12568, Employment Opportunities for Military Spouses at Nonappropriated Fund Activities," October 2, 1986.
- (j) Public Law 99-145, Department of Defense Authorization Act, 1986, Section 806, "Employment Opportunities for Military Spouses," November 8, 1985, as amended
- (k) DoDEA Regulation 1400.13, "Salaries and Personnel Practices Applicable to Teachers and Other Employees of the Department of Defense Dependent Schools System," March 1, 2006
- (l) The Veterans Employment Opportunities Act of 1998 as amended by Section 511 of the Veterans Millennium Health Care Act (Pub. Law 106-117) of November 30, 1999
- (m) DoD Instruction 1400.23, "Employment of Family Members of Active Duty Military Members and Civilian Employees Stationed in Foreign Areas," May 12, 1989.
- (n) CPM Subchapter (SC) 1403, Section 1403.7, "Employment Preference Requirements," March 29, 2000