

Lesson Content

Laws, Regulations, and Rules

Introduction

You probably won't want to read this next segment. Rules and regulations are dull. Try as we might, it is almost impossible to turn them into fascinating reading. They are important though. Understanding how the Merit Promotion Program developed from law to local policy is essential to understanding the program.

Merit system principles

Since it is best to run a program such as the Merit Promotion Program "by the book," it is important to know what "the book" is. The Merit Promotion Program is based on the merit system principles. If you haven't already done so, you will be required to complete the Merit System Principles module of training as part of the Supervisory Development Program. The merit system principles form the foundation for all regulations and requirements related to merit promotion.

Laws and regulations

Laws are the basic rules of the Government. They are passed by Congress and are sometimes very brief. Since they often aren't very specific they usually are followed by regulations found in the Code of Federal Regulations (CFR). These regulations are written by the Federal agency that is in charge of whatever the subject is. In the case of civilian personnel matters, the responsible agency is the Office of Personnel Management (OPM). Personnel regulations are primarily found in 5 CFR.

Agency regulations

Before regulations are published in final form, they are sent out to Federal agencies and other groups for comments. OPM reviews any comments received and may include them in the final regulations. Once the regulations are published in the CFR, each Federal agency may choose to write its own regulations and policies to implement them. The DLA merit promotion policy is outlined in DLA Regulation 1404.4, [Merit Promotion Program](#).

Bargaining unit employees

Merit promotion for bargaining unit positions and employees is governed by the Master Agreement between DLA and the DLA Council of American Federation of Government Employees (AFGE) locals and local supplements. Many other areas of personnel administration also are impacted by whether or not a position is in the bargaining unit. For example, besides merit promotion, the processing of grievances and disciplinary actions, reduction-in-force (RIF) appeal procedures, and determination of working conditions all depend on whether or not an employee is in the bargaining unit.

Objectives of the Merit Promotion Program

Objectives

Now that you are aware of the legal and regulatory foundations for merit promotion, let's discuss some of the objectives of the program. One of the primary objectives is to staff the Agency with the best qualified candidates while enhancing employees' careers by giving all employees a fair chance to compete for advancement.

The Merit Promotion Program is also designed to ensure that promotions are based on merit factors alone, not things such as race, religion, sex, age, handicap, marital status, and other nonmerit factors. Merit promotion is also an important tool to ensure that questionable practices are avoided. Such practices may include nepotism (the use of one's position to influence the selection of a relative), the appearance of pre-selection or other practices such as unreasonable delays in the selection process.

Alternate Hiring Sources

Introduction

Merit promotion procedures are generally used when filling positions. However, there are some alternative hiring sources available. While these alternative sources are valid, legitimate methods to fill positions, they should not be used exclusively. Remember, one of the objectives of the Merit Promotion Program is to provide employees with the opportunity for advancement. If you continually fill your positions from alternative sources, you will not meet that objective and employees will feel that no opportunities exist for promotion.

Note: When reading about the authorities described in the following paragraphs, please keep in mind that the requirements of the Priority Placement Program (PPP) and the Interagency Career Transition Assistance Program (ICTAP) must be addressed prior to any hiring commitments. These mandatory placement programs are described later in this module.

Reassignments

A reassignment is the noncompetitive movement of an employee from one position to another. An example would be the movement of a GS-12 Computer Specialist from the DLA Training Center (DTC) to the Defense Energy Support Center (DESC). Another example would be the movement of a GS-9 (Potential GS-11) Management Analyst position in DESC to a GS-9 (Potential GS-11) Management Analyst position in DTC.

Both positions must have the same promotion potential—an employee only has to compete one time during his or her career for any position with the same or lower

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promotion potential. However, the employee must meet all qualification and other eligibility requirements (such as security clearance) of the new position. Reassignments are a fast, efficient, and acceptable method of filling jobs, but their exclusive use could lead to morale problems in your organization.

OPM/Delegated Examining requests

Sometimes, particularly with hard-to-fill positions, it is unlikely that recruitment within the Federal Government or through other noncompetitive appointing authorities will yield an adequate applicant pool. In these cases, you may want to expand your area of consideration to include nonstatus applicants. This is done by submitting a request through the servicing DLA Human Resources Center (DHRC) to request recruitment through Delegated Examining or through OPM. The DHRC or OPM will then announce the position for nonstatus candidates. The DHRC has the authority to advertise for positions delegated to them by OPM/DOD. OPM operates on a fee-for-service basis; costs vary depending on the grade, series, and other requirements of the position. Typical costs range from \$1,300.00 to \$4,000.00, and can be paid by Government credit card.

Once DHRC or OPM receives the request, it will announce the position, rate the applications, and issue a certificate that normally consists of the top three ranked candidates for the first vacancy on numerically ranked certificates. Applicants with veteran's preference get additional points added to their ratings and, if listed above nonveterans, must be selected. Further information on this recruitment source can be obtained from your Human Resources Specialist.

Veteran's appointing authorities

There are two noncompetitive appointing authorities that are very useful when appointing applicants who have served in the military—the 30% Disabled Veteran Appointment and the Veterans' Recruitment Appointment (VRA).

30% Disabled Veteran Appointment: Veterans who are in receipt of compensation at the rate of 30% or more may receive a noncompetitive appointment to any position up through grade GS-15 and equivalent. Veterans wishing to be considered under this authority must have certification of the disability from the Veteran's Administration or the 30% disability must be shown on retirement orders. Regulations require that the initial appointment be temporary, term or provisional; however, the veteran can be converted to permanent status at any time after the initial appointment is made.

VRA: The VRA allows noncompetitive appointment of eligible veterans to positions up through grade GS-11 and equivalent levels in other pay systems. [Click here](#) to read detailed information on eligibility and conditions of appointment.

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Other Noncompetitive Appointing Authorities

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There are two additional noncompetitive appointing authorities: Schedule A appointments and the Student Educational Employment Program (SEEP). This section will describe these authorities.

Schedule A appointments

Applicants with a severe physical handicap may be given a two-year appointment in the excepted service based on certification by a State vocational rehabilitation agency or the Veterans Administration that the applicant will likely succeed in the performance of the duties of the position to which appointed. After two years of successful service, the employee may qualify for conversion to an appointment in the competitive service. These applicants can be appointed at any grade level.

SEEP

The SEEP consists of two components: the Student Temporary Employment Program (STEP) and the Student Career Experience Program (SCEP). Both programs allow noncompetitive appointment of students pursuing degrees from the high school level through a professional degree, and both are designed to allow students to earn money while continuing their education.

The STEP is designed to provide students with temporary employment ranging from summer jobs to positions that can last for as long as the student remains in school. Employment under the STEP does not need to be related to the academic field of study being pursued and does not offer any conversion eligibility to a permanent position.

The SCEP provides a student with work experience directly related to the academic field of study being pursued and allows noncompetitive conversion to a permanent position upon completion of all education and work experience requirements.

Steps in the Merit Promotion Process

Introduction

We have discussed the laws, regulations, and guidelines that apply to the merit promotion program; the objectives of the program; and noncompetitive appointing authorities. This basic background will assist you in understanding the process for filling vacancies. In this section, we will discuss the steps involved in filling a job.

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Step 1—Decide to fill a job.

Before beginning the processes required to fill a job, the selecting official should make a determination on whether there is a need to fill the position at all. This is done by reviewing workload, current staffing requirements, full-time equivalent (FTE) limitations, and available resources (dollars). The selecting official should coordinate this decision with other management officials and/or the resource manager to ensure that the position can be filled. There are two reasons an action should not be submitted to DHRC prior to a firm decision being made that the position is to be filled.

1. Once an action is submitted for filling a position, it becomes subject to the requirements of the PPP and other mandatory placement programs and, if a mandatory placement is required, the action cannot be returned.
2. The time spent processing an action that may not be filled takes time that could be spent on actions that have been authorized to be filled.

Step 2—Determine the sources for candidates and area of consideration (AOC).

Once you determine there is a need to fill the position, you should review your current workforce, past staffing actions, and likely numbers of candidates from various sources. Depending on the position, the available candidates, and the urgency for filling the position, you may want to consider one of the alternative hiring sources previously discussed. Otherwise, a determination needs to be made on the area of consideration (AOC) from which you will recruit.

The AOC is the geographic and organizational area from which applications will be accepted. It is the minimum area needed to provide acceptable numbers of candidates for the position. DLA Regulation 1410.1, Merit Promotion Program, requires certain minimum areas of consideration based on the grade level of the position. Your Human Resources Specialist will assist you in deciding whether the minimum AOC or a broader one makes sense based on previous experience with similar positions and recruitment patterns.

Step 3—Conduct job analysis.

When you have decided to advertise for a particular position and complied with the mandatory placement programs previously described, the next step is to analyze the duties of a job to determine what knowledge, skills, and abilities (KSAs) are needed to do the work. This step involves determining the major job functions of the position and the KSAs that are required to perform each of the major job functions. There is no maximum or minimum number of KSAs, although 3-6 is typical.

The job analysis may result in the need for a Selective Placement Factor (SPF) (a merit factor that is required to be found qualified at time of application and is supported by the

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Position Description or Job Analysis). If used, an SPF becomes a part of the basic qualifications for a position and is used as a screen out factor; i.e., if an applicant does not possess the SPF, the applicant is not qualified for the position.

The KSAs and SPFs are included in the job opportunity announcement (JOA). Working together, DHRC and the selecting supervisor and/or a designated subject-matter expert (SME) develop the job analysis which includes development of KSAs and SPFs.

Step 4—Check mandatory placement programs: PPP and ICTAP

This is a very important step. Each program will be addressed separately in the following two sections.

Priority Placement Program

Introduction

The Priority Placement Program (PPP) was conceived in November 1964 by former Secretary of Defense Robert McNamara to assist in placing Defense employees who were being separated or downgraded. The program has grown and expanded over the years and has become so successful that it is the standard by which other mandatory placement programs within the Federal service have been modeled. Over the years, many thousands of displaced DOD civilian employees have been placed in other Defense activities through the operation of this program. The program is particularly successful for employees who are willing to relocate. Placement of displaced employees represents the savings of a significant amount of recruitment dollars as well as the retention of skilled employees within the Department.

PPP

PPP is an automated data base of registered employees. All actions, unless exempt, are entered into this automated system and matched against registrants in the system. The matching continues throughout the entire recruitment cycle and only stops when the requisition is removed from the system. While a particular action may be "clear" when the recruitment cycle begins, the requisition remains active and a match can occur at any time until removed from the system.

The requisition typically will be removed at the time the merit promotion certificate and/or other referral lists are issued to the selecting supervisor.

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Registration in PPP

Displaced employees are registered in the system by DHRC and are given a priority level based on the displacement action.

Examples: An employee in receipt of a RIF notice with no position offer is a priority 1, while an employee who declines a transfer of function outside of the commuting area or has been downgraded by two or more grades, is a priority 2. Employees being downgraded by fewer than two grades and certain overseas returnees are priority 3s. Priority 3 also includes a separate military spouse program that provides priority consideration to the spouse of a military member being transferred to a new duty location.

These examples are not all inclusive. There are other employee categories and programs within the PPP; however, these examples represent the majority of registrants you will encounter and should be aware of for the purpose of this training.

Stopping the recruitment action

The presence of a priority 1 or priority 2 candidate stops all further recruitment action until the candidate is either placed in the position you are filling, found to be unqualified, or determined to be unavailable. For example, the RIF may have been cancelled or the RIF notice amended.

A nonspousal priority 3 prohibits new appointments, transfers from non-DLA Federal agencies, and reinstatements. However, the presence of a nonspousal priority 3 candidate does not prevent you from filling the position with a DLA candidate. Spousal priority 3s prohibit promotions but allow the selection of noncompetitive candidates, e.g., VRA and 30% disabled veteran candidates, reassignment candidates.

Priority 1 and 2 registrants

For priority 1 and 2 registrants, the procedure for handling resumes received through the automated PPP database is as follows:

1. When a resume is received, DHRC contacts the Human Resources Office (HRO) that registered the displaced employee and communicates the requirements of the position. This will include a copy of the position description, job analysis—including any selective placement factors—and any other unique requirements of the position. Such requirements might include work schedule/tour of duty requirements, security clearance/drug testing requirements, licensing requirements, etc.
2. HROs review the resume of the registrant, to work with you and make a determination about the registrant's acceptability for the position. If there is a

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disagreement that cannot be worked out between the two HROs, the issue is elevated through appropriate channels for resolution.

Priority 3 registrants

When a priority 3 nonspousal resume is received, the registering HRO is only contacted after the selection decision is made, and only if the selection is outside of DLA. At that point, if the registrant is qualified and available, the same procedures described for priority 1 and 2 registrants are followed.

The procedures for priority 3 spousal registrants are slightly different. If a priority 3 spousal resume is received on or before the closing date of the job opportunity announcement, the registering personnel office is contacted and a full application—including performance appraisal and responses to KSAs—is requested. The application is then rated and ranked against the KSAs for the position. If the spousal candidate is found to be highly qualified, he or she is referred as the only candidate on the merit promotion certificate. Other noncompetitive referrals are also issued to the selecting supervisor and can be selected without regard to the spousal candidate.

The PPP and noncompetitive appointments

When filling a position noncompetitively—for example, with a reassignment candidate or a change to lower grade candidate—the PPP still must be cleared before the action can be processed. In these situations, DHRC typically can do a "one-time" clearing that consists of entering the position into the database one day and automatically removing the requisition the next day. If no PPP candidates are received, the action can be processed.

Exemptions from the PPP

Some actions are exempt from the PPP. For example, some exemptions include career ladder promotions, reassignments when the former position is being abolished, and reassignments when an encumbered position is redescribed. Your personnel specialist reviews all actions received to see if an exception applies before subjecting the action to the PPP, and will advise you accordingly.

Interagency Career Transition Assistance Program

Introduction

The ICTAP is the second mandatory placement program that must be checked in step 4 of the merit promotion process. While the PPP is a DOD-wide system; the ICTAP is a system that allows non-DOD displaced employees to receive priority consideration for positions outside of their agency.

Employee responsibility

The ICTAP is not an automated system. Rather, it is a program that places the responsibility on the displaced employee to actively look for placement opportunities. The displaced employee must apply for positions to receive priority consideration and must

- have a specific RIF notice or other appropriate notice of separation
- have a current (or last) performance rating of record of at least fully successful
- apply in a timely fashion for a vacancy at or below the grade level from which separated.
- be displaced from a position in the same local commuting area of the vacancy, and
- meet all qualification and eligibility requirements; selective factors, if applicable; and all knowledge, skills, and abilities required for the position.

Supervisor's role

You're probably wondering what your role is in this process. The only time you need to be concerned about ICTAP is when you are recruiting individuals from outside of DOD. In other words, if your AOC is DOD-wide or narrower, ICTAP candidates are not eligible for any priority consideration. It's only when you recruit outside of DOD that ICTAP comes into play. In those cases, DHRC ensures that your announcement is posted on OPM's Web page so ICTAP eligible candidates can apply.

That sums up the discussion on the PPP and ICTAP. Now, let's turn our attention back to the next steps in the merit promotion process.

Additional Steps in the Merit Promotion Process

Step 5—Announce the job.

The next step in this process is to develop the job announcement. DHRC HR Specialists will work with managers to conduct a job analysis and publish a JOA to recruit for vacancies. Announcements are posted on USAJOBS for applicants to review and apply during open periods.

Step 6—Screen applicants.

When the JOA has closed, the JOA case file is screened to determine if all applicants meet basic qualification and eligibility requirements.

1. The applications are reviewed to determine if applicants meet basic requirements of the job. Applicants must be within the AOC for the position; for example, if the AOC is all DOD employees, an applicant who works at the Department of Agriculture will be found outside the AOC. Applicants must also meet time-in-grade (TIG) and basic qualification requirements.
2. Note: TIG restrictions were imposed by the Congress and OPM to prevent excessively rapid promotions. The restrictions apply only to applicants for GS jobs and only when the applicant is in a GS job or has been within the past 12 months. TIG has nothing to do with qualifications and is frequently confused with the quality of experience which is outlined in OPM's Handbook on Qualification Requirements. Basic qualifications are determined by comparing an applicant's experience against the requirements outlined in OPM's Handbook.

Step 7—Rate and rank the applications.

If an applicant is within the AOC and meets TIG and basic qualifications (including any SPFs identified for the job), the application is then numerically rated following the guidelines of the merit promotion plan

DHRC uses the crediting plan to rate applications. This plan assigns points based on an applicant's overall possession of the KSAs, performance rating score, and education/training.

Step 8—Issue a competitive promotion certificate.

When the applications have been assigned a numerical score, a competitive promotion certificate is issued. The top ten ranked candidates will be referred for consideration. If the position was advertised at more than one grade level, a certificate of the top ten ranked candidates will be issued for each advertised grade level.

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The selecting supervisor may also receive a noncompetitive certificate that contains the names of applicants requesting reassignment consideration to the position. These candidates do not have to compete again for a grade level that they already hold. Other referrals, such as listings of veterans requesting consideration under the VRA authority, 30% disabled veterans, or disabled applicants, may also be included with the certificate package issued to the selecting official. The selecting official is free to select from any of the certificates or other referrals included in the package.

Step 9—Review the applications and conduct interviews.

The selecting official should thoroughly review all applications referred with the certificate package. Interviews of noncompetitive candidates (including VRA eligibles, 30% disabled veterans, or disabled applicants) are not required. For positions outside of the bargaining unit, interviews are not required for the competitive promotion certificate either. However, if the position is in the bargaining unit and the selecting official is going to select from the competitive promotion certificate, selecting officials must follow the guidance in the Master Labor Agreement.

Regardless of the requirement to conduct interviews, selecting officials are free to interview any of the candidates referred for consideration and may wish to do so to avoid any potential misunderstandings from nonselected candidates.

[Click here](#) for detailed instructions on the requirements for interviews. These instructions are also provided to the selecting official with every certificate package.

Step 10—Make the final selection.

Before making the final selection, the selecting official must review the parity statistics provided directly to the official by the Equal Employment Office (EEO). These statistics contain information on minority representation in the vacant position's organization. The selecting official should consider this information in making the selection. At this point, the selecting official may select any candidate referred in the certificate package or may choose not to make a selection at all. In either case, the certificate package should be returned to DHRC for processing the selection or, in the case of no selection, a discussion with the HR Specialist on the next step in the process.

Step 11—Offer the job.

The job offer is made to confirm the selectee's interest and to begin the process for bringing the person "on board." DHRC makes initial tentative offers to selectees and then proceeds with the administrative processes necessary to make the offer final. These processes may include such things as verifying competitive status, veteran's preference, TIG and other eligibility criteria; obtaining information from employee's current personnel office; processing security clearances, physical examinations, and drug tests; and preparing permanent change of station (PCS) orders; etc. When all required

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processes have been completed, a release date is negotiated. While there are no regulations governing release dates, two weeks for a promotion and four weeks for a lateral move are the normally accepted standards. Release dates are negotiated between the losing and gaining personnel offices in coordination with the employee's supervisor.

Step 12—Notify nonselectees.

Nonselected candidates will receive their status by utilizing the automated system. Sometimes nonselected candidates inquire about the action or complain that they were not given appropriate consideration. Usually these are informal inquiries and DHRC tries to resolve the inquiries by providing the candidate with as much information as possible. Sometimes DHRC may ask the selecting official to discuss reasons for nonselection with candidates who were interviewed. Frequently, candidates are just looking for some feedback and an understanding of the process. By providing adequate information, formal complaints may be avoided.

Noncompetitive Actions

Introduction

We have been discussing the procedures involved in filling a job through the merit promotion program using competitive procedures. Not all positions are filled through merit promotion procedures or the alternative hiring sources discussed earlier in this module; there are other types of personnel actions supervisors and managers should understand. This section discusses those other types.

Temporary promotions and details

Temporary promotions and details are both temporary assignments of employees to different duties or to positions other than the official position of record. It is important to recognize the following differences between a temporary promotion and a detail:

- A temporary promotion involves an official change in an employee's position description, grade, and rate of pay; a detail changes none of these.
- Employees must meet all OPM established qualification and time-in-grade requirements in order to be temporarily promoted. These restrictions, other than those involving minimum education requirements for professional positions, are not mandatory for details.
- Employees must meet security requirements for both temporary promotions and details.

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- Employees may be noncompetitively temporarily promoted or detailed to a higher graded position for no more than 120 days during any 12 month period. Time spent on a detail or a temporary promotion during the 12 month period must be counted towards the 120 day limit. If you anticipate the need for a longer assignment, the position should be advertised under merit promotion procedures as a temporary assignment so that eligible employees may compete for the position and the selectee can serve in the position for longer than the 120 day limit.
- Bargaining unit employees must be temporarily promoted, if eligible and qualified, when a temporary assignment to a higher graded position will last for a period of more than 30 days.
- Employees may be detailed to a position at the same or lower grade or to a statement of duties for an initial period of 120 days with extensions in 120-day increments. While there is no maximum time limit on details, an employee should not be detailed for long periods of time.
- Details and/or temporary promotions of 30 days or less need not be documented. Any temporary assignment over 30 days requires documentation with an SF 52. A second SF 52 ending the temporary assignment should be submitted at the same time to avoid processing delays and, in the case of a temporary promotion, accidental overpayments to employees.
- If an employee is being temporarily assigned (by detail or temporary promotion) outside of his/her organization, the gaining activity should prepare the SF 52. The losing activity's concurrence with the action should be documented on the SF-52.
- The gaining and/or losing supervisor(s) should inform employees that they are being detailed or temporarily promoted. Employees in the bargaining unit are entitled to 7 calendar day advance notification of details expected to last more than 30 calendar days.

Promotions Not Subject to Competition

Introduction

There are several types of promotion actions that you will submit as a supervisor or manager that are not subject to competition. These include career ladder promotions and the promotion of an employee whose position has been reconstituted because of either a planned management action or a gradual accretion of additional nonsupervisory duties and responsibilities.

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Career ladder promotions

Career ladder promotions are the subsequent promotion(s) of an employee who has already competed for a position with promotion potential. These actions require only that the supervisor believes the employee is performing at the higher level and should be promoted. An SF-52 with appropriate signatures is required. It is incumbent upon the supervisor to monitor promotion due dates and process the required SF-52, if the promotion is in fact warranted.

Reconstituted positions and/or accretion of duties

Another type of promotion that can be noncompetitive is the promotion of an employee whose position has been reconstituted because of either a planned management action or a gradual accretion of additional nonsupervisory duties and responsibilities. There are several conditions that must be met:

1. The employee must continue to perform the former position as well as the new duties.
2. The addition of the new duties and responsibilities will not adversely affect the grade of another occupied position
3. The additional duties and responsibilities do not change a former nonsupervisory position into a supervisory position.
4. The employee meets all other requirements for promotion to the position.

These types of actions must be monitored closely to avoid the appearance of favoritism or circumvention of the merit promotion process. Excessive attempts at this type of promotion can lead to morale problems and should be used sparingly and only if the situation fully meets the requirements outlined above. If you believe that an employee is actually performing duties at a grade level above that of the current position, contact DHRC for further guidance.

Other noncompetitive promotions

Other instances in which a noncompetitive promotion may occur include the following:

- Discovery of a classification error
- A grade increase due to the issuance of a new classification standard
- Placement into a higher position as a result of RIF procedures

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- promotion of an employee not given proper consideration in a previous competitive promotion action or in resolution or settlement of a grievance or EEO complaint
- Repromotion of an employee to a grade previously held

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