

NOV 13 2017



Approved for Release
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11/13/17
Date

**DEPARTMENT OF COMMERCE
OFFICE OF HUMAN RESOURCES MANAGEMENT**

HUMAN RESOURCES (HR) BULLETIN #220, FY18

SUBJECT: Non-competitive Appointment of Certain Military Spouses

EFFECTIVE DATE: Upon release of this HR Bulletin

EXPIRATION DATE: Effective until canceled or superseded

SUPERSEDES: Human Resources (HR) Bulletin #149, FY12, "Non-competitive Appointment of Certain Military Spouses," dated November 21, 2011.

REVISIONS: Removes the 2-year eligibility limitation for relocating spouses of Armed Forces members, and provides eligibility for the duration of the member's relocation to the permanent duty station. It also adds the Enterprise Services Center (ESC) as an accountable HR office.

BACKGROUND: The National Defense Authorization Act for Fiscal Year 2017, signed by the President on December 23, 2016, eliminates the 2-year time limitation for eligibility for non-competitive appointment for spouses of relocating members of the Armed Forces. Executive Order 13473, dated September 25, 2008, originally provided authority to agencies to non-competitively hire military spouses that meet certain requirements.

PURPOSE: This HR Bulletin provides the regulatory policy under which certain military spouses can be non-competitively appointed to positions within the Federal Government, and offers processing guidance and notes on document requirements.

POLICY: Executive Order 13473 authorized the non-competitive appointment of certain military spouses to competitive service positions. The Office of Personnel Management (OPM) codified implementing regulations in Title 5, Code of Federal Regulations (CFR) § 315.612, effective September 11, 2009.

This authority may be used to appoint eligible spouses to temporary, term, or permanent positions within the competitive service, to positions at any grade-level for which the individual qualifies and is otherwise eligible. It may not be used to appoint military spouses to positions within the excepted service.

The authority does not provide a hiring preference or selection priority; therefore, hiring managers are not required to select military spouses eligible under the authority. An eligible spouse who is a preference eligible, will not receive any preference over an eligible spouse who is not preference eligible. Hiring managers may select any eligible spouse, and a veterans' pass over is not necessary.

DEFINITIONS:

- Active duty – Full-time duty in the Armed Forces, including full-time National Guard duty; however, it does not include training activities or attendance at service schools for Reserve Component members.
- Duty station – The permanent location to which a member of the Armed Forces is assigned for duty as specified on the individual's Permanent Change of Station (PCS) order.
- “Killed while on active duty” – In accordance with Title 5, CFR § 315.612(b)(4)(iii), it does not apply specifically to service members who have been killed in “combat.” Spouses of service members killed while on active duty are eligible as long as they meet all other terms and conditions of Title 5, CFR, Part 315.
- Member of the Armed Forces – Has the meaning given under Title 10, United States Code (U.S.C.) § 101.
- Spouse – The husband or wife of a member of the Armed Forces, or the unmarried widow or widower of the member killed while on active duty in the Armed Forces.

ELIGIBILITY: Under Title 5, CFR, Part 315, Subpart F, Section 612, certain military spouses who meet one of the following criteria may be non-competitively appointed:

1. A spouse of a member of the Armed Forces serving on active duty who has orders specifying a change in permanent duty station;
2. A spouse of a 100 percent disabled service member injured while on active duty; or
3. The unmarried widow or widower of a service member who was killed while performing active duty.

The spouse must be married to the service member at the time the member receives his/her orders to relocate, becomes 100 percent disabled, or is killed while on active duty.

Time Frames:

Spouses of Active Duty Service Members Are Eligible:

From the date of the service member's PCS order through the duration of the spouse's relocation to the permanent duty station of the Armed Forces member.

Spouses of 100 Percent Disabled Veterans or Service Members Killed While on Active Duty Are Eligible:

1. From the date of documentation verifying the member of the Armed Forces is 100 percent disabled; or
2. From the date of documentation verifying the member of the Armed Forces was killed while on active duty.

Proof of Eligibility:

Spouses eligible for non-competitive appointment under this authority must submit proof/documentation of their eligibility by the closing date of the vacancy announcement. The Principal Human Resources Managers (PHRM), or their designee, may extend the deadline for submission of documentation on a case-by-case basis in order to facilitate a military spouse's ability to prove eligibility under this authority.

INELIGIBLE:

1. A spouse who marries a member of the Armed Forces after the service member's orders authorizing the PCS.
2. A spouse of a service member of the Armed Forces who is on retirement, release, or discharge from active duty is not eligible under this authority based upon those orders. Orders for release or discharge from active duty service, such as release or hardship, or expiration-of-terms service orders, cannot be used to establish eligibility under this authority.
3. A spouse who is a non-U.S. citizen is not eligible under this authority.
4. A spouse of a Public Health Service member and a spouse of a Commissioned Corps officer from the National Oceanic and Atmospheric Administration are not eligible under the authority because they are not members of the active duty Armed Forces.

NUMBER OF APPOINTMENTS:

Spouses of Active Duty Service Members

Spouses of relocating service members are limited to one permanent appointment under this authority, per PCS order. However, there is no limit on the number of temporary or term appointments they may receive per PCS move. In addition, spouses who received a temporary or a term appointment as a result of a PCS move are still eligible for one permanent appointment based on that same PCS move.

Spouses of individuals who receive follow-on PCS orders to military commands in the same geographic area as the one to which an individual was initially assigned do not attain additional eligibility.

Spouses of 100 Percent Disabled Veterans or Service Members Killed While on Active Duty

There is no limitation on the number of appointments a spouse of a 100 percent disabled veteran or the widow/widower of a deceased service member may receive under this authority.

GEOGRAPHIC AREA: Non-competitive appointment is limited to the geographic area specified on the service member's PCS orders. The PHRM of each operating unit may define "geographic area" to cover regions that are within a reasonable commuting distance from the duty station to which the spouse has relocated. The PHRM may waive the geographic limit if no Federal agency exists within the geographic area. The PHRM may, at his or her discretion, establish a mileage limitation in order to define a geographic area.

Spouses of retired or separated active duty members who have a 100 percent disability are not restricted to a geographic location and may be non-competitively appointed to any geographic location if they otherwise qualify under this authority.

Under this authority, an individual must physically relocate with their spouse in order to be eligible as a result of their spouse receiving a PCS order.

DOCUMENTATION:

The spouse of a member of the Armed Forces seeking eligibility under this authority must submit the following required documentation in accordance with one of the three applicable situations below:

Spouse's PCS Order:

1. A copy of the service member's active duty orders that authorize a permanent change of station. This authorization must include: a statement authorizing the service member's spouse to accompany the member to the new permanent duty station; the specific location to which the member of the Armed Forces is to be assigned, reassigned, or transferred pursuant to permanent change of station orders; and the effective date of the permanent change of station; and
2. Documentation verifying marriage to the member of the Armed Forces.

100 Percent Disability of His or Her Spouse:

1. Documentation showing the service member was released or discharged from active duty due to a service-connected disability;
2. Documentation showing the service member retired, or was released or discharged from active duty, with a disability rating of 100 percent; and
3. Documentation verifying marriage to the service member.

Unmarried Widow/Widower of a Service Member Killed while Performing Active Duty:

1. Documentation showing the service member was released or discharged from active duty due to his or her death while on active duty;
2. Documentation verifying the service member was killed while performing active duty;
3. Documentation verifying marriage to the service member; and
4. A statement certifying that he or she is the un-remarried widow or widower of the service member.

Note: Documentation of marriage – Does not require a marriage license under Title 5, CFR § 315.612(e)(1), (e)(2), and (e)(3). Servicing Human Resources Offices (SHRO) and the ESC may, at their discretion, accept other forms of documentation in lieu of a marriage license in order to prove marriage. Other acceptable documentation may include, but are not limited to, Federal tax documents, financial statements, property documents, etc.

RESPONSIBILITIES OF THE SHRO/ENTERPRISE SERVICE CENTER:

Public Notice

SHROs/ESC must ensure that public notice is provided for any position that will last more than 1 year that is filled from outside of the Department's workforce.

ICTAP/CTAP and RPL

SHROs/ESC must clear the Career Transition Assistance Plan (CTAP), and the Interagency Career Transition Assistance Plan (ICTAP), and any applicable reemployment priority lists (RPL) before making a selection under this authority.

Proof of Eligibility and Required Documentation

SHROs and the ESC must ensure that potential appointees under this authority have not exceeded the one-time eligibility under Title 5, CFR § 315.612(d)(2), if applicable. The SHROs and the ESC must obtain a signed statement from the military spouse stating that they have not exceeded the one-time eligibility under Title 5, CFR § 315.612(d)(2), and should verify the military spouse's eligibility by examining the appointment authorities used on the Standard Form (SF) -50s from previous Federal appointments.

PROBATIONARY AND TRIAL PERIODS: Military spouses appointed to term or permanent positions under this authority are subject to either a trial or probationary period, as appropriate, in accordance with Title 5, CFR § 315.801(e) and Title 5, CFR § 316.304, and may be terminated at any time during the trial or probationary period in accordance with Title 5,

Part 315, Subpart H and Title 5, Part 316, Subpart C. Military spouses appointed to temporary positions are not subject to probationary or trial periods.

ACQUISITION OF COMPETITIVE STATUS: An individual appointed under this authority acquires competitive status automatically upon completion of a probationary period.

PROCESSING: The SHROs and the ESC should use the appropriate codes below to process actions on the SF-50 under this authority.

- **Permanent Appointments:**

If the spouse is not on the Department's rolls, then the Nature of Action code (NOAC) is "101" and the authority code is "LAM." The authority is 315.612.

If the spouse is on the Department's rolls, then the NOAC is "501" and the authority code is "LAM." The authority is 315.612.

- **Term Appointments:**

If the spouse is not on the Department's rolls, then the NOAC is "108" and the authority code is "LDM." The authority is 316.302(b)(3)MS.

If the spouse is on the Department's rolls, then the NOAC is "508" and the authority code is "LDM." The authority is 316.302(b)(3)MS.

- **Temporary Appointments:**

If the spouse is not on the Department's rolls, then the NOAC is "115" and the authority code is "LCM." The authority is 316.402(b)(3)MS.

If the spouse is on the Department's rolls, then the NOAC is "515" and the authority code is "LCM." The authority is 316.402(b)(3)MS.

REFERENCES: Title 5, CFR, Part 315, Subpart F, Section 612; *Federal Register*, Volume 74, Number 154; Title 10, U.S.C. § 101, *Federal Register*, Volume 76, Number 169; National Defense Authorization Act for Fiscal Year 2017, Section 1131.

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