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**Date**

**Jessica SP Bense**

**Director, Office of Human Resources Management and  
Chief Human Capital Officer**

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

**HUMAN RESOURCES (HR) BULLETIN #259, FY22**

**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**EXPIRATION DATE:** Effective until canceled or superseded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 #229, FY19, “Non-competitive Appointment of Certain Military Spouses,” dated May 8, 2019

**BACKGROUND:** The Office of Personnel Management (OPM) revised regulations to modify provisions governing the recruitment and employment of certain military spouses in Federal agencies to conform to statutory mandates affecting the rules that govern this hiring authority. The revision also carries out certain provisions of Executive Order (EO) 13832, “Enhancing Noncompetitive Civil Service Appointments of Military Spouses,” dated May 9, 2018. An earlier Executive order, EO 13473, “To Authorize Certain Noncompetitive Appointments in the Civil Service for Spouses of Certain Members of the Armed Forces,” dated September 25, 2008, provided agencies the original authority to non-competitively hire military spouses that meet certain requirements.

**REVISIONS:** Spouses of members of the Armed Forces on active duty appointed on or after August 13, 2023, are subject to additional criteria, including the member of the Armed Forces receiving a permanent change of station (PCS) order. Beginning August 13, 2023, appointments for spouses of members of the Armed Forces are limited to the geographic area of the PCS and to one appointment per PCS. Additional documentation requirements for PCS orders have been added. OPM’s revised regulations also instituted an annual reporting requirement to OPM and to the Department of Labor (DOL).

Attachment A provides a “Summary of Criteria and Requirements.”

Note: The requirements for a spouse of a 100% disabled service member injured while on active duty, and for the unmarried widow or widower of a service member who was killed while performing active duty, have not changed.

**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. 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, 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.

This 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, 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 § 315.612, 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. For appointments made **on or after August 13, 2023**, the following criteria must be met:
  - The member of the Armed Forces has received orders authorizing a PCS.
  - The spouse must have married the member of the Armed Forces on, or prior to, the date of such orders authorizing the PCS.

- The spouse must have relocated or is relocating with the member of the Armed Forces on, or prior to, the date of such orders authorizing the PCS.
2. A spouse of a 100% 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.

Note: The spouse must be married to the service member at the time the member is on active duty, becomes 100% disabled, or is killed while on active duty.

**Time Frames:**

**Spouses of Active Duty Service Members Are Eligible:**

- From the date of the documentation verifying the member of the Armed Forces active duty status.

**Spouses of 100% 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% 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 Job Opportunity Announcement. The Principal Human Resources Manager (PHRM) or 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 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.
2. A spouse who is a non-U.S. citizen is not eligible under this authority.
3. 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**

- Through August 12, 2023, there is no limit to the number of appointments a spouse of a member of the Armed Forces on active duty may receive under this authority.
- Beginning August 13, 2023, the spouse of a member of the Armed Forces on active duty may only receive noncompetitive appointment under this authority if the member receives PCS orders and is limited to one such appointment per PCS.
  - The Servicing Human Resources Office (SHRO) and the Enterprise Service Center (ESC) must ensure that potential appointees under the authority have not exceeded this one-time eligibility.
  - The SHROs and the ESC must obtain a signed statement from the military spouse stating that they have not exceeded the one-time eligibility, and should verify the military spouse's eligibility by examining the appointment authorities used on the Standard Form (SF)-50s from previous Federal appointments.

### **Spouses of 100% Disabled Veterans or Service Members Killed while on Active Duty**

The spouse of a 100% disabled veteran or the widow or widower of a deceased service member may not receive more than one permanent appointment under this authority. The SHRO and the ESC must ensure that potential appointees under the authority have not exceeded this one-time eligibility. The SHROs and the ESC must obtain a signed statement from the military spouse stating that they have not exceeded the one-time eligibility, and should verify the military spouse's eligibility by examining the appointment authorities used on the SF-50s from previous Federal appointments.

## **GEOGRAPHIC AREA:**

Non-competitive appointment of a spouse of an active duty, 100% disabled, and of service members killed while on active duty made before August 13, 2023, are not restricted to a geographic location and may be non-competitively appointed to any geographic location if they otherwise qualify under the authority.

Non-competitive appointment of a spouse of an active-duty member made on or after August 13, 2023, is limited to the geographic area of the permanent duty station of the member of the armed force, unless there is no agency with a position within the geographic area of the PCS of the member of the Armed Forces.

Spouses of retired or separated active-duty members who have a 100% 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.

## **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 of Active Duty Member of the Armed Forces:**

1. A copy of the service member's active duty orders; and
2. Documentation verifying marriage to the member of the Armed Forces.
3. For appointments made **on or after August 13, 2023**, a copy of the service member's orders reflecting PCS, dated August 13, 2023, or later.

### **100% 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%; 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). The 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**

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

### **CTAP/ICTAP and RPL**

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

**REPORTING REQUIREMENTS:** EO 13832, "Enhancing Noncompetitive Civil Service Appointments of Military Spouses," and Section 573 of Public Law 115-232, The National Defense Authorization Act for Fiscal Year (FY) 2019, require Federal agencies to report annually on the non-competitive hiring of military spouses. Therefore, the SHROs, the ESC, and other offices within or outside the Office of Human Resources Management (OHRM) are required upon request to provide OHRM with the information necessary to complete the reporting requirements.

**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, Code of Federal Regulations, 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. National Defense Authorization Act for Fiscal Year 2019, Section 3330(d); *Federal Register*, Volume 86, Number 100

**OFFICE OF POLICY AND BENEFITS:** OPBservices@doc.gov

**Summary of Criteria and Requirements**

<b>Spouse Category</b>	<b>Before August 13, 2023</b>	<b>On or After August 13, 2023</b>
<b>Spouse of Active Service Member of Armed Forces</b>	<p><b><u>PCS Order</u></b> No PCS order required</p> <p><b><u>Number of Appointments</u></b> No limit on number of appointments</p> <p><b><u>Geographic Area</u></b> No restriction on geographic area of appointment</p> <p><b><u>SHRO/ESC Responsibilities</u></b> Verify all required documentation</p>	<p><b><u>PCS Order</u></b> PCS order required</p> <p><b><u>Number of Appointments</u></b> One appointment per PCS order</p> <p><b><u>Geographic Area</u></b> Restricted to geographic area of PCS order unless no agency in geographic area</p> <p><b><u>SHRO/ESC Responsibilities</u></b> Verify all documentation and ensure PCS order, geographic area, and number of appointment criteria are met</p>
<b>Spouse of 100% Disabled Service Member</b>	<p><b><u>Number of Appointments</u></b> Restricted to one lifetime appointment</p> <p><b><u>Geographic Area</u></b> No restriction on geographic area of appointment</p> <p><b><u>SHRO/ESC Responsibilities</u></b> Verify all required documentation, and ensure geographic area and number of appointments criteria are met</p>	<p><b><u>Number of Appointments</u></b> Restricted to one lifetime appointment</p> <p><b><u>Geographic Area</u></b> No restriction on geographic area of appointment</p> <p><b><u>SHRO/ESC Responsibilities</u></b> Verify all required documentation, and ensure geographic area and number of appointments criteria are met</p>
<b>Unmarried Widow or Widower</b>	<p><b><u>Number of Appointments</u></b> Restricted to one lifetime appointment</p> <p><b><u>Geographic Area</u></b> No restriction on geographic area of appointment</p> <p><b><u>SHRO/ESC Responsibilities</u></b> Verify all required documentation, and ensure geographic area and number of appointments criteria are met.</p>	<p><b><u>Number of Appointments</u></b> Restricted to one lifetime appointment</p> <p><b><u>Geographic Area</u></b> No restriction on geographic area of appointment</p> <p><b><u>SHRO/ESC Responsibilities</u></b> Verify all required documentation, and ensure geographic area and number of appointments criteria are met.</p>