

## **Template for Executive Branch Agency Policies on Hiring Schedule Policy/Career Employees**

### **Template General Instructions**

1. The purpose of this document is to provide federal agencies with a template that they may quickly adapt to their internal hiring policies to align with OPM's final regulations on Schedule Policy/Career.
2. The template is presenting policy for an entire Executive agency, since the regulations affected by this rule define "agency" as an Executive agency in 5 U.S.C. 105. Thus, subcomponents of a department or independent establishment are not separate agencies. Executive agencies may delegate authority consistent with law, regulations, and Administration policies in implementing these changes.
3. When fulfilling any collective bargaining obligations, agencies should carefully consider whether a union proposal is negotiable.
4. In the template, text boxes are used to show template instructions or notes that would not be part of the policy document issued by the agency. Those instructions and notes are intended to assist agencies as they use the template to create an agency policy document.
5. The template does not attempt to identify all possible issues related to agency hiring policies. Each agency may add agency-specific language as needed based on its mission needs.

## **Template Policy on Appointments under Schedule Policy/Career**

[Instructions: This document sets forth changes to agency policies regarding the hiring of new employees into Schedule Policy/Career positions. The policy provisions contained in this template are required to ensure compliance with law, OPM's regulation concerning the implementation of Schedule Policy/Career, and Executive Orders 13957 and 14171. Agencies may adapt this template to meet their mission needs.]

### **A. Applicability**

This policy applies to all positions placed into Schedule Policy/Career by the President at [AGENCY NAME].

### **B. Authority**

Executive Order 13957, as amended by Executive Order 14171, establishes Schedule Policy/Career as a new schedule in the excepted service. As codified in OPM regulations at parts 212, 213, and 302 of title 5, Code of Federal Regulations (C.F.R.), agencies must follow certain procedures for appointments into positions placed in Schedule Policy/Career. In compliance with these Executive Orders and OPM regulations, this policy establishes the rules governing appointments in Schedule Policy/Career.

### **C. Policy**

#### **a. Definition**

Schedule Policy/Career is a new excepted service schedule for career positions that are of a confidential, policy-determining, policy-making, or policy-advocating character (policy-influencing positions) as defined by Executive Order 13957, as amended, and 5 C.F.R. § 213.3601.

#### **b. Policy Statement**

All actions taken under this policy must be carried out fairly, transparently, and in strict adherence to applicable laws. While employees in Schedule Policy/Career positions are not required to have any particular personal, policy, or political views, they must faithfully implement administration policies to the best of their ability, consistent

with their constitutional oath and the vesting of executive authority solely in the President. Failure to do so is grounds for dismissal.

**c. Appointments**

Appointments to Schedule Policy/Career positions that were previously in the competitive service will be made using merit-based competitive hiring procedures. Positions moved from the excepted service into Schedule Policy/Career will be filled using excepted service procedures.

**d. Veterans' Preference**

When making appointments to positions in Schedule Policy/Career, [AGENCY NAME] must apply the principles of veterans' preference as far as administratively feasible. Where numerical ratings are used in the evaluation and referral of candidates, agencies shall follow the regulations related to veterans' preference in competitive examining found in 5 C.F.R. Part 302 and Part 337, Subpart A. When category ratings are used, agencies will follow 5 C.F.R. Part 337, Subpart C. And where another process is used, veterans' preference must be considered a positive factor.

**e. Competitive status**

Schedule Policy/Career new hires who are appointed via a merit-based competitive hiring process will acquire competitive status after completing two years of continuing service in the same or similar positions.

**f. At-Will Employment**

Schedule Policy/Career new hires will be excepted from chapter 43 and 75 procedures for performance-based and adverse actions. [AGENCY NAME] policy prohibiting prohibited personnel practices against employees or applicants for Schedule Policy/Career positions, including retaliation against whistleblowers, will continue to apply.

**D. Job Opportunity Announcements**

In an appropriate section of the job opportunity announcement on USAJOBS (e.g., under "Conditions of Employment") or in an appropriate section in other public

facing job postings, insert the following language, or language that meets the requirements, spirit and intent of OPM's final rule concerning Schedule Policy/Career and Executive Orders 13957 and 14171:

As a condition of employment for accepting this position, you will be serving in a position in Schedule Policy/Career of the excepted service. You will obtain competitive status after two years of service in this position, if applicable. Your employment in this position will be at-will. Merit Systems Protection Board (MSPB) appeals of adverse actions concerning performance, discipline, and other matters arising under chapters 23, 43, and 75 of title 5, United States Code, will not be available to an individual serving in this position. Prohibitions on prohibited personnel practices will be enforced by the Office of General Counsel [or agency equivalent position] and not the Office of Special Counsel.

#### **E. Pre-Employment or Onboarding Documentation**

It is crucial that new hires sign appropriate waivers when accepting an offer of a Schedule Policy/Career position. Upon offer of employment, human resources offices will provide notification to the employee that:

- Acceptance of this position will result in the employee occupying an excepted service position.
- The employee will serve at-will.
- The employee will not have a right to appeal to the Merit Systems Protection Board (MSPB) concerning performance, discipline, and matters arising under chapters 23, 43, and 75 of title 5, United States Code.
- Prohibitions on prohibited personnel practices will be enforced by the Office of General Counsel [or agency equivalent position] and not the Office of Special Counsel.
- The employee will obtain competitive status, where applicable, after two years of service in the position.

Notices will include an acknowledgement that the new hire has read and understood this information, that the employee understands that they will serve at-will without rights to appeal an action concerning performance, discipline, or whistleblowing to the MSPB, and that they have signed this notice voluntarily and not under duress.