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5 U.S. Code § 3318 - Competitive service; selection from certificates

U.S. Code Notes Authorities (CFR)

(a) The nominating or appointing authority shall select for appointment to each vacancy from the highest three eligibles available for appointment on the certificate furnished under section 3317(a) of this title, unless objection to one or more of the individuals certified is made to, and sustained by, the Office of Personnel Management for proper and adequate reason under regulations prescribed by the Office.

(b) OTHER APPOINTING AUTHORITIES.—

(1) IN GENERAL.—During the 240-day period beginning on the date of issuance of a certificate of eligibles under section 3317(a), an appointing authority other than the appointing authority requesting the certificate (in this subsection referred to as the “other appointing authority”) may select an individual from that certificate in accordance with this subsection for an appointment to a position that is—

(A) in the same occupational series as the position for which the certification of eligibles was issued (in this subsection referred to as the “original position”); and

(B) at a similar grade level as the original position.

(2) APPLICABILITY.—

An appointing authority requesting a certificate of eligibles may share the certificate with another appointing authority only if the announcement of the original position provided notice that the resulting list of eligible candidates may be used by another appointing authority.

(3) REQUIREMENTS.—The selection of an individual under paragraph (1)—

(A) shall be made in accordance with subsection (a); and

(B) subject to paragraph (4), may be made without any additional posting under section 3327.

(4) INTERNAL NOTICE.—Before selecting an individual under paragraph (1), and subject to the requirements of any collective bargaining obligation of the other appointing authority, the other appointing authority shall—

(A) provide notice of the available position to employees of the other appointing authority;

(B) provide up to 10 business days for employees of the other appointing authority to apply for the position; and

(C) review the qualifications of employees submitting an application.

(5) COLLECTIVE BARGAINING OBLIGATIONS.—

Nothing in this subsection limits any collective bargaining obligation of an agency under chapter 71.

(c)

(1) If an appointing authority proposes to pass over a preference eligible on a certificate in order to select an individual who is not a preference eligible, such authority shall file written reasons with the Office for passing over the preference eligible. The Office shall make the reasons presented by the appointing authority part of the record of the preference eligible and may require the submission of more detailed information from the appointing authority in support of the passing over of the preference eligible. The Office shall determine the sufficiency or insufficiency of the reasons submitted by the appointing authority, taking into account any response received from the preference eligible under paragraph (2) of this subsection. When the Office has completed its review of the proposed passover, it shall send its findings to the appointing authority and to the preference eligible. The appointing authority shall comply with the findings of the Office.

(2) In the case of a preference eligible described in section 2108(3)(C) of this title who has a compensable service-connected disability of 30 percent or more, the appointing authority shall at the same time it notifies the Office under paragraph (1) of this subsection, notify the preference eligible of the proposed passover, of the reasons therefor, and of his right to respond to such reasons to the Office within 15 days of the date of such notification. The Office shall, before completing its review under paragraph (1) of this subsection, require a demonstration by the appointing authority that the passover notification was timely sent to the preference eligible's last known address.

(3) A preference eligible not described in paragraph (2) of this subsection, or his representative, shall be entitled, on request, to a copy of—

(A) the reasons submitted by the appointing authority in support of the proposed passover, and

(B) the findings of the Office.

(4) In the case of a preference eligible described in paragraph (2) of this subsection, the functions of the Office under this subsection may not be delegated.

(d) When three or more names of preference eligibles are on a reemployment list appropriate for the position to be filled, a nominating or appointing authority may appoint from a register of eligibles established after examination only an