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5 U.S. Code § 3116 - Expedited hiring authority for post-secondary students; competitive service

U.S. Code Notes Authorities (CFR)

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—

The term “Director” means the Director of the Office of Personnel Management.

(2) INSTITUTION OF HIGHER EDUCATION.—

The term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) STUDENT.—

The term “student” means an individual enrolled or accepted for enrollment in an institution of higher education who is pursuing a baccalaureate or graduate degree on at least a part-time basis as determined by the institution of higher education.

(b) APPOINTMENT.—

(1) IN GENERAL.—

The head of an agency may make a time-limited appointment of a student, without regard to any provision of sections 3309 through 3319 and 3330, to a position in the competitive service at the GS-11 level, or an equivalent level, or below for which the student is qualified.

(2) RESTRICTIONS.—

An appointment under paragraph (1) shall be made in accordance with regulations prescribed by the Director.

(c) PUBLIC NOTICE.—

(1) IN GENERAL.—

The head of an agency making an appointment under subsection (b) shall publicly advertise positions available under this section.

(2) REQUIREMENTS.—In carrying out paragraph (1), the head of an agency shall—

(A) adhere to merit system principles;

(B) advertise positions in a manner that provides for diverse and qualified applicants; and

(C) ensure potential applicants have appropriate information relevant to the positions available.

(d) LIMITATION ON APPOINTMENTS.—

(1) IN GENERAL.—

Except as provided in paragraph (2), the total number of students that the head of an agency may appoint under this section during a fiscal year may not exceed the number equal to 15 percent of the number of students that the

agency head appointed during the previous fiscal year to a position at the GS-11 level, or an equivalent level, or below.

(2) EXCEPTIONS.—

Under a regulation prescribed under subsection (g), the Director may establish a lower limit on the number of students that may be appointed under paragraph (1) of this subsection during a fiscal year based on any factor the Director considers appropriate.

(e) CONVERSION.—The head of an agency may, without regard to any provision of chapter 33 or any other provision of law relating to the examination, certification, and appointment of individuals in the competitive service, convert a student serving in an appointment under subsection (b) to a permanent appointment in the competitive service within the agency without further competition if the student—

- (1)** has completed the course of study leading to the baccalaureate or graduate degree;
- (2)** has completed not less than 640 hours of current continuous employment in an appointment under subsection (b); and
- (3)** meets the qualification standards for the position to which the student will be converted.

(f) TERMINATION.—

The head of an agency shall, without regard to any provision of chapter 35 or 75, terminate the appointment of a student appointed under subsection (b) upon completion of the designated academic course of study unless the student is selected for conversion under subsection (e).

(g) REGULATIONS.—

Not later than 180 days after the date of enactment of this section, the Director shall issue interim regulations, with an opportunity for comment, for the administration of this section.

(h) REPORTING.—

(1) IN GENERAL.—Not later than September 30 of each of the first 3 fiscal years beginning after the date of enactment of this section, the head of an agency that makes an appointment under this section shall submit a report to—

- (A)** Congress that assesses the impact of the use of the authority provided under this section during the fiscal year in which the report is submitted;

and

(B) the Director that contains data that the Director considers necessary for the Director to assess the impact and effectiveness of the authority described in subparagraph (A).

(2) CONTENT.—The head of an agency shall include in each report under paragraph (1)—

(A) the total number of individuals appointed by the agency under this section, as well as the number of such individuals who are—

(i) minorities or members of other underrepresented groups; or

(ii) veterans;

(B) recruitment sources;

(C) the total number of individuals appointed by the agency during the applicable fiscal year to a position in the competitive service at the GS-11 level, or an equivalent level, or below; and

(D) any additional data specified by the Director.

(i) SPECIAL PROVISION REGARDING THE DEPARTMENT OF DEFENSE.—

(1) AUTHORITY.—

Nothing in this section shall preclude the Secretary of Defense from exercising any authority to appoint a post-secondary student under section 1106 of the National Defense Authorization Act for Fiscal Year 2017 (10 U.S.C. note prec. 1580), or any applicable successor statute.

(2) REGULATIONS.—

Any regulations prescribed by the Director for the administration of this section shall not apply to the Department of Defense during the period ending on the date on which the appointment authority of the Secretary of Defense under section 1106 of the National Defense Authorization Act for Fiscal Year 2017 (10 U.S.C. note prec. 1580), or any applicable successor statute, terminates.

(Added Pub. L. 115–232, div. A, title XI, § 1108(a), Aug. 13, 2018, 132 Stat. 2007; amended Pub. L. 116–92, div. A, title XI, § 1115, Dec. 20, 2019, 133 Stat. 1604.)