

**CHANGE IN 5 C.F.R. PART 335, PROMOTION AND INTERNAL PLACEMENT,
ALLOWING REINSTATEMENT OF FORMER EMPLOYEES
AT A HIGHER GRADE**

1. **PURPOSE:** The purpose of this notice is to announce the change in 5 C.F.R. Part 335, Promotion and Internal Placement, which allows agencies to reinstate former employees to any position in the competitive service at a higher grade than previously held.
2. **POLICY:** On June 8, 2021, the Office of Personnel Management published updates to 5 C.F.R. Part 335, affecting the reinstatement of former competitive service employees. The Department of Veterans Affairs (VA) Administrations and Staff Offices may incorporate the discretionary authority in [5 C.F.R. § 335.103\(c\)\(3\)\(viii\) Agency promotion programs](#) into their merit promotion plans.
 - a. **Definitions.**
 - (1) Competitive procedures. Competitive procedures as it applies to 5 C.F.R. § 335.103 means applicants must apply to job opportunity announcements and be selected from competitive merit promotion referral certificates.
 - (2) Non-competitive procedures. Non-competitive procedures as it applies to 5 C.F.R. § 335.103 means applicants must apply to job opportunity announcements and be selected from non-competitive merit promotion referral certificates.
 - b. The change to 5 C.F.R. § 335.103(c)(1)(vi) requires the use of competitive procedures to reinstate former competitive service employees into a permanent or temporary position at a higher grade or with more promotion potential than a position previously held permanently in the competitive service if separated employees:
 - (1) Apply for reinstatement within one year of leaving federal service; or
 - (2) Received less than Fully Successful on their most recent rating of record for a career or career-conditional position.
 - c. The change to 5 C.F.R. § 335.103(c)(3)(viii) permits Administrations and Staff Offices who have incorporated the requirements into their merit promotion plans to reinstate, using non-competitive procedures in accordance with 5 C.F.R. Part 315, former employees who held competitive service positions to any position at a higher grade or with more promotion potential than the career or career-conditional position previously held provided:

- (1) They qualify for the new position;
 - (2) They were separated for at least one year before applying for reinstatement; and
 - (3) They received at least a Fully Successful on their most recent rating of record for a career or career-conditional position.
- d. When making qualification determinations, Human Resources (HR) officers must:
- (1) Credit the experience former employees gain while separated from VA if the complexity of duties demonstrates it is equivalent to the next lower grade of the position they will be reinstated into.
 - (2) Credit any experience applicants had prior to employment with the Federal Government provided it demonstrates the complexity of duties equivalent to the next lower grade of the position they will be reinstated into.
 - (3) Ensure applicants who held a non-temporary General Schedule appointment in the competitive or excepted service within the prior 52 weeks meet time in grade (TIG) requirements.
- e. Before HR officers may reinstate a former employee under these procedures, they must:
- (1) Provide public notice through a job opportunity announcement;
 - (2) Clear the Reemployment Priority List;
 - (3) Clear the Career Transition Assistance Plan and Interagency Career Transition Plan; and
 - (4) Consider the Veterans Equal Opportunities Act of 1998 and the Land Management Workforce Flexibilities Act candidates.
- f. VA implemented a similar authority previously granted under P.L. 115-46, VA Choice and Quality Employment Act of 2017, Section 204, Reemployment of former employees at VA. Although Section 204 is not rescinded, the changes to 5 C.F.R. Part 335 are more lenient; thus, VA promotes this Notice that implements the more flexible regulation.

- 3. RESPONSIBLE OFFICE:** Office of Human Resources and Administration/ Operations, Security and Preparedness (HRA/OSP) (006), Office of the Chief Human Capital Officer (05), Recruitment and Placement Policy Service (059).
- 4. RELATED HANDBOOK:** VA Handbook 5005, Staffing, April 15, 2002.
- 5. RESCISSION:** This notice will be rescinded and guidance incorporated into VA Handbook 5005, dated April 15, 2002, no later than one year after this notice's publication date.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/
Guy T. Kiyokawa
Assistant Secretary for
Enterprise Integration

/s/
Cassandra M. Law
Assistant Secretary for
Human Resources and Administration/
Operations, Security and Preparedness

DISTRIBUTION: Electronic only