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**CHAPTER 302. EMPLOYMENT IN THE EXCEPTED SERVICE  
(To Be Used With 5 CFR 302)**

**1. SCOPE**

a. This chapter contains the requirements and procedures to be followed in making appointments and position changes to positions through Grade GS-15 or equivalent in the excepted civil service. In addition and as applicable, policies and procedures described in Chapter 300, "Employment (General)," and Chapter 335, "Internal Placement And Promotion," this part, will be observed.

b. This chapter does not apply to excepted service employment in the Veterans Health Administration under 38 U.S.C. ch. 73 and 74 authority, to employment in the Veterans Canteen Service under 38 U.S.C. ch. 78 authority, or to the employment of experts and consultants employed under the provisions of 5 CFR 304 authority. Also excluded are those positions excepted when filled by a particular group of persons such as the Veterans Readjustment Appointees, Severely Handicapped, Student Employment Program participants (Sch. B 213.3202(a), and those positions exempted under 5 CFR 302.101(c).

c. The requirement of 5 CFR Part 302 and the provisions of this chapter do not apply to the examination and selection of attorneys in the VA. Department and staff office heads, including the Chairman, Board of Veterans Appeals, have complete responsibility for accepting attorney applications, evaluating relative qualifications of these candidates, according veterans preference as appropriate, and except for positions centralized to the Secretary, making final selections.

**2. EXCEPTED APPOINTMENTS**

a. The Office of Personnel Management excepts positions from the competitive civil service under authority of 5 CFR 213.101. These positions are identified as Schedule A, Schedule B, or Schedule C. Those excepted positions which are common to more than one agency are listed in 5 CFR Part 213. Those peculiar to one agency are also listed in 5 CFR Part 213, as well as published in the Federal Register.

b. (1) Except where specific VA limitations are otherwise imposed, appointing officers may use any applicable Schedule A or Schedule B authority listed in 5 CFR Part 213 to meet employment needs.

(2) Purchase and hire employees are temporary workers in trades, crafts, or manual labor occupations appointed for a definite period of time not to exceed the duration of a construction or major repair project. These employees will be appointed under Schedule A, Section 213.3127(a)(1) authority.

c. Schedule C positions in the VA are in the departmental service. Appointments to these positions are made by the Headquarters and Executive Resources team under Schedule C, Section 213.3301 authority.

### 3. QUALIFICATION STANDARDS

Except where the qualification standards of the Office of Personnel Management are appropriate, e.g., Handbook X-118C for purchase and hire employees, necessary VA qualification standards for positions in the excepted service will be developed by the Customer Advisory and Consulting Group, Office of Human Resources Management (051) in conjunction with interested department and staff officials. Appointing officers wishing to modify or waive requirements of a qualification standard will be guided by the policies and principles stated in chapter 338, this part.

### 4. ACCEPTING APPLICATIONS

a. All applications solicited and accepted for employment consideration for positions in the excepted civil service must be complete, dated, and signed by the applicant. Except for applications for chaplain positions, which are to be forwarded, through channels, to the Director, Chaplain Service, all official applications accepted for employment will be maintained by VA Boards of Excepted Service Examiners in applicant supply files.

b. Verification of qualifications and suitability will be made as described in chapter 300, this part, and 5 CFR Part 731. Where verification or subsequent investigation following employment discloses disqualifying factors to such a degree that a satisfactory explanation or resolution is not possible, the responsible official may disqualify the applicant, or separate the employee under appropriate trial period or adverse action procedures. The disqualifying factors may be:

- (1) Dismissal from employment for delinquency or misconduct.
- (2) Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct.
- (3) International false statements of any material fact, or deception or fraud in connection with an application.
- (4) Habitual use of intoxicants to excess.
- (5) Any legal disqualification for appointment.

c. Applicants will be contacted at approximately yearly intervals (FL 5-20) to determine whether they are still available and wish continued consideration for employment. Where the applicant fails to reply or declines further consideration, the application will be filed in the inactive section of the applicant supply file and then be disposed of in accordance with VA records disposal procedures.

### 5. EXAMINING FOR EXCEPTED POSITIONS

a. VA Boards of Excepted Service Examiners. Examination and certification of applicants for excepted service positions will be accomplished by VA Boards of Excepted Service Examiners.

(1) Field Stations. Field station HRM offices having positions to fill in the excepted service, except positions centralized for appointment and placement purposes to the Secretary or a department or staff office head, will establish a Board. The Human Resources Management

Officer is designated as the chairperson of the Board, with an appropriate staff employee, grade GS-7 or above, as the executive secretary. When the staff employee does not meet this requirement, the Human Resources Management Officer will serve both as the chairperson and the executive secretary. Each organizational element having excepted positions for which the Board examines will be represented on the Board by one or more examining members. The members will serve on examining panels when called for such service by the chairperson. While assigned to rating duties, the members will report to the chairperson.

(2) Central Office. The Director, Chaplain Service, or designee will establish a Board to examine and certify candidates for chaplain positions in accordance with the provisions of this chapter, 5 CFR 302 and CS Rule VI, Section 6.3. The Deputy Assistant Secretary for Human Resources Management (DAS/HRM) will establish a Board to examine and certify eligibles to Central Office positions and to excepted positions centralized for employment purposes to the Secretary or a department or staff office head. The DAS/HRM will designate the chairperson of the Board and, he/she in turn will designate the executive secretary. Each organization element having excepted positions for which the Board examines will be represented on the Board by one or more examining members. The members will serve on examining panels, as needed, when called for such service by the chairperson. While assigned to rating duties, the members will report to the chairperson.

b. Rating Applications. Applicants will be rated against the appropriate qualification standard and assigned numerical ratings on a scale of 100, with 70 the minimum eligible rating. Such ratings will be augmented by 10 or 5 points, as appropriate, for applicants entitled to veteran preference. When the number of applicants, following the "rule of three" described in subparagraph c below, does not exceed the number of positions to be filled, a rating of "eligible" may be assigned in lieu of a numerical rating. In either case, a notice of the rating must be given to the applicant upon request.

c. Certifying Eligibles. In response to a request (SF 39) from the appointing officer, eligible candidates will be certified (VA Form 5-4681) by the Board for employment consideration. Generally, the Board will refer sufficient available candidates to permit selection consideration within the "rule of three." The preference order for referring candidates for professional and scientific positions at GS-9 and higher will follow the pattern described in 5 CFR 302, subchapter 3. For other positions, either Order A or Order B, described in the above FPM reference, may be selected to refer candidates. Once the order has been selected, it will be consistently used to certify candidates for employment considerations.

d. Records. Applications, examination records, register cards, and records of certification will be maintained in Board files in such a manner that inspection by VA or Office of Personnel Management representative is possible.

NOTE: VA Form 5-3959, Application Roster Sheet, may be used in lieu of register cards to show the status of and actions taken on applications.

## 6. MODIFICATION OF EXAMINING PROCEDURE

a. Schedule C Positions. Modification of the examining procedure above may be made for qualified candidates for Schedule C positions. Such candidates may be given an "eligible" rating by the appointing officer, or representative, and be selected for appointment without regard to the "rule of three." The principles of veteran preference must be followed, as far as administratively feasible. At the discretion of the Secretary, the evaluation and rating process resulting in a numerical rating by the Board may be applied in filling Schedule C positions.

b. Former Federal Employee Applicants. Any veteran preference applicant meeting the qualification requirements of the excepted position may be given an "eligible" rating by the appointing officer, or representative, provided the applicant had prior civilian service in the executive branch of the Federal Government or the District of Columbia Government. Such an applicant may be referred by the appointing officer and be selected without regard to the "rule of three."

c. Purchase and Hire Employees. Modification of the examining procedure above may be made for purchase and hire employees when the number of qualified applicants does not exceed the number of jobs to be filled. In this case the applicants may be given an "eligible" rating by the appointing officer, or representative, and be considered for appointment in order of their preference, i.e., 10-point preference eligibles, 5-point preference eligibles, and non-preference eligibles.

## 7. REASONS FOR NONSELECTION

When requesting passover of a preference eligible with a compensable service-connected disability of 30 percent or more in favor of lower ranking preference or non-preference eligibles, appointing officers must follow the procedures contained in FPM chapter 332, subchapter 4 and 5 CFR Part 339, subpart C, 339.306(b)(2), (3), and (4).

## 8. PLACEMENT FOLLOWUP

A placement followup will be used to evaluate the appropriateness of specific placement and employment actions in excepted service positions. Followups will be made for all initial appointments and significant position changes. After the employee has completed at least 90 days in the assignment, a human resources management office staff member will interview the supervisor to obtain information about the employee's performance, his/her adjustment to the job, and any training or other needs or outstanding work that warrants attention for further placement consideration. Where deficiencies are reported, the employee should also be interviewed to further explore the courses of action that may be taken to overcome them. The followup form, VA Form 5-97, Notice of Pending Personnel Action (see MP-6, pt. V, supp. No. 1.5), will be annotated to show that the followup was made, and only significant results will be recorded.

NOTE: The above procedures are minimum requirements and where possible, extension of the followup interview for all placement actions is encouraged. For example, a followup of all promotions can be a valuable aid in assessing the results of the station's promotion plan and the

validity of the evaluation and selection process. Also, separate placement followups with employees can be a valuable source of placement information as well as being an effective employee relations technique.

## 9. TRIAL PERIOD REQUIREMENTS

a. Trial Period Certification. Excepted service employees appointed to positions lasting more than 1 year (indefinite) are required to serve a trial period of 1 year. The trial period is a most important part of the examining procedure. This is the period when new employees are tested on the job for qualities and characteristics essential for satisfactory performance. To meet this responsibility supervisors must:

(1) Establish reasonable standards of performance and conduct for trial period employees to meet.

(2) Inform trial period employees about the standards and requirements.

(3) Help trial period employees to meet standards through necessary training and guidance.

(4) Promptly take steps to terminate trial period employees who, after a fair and reasonable trial, do not meet and keep the standards.

(5) Make the formal 10-month evaluation of each trial period employee a realistic and well-reasoned appraisal and base each recommendation for retention on a positive determination that the trial period employee has lived up to expectations and can reasonably be expected to continue to meet acceptable standards. (See MP-6, pt. V, supp. No. 1.5.)

b. Termination During Trial Period. Where termination during the trial period is to be taken, the employee will be given a written decision signed by the station head or the Human Resources Management Officer, where designated, of the reasons for his/her termination. As a general rule, the trial period employee should be given at least 2 weeks or more advance notice of his/her termination. However, this period may be shortened considerably, depending on the exigencies of the situation. The procedures to be followed in terminating an excepted service employee during his/her trial period are the same as for probationary employees except for appeal rights. Trial period employees can file a complaint under agency procedures that his/her termination was a result of discrimination on grounds of race, physical and mental handicap, age, color, religion, gender or national origin. Unlike the probationary period employee, however, the trial period employee has no appeal rights to the MSPB (Merit Systems Protection Board) on the basis that his/her termination was due to partisan political reasons or marital status (except VRA appointments as provided for in 5 CFR 307.104).

**APPENDIX B: VA SINGLE-AGENCY SCHEDULE A, B, AND C  
EXCEPTED APPOINTMENT AUTHORITIES**

**1. SCOPE**

a. The OPM (Office of Personnel Management) excepts positions from the competitive civil service under authority of Rule VI (FPM Supplement 990-1). Positions common to more than one agency are identified in 5 CFR Part 213.

b. This appendix contains specific information on the VA single-agency excepted service appointment authorities under Schedule A, B and C currently authorized by OPM for use in the VA. In conformance with OPM's delegated authority and VA restrictions or limitations, appointing officers are authorized to use applicable Schedule A or B appointing authorities listed in this appendix and in 5 CFR 213.

c. Appointment to Schedule C positions in the VA are restricted to specific positions authorized under 5 U.S.C. 213.3301.

**2. VA SINGLE-AGENCY EXCEPTED APPOINTMENT AUTHORITIES**

**Schedule A - Section 213.3127**

(a)(1). This authority is for temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project. (See MP-5, pt. I, ch. 302.)

(b) Not to exceed 400 positions of rehabilitation counselors GS-3 through GS-11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients (see VHA Supplement, MP-5, pt. I, ch. 302, sec. A).

(d) Not to exceed 400 positions at grades GS-3 through GS-11, involved in the Veterans Administration Vietnam Era Veterans Readjustment Counselor Program. No one may serve under this authority after August 31, 1984.

**Schedule B - Section 213.3227**

(a) Not to exceed 800 principal investigatory, scientific, professional and technical positions at grade GS-11 and above in the medical research program. Employment under this authority is not time-limited.

**Schedule C**

Schedule C positions are of a confidential or policy determining character and may be made without an OPM examination. Schedule C positions are normally located in Central Office. Therefore, the processing of Schedule C appointments is the responsibility of the Headquarters & Executive Resources Team (052).

**MP-5, PART I, CHAPTER 302. EMPLOYMENT IN THE EXCEPTED SERVICE**

**APPENDIX C: SCHEDULE B APPOINTMENT AUTHORITY FOR PROFESSIONAL AND ADMINISTRATIVE CAREER (PAC) POSITIONS**

**1. PURPOSE.** This appendix sets forth guidelines and instructions for requesting authority to make appointments to certain listed positions designated PAC (Professional and Administrative Career) Positions under Schedule B, 5 CFR 213.3202(1).

**2. BACKGROUND.** FPM Letter 213.32, dated September 9, 1982, abolished the PACE (Professional and Administrative Career Examination), canceled the PACE register and established a new Schedule B appointing authority to fill entry level PAC positions. In order to comply with a decree which was entered by the United States District Court for the District of Columbia in the civil action known as Luevano v. Devine, No. 79-271, the PACE was eliminated. The decree has, as its purpose, the elimination of adverse impact, if any, in the appointment of Blacks and Hispanics to positions formerly covered by the PACE.

**3. SCOPE**

a. Most entry level PAC positions in the VA are filled through such recruitment sources as internal placement, transfer, reinstatement of status candidates, and noncompetitive appointment authorities. OPM (Office of Personnel Management) requires use of all these sources prior to requesting the Schedule B noncompetitive appointment authority. Since employment statistics indicate that the VA was not a major user of the PACE, use of the Schedule B authority to fill PAC positions is expected only in extreme and unusual circumstances.

b. The schedule B, section 213.3202(1), authority may be used only to appoint a candidate who is not eligible for a noncompetitive appointment to the competitive service. Employees occupying PAC positions under non-temporary appointments effected under schedule B, section 213.3202(1), may be converted to career or career-conditional appointments at the GS-9 level in accordance with FPM bulletin 213-76 dated July 22, 1987.

c. Requests for OPM approval of Schedule B authority from field stations will be processed by the Customer Advisory and Consulting Group (051) on a case-by-case basis. Following VA Central Office review and submission, and in the event OPM grants approval to use the authority, care should be given to use it consistently with provisions of the negotiated union agreements and the FEORP (Federal Equal Opportunity Recruitment Program).

**4. INSTRUCTIONS**

a. Recruitment Requirements. Prior to requesting the Schedule B authority, field facilities are required to make use of both internal and certain external recruitment sources. Available recruitment sources shall include, but are not limited to:

(1) Status Candidates. Consideration must be given to candidates available for promotion, reassignment, transfer and reinstatement, plus those on OPM's DEP (Displaced Employee Program) and IPAP (Interagency Placement Assistance Program) lists.

(2) Candidates Eligible for Appointment Under Excepted Authorities With Provisions for Noncompetitive Conversion. These include individuals eligible for appointment under the Cooperative Education Program; Federal Junior Fellowship Program; VRA (Veterans Readjustment Authority); authorities for 30 percent or more disabled veterans, and certain handicapped individuals; title 38, United States Code, chapter 31 trainees, et cetera.

b. Submitting Requests for Schedule B Authority. If all efforts to recruit, utilizing the recruitment sources indicated above, are unsuccessful, and a field station is unable to fill a PAC position, requests for the Schedule B authority will then be forwarded through appropriate channels to the Customer Advisory and Consulting Group (051) for review and submission to the OPM.

c. Justification Requirements. Detailed documentation of the PAC position(s) to be filled and of all strategies undertaken to recruit and fill the positions must accompany requests for the Schedule B authority. Requests received in VA Central Office that do not contain the following documentation, as a minimum, will be returned to the field station without action:

(1) Identification of Position(s). State the number, title, series, grade level, and geographic location of the position(s) for which authority is requested.

(2) Description of the Use Made of Internal Placement Recruitment Sources and Other Sources of Status Candidates. Describe the use and results of these sources including the numbers and dates of vacancy announcements; whether or not the area of consideration was extended and if not, why. State the source, the number of applicants from each source, the number referred for consideration from each source, and reasons for nonselection.

(3) Description of the Use Made of OPM's DEP and IPAP Lists. State the area office(s) contacted, including the name of the official contacted and date of contact; the number of DEP/IPAP applicants provided, if any, and status (i.e., number responding to employment inquiry, number failed to respond, number offered employment, number of declinations, and number non-selected); and reason(s) for non-selection.

(4) Description of the Use Made of Excepted Appointment Authorities Allowing Noncompetitive Conversion (i.e., VRA, Cooperative Education, Disabled Veterans, Handicapped, etc.). Describe what actions were undertaken to recruit. State specific contacts made to accomplish recruitment, including the dates and the results of those actions.

(5) Identify other innovative staffing strategies, not included above, that were undertaken to recruit and fill the position(s) for which Schedule B authority is requested (e.g., upward mobility opportunity, redesign/reengineering of position downward for use of other registers.)

d. Maintenance of Files. Each facility granted use of the Schedule B authority will maintain, for a period of at least 2 years beyond the expiration date of the consent decree (or November 19,

1988), the following minimum records for any personnel action taken under 5 CFR 213.3202(1), and will make the records available at any time OPM or VA Central Office may request them:

- (1) Name of appointee;
- (2) Date of appointment; and

(3) All applications and relevant documents needed to permit reconstruction of the personnel action. This will include the names and application forms of all persons considered, and requesting consideration, for the PAC position. Personnel officials should consult with the Customer Advisory and Consulting Group (051) before disposing of records indicated above.

e. Data Collection. Under the terms of the consent decree, agencies are required to collect race and ethnic data from all applicants for appointment to a PAC position. Information on, and instructions for, the collection of this data will be provided by OPM when authorization to use the authority is granted. To enable Central Office of monitor the use of, and the number of hires under, the Schedule B authority, Directors will submit the following to the Customer Advisory and Consulting Group (051):

- (1) Name of appointee;
- (2) Position, title, series, and grade;
- (3) Date of appointment; and,
- (4) Case numbers used in completing VA Form 5-3487, Race and Ethnic Case Data.

(5) When an appointee under the Schedule B PAC authority attains competitive status or terminates Schedule B PAC employment.

f. Part 302 Excepted Appointment procedures. The requirements of part 302 of the civil service regulations and the provisions of this chapter apply to filling positions under this excepted authority; however, facilities granted approval to use this authority may hire individuals directly into the PAC Outstanding Scholar Program and the PAC Bilingual/Bicultural Program.

(1) Title 5 United States Code, Section 3320 requires that hiring for excepted service positions in the Federal executive branch from among qualified applicants be done in the same manner and under the same conditions as are required for the competitive service by 5 U.S.C. 3308-3318. Provided the facility is granted use of the Schedule B excepted authority, it must follow the full procedural Part 302 requirements which are supplemented by MP-5, part I, chapter 302.

(2) Chapter 302, this part, also requires the application of veteran preference by augmenting rating by 5 or 10 points, as appropriate.

**5. EMPLOYEE RIGHTS, PRIVILEGES AND BENEFITS**

a. Trial Period. An incumbent of a Schedule B PAC position is subject to a trail period of 1 year. If the Schedule B PAC employee is subsequently appointed to a new position from a competitive register, that appointment will be subject to a new 1-year probationary period. Schedule B PAC service, however, will be credited towards completion of the probationary period if it is in the same agency and line of work and precedes the competitive appointment without a break in service.

a. Pay and Benefits. Pay, retirement, health benefits, life insurance, and leave accrual provisions are the same as for competitive service employees.

c. Internal Placement. Schedule B PAC employees may be promoted or reassigned only to other PAC positions at GS-5/7. Eligible qualified Schedule B incumbents of PAC positions may be considered for non-PAC, higher level jobs and be appointed if they are in reach on a civil service register.

d. Legal Protections and Appeal Rights. Schedule B PAC employees have the same legal protections and appeal rights as competitive service employees.

e. Qualifications. Applicants for Schedule B PAC positions must meet the appropriate VA or Handbook X-118 qualification requirements, except for written test requirements, for the specific position to which appointed.

f. Additional information applicable to Schedule B PAC employees may be found in appropriate regulations and MP-5 chapters.

**PAC POSITIONS**

Occupations Subject to the Luevano v. Devine Decree and Designated as PAC Positions

<b>Series</b>	<b>Title</b>	<b>Series</b>	<b>Title</b>
011	Bond Sales Promotion	501	General Accounting Clerical and Administrative
018	Safety Management		
020	Community Planning	526	Tax Technician
023	Outdoor Recreation Specialist	560	Budget Administration
025	Park Management	570	Financial Institution Examining
028	Environmental Protection	673	Hospital Housekeeping Management
080	Security Administration	685	Public Health Program Specialist
101	Social Science	950	Paralegal Specialist
105	Social Insurance Administration	962	Contact Representative
106	Unemployment Insurance	965	Land Law Examining
110	Economist	967	Passport and Visa Examining
120	Food Assistance Program Specialist	987	Tax Law Specialist
		990	General Claims Examining

130	Foreign Affairs	991	Workmen's Compensation Claims Examining
131	International Relations	993	Social Insurance Claims Examining
132	Intelligence	994	Unemployment Compensation Claims Examining
140	Manpower research and Analysis	996	Veterans Claims Examining
142	Manpower Development	997	Civil Service Retirement Claims Examining
150	Geography	1001	General Arts and Information (Fine and Applied Arts positions are excluded)
170	History	1015	Museum Curator
180	Psychology	1035	Public Affairs
184	Sociology	1082	Writing and Editing
187	Social Sciences	1083	Technical Writing and Editing
190	General Anthropology	1101	General Business and Industry
193	Archeology	1102	Contract and Procurement
201	Personnel Management	1103	Industrial Property Management
205	Military Personnel Management	1104	Property Disposal
212	Personnel Staffing	1130	Public Utility Specialist
221	Position Classification	1140	Trade Specialist
222	Occupational Analyst	1145	Agricultural Program Specialist
223	Salary and Wage Administration	1146	Agricultural Marketing
230	Labor Management and Employee Relations	1147	Agricultural and Fisheries Marketing Reporter
233	Labor Relations	1149	Wage and Hour Law Administration
235	Employee Development	1150	Industrial Specialist
244	Labor Management Relations Examining	1160	Financial Analysis
246	Contractor Industrial Relations	1163	Insurance Examining
249	Wage and Hour Compliance Specialist	1165	Loan Specialist
301	General Clerical and Administrative	1169	Internal Revenue Officer
334	Computer Specialist (Trainee)	1170	Realty
341	Administrative Officer	1864	Public Health Quarantine Inspection
343	Management Analysis	1889	Import Specialist
345	Program Analysis	1890	Customs Inspection
346	Logistic Management	1910	Quality Assurance Specialist
393	Communications Specialist	2001	General Supply
1171	Appraising and Assessing	2003	Supply Program Management
1173	Housing Management	2010	Inventory Management
1176	Building Management	2030	Distribution Facilities and Storage Management
1412	Technical Information Services	2032	Packaging Specialist
1420	Archivist	2050	Supply Cataloging
1421	Archives Specialist	2101	General Transportation
1654	Printing Management		
1701	General Education and Training		
1715	Vocational Rehabilitation (for positions at GS-7 only)		
1720	Education Research and Program Specialist		

1810	General Investigating	2110	Transportation Industry Analysis
1811	Criminal Investigating (except for Treasury Enforcement Agents)	2111	Transportation Rate and Tariff Examiner
1812	Game Law Enforcement (GS-5)	2125	Highway Safety Management
1816	Immigration Inspection	2130	Traffic Management
1831	Securities Examining Compliance	2144	Cargo Scheduling
1854	Alcohol, Tobacco, and Firearms Inspection	2150	Transportation Operations