

Categories of Federal Civil Service Employment: An Overview of Appointment, Pay, and Adverse Action Entitlements

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Jon O. Shimabukuro
Legislative Attorney

Barbara L. Schwemle
Analyst in American
National Government

Categories of Federal Civil Service Employment: An Overview of Appointment, Pay, and Adverse Action Entitlements

According to the Office of Personnel Management (OPM), the executive branch of the federal government consists of an estimated two million civilian employees. Federal law categorizes these employees into three types of service—the competitive service, the excepted service, and the Senior Executive Service (SES)—that may be distinguished by different selection, compensation, and other standards. 5 U.S.C. §§ 2101a-2103. Title 5 of the U.S. Code (Title 5) contains most of the standards governing federal employment for employees subject to Title 5, and OPM is generally responsible for implementing these requirements.

The competitive service largely consists of all civil service positions in the executive branch, other than (1) positions excepted from the competitive service by statute; (2) positions appointed by the President and confirmed by the Senate; and (3) the SES. *Id.* § 2101. Traditionally, OPM has administered examinations for entrance into the competitive service. 5 C.F.R. § 332.101(a). These examinations are meant to be “practical in character” and relate to “matters that fairly test the relative capacity and fitness of the applicants for the appointment sought.” 5 U.S.C. § 3304(b)(1). Title 5 also authorizes OPM to prescribe rules allowing agencies to hire candidates directly under specified circumstances. *Id.* § 3304(b)(3).

The excepted service includes designated civil service positions that are not in the competitive service or the SES and are not subject to competitive examination. *Id.* § 2103(a). OPM maintains authority to exempt a position from the competitive service when it determines that an appointment through competitive examination is not practicable, or the recruitment of students or recent graduates would be better achieved through alternate recruitment and assessment processes. 5 C.F.R. § 213.102(b).

The pay structure for the competitive service and the excepted service is similar. Both services are typically paid in accordance with the General Schedule, a schedule of annual basic pay rates that consists of 15 grades, designated “GS-1” through “GS-15.” 5 U.S.C. § 5332. This fixed pay scale is generally designed to reflect, among other things, equal pay for substantially equal work within a local pay area. *Id.* § 5301. Additionally, employees in the competitive service and those meeting specified tenure requirements in the excepted service have similar notice and appeal rights for adverse personnel actions. *Id.* § 7511(a)(1). For example, before a removal, a suspension for more than 14 days, a reduction in grade or pay, or a furlough of 30 days or less, the agency must provide at least 30 days’ advance written notice to the affected employee. *Id.* § 7513(b)(1). The employee must also be given a reasonable time to respond to the notice and provide affidavits and other evidence to support the answer. *Id.* § 7513(b)(2). Some adverse actions may also be appealed to the Merit Systems Protection Board (MSPB or Board), an agency that reviews and adjudicates specified personnel actions taken against qualifying federal employees. *Id.* § 7701.

The SES is a corps of high-level government employees who manage major programs and projects within most federal agencies. *Id.* § 2101a. In these leadership roles, SES members may serve as a link between top-level political appointees of an agency and career civil servants within the agency. The SES is governed by a regulatory structure separate from the competitive and excepted services. *Id.* §§ 3131-3136. While SES members are primarily career appointees chosen through a merit-based competitive hiring process, others are noncareer, limited term, or limited emergency appointees (commonly political appointees) selected by agency leadership. *Id.* §§ 3393-3394. To shield certain SES roles from political influence, some SES positions (career reserved positions) must be filled with career appointees, and Title 5 limits the number of noncareer and limited term appointees who may serve in SES positions. *Id.* § 3134.

The SES pay structure is distinct from the rest of the civil service. *Id.* § 5382. Title 5 specifies that SES members are paid within a particular range based on an executive’s individual performance or contribution to agency performance (or both), as measured under a performance appraisal system. *Id.* In addition, Title 5 articulates special conditions and procedures for removing, suspending, or taking other adverse actions against a member of the SES. *Id.* §§ 7541-7543. For example, career SES appointees who have successfully completed a one-year probationary period may be removed or subject to adverse action only for specified reasons, including misconduct and substandard performance. *Id.* § 7543(a). Career appointees must receive advance written notice of these actions, and an opportunity to appeal the action. *Id.* § 7543(b), (d). In comparison,

noncareer, limited term, and limited emergency appointees are generally not subject to the same protections and may be removed from the SES at any time. *Id.* § 3592(c).

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Introduction

The federal government is the nation's largest employer,¹ with more than two million executive branch employees in the United States, U.S. Territories, and foreign countries.² A majority of these employees work in the competitive service.³ Applicants for competitive service positions compete with other applicants and are evaluated according to objective standards before they may be appointed.⁴ The executive branch includes two other service classifications—the excepted service and the Senior Executive Service (SES)—with hiring and removal standards that diverge from those prescribed for the competitive service. Positions in the excepted service are specifically excepted from the competitive service by statute, by the President, or by the Office of Personnel Management (OPM).⁵ SES positions are also not in the competitive service.⁶ The SES includes senior managerial, supervisory, and policy positions that are subject to a different pay scale, as well as different hiring and removal standards.⁷ This report examines the three service classifications, and reviews some of the central features and notable differences among these classifications.

Competitive Service

The competitive service consists of all civil service positions in the executive branch, except the following:

- positions that are specifically excepted from the competitive service by or under statute;
- positions to which appointments are made by presidential nomination for confirmation by the Senate, unless the Senate otherwise directs; and
- positions in the SES.⁸

The competitive service also includes non-executive branch positions and positions in the District of Columbia government that are specifically included in the competitive service by statute.⁹

¹ Off. of Disability and Employment Policy, Dep't of Labor, Federal Employers, <https://www.dol.gov/odep/topics/federalemloyment.htm> [<https://perma.cc/H55B-SJ7P>] (last visited Sep. 22, 2026).

² U.S. Off. of Personnel Mgmt., Workforce Size & Composition (July 2026), <https://data.opm.gov/explore-data/analytics/workforce-size-and-composition> [<https://perma.cc/9M3W-N78L>]. The Office of Personnel Management's Federal Workforce Data site is sourced primarily from the agency's Enterprise Human Resources Integration system. The system covers most executive branch employees and, in general, does not include legislative or judicial branch employees.

³ See U.S. OFF. OF PERSONNEL MGMT., EXCEPTED SERVICE HIRING AUTHORITIES: THEIR USE & EFFECTIVENESS IN THE EXECUTIVE BRANCH at 8 (July 2018) (on file with author).

⁴ See 5 C.F.R. § 332.404 (2025) (requiring an appointing officer to fill vacancies "with sole regard to merit and fitness").

⁵ *Id.* § 213.101(a).

⁶ See 5 U.S.C. § 2102(a)(1)(C) (excluding SES positions from the definition of "competitive service").

⁷ *Id.* § 3131.

⁸ *Id.* § 2102(a). The legislative branch includes employees in both the competitive service and the excepted service. Political appointees are generally in Schedule C of the excepted service. See U.S. GEN. ACCT. OFF., THE EXCEPTED SERVICE: A RESEARCH PROFILE 10, 24 n.14 (May 1997), <https://www.gao.gov/assets/80/79968.pdf> [<https://perma.cc/DY9F-EXB9?type=image>].

⁹ 5 U.S.C. § 2102(a).

Appointment Process

OPM administers examinations for entrance into the competitive service.¹⁰ These examinations are meant to be “practical in character” and relate to “matters that fairly test the relative capacity and fitness of the applicants for the appointment sought[.]”¹¹ OPM identifies the relative weights for the subjects in an examination, and assigns numerical ratings on a 100-point scale.¹²

Applicants who meet the minimum requirements for entrance to an examination, such as citizenship and residence requirements, and are rated 70 or more in the examination are eligible for appointment in the competitive service.¹³ These individuals are placed on registers or lists of eligibles.¹⁴ When an agency seeks to fill a competitive service position, it requests a certificate of eligibles from OPM.¹⁵ This certificate is to include enough names from the top of the relevant register to allow an agency appointing official to consider at least three individuals for every position to be filled.¹⁶

The competitive service includes several types of appointments. An individual selected for a continuing position is generally appointed as a career-conditional employee subject to an initial one-year probationary period.¹⁷ After three continuous years of service in a career-conditional appointment, an employee will be converted to a career appointment.¹⁸ A term appointment is a nonpermanent appointment for a period of more than one year, but fewer than four years.¹⁹ An agency may make a term appointment when the need for an employee’s services is not permanent, but involves a special project, extraordinary workload, or reorganization.²⁰ A temporary appointment is a time-limited appointment for a period not to exceed one year.²¹ An agency may make a temporary appointment to fill a short-term position or meet an employment need that is scheduled to end within a specified timeframe.²²

¹⁰ 5 C.F.R. § 332.101(a). Beginning in 2025, the Trump Administration has taken a number of actions to reform the federal hiring process for competitive service positions, with the goals of reforming the recruitment process, implementing skills-based hiring, revising the application process, and reducing time to hire. For a more detailed discussion of these developments, see CRS Report R48750, *Federal Hiring Process for Positions in the Competitive Civil Service: Overview and Recent Reforms* (2025) by Taylor N. Riccard and Barbara L. Schwemle.

¹¹ 5 U.S.C. § 3304(b)(1).

¹² 5 C.F.R. § 337.101(a).

¹³ *Id.* See also *id.* § 2.1(a)(ii) (identifying standards that applicants must meet to be admitted to or rated in examinations).

¹⁴ 5 U.S.C. § 3313.

¹⁵ *Id.* § 3317(a). OPM may also allow an agency to appoint a candidate without regard to the competition requirements if it determines that there is either a severe shortage of candidates or a critical hiring need. See *id.* § 3304(a)(3).

¹⁶ *Id.* § 3317(a).

¹⁷ 5 C.F.R. § 315.201(a). An employee’s appeal rights to the Merit Systems Protection Board (MSPB) are more limited during a probationary period. For example, an employee may appeal a termination not otherwise prohibited by law only if the action was based on partisan political reasons or marital status, or was not effected in accordance with certain procedural requirements. See *id.* § 315.806.

¹⁸ *Id.* § 315.201(a).

¹⁹ *Id.* § 316.301(a).

²⁰ *Id.*

²¹ *Id.* § 316.401(c)(1).

²² *Id.* § 316.401(a).

Pay Structure

Employees in the competitive service are generally paid in accordance with the General Schedule, a schedule of annual basic pay rates that consists of 15 grades, designated “GS-1” through “GS-15.”²³ The grades include 10 steps that provide for increasing rates of pay. An employee may receive a periodic step-increase, commonly referred to as a within-grade increase, if the employee is paid less than the maximum rate for his or her position and the employee’s work is “at an acceptable level of competence,” as determined by the head of an agency.²⁴ The increase may be made annually at steps 1, 2, and 3; every two years at steps 4, 5, and 6; and every three years at steps 7, 8, and 9 of the General Schedule.²⁵

General Schedule salaries are based on the principles that there is equal pay for substantially equal work within a local pay area, that any pay distinctions are based on work and performance, that federal pay rates are comparable with non-federal pay rates for the same level of work, and that any pay disparities between federal and non-federal employees should be eliminated.²⁶

Adverse Action Protections and Procedures

Employees in the competitive service who are not serving a probationary or trial period, or have completed one year of current continuous service in a position other than a temporary appointment limited to one year or less, maintain specified notice and appeal rights for adverse personnel actions.²⁷ Before an agency may suspend such a qualifying employee for up to 14 days, the employee must be given an advance written notice that identifies the specific reasons for the suspension.²⁸ The employee must also be provided a reasonable time to answer the notice and furnish affidavits and other evidence to support the answer.²⁹

Similar notice is required before an agency may subject a qualifying employee to other adverse personnel actions. Before a removal, a suspension for more than 14 days, a reduction in grade or pay, or a furlough of 30 days or less, the agency must provide at least 30 days’ advance written notice to the employee.³⁰ The employee must also be given a reasonable time to respond to the

²³ 5 U.S.C. § 5332(a)(2). In addition to the General Schedule, there are other pay systems that set pay rates for specified employees. *See, e.g.*, U.S. Off. of Personnel Mgmt., Federal Wage System, <https://www.opm.gov/policy-data-oversight/pay-leave/pay-systems/federal-wage-system/> (last visited Oct. 19, 2026) (describing the pay system that covers federal appropriated fund and nonappropriated fund blue-collar employees who are paid by the hour).

²⁴ 5 C.F.R. § 531.404.

²⁵ 5 U.S.C. § 5335(a). An additional step-increase may be granted to an employee “in recognition of high quality performance above that ordinarily found in the type of position concerned.” *See* 5 U.S.C. 5336(a). An employee is eligible for only one additional step-increase within any 52-week period.

²⁶ *Id.* § 5301.

²⁷ *See id.* §§ 7503(b), 7513. *See also id.* § 7511(a)(1)(A) (defining an “employee” in the competitive service for purposes of adverse actions that may be appealed to the MSPB). In some instances, an employee who has not served a full year under her appointment may include prior service to show that she has completed the probationary period. *See Henderson v. Dep’t of Treasury*, 114 M.S.P.R. 149, 152 (2010) (“An appellant who has not served a full year under her appointment can show that she has completed the probationary period, and so is no longer a probationer, by tacking on prior service if (1) the prior service was rendered immediately preceding the probationary appointment; (2) it was performed in the same agency; (3) it was performed in the same line of work; and (4) it was completed with no more than one break in service of less than 30 days.”).

²⁸ 5 U.S.C. § 7503(b)(1).

²⁹ *Id.* § 7503(b)(2). The employee is also entitled to be represented by an attorney or other representative and to receive a written decision at the earliest practicable date.

³⁰ *Id.* § 7513(b).

notice and provide affidavits and other evidence to support the answer.³¹ Unlike suspensions for up to 14 days, these adverse actions may be appealed to the Merit Systems Protection Board (MSPB or Board), an agency that reviews and adjudicates specified personnel actions taken against qualifying federal employees.³²

In general, an agency must establish three factors to withstand an individual's challenge of his or her adverse personnel action.³³ First, the agency must prove, by a preponderance of the evidence, that the charged conduct occurred.³⁴ Second, it must establish a nexus between that conduct and the efficiency of the civil service.³⁵ Finally, the agency must show that the penalty imposed on the employee is reasonable.³⁶ An agency's action may not be sustained if the appellant shows: (1) harmful error in applying the agency's procedures in arriving at its decision; (2) the decision was based on a prohibited personnel practice; or (3) the decision was not in accordance with law.³⁷

Excepted Service

About one-third of all federal workers in the executive branch are employed in the excepted service.³⁸ The excepted service consists of those civil service positions that are not in the competitive service or the SES.³⁹ Positions in the excepted service may be designated by statute or by OPM, and are not subject to competitive examination.⁴⁰ OPM will exempt a position from the competitive service when it determines that an appointment through competitive examination is not practicable, or the recruitment of certain students or recent graduates would be better achieved through alternate recruitment and assessment processes.⁴¹ For example, OPM may determine that a position should be excepted from the competitive service because it is impracticable to examine the knowledge, skills, and abilities required for a position.⁴²

³¹ *Id.* The employee is also entitled to be represented by an attorney or other representative, and a written decision at the earliest practicable date.

³² *See id.* § 7513(d) (identifying the powers and functions of the MSPB).

³³ *See Hansen v. Dep't of Homeland Sec.*, 911 F.3d 1362, 1366 (Fed. Cir. 2018) (discussing factors that must be established by an agency to sustain an adverse action); *Pope v. U.S. Postal Serv.*, 114 F.3d 1144, 1147 (Fed. Cir. 1997).

³⁴ *Hansen*, 911 F.3d at 1366. *See also* 5 C.F.R. § 1201.4(q) (defining "preponderance of the evidence" as "[t]he degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue").

³⁵ *See Hansen*, 911 F.3d at 1366.

³⁶ *Id.*

³⁷ 5 U.S.C. § 7701(c)(2). *See also* 5 C.F.R. § 1201.4(r) (defining "harmful error" as "[e]rror by the agency in the application of its procedures that is likely to have caused the agency to reach a conclusion different from the one it would have reached in the absence or cure of the error").

³⁸ *See* EXCEPTED SERVICE HIRING AUTHORITIES, *supra* note 3 at 8.

³⁹ 5 U.S.C. § 2103(a).

⁴⁰ *See, e.g.*, 10 U.S.C. § 1601(a) ("The Secretary of Defense may—(1) establish, as positions in the excepted service, such defense intelligence positions in the Department of Defense as the Secretary determines necessary to carry out the intelligence functions of the Department, including—(A) Intelligence Senior Level positions designated under section 1607 of this title; and (B) positions in the Defense Intelligence Senior Executive Service. . . .").

⁴¹ 5 C.F.R. § 213.102(b).

⁴² *See id.* § 213.102(c)(1).

Appointment Process

Positions in the excepted service are categorized into seven schedules or categories of appointment authority. Schedule A includes positions that are not of a confidential or policy-determining character for which it is not practicable to examine applicants.⁴³ Attorneys, chaplains, and short-term positions for which there is a critical hiring need are examples of schedule A positions.⁴⁴

Schedule B also includes positions that are not of a confidential or policy-determining character for which it is not practicable to examine applicants.⁴⁵ Unlike Schedule A positions, however, these positions require an applicant to satisfy basic qualification standards established by OPM for the relevant occupation and grade level.⁴⁶ Individuals appointed to schedule B positions engage in a variety of activities, including policy analysis, teaching, and technical assistance.⁴⁷

Positions in schedule C are policy-determining or involve a close and confidential working relationship with the head of an agency or other key appointed officials.⁴⁸ These positions include most political appointees below the cabinet and subcabinet levels.⁴⁹ Political appointees are generally appointed by the President or his delegates and have no expectation of continued employment beyond the presidential administration in which the appointment is made. An agency may have a variety of titles for jobs designated as schedule C.⁵⁰

Schedule D includes positions that are not of a confidential or policy-determining character for which competitive examination makes it difficult to recruit a sufficient number of certain students or recent graduates.⁵¹ Examples of schedule D positions include those involving science, technology, engineering, or mathematics (STEM) occupations and positions in the Presidential Management Fellows Program.⁵² Schedule D positions generally require an applicant to satisfy basic qualification standards established by OPM for the relevant occupation and grade level.⁵³

Schedule E includes administrative law judges (ALJs) who are appointed under 5 U.S.C. § 3105.⁵⁴ This section provides that each agency shall appoint as many ALJs as are necessary for proceedings required to be conducted. The establishment of Schedule E followed the U.S. Supreme Court's decision in *Lucia v. Securities and Exchange Commission (SEC)*, a 2018 decision involving the appointment of that agency's ALJs.⁵⁵ In *Lucia*, the Court determined that the SEC's ALJs are "Officers of the United States," who must be appointed in accordance

⁴³ *Id.* § 6.2.

⁴⁴ *Id.* § 213.3102.

⁴⁵ *Id.* § 6.2.

⁴⁶ *Id.* § 213.3201(a). OPM has directed agencies to establish these qualification standards. *See id.* § 302.202 ("Before making an appointment to a position covered by this part, each agency shall establish qualification standards such as those relating to experience and training, citizenship, minimum age, physical condition, etc., which shall relate to the duties performed.").

⁴⁷ *See* Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions, 89 Fed. Reg. 61,177, 61,185 (July 30, 2024).

⁴⁸ 5 C.F.R. § 213.3301.

⁴⁹ *See* EXCEPTED SERVICE: A RESEARCH PROFILE, *supra* note 8.

⁵⁰ *See* Excepted Service, *supra* note 48, at 61,188.

⁵¹ 5 C.F.R. § 213.3401.

⁵² *See id.* § 213.3402(b), (c).

⁵³ *Id.* § 213.3401.

⁵⁴ *Id.* § 6.2.

⁵⁵ *Lucia v. SEC*, 585 U.S. 237 (2018).

with the Appointments Clause of the U.S. Constitution.⁵⁶ In Executive Order (EO) 13843, President Donald Trump, in excepting ALJs from the competitive service, observed that *Lucia* may “raise questions about the method of appointing ALJs, including whether competitive examination and competitive service selection procedures are compatible with the discretion an agency head must possess under the Appointments Clause in selecting ALJs.”⁵⁷ President Trump maintained that placing ALJs in the excepted service “will mitigate concerns about undue limitations on the selection of ALJs, reduce the likelihood of successful Appointments Clause challenges, and forestall litigation in which such concerns have been or might be raised.”⁵⁸

Schedule Policy/Career includes career positions of a “confidential, policy-determining, policy-making, or policy-advocating character that are not normally subject to change as a result of a presidential transition.”⁵⁹ EO 14171, which established Schedule Policy/Career, directed agency heads to identify existing positions in the competitive and excepted services that meet this criterion.⁶⁰ When reviewing positions, agency heads considered whether a position involves specified duties, such as supervising attorneys or viewing, circulating, or otherwise working with proposed regulations.⁶¹ Once the relevant positions were identified, agency heads petitioned the OPM Director and recommended that the President place these competitive service, Schedule A, Schedule B, or Schedule D positions in Schedule Policy/Career. In June 2026, President Trump reclassified approximately 8,000 positions for placement in Schedule Policy/Career.⁶² In general, an employee occupying a Schedule Policy/Career position is subject to different adverse action procedures from competitive service employees and employees in the other excepted service schedules.

Schedule G includes positions of a policy-making or policy-advocating character that are normally subject to change as a result of a presidential transition.⁶³ According to an executive branch fact sheet, the Trump Administration intends for Schedule G to “fill the gap” between Schedule C and Schedule Policy/Career, and “facilitate[] appointments of non-career federal employees who will serve temporarily and implement the policy agenda prescribed by the American people . . .”⁶⁴ Because of the policy-making or policy-advocating character of Schedule G positions, employees occupying these positions would also be subject to different adverse action rules from those that govern competitive service appointments, ALJs, and employees in Schedule A, Schedule B, and Schedule D positions.

⁵⁶ Art. II, § 2, cl. 2. For additional information on the Appointments Clause, see CRS Report R48481, *The Appointments Clause: Responses to Frequently Asked Questions* (2026) by Victoria L. Killion.

⁵⁷ Exec. Order 13843, 83 Fed. Reg. 32,755 (July 13, 2018).

⁵⁸ *Id.*

⁵⁹ 5 C.F.R. § 6.2. For additional information on Schedule Policy/Career, see CRS Legal Sidebar LSB11262, *A New Civil Service “Policy/Career” Schedule: Issues for Lawmakers* (2025) by Jimmy Balser, Mainon A. Schwartz, and Jon O. Shimabukuro.

⁶⁰ Exec. Order 14171, 90 Fed. Reg. 8625 (Jan. 31, 2025). Schedule Policy/Career was first conceived in 2020 as “Schedule F” in EO 13957, 85 Fed. Reg. 67631 (2020). After President Biden revoked the order in 2021, President Trump issued EO 14171, which reinstated EO 13957 and redesignated Schedule F as Schedule Policy/Career.

⁶¹ See CRS Legal Sidebar LSB11262, *supra* note 60 at 2-3.

⁶² App. to Exec. Order 14410, 91 Fed. Reg. 34896 (June 10, 2026).

⁶³ 5 C.F.R. § 6.2.

⁶⁴ Fact Sheet: President Donald J. Trump Creates New Classification of Federal Employee to Help Serve the American People (July 17, 2025), <https://www.whitehouse.gov/fact-sheets/2025/07/fact-sheet-president-donald-j-trump-creates-new-classification-of-federal-employee-to-help-serve-the-american-people/> [https://perma.cc/EXE4-FNGN].

OPM is required to publish “at least annually” a list of excepted service positions.⁶⁵ A consolidated listing of all Schedule A, B, C, and Policy/Career authorities, current as of June 30 of each year, is also required to be published annually in the *Federal Register*.⁶⁶ Additionally, pursuant to the Periodically Listing Updates to Management Act of 2022,⁶⁷ OPM established a website that contains information on policy and supporting positions in the executive branch and other federal entities.⁶⁸ The data may be arrayed by agency, component, position, type of appointment, including Schedule C excepted appointment or excepted by statute, and position status (whether filled or vacant). Each entry provides information on position title, the name of the incumbent, location, and pay plan.

Pay Structure

Like employees in the competitive service, excepted service employees are generally paid in accordance with the General Schedule.⁶⁹ Some excepted service employees, however, may be paid under administratively determined (AD) pay schedules or agency specific pay systems.⁷⁰

Adverse Action Protections and Procedures

Most excepted service employees maintain the same notice and appeal rights as competitive service employees for removals, suspensions for more than 14 days, reductions in grade or pay, and furloughs of up to 30 days.⁷¹ These rights do not apply to employees in positions that have a “confidential, policy-determining, policy-making or policy-advocating character.”⁷² Thus, employees in Schedule C positions do not maintain these rights.⁷³

In addition, some employees in the excepted service must satisfy different durational requirements before the notice and appeal rights become available. So-called “preference eligibles” in an executive agency, the Postal Service, or the Postal Rate Commission must complete one year of current continuous service to avail themselves of the relevant notice and appeal rights.⁷⁴ The term “preference eligible” refers to specified military veterans and some of their family members, such as an unmarried widow, and the spouse of a service-connected

⁶⁵ 5 C.F.R. § 6.2.

⁶⁶ *Id.* § 213.103(c). The most recent listing of excepted service exceptions was published on July 30, 2024. *See* Excepted Service, *supra* note 48.

⁶⁷ Pub. L. No. 117-263, §§ 5321-5322, 136 Stat. 2395, 3255-3260 (2022).

⁶⁸ U.S. Off. of Pers. Mgmt., PLUM Reporting Summary, <https://www.opm.gov/about-us/open-government/plum-reporting/> [<https://perma.cc/4XMC-3WQ9>] (last visited Sept. 22, 2026).

⁶⁹ *See, e.g.*, Excepted Service, *supra* note 48.

⁷⁰ *See, e.g.*, 12 U.S.C. § 2245(c)(2)(A) (authorizing the Chairman of the Farm Credit Administration (FCA) Board to fix the compensation for FCA employees without regard to General Schedule pay rates).

⁷¹ *See* 5 U.S.C. § 7513(d); *see also* 5 U.S.C. § 7521 (prescribing adverse action protections for ALJs).

⁷² *See id.* § 7511(b)(2) (“This subchapter does not apply to an employee . . . whose position has been determined to be of a confidential, policy-determining, policy-making or policy-advocating character by—(A) the President for a position that the President has excepted from the competitive service; (B) the Office of Personnel Management for a position that the Office has excepted from the competitive service; or (C) the President or the head of an agency for a position excepted from the competitive service by statute.”).

⁷³ Schedule C employees may be able to challenge such actions as violating their due process rights under the Fifth Amendment. *See, e.g.*, *Jefferson v. Harris*, 170 F.Supp.3d 194 (D.D.C. 2016) (denying government’s motion to dismiss due process claim that he was denied the opportunity to contest the charges made against him or adequately present a defense).

⁷⁴ 5 U.S.C. § 7511(a)(1)(B) (identifying specified preference eligibles in the excepted service who may appeal adverse actions to the MSPB).

disabled veteran.⁷⁵ Employees in the excepted service who are not preference eligibles and (1) are not serving a probationary or trial period under an initial appointment pending conversion to the competitive service, or (2) have completed two years of current or continuous service in the same or similar position, have the same notice and appeal rights as qualifying employees in the competitive service.⁷⁶

Senior Executive Service

The SES is a cadre of high-level government employees who manage major programs and projects within most federal agencies.⁷⁷ While they are considered federal employees within the civil service system, the SES is governed by a regulatory structure separate from the competitive and excepted services. As defined in statute, SES positions are generally managerial or supervisory positions that are classified above the GS-15 grade (or certain equivalent positions) and need not be appointed by the President and confirmed by the Senate.⁷⁸ In these leadership roles, SES members may serve as intermediaries between top-level political appointees of an agency who seek to carry out the objectives of a particular President and career civil servants with institutional experience relating to relevant issues.⁷⁹ According to OPM data, as of April 2026, the SES had approximately 6,647 members.⁸⁰

Appointment Process

There are two types of SES positions: (1) career reserved and (2) general.⁸¹ Career reserved positions must be filled with career appointees and are designated in accordance with OPM criteria and regulations.⁸² The criteria and regulations provide that a position will be designated as a career reserved position “only if the filling of the position by a career appointee is necessary to

⁷⁵ See *id.* § 2108(3).

⁷⁶ See *id.* § 7511(a)(1)(C) (identifying non-preference eligibles in the excepted service who may appeal adverse actions to the MSPB). The Civil Service Due Process Amendments, Pub. L. No. 101-376, 104 Stat. 461 (1990), extended adverse action protections to non-preference eligibles in the excepted service. See also *Nat’l Treasury Emps. Union v. U.S. Dep’t of Health & Hum. Servs.*, 39 FLRA 346, 359 (1991) (“In passing these amendments, Congress determined that ‘certain employees in the excepted service who are not preference eligibles,’ . . . should be treated similarly to preference eligible excepted service employees and their coworkers in the competitive service concerning adverse action appeal rights.”).

⁷⁷ See 5 U.S.C. §§ 3131-3136.

⁷⁸ *Id.* § 3132(a)(2). Title 5 of the U.S. Code excludes certain agencies from the SES requirements, such as the Government Accountability Office, the Securities and Exchange Commission, and the Federal Election Commission. *Id.* § 3132(a)(1). Certain federal positions may not be classified as SES, including Foreign Service and administrative law judge positions. *Id.* § 3132(a)(2). Agencies may also apply for an exclusion from SES coverage. *Id.* § 3132(c).

⁷⁹ See, e.g., JACK RABIN, W. BARTLEY HILDRETH, AND GERALD J. MILLER, *HANDBOOK OF PUBLIC ADMINISTRATION* 1139 (2d ed. 1998) (“These senior executives were to be positioned at the interface of political appointees and the permanent bureaucracy and were to facilitate action on legitimate immediate objectives of the former and protect the long-term interests of the latter.”).

⁸⁰ See CRS Report R48932, *The Senior Executive Service: Overview and Recent Developments* 16 (2026) by Maeve P. Carey.

⁸¹ 5 C.F.R. § 214.401. According to a 2016 estimate, about half of the SES positions are designated career reserved, and half are general. SENATE COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, 110TH CONG., U.S. GOVT. POLICY AND SUPPORTING POSITIONS, 110th Cong., 217 (Comm. Print 2016).

⁸² See 5 U.S.C. § 3132(a)(8), (b). A “career appointee” means “an individual in a Senior Executive Service position whose appointment to the position or previous appointment to another Senior Executive Service position was based on approval by the Office of Personnel Management of the executive qualifications of such individual.” *Id.* § 3132(a)(4).

ensure impartiality, or the public's confidence in the impartiality, of the Government.”⁸³ Agency heads are responsible for designating career reserved positions at their agencies in accordance with the criteria and regulations.⁸⁴ OPM regulations reflect the types of SES roles in which this designation is appropriate, including those involving adjudication and appeals, auditing, and law enforcement duties.⁸⁵ General positions may be filled by career appointees, as well as other noncareer and limited term (i.e., political) appointees.⁸⁶

There are four types of SES appointments: career, noncareer, limited term, and limited emergency appointees. The SES mainly consists of “career appointees” chosen through a merit-based competitive hiring process.⁸⁷ As part of this process, each agency must maintain a recruitment program for career appointees, as well as at least one executive board that reviews qualifications and makes recommendations regarding SES candidates.⁸⁸ An OPM-convened Qualification Review Board (QRB) must certify the executive and managerial qualifications of a selected candidate before a career appointment may be made to an SES position.⁸⁹

Unlike career appointees, noncareer appointees are not subject to the competitive selection process, but agency heads must determine that these appointees meet the qualifications of the SES position.⁹⁰ While noncareer appointees are not QRB-certified, OPM must approve these appointees.⁹¹ Limited term and limited emergency appointees make up a small subset of the SES, and their terms are non-renewable.⁹² These appointments are used when a position is needed for a specified period (such as to manage a special project), or a position is established to meet a “bona fide, unanticipated, urgent need.”⁹³ Limited term and limited emergency appointments are also subject to OPM approval.⁹⁴ Title 5 of the U.S. Code (Title 5) limits the number of noncareer and limited term appointees who may serve in SES positions.⁹⁵

⁸³ 5 U.S.C. § 3132(b)(1).

⁸⁴ *See id.*; 5 C.F.R. § 214.402. Certain positions that, among other things, were in the competitive service before the enactment of the Civil Service Reform Act of 1978, and that entail certain managerial responsibilities are designated as career reserved SES positions. 5 U.S.C. § 3132(b)(3).

⁸⁵ 5 C.F.R. § 214.402. OPM regulations clarify that career reserved positions are those whose principal duties “involve day-to-day operations, without responsibility for or substantial involvement in the determination or public advocacy of the major controversial policies of the Administration or agency.” *Id.*

⁸⁶ *See* 5 U.S.C. § 3132(a)(9). Beginning in 2025, the Trump Administration took several actions that may result in the redesignation of some career reserved positions to general positions. For more information, *see* CRS Report R48932, *supra* note 81.

⁸⁷ *See id.* § 3393. OPM's Federal Workforce Data website shows 5,758 on-board SES employees with career appointments as of July 2026. *See* OPM, FEDERAL WORKFORCE DATA (Sep. 16, 2026) <https://data.opm.gov/> [<https://perma.cc/R9A3-4LDK>].

⁸⁸ *See* 5 U.S.C. § 3393(b).

⁸⁹ *See id.* § 3393(c); 5 C.F.R. § 317.502(a).

⁹⁰ 5 U.S.C. § 3394(a). OPM's Federal Workforce Data website shows 841 on-board SES employees with noncareer appointments as of July 2026. *See* FEDERAL WORKFORCE DATA, *supra* note 88.

⁹¹ *Id.* § 3394(b).

⁹² *See id.* § 3132(a)(5)-(6). OPM's Federal Workforce Data website shows 48 on-board SES employees with limited term appointments as of July 2026. *See* FEDERAL WORKFORCE DATA, *supra* note 88.

⁹³ *See* 5 U.S.C. § 3132(a)(5)-(6). Limited term appointments may not exceed a period of 3 years, and limited emergency appointments may not exceed 18 months. *See also* OPM, SENIOR EXECUTIVE SERVICE DESK GUIDE, <https://www.opm.gov/policy-data-oversight/senior-executive-service/ses-desk-guide/chapter-3-other-staffing-actions/#LIMITED-APPOINTMENT-AUTHORITIES> [<https://perma.cc/4FF6-TDEP>] (last visited Sep. 28, 2026).

⁹⁴ 5 U.S.C. § 3394(b).

⁹⁵ Limitations on the number of noncareer, limited term, and limited emergency appointments apply both agency and (continued...)

Pay Structure

The SES pay structure is also distinct from the rest of the civil service.⁹⁶ Title 5 specifies that the pay rate of each senior executive is based on the executive's individual performance or contribution to agency performance (or both), as measured under a "rigorous" performance appraisal system.⁹⁷ Each federal agency must maintain at least one of these appraisal systems, subject to OPM standards, review, and approval.⁹⁸ Performance appraisals of SES members may consider factors such as improvements in efficiency, productivity, and quality of work or service, cost efficiency, and performance timeliness.⁹⁹

Title 5 also sets out different pay rates for the SES, with a minimum rate of basic pay equal to 120 percent of the rate for GS-15, step 1, and a maximum rate of basic pay equal to the rate for Level III of the Executive Schedule.¹⁰⁰ SES members' annual aggregate pay (that includes additional compensation such as bonuses, awards,¹⁰¹ and other payments in addition to basic pay) is capped at the rate for Level I of the Executive Schedule.¹⁰² If a senior executive's total compensation exceeds the aggregate limitation, the executive receives the overage in the following calendar year.¹⁰³ Agencies with performance appraisal systems that are certified by OPM as "making meaningful distinctions based on relative performance" have a higher range of SES pay.¹⁰⁴ These agencies apply a maximum annual rate of basic pay for senior executives equal to the rate for level II of the Executive Schedule or apply an annual aggregate limit equal to the salary of the Vice President.¹⁰⁵

government-wide. For example, in general, a maximum of 10 percent of all SES positions in all agencies may be filled with noncareer appointees. *See id.* § 3134(b)-(c). Within a particular agency, the total number of SES positions generally cannot exceed 25 percent of all SES employed in that agency. *Id.* § 3134(d). The total number of limited emergency appointees and limited term appointees in all agencies may not exceed 5 percent of the total number of SES positions in the federal government. *Id.* § 3134(e). In addition, no more than 30 percent of total SES positions may at any time be filled by individuals who did not have 5 years of current continuous service in the civil service immediately preceding their initial appointment to the SES, unless the President certifies to Congress that the limitation would hinder government efficiency. *Id.* § 3392(b).

⁹⁶ For a discussion of the evolution of the SES pay structure, *see* CRS Report R41801, *The Senior Executive Service: Background and Options for Reform* (2012) by Maeve P. Carey.

⁹⁷ *See* 5 U.S.C. § 5382(a).

⁹⁸ *See id.* § 4312(a)-(c).

⁹⁹ *Id.* § 4313. Beginning in 2025, the Trump Administration made several changes to the SES performance management system, such as requiring agencies to adopt a new standardized SES performance plan and requiring agencies to include "faithful administration of the law and the President's policies" as a performance factor. For more detailed discussion of these changes, *see* CRS Report R48932, *supra* note 81.

¹⁰⁰ *See* 5 U.S.C. § 5382(a); 5 C.F.R. § 534.403. The Executive Schedule is a five-level pay schedule that applies to positions outside the SES. *See* 5 U.S.C. § 5311. Unlike other federal employees, the SES does not receive locality pay. *Id.* § 5304(h).

¹⁰¹ *See id.* § 5384 (addressing criteria and caps for performance awards in the SES).

¹⁰² *Id.* § 5307(a). Level I of the Executive Schedule applies to many of the heads of executive branch agencies, including Cabinet departments, the Director of the Office of Management and Budget, and the Commissioner of Social Security. *See id.* § 5312.

¹⁰³ *See id.* § 5307(b).

¹⁰⁴ 5 U.S.C. § 5307(d); 5 C.F.R. §§ 430.101-430.405. In 2018, OPM revised the performance appraisal certification process to reduce agency burden and minimize the time and resources needed to prepare and review performance appraisal systems. *See* U.S. OFF. OF PERSONNEL MGMT., SENIOR LEVEL AND SCIENTIFIC AND PROFESSIONAL DESK GUIDE at 4-2 (June 2023), <https://www.opm.gov/policy-data-oversight/senior-executive-service/reference-materials/slst-desk-guide.pdf> [<https://perma.cc/KX8G-L2GZ>].

¹⁰⁵ 5 C.F.R. § 430.403(a). *See also* 5 U.S.C. § 5313 (positions at Level II of the Executive Schedule) and 3 U.S.C. § 104 (salary of the Vice President).

Adverse Action Protections and Procedures

Title 5 also articulates conditions and procedures for removing, suspending, or taking other adverse actions against a member of the SES. Career SES appointees who have successfully completed a one-year probationary period may be removed or subject to adverse action only for specified reasons.¹⁰⁶ For example, an SES career appointee may be removed from the civil service or suspended for more than 14 days only for misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.¹⁰⁷ SES members must receive advance written notice about the action and opportunity to provide an answer or receive hearing, subject to exception.¹⁰⁸ The senior executive may also appeal the employment action to the MSPB.¹⁰⁹

An agency's performance appraisal system is to provide for annual summary ratings at the following levels: one or more fully successful levels; a minimally satisfactory level; and an unsatisfactory level.¹¹⁰ A career appointee receiving a single unsatisfactory performance rating may be reassigned or transferred within the SES or removed from the SES.¹¹¹ A career SES member who receives two unsatisfactory ratings in any period of five consecutive years must be removed from the SES.¹¹² A career SES member who receives less than fully successful ratings twice in any period of three consecutive years will also be removed from the SES.¹¹³ Affected SES career appointees must receive advance written notice of these actions. While these appointees may not appeal these actions to the MSPB, they may request an informal hearing before the Board.¹¹⁴

In comparison, noncareer, limited term, and limited emergency appointees are generally not subject to the same removal protections and may be removed from the SES at any time.¹¹⁵ The procedures for removal of noncareer and limited term appointees are largely not addressed in

¹⁰⁶ An individual's initial appointment as an SES career appointee becomes final following a one-year probationary period. *See* 5 U.S.C. § 3393(d). The requirements regarding removal and adverse actions against probationers are less extensive than for those who have completed the probationary period. *See, e.g., id.* § 3592(a) (governing removal during probationary year). However, career appointees appointed from a civil service position held under a career or career-conditional appointment who are removed from the SES during the probationary period are entitled to be placed in a GS-15 position in any agency, subject to specified conditions and exceptions. *See id.* § 3594(a)-(c).

¹⁰⁷ *Id.* § 7543(a).

¹⁰⁸ *Id.* § 7543(b)-(c).

¹⁰⁹ *Id.* § 7543(d). 5 C.F.R. §§ 752.601-606. *See also generally* notes 33-36 and accompanying text. In some instances, career SES appointees who are subject to removal may claim that the adverse action violates their due process rights. *See* *Esparraguera v. Dep't of the Army*, 101 F.4th 28, 33 (2024) (recognizing a protected property interest in SES status and requiring the government to provide "some form of meaningful notice and an opportunity to be heard" before removal).

¹¹⁰ 5 U.S.C. § 4314(a).

¹¹¹ *Id.* § 4314(b)(3).

¹¹² *Id.*

¹¹³ *Id.* § 4314(b)(4). There are other circumstances under which a senior executive may be subject to removal or other adverse action. *See, e.g., id.* § 7532 (suspension and removal for national security reasons); *id.* § 3595 (removal in cases of reductions in force). Additionally, the Office of Special Counsel has historically played a role that protects employees, former employees, and applicants for employment from prohibited personnel practices. *Id.* § 1212(a). If the Office determines that disciplinary action should be taken against a senior executive or other federal employee for committing prohibited personnel practices or other violations, the Special Counsel may present a complaint to the MSPB and seek removal or other penalties. *See id.* § 1215.

¹¹⁴ *Id.* § 3592(a)(2).

¹¹⁵ *Id.* § 3592(c).

federal statute, and the terms and procedures for their removal are mainly at the discretion of the agency head.¹¹⁶

On occasion, Congress has adopted alternate removal procedures for senior executives at some agencies. For example, Congress established special removal requirements for SES members employed by the Department of Veterans Affairs (VA) in response to concerns about performance and accountability at the agency.¹¹⁷ In 2017, Congress passed the Department of Veterans Affairs Accountability and Whistleblower Protection Act, which amended an existing provision concerning removal procedures for these covered senior executives.¹¹⁸ Under the 2017 Act, the VA Secretary has discretion to suspend, demote, remove, or take other actions against SES career appointees or other high-level executives if the Secretary determines that the individual's misconduct or performance warrants such action.¹¹⁹ To address SES job performance issues more expeditiously, SES employees at the VA Department are entitled to abbreviated notice and appeals rights, as compared to the removal procedures in place in other federal agencies.¹²⁰

¹¹⁶ Certain limited term and limited emergency appointees who held a career appointment or other similar appointment just before the limited appointment receive some of the same removal protections as career appointees. *See, e.g.*, 5 C.F.R. § 752.601(c)(2).

¹¹⁷ *See generally Fact Check: An End of Year Review of Accountability at the Department of Veterans Affairs, Hearing Before the House Comm. on Veterans' Affairs*, 114th Cong. (Dec. 9, 2015).

¹¹⁸ Dep't of Veterans Aff. Accountability and Whistleblower Protection Act of 2017, Pub. L. No. 115-41, 131 Stat 868-69 § 201 (2017), codified at 38 U.S.C. § 713. The Act amended a provision in the Veterans' Access, Choice, and Accountability Act of 2014, which made it easier to take an adverse employment action against an SES member at the VA Department. Pub. L. No. 113-146, § 707, 128 Stat. 1754, 1798 (2014), codified at 38 U.S.C. § 713 (2014). Among other things, the provision permitted an MSPB administrative judge, an employee of the Board, to render a final decision regarding a VA SES personnel action that could not be appealed to the full Board. *Id.* In *Helman v. Department of Veterans Affairs*, the U.S. Court of Appeals for the Federal Circuit held that this grant contravened the Appointments Clause of the Constitution, as it "vest[ed] in an administrative judge . . . final and unreviewable discretion to affirm or overturn the decision of a cabinet-level official . . . a 'significant' duty that can only be performed by officers of the United States." *Helman v. Dep't of Veterans Aff.*, 856 F.3d 920, 929 (Fed. Cir. 2017). The 2017 Act amended this provision and allows a career senior executive who is disciplined by the Secretary of VA to grieve a penalty under a grievance process within the Department of Veterans Affairs rather than appeal to the MSPB. A decision from this internal grievance process may be subject to judicial review. *See* 38 U.S.C. 713(b)(5).

¹¹⁹ *Id.* § 713(a)(1).

¹²⁰ *Id.* § 713(b).

Considerations for Congress

While Congress has provided the President with broad authority to prescribe rules for the competitive service and identify positions in the excepted service, it has established a variety of standards that govern the employment of individuals in these positions, as well as those employed in the SES.¹²¹ The appointment, compensation, and adverse action standards discussed in this report illustrate how Congress has legislated to govern civil service employment. The Civil Service Reform Act of 1978 (CSRA)¹²² generally established these standards in response to a civil service system described at the time as “an outdated patchwork of statutes and rules built up over almost a century.”¹²³ In considering the act, the Senate Committee on Governmental Affairs observed that “[a]lthough the civil service system has largely succeeded in safeguarding merit principles, there have been frequent attempts to circumvent them, some of which have been successful.”¹²⁴

Congress could maintain the status quo regarding regulation of the civil service, potentially allowing the executive branch to continue to pursue reforms within existing statutory authorities. Depending on the nature of these reforms, however, some may question whether they reflect the CSRA’s original goals. For example, if a greater number of employees are placed in the excepted service and are subject to different adverse action procedures, questions could arise about the continued application of merit principles.

Congress could consider new legislation that would establish additional standards for federal employees, including measures to allow for compensation outside of the General Schedule¹²⁵ or bills that would limit or expand the President’s ability to except positions from the competitive service within constitutional bounds.¹²⁶ A review of the statutory and regulatory authorities for the excepted service schedules could also be part of the oversight agenda for the 120th Congress. One focus could involve strengthening the current reporting requirements to Congress for positions placed in the excepted service, potentially providing Congress with current information about changes in which Congress would concur or to which it would object.

Congress could also seek more information and guidance that might inform future legislation on the civil service. For example, Congress could require OPM to provide a report to the House Committee on Oversight and Government Reform and the Senate Committee on Homeland Security and Governmental Affairs on executive agency use of the excepted service schedules and on OPM’s procedures for oversight of the excepted service. Congress could direct OPM to convene a task force of the Chief Human Capital Officers Council, of which OPM is the chair, to review agency practices with regard to excepted service positions, including any needed enhancements to training for agency employees responsible for overseeing excepted service appointments to ensure that procedures of import to Congress are followed. Congress could also require the National Academy of Public Administration, a congressionally chartered nonprofit organization that conducts research on public administration, to conduct a study and report to Congress on the civil service, including any recommendations for congressional action.

¹²¹ See 5 U.S.C. § 3302.

¹²² Pub. L. No. 95-454, 92 Stat. 1111 (1978).

¹²³ S. Rep. No. 95-969, at 3 (1978).

¹²⁴ *Id.*

¹²⁵ See, e.g., Weather Act Reauthorization Act of 2025, H.R. 3816, 119th Cong. § 901(b)(1) (2025).

¹²⁶ See, e.g., Saving the Civil Service Act, H.R. 492/S. 134, 119th Cong. (2025).

Author Information

Jon O. Shimabukuro
Legislative Attorney

Barbara L. Schwemle
Analyst in American National Government

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