



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

September 16, 2021

Memorandum

To: Heads of Bureaus and Offices

From: Jennifer A. Ackerman
Director, Office of Human Capital
Deputy Chief Human Capital Officer

Subject: Hiring Authority for Post-Secondary Students

This memo serves to clarify implementation of the hiring authority referenced in Public Law 115-232, the National Defense Authorization Act (NDAA) for Fiscal Year 2019. Section 1108 of the NDAA established a new hiring authority, 5 USC 3316, for appointing certain post-secondary students to positions GS-11 and below in the competitive service and directs the Office of Personnel Management (OPM) to issue regulations to implement this authority. The new hiring authority 5 USC 3116 was amended by Public Law 116-92, the NDAA for Fiscal Year 2020.

On August 18, 2021, OPM issued [interim guidance](#) to create a new subpart I of 5 CFR 316 and revise 5 CFR 330. This rule allows agencies to make temporary and term appointments of eligible individuals into the competitive service, without regard to CTAP, ICTAP, or veterans' preference. This hiring authority is meant to compliment the current Pathways-Internship Program, not to replace.

The Department of the Interior (DOI) authorizes use of this rule to all Bureaus and Offices, effective September 17, 2021. This guidance will be in place until a Personnel Bulletin is issued.

Provisions of the new rule include:

- **Appointment.** Appointments under this authority may be made on a temporary or term basis at the General Schedule GS-11 level or below (or equivalent). Position filled must be classified to a Student Trainee Series, XX99 series of the appropriate occupational group. Positions filled under the Federal Wage System (FWS) must be classified to the -XX01 series of the appropriate occupational group. Appointments made under this authority, are subject to the time limitations in 5 CFR part 316, unless the DOI obtains OPM's permission to extend in individual cases.
- **Eligibility.** A post-secondary student means an individual who:
 - Is enrolled or accepted for enrollment in an institution of higher education as defined by the Higher Education Act of 1965, in a section codified at [20 U.S.C.1001\(a\)](#); and
 - Is pursuing a baccalaureate or graduate degree on at least a part-time basis, as

- determined by the institution of higher education; and
- Meets the minimum qualification standards prescribed or approved by OPM for the position to which the individual is being appointed.

Bureaus must use discretion and examine all application materials to ensure eligibility is met, prior to appointment.

- **Qualifications.** Individuals appointed under this authority must meet the government-wide OPM-prescribed minimum qualification standard, or OPM-approved agency-specific qualification standard, for the position being filled. This interim regulation allows agencies to make appointments of post-secondary students directly into the competitive service positions, without regard to rating, ranking, veterans' preference.
- **Job Opportunity Announcements (JOA).** DOI (Bureaus/Offices) must adhere to merit system principles and thus must provide public notification in a manner that recruits qualified individuals from appropriate sources in an endeavor to draw from all segments of society, before filling a position under these interim regulations.

During this interim period (and to be examined as part of formulating of a permanent policy), JOAs under this authority must be posted to USAJOBS, via DOI's Talent Management System; USAStaffing.

- **Breaks in (Course of Study/Education) Programs.** A break in program is defined as a period of time when a student is working but is unable to go to school or is neither attending classes nor working at the agency. The intent of the program is for students to either attend classes, work at the agency or both. DOI (Bureaus/Offices) may use discretion in either approving or denying a request for a break in program. A break(s) in course of study/education programs should not be used as a catalyst to extend any time-limited appointment under this authority.
- **Promotion.** DOI (Bureaus/Offices) may promote a student appointed for an initial period expected to last more than 1 year but less than 4 years, provided the student meets the qualification requirements for the higher graded position, time in grade requirements in [5 CFR part 300](#), subpart F, and the public notification for the position filled by the student stated the potential for promotion and specified a career ladder.
- **Conversion.** DOI (Bureau/Office) may convert a post-secondary student to a permanent appointment in the competitive service, within that same agency, without further competition if the student:
 - Has completed the course of study leading to the baccalaureate or graduate degree,
 - Has completed not less than 640 hours of current continuous employment in an appointment under § 316.902,
 - Meets the OPM qualification standards for the position to which the student will be converted; **and**
 - Meets the time-in-grade requirements in accordance with [5 CFR part 300](#), subpart F.

- **Numerical Limit for Number of Appointments.** The total number of appointments in any fiscal year may not exceed 15 percent (15%) of the number of students appointed during the previous fiscal year to positions at the GS-11 level, or below (or equivalent). DOI may not count appointments made using direct hire authorities, non-competitive authorities, excepted service authorities (except, Pathways Internship Program appointments under § 213.3402 (a) and 5 CFR part 362, subpart B), or selections under merit promotion authorities, when establishing the limit for a given fiscal year.
 - DOI must count hires through programs that provide for conversion to the competitive service after a trial period, such as the Pathways Internship Program.
 - OPM may establish a lower limitation on the number of students that may be appointed by an agency under paragraph (a) of this section during a fiscal year based on any factor OPM considers appropriate.
 - Bureaus/Offices must provide an annual fiscal year report to the DOI Office of Human Capital no later than November 1st of each year (Appendix A). The report shall include student information and the status of appointment allocations including availability, conversion, and termination.

- **Termination.** Any appointment made under this authority expires upon the not-to exceed date of that appointment, unless the agency extends the appointment prior to expiration, if not earlier. An agency must terminate the appointment of a student after completion of the individual's academic course of study, unless the student is noncompetitively converted to a permanent position in the competitive service as specified in interim regulations.

When using this authority, the Servicing Human Resources Office (SHRO) must use the legal authority code (LAC) “ZLM – P.L. 116-92” and the following nature of action codes (NOAC) for non-status, time-limited appointments in the competitive service:

- 115 – Appt NTE
- 515 – Conv to Appt NTE
- 108 – Term Appt NTE
- 508 – Conv to Term Appt NTE

Bureau policy leads may contact the [DOI Office of Human Capital](#) with any questions.

Cc: DOI Human Capital Officers

