

## Administrative Directive P-331

### NEH Priority Reemployment for Excepted Service Employees

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1. **Establishment of a Priority Reemployment List.** The NEH is required to establish and maintain a priority reemployment list for eligible excepted service employees who are entitled to priority consideration for other excepted positions. The priority reemployment list includes:

- preference eligibles who have been furloughed or separated from a continuing appointment without delinquency or misconduct, and apply for reemployment;
- preference eligibles who, as a result of an appeal under part 752 of the Code of Federal Regulations, are found by the Merit Systems Protection Board to have been unjustifiably dismissed from the agency, but who are not entitled to immediate restoration under the Board's decision.
- former employees who have been furloughed or separated due to compensable injury sustained under the provisions of 5 USC chapter 81, subchapter I, who

are not entitled to immediate restoration, and who are eligible for priority consideration.

In addition, NEH has opted to give priority reemployment to former tenure group I and II excepted service employees of NEH who are not preference eligibles, who have been furloughed or involuntarily separated from continuing appointments without delinquency or misconduct, and who apply for reemployment.

**2. Purpose of the PRL.** The Priority Reemployment List provides eligible excepted service employees who meet the conditions described in Section 1 with priority consideration for new excepted positions in NEH. The Priority Reemployment List (PRL) is different from the Reemployment Priority List (RPL) that NEH is required to establish and maintain for its competitive service employees. There is no authority for an agency to extend the Reemployment Priority List procedures used for competitive service employees to employees in the excepted service. NEH excepted service employees have a right only to additional consideration for excepted positions through the Priority Reemployment List.

**3. Length of Eligibility on the PRL.** A former employee entitled to priority consideration is entered on the Priority Reemployment List for 2 years from the date of registration.

**4. Application Procedures.** Eligible employees must submit a written request to the Personnel Office to be included on the PRL. The request must be submitted on an NEH PRL Registration Form and must identify the position from which the employee was or will be separated, and must also specify the minimum grade level(s), occupation(s) or job series, and minimum hours of work per week that the employee will accept as an offer of reemployment. The individual must also attach a current complete employment application. The employee's written request must be submitted no later than 30 calendar days after the separation date; employees who fail to submit their requests within this time period are not entitled to be placed on the PRL. Employees who receive a Certification of Expected Separation may be placed on the PRL up to 6 months in advance of a reduction in force.

The Personnel Office will enroll an eligible individual on the PRL no later than 10 calendar days following receipt of an application. When requested, the Personnel Office will assist an employee in identifying and listing on the registration form positions for which he/she is qualified and interested. After registering, individuals are

responsible for informing the Personnel Office in writing of any significant changes to this information.

Excepted service employees separated from full-time positions may be considered only for other full-time positions unless there are no other-than full-time employees on the priority reemployment list. Similarly, other-than full-time employees may be considered only for other-than full-time positions unless there are no full-time employees on the priority reemployment list.

**5. Employee Consideration from the PRL.** All candidates on the Priority Reemployment List will be referred for positions for which they qualify and request consideration before referring candidates from a regular employment list.

An eligible employee is entitled to consideration for positions for which that employee is available provided that all of the following conditions are met:

- a. The employee must meet the qualification standard and requirements for the position, including any minimum educational requirements and any selective placement factors.
- b. The position must be at no higher grade (or equivalent) and have no greater promotion potential than the position from which separated.
- c. The employee must have received a rating higher than unacceptable as the current annual performance rating of record in reduction in force competition.
- d. The employee must not have declined an offer of a position with both the same work schedule and the same representative rate as the position held by the employee at the time of separation.

When a qualified candidate is available on the PRL, NEH may appoint an individual who is not on the List, or who has lower standing than others on the List, only when necessary to obtain an employee for duties that cannot be taken over without undue interruption to the agency by an individual who:

- a. Is entitled to reemployment priority;
- b. Has higher standing on the Priority Reemployment List than the employee who was actually appointed.

When NEH utilizes this exception, all individuals on the Priority Reemployment List who are adversely affected by such an appointment will be notified of the reasons for the exception.

The NEH may also reappoint a current or former nontemporary employee of the executive branch of the Federal Government who is a preference eligible to a position covered by Priority Reemployment List procedures without regard to the names of qualified applicants on the agency's Priority Reemployment List, Reemployment List (if any), or Regular Employment List.

## **6. Order of Consideration**

a. Professional Order. Applicants who have been assigned eligible ratings for professional positions at the GS-9 level and above, will be considered in the following order:

(i) Applicants on the Priority Reemployment List. All preference eligibles will be considered together regardless of the type of preference, followed by all other priority reemployment candidates.

(ii) All preference eligibles will be considered together regardless of the type of preference, followed by all other candidates.

b. Unranked Order. When numerical scores are not assigned, NEH may consider applicants who have received eligible ratings for positions not covered by paragraph 6a (professional order) in the following order:

All applicants on the reemployment list are considered before applicants on the regular employment list. On each list, preference eligibles having a compensable service-connected disability of 10 percent or more are considered first, followed, second, by other 10 point preference eligibles, third, by 5 point preference eligibles and, last, by nonpreference eligibles.

## **7. Selection and Appointment**

a. Selection. When making an appointment from a priority reemployment list on which candidates have not received numerical scores, selection must be made from the highest available preference category, as long as at least three

candidates remain in that group. When fewer than three candidates remain in the highest category, consideration may be expanded to include the next category. An agency is not required to:

(i) Accord an applicant on its priority reemployment or reemployment list the preference consideration required by 6a and 6b if the list on which the applicant's name appears does not contain the names of at least three preference eligibles; or

(ii) Consider an applicant who has previously been considered three times or a preference eligible if consideration of his/her name has been discontinued for the position as provided below.

b. Passing over a preference applicant. When making an appointment as provided in 7a above, NEH passes over the name of a preference eligible who is entitled to priority consideration and selects a nonpreference eligible, the reasons for doing so will be recorded and will be furnished to the preference eligible or his/her representative on request. Consideration of a preference eligible may be discontinued for a position if on three occasions the agency has considered him/her for the position and has passed over his/her name and recorded its reasons for so doing.

**8. Removal from the Priority Reemployment List.** An individual is removed from the PRL when his/her period of eligibility expires as well as when the individual requests removal or receives a career, career-conditional, or excepted appointment without time limit in any agency. In addition, an individual is removed from the PRL before his/her period of eligibility expires:

- if he/she declines an offer or fails to respond to an inquiry about a specific position that is equivalent to the position from which separated;
- if he/she declines an offer of a position from the PRL at a lower graded position than the one from which separated, he/she loses eligibility for other positions at that grade or at lower grades;
- if an employee accepts, or is placed in, any nontemporary competitive or excepted service position in any agency before the employee is separated by reduction in force;

- if an employee leaves the Federal service for a reason other than separation by reduction in force (for example, by retirement or resignation) before the employee is actually separated by reduction in force. An employee who retires on or after separation by reduction in force is still eligible for the PRL.
- if an employee declines an interview or fails to appear for a scheduled interview only if notified in advance of this requirement and the subsequent consequences.

PRL consideration must be suspended for any individual who cannot be contacted. The individual may later submit an updated application to restore consideration from the PRL but the employee's applicable eligibility period is not extended beyond the original time period set at the time of the employee's registration.

An employee's declination of an offer of nonpermanent employment has no effect on the employee's future eligibility on the PRL, or future consideration of positions offered through the list.

The NEH may fill vacant positions from its pool of present employees without regard to the Reemployment Priority List. This includes:

- selection of current qualified NEH employees through detail or position change (promotion, demotion, reassignment);
- the conversion of employees serving under appointments with eligibility for noncompetitive conversion;
- reappointment by temporary appointment of 1 year or less, without a break in service, to the same position currently held by an employee serving under temporary appointment of 1 year or less;
- extension of an employee's temporary appointment to the maximum time period authorized by the appointment authority, or as authorized by OPM.

The PRL is cleared only at the grade level of the filled position, regardless of the position's full performance level. If advertising at multiple grade levels, the PRL is only cleared at the grade level of the filled position. After the PRL has been cleared and once a final hiring commitment has been made to a person not on the list, a subsequent registration of another employee on the list does not block the agency's commitment to hire the employee from outside the agency.

**9. Priority Reemployment List Appeals.** A former employee who is entitled to priority consideration based on separation or furlough from a continuing position due to a compensable injury may appeal to the Merit Systems Protection Board (MSPB) by presenting factual information that the agency denied his or her restoration rights because of the employment of another person. The Board generally requires that an appeal be filed within 30 days of the date that the individual became aware that the violation occurred. There is no authority for other employees eligible for the Priority Reemployment List to appeal to the Board.