



FOR STUDENTS & RECENT GRADUATES
TO FEDERAL CAREERS

Questions & Answers

Pathways Programs
5 CFR Parts 213, 302, 315, and 362
Questions and Answers

Background

Executive Order 13562 Recruiting and Hiring Students and Recent Graduates dated December 27, 2010, authorized two new excepted service hiring authorities and consolidated them with a revised Presidential Management Fellows Program to establish the Pathways Programs for students and recent graduates. The U.S. Office of Personnel Management (OPM) promulgated implementing regulations and codified them at various places in the Code of Federal Regulations (CFR), mainly 5 CFR parts 213, 315, and 362. 5 CFR part 302, which addresses hiring in the excepted service, explains how Pathways candidates may be evaluated, how selections can be made, and how veterans' preference applies.

The following questions and answers are intended to clarify use of this authority. The questions and answers listed here are not meant to be a substitute for reading the regulations. These questions and answers are organized into the following categories:

- **General Provisions**
- **Recruitment**
- **Public Notification**
- **Veterans' Preference and Pass Overs**
- **Eligibility**
- **Qualifications and Assessments**
- **Promotions and Reassignments**
- **Training and Development**
- **Conversion to the Competitive Service**
- **Termination of Appointments**
- **Classification**
- **Memorandum of Understanding (MOU)**
- **Presidential Management Fellows (PMFs)**

General Provisions

1. Question: Why were the Pathways Programs created?

Answer: The Federal Government benefits from a diverse workforce that includes students and recent graduates. The competitive hiring process for the Federal civil service is structured in a manner that favors job applicants who have significant previous work experience for entry level positions. That factor and the complexity of the rules governing admission creates a barrier to recruiting and hiring students and recent graduates and places the Federal Government at a competitive disadvantage compared to private-sector employers when it comes to hiring from

that segment for entry-level positions. In Executive Order 13562 the President established or refined ground rules for several excepted service authorities in order to offer clear paths to internships and potential civil service careers for students and recent graduates, to establish meaningful developmental programs, and to provide a means by which students and recent graduates may be evaluated on the job.

2. Question: What is the Pathways Programs framework?

Answer: The Pathways Programs framework consists of three separate programs for students and recent graduates in Schedule D of the excepted service. These programs are: the Internship Program, the Recent Graduates Program, and the PMF Program.

3. Question: Where are the Pathways Programs regulations codified?

Answer: These regulations can be found in 5 CFR, 213, 302, 315, and 362.

- General Pathways Program rules are codified in 5 CFR part 362 subpart A.
- Rules specific to the Internship Program are codified at 5 CFR part 362 subpart B.
- Rules specific to the Recent Graduates Program are codified in 5 CFR part 362 subpart C.
- General provisions about Schedule D of the excepted service are codified in 5 CFR 213.3401-2.
- Regulations governing how to fill excepted service positions, including how to apply veterans' preference, are codified at 5 CFR part 302.

Agencies are advised to refer to these provisions before filling jobs under the Pathways Programs and to confer with their counsel if they have any questions.

4. Question: Why is public notification a requirement before filling Pathways Positions despite these positions being in the excepted service?

Answer: The public notification requirement promotes fairness, transparency, and compliance with merit system principles by giving all interested applicants a way to learn about these opportunities and to do so through a single portal, www.USAJOBS.gov/StudentsandGrads.

Recruitment

5. Question: What options are available for agencies to encourage individuals to seek participation in the Internship and Recent Graduates Programs?

Answer: Agencies may help promote participation in the Internship and Recent Graduates Programs through outreach and recruitment. As part of outreach, for example, agencies may inform students and recent graduates, colleges and universities' representatives, or third-party intern providers (e.g., the Hispanic Association of Colleges and Universities) about the Pathways Programs. Agencies may also provide general information at campus visits and events, liaison with campus career offices, and third-party intern providers. In contrast, recruitment occurs during the period when the agency is actively seeking to fill a position(s) under the Pathways

Programs and is accepting applications, using a properly posted Pathways job opportunity announcement.

6. Question: Can agencies conduct outreach prior to (or without) posting a USAJOBS announcement?

Answer: Yes. Agencies have the discretion to conduct outreach on campuses before (or without) posting a USAJOBS announcement. These may be informational/awareness-type events or liaison activities.

7. Question: If an agency wishes to use a campus recruiting event to collect applications for its Internship Program, what conditions must be met?

Answer: An agency must meet the public notification requirements of 5 CFR 362.203(a).

8. Question: Can agencies target their outreach and recruitment efforts in an effort to build a diverse applicant pool?

Answer: As part of a broader overall recruitment plan, agencies may conduct strategic recruitment activities focused on improving the diversity of the applicant pool and notifying a wide pool of potential applicants of job opportunities. However, agencies must ensure that such activities merely supplement the underlying plan and that public notice of the Job Opportunity Announcement is available to everyone.

9. Question: May agencies hold job fairs or recruitment events at only one campus or university prior to filling jobs under the Internship Program?

Answer: Yes, provided they post alternative means of applying at the same time that they post the notice of the event. Agencies may hold recruitment events at only one campus or school prior to filling a job under the Pathways Programs as a part of a broader and more comprehensive outreach and recruitment strategy. When doing so, agencies must ensure the selected venue is open to all students (even those from other colleges or universities) who may want to attend the recruitment event. In other words, agencies cannot limit participation to students who attend the school or campus where the event is being held. Additionally, public notification containing details about the event, how/where to attend, and how to apply if one is unable to attend must be provided in advance of the event per 5 CFR 362.203(a) for the Internship Program. Agencies should aim to recruit from a variety of venues, consistent with good recruitment practices, to the extent practicable.

10. Question: If an agency decides to hold an on-campus recruitment event at which it will accept applications for filling Pathways Program positions, what information must be in the USAJOBS announcement publicizing the event?

Answer: When holding recruitment events where an agency will accept applications, the following information must be included in the USAJOBS announcement publicizing the event:

- Location, date, and time of the event
- Any relevant information on how to access the event location (including reasonable accommodation information for those with a disabling condition)
- Position title, series and grade of the job(s) to be filled
- Geographic location of the job(s) to be filled
- A public source (such as a link on the agency's webpage) which contains information about how to attend/apply for the event and how to apply if interested parties cannot attend the event
- Information about how to apply if a candidate is not going to attend the event.
- Information about how to claim veterans' preference

11. Question: What are some effective practices agencies should follow when recruiting for Pathways positions?

Answer: OPM encourages agencies to utilize the following effective practices when recruiting for Pathways positions:

- Have a strategic recruitment strategy based on workforce planning for filling Pathways positions
- Conduct strategic recruitment with a variety of talent sources to build a pipeline of qualified applicants from all segments of society
- Recruit from a diverse spectrum of campuses or schools prior to announcing and filling jobs through the Pathways Programs
- When conducting on-campus recruitment, agencies should ensure the venue they are visiting is open to anyone who can attend – not just students of the school where the event is taking place. In addition, agencies must provide an adequate alternative means of applying and should provide any additional information about the opportunity that would be helpful to a potential applicant who is unable to attend the on-campus event.
- To the extent practicable, agencies are encouraged to conduct outreach events to make students and recent graduates aware of the USAJOBS website and encourage them to apply for positions when they become available
- When conducting on-campus recruitment, agencies should take into account the proximity of the campus to the actual location of the job to be filled and the need for the student to be able to get to the job location in order to benefit from the event.

Public Notification

12. Question: What options are available to satisfy the public notification requirement under the Pathways Programs?

Answer: To satisfy the Pathways Programs public notification requirement found in 5 CFR 326.104(c)(6)(iii) and 362.105(b), an agency must first provide OPM information about the job opportunities it intends to fill through Pathways and how it intends to post the opportunity. The

agency has the option to post a job opportunity announcement, an advertisement, or a notice of a recruiting event/job fair on www.USAJOBS.gov/StudentsandGrads. When using a USAJOBS advertisement or notice of recruitment event, agencies must provide a public source (such as a link on the agency's webpage) which contains information about how to attend the event and how to apply if an interested party cannot attend the event.

13. Question: What information must be included in a job announcement for a Pathways Internship position?

Answer: At a minimum, agencies' job opportunity announcements for Internship or Recent Graduate Programs positions posted on www.USAJOBS.gov/StudentsandGrads **must** include:

- Position title, series and grade of the position(s) being filled
- Geographic location(s) of the position(s) being filled
- Information about how to apply or a link to the agency's website for more information and instructions for submitting an application
- Reasonable Accommodation statement
- Information about how to claim veterans preference

OPM also recommends inclusion of the following information in job opportunity announcements:

- Brief description of duties of the job(s) to be filled
- Available work schedules for the job(s) to be filled
- Information about the possibility of conversion to permanent appointment (if applicable)
- Promotion potential (if applicable)
- Links to Pathways Programs information
- Availability of relocation expenses or recruitment incentives (if applicable)

14. Question: Can an agency advertise at a career fair (or host its own), accept applications ONLY at that event, without providing public notification of the event?

Answer: No. Agencies must provide public notification (via www.USAJOBS.gov/StudentsandGrads and/or information on the agency's website) when accepting applications for Pathways positions for which they are conducting recruitment. Moreover, the agency must post an adequate alternative method of applying for candidates who do not attend the career fair or other event.

15. Question: What options does an agency have to manage its Pathways job announcement to avoid situations where the response to the USAJOBS announcement is an unmanageably high number of applications?

Answer: Agencies have several options for managing the Pathways job announcement process so that it does not result in receiving an unmanageably high number of applications, including:

- Limiting the announcement open period. Agencies have discretion to determine the length of time a Pathways Program job opportunity announcement is open. When doing so, agencies should give consideration to the type of position, grade level, and geographic location of the position being filled. For example, an Internship not-to-exceed (NTE) administrative position in a remote location with a nearby campus being filled at the GS-4 level for the summer months may not need to be open as long as a scientific or technical Internship position being filled at the GS-11 level at the Department headquarters location.
- Limiting the number of applications received. Agencies have the discretion to set ‘cut-offs’ or limits (e.g., the first 75 or 100 applications received) on the number of applications it will consider when filling a given Pathways position. When using such limits, OPM strongly encourages agencies to accept any applications received up until 11:59 p.m. of the day the limit is reached (to accommodate applicants in non-Eastern time zones).
- Using specific eligibility requirements for entrance into your agency’s Pathways Programs. With respect to your agency’s Intern Program, you may use requirements such as the ability to work a specified number of hours each week or be in good academic standing; i.e., maintenance of a minimum grade point average (GPA) as eligibility criteria. *[Note: Agencies may not require the completion of educational requirements for specific coursework for occupations that do not have a positive education requirement.]* In addition, agencies may require that applicants affirm their ability to work in the specific location(s) listed in the announcement.

An agency's procedures for receiving applications (see 5 CFR 302.201) must address the use of these options. Additionally, when one or more of limitations are used the agency must state the limitation in the Pathways job opportunity announcements. Agencies must consider the merit systems principles when posting notices and consider whether the notice and time allowed will provide for a fair and open competition that assures that potential applicants for the position will receive fair and equitable treatment. Consultation with agency counsel is always desirable.

Veterans’ Preference and Pass overs

16. Question: Are agencies required to apply veterans’ preference when making selections for Pathways Programs positions?

Answer: Yes. Pursuant to 5 CFR 362.105(c)(2), each agency is required to apply veterans’ preference when filling positions using the Pathways Programs.

17. Question: How is veterans’ preference applied when filling jobs under the Pathways Programs?

Answer: Agencies must apply veteran’s preference in accordance with the procedures in 5 U.S.C. 3320 and 5 CFR 302, and any applicable agency policy. How veterans’ preference is applied depends upon the selection method the agency chooses to use when filling its Pathways jobs. In accordance with 5 CFR part 302, agencies can generally choose from among three

selection methods when filling jobs in the excepted service: the ranked list, the unranked list, or a category rating-like process.

Ranked list – This method works the same as the ‘rule of three’ rating-and-ranking process used in the competitive service. Individuals are assessed against criteria which produces a numerical score. Preference eligibles who earn a passing score receive 5 or 10 points, as appropriate, which are added to their score. Applicants are then listed in score order and selection is made from the highest-ranked three names available on the list. Preference eligibles with a 10 percent or more disability are placed at the top of the list, and thus achieve the highest ranks. Agencies cannot select a non-preference eligible veteran over a preference eligible veteran with an equal or higher score without going through the applicable pass over procedures.

Unranked list – Applicants who meet basic eligibility criteria are listed by veterans’ preference category: 10 percent or more disabled veterans, other 10-point preference eligible veterans, 5-point preference eligible veterans, and then non-preference eligible veterans. An agency must consider the candidates in the highest preference group first. Agencies cannot select a non-preference eligible veteran until the preference eligibles are exhausted or the agency has gone through the proper pass over procedures with respect to the preference eligibles that are remaining

Category rating- like process – Under 5 CFR part 302.105, agencies may establish their own systems for applying veterans’ preference *provided that* such a system results in preference eligible applicants receiving at least as much advantage as they would under the numerical ranking or unranked selection methods. Out of convenience, many agencies have adopted a category rating-like process. This method works the same way as category rating does in the competitive service. Rather than using numerical scores, individuals are assessed against agency-established criteria and placed in one of two or more pre-defined quality categories. Preference eligibles are listed ahead of non-preference eligibles in the quality category into which they are placed. Preference eligibles with a 10 percent or more disability are placed in the highest quality category (ahead of the non-preference eligibles). An agency must make its selection from the highest quality category. An agency cannot select a non-preference eligible over a preference eligible veteran until the preference eligibles in the top category are exhausted, or the agency has gone through the applicable pass over procedures with respect to the preference eligibles that are remaining in that top group. An agency may select any preference eligible veteran in the highest quality category.

If fewer than three people are in the highest quality category, the agency can merge the highest and second highest quality category into a new category – provided that all preference eligible veterans from both categories are listed ahead of the non-preference eligibles in the newly merged category.

Professional Order – When filling professional and scientific positions at the GS-9 level and above, the rules differ slightly. Agencies may list applicants either in a ranked list by score order or in an unranked list by preference status. When a ranked list is used, preference eligibles who earn a passing score will have an additional 5 or 10 points, as appropriate, added to their score. Applicants are then listed in score order (i.e., nobody “floats”), and selection is made from the

highest-ranked three names available on the list. When an unranked list is used all qualified preference eligibles will be listed in order of preference status (which will consist of candidates eligible for 10-point veterans' preference followed by candidates eligible for 5-point veterans' preference), followed by all other qualified applicants. An agency must consider preference eligibles in the highest preference group first. An agency may not consider a non-preference eligible until all preference eligibles have been exhausted or the agency has gone through the proper pass over procedures with respect to the preference eligibles who are remaining.

18. Question: What are the procedures for passing over a preference eligible veteran who has a compensable disability of less than 30 percent in the excepted service?

Answer: A preference eligible veteran, who does **not have** a compensable disability of 30 percent or more, can be eliminated from consideration only if the agency sustains the selecting official's objection to the preference eligible for adequate reason. These reasons, which must be recorded, include reasons based upon the criteria for medical disqualification under 5 CFR Part 339, reasons based upon the criteria for making suitability determinations listed at 5 CFR 731.202, or other reasons considered by the agency. Agencies should be mindful of 5 U.S.C. 3320 and 5 CFR 332.406 in considering reasons for passing over a preference eligible, and should consult with their counsel concerning whether a given reason is likely to meet the standard of making selections "in the same manner and under the same conditions required for the competitive service" standard set out in section 3320. OPM must approve the sufficiency of an agency reason to **medically disqualify** or pass over a preference eligible to select a non-preference eligible or to object to or pass over a candidate based upon medical reasons. The preference eligible (or his or her representative) is entitled to a copy of the agency's reason(s) for the pass over, upon request.

19. Question: What are the procedures for passing over a preference eligible veteran who has a compensable disability of 30 percent or more in the excepted service?

Answer:

In accordance with 5 U.S.C. 3312 and 5 CFR 339.102(c) and 332.406, the following special provisions apply to medically disqualifying a disabled veteran with a compensable service-connected disability of 30 percent or more, based on inability to perform the physical requirements of the position:

- The agency must at the same time notify, in writing, both OPM and the disabled veteran of the reasons for its desire to disqualify the disabled veteran and of the veteran's right to respond to OPM within 15 days of the date of the notification.
- The agency must provide evidence to OPM that the notice was timely sent to the disabled veteran's last known address.
- OPM must make a determination on the disabled veteran's physical ability to perform the duties of the position, taking into account any additional information provided by the veteran. The agency must submit sufficient evidence to support its request, including evidence that a reasonable accommodation is not possible and that the employee cannot

perform the essential functions of the position without endangering the health and safety of the individual or others.

- OPM may ask the agency to submit more detailed information in support of its request.
- If OPM agrees that the veteran cannot fulfill the physical requirements of the position, the agency may select another qualified person from the certificate of eligibles. If OPM finds the veteran able to perform the job, the agency may not pass over the veteran on the basis of inability to perform the physical requirements.
- This procedure does not stop the agency from filling a position if it has more than one position to fill from the same certificate, and holds open a position that could be filled by the individual against whom a request has been filed.
- OPM will notify the agency and the disabled veteran of its decision, with which the agency must comply.
- OPM is prohibited by law from delegating these functions to any agency.

In accordance with 5 U.S.C. 3318 and 5 CFR 332.406, the following special provisions apply to passing over a disabled veteran with a compensable service-connected disability of 30 percent or more, for nonmedical reasons:

- The agency must at the same time notify, in writing, both OPM and the disabled veteran of the reasons for its desire to pass over the disabled veteran and of the veteran's right to respond to OPM within 15 days of the date of the notification.
- The agency must provide evidence to OPM that the notice was timely sent to the disabled veteran's last known address.
- OPM will determine if the request was for a proper and adequate reason under its regulations, and the sufficiency of the evidence presented, taking into account any additional information provided by the veteran.
- OPM may ask the agency to submit more detailed information in support of its request.
- If OPM sustains the pass over request, the agency may select another qualified person from the certificate of eligibles. If OPM does not sustain the request, the agency may not pass over the veteran on the basis of the reason presented.
- This procedure does not stop the agency from filling a position if it has more than one position to fill from the same certificate, and holds open a position that could be filled by the individual against whom a request has been filed.
- OPM will notify the agency and the preference eligible or disabled veteran of its decision, with which the agency must comply.
- OPM is prohibited by law from delegating these functions to any agency.

Eligibility

20. Question: Must candidates be U.S. citizens or Nationals at the time they are appointed to the Internship, Recent Graduates, or PMF Program?

Answer: It depends. There is no overarching requirement that applicants for positions in the excepted service be U.S. citizens. Many agencies, however, are subject to restrictions from

paying non-citizens in their annual appropriations legislation or other agency-specific enabling and statutes. Each agency will need to consider whether any such restrictions apply to it, in conjunction with its agency counsel. Moreover, an agency may appoint a non-citizen to a Pathways Program position only if the student or recent graduate is lawfully admitted to the United States as a permanent resident or is otherwise authorized to be employed. A Pathways Intern, Recent Graduate, or Fellow must possess full U.S. citizenship by the end of the Program to be eligible for consideration for permanent Federal employment in the competitive service.

21. Question: Must applicants have actually completed their educational degree requirements to be eligible to apply to the Recent Graduates Program?

Answer: No. Students who have not completed their educational degree requirements may apply and be considered for a Recent Graduates job in the weeks/months prior to the job being filled. These individuals must, however, meet the definition of a Recent Graduate in 5 CFR part 362.302 in order to be appointed as a Recent Graduate under the Pathways Program.

In addition, agencies can choose to accept applications from individuals who will complete education by a certain cutoff; e.g., announcement closing, date certificate issued, appointment date. Any such conditions must be established in the agencies' Pathways MOU and in the agencies' application procedures under 5 CFR part 302.301.

22. Question: What constitutes a valid certificate program for purposes of eligibility under the Pathways Programs?

Answer: The Pathways Programs regulation (see 5 CFR 362.103) defines certificate program as “post-secondary education, in a qualifying educational institution, *equivalent to at least one academic year of full-time study* that is part of an accredited college-level, technical, trade, vocational, or business school curriculum.”

Since the early days of the Cooperative Education Program (more recently called the Student Career Experience Program), a predecessor program to the Pathways Internship Program, certificate programs were included in the educational requirements to accommodate technical, trade, and vocational schools where individuals learn a trade that does not necessarily require a 2- or 4-year degree from a college or university. Generally, these occupational fields require licensure for an individual to practice his or her trade or craft. OPM did not intend the use of certificate programs to allow agencies to appoint individuals enrolled in short term “certificate programs” that are not required for the position or which lacked sufficient academic rigor.

23. Question: May an agency use an educational requirement such as the completion of specific coursework as eligibility criteria for a Pathways Intern position?

Answer: For positions that have positive education requirements, agencies may impose educational requirements as they would relate to the OPM qualifications standard for the target position if stated as eligibility requirements, rather than minimum qualification requirements. For example, if an agency is filling a Petroleum Engineering Intern position, which upon conversion would require that the Intern had completed specific courses in engineering, then the

agency may indicate that only students who have completed or are currently taking some or all those required courses will be eligible for the Petroleum Engineering Intern position.

For positions that do not have positive education requirements, agencies may not impose education degree requirements or require that specific courses have been, or will be, taken as an eligibility requirement. The agency may indicate in the Pathways job opportunity announcement that they seek or prefer candidates who are pursuing specific degree paths or courses. However, agencies must follow the selection procedures in 5 CFR part 302, before making a selection.

24. Question: For the Pathways Internship Program, may an agency use requirements such as the ability to work a specified number of hours each week or be in good academic standing (e.g., require maintenance of a minimum grade point average (GPA)) as an eligibility criteria?

Answer: Yes. Agencies may use requirements such as the ability to work a specified number of hours per week or be in good academic standing as eligibility criteria. However, the hiring agency must ensure that all such criteria are stated in the agency's Pathways MOU with OPM, the job opportunity announcement, and the participant agreement.

25. Question: If a student is hired as an Intern with a not-to-exceed date (NTE), does the work performed need to be related to the student's academic area of study?

Answer: No. Intern NTE positions are used to complete temporary projects, to perform labor-intensive tasks not requiring subject-matter expertise, or to fill traditional summer jobs. This work is not required to be related to the student's area of study.

26. Question: When filling a position under the Pathways Internship Program, must the Internship position be related to the student's academic field of study?

Answer: No. The Internship position either must be related either to the student's academic field of study or the student's career interests.

27. Question: Can an agency use the Schedule A hiring authority for People with Intellectual Disabilities, Severe Physical Disabilities, and Psychiatric Disabilities to appoint a person with a disability to a position in the Pathways Program?

Answer: No. The Schedule A hiring authority cannot be used to fill Pathways Programs positions. The Pathways Programs and the Schedule A authority for persons with disabilities are two separate hiring authorities with separate eligibility requirements and hiring processes. An applicant with a disability may apply to positions in the Pathways program by following the instructions found in the job opportunity announcement on www.USAJOBS.gov/StudentsandGrads. When doing so, students with disabilities are considered for Pathways Programs positions in the same manner as other, non-disabled students in accordance with the provisions of 5 CFR part 302. An agency is, of course, required to provide reasonable accommodations, as required by law, and may wish to consult with counsel or its human resources office concerning such matters.

Qualifications and Assessments

28. Question: The Pathways regulations require recent graduates to meet OPM Qualification Standards. Does this mean agency-specific qualification standards may not be used for the Recent Graduates Program?

Answer: Yes. Agencies may not develop their own qualification standards for positions filled through the Pathways Recent Graduates Program. Agencies must use the OPM or OPM-approved qualification standards for the position being filled (or any qualification standards for the position required by law, if applicable).

29. Question: Are agencies required to use OPM Qualification Standards for Pathways Internship Positions?

Answer: No. Agencies may establish agency-specific qualification requirements, or use the OPM qualification requirements for the competitive service in place of the [Group Coverage Qualification Standard for Schedule D, Pathway Internship Positions](#). (See 5 CFR 362.303(d))

30. Question: Are agencies required to use assessments as a part of the selection process?

Answer: For the Intern and Recent Graduate Programs, agencies must use valid job-related assessments such as crediting plans, which are the same thing as rating schedules (i.e., occupational questionnaires) or structured interviews. Agencies may also use the Administrative Careers With America (ACWA) written test or ACWA rating schedules when making selections for Pathways Programs positions. Depending on the selection methodology used to fill a particular job (see 5 CFR part 302), agencies may assess only for general eligibility/minimum qualifications. OPM assesses for a list of Finalists for the Fellows Program.

Promotions and Reassignments

31. Question: Are Interns eligible for promotion without public notification and competition?

Answer: Yes. An Intern appointed without a NTE date may be promoted when an agency has an excepted service policy for promotions of employees in excepted service positions, and the Intern meets the qualification requirements for the higher-graded position. An Intern NTE is similar to a temporary employee and is not eligible for a promotion.

32. Question: Can an agency reassign an Intern with an NTE date to an Intern position without public notification and competition?

Answer: An agency may appoint an Intern NTE to a different position, but first the agency must provide minimum public notification (internal to the agency – not on USAJOBS) to similarly situated agency Interns who may also be interested in the Intern position. If more than one individual is interested, the agency must apply the selection procedures under 5 CFR part 302 –

including the application of veterans' preference and pass over procedures. This applies regardless if the Intern position is a position with a career ladder, with a different job series, with a different series with a career ladder, or whether the Intern position is the same series and grade level as the Intern NTE position.

33. Question: Can an agency reassign an Intern to another Intern position without public notification and competition?

Answer: Agencies must follow their own policies for movement of excepted service personnel, and the Intern must meet the qualification requirements for the position to which he or she will be reassigned.

34. Question: Can an agency reassign Recent Graduates to another position within the same agency without public notification and competition?

Answer: Agencies must follow their own policies for movement of excepted service personnel, and the Recent Graduate must meet the qualification requirements for the position to which he or she will be reassigned.

35. Question: Are Interns, Recent Graduates and PMFs subject to the time-in-grade limitations in 5 CFR 300 subpart F prior to being promoted?

Answer: No. Employees in Pathways Programs positions are not subject to time-in-grade limits. Time-in-grade limits only apply to movement to or within the competitive service. However, Interns, Recent Graduates and PMFs must meet the qualifications requirements for promotion to the higher grade level. Promotions are never an entitlement and agencies must have an excepted service policy in place that covers promotions for positions in the excepted service.

Training

36. Question: Are all Pathways Interns required to have an Individualized Development Plan (IDP)?

Answer: In accordance with 5 CFR 362.104(c)(5), we recommend that Interns appointed without an NTE date should have IDPs.

37. Question: Can Interns and Recent Graduates participate in temporary detail assignments at another agency?

Answer: Yes. An agency has the discretion to allow Interns and Recent Graduates to participate in temporary details in the current agency or another agency.

Conversion to the Competitive Service

38. Question: Under the Pathways Internship Program, when does the 120-day clock for non-competitive conversion to the competitive service begin? Does it start when the student completes his/her academic requirements, or upon graduation (i.e., when the academic institution confers the degree, which could be several weeks or months later)?

Answer: The 120-day clock for non-competitive conversion starts when the student completes his or her academic requirements (as determined by the educational institution). 5 CFR 362.204(b) (2) states Interns are eligible for non-competitive conversion within 120 days upon *completion of the course of academic study* at a qualifying educational institution that confers a diploma, certificate, or degree. Therefore, the 120-day clock starts upon completion of the last course requirements for the degree the Intern is pursuing. Agencies should defer to the educational institution for a determination of when degree requirements have been met.

39. Question: Can an agency non-competitively convert a Pathways Intern to the Pathways Recent Graduates Program, upon successful completion of the intern's academic requirements?

Answer: No, individuals on Pathways Internship appointments are eligible only for consideration for non-competitive conversion to positions in the competitive service, and only if all applicable program requirements are met. The intent of the Pathways Internship Program is to develop individuals for potential placement into the permanent workforce, or to provide them with an opportunity to explore Federal careers while still in school, but not to effectuate placement into yet another developmental program. As a reminder, per 5 CFR 362.303(a), public notification is required prior to filling positions in the Pathways Recent Graduates Program.

40. Question: Are employees on Internship and Recent Graduate appointments eligible for conversion to excepted service positions or only to competitive service positions?

Answer: By definition, and as provided in Executive Order 13562, the Pathways authorities are to be used as an exception to filling positions that would normally be filled through a competitive process. Accordingly, non-competitive conversion means assignment to a position in the competitive service. The Pathways Programs Executive Order and implementing regulations do not provide for conversion to an excepted service position for Intern or Recent Graduate positions.

41. Question: May an Intern NTE be converted to a position in the competitive service?

Answer: Yes, an Intern NTE may be non-competitively converted to the competitive service *provided* the job opportunity announcement used to fill the Intern NTE position stated the conversion potential and all other requirements for conversion have been met. However, the conversion of an Intern NTE should be rare as an Intern NTE positions are to be used to complete temporary projects, perform labor-intensive tasks not requiring subject-matter expertise, or fill traditional summer jobs.

42. Question: When an Intern NTE completes his or her academic requirements and is eligible to graduate, does the agency have an obligation to convert the Intern to a position in the competitive service within the agency?

Answer: No. An agency is not required to convert *any* individual in a Pathways position to a position in the competitive service, whether upon completion of degree requirements or otherwise. Conversion to a competitive service positions is not an entitlement. An agency does, however, have the discretion to convert an Intern NTE *if* the job opportunity announcement used to fill the Intern NTE position stated the conversion potential and all other requirements for conversion have been met. Intern NTE positions are to be used to complete temporary projects, perform labor-intensive tasks not requiring subject-matter expertise, or fill traditional summer jobs.

43. Question: Do Intern NTEs have a 120-day grace period following graduation from college to remain in program?

Answer: No. In accordance with 5 CFR 362.205 the appointment of Intern NTE ends when the temporary appointment expires. However, the agency may convert the Intern NTE before expiration of the original appointment if that date is within 120 days of the completion of degree requirements *provided* the job opportunity announcement used to fill the Intern NTE position described this conversion potential and all other requirements for conversion have been met.

44. Question: May an agency retain (without providing Public Notification or competition) a participant in the Internship Program after graduation if the Intern is accepted into another qualifying educational program during the 120-day administrative period allowed for conversion to the competitive service.

Answer: Yes. In accordance with 5 CFR 362.203(b) an agency may retain an Intern or Intern NTE following graduation if the Intern also has been accepted into another qualifying degree program at the time of graduation. It is not uncommon, for example, for students who graduate from college to immediately begin a master's or professional degree program. In such situations, the acceptance into another qualifying educational program means the student maintains eligibility for employment as an Intern. In these situations, public notification and competition are not required for the participant to continue in the agency's Internship program.

45. Question: Can agencies convert Interns, Recent Graduates, or PMFs to either term or permanent appointments?

Answer: Yes. Interns, Recent Graduates, or PMFs who have completed all requirements for conversion may be non-competitively converted to term or permanent positions. When non-competitively converted to a term appointment, the agency may subsequently noncompetitively convert the individual to a permanent competitive service position at any time before the term appointment expires. The option to convert the individual to a term appointment is provided in accordance with the Executive Order 13562 to allow flexibility when budgetary or other resource

constraints would prevent an agency from converting an employee to a permanent position at the time the employee successfully completes the program.

46. Question: May individuals participating in the Recent Graduates Program be appointed to a position that has an established career ladder?

Answer: Yes. An individual participating in the Recent Graduates Program may be appointed to a position that has an established career ladder *provided* the job opportunity announcement for the position stated the career ladder.

47. Question: May individuals participating in the Internship Program be noncompetitively converted to a position that has an established career ladder?

Answer: Yes. An individual participating in the Internship who otherwise meets the program requirements for conversion (i.e., work hours, satisfactory performance, educational requirements, training completed, etc.) may be converted to a position with an established career ladder *provided* the job opportunity announcement for the position stated the career ladder. For instance, an Intern GS-0299-04 Human Resources Trainee may be noncompetitively converted to a GS-0201-05/7/9/11 Human Resources Specialist career ladder position.

48. Question: Will the time spent on a Student Career Experience Program (SCEP) appointment, prior to appointment as a Pathways Intern under Schedule D, be considered creditable for career tenure when the Intern is converted to the competitive service?

Answer: Yes. Time spent on a SCEP appointment will be creditable towards career tenure when the Intern is converted to a position in the competitive service.

49. Question: Will the time spent on a Student Temporary Employment Program (STEP) appointment, prior to appointment as a Pathways Intern under Schedule D, be considered creditable for career tenure if the Intern is converted to the competitive service?

Answer: No, time spent on a STEP appointment will not be creditable towards career tenure if the Intern is converted to a position in the competitive service. However, the time spent as an Intern or an Intern NTE under Schedule D will be creditable towards career tenure.

50. Question: Is an Intern required to serve a trial period?

Answer: An Intern is not required to serve a trial period unless an agency has a policy that requires employees in the excepted service to serve a trial period.

51. Question: May an agency convert an employee who successfully completes the Internship, Recent Graduates or PMF Program to an Attorney (GS-0905) position?

Answer: No. Under the Pathways Programs participants may be converted only to term or permanent positions in the competitive service. Attorney (GS-0905) positions are in the excepted service, so an agency may not use the Pathways Programs to fill such positions.

Termination of Appointments

52. Question: In general, as a condition of employment, an Intern appointment expires 120 days after the completion of the academic course of study, unless the Intern is selected for non-competitive conversion to the competitive service. If the agency is not planning to convert the intern, can the agency terminate the Intern prior to the end of the 120 days?

Answer: Termination as a condition of employment only occurs when the Intern is separated at the end of the 120 day period after completion of the academic degree requirement. If the termination occurs before the end of the 120-day period, the agency must determine if the Intern meets the definition of "employee" in chapter 75 of title 5 and is entitled to appeal rights before taking any action to remove the Intern. If it is determined that the Intern has appeal rights, then the adverse actions procedures in 5 CFR 752 would apply to a termination occurring prior to the end of the 120-day period.

53. Question: Do the reduction in force (RIF) rules apply to a Recent Graduate who is terminated when his or her appointment expires?

Answer: No. 5 CFR 362.306(a) states that the expiration of a Recent Graduates appointment is not subject to the RIF requirements in 5 CFR 351.

Pathways MOUs and Agency Policy

54. Question: Will OPM provide a grace period (to avoid a lapse in authority) if an agency Pathways MOU renewal is not completed before the existing MOU expires?

Answer: No. The implementing Pathways regulations do not provide for such a grace period. An agency must renew its Pathways MOU every 2 years. If the MOU is not renewed, the agency must suspend all new hiring under the Pathways Program until a current MOU is in place.

55. Question: How do agencies designate Recent Graduates positions for a Program of more than a 1-year?

Answer: The intent of the Recent Graduates Program is to provide a 1 year entry-level developmental experience which may lead to a permanent job in an agency's workforce. Agencies may establish Recent Graduate Programs in excess of 1 year if the training requirements of a specific position warrant a longer and more structured program. Any such positions must be identified in the agency's Pathways MOU, and described on the Pathways Participant agreement. Individual managers, organizations, etc., may not individually decide how long the Recent Graduate Program will be.

56. Question: What is meant by the reference to "Agency Policy for promotion" as used in the Transition and Implementation guidance? Does it mean that agencies should establish a policy for promoting Interns or does it mean that agencies should establish a policy for using public notification when promoting Interns?

Answer: Agencies are required to have an excepted service policy in place under 5 CFR 302 and to have policies in place for the Pathways Programs. Such policies must address receipt of applications; qualifications requirements; examination of applicants; order of selection; promotions and reassignments including instances when public notification is required for the promotion of Interns.

Classification

57. Question: What action should an agency take if it has a current Intern who is not in the XX99 General Series (GS) or XX01 Federal Wage System (FWS) Occupational series?

Answer: The agency should reclassify the Intern position to the appropriate series as soon as possible.

Presidential Management Fellows (PMF) Program

58. Question: What should an agency do if it did not convert a current PMF to Schedule D by the January 6, 2013, deadline?

Answer: An agency that has not converted a current PMF to Schedule D by the January 6, 2013, deadline should contact OPM immediately via email at Pathways@opm.gov.

59. Question: Will PMFs appointed prior to the effective date of the Pathways regulations (July 10, 2012) be subject to the Pathways regulations.

Answer: PMFs appointed from the classes of 2010, 2011, 2012 (appointed by January 24, 2013) are covered by the PMF regulations in place prior to the Pathways Programs regulations.

60. Question: Are PMFs who have been grandfathered under the pre-Pathways rules required to sign a Participant Agreement and be assigned a mentor?

Answer: No. However, as a best practice, OPM encourages agencies to engage with grandfathered Fellows to enter into a Participant Agreement with those Fellows and to assign a mentor. If entering into a Participant Agreement, agencies are reminded that grandfathered Fellows must adhere to the previous regulations and some of the Participant Agreement language may need to be modified accordingly.

61. Question: Can PMFs from the Class of 2013 and subsequent Fellows complete their developmental assignments outside of the Federal Government?

Answer: No. Fellows from the Class of 2013 and subsequent Fellows may only complete their developmental assignments in their organization, within their agency, or in another Federal agency (as defined in 5 U.S.C. 105). Fellows may continue to complete optional rotations outside of their agency at the discretion of their agency and following their agencies' policies and procedures.

62. Question: What is the appointment eligibility period for PMF Finalists referenced in 5 CFR 362.404?

Answer: A PMF Finalist has 12 months from the official Finalist selection date to accept and start a PMF appointment. Under certain limited circumstances, an agency may request an extension if it is unable to bring the Finalist onboard as a Fellow within that time: e.g., because of delays in completing a background investigation. This practice is consistent with PMF regulations in effect prior to the Pathways Programs regulations.

63. Question: What is the deadline for an Executive Review Board (ERB) to certify a Fellow has successfully completed the PMF Program?

Answer: The deadline for an ERB to certify that a Fellow has successfully completed all program requirements is 30 days prior to the Fellow's 2-year anniversary date. ERB certification is required prior to conversion.

64. Question: Does "formal interactive training" include on-line training for Fellows?

Answer: Yes. An agency may use on-line training if the training addresses the competencies outlined in the Fellow's IDP and will prepare the Fellow for his or her target position. Interactive training includes communication between instructor and students, students and students, etc. Ultimately, the agency's ERB will determine if the Fellow has met all program requirements, including the amount and type of training. Agencies may want to clarify training definitions in their Pathways Programs policies and Pathways MOU.

65. Question: May a PMF participate in an agency-wide, or Presidential or Administration initiative to fulfill the requirement for a 4-6 month developmental assignment?

Answer: Yes. Per 5 CFR 362.405(b)(4)(i), a Fellow may participate in an agency-wide, or Presidential or Administration initiative to fulfill the requirement for a 4-6 month developmental assignment. Such experience must be 4-6 months in duration to allow the Fellow the experience he or she would have gained through a traditional developmental assignment.

66. Question: Will OPM grant extensions to the yearly PMF training requirements for agencies unable to comply due to sequestration or any budgetary situation?

Answer: No. The Pathways Programs regulations are clear and agencies have committed to fulfilling program requirements when signing their Pathways MOU with OPM for participation in the Pathways Programs. The agency must provide each Fellow a minimum of 80 hours of formal interactive training per year, and must provide each Fellow with at least one 4-6 month development assignment during their 2-year fellowship. The PMF Program Office sponsors several training opportunities for all Fellows that may count towards the training requirements. Ultimately, the ERB certification process ensures each Fellow has completed at least 160 hours of training as part of the program requirements.

67. Question: Can an agency whose positions are excepted by statute from the provisions of title 5 governing the competitive service or non-Executive Branch agencies participate in the PMF Program?

Answer: Yes. Agencies whose positions are excepted by statute or non-Executive Branch agencies (e.g., Federal Bureau of Investigation (FBI), Library of Congress, and Congressional Research Service) may enter into a Memorandum of Agreement (MOA) with OPM to participate in the PMF Program. Once an approved MOA is on file, the agency may appoint Fellows. However, upon completion of program requirements, the Fellow is eligible only for placement into an excepted service position in the employing agency. Such appointments, starting with the Class of 2013, would not be able to non-competitively convert to a term or permanent position in the competitive service of another agency.

68. Question: Do the current PMF rules provide OPM the authority to waive any provision of the PMF requirements upon an agency request?

Answer: No. The current PMF regulations do not include a provision that would give OPM the authority to waive any PMF program requirement.