

**OFFICE OF PERSONNEL  
MANAGEMENT****5 CFR Parts 300, 362, and 410**

[Docket ID: OPM–2023–0020]

RIN 3206–AO25

**Pathways Programs****AGENCY:** Office of Personnel Management.**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing this final rule to align the Pathways Programs with the Federal Government's needs for recruiting and hiring interns and recent graduates. Robust Pathways Programs, with appropriate safeguards to promote their use as a supplement to, and not a substitute for, the competitive hiring process, are essential to boosting the Federal Government's ability to recruit and retain early career talent.

**DATES:** This rule is effective June 11, 2024. Agencies must be in full compliance with this final rule not later than December 9, 2024.

**FOR FURTHER INFORMATION CONTACT:** Katika Floyd at (202) 606–0960 or by email at [employ@opm.gov](mailto:employ@opm.gov).

**SUPPLEMENTARY INFORMATION:****Background Information**

The authority for the Pathways Programs in their current form was set forth on December 27, 2010, with the issuance of E.O. 13562 (75 FR 82585) pursuant to 5 U.S.C. 3301 and 3302. The Pathways Programs became effective on July 10, 2012, following OPM's issuance of a final rule (77 FR 28194) implementing E.O. 13562. The Programs are designed to provide students and recent graduates with the opportunity for Federal internships and potential careers in the Federal Government through three components:

- The Internship Program exposes current high school students, undergraduate students, including those enrolled in community and technical colleges, and graduate students to the work of Government by providing paid opportunities to work in agencies and explore Federal careers while still in school.
- The Recent Graduates Program (Recent Graduates) provides opportunities for individuals who have received qualifying degrees or certificates within the previous two years (up to six years for qualifying veterans) to obtain entry-level developmental experience designed to lead to a career in the Federal Government after successfully

completing the Program, which is generally one year in length and in certain cases may be two years in length.

- The Presidential Management Fellows (PMF) Program promotes careers in the Federal Government by offering leadership development opportunities to individuals who have received advanced degrees within the preceding two years.

On August 16, 2023, OPM published a proposed rule with request for comments in the **Federal Register** at 88 FR 55586 proposing to modify the existing regulations for the Pathways Programs for students and recent graduates. Based on agency feedback and OPM's own analysis, OPM proposed several changes aimed at enhancing the robust usage of the Pathways Programs as a key source of early career talent in the Federal Government to supplement, but not substitute for, the competitive hiring process. Overall, the purpose of the changes is to streamline the Pathways regulations, making it easier for agencies to recruit and hire participants in the Pathways Programs and to optimize the Pathways Programs as a tool to recruit and retain diverse and highly qualified early career talent. These changes include:

- Outlining the specific responsibilities of the PMF Coordinator;
- Expanding the time period for converting Pathways Interns from 120 to 180 days;
- Modifying the public notice requirement for job opportunity announcements for Pathways Interns and Recent Graduates;
- Clarifying and streamlining the training and development requirements;
- Allowing Recent Graduates and PMFs to be converted to term or permanent positions in any agency, when appropriate;
- Reducing the frequency of required reporting;
- Allowing the use of part-time work schedules for PMFs in certain situations;
- Clarifying information about the use of developmental assignments for PMFs; and
- Expanding eligibility for the Recent Graduates Program to include those who have completed certain career or technical education programs.

**Summary of Comments**

During the 45-day comment period between August 16, 2023, and October 2, 2023, OPM received 79 sets of comments from nine Federal agencies, 38 members of the public, and nine professional organizations. At the end of

the public comment period, OPM reviewed and analyzed the comments. The comments are summarized in the next section, together with a discussion of the suggestions for revision that were considered and either adopted, or declined, and the rationale therefor. OPM did not address the following suggestions from commenters that are outside the scope of this rulemaking:

- Two comments suggested that OPM should address ways agencies can convert participants in third-party Internships that are not Pathways appointments to permanent positions.

- One comment suggested that OPM pursue legislative changes to the Competitive Service Act to allow for the use of shared certificates for Pathways appointments.

- Several comments addressed issues related to how a specific agency has chosen to use the Pathways Programs or implement various provisions of the programs.

- Comments related to the sharing of recruitment data among agencies that use the Pathways Programs.

- One comment suggested modification to the selection process for the PMF Program.

- Several comments suggested recommendations for workforce planning, recruitment, and marketing activities.

- One comment suggested that OPM remove its ability to place restrictions or caps on the number of Pathways appointments made.

- One comment suggested OPM change the 80 hour per year training requirement for PMFs.

- One comment suggested that Interns should be able to do remote work.

- One comment suggested that OPM allow agencies to share certificates for Pathways hiring actions.

- Several commenters shared information about their personal experiences in the program. The comments ranged from supportive to unsupportive.

In the first section below, OPM addresses general or overarching comments. The sections that follow address comments in response to OPM's requests for comments and data related to specific portions of the proposed rule.

**General Comments**

OPM received several comments that expressed general support for the proposed regulatory changes. For example, one agency expressed that the proposed updates would help facilitate a better applicant experience, streamline agencies' ability to hire participants in the Pathways Programs, and improve

developmental opportunities for Pathways Program Participants. A professional organization indicated that Pathways Programs are essential on-ramps to recruit and hire talented early-career and career-pivoting professionals of all ages into the Federal Government and applauded the proposed expansion of eligibility requirements and facilitation for participants to transition to permanent Federal employment.

One commenter questioned how the proposed changes might provide or support transparency as an objective of the regulations. Our intent with these regulations is to provide more transparency in those areas where agencies, applicants, and Pathways Participants have shared with us that the existing regulations do not provide adequate information to maximize the effectiveness of the programs. For example, applicants and agencies have asked for more options in sharing information about Pathways opportunities. OPM is modifying the regulations to provide more information to applicants about job opportunities, to Pathways Participants and agencies about conversion opportunities, and to collect information that will allow OPM to monitor the effectiveness of the programs.

One commenter indicated that they felt the proposed rule provided neither encouragement nor affirmative language related to leveraging the Pathways Programs for diverse individuals and those with disabilities as required by Executive Order 14035 of June 25, 2021, "Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce." OPM disagrees with the assessment that affirmative language is required to help leverage Pathways Programs for diverse individuals. The changes in the proposed rule (and finalized here) that expand eligibility criteria to include career and technical education will allow agencies to recruit from a broader spectrum of applicants. This change should support agencies as they work to reach applicants with diverse backgrounds.

One commenter indicated that the application of veterans' preference may impact the diversity of Pathways appointments and lead to Pathways appointments that reflect the diversity of the veteran community and not that of the American public. This commenter suggested OPM should monitor the impact of veterans' preference on diversity. Although OPM may continue to monitor the impact of veterans' preference, E.O. 13562 requires agencies to apply veterans' preference when making appointments to fill Pathways positions.

One commenter expressed support for the use of paid internship opportunities. OPM agrees that the use of paid early career opportunities is mutually beneficial to students, recent graduates, and Federal agencies. These paid opportunities offer students and recent graduates a chance to demonstrate their talents and potential while offering agencies time to evaluate their skills, abilities, and contributions. All appointments under the Pathways Programs are paid opportunities. Pathways Participants are appointed to Federal positions and earn a salary commensurate with the grade level of the position. Additionally, Pathways Participants may also be eligible for benefits such as health insurance, life insurance, and retirement coverage depending on their work schedule and length of appointment.

One commenter indicated that OPM should require agencies to implement the use of exit interviews, surveys, and/or other similar processes to ensure that agencies capture information about participant program experiences and use it to improve Pathways Programs in the future. OPM recognizes that exit interviews and surveys are valuable tools to measure employee engagement and the effectiveness of programs such as the Pathways Programs. OPM has determined that information on the use of such tools is more appropriate in guidance to agencies than in this final rule. OPM will consider whether to provide guidance and tools to help agencies measure employee engagement and program effectiveness.

A commenter provided suggestions related to supporting agencies' ability to provide high quality experiences for participants. These suggestions included change management support such as communications, office hours, and training and establishing a Pathways Board to continuously assess and approve improvement recommendations, identify talent innovations, and encourage the hiring of early career talent. OPM intends to provide agencies with support as they implement the changes to the regulations through written guidance and a variety of outreach activities such as webinars, information sessions, office hours, and question and answer sessions. OPM receives feedback and provides support to agencies on the use of the Pathways Programs through the Chief Human Capital Officers Council and its working groups and communities of practice. For this reason, it would be duplicative to establish a Pathways Board.

One commenter suggested that OPM clarify that Interns may be converted to

permanent excepted service positions. OPM is not adopting this suggestion. As provided in E.O. 13562, the Pathways Internship authority is used as an exception to fill 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 E.O. and implementing regulations do not provide for conversion to an excepted service position for an Intern.

## Responses to Requests for Comments and Data

### 1. Whether Recent Graduates and PMFs Should Be Able To Convert to Positions at a Different Agency

The existing regulations at 5 CFR 362.107 for conversion of Recent Graduates and PMFs to positions in the competitive service limits conversion to positions in the employing agency. OPM proposed to modify these provisions to allow conversion at other agencies.

We received many comments on the provisions to allow Recent Graduates and PMFs to convert to positions at other agencies. Most comments were supportive of this change. Some commenters also questioned how agencies would share opportunities and how Recent Graduates and PMFs who are unable to be converted at their employing agency would find information about potential opportunities. Two commenters also recommended that OPM facilitate this process. OPM is currently developing tools to assist participants and agencies in this process. We will provide additional guidance on this process as we develop and launch these tools.

### 2. Limitations on Conversion of Recent Graduates and PMFs to Positions at Different Agencies

The existing regulations for conversion of Recent Graduates and PMFs to positions in the competitive service limits conversion to positions in the employing agency. As discussed in the preceding section, OPM proposed to allow conversion at other agencies; however, OPM proposed that this new flexibility be limited to situations when the employing agency is unable to convert the Recent Graduate or PMF in 5 CFR 362.305 and 362.409. OPM received comments about how the conversion to another agency should occur. Comments were evenly split between those who supported conversion to a position at another agency under limited conditions and those who supported conversion at another agency for any reason. In this

final rule, OPM maintains the conditions to allow conversion at another agency when the agency is unable to convert the Recent Graduate or PMF to a position in the competitive service in the employing agency due to unforeseen circumstances or other appropriate reasons.

Some Federal agencies and individuals indicated that conversion should be limited to certain situations because the agency has invested considerable resources into the recruitment, training/development, and mentorship of the employee. Other commenters suggested that limiting the conditions for when conversion at other agencies could occur was not recommended because it reduced flexibility and choice for Pathways Participants. One commenter also suggested that these limits on conversion would create a burden on agencies. One commenter suggested that limiting conversion at other agencies may lead to dissatisfaction and possibly contribute to PMFs or Recent Graduates leaving Federal service.

Many commenters suggested that Recent Graduates and PMFs should be able to choose where they are converted. Some of these commenters expressed that not allowing this type of choice for Recent Graduates and PMFs could lead to resignations for those who have a bad experience or are in roles that do not align with their career goals. OPM reminds readers that there are opportunities for Recent Graduates and PMFs to move into different positions within the Federal Government before and after their conversion deadline if they are not satisfied with their Pathways experience. For example, Recent Graduates and PMFs can request a transfer to a different agency partway through their program. Once an individual is converted to a permanent position in the competitive service, the individual can seek to transfer to another agency (the same as anyone else hired into a permanent competitive service job). In this way, Recent Graduates and PMFs are not disadvantaged compared to other applicants for Federal jobs.

A commenter recommended standardizing a conversion time period across agencies. They suggested that after a set period, the Recent Graduate should be able to reach out to other agencies to facilitate Federal employment and avoid attrition if the opportunity is not available at their agency. Another commenter suggested that an agency should be required to provide a Recent Graduate or PMF with a written notice of intent to convert or not convert 90 days before their program

ends. Further the commenter indicated that only a Recent Graduate or PMF who receives a notice that the agency will not convert may then be converted to a different agency. OPM does not agree that an agency should be required to provide written notice 90 days before the program ends. But OPM does agree that the notice should be given at least 60 calendar days prior to the end of an appointment and that the notice may be either written or unwritten. While OPM encourages agencies to have conversations with Recent Graduates and PMFs about whether the agency intends to convert the employee as early as possible, OPM recognizes that unforeseen circumstances (such as a budgetary shortfall or uncertainty) may prevent an agency from doing so.

The intent of these Programs is to help agencies meet their early career hiring needs by allowing the hiring agency to convert an eligible Pathways Participant who successfully completes program requirements assuming the agency is able to do so. Therefore, at a minimum as a part of the agency's workforce planning, OPM encourages managers to make determinations about whether the resources are available to convert Recent Graduates and PMFs at regular intervals prior to the end of a Recent Graduate's or PMF's program period. OPM also encourages agencies to inform Recent Graduates and PMFs as soon as possible after the agency makes determinations about the agency's ability to convert the Recent Graduates or PMFs. Such a determination must be communicated to the Recent Graduate or PMF no later than 60 calendar days prior to the end of their appointment. OPM recognizes that to ensure that such conversations and determinations are made in a timely manner this issue should be addressed in an agency's Pathways Policy. For this reason, OPM is modifying § 362.104(a) in this final rule to require agencies to include provisions in their Pathways Policies that address procedures and criteria for determining if an agency will be able to convert Recent Graduates and PMFs and communicating those determinations to the employee. A conversion to a position in the competitive service must occur within the Recent Graduate's one- or two-year program period plus any approved extension or within the PMF's two-year program period plus any approved extension.

The purpose of the Pathways Programs is to allow agencies to recruit student and recent graduates to support agency workforces needs while also offering them a pathway to a Federal career. OPM expects that agencies will continue to hire Recent Graduates and

PMFs with the intention of converting them in the agency to which they were appointed and that the need to convert at another agency will be rare. This means the ability to convert at other agencies must balance the agency's need to meet its workforce goals using available resources against the participants' desires to build a meaningful career. OPM believes that allowing conversion at another agency under certain situations related to unforeseen circumstances provides the needed balance and maintains the intent that the programs are to be used to support agency workforce planning goals. It also preserves the investment the Government has made in the individual Recent Graduate or PMF.

One commenter suggested that those eligible for conversion should be able to apply to merit promotion announcements. OPM is not adopting this suggestion. Agencies use merit promotion announcements to promote or reassign career or career-conditional employees as allowed by 5 CFR part 335 and agencies' policies for internal movements of employees. Recent Graduates and PMFs serve in excepted service positions and generally lack prior service in competitive service positions or career or career-conditional status to meet the eligibility criteria to apply to merit promotion announcements for competitive service positions. Recent Graduates and PMFs who have obtained career or career-conditional status from prior Federal appointments may apply to merit promotion announcements for competitive service positions. Similarly, once converted to competitive service positions, Recent Graduates and PMFs obtain career or career-conditional status through the Pathways Program and may apply to merit promotion announcements.

### *3. Structure of the Intern Conversion Process*

In the existing regulations in § 362.204, an agency may convert an Intern to a position in the competitive service when the Intern has met the OPM qualification standard for the position to which the Intern will be converted, completes a course of academic study from a qualifying educational institution, completes a minimum of 640 hours of work experience while in the Internship Program, and receives a favorable recommendation by an official of the agency. OPM requested comments on how OPM could modify the Pathways Intern conversion process to maximize the Federal enterprise's ability to recruit

and retain qualified interns following the conclusion of their internship.

One commenter suggested that OPM look to industry best practices when considering feasible reasons for conversion, but the commenter did not provide any examples. Another commenter suggested that, instead of a work hours requirement, OPM should ensure agencies are providing clear performance objectives and feedback throughout an Intern's tenure in the position to allow agencies to make conversion decisions based on performance and skills, rather than an hour requirement. While OPM is not adopting this specific suggestion, we note that the intent of the Internship Program is for the Intern to develop necessary skills while allowing the employing agency to train and then assess the performance of the Intern to fill agency workforce needs. The Internship Program achieves this through eligibility conditions required for conversion. One of the existing requirements for conversion is that the Intern receive a favorable recommendation for appointment by an official of the agency or agencies in which the Intern served. Additionally, Interns are subject to the agency's policies for performance and conduct. The recommendation from the Intern's supervisor in conjunction with the agencies' use or application of effective performance management practices ensures that performance is considered when an agency determines that the Intern meets the requirements for conversion. The requirement for a minimum number of hours provides the Intern with sufficient time to learn about the agency and Federal employment and to develop the necessary skills while also allowing the agency time to evaluate the Intern's work performance before offering permanent employment. OPM encourages agencies to recruit Interns as early as possible in the Intern's academic career to maximize the full benefit of the program.

A professional organization recommended a number of best practices for retaining Interns and converting them to full time, including hosting networking events with fellow Interns and agency leaders to help Interns and leaders build networks and contacts, offering programs and experiences that allow Interns to learn about Federal employment and its benefits, and aligning internship opportunities to in-demand skills or emerging professions. Another professional organization suggested several areas of focus for all Federal internships such as improved

onboarding efforts, standardization of program quality criteria, and increased strategic planning for recruitment and hiring of entry level talent. OPM agrees and encourages agencies to consider these types of strategies to improve the Intern experience. OPM plans to use some of these activities in its Intern Experience Program to assist agencies in their efforts to create meaningful experiences for all Interns.

#### *4. Strengthen the Provisions That Allows Agencies To Waive or Credit Up to Half of the Interns' 640-Hour Service Requirement*

The existing regulations at 5 CFR 362.204(d) include a waiver provision and a credit provision for up to half of the 640-hour service requirement prescribed in 5 CFR 362.204(b). The waiver provision allows an agency to waive up to half (320 hours) of the 640-hour service requirement for any Intern who performs work directly related to the Intern's academic field of study or career goals, and who demonstrates outstanding academic achievement and exceptional job performance. The existing credit provision allows an agency to credit up to half of the 640 work hours for time served in a comparable non-Federal internship at a Federal agency. OPM requested comments on ways to modify these provisions to provide additional and appropriate flexibility for agencies and Interns.

One commenter expressed support for allowing agencies to credit or waive up to half of the hours from a Registered Apprenticeship Program or time served in the U.S. Department of Labor's Job Corps that was completed prior to the Internship appointment.

The proposed rule included an example of an agency waiving half of the 640-hour requirement for an Intern who spent time at Job Corps two years before the Internship appointment. One commenter interpreted this example to mean the agency could only credit the time from Job Corps service if it occurred within the preceding two years. This is incorrect; an agency may waive time served with Job Corps that has occurred at any time prior to the Internship appointment. The agency is not limited to considering the two-year period prior to the Internship appointment.

OPM received several comments related to alternative criteria for waiver or crediting provisions. One commenter suggested that credit or a waiver could be given for internships that received class credit, as shown on transcripts, or work experiences that were required for the relevant industry-recognized

certification/state license. Another commenter suggested crediting up to 320 hours for both Federal and non-Federal experience toward an intern's 640-hour service requirement to attract and convert qualified talent with in-demand skills. That same commenter suggested that OPM should consider accepting internship and apprenticeship experience from non-Federal organizations (such as private organizations or workforce centers) and career/technical education for programs that are focused on skills/careers in a current or emerging profession (e.g., cyber, artificial intelligence (AI), technology) to help fulfill demand, depending on type, level, and time of experience. An agency suggested that agencies should be able to waive up to half of the hours when certain agency-determined experience options are met. The agency did not provide example of the options. That same agency also suggested that guidance would be needed on the types of documentation that could be used to verify the outside experience. OPM is not adopting these suggestions. While the proposed alternatives presented in the comments may be viable and may hold promise, OPM believes more research is needed before making such changes to ensure program administration viability and employment equity.

Some commenters also suggested the regulations allow agencies to credit time spent in non-Federal internships toward all or part of the work hour requirement. One commenter expressed that agencies should be able to credit all non-Federal internship or volunteer experience towards the 640 hours requirement, or alternatively, to use evidence of successful participation in such programs to justify immediate step increases upon conversion. OPM is not adopting this suggestion. The minimum number of hours required for conversion gives the employing agency sufficient time to evaluate the intern before converting the individual into the agency's permanent workforce. Crediting non-Federal experience or volunteer service for all or more than half of the work-hour requirement would neither provide the agency sufficient time to evaluate the intern for purposes of permanent employment nor would it give an Intern sufficient time to learn about the agency and Federal employment in general. OPM is concerned that non-Federal internships may lack the structure, consistency, and developmental opportunities offered by Federal internships. This proposal could also be abused, allowing agencies to hire Interns for brief periods of time

before conversion to a permanent position. Experience gained through a non-Federal internship or volunteer activity, however, could be creditable for purposes of qualifying for an initial Pathways appointment.

One commenter also expressed that Interns should be able to use evidence of successful participation in non-Federal internship or volunteer experience programs to justify step increases upon conversion. OPM is not adopting this suggestion. A step increase or within grade increase is earned when the employee's performance is at an acceptable level of competence, the required waiting period for advancement to the next higher step has been completed, and the employee has not received an "equivalent increase" in pay during the waiting period. If the Intern has met the waiting period and other requirements for a step increase at the time of conversion, then an agency may process a step increase at the time of conversion. If the Intern has not met the requirements for a step increase, then the agency does not have the ability to give the Intern a step increase unless it is awarding a Quality Step Increase (QSI). A QSI is a faster than normal within-grade increase used to reward employees who display high quality performance and may be awarded to an employee in accordance with an agency's awards policy. This comment may also be referring to the mistaken idea that, if an agency is considering a promotion at the time of conversion, then the agency is not able to consider non-Federal internship or volunteer experience programs when determining whether the Intern is qualified for a higher grade level. When determining whether an Intern (or any other employee) is qualified for a promotion, an agency should review all available information about the Intern's qualifications and competencies, including non-Federal and volunteer experience.

One commenter suggested that it may be in the Government's best interest to have the entire work-hour requirement met through the Pathways appointment. OPM disagrees. A longstanding feature of Federal student programs such as the prior Student Career Experience Program and the current Pathways Program has been to allow Interns to credit work that was done in, but not for, a Federal agency. OPM believes such provisions are appropriate because these opportunities allow Interns to explore the culture of the agency and the agency has had a chance to observe the Intern's work even though they were not a Federal employee.

One commenter suggested that any waiver provisions should be applied consistently across agencies, which would benefit situations when Interns convert at other agencies. OPM agrees that the use of the waiver provision should be applied consistently across agencies. However, OPM recognizes that waivers may not be needed by all participants and the number of waivers approved by agencies may vary. OPM encourages the approval of a waiver for situations where waiver may be needed and the criteria for a waiver and the additional criteria for conversion have been met. That same commenter also questioned how the waived or credited hours affect creditable service for leave accrual or retirement and time-in-grade. The waiver or crediting of hours is only creditable for the purpose of meeting the work-hour requirement. Hours waived or credited do not impact creditable service for purposes of leave accrual, service credit towards retirement, or time-in-grade requirements.

A commenter stated that the work hour requirement should not be waived; however, if it is waived, OPM needs to provide a standardized form for use of all employing agencies that would require specific documentation. Several commenters suggested that OPM specify what documentation is required for an agency to waive a portion of the required work hours. When approving a waiver, an agency needs documentation to support its determination. For example, to document academic achievement, the agency may accept a transcript or other written confirmation of class standing from the educational institution or written confirmation of induction into a nationally recognized scholastic honor society. For exceptional job performance an agency could use a copy of the Intern's performance appraisal or other documentation of the rating of record. OPM may provide additional information about examples of documentation for these provisions in guidance. Given that agencies have been using the waiver provisions for many years without incident, OPM does not believe implementing a standardized form is necessary.

One commenter suggested that, if an Intern met the work-hour requirement with or without a waiver, that the agency should be able to convert the intern to a term or permanent position before they completed their educational program. OPM disagrees and is not adopting this suggestion. Completion of the Intern's educational program is an integral part of the Pathways Programs, and its predecessor programs, and helps ensure the Intern meets his or her

academic goals and aspirations. OPM noted in the original Pathways proposed rule (76 FR 47495, August 5, 2011) that ". . . it is difficult for many recent graduates or expected graduates to compete for government jobs through the competitive hiring system [because they] do not have the experience necessary to compete . . ." The proposed rule further stated, "Internship programs are essential to addressing these issues." The E.O. also states that many students are unable to successfully compete for a Federal job solely on the basis of possessing an academic degree because the Federal hiring process is structured to favor those with significant work experience. Completion of the educational program is a fundamental or foundational basis for this excepted service program and helps to ensure interns qualify for these positions and placement in the competitive service.

One commenter suggested that agencies should be able to determine if up to half of the required work hours may be waived and for what types of work; agency policies should establish the process and criteria for making these determinations. OPM agrees that agencies should have the discretion to determine if a waiver or crediting of other experience is allowable. Agencies may put in place procedures that outline how the discretion to approve waivers may be made consistent with the criteria OPM has established in regulation.

OPM's existing regulations apply a two-prong test to determine eligibility for a waiver. An intern must demonstrate "high potential" through both "outstanding *academic* achievement" and "exceptional job performance." 5 CFR 362.204(d) (emphasis added). Further, outstanding academic achievement is defined in terms of grades, class standing, and honors societies. *Id.* With the proposed rule, OPM intended to expand the qualifying educational programs beyond traditional academic institutions to include career and technical education programs. As described in the proposed rule, OPM did not intend for Interns attending a qualifying technical education program to have their ability to participate curtailed in any way. However, our review of the comments related to the waivers and the existing waiver provision showed that the existing requirement for outstanding academic achievement (necessary for approval of a waiver) could not be applied to career and technical education programs where grades or other academic standards such as grade point average and class rankings may

not be used. For example, participants in a Registered Apprenticeship Program may be required to take classroom or online training classes where completion is graded as pass/fail and letter or numerical grades (or grade points) are not assigned. In such instances an Intern in a Registered Apprenticeship Program that did not also have class ranking or an associated honor society induction would have no way to qualify for a waiver. For this reason, OPM has modified the waiver provision to introduce a new option of the submission of a recommendation letter from an instructor or program administrator as a way for the Intern to demonstrate high potential in their academic or career and technical education program. This new option ensures that interns in career and technical education programs where traditional indicia of high performance are not available will be eligible for waivers consistent with the intent of the proposed rule. Specifically, OPM reorganized the two-prongs to remove references to academic programs but retained the concept that an intern must demonstrate high potential in both the Federal internship and in the educational component of the qualifying program. The Intern participating in a career or technical education program must demonstrate exceptional job performance just as an Intern enrolled in a qualifying educational institution, so OPM determined that no change to that provision is needed apart from the reorganization of the paragraph.

#### *5. Changing the 640-Hour Requirement for Conversion of an Intern*

Under the current regulation in § 362.204, one of the requirements that an Intern must meet for conversion is the completion of 640 hours of employment under a Pathways Internship appointment. OPM requested comments on whether OPM should consider making a change to the 640-hour service requirement that must be met for conversion of an Intern and indicated that it would consider adopting a different hourly requirement in the final rule. Additionally, OPM requested information regarding best practices and asked that any suggestions for an alternative work-hour requirement describe the advantages and disadvantages of the suggested length of the internship.

Some commenters suggested that the 640-hour requirement should be reduced. Two agency commenters suggested the requirement should be reduced to 480 hours to allow more flexibility in hiring and converting Interns who are hired closer to their

graduation date. One commenter suggested that OPM's 640-hour requirement is rigid, unrealistic, arbitrary, and burdensome and is longer than what is used in many industries. This same commenter suggested that more emphasis should be put on meaningful experience focused on skills, performance objectives and accomplishments. The commenter explained that compliance with an hour-based requirement is not the best way to obtain early career talent with demonstrated skills. Another commenter suggested that the work hour requirement should be reduced to 420 hours to better align with a typical summer internship period for students. Some commenters argued that OPM should consider private sector practices and indicated that private sector internships were generally shorter than the existing prescribed minimum of 640 work hours. Other commenters expressed support for the 640-hour requirement and indicated that it should not be changed or waived.

OPM agrees that an intern's performance on-the-job is the most important factor as to whether an intern should be converted into a permanent position, but OPM believes that some minimum amount of time in an agency is necessary for the agency to evaluate that performance. As suggested by two agencies, OPM agrees that a 480-hour internship can provide agencies with the information they need to determine if a high-performing intern can be converted. OPM notes, however, that the shorter time frame—from 640 to 480—in no way suggests that an intern should have an expectation of conversion. By contrast, agencies should only convert interns when their performance indicates that they are well prepared to add value to the Federal Government as permanent employees. Accordingly, OPM is revising the minimum work hours to 480.

OPM further notes that another agency expressed the view that 640 hours was a reasonable timeframe to assess an intern's performance. Agencies can set the minimum for their programs higher than 480, including setting higher minimums for different types of positions. OPM also notes that § 362.105(i) requires an agency to place each Intern on a performance plan, establishing performance elements and standards that are directly related to acquiring and demonstrating the expected competencies, as well as the elements and standards established for the duties assigned. Interns are not eligible for conversion unless they have performed satisfactorily during their internships.

#### *6. Public Notification*

The existing regulations at 5 CFR 362.203(a) and 362.303(a) require that an agency must post opportunities for positions in the Internship and Recent Graduates Programs on *USAJOBS.gov*. OPM proposed to modify the provisions for meeting public notice options for filling positions under the Internship Program and Recent Graduates Program. In addition to allowing agencies to post searchable job opportunities at USAJOBS, OPM also proposed to allow agencies to post job information with a link to a USAJOBS custom posting on their agency websites, with OPM providing a centralized place where applicants can be directed to those postings on the agency websites. OPM requested comments on these changes and whether the changes will enable agencies to recruit and retain early career talent more effectively than the current process.

One commenter indicated that they did not think the updated public notification requirement would help agencies or potential candidates but was not opposed to offering multiple options for advertising the opportunities. Another commenter indicated the changes would not yield much additional benefit. Another commenter felt the additional options just added more steps and could possibly extend the length of the hiring process. Public notification for Pathways positions is required by E.O. 13562 to ensure that agencies uphold the merit system principle of fair and open competition for the Program's opportunities. OPM's intention is to provide agencies with multiple options to communicate about available opportunities, while still making sure that such options are available and open to all. The options provided will allow agencies to choose which options best match their recruitment and outreach approaches and meet the core Federal employment principle of fair and open competition.

One commenter questioned how allowing agencies to link to a USAJOBS custom posting on the agency's public career or job information web page would be advantageous when many agencies already have links to USAJOBS announcements on their websites. OPM recognizes that some agencies may already provide links to USAJOBS announcements on their websites, but many do not. Using a USAJOBS custom posting in concert with an announcement on the agency's website allows an agency to provide fair and open competition while focusing its recruitment efforts. Specifically, adding this alternative to the regulations

ensures that agencies have the use of all available tools to spread information about Pathways opportunities.

A commenter suggested that agencies should be required to have internship announcements stay open for at least 3–4 weeks. OPM disagrees with this suggestion. Agencies need the flexibility to open and close announcements in a manner that allows for a sufficient pool of applicants to apply. In certain situations, such as when an agency is attending a job fair or conducting other strategic recruiting activities, the agency may identify a sufficient pool of applicants using a shorter application period. The public notification period used by an agency will depend on several factors which include: the type of job and grade level of the position being filled, the availability of candidates in the location where the job will be performed, and the breadth of outreach and recruitment conducted by the agency.

Two commenters expressed that custom postings would be helpful in recruiting early career and diverse talent. OPM agrees with this assessment. Another commenter, while supportive of the proposed changes, made several recommendations pertaining to outreach. The commenter stated:

We recommend expanding recruitment marketing for Pathways positions to establish and improve the Pathways program's brand, promote open positions, and highlight benefits and attract/source talent through high-yield platforms (digital and social media (Facebook, Google, etc.), jobs boards (Indeed, Handshake, etc.). OPM and individual agencies should consider the development of talent network site to source leads for the Pathways program during and outside of hiring windows and should bolster their careers sites with information about different Pathways opportunities.<sup>1</sup>

OPM agrees and is working with our agency partners to develop tools and resources for applicants to learn about Pathways opportunities. For instance, in 2022, OPM introduced the Federal Internship Portal<sup>2</sup> as part of a strategy to improve marketing and outreach to potential applicants for early career positions.

A professional organization recommended that agencies create separate announcements for Pathways Programs between a public announcement and Federal/status announcement to ensure qualified veteran and non-veteran candidates are selected in a timely manner and reduce

applicant dropout rates for non-veterans. OPM is not adopting this recommendation. Announcements for Pathways Programs are open to all who meet the eligibility criteria regardless of whether the applicant is a current Federal employee, or an individual entitled to veterans' preference. Veterans' preference also applies to positions filled in the excepted service. Having separate announcements for current Federal employees would not remove the requirement to apply veterans' preference and is not likely to impact whether students or recent graduates complete the hiring process.

This final rule adopts the proposed changes to public notification in §§ 362.203(a) and 362.303(a) without change.

#### *7. Clarifying the Role of the Presidential Management Fellows Coordinator*

Under the existing regulations, the Agency Presidential Management Fellows Coordinator (PMF) Coordinator is broadly defined as "an individual, at the appropriate agency component level, who coordinates the placement, development, and other Program-related activities of PMFs appointed in his or her agency." 5 CFR 362.401. The existing regulations also indicate that the PMF Coordinator is responsible for administering the PMF Program and serving as a liaison with OPM. OPM proposed to clarify the role of the PMF Coordinator by outlining the specific responsibilities of the role. Additionally, OPM proposed to require that the employee filling the role of the coordinator must be in a position at the agency's headquarters level of a departmental component, or sub-agency level, in a position at or higher than grade 12 of the General Schedule (GS) (or the equivalent under the Federal Wage System (FWS) or another pay and classification system).

Many commenters were supportive of the proposal to define and clarify the role of the PMF Coordinator. One commenter indicated that outlining minimum grade level requirements as well as the necessarily collaborative nature of the assignment are appropriate steps. OPM appreciates these comments.

One commenter suggested that OPM specify that the changes to the PMF Coordinator role should include facilitating the assignment of a mentor for each agency PMF. While OPM agrees that a PMF Coordinator has a role in facilitating a PMF's search for a mentor, the role could also be filled by others in the agency such as the PMF's supervisor or an agency training manager. For this reason, OPM is not adopting this suggestion.

One commenter suggested that OPM should clarify how PMF Coordinator positions interact with agency roles for managing other early career talent programs. This commenter also stated it is unclear whether the PMF Coordinator role is intended to be separate from similar positions used to manage other early career talent programs. OPM recognizes that many factors such as the agency's size and their utilization of the PMF program and other early career talent programs may impact whether the PMF coordinator role is separate from other roles. OPM believes that agencies need the flexibility to determine whether the PMF coordinator role can be combined with agency roles that manage other early career talent programs. OPM believes the discussion of this issue is best addressed in guidance to agencies and declines to incorporate this suggestion into the regulatory text in this final rule.

One commenter suggested that OPM should require annual training and development for PMF Coordinators to ensure that PMFs are getting the same quality of program coordination regardless of which agency employs them. Another commenter suggested that OPM implement user-centered design to collect feedback from current PMF Coordinators and program applicants to better understand challenges and to develop the tools and resources needed to strengthen the PMF experience. A commenter also suggested that OPM standardize the required training for the role and establish quarterly meetings with all PMF Coordinators to provide support and ensure consistency of the program across agencies. OPM's PMF Program Office currently provides Agency PMF Coordinators with resources and technical assistance to encourage agency use of the PMF Program and to provide necessary technical guidance. Resources include an Agency Brochure, Participant Handbook, Onboarding Toolkit, Checklists, Timelines, FAQs, Sample Position Descriptions, PMF Forms, and Templates.<sup>3</sup> The PMF Program Office also conducts monthly meetings with all Coordinators, facilitates an Agency PMF Advisory Board, and sponsors a mentoring program for new PMF Coordinators. The PMF Program Office uses feedback from all stakeholders to create and update these offerings to assist Agency PMF Coordinators in implementing the PMF Program.

A commenter suggested that PMF Coordinators should play a more hands-

<sup>1</sup> Comment 0072 available at <https://www.regulations.gov/comment/OPM-2023-0020-0072>.

<sup>2</sup> <https://www.opm.gov/intern/prospective-interns/> and <https://intern.usajobs.gov/>.

<sup>3</sup> These resources are available online at <https://www.pmf.gov/agencies/resources/>.

on role in onboarding new PMFs to agencies and focus on the employee experience. OPM agrees that an agency may find it beneficial for PMF Coordinators to have an active role in a PMF's agency orientation. Agencies should have the discretion to determine how that is handled. OPM also provides PMF Coordinators with resources to help them create successful onboarding activities. OPM is not making changes to the regulatory text based on this suggestion. Instead, it will continue to provide guidance and resources to PMF Coordinators on effective onboarding.

One commenter indicated the provisions for the PMF Coordinator limit the placement of coordinators to the headquarters level of the employing agency. This commenter added that agencies should have the flexibility to place coordinators at other levels as appropriate. OPM believes it is important for at least one PMF Coordinator to be at the headquarters level of a department or agency to ensure there is agency-wide coordination for the implementation of the PMF program in the agency. This requirement to have a PMF Coordinator at the headquarters level does not prohibit an agency or department from having additional roles at other levels of the organization. OPM has clarified the language at § 362.104(a)(8) to state this more clearly.

#### *8. Inclusion of Technical and Career Education Programs*

The existing regulations at 5 CFR 362.202 and 362.302 limited eligibility for the Internship and Recent Graduate Programs to those in qualifying educational programs. OPM proposed to revise the eligibility criteria for the Internship and Recent Graduate Programs to include career and technical education programs, consistent with E.O. 13562. OPM also requested comments on whether to include non-Federal programs in the definition of career and technical education programs.

OPM also asked for information on types of criteria and documentation that could be used to justify why those who complete such programs should be eligible for the Recent Graduates Program. OPM did not receive any comments that provided substantive and measurable ways to evaluate non-Federal programs for inclusion in the eligibility criteria for the Recent Graduates Program. While OPM agrees that it could be valuable to include non-Federal programs, we also recognize that more research is needed to identify the best way to evaluate the programs to determine if the programs should be

considered eligible. For this reason, OPM is not including non-federally administered programs in the definition of career and technical educational programs.

Many commenters supported the inclusion of Registered Apprenticeship Programs in the definition of career and technical education programs and as meeting the eligibility criteria for the Recent Graduate Program. A professional organization commented that the provision should be expanded to include apprenticeship programs that are not Registered Apprenticeship Programs or non-government apprenticeships. Registered Apprenticeship Programs are industry-vetted, approved, and validated by the U.S. Department of Labor or a State Apprenticeship Agency and may be sponsored by a Federal agency, a State, local, or Tribal government organization, or private sector organization. These programs must meet specific standards that address the mentorship, pay, education, and on-the-job training of apprentices. Non-registered apprenticeships may not meet these standards and agencies may not have a way to validate that a program meets industry-recognized standards. In addition, credentialing and certification may vary widely among non-registered apprenticeships, making it difficult for agencies to determine whether the standards these certifications represent are of a similar nature and rigor as those obtained via Registered Apprenticeship Programs. Some non-registered programs may not operate through a structured program designed to ensure participants receive an organized and systematic form of instruction designed to provide the participant with legitimate job skills. OPM believes Registered Apprenticeship Programs provide a measure of standardization that ensure the participant is receiving meaningful training, guidance, and work experiences needed to prepare the individual for employment in a specific job, trade, or career field. For these reasons, OPM is not including non-registered apprenticeship programs in the definition of career and technical education. To clarify, those who complete Registered Apprenticeship Programs with any organization (either a Federal agency, a State, local, or Tribal government organization, or private sector organization) will meet the eligibility criteria for the Recent Graduates Program.

OPM received three comments related to including industry-recognized credentials in the definition for certificate programs. One commenter indicated that including "industry-

recognized credentials" or state licensing programs as options for being eligible for Pathways would greatly improve agencies' ability to recruit and retain candidates in the trade professions. Another commenter questioned whether reputable sources to verify technical programs exist to determine if technical programs are accredited or meet accreditation standards in a similar manner that is used for accreditation of degree programs. A different commenter urged OPM to allow individual Federal agencies to establish low-burden processes to vet and certify certificate programs as eligible entities for the purposes of their Pathways Programs, such as by providing documentation of industry recognition or a third-party evaluation of a certificate program's efficacy.

Another commenter suggested that, in addition to including programs such as Registered Apprenticeship Programs, Job Corps, Peace Corps, and AmeriCorps, OPM should develop criteria that include conditions similar to those outlined for a "qualified youth or conservation corps" under the Public Land Corps Act (16 U.S.C. 1723). Qualified youth or conservation corps programs must provide meaningful, full-time, productive work; a mix of work experience, basic and life skills, education, training, and support services; and an opportunity to develop citizenship values and skills through community service. 16 U.S.C. 1722(11). These programs generally should implement projects that provide long-term benefits to the public, instill a work ethic and sense of public service, be labor intensive, and provide academic, experiential, or environmental education opportunities. 16 U.S.C. 1723(e). OPM will provide additional guidance to agencies and applicants to help them determine which types of programs meet the definition of career and technical education. OPM has also added clarifying language to the definition of career and technical education programs in § 362.102. Specifically, OPM has added an explanation that federally administered<sup>4</sup> career or technical education programs that will qualify for the Internship and Recent Graduates Programs must operate under the oversight of a Federal agency (or component thereof). The purpose of this oversight is to ensure that the program

<sup>4</sup> In the proposed rule, OPM used the phrases "federally administered" and "administered by a Federal agency" to capture the same intended meaning. For better clarity and consistency, in this final rule and in the adopted regulatory text, OPM uses the phrase "federally administered."

is achieving educational outcomes and is being operated in accordance with criteria specified by the agency to ensure participants develop high-demand skills. These criteria must include the nature and scope of work to be performed by participants, the types and scope of training to be provided to participants, the types of skills participants will gain from the program, the mentoring that will be provided, and the specific metrics by which the program's fulfillment of the educational purpose will be evaluated. Programs operated under a cooperative agreements or other agreements that require programmatic oversight by the partnering or funding Federal agency may meet this criteria.

OPM notes that not all programs funded or "administered by a Federal agency" in a colloquial sense will meet these criteria; although OPM is expanding the range of eligible programs, OPM also intends to ensure that qualified programs provide commensurate education/training to those OPM reviewed as part of this rulemaking process. Accordingly, these criteria, along with Federal oversight, will ensure that participants in other federally administered programs will receive the quality of training and experience similar to that received by participants in Job Corps, Peace Corps, and AmeriCorps.

Accordingly, OPM is not adopting the suggestions to expand the definition of career and technical education programs to include non-federally administered programs even if accredited credentials are awarded. The Recent Graduates Program eligibility criteria will continue to require a certificate or industry-recognized credential to meet the eligibility criteria only when the certificate or credential has been awarded from a qualifying educational institution or qualifying career or technical education program as defined in the revised § 362.102. Industry-recognized credentials vary widely by occupation and each occupation may have one or more entities that accredit or certify the programs. OPM is aware that some industry-recognized credentials may be accredited through programs like those offered by the American National Standards Institute National Accreditation Board (ANAB), National Commission for Certifying Agencies (NCCA), or other industry-specific accreditation organizations. Additionally, the Department of Labor Career One Stop offers a certification finder to help identify a variety of industry-endorsed certifications. However, even with these disparate resources there is not a centralized way

for vetting individual programs to verify that they provide participants with the skills and competencies to adequately prepare them for Federal employment. Agencies may find it challenging to determine if a credential has been accredited or is formally endorsed or accepted as being industry-recognized by a specific industry. We believe limiting the definition to federally administered programs reduces the potential for participants to be eligible through programs that do not provide an appropriate level of training or technical education, and also ensures that participants receive an organized and systematic form of instruction designed to provide the participant with legitimate job skills while performing a defined public service. For this reason, OPM has chosen not to expand the definition of qualifying career and technical education programs beyond those that are a part of federally administered, organized educational programs, a Registered Apprenticeship Programs, or federally administered local, State, national, or international volunteer service programs.

A professional organization, while supportive of the inclusion of career and technical education programs, expressed that limiting the definition to those programs administered through a Federal agency is unclear and likely unnecessarily restrictive. A different professional organization suggested that OPM broaden the definition of career and technical education programs to align with how and where these programs operate at the state level. OPM is not adopting these suggestions. OPM recognizes that there are many private sector and state-run career and technical education programs. However, as with industry recognized credentials, these programs lack a centralized way for vetting individual programs to verify that they provide participants with the skills and competencies to adequately prepare them for Federal employment. Also, students who complete private sector programs that are a part of an academic program at a qualifying education institution such as a vocational or trade school may meet the eligibility criteria. OPM has added clarifying language to the definition of career and technical education in § 362.102 to make it easier for agencies and applicants to understand which types of programs will meet the eligibility criteria.

Several commenters were supportive of the change to include participants in federally administered local, state, national, or international volunteer service programs such as AmeriCorps and Peace Corps in the definition of

career and technical programs. They indicated that it would be a substantial benefit to participants in these programs. Additionally, a commenter indicated that inclusion of these programs under the Pathways umbrella provides agencies with other avenues for recruiting high quality candidates from a variety of backgrounds. One commenter suggested that, while the inclusion of these programs may be beneficial, these participants may need additional support in building foundational skills to be successful in the Federal Government. OPM appreciates these comments and agrees with the sentiment that all students and recent graduates may benefit from support to build foundational work and leadership skills.

Other commenters were skeptical of including these types of volunteer programs. One commenter suggested that it was unclear whether these programs have the same level of rigor as graduation from a formal academic or technical training program with clearly defined areas of study and a methodology for validating sufficient assessment standards (*e.g.*, accreditation). One commenter requested that OPM clarify why AmeriCorps and Peace Corps are included in the definition for career and technical education programs when alumni of these programs already benefit from noncompetitive eligibility for appointment under existing law. OPM has included these programs because the participants in these programs gain relevant technical skills and competencies that are similar to those developed in more formal programs such as apprenticeships. Use of the Pathways Programs for AmeriCorps and Peace Corps participants are not intended to replace the use of the non-competitive hiring authority that currently exists for those programs. It is important to note that the non-competitive hiring authority is limited in scope and not available to all participants. The use of the Pathways Recent Graduate authority provides an alternative for those participants who are not eligible for the non-competitive authority. Agencies are encouraged to continue to use the non-competitive hiring authority to appoint participants from the AmeriCorps and Peace Corps programs.

One commenter supported the inclusions of career and technical education programs but was concerned that this inclusion would be applied to applicants for the PMF Program. Completion of a career and technical education program will now fulfill one of the requirements for the Internship

and Recent Graduates Programs; however, career and technical education program do not satisfy the requirements for the PMF program.

### Responses to Comments on the Regulations

In addition to receiving comments that were responsive to OPM's specific requests for comments in the NPRM, as discussed above, OPM also received comments on a number of other issues. Below we discuss those comments with respect to specific sections of the Pathways regulations.

#### Part 300 Employment (General)

##### *Section 300.301 Authority To Detail an Employee*

The existing regulations at 5 CFR 300.301 require that an agency must obtain approval from OPM to detail employees appointed under the Pathways Programs (Schedule D of the excepted service) to positions in the competitive service. OPM proposed to modify 5 CFR 300.301(b) to remove this requirement.

We received three comments related to the proposed change to allow agencies to detail employees appointed under the Pathways Programs (Schedule D of the excepted service) to positions in the competitive service without approval from OPM. A commenter asked what it means to detail an employee. A detail is a temporary assignment of an employee to a different position for a specified period, with the employee returning to their regular duties at the end of the specified period. One commenter indicated that it may help with retention of Pathways Interns by offering them the opportunity to get additional specialized experience.

An agency commented that it was concerned about allowing agencies to detail Interns and Recent Graduates to another position while serving a trial period. The same agency commented that details should only be allowed after Interns and Recent Graduates are converted to term or permanent positions. OPM disagrees, noting that Interns and Recent Graduates should be allowed to be detailed while serving a trial period in the same way as other Federal employees. Internship and Recent Graduate positions are developmental in nature, and details are an appropriate tool for facilitating employee development and training. The same agency also expressed that allowing such details may require negotiating the option with their union partners. This change provides an option to agencies to use in appropriate situations in accordance with agency

policy, any applicable collective bargaining agreements, and applicable collective bargaining obligations.

#### Part 362 Pathways Programs

##### Subpart A General Provisions

###### *Section 362.102 Definitions*

OPM proposed to revise the definitions of advanced degree and certificate program in § 362.102 and also added definitions for terms related to career and technical education. These terms are: certificate of completion of a Registered Apprenticeship Program; industry-recognized credential; qualifying career or technical education program; recognized postsecondary credential; and Registered Apprenticeship Program. These definitions support the changes to the eligibility criteria for the Internship and Recent Graduate Programs.

One commenter recommended that OPM include a list of the types of documentation that an agency may accept as proof that an applicant has completed a program at a qualifying educational institution. OPM agrees that agencies and applicants may need additional detail or examples of the types of documentation appropriate for determining eligibility. For example, an agency may accept a transcript (official or unofficial), a copy of the diploma, or other written documentation from the educational institution for the purposes of determining eligibility. OPM may provide additional examples of documentation that may be used to determine eligibility in guidance.

An agency asked for clarification on the typical duration of a certificate program. Specifically, the agency wanted to know if a program of three months would meet the criteria. The comment did not specify if the question was directed to certificates from a qualifying educational institution or from a qualifying career and technical education program. A certificate from a qualifying educational institution must have length that is equivalent to one academic year of full-time study. Many educational institutions measure the length of an academic year based on the number credit hours completed, and this number varies by institution. To determine if the certificate program meets the criteria, the applicant will need to provide the agency with information about the number of credit hours that constitutes an academic year at the educational institution that awarded the certificate and the number of hours that were completed to attain the certificate. The proposed rule did not specify the length of the program for certificates from qualifying career or

technical education programs. For clarity OPM has modified the regulatory text in this final rule to indicate that programs should be at least one year (12 months) in length similar to the requirement that qualifying volunteer service must be one year in length.

As previously discussed (Responses to Requests for Comments and Data—8. Inclusion of technical and career education programs), OPM has added clarifying language that explains the term federally administered in response to comments related to the definition of career and technical education.

In the proposed rule, OPM expanded the definition of a certificate program to include a qualifying career or technical education program of at least one year that awards a recognized postsecondary credential or industry recognized credential. An industry recognized credential is a type of post-secondary credential. For additional clarity, OPM is modifying that part of the definition of certificate program to remove the term industry recognized credential in the final rule.

In the proposed rule, the definition of recognized postsecondary credential included a reference to an industry recognized certificate or certification. The terms industry recognized certificate or certification and industry recognized credential can be used interchangeably. In the final rule, we replaced the term industry recognized certificate or certification with industry recognized credential.

###### *Section 362.104 Agency Requirements*

##### A. Removing the Requirement for a Pathways Memorandum of Understanding

The final rule replaces the requirement for an agency to execute a memorandum of understanding (MOU) with OPM before using the Pathways Programs with a requirement that an agency must have a Pathways Policy to make Pathways appointments.

OPM received two comments regarding the removal of the requirement for agencies to enter into a memorandum of understanding (MOU) to use the Pathways Programs. One comment was in support of replacing the use of an MOU with a requirement that an agency must have a Pathways Policy. The other comment suggested replacing the MOU requirement with a reporting requirement. This comment also mentioned that the use of the MOU created an unnecessary administrative burden. OPM agrees that the agency development of a policy will be a less burdensome method to ensure an agency has the necessary structures in

place to use the Pathways Programs than the current requirement for an MOU. Therefore, OPM is adopting the proposed change to replace the MOU with a Pathways Policy. There is an existing reporting requirement in § 362.109 that provides OPM with information on agency use of the Pathways Programs.

As previously discussed (Responses to Requests for Comments and Data—2. Limitations on conversion of Recent Graduates and PMFs to positions at different agencies), OPM has modified this section to also require agencies to include provisions in their policies that address procedures and criteria for determining if an agency will be able to convert Recent Graduates and PMFs and communicate those determinations to the employee.

In reviewing the comments on this section, we recognized that in ending the MOU process we inadvertently also removed the way that agencies informed OPM about the staff who filled the roles of the Pathways Program Officer and PMF Coordinator. For this reason, OPM is adding a provision in § 362.104(a)(6)(v) to require agencies to provide OPM with the names of the agency's Pathways Programs Officer and Presidential Management Coordinator.

Agencies must establish their Pathways Policies in accordance with the criteria listed in § 362.104 by no later than December 9, 2024. Until that date, an agency with an existing Pathways MOU<sup>5</sup> may continue to use the Pathways Programs subject to the new regulations in lieu of an updated Pathways Policy while it develops and updates its policies in accordance with the new regulations. Agencies with MOUs that expire within 240 days of the publication date of this final rule may request an extension of the MOU. Agencies without an existing Pathways MOU must establish a Pathways Policy before they begin making Pathways appointments. All Pathways MOUs will expire on December 9, 2024, unless OPM has approved an extension. OPM will issue implementing guidance that provides additional details about creating Pathways Policies. OPM has modified § 362.104(b) to reflect these timelines.

OPM did not propose that agency Pathways Policies would require OPM approval. Because an agency does not require OPM review of its Pathways Policy, OPM is replacing the proposed

requirement to submit Pathways Policies to OPM with a requirement to make these policies available for review upon request by OPM, applicants, Pathways Participants, and agency employees. OPM expects that this requirement will lower the potential administrative burden for agencies relative to the proposed rule.

In the proposed rule when revising the text in § 362.104 to replace the requirement to have an MOU with an agency policy, we inadvertently removed the provision that contained OPM's authority to revoke an agency's ability to use the Pathways Programs when the agency usage is inconsistent with the regulations. That was not our intent, and we did not request or receive any comments on such a change. For this reason, this final rule retains OPM's authority to revoke an agency's use of the Pathways programs when OPM has found that an agency's use of the Programs is inconsistent with the regulations or an agency's Pathways policy in § 362.104(c).

OPM is also adding a requirement for agency policies to identify the minimum service-hour requirement that must be completed by an Intern for conversion. This is a conforming change based on changes in § 362.204.

#### B. Presidential Management Fellowship Coordinators

As previously discussed (Responses to Requests for Comments and Data—7. Clarifying the Role of the Presidential Management Fellows Coordinator), the existing regulations at 5 CFR 362.104(c)(8) require an agency to identify a Presidential Management Fellows (PMF) Coordinator. OPM proposed to clarify the role of a PMF Coordinator by outlining specific responsibilities, and the final rule includes those specific responsibilities of the PMF Coordinator.

One agency suggested that the provision for PMF Coordinators be modified to indicate that collaboration is required between the PMF Coordinators when an agency or sub agency designates multiple PMF Coordinators. OPM agrees this is a good idea and is adopting this suggestion.

#### Section 362.107 Conversion to the Competitive Service

The existing regulations at 5 CFR 362.107 allow a Recent Graduate or PMF who successfully completes program requirements to be converted to a position within the employing agency. OPM also proposed to allow conversion to a position in another agency within the Federal Government when the

employing agency is unable to convert the Recent Graduate or PMF.

Two agencies suggested that conversion at other agencies should only occur when the employing agency was unable to convert due to budgetary constraints (including not having a permanent position available). One commenter suggested that the regulations should allow for programs with interagency missions and goals to forgo the process by which an agency must provide proof of refusal for financial or mission-related reasons in order to streamline career mobility. To ease administrative burden, OPM is removing the requirement to provide documentation of this situation. As previously described (Responses to Requests for Comment and Data—2. Limitations on conversion of Recent Graduates and PMFs to positions at different agencies), OPM has added a requirement for agencies to specify the procedures for how conversion at another agency may occur in their Pathways Policy.

#### Section 362.108 Program Oversight

Under the current regulation, agencies must enter into an MOU to participate in Pathways. As discussed above (Section 362.104 Agency requirements), OPM proposed to replace the MOU requirement with a requirement for agencies to create a Pathways Policy. As proposed, this final rule removes the reference to a Pathways MOU in § 362.108 and replaces it with a reference to the agency's Pathways Policy in accordance with the proposed change at § 362.104.

#### Section 362.109 Reporting Requirements

The existing regulations at 5 CFR 362.109 require agencies to provide information on workforce planning strategies and their use of the Pathways Programs on an annual basis to OPM. As proposed, this final rule modifies the requirement so that agencies will report to OPM on a fiscal year basis every three years.

A professional organization encouraged OPM to collect and share trend data on the utilization of the Pathways Programs. They also encouraged OPM to use this data to help prioritize future participant outreach and make program adjustments as needed. OPM appreciates this suggestion and will formulate a strategy for sharing Pathways data with agencies and the general public.

<sup>5</sup> A sample MOU is available online in the Pathways Transition and Implementation Guidance at <https://www.opm.gov/policy-data-oversight/hiring-information/students-recent-graduates/reference-materials/pathways-transition-andimplementation-guidance.pdf>.

### Section 362.111 Severability

This final rule adds a new § 362.111 to address the issue of severability. OPM received no comments on this section.

### Internship Program

#### Section 362.202 Definitions

This final rule adds a definition for the term “Intern not-to-exceed (Intern NTE),” which is not included in the existing regulations, and modifies the definition of a student to include individuals who are “enrolled or accepted for enrollment in a qualifying career or technical education program that awards a recognized postsecondary credential.”

OPM received no comments on this section.

#### Section 362.203 Filling Positions

##### A. Public Notification

The existing regulations at 5 CFR 362.203(a) require agencies to provide OPM with information about opportunities to participate in their Internship Programs. OPM proposed adding clarifying text regarding the public notice requirement for posting Intern positions and options for agencies to meet the public notice requirement. In addition to including information about the position title, series, grade, and geographic location where the position will be filled, which is required under current regulation, OPM proposed adding the following announcement requirements: appointment length, salary information, qualifications, promotion potential, and conversion information. As previously discussed (Responses to Requests for Comments and Data—6. Public Notification), this final rule adds an option for agencies to meet the public notice requirement.

One commenter suggested that OPM clarify that an agency can post an internship opportunity both on its own site and on USAJOBS—not just on one or the other. OPM agrees and encourages agencies to post opportunities in multiple locations. The regulatory text for this suggestion indicates that an agency may use either or both of the options. OPM believes that agencies should have the discretion to recruit for positions in a manner that best supports and implements their agency workforce plans.

One agency indicated that, while it did not object to the additional option of posting on its agency website, it was not likely to use that option. OPM encourages agencies to use both options whenever necessary to ensure that it can source a sufficient number of applicants

to meet its needs and to use all available tools to attract broad applicant pools. This final rule adopts the proposed changes to public notification in § 362.203(a) without change.

##### B. Promotion of Interns

The existing regulations at 5 CFR 362.203(e) generally state that an agency may promote any Intern who meets the qualification requirements for the position. As OPM proposed, this final rule revises § 362.203(e) to reflect that those Interns whose appointments are expected to last more than one year without a not-to-exceed date<sup>6</sup> may be promoted when they meet the qualification requirements for a higher-graded position. The change also provides that Interns NTE (on temporary appointments not-to-exceed one year) are not eligible for promotions.

One commenter suggested that OPM should provide information about the impact of time-in-grade (TIG) restrictions on promotions at the time of conversion as well as promotions based on superior academic achievement. Another commenter suggested that OPM should reconsider the TIG restrictions on Interns. The TIG restrictions in 5 CFR part 300, subpart F, do not apply to promotions of excepted service employees being promoted to an excepted service position. However, some agencies may have policies pertaining to excepted service promotions similar to their competitive service policies. Assuming an agency does not have policies similar to TIG for the excepted service or other policy restrictions, then upon completion of degree and prior to conversion, the Intern may be promoted to any grade level for which they qualify as allowed by agency policy. An agency wishing to promote an Intern should do so prior to conversion. This is because, once the employee is converted to the competitive service, the Intern is subject to all competitive service provisions, including TIG. The agency may also use the superior academic achievement provisions when determining the appropriate grade level for promotion.

##### C. Required Developmental Activities

The existing regulations at 5 CFR 362.104(c) include a general requirement for agencies participating in the Pathways Internship Program to provide Interns with meaningful developmental work and to set clear expectations regarding the work experience of the Intern. OPM proposed

<sup>6</sup> The Internship Program does not allow the use of time-limited appointments (*i.e.*, initial appointments of more than one year made with an NTE date).

to add a specific requirement in § 362.104 that provides more detail about training and development opportunities that should be provided for Interns. The final rule includes this change and requires agencies to provide Interns with meaningful onboarding activities and training and development opportunities.

A professional organization suggested OPM should provide further guidance, tools, and resources for Intern training and professional development. Another professional organization suggested that OPM should standardize training requirements for program participants and coordinators at the agency level; advise agencies as to the number of employees and budget required to commit to a successful program; and require specific reporting practices to capture effectiveness of each agency’s programs. OPM launched the Intern Experience Program this year to provide agencies with additional training and development resources for Interns. OPM provides a variety of resources such as webinars and quarterly Pathways Program Officer meetings to support agency Internship coordinators. Agencies hire Interns as a part of implementing their agency workforce plans which will inform the number and budget commitments for successful Internship Programs. OPM does not believe it is appropriate to prescribe staffing and budget requirements for internship programs. OPM will continue to support agencies and Interns by providing resources and guidance and will help them identify appropriate training and professional development resources.

##### D. Corrections

As proposed, this final rule removes a reference in § 362.203 to a Pathways MOU and replaces it with a reference to the agency’s Pathways Policy in accordance with the change at § 362.104 described above. This final rule corrects the regulatory text in the proposed rule, which inadvertently included a reference relevant to the Recent Graduates program and maintains the existing citation to § 213.3402(a).

In revising § 362.203, OPM determined that the definition for agency provided in paragraph (a)(1) is unnecessary as it is duplicative with the definition already provided in § 362.102, which applies for the purposes of part 362. However, OPM also identified a typographical error in § 362.102. Specifically, the definition for agency states that the term has the meaning of “agency” as defined in 5 U.S.C. 105, but 5 U.S.C. 105 defines the term “Executive agency.” Accordingly,

this final rule corrects the defined term (referencing 5 U.S.C. 105) to be “Executive agency.”

#### *Section 362.204 Conversion to the Competitive Service*

##### A. 180-Day Period for Conversion of an Intern

The existing regulations at 5 CFR 362.204(b) require that an Intern may be converted to a permanent or term position in the competitive service within 120 days of completing a course of study. OPM proposed to lengthen this period. The final rule changes the time period allowed for conversion of an Intern from 120 days to 180 days after the completion of a degree.

Several commenters expressed support for increasing the time allowed to convert an Intern to a permanent or term position from 120 days to 180 days. Many of the comments that were in support of a longer period for conversion came from former Internship participants, who also referenced their agency-specific experiences and how they felt that the additional time would improve the opportunity and experiences of current and future Internship participants.

Some commenters offered alternative suggestions to the proposed change of the time period from 120 to 180 days or indicated support for a period of more than 180 days. An agency expressed support for a period of more than 180 days but did not indicate a specific length. One professional organization expressed opposition to the extended timeline and suggested that the extension to 180 days should only be allowed for specific agencies identified in the regulation and only for those times when background investigations and adjudications are likely to take longer than 120 days and alternative resolutions are unavailable or impractical. Another agency suggested that a timeline of greater than 180 days should be an option in rare circumstances and agencies should be authorized to determine when rare cases should allow conversion past the 180-day requirement. Agencies are well aware of the time it takes in the agency to complete these processes and can plan to begin the process at a time that would allow completion within 180 days of completing a degree. For this reason, OPM is not adopting these suggestions to allow a timeline of greater than 180 days.

Two commenters incorrectly equated the proposed 180-day time period for conversion with the service period required for conversion available under other hiring authorities, such as the

Veterans Recruitment Authority (VRA) hiring authority, where an individual appointed under the authority must be converted to the competitive service after successfully completing two years of service on the VRA appointment. The conversion period, or window, in the Internship Program is strictly for administrative purposes—*i.e.*, it is time for the employee and agency to collect and process all documentation relating to the conversion of the Pathways employee. The conversion period is not for deciding whether to convert a Pathways participant, for purposes of qualifying the employee, or to be used as a de facto probationary or trial period. For this reason, OPM is not adopting the suggestion to extend the conversion period to two years for Interns; OPM is adopting the proposed 180-day conversion period based on agency input requesting additional administrative time.

One commenter also suggested that the proposed 180-day period should be extended to allow Interns the opportunity to explore other endeavors before starting a full-time job with the Federal Government. OPM is not adopting this suggestion. The purpose of the Pathways Programs is to provide early career talent an avenue to Federal employment that would otherwise be unavailable to them if these individuals were required to compete with the general public for a Federal job, and to assist agencies in developing a pipeline for individuals with skills and knowledge needed to perform the work of an agency. Interns accept positions with the awareness that conversion upon completion of their educational program is a possibility.

As previously stated, the purpose of the 180-day period is to allow students time to provide documentation that they have successfully completed their degree or educational programs and to allow agencies time to complete additional background investigations and adjudications. OPM is not adopting the suggestions for extending the period allowed for conversion beyond 180 days.

##### B. Work Hour Requirement for Conversion of an Intern

As previously discussed in “Responses to Requests for Comments and Data—5. Changing the 640-hour requirement for conversion of an Intern,” OPM has revised the provision in § 362.204(b)(1) to reduce the minimum number of hours required for conversion from 640 hours to 480 hours. OPM reminds readers that an agency may require more than the minimum of 480 hours for conversion based on

agency specific training and development or other Internship program requirements. An agency must identify the minimum number of hours required for conversion of an Intern in the agency’s Pathways Policies.

##### C. Crediting and Waiver Provisions

The existing regulations at § 362.204(c) and (d) allow an agency to waive or provide credit for up to half of the work hours required for conversion in § 362.204(b). OPM is maintaining the ability of an agency to waive or provide credit for a portion of the hours-based requirement. OPM expects that agencies using the new 480 minimum for service hours will not need to apply the waiver provision; however, agencies adopting higher service-hour requirements may still find situations in which waiving some portion of time is necessary to hire a highly qualified student with superior performance in their academic or training program. Based on the comments received, OPM finds insufficient justification for lowering the minimum service-hours below 320 hours (half of the prior 640 service-hour requirement). Therefore, OPM has modified § 362.204(c) and (d) to allow agencies to waive or approve credit for up to half of the minimum required service hours subject to a limitation that an Intern must complete at least 320 hours under a Pathways Intern appointment to be eligible for a waiver. For example, if the agency requires a minimum of 480 work hours for conversion, then the agency may waive up to 160 hours ( $480 - 320 = 160$ ). Consistent with the existing regulation at § 362.204(e), an agency may not credit and/or waive more than 320 hours. Therefore, for example, an agency that requires the completion of 800 hours may waive up to 320 hours.

OPM has also modified the criteria for approving a waiver in § 362.204(d) to introduce a new option of the submission of a recommendation letter from an instructor or program administrator as a way for the Intern to demonstrate high potential in their academic or career and technical education program. (This change was previously discussed in “Responses to Requests for Comments and Data—4. Strengthen the provisions that allows agencies to waive or credit up to half of the Interns’ 640-hour service requirement.”)

OPM has also modified § 362.204(e) to reflect the changes in § 362.204(b) through (d).

### *Section 362.205 Reduction in Force and Termination*

The existing regulations at 5 CFR 362.205(b) require that an Intern appointment may be terminated 120 days after the completion of a degree unless the Intern is converted to a position in the competitive service. Consistent with the proposed rule, this final rule changes the time period for termination of an Intern appointment from 120 days to 180 days after the completion of a degree. This conforming change is based on the change in § 362.204(b)(2) pertaining to the conversion window described above. Changes in this section were also made to incorporate the new term Intern not-to-exceed (NTE) appointment.

One commenter requested clarification on what is meant by selected for conversion and if an offer letter is required. Selected for conversion means that the agency has determined that the Intern has successfully completed all program requirements including their educational program, and it will convert the employee. The agency should provide the Intern with all the necessary information about the position to which the Intern will be converted. The same commenter also asked if an Intern on a not-to-exceed (Intern NTE) appointment may have their appointment extended beyond the date they completed their degree. The appointment of an Intern NTE may be extended to accommodate the 180-day period. However, the agency must process the extension prior to the Intern completing their educational program.

### **Recent Graduate Program**

#### *Section 362.301 Program Administration*

The proposed rule removed references to Pathways MOU and replaces it with a reference to the agency's Pathways Policy in accordance with the change at § 362.104 described above. OPM is finalizing this section as proposed.

#### *Section 362.302 Eligibility*

The existing regulations at 5 CFR 362.302 limited eligibility for the Recent Graduate Program to those in qualifying educational programs. OPM proposed to modify the eligibility criteria. This final rule adopts the proposal to expand the eligibility criteria for the Recent Graduate Program to include those who have completed qualifying career or technical education programs.

One commenter indicated that the criteria should be changed to allow individuals in trade or technical schools or with associate degrees and high

school diplomas to meet the eligibility criteria for the Recent Graduate Program. Another commenter also advocated for the inclusion of those who completed a two-year undergraduate degree. Since the inception of the Recent Graduate Program, the eligibility criteria included those with degrees from qualifying post-secondary vocational and technical schools or associate degrees. This criterion has not changed.

We received many comments related to using skills-based hiring provisions instead of completion of educational programs for eligibility. One commenter indicated that OPM should include skills-based hiring provisions in this rule to be on par with State governments who are establishing such provisions. Another commenter recommended using a skills-based approach for eligibility criteria. A different commenter indicated that the inclusion of career and technical education programs as meeting the eligibility criteria for the Recent Graduates Program did not seem to be an appropriate use of OPM's authority to establish excepted service authorities. This commenter expressed that apprenticeship and other experiential learning programs are designed to teach specific skills and were not similar to academic degrees. Additionally, they felt that the proposed regulations suggested including skills-based programs because people with limited skills and experience cannot compete with those who have more skills and experience. A professional organization encouraged OPM to allow Pathways applicants to meet minimum qualifications solely by passing a skills-based assessment as a co-equal method to qualifying with education and/or experience.

OPM is actively working to incorporate skills-based hiring across Government as required by E.O. 13932, "Modernizing and Reforming the Assessment and Hiring of Federal Job Candidates," dated June 26, 2020. For the Pathways Programs, however, using skills-based hiring must be balanced with the requirements in E.O. 13562 that limits the use of the Pathways Programs to students and recent graduates. Given that E.O. 13562 does not contemplate skills-based hiring, it is not appropriate for OPM to include skills-based hiring provisions as a substitute or alternative eligibility criteria in place of formal educational programs. OPM is not adopting these suggestions.

Many commenters had favorable comments and supported the inclusion of programs such as Job Corps,

AmeriCorps, and Peace Corps. Two commenters questioned why eligibility for AmeriCorps participants was limited to only those who had completed one year of service when some AmeriCorps programs have a required period of service of less than one year (10 to 11 months). One of these commenters specifically requested that we clarify that the one-year requirement for volunteer programs such as AmeriCorps is the completion of a service year with no regard to the number of calendar months taken to complete the term. OPM recognizes that these programs provide valuable career and technical education. Our review of these programs indicates that only those programs of at least one year in length provide career and technical education that is equivalent in scope and rigor to other programs that meet the Recent Graduate Program eligibility criteria. It is OPM's understanding that, in some of the programs offered by AmeriCorps and similar programs, participants are required to fulfill at least 1700 work hours within a 12-month period and those who meet this requirement within 10 or 11 months are considered to have successfully completed the program. For this reason, we have modified the criteria for volunteer service programs in the definition of qualifying career and technical education programs to indicate that a volunteer must have completed either at least one year of volunteer service or at least 1700 work hours when the length of volunteer service is less than 1 year. For programs of at least a year, an applicant could meet the eligibility criteria by serving in one volunteer program for 12 consecutive months, or by completing a total of 52 weeks of service during multiple periods of service. For programs of less than a year, a volunteer would need to complete at least 1700 work hours during one or multiple periods of service. When the volunteer has participated in multiple periods of service, the periods of service do not need to be consecutive. However, the most recent period of service must have been completed within 2 years of applying for a Pathways Recent Graduate appointment.

One commenter suggested OPM should provide clear guidance on the types of programs that will meet eligibility criteria. As discussed in detail in "Responses to Requests for Comments and Data—8. Inclusion of technical and career education programs," OPM has added clarifying language to the definition of career and technical education. OPM plans to provide additional guidance to assist

agencies and applicants in understanding the types of programs that will meet the eligibility criteria.

One commenter requested clarity on the eligibility period for individuals who served in the Peace Corps, AmeriCorps, or other volunteer programs that will now be included as qualifying career or technical education programs. The length of the eligibility period for the Recent Graduate Program for participants in Peace Corps, AmeriCorps or other volunteer programs is two years.

One commenter recommended increasing the eligibility period for non-veterans to three years to widen the talent pool. E.O. 13562 specifically limits the eligibility period for the Recent Graduates Program to two years for non-veterans. OPM does not have the discretion to make such a change.

As discussed, OPM proposed to expand the eligibility criteria to include career and technical education programs. To that end, the proposed rule included modifications to paragraph (a) of § 362.302 only. This was an oversight as § 362.302(b) also needs to be modified to reflect that career and technical education programs are now qualifying programs. For this reason, OPM has modified § 362.302(b) to include references to career and technical education programs.

#### *Section 362.303 Filling Positions*

The existing regulations at 5 CFR 362.303(a) require that an agency must post opportunities for positions in the Recent Graduates Programs on *USAJOBS.gov*. OPM proposed to modify the provisions for meeting public notice options for filling positions under the Recent Graduates Program. In addition to allowing agencies to post searchable job opportunities at USAJOBS, OPM also proposed to allow agencies to post job information with a link to a USAJOBS custom posting on their agency websites, with OPM providing a centralized place where applicants can be directed to those postings on the agency websites. As previously discussed (Responses to Requests for Comments and Data—6. Public Notification), this final rule incorporates the proposed changes to public notification without change in § 362.303(a).

#### *Section 362.305 Conversion to the Competitive Service*

The existing regulations at 5 CFR 362.305 allow a Recent Graduate who successfully completes program requirements to be converted to a position within the employing agency. OPM proposed to allow conversion to a

term or permanent position in a different agency when the employing (or losing) agency is unable to convert the Recent Graduate to a term or permanent position in the competitive service in the current organizational unit of the employing agency or another component within the same Department or agency. OPM received a number of comments, which are discussed in sections 1 and 2 of “Responses to Requests for Comments and Data” and address two questions OPM asked regarding flexibility to convert Recent Graduates and PMFs Management Fellows to positions at different agencies. In this final rule, OPM has adopted the proposed conditions to allow conversion at another agency when the agency is unable to convert the Recent Graduate to a term or permanent position in the competitive service in the current organizational unit of the employing agency or another component within the same Department or agency due to unforeseen circumstances or other appropriate reasons.

OPM had also proposed to require agencies to document the reason for conversion in another agency. OPM has removed that requirement and, instead, is requiring agencies to outline the procedures for how conversion at another agency may occur in their Pathways Policy in § 362.104. OPM expects this to be a less burdensome approach to ensuring that conversion at other agencies is accomplished in accordance with this final rule.

An agency requested that the revised regulation clarify the grade level to which a Recent Graduate can convert when conversion occurs at a different agency. Specifically, the agency wanted to know if the Pathways Participant is limited by the grade level mentioned in the announcement the prior agency used to make the initial appointment and if that limitation is binding for conversion at the new agency. OPM confirms that, when the Pathways Participant is converted to a position in another agency, the new agency may only convert them to a position at a grade level that is within the career ladder or promotion potential that was specified in the announcement used to recruit the Pathways Participant. For example, Agency A advertises and appoints a Recent Graduate to a GS-7 Accountant position with a career ladder to the GS-12 level. If the Recent Graduate is going to be converted to a position in another agency, the position identified for conversion may not have a career ladder that exceeds the GS-12 level, and the Recent Graduate may be promoted prior to conversion assuming

they meet the qualification requirements for the higher-graded position.

#### **Presidential Management Fellows Program**

##### *Section 362.401 Definitions*

OPM proposed to update the definition of Agency PMF Coordinator from the existing general description to add specific responsibilities. This conforming change is necessary due to the change in § 362.104(a)(8).

OPM is finalizing this provision with slight modifications from the proposed rule. The modifications should provide better clarity but do not change the meaning from the proposed rule.

##### *Section 362.404 Appointment and Extension*

Consistent with the proposed rule, this final rule revises § 362.404(a)(1) and (b) to remove the existing regulatory references to an agency’s MOU and replace each with a reference to the agency’s Pathways Policy. This conforming change is necessary due to the change in § 362.104.

OPM also proposed a new paragraph (e) to allow an agency the discretion to approve a part-time work schedule for a limited period of up to 6 months during the program if the agency and PMF have determined that it would not negatively impact the PMF’s ability to meet all program requirements by the expiration of the PMF’s appointment. Several commenters supported the flexibility for an agency to approve a part-time work schedule. One commenter suggested that OPM should clarify that agencies can approve or disapprove requests for part-time work schedules, including the duration of the modified schedules. OPM agrees and has revised the language of this provision to indicate that the PMF may request a part-time schedule and that an agency may approve the request but that a PMF is not entitled to an approval of the request.

One commenter suggested incorrectly that time on a part-time schedule would delay “time-in-grade/promotion eligibility.” While on a PMF appointment, a PMF must meet the qualification requirement of one year of specialized experience at the next lower grade level to be eligible for promotion. Part-time work is prorated in crediting experience. For example, an employee working 20 hours per week for a 6-month period should be credited with 3 months of experience. Given that part-time work schedules for PMFs are voluntary and limited to periods of six months or less, there would be a minimal delay for a promotion. This is

a factor that a PMF should consider before requesting a part-time work schedule. In contrast, the time in grade (TIG) restrictions in 5 CFR part 300, subpart F, do not apply to promotions of excepted service employees being promoted to an excepted service position. However, some agencies may have policies pertaining to excepted service promotions similar to their competitive service policies. Unless an agency limits promotions of excepted service employees based on TIG, time spent in a part-time work schedule would not affect a PMF's eligibility on the basis of TIG.

A commenter suggested that, while the part-time schedule flexibility was welcomed, OPM should also explore other flexibilities such as remote work for PMFs who may be experiencing a long-term illness or injury. OPM is not adopting this suggestion as a regulatory provision is not needed. As agency employees, PMFs already are eligible for reasonable accommodations and agency work-life programs and benefits such as telework and remote work, consistent with applicable law and the agency's policies.

#### *Section 362.405 Development, Evaluation, Promotion, and Certification*

##### A. Individual Development Plans for PMFs

The existing regulations at 5 CFR 362.405(a) require that an agency must approve an Individual Development Plan (IDP) for a PMF within 45 days of appointment. OPM proposed to lengthen the time allowed to create and have an IDP approved. OPM received several comments regarding the timeframe to develop an IDP.

One commenter suggested that the time period to create an IDP should be increased to 120 days instead of 90 days to give the PMF and mentor additional time in situations when it takes most of the 90-day period to identify a mentor. Another commenter also suggested additional time of either 105 or 120 days to create an IDP. OPM is not adopting these suggestions. OPM encourages agencies and PMFs to treat the IDP as a living document that should be discussed between the PMF and their supervisor throughout the year. Once an IDP is in place, it is typically reviewed during the initial, mid-year, and annual performance discussions between the PMF and their supervisor and may be updated or changed as necessary throughout the PMF's program. While the IDP is individually tailored to the PMF's position and learning objectives, agencies can proactively plan and

provide information and guidance to PMFs to assist them in completing the initial IDP within 90 days of appointment. Given these flexibilities, OPM believes 90 days is sufficient to both find a mentor and prepare an initial IDP that may be changed or updated at any time. Accordingly, this final rule modifies the time frame to have an approved IDP from within 45 days of appointment to within 90 days of appointment, as proposed.

One commenter indicated that extending the deadline to have an IDP in place would be helpful as it gives PMFs more time to discuss their goals with their mentor and supervisor. This commenter also suggested that it may be helpful to provide more guidance to remind PMFs and their supervisors that the IDP may be changed as needed. OPM's PMF Participant Handbook<sup>7</sup> provides PMFs with guidance on creating an IDP and explains that it is a working document that should be updated as requirements are completed.

OPM also received comments on several other issues related to IDPs. One commenter suggested that there should be additional clarity around who is responsible for ensuring each PMF has a mentor and an IDP at the employing agency. The selection of a mentor and the development of the IDP is a collaborative process between the PMF, the PMF's supervisor, the Agency PMF Coordinator, and the mentor. The supervisor, the PMF Coordinator, and the mentor can provide valuable insight to help the PMF select appropriate training and development activities. Ultimately it is the PMF's responsibility to ensure that the PMF meets all program requirements. The other parties are there to provide advice and guidance. OPM has revised the existing regulation at 5 CFR 362.405(a) to remove the passive voice and make clear that the responsibility for developing the IDP rests with the PMF with the assistance of the PMF's supervisor, the Agency PMF Coordinator and/or the PMF's mentor. OPM will ensure that available guidance on the creation and use of the IDP clearly identifies the responsibilities of the PMF, supervisor, the PMF Coordinator, and mentor.

Another commenter suggested that it did not make sense to have the PMF Coordinator involved in the creation of the IDP. OPM disagrees because the PMF Coordinator will be well versed in the PMF Program requirements for training and development and may be

able to provide resources and advice to assist the PMF in creating the IDP. For this reason, OPM is not changing the requirement that either the PMF Coordinator or the assigned mentor (or both) be consulted in creating the IDP.

A commenter indicated that many PMFs face challenges in developing an IDP when they have not been able to identify a mentor, or the supervisor is unfamiliar with the PMF Program requirements. OPM recognizes that developing an IDP may be challenging and offers resources to PMFs, supervisors of PMFs, and Agency PMF coordinators on the training and development requirements of the program and IDP creation on the PMF Program website.<sup>8</sup>

##### B. Required Developmental Activities

The existing regulations at 5 CFR 362.405(b) require that OPM will provide an orientation program for each class or cohort of PMFs and will provide information on available training opportunities known to it. Recent feedback from PMFs indicated that agency-specific orientations were more valuable than general orientations, and PMFs found OPM's longer-term leadership development offerings beneficial. OPM proposed modifying this requirement so that "OPM will provide leadership development activities and general program resources for each class or cohort of PMFs" in addition to providing information on available training opportunities, and agencies "must provide appropriate agency specific onboarding and employee orientation activities." This final rule adopts these proposed changes and modifies § 362.405(b)(1) to reflect that OPM will provide leadership development activities and general program resources instead of an orientation program.

One commenter disagreed with the changes regarding orientation programs for PMFs. This commenter indicated that the changes would lead to less support for PMFs in agencies that did not have robust PMF Program specific orientation programs. OPM's orientation program over the years has evolved from one-time annual orientation sessions with general information about the PMF program to providing PMFs with leadership development activities and general program resources that are available throughout the PMF Program. With this update to the regulatory text OPM will continue to provide those activities and resources to PMFs. OPM

<sup>7</sup> The PMF Participant Handbook is available at <https://www.pmf.gov/media/vumhfhkh/pmf-participant-handbook-draft-04-04-2022.pdf>.

<sup>8</sup> <https://www.pmf.gov/current-pmfs/training-and-development/>.

has not made changes to the regulatory text based on this comment.

### C. Developmental Assignments

The existing regulations at 5 CFR 362.405(b) require agencies to provide for a minimum of one developmental assignment of 4 to 6 months' duration. They also allow that, as an alternative to this developmental assignment, PMFs may choose to participate in an agency-wide, Presidential, or Administration initiative that will provide experience comparable to the developmental assignment. To improve clarity, OPM proposed replacing language on "an agency-wide initiative or other Presidential or Administration initiative" with this language: "Examples of appropriate developmental assignments may include projects implementing a new Executive order or major piece of legislation, agency reorganization, or cross-agency collaboration on a major administration initiative." This final rule provides in § 362.405(b)(4) examples and clarifying information on the types of activities that can be used to provide developmental assignments and rotational assignments for PMFs.

One commenter suggested that OPM add language to the developmental assignment information to specify that the developmental assignment must be completed under a supervisor other than the PMF's usual supervisor (*i.e.*, the PMF's supervisor of record). OPM has adopted this suggestion and has revised the language in § 362.405(b)(4)(ii) to indicate that these assignments will generally be in a different work unit in the PMF's organization, in another component, or another Federal agency.

Other commenters expressed support for the clarifying language around developmental assignments. The commenters also indicated that the clarifying examples were useful. OPM appreciates these comments.

One commenter suggested that PMF Coordinators should be empowered to work across agencies to help PMFs identify developmental assignment. To aid PMFs and agencies identifying developmental assignments, OPM offers the functionality for agencies to post developmental assignment opportunities for current PMFs to search in the PMF Talent Acquisition System.

One agency suggested that § 362.405(b)(4)(ii) and (iii) may limit the opportunities available to PMFs. Specifically, the agency stated that the agency needed to offer opportunities that may be external to Federal Government at state agencies and private industries. An agency may detail

an employee to certain non-Federal organizations under the provisions of the Intergovernmental Personnel Act (IPA) Mobility Program. The IPA program provides for the temporary assignment of personnel between the Federal Government and State and local governments, colleges and universities, Indian Tribal governments, federally funded research and development centers, and other eligible organizations. An agency may use the IPA Program to allow a PMF to complete a developmental or rotational assignment at a non-Federal organization.

An agency requested that OPM clarify that the information contained in these paragraphs constitute examples or suggestions and are not required. The PMF Program is the Federal Government's flagship leadership development program for advanced degree holders across all academic disciplines. One of the key features of the program is that all PMFs Government-wide have meaningful developmental opportunities that will help them grow as leaders. To ensure consistency in this effort, all PMFs need to complete developmental assignments with management and/or technical responsibilities consistent with the PMF's IDP. The examples are offered to ensure that all PMFs are given developmental assignments of similar type and scope. OPM also offers additional guidance on developmental assignments in the PMF Participant Handbook.<sup>9</sup> For the sake of clarity, OPM is modifying § 362.405(b)(4)(iii) to include a description of the scope of work that should be included in a developmental assignment in addition to the examples initially proposed.

#### *Section 362.409 Conversion to the Competitive Service*

The existing regulations at 5 CFR 362.409 allow a PMF who successfully completes program requirements to be converted to a position within the employing agency. OPM proposed to allow a PMF also to be converted to a position at another Federal agency. OPM received numerous comments on this proposal. Those comments are discussed in "Responses to Requests for Comment and Data—2. Limitations on conversion of Recent Graduates and PMFs to positions at different agencies." After consideration of the comments, this final rule allows conversion to a term or permanent position in a different agency when the employing (or losing) agency is unable to convert the PMF to a term or permanent position in

the competitive service in the current organizational unit of the employing agency or another component within the same Department or agency due to unforeseen circumstances or other appropriate reasons.

OPM had also proposed to require agencies to document the reason for conversion in another agency. OPM has removed that requirement and, instead, is requiring agencies to outline the procedures for how conversion at another agency may occur in their Pathways Policy in § 362.104. OPM expects the modified proposal to be a less burdensome approach to ensuring that conversion at other agencies is accomplished in accordance with this final rule.

### Part 410 Training

#### *Section 410.306 Selecting and Assigning Employees to Training*

The existing regulations at 5 CFR 410.306 contain an outdated reference to the former Student Career Experience Program (SCEP) program. OPM proposed to remove the outdated reference. OPM received no comments on this section. OPM is finalizing this section as proposed.

### Expected Impact of This Final Rule

#### *A. Statement of Need*

The purpose of this rule is to modify existing regulations for the Pathways Programs for hiring Interns, Recent Graduates, and Presidential Management Fellows. We anticipate that these changes will improve and enhance the effectiveness of the Pathways Programs consistent with E.O. 13562, which requires OPM to support agency use of programs to recruit students and recent graduates. OPM has received qualitative feedback directly from agencies since the Programs' implementation. Between fiscal year (FY) 2012 and FY 2016, OPM hosted monthly office hours meetings with agencies to discuss solutions and recommendations to challenges agencies encountered when using the Pathways Programs. Pathways Programs Officers and PMF Coordinators have continued to contact OPM directly for advice and guidance on using the Pathways Programs since their inception. The Chief Human Capital Officers Council convened a working group to discuss challenges, issues, and successes of using the Pathways Programs during FY 2019. The working group also provided OPM staff with a number of ideas and recommendations for ways that the Programs could be improved. These discussions have identified areas where regulatory updates would allow the

<sup>9</sup> <https://www.pmf.gov/media/vumfhfkhk/pmf-participant-handbook-draft-04-04-2022.pdf>.

Programs to recruit students and recent graduates more successfully.

Based on the feedback received from stakeholders over the years, this final rule updates the Pathways Programs to facilitate a better applicant experience, to improve developmental opportunities for Pathways Programs Participants, and to streamline agencies' ability to hire Pathways Program Participants and convert to permanent employment those who have successfully completed their Pathways requirements. Robust Pathways Programs, with appropriate safeguards to promote their use as a supplement to, and not a substitute for, the competitive hiring process are essential to boosting the Federal Government's ability to recruit and retain early career talent.

#### B. Impact

In fiscal year 2022, agencies made 8,567 new appointments using the Pathways Programs hiring authorities (5,087 Interns, 3,085 Recent Graduates, and 395 Presidential Management Fellows). It is important to note that, while these changes in the program regulations should enhance the way the agencies use the programs, they are only one of several factors impacting whether the number of appointments made will increase or decrease. Other factors not addressed or impacted by these regulations such as agency resources available for hiring and recruiting will also need to be considered when evaluating the effectiveness of the Programs in helping agencies reach their recruiting and hiring goals.

The changes to include career and technical education programs in the eligibility criteria for the Internship and Recent Graduate Programs are a benefit to agencies, students, and recent graduates. Agencies will be able to recruit from a broader spectrum of applicants. Students and recent graduates of career and technical education programs may have more opportunities to more to work in agencies.

OPM removed some administrative burdens of using the Programs for agencies. This final rule replaces the proposed requirement to submit Pathways Policies to OPM with a requirement to make these policies available for review upon the request of OPM, applicants, Pathways Participants, and agency employees. This final rule also replaces the requirement to submit documentation of why a Recent Graduate or PMF is being converted to a position at a different agency with a requirement for agencies to specify the procedures for how conversion at another agency may occur in their

Pathways Policy. These changes in the final rule will make it easier for agencies to implement the final rule.

#### C. Costs

This final rule will affect the operations of over 80 Federal agencies—ranging from cabinet-level departments to small independent agencies. We estimate that this rule will require individuals employed by these agencies to modify policies and procedures to implement the rule and perform outreach and recruitment activities when using the authority. For the purpose of this cost analysis, the assumed average salary rate of Federal employees performing this work will be the rate in 2024 for GS–14, step 5, from the Washington, DC, locality pay table (\$157,982 annual locality rate and \$89.04 hourly locality rate). We assume that the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in an assumed labor cost of \$178.08 per hour.

To comply with the regulatory changes in this rule, affected agencies will need to review the final rule and update their policies and procedures. We estimate that, in the first year following publication of the final rule, this process would require an average of 250 hours of work by employees with an average hourly cost of \$143.76. This time would result in estimated costs in that first year of implementation of about \$35,940 per agency, and about \$2,875,200 in total Government-wide. We do not believe this rule will substantially increase the ongoing administrative costs to agencies (including the costs of administering the programs and hiring and training new staff). This is because the rule is modifying existing programs and recruitment of students and recent graduates is an ongoing need.

OPM did not receive any comments on the estimated costs in the proposed rule.

#### D. Benefits

The final rule will boost the Federal Government's ability to recruit and retain early career talent. For example, modifying the public notification requirement will provide agencies with additional flexibility when recruiting and may also lead to a better applicant experience. Further, the changes to allow the conversion of eligible Recent Graduates and Presidential Management PMFs to competitive service positions in the employing agency or another agency will provide flexibility when resource restrictions would otherwise prevent conversion. When an agency is

unable to convert the eligible Recent Graduate or PMF, the agency and the Government lose the expertise and knowledge the participant has gained during the program. The opportunity for conversion at another agency may prevent that loss. The extension of the 120-day period for the conversion of Interns to 180 days provides agencies the benefit of being able to convert those Interns who otherwise would have been separated when the background investigation or vetting process exceeded the 120-day limit.

E.O. 14035 of June 25, 2021, titled "Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce," established a Federal diversity, equity, inclusion, and accessibility (DEIA) initiative. A Government-Wide Strategic Plan to Advance Diversity, Equity, and Accessibility in the Federal Workforce was released in November 2021.<sup>10</sup> This plan directs agencies to prioritize several efforts to support the sustainability and continued improvement on of DEIA matters. These efforts include seeking opportunities to promote paid internships, fellowships, and apprenticeships. The updates to the Pathways Programs regulations will help inform and support agency efforts to use and promote paid internships, in line with the aims of the Federal DEIA initiative.

#### E. Regulatory Alternative

E.O. 13562 authorized OPM to establish regulations to implement the Pathways Programs. Over the years, OPM has issued guidance in addition to these regulations to assist agencies in using the Programs. However, this rule addresses issues that require a modification of the existing regulations and that cannot be changed by guidance alone. For example, staff in agencies told OPM that agencies need additional flexibility to convert participants in the Recent Graduate and PMF Programs to positions in other agencies. The existing regulations limit the conversion of Recent Graduate or PMFs to positions in the employing agency. OPM has determined that a change to these regulatory provisions is required to provide the additional flexibility agencies requested.

OPM did not receive any comments on the costs, benefits or regulatory alternatives presented in the proposed rule and is finalizing this section of the rule with minimal technical changes.

<sup>10</sup> <https://www.whitehouse.gov/wp-content/uploads/2021/11/Strategic-Plan-to-Advance-Diversity-Equity-Inclusionand-Accessibility-in-the-Federal-Workforce-11.23.21.pdf>.

### F. Severability

If any of the provisions of this final rule is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, it shall be severable from its respective section(s) and shall not affect the remainder thereof or the application of the provision to other persons not similarly situated or to other dissimilar circumstances, unless such holding is that the provision is invalid and unenforceable in all circumstances, in which event the provision shall be severable from the remainder of this part and shall not affect the remainder thereof. The Pathways Programs encompass three discrete programs with different implementing provisions. Should provisions related to one of the programs be held to be invalid we believe that the other programs should be severable and would not be impacted. Similarly, many of the operational requirements have no bearing on other provisions and are severable. For example, a holding that a hiring provision is invalid should not impact provisions related to conversion. In enforcing the provisions of this rule, OPM will comply with all applicable legal requirements.

OPM did not receive any comments on severability in the proposed rule.

### Regulatory Review

OPM has examined the impact of this rule as required by Executive Orders 12866, 13563, and 14094, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This rule is considered a “significant regulatory action” under section 3(f) of Executive Order 12866.

### Regulatory Flexibility Act

The Director of the Office of Personnel Management certifies that this rule will not have a significant economic impact on a substantial number of small entities because it applies only to Federal agencies and employees.

### Federalism

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132,

it is determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

### Civil Justice Reform

This rule meets the applicable standard set forth in section 3(a) and (b)(2) of Executive Order 12988.

### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, or Tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. Thus, no written assessment of unfunded mandates is required.

### Congressional Review Act

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act) (5 U.S.C. 801 *et seq.*) requires certain rules (as defined in 5 U.S.C. 804) to be submitted to Congress before taking effect. The Office of Management and Budget’s (OMB) Office of Information and Regulatory Affairs has determined this is not a major rule as defined by the Congressional Review Act (5 U.S.C. 804(2)).

### Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule involves the following OMB-approved collections of information subject to the PRA:

- USAJOBS 3.0 (OMB Control Number 3206–0219)
- Presidential Management Fellows (PMF) Program Online Application and Resume Builder (OMB Control Number 3206–0082).

OPM believes any additional burden associated with this final rule falls within the existing estimates currently associated with these control numbers. OPM does not anticipate that the implementation of this final rule will increase the cost burden to members of the public. Additional information regarding these collections of information—including all background materials—can be found at <https://www.reginfo.gov/public/do/PRAMain> by using the search function to enter either the title of the collection or the OMB Control Number.

### List of Subjects

#### 5 CFR Part 300

Government employees.

#### 5 CFR Part 362

Administrative practice and procedure, Colleges and universities, Government employees.

#### 5 CFR Part 410

Education, Government employees.

Office of Personnel Management.

#### Stephen Hickman,

Federal Register Liaison.

For reasons stated in the preamble, the Office of Personnel Management amends 5 CFR parts 300, 362, and 410 as follows:

### PART 300—EMPLOYMENT (GENERAL)

- 1. The authority citation for part 300 is revised to read as follows:

**Authority:** 5 U.S.C. 552, 2301, 2302, 3301, and 3302; E.O. 10577, 19 FR 7521, 3 CFR 1954–1958 Comp., p. 218, unless otherwise noted.

Secs. 300.101 through 300.104 also issued under 5 U.S.C. 7201, 7204, and 7701; E.O. 11478, 34 FR 12985, 3 CFR 1966–1970 Comp., p. 803; E.O. 13087, 63 FR 30097, 3 CFR 1998 Comp., p. 191; and E.O. 13152, 65 FR 26115, 3 CFR 2000 Comp., p. 264.

Sec. 300.301 also issued under 5 U.S.C. 3341 and E.O. 13562, 75 FR 82585, 3 CFR 2010 Comp., p. 291.

Secs. 300.401 through 300.408 also issued under 5 U.S.C. 1302(c).

Secs. 300.501 through 300.507 also issued under 5 U.S.C. 1103(a)(5).

Sec. 300.603 also issued under 5 U.S.C. 1104.

### Subpart C—Details of Employees

- 2. Amend § 300.301 by revising paragraph (b) to read as follows:

#### § 300.301 Authority.

\* \* \* \* \*

(b) In accordance with 5 U.S.C. 3341, an agency may detail an employee in the excepted service to a position in the excepted service and may also detail an excepted service employee serving under Schedule A, Schedule B, Schedule D, or a Veterans Recruitment Appointment to a position in the competitive service.

\* \* \* \* \*

### PART 362—PATHWAYS PROGRAMS

- 3. The authority citation for part 362 continues to read as follows:

**Authority:** E.O. 13562, 75 FR 82585. 3 CFR, 2010 Comp., p. 291

Subpart A—General Provisions

- 4. Amend § 362.102 by:
  - a. Revising the definitions for “Advanced degree” and “Agency”;
  - b. Adding the definition for “Certificate of completion of a Registered Apprenticeship Program” in alphabetical order;
  - c. Revising the definition for “Certificate program”; and
  - d. Adding the definitions for “Industry-recognized credential”, “Qualifying career or technical education program”, “Recognized postsecondary credential”, and “Registered Apprenticeship Program” in alphabetical order.

The revisions and additions read as follows:

§ 362.102 Definitions.

\* \* \* \* \*

*Advanced degree* means a master’s degree, professional degree, doctorate degree, or other formal degree pursued after completing a bachelor’s degree.

*Agency* means an Executive agency as defined in 5 U.S.C. 105, and the Government Publishing Office.

*Certificate of completion of a Registered Apprenticeship Program* means the documentation given to individuals who have successfully completed a Registered Apprenticeship Program.

*Certificate program* means postsecondary education in a:

- (1) Qualifying educational institution, equivalent to at least one academic year of full-time study that is part of an accredited post-secondary, technical, trade, or business school curriculum; or
- (2) Qualifying career or technical education program of at least one year that awards a recognized postsecondary credential.

\* \* \* \* \*

*Industry-recognized credential* means:
(1) A credential or certificate that is developed and offered by, or endorsed by, a nationally or regionally recognized industry association or organization representing a sizeable portion of the industry sector; or

(2) A credential that is sought or accepted by companies within the industry sector for purposes of hiring or recruitment, which may include credentials from vendors of certain products.

\* \* \* \* \*

*Qualifying career or technical education program* means:

- (1) A federally administered, organized educational program that focuses on providing rigorous academic content and relevant technical knowledge and skills needed to prepare

the individual for further education and/or a career in a current or emerging profession and provides technical skill proficiency and a recognized postsecondary credential (which may include an industry-recognized credential, a certificate, or an associate degree). Qualifying programs must require at least one year of substantially continuous participation;

- (2) A Registered Apprenticeship Program; or
- (3) A federally administered local, State, national, or international volunteer service program or organization designed to give individuals work and/or educational experiences in volunteer programs that benefit the Federal Government or local communities. Qualifying volunteer service must be documented with written information from the federally administered program that the volunteer has completed either:
  - (i) At least 52 weeks of volunteer service (through one or multiple periods of service); or
  - (ii) At least 1700 work hours when the period(s) of volunteer service (through one or multiple periods of service) is less than one year in length.

(4) For the purposes of this definition, the phrase *federally administered* means a program or organization that operates under a Federal agency’s (or a component within an agency) programmatic oversight, to ensure educational outcomes and compliance with agency-established criteria to provide participants with high-demand skills. Such criteria must describe:

- (i) The nature and scope of work to be performed by participants;
- (ii) The type(s) and scope of training to be provided to participants;
- (iii) The types of skills participants will acquire or develop during the program (e.g., teaching, environmental, business, scientific, public health/health care, languages);
- (iv) The level and extent of mentoring participants will receive); and
- (v) The metrics that describe successful completion of the program.

\* \* \* \* \*

*Recognized postsecondary credential* means documentation (e.g., official record) of an industry-recognized credential, a certificate of completion of a Registered Apprenticeship Program, a license recognized by the State involved or Federal Government, or an associate’s or baccalaureate degree.

*Registered Apprenticeship Program* means a program that meets the requirements in 29 CFR part 29. Registration of a program is evidenced by a certificate of registration or other

written documentation provided by the Registration Agency under 29 CFR part 29.

- 5. Revise § 362.104 to read as follows:

§ 362.104 Agency requirements.

(a) *Agency policy.* To make any appointment under a Pathways authority, an agency must first establish a Pathways Policy. The Pathways Policy must:

(1) Include information about any agency-specific program labels that will be used, subject to the Federal naming conventions identified in § 362.101 (e.g., OPM Internship Program).

(2) State the delegations of authority for the agency’s use of the Pathways Programs (e.g., department-wide vs. bureaus or components).

(3) Include any implementing policy or guidance that the agency determines would facilitate successful implementation and administration for each Pathways Program.

(4) Prescribe criteria and procedures for agency-approved extensions for Recent Graduates and PMFs, not to exceed 120 days. Extension criteria must be limited to circumstances that would render the agency’s compliance with the regulations impracticable or impossible.

(5) Describe how the agency will design, implement, and document formal training and/or development, as well as the type and duration of assignments.

(6) Include a commitment from the agency to:

(i) Provide to OPM any information it requests on the agency’s Pathways Programs;

(ii) Adhere to any caps on the Pathways Programs imposed by the Director;

(iii) Provide information to OPM about opportunities for individuals interested in participating in the Pathways Programs, upon request from OPM;

(iv) Provide a meaningful on-boarding process for each Pathways Program; and

(v) Provide OPM with the names of the agency’s Pathways Programs Officer and PMF Coordinator.

(7) Identify the agency’s Pathways Programs Officer (PPO), who:

(i) Must be in a position at the agency’s headquarters level, or at the headquarters level of a departmental component, in a position at or higher than grade 12 of the General Schedule (GS) (or the equivalent under the Federal Wage System (FWS) or another pay and classification system);

(ii) Is responsible for administering the agency’s Pathways Programs, including coordinating the recruitment

and on-boarding process for Pathways Programs Participants, and coordinating the agency's Pathways Programs plan with agency stakeholders and other hiring plans (e.g., merit promotion plans, agency plans pursuant to Executive Order (E.O.) 14035, "Diversity, Equity, Inclusion, and Accessibility (DEIA) in the Federal Workforce");

(iii) Serves as a liaison with OPM by providing updates on the agency's implementation of its Pathways Programs, clarifying technical or programmatic issues, sharing agency best practices, and other similar duties; and

(iv) Reports to OPM on the agency's implementation of its Pathways Programs and individuals hired under these Programs, in conjunction with the agency's Pathways Policy.

(8) Identify the agency's PMF Coordinator who:

(i) Must be in a position at the agency's headquarters level, or at the headquarters level of departmental component, or sub-agency level, in a position at or higher than grade 12 of the GS (or the equivalent under the FWS or another pay and classification system). If an agency or sub agency designates multiple PMF Coordinators, they must work collaboratively to administer the agency's PMF Program.

(ii) Is responsible for administering the agency's PMF Program including coordinating the recruitment, on-boarding, and certification processes for PMF Program Participants, and coordinating the agency's PMF Program plan to ensure it is integrated with agency-wide workforce plans.

(iii) Serves as a liaison with OPM by providing updates on the agency's implementation of its PMF Program, clarifying technical or programmatic issues, sharing agency best practices, and other similar duties.

(iv) Reports to OPM on the agency's implementation of its PMF Program and individuals hired under the PMF Program.

(9) Prescribe criteria and procedures on how the agency will determine whether it has the resources available to convert a Pathways Participant to a term or permanent position in the competitive service. These procedures must specify the timeline for making the determination, which must include informing the Pathways Participant no later than 60 calendar days prior to the end of the appointment about whether the agency is able to convert them. If an agency is unable to convert a Pathways Participant, its procedures may include the actions it will take to assist a

Participant in pursuing conversion at another agency (when appropriate).

(10) Identify the minimum service-hour requirement that must be completed by an Intern as required by § 362.204.

(11) An agency's Pathways Policy must be maintained and be available for review upon request of OPM, applicants, Pathways Programs participants, or agency employees.

(b) *Implementation of Pathways Policy requirement.* Agencies must establish a Pathways Policy that meets the criteria listed in paragraph (a) of this section not later than December 9, 2024. Upon June 11, 2024, agencies with existing Pathways memorandums of understanding (MOUs) may continue to use the Pathways Programs subject to the regulations in this part in lieu of an updated Pathways Policy while they are developing and updating their policies in accordance with the regulations in this part. Agencies without an existing MOU or an expired MOU on June 11, 2024, must establish an agency Pathways Policy before they begin making Pathways appointments. Agencies with MOUs that expire within 240 days of April 12, 2024, may request an extension of the MOU. All Pathways Programs MOUs will expire on December 9, 2024, unless OPM has specifically approved use of the MOU after December 9, 2024.

(c) *Revocation.* The Director may revoke an agency's authority to make Pathways appointments when agency use of these Programs is inconsistent with E.O. 13562, this part, or the agency's Pathways Policies.

■ 6. Amend § 362.107 by revising paragraph (c)(2) and adding paragraph (c)(3) to read as follows:

**§ 362.107 Conversion to the competitive service.**

\* \* \* \* \*

(c) \* \* \*

(2) A Recent Graduate may be converted to a position within the employing agency or any other agency within the Federal Government. Conversion to position at a different agency is subject to § 362.305(c).

(3) A PMF may be converted within the employing agency or any other agency within the Federal Government. Conversion to position at a different agency is subject to § 362.409(c).

\* \* \* \* \*

■ 7. Amend § 362.108 by revising paragraph (b)(1) to read as follows:

**§ 362.108 Program oversight.**

\* \* \* \* \*

(b) \* \* \*

(1) An agency's compliance with its Pathways Policy;

\* \* \* \* \*

■ 8. Revise § 362.109 to read as follows:

**§ 362.109 Reporting requirements.**

Agencies must provide information requested by OPM regarding workforce planning strategies that includes:

(a) Information on the entry-level occupations targeted for filling positions under this part in the coming three fiscal years;

(b) The percentage of overall hiring expected in the coming three fiscal years under the Internship, Recent Graduates, and Presidential Management Fellows Programs; and

(c) Every three fiscal years beginning with fiscal year (FY)—2024 (i.e., FY24 and then again in FY27, etc.), for each of the preceding three fiscal years:

(1) The number of individuals initially appointed under each Pathways Program;

(2) The percentage of the agency's overall hires made from each Pathways Program;

(3) The number of Pathways Participants, per Program, converted to the competitive service; and

(4) The number of Pathways Participants.

■ 9. Add § 362.111 to read as follows:

**§ 362.111 Severability.**

Any provision of this part held to be invalid or unenforceable as applied to any person or circumstance shall be construed so as to continue to give the maximum effect to the provision permitted by law, including as applied to persons not similarly situated or to dissimilar circumstances, unless such holding is that the provision is invalid and unenforceable in all circumstances, in which event the provision shall be severable from the remainder of this part and shall not affect the remainder thereof.

**Subpart B—Internship Program**

■ 10. Revise § 362.202 to read as follows:

**§ 362.202 Definitions.**

In this subpart:

*Intern not-to-exceed (Intern NTE)* means an Intern appointed for an initial period not to exceed one year.

*Student* means an individual who is:

(1) Accepted for enrollment or enrolled and seeking a degree (diploma, certificate, etc.) in a qualifying educational institution, on a full or half-time basis (as defined by the institution in which the student is enrolled), including awardees of the Harry S.

Truman Foundation Scholarship Program under Public Law 93–842. Students need not be in physical attendance, so long as all other requirements are met. An individual who needs to complete less than the equivalent of half an academic/ vocational or technical course-load immediately prior to graduating is still considered a student for purposes of this Program; or

(2) Enrolled or accepted for enrollment in a qualifying career or technical education program that awards a recognized postsecondary credential.

■ 11. Amend § 362.203 by revising paragraphs (a), (d)(1), and (e) and adding paragraph (i) to read as follows:

**§ 362.203 Filling positions.**

(a) *Announcement*—(1) *Public notification requirement.* An agency must adhere to merit system principles and thus must provide public notification in a manner designed to recruit qualified individuals from appropriate sources in an endeavor to draw from all segments of society. An Executive department may treat each of its bureaus or components (*i.e.*, the first major subdivision that is separately organized and clearly distinguished from other bureaus or components in work function and operation) as a separate agency or as part of one agency but must do so consistent with its Delegated Examining Agreement.

(2) *Meeting the public notification requirement.* An agency may use any of the following options for meeting the public notification requirement:

(i) Posting a searchable announcement on *www.USAJOBS.gov*; or

(ii) Posting job information with a link to a USAJOBS custom job announcement on the agency’s public facing career or job information web page. This public facing web page must provide applicants with information about how to apply or seek additional information about the position(s) being filled.

(iii) The agency may also consider whether additional recruitment and advertisement activities to supplement paragraphs (a)(2)(i) and (ii) of this section, such as posting to third-party websites, are necessary or appropriate to further support merit system principles.

(3) *Contents of announcements.* Announcements used to meet the public notification requirement must include:

(i) *Position information.* Position title, series, and grade;

(ii) *Position location.* Geographic location where the position will be filled;

(iii) *Appointment length.* Duration of the appointment;

(iv) *Salary information.* The starting salary of the position;

(v) *Qualifications.* The minimum qualifications of the position;

(vi) *Promotion potential.* Whether the individual in the position will be eligible for promotion to higher grade levels;

(vii) *Conversion information.* The potential for conversion to the agency’s permanent workforce;

(viii) *How to apply.* A public source (*e.g.*, a link to the location on the agency’s website with information on how to apply) for interested individuals to seek further information about how to apply for Intern opportunities;

(ix) *Equal employment information.* Equal employment opportunity statement (agencies may use the recommended equal employment opportunity statement located on OPM’s USAJOBS website);

(x) *Reasonable accommodation information.* Reasonable accommodation statement;

(xi) *Other relevant information.* Any other relevant information about the position such as telework opportunities, recruitment incentives, etc.; and

(xii) *Other requirements.* Any other information OPM considers appropriate.

(4) *Other information.* OPM will publish information on Pathways Internship opportunities in such form as the Director may determine.

\* \* \* \* \*

(d) \* \* \*

(1) An agency may make Intern appointments, pursuant to its Pathways Policy, using the Schedule D excepted service appointing authority provided in § 213.3402(a) of this chapter.

\* \* \* \* \*

(e) *Promotion.* An agency may promote an Intern, on an initial appointment expected to last more than one year (without a not to exceed (NTE) date) who meets the qualification requirements for the position. An Intern NTE on a temporary appointment is not eligible for promotion. This paragraph (e) does not confer entitlement to promotion.

\* \* \* \* \*

(i) *Required developmental activities.* Agencies are required to provide appropriate training and development activities to Interns regardless of the length of the appointment. OPM recommends that agencies ensure, within 45 days of appointment, that each Intern appointed for an initial period expected to last more than 1 year, or an Intern NTE appointed for more than 90 days, documents planned

training activities in a training plan, Individual Development Plan (IDP), or the Pathways Participant Agreement that is approved by their supervisor. Documentation of training activities is also recommended for an Intern NTE appointed for an initial period less than 90 days. Appropriate training opportunities may include but are not limited to on-the-job training activities, formal training classes, mentoring sessions, testing products or tools, organizing work activities or functions, and assisting colleagues with projects or tasks.

■ 12. Amend § 362.204 by revising paragraphs (b)(1) and (2), revising and republishing paragraph (c), and revising paragraphs (d) and (e) to read as follows:

**§ 362.204 Conversion to the competitive service.**

\* \* \* \* \*

(b) \* \* \*

(1) Completed at least 480 hours of work experience acquired through the Internship Program, except as provided in paragraphs (c) and (d) of this section, while enrolled as a full-time or part-time, degree- or certificate-seeking student or participant in a career or technical education program. (An agency may require a minimum that is higher than 480, including setting varying minimums for different types of positions);

(2) Completed a course of academic study or a career and technical education program, within the 180-day period preceding the appointment, at a qualifying educational institution conferring a diploma, certificate, or degree; or successful completion in a qualifying career or technical educational program;

\* \* \* \* \*

(c)(1) Subject to the limitations in paragraph (e) of this section, an agency may evaluate, consider, and grant credit for up to one-half of the service requirement in paragraph (b)(1) of this section for comparable non-Federal internship experience in a field or functional area related to the student’s target position and acquired while the student:

(i) Worked in, but not for, a Federal agency, pursuant to a formal internship agreement, comparable to the Internship Program under this subpart, between the agency and an accredited academic institution;

(ii) Worked in, but not for, a Federal agency, pursuant to a written contract with a third-party internship provider officially established to provide internship experiences to students that are comparable to the Internship Program under this subpart;

(iii) Served as an active-duty member of the armed forces (including the National Guard and Reserves), as defined in 5 U.S.C. 2101, provided the veteran's discharge or release is under honorable conditions; or

(iv) Worked in a Registered Apprenticeship Program at a Federal Agency (prior to appointment as an Intern).

(2) Student volunteer service under part 308 of this chapter, and other Federal programs designed to give internship experience to students (*e.g.*, fellowships and similar programs) including a Department of Labor Job Corps Program prior to an intern appointment may be evaluated, considered, and credited under this section when the agency determines the experience is comparable to experience gained in the Internship Program.

(d) An agency may waive up to one-half of the minimum service requirement in paragraph (b)(1) of this section provided the Intern has completed at least 320 hours of career-related work experience under an Internship Program appointment with exceptional job performance and demonstrates high potential in an academic or career and technical education program. For purposes of this paragraph (d):

(1) Exceptional job performance means a formal evaluation conducted by the student's internship supervisor(s), consistent with the agency performance appraisal program that results in a rating of record (or summary rating) of higher than Fully Successful or equivalent.

(2) Demonstrates high potential in an academic or career and technical education program means attaining at least one of the following:

(i) An overall grade point average of 3.5 or better, on a 4.0 scale;

(ii) Standing in the top 10 percent of the student's graduating class;

(iii) Induction into a nationally recognized scholastic honor society; or

(iv) A letter of recommendation attesting to the Intern's outstanding program performance from an instructor or program administrator.

(e) An agency may not grant a credit or waiver (or a combination of a credit and waiver) unless the Intern has performed at least 320 hours under a Pathways Internship appointment. An agency may not grant a credit or waiver (or a combination of a credit and waiver) totaling more than 320 hours.

■ 13. Revise § 362.205 to read as follows:

**§ 362.205 Reduction in force (RIF) and termination.**

(a) *Reduction in force.* Interns and Interns NTE are covered by part 351 of this chapter for purposes of RIF.

(1) *Tenure Groups.* (i) An Intern serving under an appointment for an initial period expected to last more than 1 year is in excepted service Tenure Group II.

(ii) An Intern NTE who has not completed 1 year of service, is in excepted service Tenure Group 0.

(iii) An Intern NTE serving under a temporary appointment not to exceed 1 year, who has completed 1 year of current, continuous service, is in excepted service Tenure Group III.

(2) [Reserved]

(b) *Termination*—(1) *Intern.* As a condition of employment an Intern appointment expires 180 calendar days after completion of the designated academic course of study or career and technical education program, unless the Participant is selected for noncompetitive conversion under § 362.204.

(2) *Intern NTE.* As a condition of employment an Intern NTE appointment expires upon expiration of the temporary internship appointment, unless the Participant is selected for noncompetitive conversion under § 362.204.

**Subpart C—Recent Graduate Program**

■ 14. Amend § 362.301 by revising paragraph (a) to read as follows:

**§ 362.301 Program administration.**

\* \* \* \* \*

(a) Identify in its Pathways Policy the duration of its Recent Graduates Program, including any criteria used to determine the need for a longer and more structured training program that exceeds 1 year;

\* \* \* \* \*

■ 15. Revise § 362.302 to read as follows:

**§ 362.302 Eligibility.**

(a) A Recent Graduate is an individual who obtained a qualifying associate's, bachelor's, master's, professional, doctorate, vocational, technical degree or a certificate from a qualifying educational institution or completed a qualifying career or technical education program within the previous 2 years or other applicable period provided in paragraph (b) of this section.

(b)(1) Except as provided in paragraph (b)(2) of this section, an individual may apply for a position in the Recent Graduates Program only if the individual's application is received not

later than 2 years after the date the individual completed all requirements of an academic course of study leading to a qualifying associate, bachelor's, master's, professional, doctorate, vocational, or technical degree or certificate from a qualifying educational institution or completed a qualifying career or technical education program.

(2) A veteran, as defined in 5 U.S.C. 2108, who, due to a military service obligation, was precluded from applying to the Recent Graduates Program during any portion of the 2-year eligibility period described in paragraph (b)(1) of this section shall have a full 2-year period of eligibility upon his or her release or discharge from active duty. In no event, however, may the individual's eligibility period extend beyond 6 years from the date on which the individual completed the requirements of an academic course of study or a qualifying career or technical education program.

■ 16. Amend § 362.303 by revising paragraphs (a), (b)(1), and (b)(3)(i) to read as follows:

**§ 362.303 Filling positions.**

(a) *Announcement*—(1) *Public notification requirement.* An agency must adhere to merit system principles and thus must provide public notification in a manner designed to recruit qualified individuals from appropriate sources in an endeavor to draw from all segments of society. For the purposes of this paragraph (a), *agency* means an Executive agency as defined in 5 U.S.C. 105 and the Government Publishing Office. An Executive department may treat each of its bureaus or components (*i.e.*, the first major subdivision that is separately organized and clearly distinguished from other bureaus or components in work function and operation) as a separate agency or as part of one agency but must do so consistent with its Delegated Examining Agreement.

(2) *Meeting the public notification requirement.* An agency may use any of the following options for meeting the public notification requirement:

(i) Posting a searchable announcement on [www.USAJOBS.gov](http://www.USAJOBS.gov); or

(ii) Posting job information with a link to a USAJOBS custom job announcement on the agency's public facing career or job information web page. This custom posting must provide applicants with information about how to apply or seek additional information about the position(s) being filled, while also providing information regarding that job announcement to OPM.

(iii) The agency may also consider whether additional recruitment and advertisement activities to supplement

paragraphs (a)(2)(i) and (ii) of this section, such as posting on third-party websites, are necessary or appropriate to further support merit system principles.

(3) Contents of announcements.

Announcements used to meet the public notification requirement must include:

(i) Position information. Position title, series, and grade;

(ii) Position location. Geographic location where the position will be filled;

(iii) Salary information. The starting salary of the position;

(iv) Qualifications information. The minimum qualifications of the position;

(v) Promotion potential. Whether the individual in the position will be eligible for promotion to higher grade levels;

(vi) Conversion information. The potential for conversion to the agency's permanent workforce;

(vii) How to apply. A public source (e.g., a link to the location on the agency's website with information on how to apply) for interested individuals to seek further information about how to apply for Recent Graduate opportunities; and

(viii) Equal employment information. Equal employment opportunity statement (agencies may use the recommended equal employment opportunity statement located on OPM's USAJOBS website);

(ix) Reasonable accommodation information. Reasonable accommodation statement;

(x) Other relevant information. Any other relevant information about the position such as telework opportunities, recruitment incentives, etc.; and

(xi) Other requirements. Any other information OPM considers appropriate.

(4) Other Information. OPM will publish information on Pathways Recent Graduate opportunities in such form as the Director may determine.

(b) \* \* \*

(1) An agency may make appointments to the Recent Graduates Program pursuant to its Pathways Policy under Schedule D of the excepted service in accordance with part 302 of this chapter.

\* \* \* \* \*

(3)(i) An agency may make an initial appointment of a Recent Graduate to any position filled under the authority in this section for which the Recent Graduate qualifies, up to the GS-11 level (or equivalent under another pay and classification system, such as the Federal Wage System), except as provided in paragraphs (b)(3)(ii) through (iv) of this section.

\* \* \* \* \*

■ 17. Amend § 362.305 by adding paragraph (c) to read as follows:

§ 362.305 Conversion to the competitive service.

\* \* \* \* \*

(c) A Recent Graduate may be converted to a permanent or term position at a different agency when the following conditions are met:

(1) The employing (or losing) agency is unable to convert the Recent Graduate to a term or permanent position in the competitive service in the current organizational unit of the employing agency or another component within the same Department or agency. The reasons for conversion at another agency may include unforeseen budgetary constraints; reorganizations; abolishment of positions; completion of cohort-based Pathways programs; or other appropriate reasons. Such a conversion to another agency may not be due to issues related to misconduct, poor performance, or suitability;

(2) Conversion must occur on or before the end of the agency prescribed Program period, plus any agency-approved extension; and

(3) The position at the new agency must have a full performance level that is equivalent or less than the position they would have been converted to at the prior agency.

Subpart D—Presidential Management Fellows Program

■ 18. Amend § 362.401 by removing the definition for “Agency PMF Coordinator” and adding in its place the definition for “Agency Presidential Management Fellows (PMF) Program Coordinator” to read as follows:

§ 362.401 Definitions.

\* \* \* \* \*

Agency Presidential Management Fellows (PMF) Program Coordinator is an individual, at the appropriate agency component level, who coordinates the placement, development, and other Program-related activities of PMFs appointed in his or her agency and fulfills the criteria described in § 362.104(a)(8). The agency Pathways Programs Officer may also serve as the PMF Coordinator.

\* \* \* \* \*

■ 19. Amend § 362.404 by revising paragraph (a)(1) and adding paragraph (e) to read as follows.

§ 362.404 Appointment and extension.

(a) \* \* \*

(1) An agency may make 2-year appointments to the PMF Program, pursuant to a Pathways Policy, under

Schedule D of the excepted service in accordance with part 302 of this chapter.

\* \* \* \* \*

(e) Work schedules. A PMF will generally have a full-time work schedule. A PMF may request a part-time work schedule for a limited period of up to 6 months during the PMF Program. An agency has the discretion to approve or deny a request for a part-time work schedule if the agency and PMF have determined that it would not negatively impact the PMF's ability to meet all Program requirements by the expiration of the PMF's appointment. The agency's approval of the request must include an approval of a specific time period that the agency determines to be appropriate. A PMF is not entitled to approval of a request for a part-time work schedule. An agency's Pathways Policy must specify the conditions under which a part-time work schedule may be authorized. The PMF's Pathways Participant agreement must be updated with the new work schedule information when a part-time work schedule is approved.

■ 20. Amend § 362.405 by revising paragraphs (a), (b)(1), (4), and (5), and (d)(2) and adding paragraph (d)(4)(iii) to read as follows:

§ 362.405 Development, evaluation, promotion, and certification.

(a) Individual Development Plans. An agency must approve, within 90 days, an Individual Development Plan (IDP) for each of its PMFs that sets forth the specific developmental activities that are mutually agreed upon by each PMF and their supervisor. The PMF must develop the IDP in consultation with the Agency PMF Coordinator and/or the mentor assigned to the PMF under paragraph (b)(3) of this section, as well as the PMF's supervisor.

(b) \* \* \*

(1) OPM will provide leadership development activities and general Program resources for each class or cohort of PMFs and will provide information on available training opportunities known to it. Agencies must provide appropriate agency-specific onboarding and employee orientation activities.

\* \* \* \* \*

(4) The agency must provide each PMF with at least one rotational or developmental assignment with full-time management and/or technical responsibilities consistent with the PMF's IDP. With respect to the requirement in this paragraph (b)(4):

(i) Each PMF must receive at least one developmental assignment of 4 to 6

months in duration, with management and/or technical responsibilities consistent with the PMF's IDP.

(ii) The developmental assignment may be within the PMF's organization, in another component of the agency, or in another Federal agency as permitted by the employing agency. These assignments should generally be in a different work unit led by a supervisor other than the usual supervisor of the PMF's current position.

(iii) Developmental assignments must provide challenging work experience of a caliber appropriate for a participant in the Federal Government's flagship leadership development program. Examples of appropriate developmental assignments may include projects implementing a new Executive order or major piece of legislation, agency reorganization, or cross-agency collaboration on a major administration initiative.

(5) The PMF may receive other short-term rotational assignments of 1 to 6 months in duration, at the agency's discretion. A short-term rotational assignment may take place within the PMF's organization, in another component of the agency, or in another Federal agency as permitted by the employing agency.

\* \* \* \* \*

(d) \* \* \*

(2)(i) The ERB must notify the PMF of its decision regarding certification of successful completion.

(ii) A PMF who receives successful certification is eligible for conversion in accordance with § 362.409.

\* \* \* \* \*

(4) \* \* \*

(iii) A PMF who is not approved for certification and whose appeal to OPM is denied is not eligible for conversion in accordance with § 362.409.

■ 21. Amend § 362.409 by revising paragraph (b) and adding paragraph (c) to read as follows:

**§ 362.409 Conversion to the competitive service.**

\* \* \* \* \*

(b) An agency may convert, without a break in service, an ERB-certified PMF to a competitive service term or permanent appointment in any position for which they are qualified.

(c) A PMF who is being converted to a permanent or term position at a different agency is subject to the following conditions:

(1) The employing (or losing) agency must be unable to convert the PMF to a term or permanent position in the competitive service in the current organizational unit of the employing

agency or another component within the same Department or agency. These reasons for conversion at another agency may include unforeseen budgetary constraints; reorganizations; abolishment of positions; or other appropriate reasons. Such a conversion to another agency may not be due to issues related to failure to obtain certification from the agency's Executive Resources Board, misconduct, poor performance, or suitability;

(2) Conversion must occur on or before the end of the agency prescribed Program period, plus any agency-approved extension; and

(3) The position at the new agency must have a full performance level that is equivalent to or less than the position to which the PMF would have been converted at the losing agency.

**PART 410—TRAINING**

■ 22. The authority citation for part 410 continues to read as follows:

**Authority:** 5 U.S.C. 1103(c), 2301, 2302, 4101, *et seq.*; E.O. 11348, 3 CFR, 1967 Comp., p. 275, E.O. 11478, 3 CFR 1966–1970 Comp., page 803, unless otherwise noted, E.O. 13087; and E.O. 13152.

■ 23. Amend § 410.306 by revising paragraph (c) to read as follows:

**§ 410.306 Selecting and assigning employees to training.**

\* \* \* \* \*

(c) Subject to the prohibitions of § 410.308(a), an agency may pay all or part of the training expenses of students hired under the Pathways Internship Program (see 5 CFR part 362, subpart B).

[FR Doc. 2024–06810 Filed 4–11–24; 8:45 am]

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**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 927**

[Doc. No. AMS–SC–23–0037]

**Pears Grown in Oregon and Washington; Increased Assessment Rate for Processed Pears**

**AGENCY:** Agricultural Marketing Service, Department of Agriculture (USDA).

**ACTION:** Final rule.

**SUMMARY:** This rule implements a recommendation from the Processed Pear Committee (Committee) to increase the assessment rate established for the 2023–2024 fiscal period and subsequent fiscal periods. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Effective May 13, 2024.

**FOR FURTHER INFORMATION CONTACT:** Dale Novotny, Marketing Specialist, or Barry Broadbent, Acting Chief, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, or Email: [DaleJ.Novotny@usda.gov](mailto:DaleJ.Novotny@usda.gov) or [Barry.Broadbent@usda.gov](mailto:Barry.Broadbent@usda.gov).

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–8085, or Email: [Richard.Lower@usda.gov](mailto:Richard.Lower@usda.gov).

**SUPPLEMENTARY INFORMATION:** This action, pursuant to 5 U.S.C. 553, implements an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Order No. 927, as amended (7 CFR part 927), regulating the handling of pears grown in Oregon and Washington. Part 927 referred to as the “Order” is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.” The Committee locally administers the Order and is comprised of growers, handlers, and processors of pears operating within the area of production, and a public member.

The Agricultural Marketing Service (AMS) is issuing this rule in conformance with Executive Orders 12866, 13563, and 14094. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 reaffirms, supplements, and updates Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal Governments, which requires Federal