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SECRETARY OF THE AIR FORCE**

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Law

EMPLOYMENT OF CIVILIAN ATTORNEYS

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This instruction implements AFD 51-1, *The Judge Advocate General's Department*, and DOD Instruction 1442.02, *Personnel Actions Involving Civilian Attorneys*. It establishes the procedures and minimum qualifications for employment, transfer, reassignment, and promotion of Air Force civilian attorneys. Appointments to Senior Executive Service positions are processed under AFI 36-901, *Air Force Senior Executive Resources (PA)*. This Instruction applies to the Air Force Reserve (USAFR), but not to the Air National Guard (ANG). It also does not apply to the hiring of host nation legal advisors overseas, which is governed by international agreements and host nation hiring procedures.

Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*; route AF Form 847s from the field through the appropriate functional's chain of command. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with AFMAN 33-363, *Management of Records*, and disposed of in accordance with the Air Force Records Disposition Schedule (RDS) located at <https://www.my.af.mil/afrims/afrims/afrims/rims.cfm>. This publication may be supplemented at any level, but all direct Supplements must be routed to the OPR of this publication for coordination prior to certification and approval.

This publication requires the collection and/or maintenance of information protected by the Privacy Act (PA) of 1974. The authorities to collect and/or maintain the records prescribed in this publication are *Title 10 United States Code*, Section 8013 and *Title 10 United States Code*, Section 8037. Forms affected by the PA have an appropriate PA statement. The applicable Privacy Act System Notices, F051 AFJA C, *Judge Advocate Personnel Records*, and F036 AF PC Q, *Personnel Data System*, are available online at: <http://dpclo.defense.gov/privacy/SORNS/component/airforce/>.

SUMMARY OF CHANGES

This document has been substantially revised and should be completely reviewed. Major changes include updates to personnel processes and procedures, changes in standing delegations by the Air Force Civilian Attorney Qualifying Committee, additions to ensure consistency with DODI 1442.02, and inclusion of the requirement of active (or equivalent) bar membership as a condition of employment for civilian attorneys.

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Chapter 1

RESPONSIBILITIES OF THE QUALIFYING AUTHORITY

Section 1A—Overview

1.1. Overview. This instruction sets forth two methods for hiring civilian attorneys. **Chapter 1** presents overarching principles and describes the responsibilities and functions of the qualifying authority. **Chapter 2** details the fully competitive hiring process, similar to that used in the competitive service. **Chapter 3** explains the accelerated hiring process, consistent with the excepted service nature of attorney positions. This process allows for an expedited fill of a vacancy, without competition, when a qualified, interested, and available candidate exists. **Chapter 4** details the process of approval by the qualifying authority. **Chapter 5** describes final processing by the servicing civilian personnel office (CPO).

1.2. Principles. All attorney personnel actions shall be taken on the basis of merit and in conformity with applicable laws and regulations. Attorney positions classified below the Senior Executive Service (SES) level are part of the “excepted service” and are exempt from competitive ranking and referral procedures. The following principles and practices are applicable to all attorney personnel actions.

1.2.1. Evaluation of applicants for civilian attorney positions shall be made based on the skills, background, knowledge, relevant experience, and academic achievement of the applicants, with the sole object being to obtain the highest caliber, most qualified candidates.

1.2.2. Recruitment of civilian attorneys to entry-level positions shall be undertaken on the widest practicable basis, in conformity with the policy on diversity in AFD 36-70, Diversity.

1.2.3. All actions shall be taken without regard to race, color, religion, sex, national origin, age, disability, genetic information, prior protected activity or disclosure, or any other non-merit factors prohibited by statute, regulation, or Executive Order, and in conformity with the policy in AFD 36-27, *Equal Opportunity (EO)*.

1.2.4. Veterans’ preference provisions will be followed to the extent administratively feasible in accepting and rating applications prior to submitting them to the qualifying authority.

1.2.5. Military spouses’ preference should be equitably applied for spouses of active duty Service members when they apply for GS-15 and below positions, as outlined in Subchapter 315, Employment of Spouses of Active Duty Military, of DOD Instruction 1400.25, Civilian Personnel Manual. Military spouses’ preference shall not contravene existing statutes or regulations on veterans’ preference or nepotism.

1.2.6. Attorney appointments are subject to service of a one-year probationary period. The vacancy announcement will mention the probationary period, and candidates should be advised of it during interviews. An attorney who has successfully completed an initial probationary period is not subject to another probationary period if later reappointed to a different attorney position, unless the attorney is assuming a supervisory position for the first time.

1.2.7. Air Force civilian attorneys shall not be penalized in decisions related to performance evaluations or awards for issuing timely, well-reasoned legal advice that correctly states applicable laws and regulations.

1.2.8. Although time-in-grade restrictions do not apply to attorney promotions, rapid promotions should be avoided. Normally, attorneys should serve one year in grade before being promoted to the next higher grade. However, if employees with less time-in-grade are rated by the local civilian attorney committee among the best qualified candidates, they may be eligible for appointment to the higher grade. This authority should be used sparingly, though.

1.2.9. As a condition of employment, any Air Force civilian attorney covered by this instruction must be an active (or equivalent) member, in good standing, of the bar of the highest court of a state, U.S. commonwealth, U.S. territory, or the District of Columbia. The attorney must maintain such bar membership in at least one jurisdiction during the entire course of employment with the Air Force.

1.2.9.1. "Active (or equivalent)" membership means the attorney holds a license that authorizes the attorney to engage in the immediate, active practice of law in the jurisdiction of the licensing authority. State licensure types such as "inactive," "retired," "non-practicing," "emeritus," or "ineligible," which do not permit the immediate, active practice of law, will not satisfy this requirement, even if the member is in "good standing." Members may hold an active (or equivalent) license and claim exemptions from dues or continuing legal education (CLE) (e.g., for federal practice or out-of-state attorneys); but an exemption that precludes the immediate, active practice of law will not satisfy the licensing requirement for Air Force employment. For example, a "non-practicing CLE exemption" that effectively requires an attorney to affirm he or she is not engaged in the practice of law will not satisfy the active (or equivalent) requirement. A license that precludes representing individuals or institutions in a private capacity, but otherwise permits the immediate, active practice of law in the jurisdiction, meets the requirement for Air Force practice.

1.2.9.1.1. In the event it is unclear whether a jurisdiction's licensing status or exemption meets the above criteria, a civilian attorney may request an authoritative determination by the General Counsel (GC) or The Judge Advocate General (TJAG), as applicable.

1.2.9.1.2. The attorney submits the request through supervisory channels to the Attorney Licensing Committee, which includes AF/JAX (Chair), AF/JAZ, AF/JAA-PR, and SAF/GCA. The committee will review the request and forward a recommendation to the GC or TJAG, as applicable, for final determination.

1.2.9.2. By establishing the requirement to maintain active (or equivalent) membership, the Air Force adopts a standard in line with what is expected of attorneys in the private practice of law. Moreover, these licensing requirements are intended to promote the respect with which civilian lawyers are held in the Air Force, reinforce the public's confidence in their competence and credentials, and assist in the detection and prevention of the unauthorized practice of law.

1.2.9.3. An attorney's suspension or disbarment by his or her licensing authority may be grounds for termination under AFI 36-704, Discipline and Adverse Actions.

1.2.9.4. If an attorney's suspension or disbarment by a licensing authority does not result in termination, the attorney shall be reassigned to a non-attorney position (except when the attorney remains qualified to practice law by virtue of an active license in another jurisdiction). The conditions of suspension or disbarment imposed by the licensing jurisdiction might preclude assignment to a law-related position (i.e., law clerk or paralegal). Even if permitted, supervisors must consider whether the basis for disbarment or suspension would make assignment to a law-related position ill-advised.

1.2.9.5. A suspended or disbarred civilian attorney who is reassigned to a non-attorney position may not reoccupy a civilian attorney position unless qualified again. In that event, the application to the qualifying authority shall be accompanied by a recommendation from the GC or TJAG, as applicable.

1.2.9.6. TJAG or designee may suspend a civilian attorney's authority to practice law in a position in the Air Force Judge Advocate General's Corps for a substantiated violation of the Air Force Rules of Professional Conduct. The proposed suspension must be presented to the attorney in writing, specify its length (not to exceed one year), and afford the attorney a reasonable opportunity to respond. TJAG will then make a decision after considering the attorney's response, if any. A suspension under this paragraph may occur irrespective of any sanction by the attorney's licensing authority. A suspension from the Air Force legal practice may form the basis for termination, suspension, reassignment, or other appropriate civilian personnel action under AFI 36-704.

1.2.9.7. A civilian attorney is required to report, in writing, notice of the commencement of any formal disciplinary complaint or proceeding by the attorney's licensing authority, through the attorneys' supervisory Staff Judge Advocate (SJA), Director, Deputy GC, or equivalent, to AF/JAZ or SAF/GCA, as applicable, within five days of initial knowledge of such action. Additionally, civilian attorneys may be required to participate in license certification programs mandated by the GC or TJAG for their respective attorneys. Such programs may require attorneys to self-certify bar status, the absence of discipline, the review of professional responsibility rules and codes, and other certifications as needed to ensure attorney compliance with this instruction and state licensing requirements. Additionally, such programs may include targeted or random independent verification of licensing status.

1.3. Authorities. Air Force civilian attorneys are appointed under the following authorities:

1.3.1. Office of Personnel Management (OPM) Regulations (implementing *Title 5 United States Code*) at Title 5, Code of Federal Regulations, Part 213, *Excepted Service*, current edition;

1.3.2. Non-U.S. citizens recruited in areas outside the 50 states, Puerto Rico, and the Virgin Islands are appointed under authority of Title 5, Code of Federal Regulations, Section 8.3, *Appointment of Persons Not Citizens of the United States*, current edition; and

1.3.3. DODI 1442.02.

Section 1B—Qualifying Authority

1.4. Qualifying Authority. The qualifying authority evaluates the qualifications of persons recommended for appointment, transfer, reassignment, or promotion as attorneys, and approves or disapproves such actions. The Air Force Civilian Attorney Qualifying Committee (AFCAQC) is the qualifying authority for all civilian attorney personnel actions, except where the authority is delegated pursuant to **paragraph 1.5**.

1.4.1. Air Force Civilian Attorney Qualifying Committee. The AFCAQC is composed of three or more civilian attorneys in grades GS-15 or above, designated by the Secretary of the Air Force. The AFCAQC is solely responsible for, and has complete discretion to, qualify and approve appointments, promotions, reassignments, and transfer of persons to attorney positions. However, the AFCAQC does not have authority to set pay. AF/JAZ will administer all actions for the AFCAQC and ensure compliance with applicable statutes and OPM, DOD, and Air Force guidance. At the request of the GC or TJAG, or on its own initiative, the AFCAQC provides advice and makes recommendations to the GC and TJAG concerning any aspect of the civilian attorney workforce. When matters pertain to civilian development, the AFCAQC will also coordinate with the appropriate council.

1.4.2. Approval. When the qualifying authority decides that a candidate meets the requirements for a given position, it approves the appointment. Thereafter, that attorney may be transferred or reassigned to any position within the grade for which approved, or to a lower grade, without further approval by the qualifying authority, unless the move would result in a substantial change in duties.

1.4.3. Reservations. The AFCAQC reserves qualifying authority for all GS-14 and GS-15 hiring actions, all hiring actions using accelerated procedures, all promotions to GS-14 or GS-15 (including upgrades to target grades of GS-14 and GS-15 in developmental positions), and all promotions of attorneys with less than one year time-in-grade.

1.5. Delegation of Qualifying Authority. Qualifying authority is delegated to the following Air Force attorneys:

1.5.1. Hiring Attorneys Using Fully Competitive Procedures (see [Chapter 2](#)). Authority to approve qualifications of candidates to positions graded at GS-13 and below and approve appointments to those positions is delegated to the Major Command (MAJCOM) SJA, the Air Force Legal Operations Agency (AFLOA) Commander, Air Staff Director, Deputy GC, or equivalent. Authority to qualify candidates and approve GS-14 or GS-15 appointments remains with the AFCAQC.

1.5.2. Promoting Attorneys. Authority to promote attorneys to positions graded at GS-13 and below is delegated to the MAJCOM SJA, the AFLOA Commander, Air Staff Director, Deputy GC, or equivalent.

1.5.2.1. Authority to upgrade an attorney to the developmental position target grade of GS-13 or below is delegated to the MAJCOM SJA, the AFLOA Commander, Air Staff Director, Deputy GC, or equivalent.

1.5.2.2. Authority to promote and approve upgrades to GS-14 or GS-15 remains with the AFCAQC.

1.5.3. Reassigning Attorneys. Authority to approve qualifications and reassign attorneys to perform similar functions within an organization in an equal or lower graded position is

delegated to the MAJCOM SJA, the AFLOA Commander, Air Staff Director, Deputy GC, or equivalent. However, if the move would result in a substantial change in duties, approval authority remains with the qualifying authority. All requests for approval to reassign an Air Force employee from a non-attorney position to an attorney position are treated as new hires (see [paragraph 1.5.1](#)).

1.5.4. **Transferring Attorneys.** Authority to approve attorney qualifications and transfer a person at the same grade between bases within a MAJCOM or within AFLOA is delegated to the MAJCOM SJA or the AFLOA Commander, respectively. Authority to approve attorney qualifications and transfer of a person at the same grade between MAJCOMs or from AFLOA to a MAJCOM is delegated to the gaining MAJCOM SJA; and from a MAJCOM to AFLOA, to the AFLOA Commander. Any such transfer is subject to all necessary approvals and manpower actions to transfer the position.

1.5.5. **Other Delegations.** The AFCAQC may make other delegations of qualifying authority reserved in [paragraph 1.4.3](#), either selectively or by class, in writing, to qualified attorneys (civilian or military) when circumstances warrant.

Chapter 2

FULLY COMPETITIVE HIRING PROCEDURES

Section 2A—Overview

2.1. Hiring Process Overview. The normal process of filling civilian attorney vacancies closely follows the process used in the competitive service. The hiring process can begin when an incumbent announces the intent to leave or when a new position is added in the organization.

2.1.1. To initiate hiring, the office with the vacancy submits a Standard Form 52, *Request for Personnel Action*, and a core document or position description to the servicing CPO, along with any other documentation required locally by the CPO.

2.1.2. For new core documents or those with significant changes, the CPO (or the Air Force Personnel Center) classifies the core document. The CPO then begins recruitment by preparing an announcement and posting it for a period of at least five business days. (**Note:** Attorney positions are exempt from the Priority Placement Program.) The CPO screens applications received and forwards them to the office with the vacancy, for review by the local civilian attorney committee (see [Section 2B](#)).

2.1.3. After reviewing the applications, the local civilian attorney committee identifies the candidates who meet the minimum qualifications and selects some or all for interview by the committee.

2.1.4. After interviews, the committee identifies the best qualified candidates and forwards a package for approval to the qualifying authority (see [Section 4A](#)). The qualifying authority makes the final hiring decision.

Section 2B—Roles, Responsibilities and Procedures

2.2. Roles, Responsibilities and Procedures. The CPO and the local civilian attorney committee have key roles and responsibilities in the fully competitive hiring procedure.

2.2.1. **Local Civilian Attorney Committee.** The commander of the organization with the servicing CPO will appoint an *ad hoc* local civilian attorney committee for each separate hiring action. For vacancies in AFLOA, the appointing authority is the Commander; for vacancies in Headquarters Air Force, the appointing authority is the Air Staff Director, Deputy GC, or equivalent.

2.2.1.1. **Membership.** The local civilian attorney committee shall consist of at least two attorneys, one of whom is a civilian attorney in the same or higher grade as the position being filled. If fewer than two qualified attorneys are available to serve on the committee, the MAJCOM or another Air Force activity will make available the necessary attorney(s). Anyone acting as the qualifying authority for the position being filled may not also serve on the committee.

2.2.1.2. **Function.** The local civilian attorney committee is responsible for reviewing applications and interviewing, evaluating, and ranking applicants for appointment to attorney positions. The committee prepares interview summaries and recommends to the qualifying authority the best qualified candidates, in rank order.

2.2.1.3. **Responsibilities.** The local civilian attorney committee scores applicants on experience, education, and other professional qualifications, using a point system. Minimum position requirements and grade-by-grade guidelines are included in [Attachment 2](#).

2.2.1.3.1. **Veterans' Preference.** Follow the guidelines in [Attachment 3](#).

2.2.1.3.2. **Oral Interview.** After ranking the applications, the committee will notify the best qualified candidates to appear for an interview. Interviews may be conducted either in person, by video-teleconference, or by telephone.

2.2.1.3.2.1. **Purpose and Content of Oral Interview.** The interview is an important element of the screening process. It provides a means to evaluate aspects of a candidate's knowledge and background that may not be evident from the written record. It also provides the opportunity to observe a candidate's presentation skills and cognitive qualities relative to the requirements of the position.

2.2.1.3.2.2. **Preparation of Interview Summaries.** A separate summary of each interview must be prepared, describing the candidate's suitability and legal skills. The summary must reflect the factors developed during the interview in order to give the qualifying authority the information necessary for a proper review of the candidate's qualifications. It includes comment on the candidate's presence, mental qualities and attitudes, knowledge of the law required for the position, and the quality of experience in general and specific areas of law. The summary should also include comment on any relevant collateral experience that is not evident or clear in the application. The conclusions should analyze and summarize the applicant's qualification and suitability for the position. Follow the format in [Attachment 4](#). Upon completion of the interview summary, destroy any notes used in its preparation.

2.2.1.3.3. Furnish the qualifying authority with the applications and supporting documentation for best qualified candidates, in accordance with [Chapter 4](#). If the qualifying authority is the AFCAQC, forward the package to AF/JAZ.

2.2.1.3.4. The local civilian attorney committee returns all applications, together with interview summaries and candidate rankings, to the servicing CPO.

2.2.2. **Civilian Personnel Office.** The CPO will:

2.2.2.1. Advertise the position with a vacancy announcement. Recruitment from within the federal government shall follow the procedures and format used for vacancies in the competitive service.

2.2.2.2. Receive and review applications and supporting documentation. Forward those that meet the minimum qualifications for appointment to the office with the vacancy for interviews and selection recommendations.

2.2.2.3. Upon receipt of approval by the qualifying authority, process all necessary personnel actions and furnish copies of the completed actions to the AFCAQC, through AF/JAZ.

Chapter 3

ACCELERATED HIRING PROCEDURES

Section 3A—Overview

3.1. Filling Vacancies Without Recruitment or Competition. A civilian attorney vacancy may be filled without recruitment or competition if the following criteria are met:

- 3.1.1. Knowledge of a qualified, interested, and available candidate for the position;
- 3.1.2. The need for quick action to hire the candidate (i.e., the candidate has other job offers or is actively seeking employment elsewhere); and
- 3.1.3. The reasonable belief that better qualified candidates are not likely to be discovered using fully competitive procedures.

3.2. Streamlined Process. These procedures eliminate the announcement, formal recruitment, and pre-screening phases of the fully competitive process. Interviews are optional (see [paragraph 3.4.1.1](#)).

Section 3B—Candidate Files

3.3. Candidate Files. Legal offices are encouraged to maintain on file any resumes received for the types and levels of civilian attorney positions on staff, for use when vacancies arise. The offices are also encouraged to share candidate data with other legal offices and refer candidates to offices with vacancies for which they might qualify.

Section 3C—Procedures

3.4. Procedures. When an office has a civilian attorney vacancy and the criteria of [paragraph 3.1](#) are met, the following procedures may be substituted for those set forth in [Chapter 2](#) of this instruction:

3.4.1. To initiate a fill action, the office with the vacancy submits to the AFCAQC, through AF/JAZ, the candidate's name, a letter from the SJA, civilian office chief, or equivalent addressing the three criteria, the additional documentation required by **Chapter 4**, and evidence of coordination, as applicable, with the MAJCOM SJA, AFLOA Commander, Air Staff Director, Deputy GC, or equivalent.

3.4.1.1. The SJA, civilian office chief, or equivalent may personally interview the candidate or convene a local civilian attorney committee to do so, in accordance with [paragraph 2.2.1](#).

3.4.1.2. The party conducting the interview will prepare an interview summary and make a recommendation to the AFCAQC.

3.4.2. Following approval from the AFCAQC, the office with the vacancy submits an SF 52 with the approval package received from the AFCAQC (see [paragraph 4.2.2](#)), to the servicing CPO, along with any other documentation required locally by the CPO.

3.4.3. Upon receipt of the approval package, the CPO processes all necessary personnel actions and furnishes copies of the completed actions to the AFCAQC, through AF/JAZ.

Chapter 4

QUALIFYING AUTHORITY ACTION

Section 4A—Request for Qualifying Authority Action

4.1. Items to Forward for Qualifying Authority Action. Regardless of whether the fully competitive or accelerated procedures are used, the servicing CPO submits a request for approval to the appropriate qualifying authority. The following completed forms and supporting data for each recommended candidate must accompany the request:

4.1.1. A classified AF Form 1378, *Civilian Personnel Position Description*, or AF Form 1003, *Core Personnel Document*, for the position being filled.

4.1.2. An Optional Form 612, *Optional Application for Federal Employment*; or a resume.

4.1.3. A document, dated within four months of application, showing that the candidate maintains active (or equivalent) membership, in good standing, in the bar of the highest court of a state, U.S. commonwealth, U.S. territory, or the District of Columbia. (This is not needed if the candidate is applying for appointment to a law clerk position [see [paragraph A2.1.2.1](#)]).

4.1.4. When the candidate has been a bar member for less than five years, a copy of the candidate's final law school transcript and, if available, a statement of relative class standing.

4.1.5. A summary of the oral interview, if conducted.

Section 4B—Qualifying Authority Review and Action

4.2. Qualifying Authority Review and Action. The qualifying authority reviews the applications, supporting data, and local civilian attorney committee recommendations to make its own determinations. If only one qualified candidate has been submitted, the qualifying authority may approve or disapprove the nomination for appointment. If more than one qualified candidate has been submitted, the qualifying authority may approve any or all of the candidates, and approve or change the rank order submitted.

4.2.1. Qualifying authorities may, at their discretion, interview any or all of the candidates.

4.2.2. The qualifying authority returns the applications and supporting documents, along with its decision, to the office with the vacancy, which in turn forwards the material to the servicing CPO for processing.

Section 4C—Other Qualifying Authority Actions

4.3. Other Actions Requiring Qualifying Authority Review. Other personnel actions also require review and approval by the qualifying authority.

4.3.1. **Promotions.** Any proposed promotion of a civilian attorney (including promotion to the target grade of a developmental position, promotion following a position review, or promotion after full and open competition) shall be submitted to the qualifying authority for approval or disapproval. (See [paragraph 1.5.2](#).)

4.3.1.1. The submission shall include the documents listed in **paragraphs 4.1.1** through **4.1.4**, and an evaluation by the attorney's supervisor addressing the quality of the attorney's work and providing an opinion as to the attorney's ability to perform the duties of the higher grade.

4.3.1.2. The qualifying authority will consider the quality of the attorney's performance of prior duties, the ability of the attorney to perform the duties of the higher grade, and any other relevant experience.

4.3.2. **Reassignments.** Any proposed reassignment of an attorney shall be submitted to the qualifying authority for approval or disapproval. (See **paragraph 1.5.3**.) The submission shall include:

4.3.2.1. The document listed in **paragraph 4.1.1**, for both the current and new positions;

4.3.2.2. The documents listed in **paragraphs 4.1.2** through **4.1.4**;

4.3.2.3. An evaluation by the attorney's supervisor addressing the quality of the attorney's work and providing an opinion as to the attorney's ability to perform the duties of the new position; and

4.3.2.4. Statements from both the losing and gaining supervisors consenting to the proposed reassignment (unless the reassignment is the result of the employee's application).

4.3.3. **Transfers.** Any proposed transfer of an attorney's position between activities shall be submitted to the qualifying authority for approval or disapproval. (See **paragraph 1.5.4**.) The submission shall include:

4.3.1.1. The documents listed in **paragraphs 4.1.1** through **4.1.4**;

4.3.1.2. An evaluation by the attorney's supervisor addressing the quality of the attorney's work and providing an opinion as to the attorney's ability to perform the duties in the new activity; and

4.3.1.3. Statements from both the losing and gaining supervisors consenting to the proposed transfer (unless the transfer is the result of the employee's application).

Chapter 5

ADMINISTRATION

Section 5A—Selection Processing

5.1. Selection Processing. Upon receipt of approval from the qualifying authority, the servicing CPO processes the action directed by the qualifying authority.

5.1.1. If, in a hiring action, the qualifying authority ranked candidates in order of preference, the CPO must follow the order in making offers. If the highest-ranked candidate declines the offer, the process may be restarted, at the discretion of the office with the vacancy, rather than offering the position to a remaining candidate.

5.1.2. If the hiring action involves superior qualifications, the office with the vacancy and the servicing CPO follow the guidance in AFI 36-802, *Pay Setting*.

5.1.3. Approval from the qualifying authority is valid for four months from the date of signature, during which all initial selection offers must be made. If an offer is not made during this period, a new package is required, unless the qualifying authority, upon request, grants an extension.

Section 5B—Changes

5.2. Changes. Any significant change to the duties of the position at any time during the hiring process requires reclassification of the core document and re-initiation of the process (see [paragraph 2.1.2](#)).

Section 5C—Retention of Documentation

5.3. Retention of Documentation.

5.3.1. The servicing CPO retains all necessary records and correspondence supporting the personnel action, in accordance with the Air Force RDS and applicable OPM guidance, for documents that are OPM records.

5.3.1.1. The office with the vacancy returns the original applications of those not selected to the servicing CPO. The office also sends an appropriate letter to each non-selected applicant expressing appreciation for the application, informing that selection has been made, and advising that another application would be required for any future vacancy.

5.3.1.2. The office may also retain copies of the applications to identify candidates for future vacancies (see [paragraph 3.3](#)).

5.3.2. The qualifying authority retains copies of all approved actions.

Section 5D—Personnel Actions

5.4. Personnel Actions. The CPO must forward a copy of each Standard Form 50-B, *Notification of Personnel Action*, effecting an appointment, promotion, reassignment, or transfer of a civilian attorney, to AF/JAZ, by email or mail.

RICHARD C. HARDING
Lieutenant General, USAF
The Judge Advocate General

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

AFI 36-704, *Discipline and Adverse Actions*, 22 July 1994

AFI 36-802, *Pay Setting*, 1 September 1998

AFI 36-901, *Air Force Senior Executive Resources (PA)*, 25 July 1994

AFMAN 33-363, *Management of Records*, 1 March 2008

AFFPD 36-27, *Equal Opportunity (EO)*, 22 May 2009

AFFPD 36-70, *Diversity*, 13 October 2010

AFFPD 51-1, *The Judge Advocate General's Department*, 19 November 1993

Air Force Records Disposition Schedule, in the Air Force Records Information Management System

DoD Instruction 1400.25, *Civilian Personnel Manual*, Subchapter 315, *Employment of Spouses of Active Duty Military*, 19 September 2007

DoD Instruction 1442.02, *Personnel Actions Involving Civilian Attorneys*, 30 September 2010

Title 5 United States Code, Section 5376

Title 10 United States Code, Section 8013

Title 10 United States Code, Section 8037

5 CFR 8.3

5 CFR 213

5 CFR 302

Adopted Forms:

AF Form 847, *Recommendation for Change of Publication*, 22 September 2009

AF Form 1003, *Core Personnel Document*, undated

AF Form 1378, *Civilian Personnel Position Description*, March 1979

DD Form 214, *Certificate of Release or Discharge from Active Duty*, February 2000

Optional Form 612, *Optional Application for Federal Employment*, June 2006

Standard Form 15, *Application for 10-Point Veteran Preference*, August 2008

Standard Form 50-B, *Notification of Personnel Action*, 30 June 1993

Standard Form 52, *Request for Personnel Action*, 30 June 1993

Abbreviations and Acronyms

AFCAQC—Air Force Civilian Attorney Qualifying Committee

AFI—Air Force Instruction
AFLOA—Air Force Legal Operations Agency
AFPD—Air Force Policy Directive
ANG—Air National Guard
CLE—Continuing Legal Education
CPO—Civilian Personnel Office
DOD—Department of Defense
DODI—Department of Defense Instruction
GC—General Counsel
GS—General Schedule
J.D.—Juris Doctorate
LL—B.—Bachelor of Laws
LL—M.—Master of Laws
MAJCOM—Major Command
NSPS—National Security Personnel System
OPM—Office of Personnel Management
PA—Privacy Act
RDS—Records Disposition Schedule
SES—Senior Executive Service
SJA—Staff Judge Advocate
SL—Senior Leader
TJAG—The Judge Advocate General
U.S.—United States
USAFR—United States Air Force Reserve
YA—NSPS Standard Career Group Professional and Administrative Occupations

Term

Active (or equivalent). Bar membership status requirement for Air Force employment. **Active (or equivalent) status indicates an attorney holds a license that authorizes the attorney to engage in the immediate, active practice of law in the jurisdiction of the licensing authority. State licensure types such as “inactive,” “retired,” “non—practicing,” “emeritus,” or “ineligible,” which do not permit the immediate, active practice of law, will not satisfy this requirement, even if the member is in “good standing.”** Members may hold an active (or equivalent) license and claim exemptions from dues or CLE (e.g., for federal practice or out-of-state attorneys); but an exemption that precludes the immediate, active practice of law will not satisfy this licensing requirement. For example, a “non-practicing CLE exemption” that

effectively requires an attorney to affirm he or she is not engaged in the practice of law will not satisfy the active (or equivalent) requirement. A license that precludes representing individuals or institutions in a private capacity, but otherwise permits the immediate, active practice of law in the jurisdiction, meets the requirement for Air Force practice.

Attachment 2

ATTORNEY QUALIFICATIONS

A2.1. General. The following qualifications are required of all Air Force civilian attorneys.

A2.1.1. To be eligible for consideration for appointment as an attorney, an applicant must be a graduate of a law school accredited by the American Bar Association.

A2.1.2. Additionally, to be eligible for consideration for appointment, a candidate must be an active (or equivalent) member, in good standing, of the bar of the highest court of a state, U.S. commonwealth, U.S. territory, or the District of Columbia.

A2.1.2.1. Law school graduates may apply for and be appointed to positions as law clerks without having been admitted to a bar. Any individual appointed under this authority may serve for no more than 14 months before being admitted to a bar, or otherwise be separated.

A2.1.2.2. The hiring of a law clerk admitted to a bar as an attorney requires a new hire action and approval by the qualifying authority.

A2.1.3. Appointments will be made on the basis of merit and in accordance with veterans' preference principles (see [Attachment 3](#)) and applicable OPM rules and regulations. Subject to this requirement, when more than one applicant for a particular civilian attorney position meets the minimum requirements for appointment, the applicant who is best qualified on the basis of relevant experience, education, and achievement in the legal field shall be selected. Other factors involving effectiveness to perform the functions of the position may also be considered.

A2.1.4. For selectees entering the Air Force from outside the civil service, the duties to be performed are the critical factor in determining the grade or pay entrance level. The possession of a degree or high academic standing alone is not a sufficient basis for placement in a higher GS grade and step level.

A2.2. Grade-by-Grade Guidelines. The following grade-level guidelines shall be applicable to initial appointments and promotions to civilian attorney positions in the indicated grade or equivalent:

A2.2.1. GS-9.

A2.2.1.1. **Duties Performed at GS-9 Level.** Assignments are considered developmental and involve legal or factual questions that require relatively easy research on clear-cut issues with adequate precedents. Other legal questions at the GS-9 level are difficult because of the complexity of the facts or the different possible constructions that may be placed on either the facts or the laws involved. Cases are strongly contested in formal hearings or informal negotiations by the individuals, corporations, or agencies involved. In cases of this scope, GS-9 entrance-level attorneys search case reports, legal documents, periodicals, and textbooks, and prepare drafts of letters, memorandums, and legal documents for use by higher-level attorneys. They assist attorneys in charge of court cases or administrative proceedings by interviewing and selecting witnesses, preparing them to give testimony, and suggesting questions to be asked in cross-examination.

A2.2.1.2. **Level of Supervision.** Attorneys who enter at the GS-9 level work under very close supervision. They receive specific preliminary instructions, their authority is very limited, and their completed written work is carefully and closely reviewed.

A2.2.1.3. **Qualifications.** Assignments require the first professional law degree (Bachelor of Laws [LL.B.] or Juris Doctorate [J.D.]) and active (or equivalent) membership, in good standing, in the bar of the highest court of a state, U.S. commonwealth, U.S. territory, or the District of Columbia. No additional work experience as a licensed attorney is required.

A2.2.2. **GS-11.**

A2.2.2.1. **Duties Performed at GS-11.** Assignments, while still developmental, involve complex and difficult legal questions, requiring extensive research, analysis, and evaluation of information in controversial areas. Cases have an important impact on major public and private interests, such as cases concerning a major extension or revision in a grant program or a substantial question on civil rights. Cases are vigorously contested by capable legal talent, as in contract dispute cases. In cases of this scope, GS-11 attorneys prepare drafts of pleadings and motions in connection with cases in litigation. They conduct investigations to obtain facts, study legal precedents, and prepare recommendations. They assist attorneys in charge of court cases by cross-examining witnesses and by drafting findings of fact, conclusions of law, and orders based upon the record.

A2.2.2.2. **Level of Supervision.** Attorneys who enter at the GS-11 level work under close supervision. They receive specific preliminary instructions, their commitment authority is limited, and their completed written work is carefully reviewed.

A2.2.2.3. **Qualifications Required at GS-11 Level.** Assignments require the first professional law degree (LL.B. or J.D.) and active (or equivalent) membership, in good standing, in the bar of the highest court of a state, U.S. commonwealth, U.S. territory, or the District of Columbia. In addition, one of the following requirements must be satisfied:

A2.2.2.3.1. One year of professional law experience; or

A2.2.2.3.2. The second professional law degree (Master of Laws [LL.M.]), provided it required at least one full academic year of graduate study; or

A2.2.2.3.3. Superior law student work or activities, as demonstrated by one of the following:

A2.2.2.3.3.1. Academic standing in the upper third of the attorney's law school graduating class;

A2.2.2.3.3.2. Work or achievement of significance on one of the attorney's law school's official law reviews or journals;

A2.2.2.3.3.3. Special high-level honors for academic excellence in law school (e.g., membership in the Order of the Coif, winning a moot court competition, or membership on the moot court team that represents the law school in competition with other law schools);

A2.2.2.3.3.4. Full-time or continuous participation in a legal aid program, as opposed to one-time, intermittent, or casual participation;

A2.2.2.3.3.5. Significant summer law office clerk experience; or

A2.2.2.3.3.6. Other evidence of clearly superior accomplishment or achievement.

A2.2.3. **GS-12.**

A2.2.3.1. **Duties Performed at GS-12 Level.** Assignments involve extremely complex and difficult legal questions requiring extensive research, analysis, and evaluation of information in controversial areas of scientific, financial, corporate, medical, engineering, or other highly technical areas. Cases have an important impact on major private or public interests, such as those involving a major extension or revision in a grant program or a substantial question on civil rights. Interest in these cases is usually nationwide. GS-12 entrance-level attorneys are entrusted with the initial preparation of proposed solutions to projects. To this end, they conduct investigations to obtain facts, study legal precedents, make recommendations, and prepare necessary documents.

A2.2.3.2. **Level of Supervision.** Attorneys who enter at the GS-12 level work under close supervision. They receive preliminary instructions, their commitment authority is limited, and their completed written work is carefully reviewed.

A2.2.3.3. Qualifications Required at GS-12 Level.

A2.2.3.3.1. Assignments require the first professional law degree (LL.B. or J.D.) and active (or equivalent) membership, in good standing, in the bar of the highest court of a state, U.S. commonwealth, U.S. territory, or the District of Columbia. In addition, one of the following requirements must be satisfied:

A2.2.3.3.1.1. Two years of professional legal experience at or equivalent to the GS-11 level or NSPS YA2 level; or

A2.2.3.3.1.2. The second professional law degree (LL.M.), plus one year of professional legal experience at the GS-11 level or NSPS YA2 level.

A2.2.3.3.2. An attorney without experience, may in unusual cases, be employed at the GS-12 level, provided the individual has advanced educational attainments substantially beyond those required for work at the GS-11 level, and his or her education clearly indicates ability to perform work of the type to be assigned (e.g., education that included courses directly pertinent to the work of the agency). The essential point in such cases is to ensure that the individual's education has enabled him or her to step into complete legal work characteristic of the GS-12 level and to operate with the degree of independence and responsibility typical of that level.

A2.2.4. **GS-13.**

A2.2.4.1. **Qualifications Required at GS-13 Level.** Assignments require the first professional law degree (LL.B. or J.D.) and active (or equivalent) membership, in good standing, in the bar of the highest court of a state, U.S. commonwealth, U.S. territory, or the District of Columbia.

A2.2.4.2. In addition, the attorney shall have professional legal experience in excess of two years that is commensurate with the duties and responsibilities of the position.

A2.2.5. GS-14 or GS-15.

A2.2.5.1. Qualifications Required at GS-14 or GS-15 Level. Assignments require the first professional law degree (LL.B. or J.D.) and active (or equivalent) membership, in good standing, in the bar of the highest court of a state, U.S. commonwealth, U.S. territory, or the District of Columbia. In addition, the attorney shall have professional legal experience in excess of three years that is commensurate with the duties and responsibilities of the position.

A2.2.5.2. Level of Supervision. Attorneys performing duties in GS-15 positions are expected to perform with substantial independence, even when working on the most complex or difficult matters.

A2.2.6. Senior Leader (SL).

A2.2.6.1. Qualifications Required at SL Level. Assignments require the first professional law degree (LL.B. or J.D.) and active (or equivalent) membership, in good standing, in the bar of the highest court of a state, U.S. commonwealth, U.S. territory, or the District of Columbia. In addition, assignment at the SL level requires substantial professional legal experience. To qualify for this level, individuals must possess sufficient expertise and experience to be recognized as experts in their fields. The requirements of *Title 5 United States Code*, Section 5376 apply.

A2.2.6.2. The Executive Resources Board must approve all SL allotments and selections.

A2.3. The qualification requirements and grade-level guidelines set forth above shall not preclude the initial appointment of applicants at grades lower than prescribed herein.

A2.4. The qualifying authority may make exceptions to the foregoing grade-level guidelines set forth in [paragraph A2.2](#) for applicants possessing special experience or qualifications of a legal or non-legal nature that will be of material value in performing the duties of the position to which the civilian attorney is appointed. Such experience may have been gained either before or after admission to the bar. However, the qualifying authority may NOT make exceptions to the basic qualification requirements of graduation from law school, admission to the bar, and active (or equivalent) bar membership in good standing.

Attachment 3

VETERANS' PREFERENCE

A3.1. Excepted service Air Force civilian attorney positions are wholly exempted from the appointment procedures in Title 5, Code of Federal Regulation, Part 302, *Employment in the Excepted Service*, current edition. However, the principles of veterans' preference will be followed in hiring civilian attorneys as far as administratively feasible, as provided for in this attachment.

A3.2. Selecting officials must treat veterans' preference eligibility as a positive factor in all stages of the hiring process, including the review process, when making a selection from a job announcement or recruitment open to all sources, or when veterans' preference is otherwise applicable as required by law.

A3.2.1. At each point in the review process when a decision is made to eliminate candidates from further consideration, the selecting official shall ascertain whether any of the applicants under review are preference eligible and, in borderline cases, continue to consider those applicants.

A3.2.2. When making final selections (i.e., at the point the candidates under serious consideration for an offer have been identified), the selecting official shall once again ascertain whether any of the candidates are preference eligible. If all relevant considerations for the position are deemed equal, the selecting official must select the preference-eligible veteran, as opposed to an equally well qualified, non-preference-eligible candidate. Further, if all relevant considerations for the position are deemed equal and there is more than one preference-eligible veteran in the final group of candidates, the selecting official must select from the preference-eligible veterans in the following order:

A3.2.2.1. Disabled veterans qualifying for a 10-point preference.

A3.2.2.2. Other 10-point preference eligibles, including Purple Heart recipients.

A3.2.2.3. Veterans qualifying for a 5-point preference.

A3.3. If a qualified, preference-eligible applicant requests information regarding his or her non-selection, the responding official will advise the applicant that it is DoD policy to hire the most qualified applicant, taking into consideration all factors, including, if applicable, veterans' preference eligibility, and that a selection was made on that basis. Responses do not follow templates applicable to competitive service positions or disclose personal information about the civilian attorney hired for the position because selections for civilian attorney positions are excepted, not competitive, hires. The responding official may advise the preference-eligible veteran of this instruction and shall, upon request, furnish him or her with the reasons for non-selection.

A3.4. Vacancy announcements for Air Force civilian attorney positions for selection from all sources or for which consideration of veterans' preference is otherwise required must include the notice in the figure.

Figure A3.1. Notice of Veterans' Preference.**NOTICE OF VETERANS' PREFERENCE**

There is no formal rating system for applying veterans' preference to attorney appointments in the excepted service; however, the Department of Defense considers veterans' preference eligibility a positive factor for attorney hiring. Applicants eligible for veterans' preference must include that information in their cover letter or resume and attach supporting documentation (e.g., DD Form 214, "Certificate of Release or Discharge from Active Duty") to their submissions.

Although the point-preference system is not used, applicants eligible to claim a 10-point preference must submit a Standard Form (SF) 15, "Application for 10-Point Veteran Preference," and supporting documentation required for the specific type of preference claimed. (SF 15, which lists the types of 10-point preference and the required supporting documents, is available from the Office of Personnel Management Website at www.opm.gov.)

Attachment 4

FORMAT FOR SUMMARY OF ORAL INTERVIEW

POSITION TITLE AND GRADE: _____

NAME OF APPLICANT: _____

GENERAL OBSERVATIONS: (Presence, mental qualities, and attitudes; nature of questions asked and quality of responses, including reasoning, logic, and communications skills)

LEGAL QUALIFICATIONS/SKILLS: (Knowledge of the law, as required by the position, and quality of experience in general and specific areas of law)

CONCLUSIONS: (Analysis and summary of applicant's qualifications and suitability)

(Date) _____ Signatures and Titles of Committee Members _____