



September 30, 2011

Angela Bailey
Associate Director for Employee Services
U.S. Office of Personnel Management
1900 E Street NW, Room 6566
Washington, DC 20415-9700

RE: RIN 3206-AM34

Dear Ms. Bailey,

I am writing on behalf of the National Association of Schools of Public Affairs and Administration (NASPAA) in response to the August 5, 2011 Federal Register notice (pages 47495-47515) of the proposed regulations to implement the Pathways Programs for Students and Recent Graduates.

Executive Summary

NASPAA strongly supports the proposed regulations for the Pathways Programs and the Executive Order (13562) that had authorized them. The proposed regulations create a rigorous and accountable framework for programs to recruit the nation's best students and develop them into future federal professionals and leaders.

Our comments on the proposed regulations center around eight recommendations, which emphasize the need to set high standards and to take a systemic approach to the reform of federal student hiring:

1. Graduate students must remain eligible for all three Pathways Programs.
2. The size of the programs should reflect agency needs, without pre-determined caps on the number of participants or conversions.
3. The Recent Graduates program hiring grade limits are too restrictive.
4. Student eligibility must be defined more precisely, with higher standards.
5. Qualifying educational programs must be defined more precisely and with a higher bar.
6. Policies governing the PMF selection process and program implementation should remain out of the regulations.
7. The strong developmental component of the programs must be retained.
8. OPM must exercise oversight and collect data on program performance.

Background

The National Association of Schools of Public Affairs and Administration is the membership association of 275 schools that offer graduate degrees in public administration, public policy, and public affairs. Our member schools annually award over 10,000 master's degrees in these fields. As the accreditor of master's degree programs in public affairs, NASPAA and its accreditation commission set the standards for quality in public affairs education. We promote the alignment of

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curricular standards with workforce needs, and thus have a central interest in ensuring there are high-quality public sector career opportunities for our schools' graduates.

NASPAA has participated in efforts to improve federal hiring of students and recent graduates since even before the Office of Personnel Management was established. The chair of the Civil Service Commission, who worked to create the Presidential Management Intern program in 1977, had previously served as dean of two graduate schools of public affairs and as NASPAA president.

More recently, in 2008, NASPAA sponsored a conference on "Reimagining the PMF", and in March 2011, NASPAA and the National Academy of Public Administration organized a "Working Session on the Pathways Executive Order" (EO). The attendee group of academic experts in federal hiring and federal agency leaders agreed that the Pathways EO represented a groundbreaking opportunity for the federal government to recruit and hire promising, highly skilled talent. There was also agreement that the programs will be successful only if they are robust, contribute to high-performance government, and increase federal agencies' access to a high-quality talent pool. The meeting concluded with recommendations that included three conceptual guidelines for the Pathways regulations:

- *Use high standards to carefully define eligible students and educational programs*
- *Use high standards to define included positions, emphasizing those that require highly educated professionals who can meet the federal government's critical needs*
- *The scale of the programs should reflect federal hiring needs*

The final regulations to implement the Pathways Programs will be critical to the programs' success. The regulations must foster the development of programs that fulfill the promise of the Executive Order and realize its implied aspirations to effective government. Only regulations that set high standards and have "teeth" will enable the programs to accomplish their intent and enhance agencies' ability to make strategic investments in workforce planning.

NASPAA believes that the proposed regulations meet this challenge, and therefore we strongly support them. However, if any of several essential provisions are changed in the final regulations, the programs run the risk of not meeting the Executive Order's goals and not contributing to "good government".

Recommendations

It is essential that the final regulations can withstand scrutiny yet implement robust programs. The regulations must also prevent the abuse that occurred in previous, well-intentioned student hiring programs. To accomplish this, NASPAA offers these recommendations for the final regulations for the Pathways Programs:

1. Retain the provisions in the proposed regulations that make graduate students eligible for all three Pathways Programs.

Future federal hiring needs require attracting highly educated, highly skilled talent through as many channels as possible.

The Pathways Programs are an important component of the federal government's strategic need for highly skilled talent, which has never been greater. Graduate students, including those at the doctoral level, must be eligible for all three programs, as they are the ones who have acquired the most current knowledge and cutting-edge skills available. An effective, efficient federal government, especially in periods of tight budgets, needs professionals with advanced analytical skills.

The federal workforce includes significant numbers of professionals with graduate degrees to fill positions that require specialized skills and knowledge – and the proportion of federal hires with graduate degrees is ever-increasing. Only 25 years ago, in 1985, 11.6% of federal civilian employees had a graduate degree. In 2005, the portion had increased to 17.4% – a full 50% increase. Additionally, according to an analysis of Census data, from 1976 to 2010 the percentage of workers who had attended graduate school increased more in the public sector than in the private sector.¹

Among those in “professional” positions, over 40% have a graduate degree.² In general, the proportion of federal new hires with at least a bachelor’s degree is much larger than the proportion of those leaving federal service, indicating the growing need for “knowledge workers” (who comprise half of the public sector workforce, but less than a third of the private sector³).

2. Retain the provisions in the proposed regulations that do not set pre-determined caps on the number of participants or conversions to permanent positions.

The size of the programs should be limited only by federal agency hiring needs. An analysis of federal hiring data shows that any cap on either the programs’ size or the number of conversions would be unwarranted, unnecessary, and arbitrary. Any pre-determined cap would restrict agencies’ abilities to hire the talent that they determine they need.

Agencies’ human capital needs are continually changing, but the trend has been toward needing higher levels of professional and technical skills and expertise. Graduate students have acquired these skills. In graduate programs in public affairs, the curricula specifically emphasize training in advanced quantitative, analytical, and writing skills in order to produce a skilled talent pool.

Based on a 1% sample of federal new hires, an estimated 25,000 professional or administrative workers who had earned a graduate degree were hired by the federal government in 2009.⁴ Approximately 5,000 of these had completed graduate school within the past two years. There were also over 6,000 recent bachelor’s graduates hired in 2009.

While compared to approximately 275,000 new federal hires overall (FY10), the number of recent graduate school graduates hired may seem small, but they play a vital role. These thousands of highly skilled graduates with master’s and doctoral degrees in public policy, science and engineering, finance, and information technology fill “hard to fill” and critical mission positions. The policy challenges these graduates have been trained to address are growing ever-more complex and global, requiring increasing levels of cutting-edge knowledge and advanced skills.

Yet it has been well documented that the regular competitive hiring process, through USAJOBS.gov, does not bring sufficient numbers of recent graduates, particularly those with graduate degrees, into the federal workforce. The existing competitive hiring process heavily favors applicants who have significant work experience, especially federal experience, over those who have recently acquired the latest knowledge and skills.

¹ Congressional Research Service, “Selected Characteristics of Private and Public Sector Workers”, p. 12. July 2011.

² Congressional Budget Office, “Characteristics and Pay of Federal Civilian Employees”. March 2007.

³ Center for State & Local Government Excellence, “Public Sector Employment: The Current Situation”. 2008.

⁴ 1% sample of Central Personnel Data File of 1999-2009 new hires [unpublished research by Gregory Lewis, Professor of Public Management and Policy, Georgia State University]

An analysis of the 1% sample of new hires reveals that less than half of recent master's graduates hired at the GS-9 level (considered the entry level for graduate degree recipients lacking work experience) came in through the regular hiring process; the majority were hired through excepted hiring. Excepted hiring programs, such as Pathways, are therefore needed as the primary route of entry to federal service for recent recipients of graduate degrees.

The data above show that any cap on the number of bachelor's and graduate Recent Graduates participants would have to be quite high merely to cover demonstrated past federal hiring needs. Moreover, replacing significant numbers of senior executives and supervisors expected to retire in the near future also must be factored in. According to the *Washington Post*, OPM's statistics show that almost 25% of full-time federal workers are currently eligible for retirement – around six times as many as retired in FY 2009. Many retirement-eligible workers may be currently staying in their positions due to the economy, and “are likely to retire” as soon as the economy and stock market rebound. Moreover, potential workplace changes, such as increased pension contributions, may “hasten an exodus of older, experienced workers already eligible to retire.” Planning for these impending retirement waves requires being able to hire significant numbers of highly-skilled talent with leadership potential, when hiring is possible.

Additionally, the Executive Order limits Pathways Programs participants to *current* students and *recent* graduates, a self-limited population. The programs will not adversely affect hundreds of thousands of federal positions filled by bachelor's or master's degree recipients who are not recent graduates. Preemptively capping the number of Pathways Programs participants or conversions to permanent service, whether by number or percentage of total hiring, is therefore unnecessary and inappropriate. It would also likely constrain the federal government's ability to recruit and hire the highly educated talent it needs.

3. The Recent Graduates program hiring grade limits are too restrictive

The proposed regulations cap positions in the Recent Graduates program at the General Schedule (GS)-9 level (or equivalent), except for recipients of “a Ph.D. or equivalent doctoral degree directly related to the science, technology, engineering, or mathematics [STEM] position” and for “certain scientific or professional research positions”. These exceptions would be eligible for GS-11 or 12.

The regulations explain that the program “is intended to be a program for people seeking entry-level jobs who lack experience to compete.” NASPAA strongly supports the creation of the Recent Graduates program; there is ample evidence that students and recent graduates fare poorly competing in the regular hiring process.

However, a GS-9 pay grade limit is too low to attract top recent master's graduates and doctoral recipients in non-STEM fields.

In the 1% sample of new hires over the last decade, 45% – almost half – of those who had recently completed a master's or “professional” degree were hired *above* a GS-9. If we exclude those who were hired below a GS-9 (i.e. those who accepted a position below the typical entry-level for a new graduate degree recipient), the proportion rises to 51%. Moreover, about one in eight master's and professional degree graduates were hired at GS-13 or higher.

Since eligibility for the Recent Graduates program extends to two years after completing a degree, it is likely that a substantial portion of participants will enter with up to two years' work experience, which would normally make them eligible for a higher pay grade. Additionally, a growing number of entering graduate students have a few years of work, military, or full-time volunteer (e.g. Peace Corps) experience.

We recognize the great importance of attracting scientists and researchers in STEM fields, but there is no precedent for setting different hiring grade limits by field of study. Not only are there many mission-critical fields outside STEM, such as procurement management, but any definition of STEM fields would be arbitrary and vulnerable. The higher education and science communities lack consensus on which fields comprise STEM. For example, even the National Science Foundation uses a very broad definition: its data on “science and engineering” doctorates awarded includes agricultural sciences, psychology, and other social sciences, including political science and public administration.⁵

The number of new Ph.D.s hired by the federal government is not large, but it is an important population of highly-educated professionals with specialized skills. Hiring agencies should be given the flexibility required to be able to attract and hire top talent. Limiting most Recent Graduates to GS-9 needlessly restricts agencies, introduces unnecessary rigidity, and will likely discourage potential highly skilled hires.

In order for the Recent Graduates program to attract top graduate students in all fields, NASPAA recommends that the pay grade limits be removed from the final regulations, with agencies given the ability to define “entry-level position” as commensurate with candidates’ educational qualifications and experience.

4. Define eligibility for Pathways Programs participants more precisely, with higher standards

One of the strengths of the Pathways Programs is that they are focused on a vital and sharply defined group: students and recent graduates. To prevent abuse, eligible participants should be clearly identified and precisely defined, using only currently-used terms and widely accepted definitions. Unfortunately the definitions in the proposed regulations for eligible students are imprecise and use some terms that are no longer used in the higher education community, and others for which there is no agreed-upon definition. This sets the bar too low and makes the programs vulnerable to abuse and, ultimately, to legal challenge.

- A. The proposed regulations use the terms “graduate”, “advanced”, and “professional” both interchangeably and as distinct from each other. The Department of Education, whose definitions are used throughout the higher education community, and should be used for all federal programs concerning students, has eliminated the term “first professional” as it applies to students and programs, combining it with “graduate”. Additionally, the term “advanced degree” is considered imprecise and is not used by the graduate education community.

To use widely accepted definitions and thus be more precise, NASPAA recommends that the final regulations use Department of Education definitions; specifically, replace the terms “advanced degree” and “professional” with “graduate”.

- B. The Executive Order directs that the Internship program include students who are merely “accepted for enrollment”, not necessarily enrolled. However, the regulations do not define “accepted”; merely being accepted to an eligible program establishes a low threshold for eligibility. Without high standards or other requirements, there is potential for abuse: someone could apply to a non-selective educational program, receive an acceptance letter, and apply for an Internship program without ever intending to actually enroll.

The final regulations should precisely define eligible participants and set high standards for “accepted”. To maintain the program’s integrity, NASPAA recommends:

⁵ National Science Foundation, “Science and Engineering Indicators: 2010”, Table 2.28.

- i. Applicants to an Internship program who are not yet enrolled should be required to prove that they have registered and enrolled before commencing the Internship placement. If this standard is not possible, applicants with this status should be required to prove that they have paid an enrollment deposit, registered for classes, or otherwise confirmed their intent to enroll.
 - ii. Academic-year participants should be required to provide proof of registration/enrollment at the beginning of each semester and a mid-semester confirmation that they are still enrolled. Summer Interns should be asked for proof that they successfully completed the previous term and are intending to return to school in the fall.
- C. “While still in school” should be defined to explicitly include doctoral students who are still enrolled but are no longer taking classes. These doctoral “candidates” have completed all required coursework and are working on their research and dissertation, and are thus considered full-time students by institutions (a status often referred to as “continuous registration”).

5. Define qualifying educational programs more precisely and with a higher bar

As with eligible participants in the above Section, “qualifying educational institutions or programs” and “qualifying degree” must be clearly identified and defined precisely, using current and widely accepted definitions. The proposed regulations use non-standard terms for educational program and degree level, and the terms used differ between sections.

- A. The terms “advanced degree” and “post-graduate” are sometimes used in the proposed regulations interchangeably, and sometimes used to denote different degree levels. These terms are imprecise and are no longer used by the U.S. graduate education community. The term “professional school” also is no longer used in the higher education community; as noted above, the Department of Education no longer distinguishes between “first professional” and “graduate”. The Department’s terms should be used for all federal programs concerning students.

To use widely accepted definitions, NASPAA recommends that the final regulations use Department of Education definitions and standard terms; specifically, replace the terms “advanced degree” and “post-graduate” with “graduate”, and replace “first professional” with “graduate”. For the Presidential Management Fellows program, “qualifying advanced degree” should be changed to “graduate degree, including master’s and doctoral degrees.”

- B. All three Pathways programs include graduates of “certificate” programs, without a definition or minimum program length specified. Certificate programs vary widely in length and educational level, from as little as two courses to six, or more; from a post-high school vocational program to a graduate or even post-master’s program. The inclusion of certificate programs makes the Pathways Programs vulnerable for abuse. For example, someone wishing to secure a Recent Graduates program as easily as possible could research the shortest, least rigorous, cheapest certificate program available, and complete it very quickly, solely to become eligible.

Even the Department of Education’s definition of “certificate” is imprecise:

“A formal award certifying the satisfactory completion of a postsecondary education program”, with “program” being defined as “a combination of courses and related activities organized for the attainment of broad educational objectives as described by the institution.”⁶

⁶ National Center for Education Statistics - Integrated Postsecondary Education Data Systems Glossary. nces.ed.gov/ipeds/glossary/index.asp

The Executive Order does not mandate that certificate programs be eligible, and certificate programs set the bar very low. Therefore, NASPAA recommends that all certificate programs be removed as a qualifying educational program in the final regulations.

If certificate programs must be retained as a qualifying educational program, a minimum program length should be set. NASPAA recommends requiring at least one academic year of full-time study. [see Appendix for suggested technical language]

6. Policies governing the PMF selection process and program implementation should remain out of the regulations

The intent of the Presidential Management Fellows (PMF) program is to identify and develop the best students from our nation's graduate schools who have leadership abilities and management potential. NASPAA believes that the notoriously long and rigorous PMF selection process is actually a good thing; every step of the process should be targeted to ensuring that the program's goal is accomplished. A world-class talent development program needs a state-of-the-art selection process. Toward this end, there should be ongoing evaluation of the process. OPM should thus be given maximum flexibility to tweak the process as necessary and employ the latest assessment technology.

Therefore, NASPAA believes that detailed policies governing the PMF selection process have appropriately been left out of the proposed Pathways Programs regulations. This area should be addressed at the sub-regulatory/guidance level, where more flexibility and nimble adjustments are possible.

The implementation stage of the Pathways Programs is what will truly make or break their success. Agencies should create Recent Graduates programs in specific functional areas in hard-to-fill positions such as those in budgeting and financial management, public procurement and acquisition, science and research, information management, human resources, and performance management.

Creating and implementing robust, substantive programs that will attract, recruit, develop, and retain students and recent graduates to become future agency leaders will take a great deal of planning, time, and effort. Agencies should be given as much flexibility as possible, under OPM oversight, in order to create successful programs.

NASPAA believes that policies governing Pathways Programs implementation have appropriately been left out of the proposed regulations. This area should be addressed at the sub-regulatory/guidance level, similar to the PMF selection process.

7. The strong developmental component of the programs must be retained

One of the hallmarks of the Pathways Programs, as outlined in the proposed regulations, is that all three contain a strong developmental component, including training and mentoring. This central aspect is what sets the programs apart from simply being hiring authorities, and reflects sound practices in human resources.

Recent graduates who are well-educated, but who may have little experience in the workplace, will greatly benefit from professional development. Moreover, the additional investment in new talent will pay substantial dividends for the federal workforce.

Specifically, since the PMF program is intended to identify and develop future federal leaders, it makes sense that Fellows will be mentored by a member of the Senior Executive Service or from the highest grade available. However, young people often identify more closely with those closer in age to them,

and thus are more receptive to their mentoring. It is quite possible that a 30-year-old GS-13 would make a better mentor than a longer-serving member of the SES.

Therefore, NASPAA recommends that the strong developmental components be retained, but that flexibility be introduced into the provision for PMF mentors' grade level, or at least the requirement be qualified by "as appropriate".

8. OPM must exercise oversight and collect data on program performance

NASPAA strongly supports the provisions in the proposed regulations regarding the Office of Personnel Management's (OPM) oversight of agencies' use of the Pathways Programs. Oversight is necessary to ensure that agencies are creating robust programs that both benefit participants and fit into their workforce planning.

We believe that data collection, analysis, and reporting are critical aspects of the oversight and overall performance function. Good data will help agencies create an authoritative source of information that will enhance their overall program review and evaluations. OPM should create an evaluative framework so that it, and agencies, can use data to continuously improve the Pathways Programs. Data should be collected on all phases of the programs, such as publicity, recruiting, applications, selection, "yield", attrition, mentoring, and conversion.

In conclusion, NASPAA believes that the retention of important elements of the proposed regulations and consideration of our recommendations will help further clarify and focus the direction of the Pathways Programs. Our recommendations will also help insure that the regulations create meaningful, robust Pathways Programs that both effectively recruit and hire top student talent, and contribute to high performance government.

NASPAA appreciates your consideration of our concerns and recommendations. We also appreciate the thoughtful method by which OPM drafted the regulations. Using the same thoughtfulness in writing the final regulations will result in a strong foundation for the future of the Pathways Programs.

Thank you very much.

Sincerely yours,

Laurel McFarland
Executive Director

Version 1.1 10/3/11



Appendix: Suggested Technical Language

NASPAA recommends aligning educational definitions in the Pathways Programs regulations with those used in the Higher Education Act (HEA) and by the U.S. Department of Education, which have withstood legal scrutiny. Specifically, we recommend using language that determines HEA Title IV eligibility for federal institutional and student aid, as described in *USC Title 34, section 668.8*.

Recent Graduates

The final regulations should include clear, precise definitions of eligible students and qualifying educational programs. NASPAA recommends the following language for the definition of qualifying educational institutions (§362.102):

To be eligible to participate in the Recent Graduates program, candidates must have completed a formal program at a Higher Education Act Title IV -eligible postsecondary institution. Formal programs are those that meet at least one of the following conditions:

- (1) It leads to an associate, bachelor's, or graduate degree; or*
- (2) It is at least a two-academic-year program that is acceptable for full credit toward a bachelor's degree; or*
- (3) It is a training program requiring at least one academic year of full-time study that leads to a postsecondary award, diploma, certificate, degree, or other recognized educational credential and that prepares a student for gainful employment in a recognized occupation.*

Full-time study is defined as:

- at least 900 but less than 1800 contact or clock hours, or*
- at least 30 but less than 60 semester or trimester credit hours, or*
- at least 45 but less than 90 quarter credit hours*

This definition thus includes master's, specialist, and doctoral degrees; post-baccalaureate certificate programs; and career/technical education programs of at least one year in duration.