

Personnel Interchange Between Merit Systems

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ABOUT 85 percent of employment in the federal government is now under the competitive civil service system administered by the U. S. Civil Service Commission. The remaining 15 percent is "excepted" from the competitive requirements of the Civil Service Act of 1883 by statute or by administrative action. Some agencies employing excepted employees operate independent personnel systems which have been called "merit systems" by various sources.

Free interchange of employees between the competitive civil service and other independent personnel systems in the executive branch has not been possible up to now. Initial entry into the competitive service through appointments conferring competitive civil service status generally requires open competitive examinations. Persons employed in independent personnel systems who desire to move to jobs in the competitive civil service must compete with the general public in such examinations. They may be appointed only if they are among the top three available candidates. Similarly, employees of the competitive civil service who seek employment with independent personnel systems in the federal government are placed on the same footing as persons who have never served with the federal government.

The Commission on Organization of the Executive Branch of the Government, the so-called second Hoover Commission, called attention to this situation. In its Report on Personnel and Civil Service issued February 1955, it recommended that:

Persons who have served satisfactorily in a recognized federal merit system outside the civil service should receive status and thereby be eligible for transfer to a competitive job under the Civil Service Act. Correspondingly, legislation governing personnel systems outside of the civil service laws should be modified to

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permit persons with civil service status reciprocal rights under other certified merit systems. People who have served the federal government under a true merit system should be available for use anywhere in the government.

Commission Sets Up Framework for Interchange

The U.S. Civil Service Commission had also given attention to this problem before the Hoover Commission report was published. On January 23, 1955, the Civil Service Rules were amended upon recommendation of the Commission to provide a framework for working out practical methods of interchanging employees between the competitive civil service and independent merit systems. A new section was added to the Rules providing that:

06.7. Whenever the Commission and any federal agency having an established merit system determine it to be in the interest of good administration and consistent with the intent of the civil service laws and any other applicable laws, they may enter into an agreement prescribing conditions under which persons may be moved from one system to the other and defining the status and tenure that the persons affected shall acquire upon such movement.

The purpose of this article is to describe the work that has been done by the Civil Service Commission to carry out this interchange provision in the Rules and to discuss some of the problems faced by the Commission in achieving this objective.

The first major problem of the Commission's staff was to define the term "merit

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system." Thorough search of the literature in the field of public personnel administration shows that there is no commonly accepted definition. The Civil Service Commission's own regulations and instructions do not explicitly state the principles upon which they are based. Since it was necessary to review the operations of independent personnel systems to determine whether interchange agreements could be worked out which would meet the conditions of this new provision of the Rules, a working definition of the term had to be developed to make such identification possible.

A second and closely related problem was to define the meaning of the terms "consistent with the intent of the civil service laws and any other applicable laws." This required identification of the laws to be reviewed and agreement as to what action would be consistent with that intent.

The Commission staff believed that if sound working definitions of these terms could be established it would then be possible to develop a set of standards or criteria against which the operations of independent personnel systems could be reviewed. The first part of the project, therefore, was to establish sound working definitions and standards for this purpose.

What Is an Established Merit System?

To approach the problem from a practical standpoint, the Commission staff believed that it would not be necessary to arrive at a definition of the merit system that would have universal acceptance or validity for all purposes. The primary concern was to give practical effect to the interchange provision in the Civil Service Rules. This meant that a definition was needed which would foster the principles basic to the merit system in the competitive civil service as well as the principles basic to those independent personnel systems in the executive branch with which interchange might be arranged.

The Commission staff concluded that its consideration should be limited primarily to the method by which persons

enter into employment and advance in a personnel system. Although other important aspects of personnel management such as classification and compensation, service ratings, reduction in force, etc., are important to a complete merit system concept, we did not believe that it would be necessary to develop standards or criteria in these areas for the purpose of developing an interchange program.

It was also found helpful to distinguish between the term "merit system" and the term "career service" or "career system." These terms have often been used rather loosely and interchangeably in referring to the competitive civil service in the federal government. For the purpose of this project, it was important to recognize that, while merit systems tend to become career systems, not all career systems are necessarily merit systems.

It was important to approach this problem from the standpoint of objectives and principles rather than processes or procedures. If the processes by which the objectives are to be achieved are confused with the objectives themselves, all systems which differ from the competitive service in the mechanics employed would be excluded.

Three Common Objectives

With these general conclusions as background the Commission proceeded to analyze established merit systems, in federal, state and local government, as well as the literature in the field of public personnel administration. This review showed that all true merit systems have three basic objectives in common. They may be summarized as:

1. **Competence.**—Securing the best qualified and available personnel either for particular jobs or for entrance into careers in a personnel system.
2. **Political neutrality.**—Securing a stable and continuing body of employees dedicated to carrying out the policies established by officials responsible for policy formulation.
3. **Equal opportunity.**—Providing a substantially equal opportunity for all interested citizens to be considered for employment without discrimination based

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on racial, political, religious, or other grounds.

Securing the best qualified personnel either for particular jobs or for entrance into careers is essential in any personnel system which seeks to operate a merit system. Political neutrality is a necessity in our form of government to preserve the career aspects of merit systems while changes occur in political leadership. Neutrality must also include the concept that removals are not made for political reasons. Finally, equality of opportunity is one of the essential rights in a democracy. It constitutes a primary difference between most private employment and the public service. In a democracy, every citizen has a right to be considered for employment by his government on the basis of his merit and fitness for employment, and without discrimination. These three objectives were combined into a working definition of a merit system.

The next step was to determine what was meant by the term "established" when used in conjunction with the term "merit system." It was concluded that this term means that a framework for a system designed to meet the objectives cited above must be embodied in written form in law, rule, regulation, or instruction, and that day-to-day operations must accord with the written principles. *An established merit system, then, would be a personnel system which has a framework embodied in written form and which seeks to achieve, and in practice tends to achieve, the three primary objectives of competence, political neutrality, and equality of opportunity.*

Consistency with the Intent of the Civil Service Laws

The principal civil service law concerned is the Civil Service Act of 1883. The general intent of this law is to establish the framework for open competitive entrance to those positions which are brought under its coverage.

The Civil Service Act gives the U. S. Civil Service Commission the responsibility of aiding the President in preparing

suitable rules for carrying the Act into effect. It sets forth guides for what the rules should contain, "as nearly as the conditions of good administration will warrant." The fundamental principles stated in the law are (a) "open competitive examinations"; (b) these examinations shall be practical and "as far as may be, shall relate to those matters which fairly test the relative capacity and fitness of the persons examined to discharge the duties of the service into which they seek to be appointed"; (c) ranking of competitors and "selections according to grade from among those graded highest" in such examinations; (d) prohibitions against political influence; and (e) "non-competitive examinations in all proper cases where it is not feasible to hold competitive examinations."

The central concept of the Civil Service Act is embodied in the term "open competitive examination." This term as analyzed by the Commission contains seven basic elements:

1. **Publicity.**—For an examination to be truly open, there must be a reasonable amount of information made available to citizens about the existence of vacancies. If not, the basic principle of equality of opportunity will not be achieved.

2. **Opportunity to apply.**—Interested persons who have learned of the vacancy must have a reasonable opportunity to make known their availability for consideration.

3. **Equal and impartial application of realistic and reasonably valid standards of competence and fitness.**—The process of examination involves the measurement of individual competitors against a single standard. This standard must have a relation to the duties of the position or to the requirements of a career in the service.

4. **Absence of discrimination.**—The standards applied must not contain any factors that do not relate to competence and fitness. This means no requirement of political clearance or political test and no discrimination on racial, religious, or other grounds.

5. **Selection from among those considered**

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most competent on the basis of the standards.—The essence of competition implies the ranking of candidates in order of a relative evaluation of their competence and selection from among those considered most competent.

6. **Knowledge of the results.**—Citizens who apply should be able to learn of the consideration that was given to their applications. This is necessary to insure public confidence and is good practice in the relationship of government to its citizens.

7. **Entitlement to administrative review.**—Applicants should have an opportunity to request and receive a review of the results if they believe that the system has not been properly applied. This provides a safeguard against administrative error and final assurance that the entire process is both open and competitive.

The Civil Service Commission concluded that interchange with an independent personnel system which adheres to these seven basic elements making up the concept of open competition would be clearly consistent with the intent of the Civil Service Act.

Consistency with the Intent of Other Applicable Laws

In line with the original determination that for the purpose of this project review should be limited to matters involving recruitment, selection, and advancement of personnel, the Commission concluded that there is only one other law germane to this problem. The Veterans' Preference Act of 1944 contains certain provisions specifically concerned with the initial appointment of personnel. The employment provisions of this statute were the only ones which required consideration. Since most federal agencies having positions that are outside the competitive civil service are specifically covered by the employment provisions of the Veterans' Preference Act, the Commission could generally assume that interchange between such systems and the competitive civil service would be consistent with the intent of the Veterans' Preference Act.

Tentative Criteria

A summary of these factors which were identified in the analysis of the new Civil Service Rule provides a set of standards or criteria applicable to any independent federal personnel system for the purpose of determining whether that system is an "established merit system," and whether interchange of employees between that system and the competitive civil service would meet the conditions of the Rule. The next problem was to establish the approach to be used in applying these standards. The key to such an approach is found in the language of the Civil Service Act of 1883 itself. This Act uses such language as "as nearly as the conditions of good administration will warrant," "so far as may be," etc. This implies a test of reasonableness, administrative feasibility, and practicality. Thus, it is reasonable under certain circumstances to limit publicity or acceptance of applications to given geographic areas, to establish minimum age limits, to set physical standards and requirements, etc. The Commission concluded that the proposed merit system standards must be applied within this general spirit.

Another important factor to be considered was that of public policy that is overriding. An example is veteran preference in employment, which has been generally established in the law of most government jurisdictions. Similarly, residence requirements for certain positions, apportionment requirements such as those in the Civil Service Act of 1883, etc., are applications of this principle of public policy. The existence of such provisions can obviously not be a bar to interchange of personnel under merit system standards.

The Commission also determined that its standards must be tentative until they could be tested in practice against the actual operations of independent personnel systems to insure that they are both practical and realistic.

Next Steps

The next step in the project is to conduct negotiations with individual federal

agencies operating under independent personnel systems to determine whether these systems are established merit systems as defined by the tentative standards and criteria and whether interchange can be worked out on a practical basis.

The first interchange agreement was made between the Civil Service Commission and the Atomic Energy Commission, to be effective June 9, 1957. The Commission is negotiating with other agencies in the federal service which have independent personnel systems and additional interchange agreements will probably be concluded during 1957.

Predictions

The merit system standards which have been developed for the immediate purpose of establishing personnel interchange programs within the federal service have even broader implications for merit system administration generally. The time may not be too distant when serious consideration will be given to developing interchange programs between

the federal service and state and local governments which maintain established merit systems. Certainly the standards which have been developed could apply to interchange of personnel between jurisdictions as well as to the federal government alone.

For the competitive civil service system itself there are also important lessons to be learned from these merit system standards. They provide a firm basis for looking behind procedures and processes to basic objectives and principles. They give the United States Civil Service Commission a fresh chance to re-examine its methods of operation, its regulations, and even its legislative authorities in the light of basic principle. The development of these merit system standards may be recognized in the future as a milestone in the history of the merit system. They may have far-reaching effects, extending beyond their immediate purpose of providing a basis for personnel interchange between independent personnel systems in the executive branch of the federal government.