

24 **Schedule C positions**

“Schedule C” positions are described in 5 C.F.R. 213.3301:

Section 213.3301 Positions of a confidential or policy-determining character.

Upon specific authorizations by OPM, or under the terms of an agreement with OPM, agencies may make appointments under this section to positions which are policy-determining or which involve a close and confidential working relationship with the head of an agency or other key appointed officials. Positions filled under this authority are excepted from the competitive service and constitute Schedule C.

1. The OPM guidance that Schedule C employees have a “confidential working relationship with the head of an agency...” does not compel a conclusion that Schedule C employees are expressly excluded from the Statute.
2. Neither the definition of “employee” in section 7103(a)(2) of the Statute nor the specific unit exclusions set forth in section 7112(b) of the Statute references Schedule C employees.
3. Pursuant to section 7105(a)(2)(A) of the Statute, questions concerning the bargaining unit status of employees are exclusively reserved for final resolution with the Authority. See *U.S. Department of Labor, Mine Safety and Health Administration, Southeastern District*, 40 FLRA 937, 941 (1991).
4. The eligibility factors considered when determining if any employee is to be included in a bargaining unit are applied to determining unit eligibility of Schedule C employees.

For questions related to specific Statutory exclusions, consult the Table of Contents for the employee category(ies) at issue and HOG 60 for specific guidance.

Other references:

U.S. Department of Housing and Urban Development, Headquarters, 41 FLRA 1226 (1991).

