

Expanding Opportunities for Veterans and Simplifying Federal Hiring

Simplified Hiring, Coupled With Enhanced and Expanded Job Opportunities for Veterans

- Simplified competitive hiring process that reduces complexity
- Special hiring authority for honorably or generally discharged Veterans for all GS-15 and below jobs
- Veteran employment coordinators in agencies with 500 or more employees (covering 99+ percent of jobs)
- Special attention to employment of compensably disabled Veterans

Federal hiring practices are a monument to excessive process. They are so complex that the complexity undermines the merit system. To get a feel for the complexity, look at the 351-page U.S. Office of Personnel Management (OPM) Delegated Examining Operations Handbook.¹ This is a comprehensive product that describes the process and accounts for its legal requirements and the extensive body of case law. Effectively operating the competitive hiring process requires a thorough understanding of all the content in the handbook. The problem is neither the guidance nor the people who wrote it, but rather the processes the Handbook describes. No reasonable person would set out to design a system that confuses applicants, hiring

managers, and even the human resources specialists who have the difficult task of interpreting these 351 pages of rules and agency policies that also govern hiring. Yet, federal hiring rules have become so complicated that they are now a barrier to anyone hoping to work for their government. Inadequate hiring and retention of young people, who often have other work opportunities, is a growing problem and creates a ticking time bomb as the workforce ages out and retires without a pipeline of young people to fill behind them.

Why is the process so complex? And why are there more than 100 hiring authorities? A few are based on exceptional issues, such as hiring people with severe disabilities or recent college graduates, but our discussions with numerous former Chief Human Capital Officers (CHCOs) and OPM executives revealed that most were designed to address hiring problems caused by the need to comply with complex Veterans' preference rules. The Academy strongly supports the goal of significant agency hiring for our nation's Veterans to provide them with an opportunity for continued employment in public service, but the current rules for Veterans' preference neither serve the Veterans well nor support an efficient and effective hiring process for the government.

If we are to base hiring on merit and on the mission requirements of agencies, how we handle Veterans' preference does not do the job. It requires agencies to make merit-based

¹ U.S. Office of Personnel Management, "Delegated Examining Operations Handbook: A Guide for Federal Agency Examining Offices," (Washington, D.C.: 2019), [Delegated Examining Operations Handbook: A Guide for Federal Agency Examining Offices \(opm.gov\)](https://www.opm.gov/policy-data-oversight/examining-operations-handbook/).

determinations of qualifications, then places a thumb on the scale in favor of some Veterans. While there are thousands of Veterans who have exceptional qualifications, in many cases, highly qualified individuals are blocked by Veterans with lower qualifications. Perhaps that process would be worth it if it provided opportunities for all of our Veterans, but it leaves out many veterans, places focus on preference rather than mission, and creates most of the complexity in the hiring process. This paper strongly supports providing preference to Veterans in a way that opens opportunities for all Veterans and people with derived Veterans preference, and ensures the hiring of the most qualified individuals based on their experience, skills, education, and performance history.

Generally, Veterans who did not receive a Purple Heart or serve during wartime or a recognized military campaign do not have preference, nor do those who retire at the rank of Major or equivalent and above. Veterans who apply for most professional positions also do not have preference. Veterans who serve right out of high school and exit the service during their twenties have preference, but few federal jobs are targeted at their skill sets and even fewer offer significant promotion opportunities. As a result, young Veterans still suffer from unemployment at twice the rate of older Veterans and all non-Veterans. Moreover, once hired by the federal government, Veterans leave government service at a significantly higher rate than non-Veterans.²

The Solution

Simplify the competitive hiring processes and provide Veterans' preference via a special hiring authority for all Veterans, except those who retire at the rank of Major or equivalent and above, coupled with statutory requirements to develop and execute Veteran hiring programs in all agencies with more than 500 employees. (See Appendix A for proposed statutory changes.)

This proposal would replace the current rules for Veterans' preference by granting every agency special hiring authority for Veterans with an honorable or general discharge for all positions for which they are qualified at grades GS-15 or equivalent and below. Appendix B illustrates the benefits of using this approach compared with the complications the current array of Veterans' hiring authorities produce. The proposal also allows Veterans to apply for merit promotion announcements regardless of the area of consideration in such announcements. The only current exclusion to Veterans' preference for Veterans with an honorable or general discharge that we propose retaining is for retirees at the rank of Major or equivalent and above. OPM would issue regulations to implement the new processes. Such regulations would ensure that job opportunities for Veterans are announced on job boards, at hiring fairs, on college campuses, or at other venues that would provide opportunities for substantial numbers of Veterans to apply.

² U.S. Government Accountability Office, "Veteran Federal Employment: OPM and Agencies Could Better Leverage Data to Help Improve Veteran Retention Rates," (Washington, D.C.: GAO, July 2020), [GAO-20-592, VETERAN FEDERAL EMPLOYMENT: OPM and Agencies Could Better Leverage Data to Help Improve Veteran Retention Rates.](#)

Hires would be based on merit. “Public Notice” as prescribed in 5 U.S.C. § 3327³ and § 3330⁴ would not be required.

This proposal requires agencies to maintain at least the 2022 representation of Veterans in their workforce unless granted an exception by OPM for a compelling reason. Acceptable reasons could include a lack of qualified Veterans in the labor market or a national emergency. This employment floor is not a quota, but rather is an insurance policy to ensure agencies do not use their newfound flexibility to pay less attention to Veteran hiring. Given that the new hiring authority simplifies and greatly expands opportunities for Veteran hiring, there should be few excuses for not maintaining at least the current numbers of Veterans in the workforce. Agencies with 500 or more employees would be required to establish full-time Veterans’ employment coordinators, reporting to the agency CHCO, who would be responsible for developing, implementing, and administering a comprehensive Veteran employment program in the agency. Agencies would be held accountable for exercising this new authority and providing significantly enhanced opportunities for Veterans. The proposal recognizes the special debt owed to Veterans whose service resulted in a disability and would include a statutory requirement to identify barriers to the employment of disabled Veterans and ways to create opportunities both to hire disabled Veterans and to provide them with career advancement. Agencies would be directed to establish developmental programs that would allow Veterans (such as infantry soldiers) whose service-developed skills do not translate easily to civilian employment to enter career programs with significant promotion potential.

This requirement would cover agencies comprising more than 99 percent of federal jobs.⁵ An agency that saw a significant drop in Veteran employment would be placed on an improvement plan overseen by OPM, which could include a more traditional approach to Veterans’ preference reimposed on their competitive hiring process. This proposal does not address the use of Veterans’ preference in reductions in force, and such preference would remain unchanged.

While this proposal does not directly eliminate the current plethora of competitive hiring authorities, most would no longer be necessary, as the competitive hiring process established in Chapter 33⁶ of title 5, United States Code, would cover most competitive federal hiring. Further, that process would require agencies to make merit-based hires that consider applicants’ experience, skills, education, performance history, and ability to fulfill the mission of the agency. Replacement of the current Veterans’ preference process with the special hiring authority would dramatically simplify the competitive hiring process. Over time, OPM and Congress could eliminate most of the 102 or more hiring authorities currently in place.

³ 5 U.S. Code § 3327, [5 USC 3327: Civil service employment information \(house.gov\)](#).

⁴ 5 U.S. Code § 3330, [5 USC 3330: Government-wide list of vacant positions \(house.gov\)](#).

⁵ U.S. Office of Personnel Management, “Federal Workforce Data,” *FedScope*, (2022), <https://www.fedscope.opm.gov/>.

⁶ 5 U.S. Code Chapter 33, [5 USC Ch. 33: Examination, Selection, and Placement \(house.gov\)](#).

Benefits

This approach simplifies hiring for everyone. It enhances and expands Veterans preference by providing a special hiring authority for Veterans with honorable or general discharges (except those who retired at the rank of Major or equivalent and above). It also provides protections to ensure agencies do not backslide in their employment of Veterans. At the same time, the proposal would eliminate the maze of hiring processes and bureaucratic hurdles jobseekers and agencies must currently navigate. Complexity would be swept away, replaced with an easy-to-understand process that puts merit front and center.

Appendix A

NOTE TO THE READER: Appendix A’s proposed legislative language uses the term “preference eligibles” extensively to refer simultaneously to both Veterans of the armed forces who separated under honorable conditions and others whose preference is derived from their relationship to a Veteran. Also, the proposed legislative language establishes a straightforward definition of Veteran that is not tied to specific periods of time.

Proposed Enhanced Veterans’ Preference and Employment Act of 2023

A BILL

To modernize certain laws governing hiring processes and affecting the availability of competitive service appointments for veterans and other preference eligibles.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Enhanced Veterans’ Preference and Employment Act of 2022”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.
- Sec. 3. Simplify hiring and enhance veterans’ preference
- Sec. 4. Conforming amendments

SECTION 2. PURPOSE.

The purpose of this Act is to simplify competitive hiring processes, enhance the availability of competitive service appointments for veterans and other preference eligibles, and ensure agencies will maintain appropriate levels of preference eligible employment.

SECTION 3. SIMPLIFY HIRING AND ENHANCE VETERANS’ PREFERENCE.

Title 5, United States Code, is amended—

(1) in chapter 21—

(A) in section 2108—

(i) by amending paragraph (1) to read as follows:

“(1) “veteran” means an individual who served on active duty in the armed forces as defined by section 101(21) of title 38 for a period of more than 180 consecutive days and, except as provided under section 2108a, who has been discharged or released from active duty under honorable conditions;”;

(ii) in paragraph (3)—

(I) by amending paragraph (A) to read as follows:

“(A) a veteran as defined by paragraph (1) of this section;”;

(II) by amending paragraph (B) to read as follows:

“(B) a veteran who was discharged or released from a period of active duty by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10);”;

(III) by amending paragraph (D) by striking “(1)(A)” and inserting “(1)”;

(IV) by amending paragraph (F) to read as follows:

“(F) The parent of an individual who lost his or her life under honorable conditions while serving in the armed forces if—

“(i) the spouse of that parent is totally and permanently disabled; or

“(ii) that parent, when preference is claimed, is unmarried or, if married, legally separated from his or her spouse;”;

(V) by striking paragraph (H).

(2) in chapter 33—

(A) in section 3304⁷, by amending subsection (f) to read as follows:

“(f)(1) Preference eligibles may not be denied the opportunity to compete for vacant positions for which the agency is recruiting under merit promotion procedures.

“(2) If selected, a preference eligible shall receive a career or career-conditional appointment, as appropriate.

“(3) This subsection shall not be construed to confer an entitlement to veterans’ preference that is not otherwise required by law.

“(4) The area of consideration for all merit promotion announcements which include consideration of individuals of the federal workforce shall indicate that preference eligibles are eligible to apply.

“(5) The Office of Personnel Management shall prescribe regulations necessary for the administration of this subsection.”;

(B) by striking section 3309⁸ and inserting in lieu thereof a new section 3309 with catchline and subsections (a) through (c) to read as follows:

“§ 3309. Special hiring authority for preference eligibles; affirmative employment plan

⁷ 5 U.S. Code § 3304, [5 USC 3304: Competitive service; examinations \(house.gov\)](#).

⁸ 5 U.S. Code § 3309, [5 USC 3309: Preference eligibles; examinations; additional points for \(house.gov\)](#).

“(a) Any preference eligible who meets basic qualification requirements for a competitive service position may be appointed to any such position in any agency, without regard to competitive examination requirements.

“(b) An agency with 500 or more employees shall—

“(1) develop an affirmative employment plan for recruiting, developing, and retaining preference eligibles;

“(2) on an annual basis, identify barriers to employment of disabled veterans, and develop targeted recruiting and training programs for such individuals;

“(3) identify an official who reports to the Chief Human Capital Officer or equivalent and is accountable for the development and execution of the preference eligibles affirmative employment plan;

“(4) include in all competitive and merit promotion job opportunity announcements a statement that applications will be accepted from qualified preference eligibles; and

“(5) ensure that employment of preference eligibles is not significantly decreased.

“(c)(1) An agency with 500 or more employees that experiences a decline in employment of preference eligibles of 5 percentage points or more from one fiscal year to the next shall develop and implement corrective actions to restore employment of preference eligibles to the previous level or, when circumstances warrant and with the approval of the Office of Personnel Management, to achieve employment of preference eligibles at appropriate, evidence-based levels.

“(2) The Office of Personnel Management may require such corrective actions, including imposing a points-based preference process as needed.”;

(C) by amending section 3313⁹ to read as follows:

“§ 3313. Competitive service; registers of eligibles

“(a) The names of applicants who have qualified in examinations for the competitive service shall be entered on appropriate registers or lists of eligibles in the order of their ratings.

“(b) The names of applicants with the same rating shall be entered on appropriate registers or lists of eligibles in alphabetical order.”;

(D) in section 3319 by striking subsection (b);

(E) by amending subsection 3330a(a)(1) to read as follows:

“§ 3330a. Preference eligibles; administrative redress

“(a)(1) A preference eligible who alleges that an agency has violated such individual’s rights under any statute or regulation relating to veterans’ preference may file a complaint with the Secretary of Labor.”; and

⁹ 5 U.S. Code § 3313, [5 USC 3313: Competitive service; registers of eligibles \(house.gov\)](https://www.house.gov/legislation/usc/usc3313.htm).

(F) by amending subsection (a) of section 3330b by striking “, or a veteran described by section 3330a(a)(1)(B)”.

(3) by amending the table of sections for subchapter I to read as follows:

“SUBCHAPTER I—EXAMINATION, CERTIFICATION, AND APPOINTMENT

“SEC.

- “3301. Civil service; generally.
- “3302. Competitive service; rules.
- “3303. Competitive service; recommendations of Senators or Representatives.
- “3304. Competitive service; examinations.
- “3304a. Competitive service; career appointment after 3 years’ temporary service.
- “3305. Competitive service; examinations; when held.
- “[3306. Repealed.]
- “3307. Competitive service; maximum-age entrance requirements; exceptions.
- “3308. Competitive service; examinations; educational requirements prohibited; exceptions.
- “3309. Special hiring authority for preference eligibles; affirmative employment plan.
- “3310. Preference eligibles; examinations; guards, elevator operators, messengers, and custodians.
- “3311. Preference eligibles; examinations; crediting experience.
- “3312. Preference eligibles; physical qualifications; waiver.
- “3313. Competitive service; registers of eligibles.
- “3314. Registers; preference eligibles who resigned.
- “3315. Registers; preference eligibles furloughed or separated.
- “[3315a. Repealed.]
- “3316. Preference eligibles; reinstatement.
- “3317. Competitive service; certification from registers.
- “3318. Competitive service; selection from certificates.
- “3319. Alternative ranking and selection procedures.
- “3320. Excepted service; government of the District of Columbia; selection.
- “3321. Competitive service; probationary period.
- “3322. Voluntary separation before resolution of personnel investigation.
- “3323. Automatic separations; reappointment; reemployment of annuitants.
- “3324. Appointments to positions classified above GS–15.
- “3325. Appointments to scientific and professional positions.
- “3326. Appointments of retired members of the armed forces to positions in the Department of Defense.
- “3327. Civil service employment information.
- “3328. Selective Service registration.
- “3329. Appointments of military reserve technicians to positions in the competitive service.
- “3330. Government-wide list of vacant positions.
- “3330a. Preference eligibles; administrative redress.
- “3330b. Preference eligibles; judicial redress.
- “3330c. Preference eligibles; remedy.
- “3330d. Appointment of certain military spouses.
- “3330e. Review of official personnel file of former Federal employees before rehiring.”

SECTION 4. CONFORMING AMENDMENT.

Section 2302(e)(1)(A)¹⁰ of title 5, United States Code, is amended by inserting “3304(f),”

¹⁰ 5 U.S. Code § 2302, [5 USC 2302: Prohibited personnel practices \(house.gov\)](https://www.house.gov/legislation/usc2302.htm).

after “2108,” and striking “3313,” after “3312,”.

Appendix B: Comparison of Veterans' Hiring Authorities

Current Veterans' Hiring Authority	Current Restrictions	Benefit of Proposed Special Hiring Authority for Preference Eligibles
Veterans' Preference in general	<p>Requires an honorable discharge</p> <p>Not available for professional positions</p> <p>Requires service during wartime or a recognized military campaign, or receipt of Purple Heart</p>	<p>Requires honorable discharge or general discharge under honorable conditions</p> <p>Applies to all positions at GS-15 or equivalent and below</p> <p>Applies to all Veterans and individuals with derived preference</p>
30 Percent or More Disabled Veterans	Time-limited appointment that leads to the option (by the hiring manager) for conversion to a permanent appointment	Provides for a permanent competitive service appointment upon hire
Veterans Recruitment Appointment (VRA)	Receives an excepted service appointment upon hire and is converted to the competitive service after two years	Provides for a competitive service appointment upon hire

Current Veterans' Hiring Authority	Current Restrictions	Benefit of Using Proposed Special Hiring Authority for Preference Eligibles
VRA	Appeal rights – Non-preference VRA eligibles get no adverse action protection until they have completed two years of current continuous employment in the same or similar position.	Receives the same adverse action protection as other employees in the competitive service (after serving a one-year probationary period)
VRA	Veterans with less than 15 years of education required to be placed in a training program	No training program required
Veterans Employment Opportunities Act (VEOA)	Must apply to a competitive Merit Promotion announcement to be considered	Veterans and derived preference eligible can be hired noncompetitively
VEOA	Under competitive Merit Promotion announcements, VEOA Veterans must meet the best-qualified cutoff score in order to be referred	Noncompetitive eligibility
General to all authorities	Several different hiring authorities with each authority having its own restrictions	Due to fewer restrictions, provides a wider applicant pool by allowing for more Veterans to be considered for employment