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# Special Appointing Authorities for Veterans

## Veterans Recruitment Appointment (VRA) Authority

The VRA is a special authority by which agencies can, if they wish, appoint eligible veterans without competition to positions at any grade level through General Schedule (GS) 11 or equivalent. (The promotion potential of the position is not a factor.) VRA appointees are hired under excepted appointments to positions that are otherwise in the competitive service. There is no limitation to the number of VRA appointments an individual may receive, provided the individual is otherwise eligible.

If the agency has more than one VRA candidate for the same job and one (or more) is a preference eligible, the agency must apply the Veterans' preference procedures prescribed in 5 CFR Part 302 in making VRA appointments. A veteran who is eligible for a VRA appointment is not automatically eligible for Veterans' preference.

After two years of satisfactory service, the agency must convert the veteran to career or career-conditional appointment, as appropriate.

### Eligibility Criteria:

The Jobs for Veterans Act, Public Law 107-288, amended title 38 U.S.C. 4214 by making a major change in the eligibility criteria for obtaining a Veterans Recruitment Appointment (VRA). Those who are eligible:

- Disabled veterans; or
- Veterans who served on active duty in the Armed Forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or
- Veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces Service Medal was awarded; or
- Recently separated veterans.

Veterans claiming eligibility on the basis of service in a campaign or expedition for which a medal was awarded must be in receipt of the campaign badge or medal.

In addition to meeting the criteria above, eligible veterans must have been separated under honorable conditions (i.e., the individual must have received either an honorable or general discharge).

**Note:** Under the eligibility criteria, not all 5-point preference eligible veterans may be eligible for a VRA appointment. For example, a veteran who served during the Vietnam era (i.e., for more than 180 consecutive days, after January 31, 1955, and before October 15, 1976) but did not receive a service-connected disability or an Armed Forces Service medal or campaign or expeditionary medal would be entitled to 5 pt. veterans' preference. This veteran, however, would not be eligible for a VRA appointment under the above criteria.

As another example, a veteran who served during the Gulf War from August 2, 1990, through January 2, 1992, would be eligible for veterans' preference solely on the basis of that service. However, service during that time period, in and of itself, does not confer VRA eligibility on the veteran unless one of the above VRA eligibility criteria is met.

Lastly, if an agency has 2 or more VRA candidates and 1 or more is a preference eligible, the agency must apply Veterans' preference. For example, one applicant is VRA eligible on the basis of receiving an Armed Forces Service Medal (this medal does not confer veterans' preference eligibility). The second applicant is VRA eligible on the basis of being a disabled veteran (which does confer veterans' preference eligibility). In this example, both individuals are VRA eligible but only one of them is eligible for Veterans' preference. As a result, agencies must apply the procedures of 5 CFR 302 when considering VRA candidates for appointment.

## **Making Appointments**

Ordinarily, an agency may simply appoint any VRA eligible who meets the basic qualifications requirements for the position to be filled without having to announce the job or rate and rank applicants. However, as noted, Veterans' preference applies in making appointments under the VRA authority. This means that if an agency has 2 or more VRA candidates and 1 or more is a preference eligible, the agency must apply Veterans' preference. Furthermore, an agency must consider all VRA candidates on file who are qualified for the position and could reasonably expect to be considered for the opportunity; it cannot place VRA candidates in separate groups or consider them as separate sources in order to avoid applying preference or to reach a favored candidate.

## **Terms and Conditions of Employment**

A VRA appointee may be promoted, demoted, reassigned, or transferred in the same way as a career employee. As with other competitive service employees, the time in grade requirement applies to the promotion of VRAs. If a VRA-eligible employee is qualified for a higher grade, an agency may, at its discretion, give the employee a new VRA appointment at a higher grade up through GS-11 (or equivalent) without regard to time-in-grade.

Agencies must establish a training or education program for any VRA appointee who has less than 15 years of education. This program should meet the needs of both the agency and the employee.

## **Appeal Rights**

During their first year of employment, VRA appointees have the same limited appeal rights as competitive service probationers, but otherwise they have the appeal rights of excepted service employees. This means that VRA employees who are preference eligibles have adverse action protections after one year (see Chapter 7). VRA's who are not preference eligibles do not get this protection until they have completed 2 years of current continuous employment in the same or similar position.

## **Nonpermanent Appointment Based on VRA Eligibility**

Agencies may make a noncompetitive temporary or term appointment based on an individual's eligibility for VRA appointment. The temporary or term appointment must be at the grades authorized for VRA appointment but is not a VRA appointment itself and does not lead to conversion to career-conditional.

**38 U.S.C. 4214; Pub. L. 107-288; 5 CFR Part 307; 5 CFR 752.401 (c)(3)**

## 30 Percent or More Disabled Veterans

An agency may give a noncompetitive temporary appointment of more than 60 days or a term appointment to any veteran:

- retired from active military service with a disability rating of 30 percent or more; **or**
- rated by the Department of Veterans Affairs (VA) since 1991 or later to include disability determinations from a branch of the Armed Forces at any time, as having a compensable service-connected disability of 30 percent or more.

There is no grade level limitation for this authority, but the appointee must meet all qualification requirements, including any written test requirement.

The agency may convert the employee, without a break in service, to a career or career-conditional appointment at any time during the employee's temporary or term appointment.

**5 U.S.C. 3112; 5 CFR 316.302, 316.402 and 315.707**

## Disabled Veterans Enrolled in a VA Training Program

Disabled veterans eligible for training under the VA vocational rehabilitation program may enroll for training or work experience at an agency under the terms of an agreement between the agency and VA. While enrolled in the VA program, the veteran is **not a Federal employee** for most purposes but is a beneficiary of the VA.

Training is tailored to the individual's needs and goals, so there is no set length. If the training is intended to prepare the individual for **eventual appointment** in the agency rather than just provide work experience, the agency must ensure that the training will enable the veteran to meet the qualification requirements for the position.

Upon successful completion, the host agency and VA give the veteran a Certificate of Training showing the occupational series and grade level of the position for which trained. The Certificate of Training allows any agency to appoint the veteran noncompetitively under a status quo appointment which may be converted to career or career-conditional at any time.

**38 U.S.C. chapter 31; 5 CFR 3.1 and 315.604**

## Veterans Employment Opportunities Act of 1998 (VEOA)

The Veterans Employment Opportunities Act (VEOA) of 1998 as amended by Section 511 of the Veterans Millennium Health Care Act (Pub. Law 106-117) of November 30, 1999, provides that agencies must allow preference eligibles or eligible veterans to apply for positions announced under merit promotion procedures when the agency is recruiting from outside its own workforce. ("Agency," in this context, means the parent agency, i.e., Treasury, not the Internal Revenue Service and the Department of Defense, not Department of the Army.) A VEOA eligible who competes under merit promotion procedures and is selected will be given a career or career conditional appointment. Veterans' preference is not a factor in these appointments.

## Eligibility Requirements

To be eligible for a VEOA appointment, an applicant must:

- Be a preference eligible OR veteran separated from the armed forces after 3 or more years of continuous active service performed under honorable conditions. Veterans who were released shortly before completing a 3-year tour are considered to be eligible. ("Active service" defined in title 37, United States Code, means active duty in the uniformed services and includes full-time training duty, annual training duty, full-time National Guard duty, and attendance, while in the active service, at a school designated as a service school by law or by the Secretary of the military department concerned).

## Terms and Conditions of Employment

Veterans who were appointed before the 1999 amendments to the VEOA were given Schedule B appointments in the excepted service. Those veterans who actually competed under merit promotion procedures will be converted to career conditional appointments retroactive to the date of their original VEOA appointments. Those who did not compete and were appointed noncompetitively will remain under Schedule B until they do compete. While under Schedule B, these employees may be promoted, demoted, or reassigned at their agency's discretion and may compete for jobs (whether in their own or other agencies) under the terms and conditions of the VEOA authority -- i.e., they may apply when the agency has issued a merit promotion announcement open to candidates outside the agency. If selected, they, too, will be given career conditional appointments.

All employees appointed under the VEOA are subject to a probationary period and to the requirements of their agency's merit promotion plan.

Agencies should use ZBA-Pub. L. 106-117, Sec 511 as the legal authority for any new appointments under the VEOA. This new authority code is effective December 1, 1999, and may be used with nature of action codes 100, 101, 500, and 501.

## Appeal Rights

Employees who are appointed in the competitive service have the appeal rights of competitive service employees. Those under Schedule B have the appeal rights of excepted service employees.

## A Word About VEOA

The VEOA gives preference eligibles or veterans access and opportunity to apply for positions for which the agency is accepting applications beyond its own workforce under merit promotion procedures. Access and opportunity are not an entitlement to the position and it is not a guarantee for selection.

Agencies announcing a position outside their workforces have three options for posting their vacancy announcements. Agencies can:

- **Post a merit promotion "internal" vacancy announcement.** When posting a merit promotion announcement, the agency must include information concerning consideration under the VEOA. This option meets the intent of the law that allows preference eligibles or veterans to compete with "status" candidates for these vacancies announced under merit promotion procedures.

VEOA eligibles are rated and ranked with other merit promotion candidates under the same assessment criteria such as a crediting plan; however, veterans' preference is not applied. The appointing official may select any candidate from those who are among the best qualified. If selected, the VEOA eligible is given a career or career-conditional appointment, as appropriate.

- **Post a Delegated Examining Unit (DEU) "external" vacancy announcement for "all sources."** By posting the announcement as "all sources," that the VEOA eligible is treated in the same manner as any other applicant. If the VEOA eligible is qualified and within reach for referral, he or she is referred on the DEU list of eligibles.

With an "all sources" announcement, most agencies consider applicants under a variety of other appointing authorities, such as, merit promotion, Veterans' Recruitment Appointment (VRA) or Schedule A of the excepted service. If the agency chooses to consider VEOA eligibles with the merit promotion candidates, the agency must include specific application instructions for the VEOA eligible in the vacancy announcement that are consistent with the agency's policies and procedures for accepting and processing applications.

- **Post two separate vacancy announcements - DEU and merit promotion.** The VEOA eligible may apply for both announcements since the agency posted the vacancy announcements separately. The VEOA eligible is given two opportunities to be considered for one position and must be referred and considered on both lists, if eligible under the applicable procedures. The agency cannot remove the VEOA eligible from either list to make a selection. This means the agency may not deny consideration under one referral, e.g., DEU, because the VEOA eligible is being considered under a different referral, e.g., merit promotion.

## Questions and Answers

**Q. Do the amendments made by Pub. L. 106-117 mean that agencies may no longer use authority code YKB/SchB 213.3202(n) to appoint eligible veterans under the Veterans Employment Opportunities Act of 1998 (VEOA)?**

A. As of the date of enactment of the new amendments (November 30, 1999), agencies should not make any new appointments under the Schedule B authority. However, we are allowing a 1-month grace period to cover any appointments under the Schedule B authority that may already have been in progress.

**Q. If VEOA-eligible veterans should no longer be appointed under the above Schedule B authority, how are they appointed?**

A. The law provides that preference eligibles or eligible veterans who compete under agency Merit Promotion procedures open to candidates outside the agency ("agency" in this context means the parent agency such as Treasury, not IRS), and who are selected from among the best qualified, shall receive a career or career conditional appointment, as appropriate. Agencies should use the authority ZBA-Pub.L. 106-117, Sec 511 for these appointments.

**Q. What happens to veterans who were appointed under Schedule B?**

A. Agencies should first determine whether their Schedule B appointees actually competed under Merit Promotion procedures or were selected noncompetitively as a separate source of eligibles.

Those veterans who competed under agency Merit Promotion procedures are to be converted to career conditional (or career) retroactive to the date of their original appointments. These individuals will have been serving probation as of the original date of their appointments and this must be made clear to the employees.

Those veterans who did not compete under an agency Merit Promotion announcement and were given a Schedule B appointment noncompetitively, remain under Schedule B until such time as they can be appointed based on competition – either under Merit Promotion procedures open to candidates outside the agency or through an open competitive announcement. Because an employee may remain under the Schedule B authority until such time as he or she is selected competitively, we are leaving the authority in place indefinitely. This means that an employee may choose to remain under Schedule B indefinitely; he or she may not be required to compete for a career conditional position.

**Q. Did the new amendments change the eligibility criteria for appointment under the VEOA?**

A. Yes. Prior to these amendments, a veteran had to be either a preference eligible or have at least 3 years of continuous active duty military service in order to qualify for appointment under the VEOA. The new amendments provide that OPM is authorized to regulate the circumstances under which individuals who were released from active duty "shortly before completing 3 years of active duty" may be appointed. In our interim regulations implementing this provision, we are proposing to use the term "substantially completed an initial 3-year term." Agencies will then decide, in individual cases, whether a candidate has met this standard. In general, most individuals completing an initial 3-year military tour are typically released a few days early. These individuals, if otherwise qualified, should be considered eligible.

**Q. Does Veterans' preference apply to appointments under the VEOA?**

A. No. Veterans preference does not apply to merit promotion actions.

**Q. Are eligible veterans permitted to apply for vacancies that are open to CTAP candidates only?**

A. No. Since CTAP is limited to internal agency candidates, VEOA eligibles may not apply.

**Q. Are eligible veterans permitted to apply for vacancies that are open to ICTAP candidates only?**

A. Yes. Since ICTAP is open to candidates outside the agency, the law requires that VEOA eligibles be allowed to apply.

**Q. Do VEOA appointees serve a probationary period?**

A. Yes. Since they are appointed in the competitive service, they are subject to a probationary period. Please note, however, that for those employees converted from the Schedule B authority, prior service counts towards completion

of probation provided it is in the same agency, same line of work, and without a break in service. Where applicable, agencies must inform individuals that their original appointment under the VEOA authority marked the beginning of a probationary period.

**Q. Can VEOA candidates be considered for temporary and term positions?**

A. No. Because VEOA mandates that eligible veterans be given career or career conditional appointments, temporary or term appointments cannot be offered.

**Q. Can a current career/career conditional employee who lacks time-in-grade apply as a VEOA candidate under an agency merit promotion announcement?**

A. No. Such an employee remains subject to time-in-grade restrictions. The VEOA is not a noncompetitive-entry authority like the VRA where an employee could be given a new appointment at a higher grade.

**Q. Can a current career/career conditional employee who meets time-in-grade and eligibility requirements apply as a VEOA candidate under an agency merit promotion announcement and, if selected, be given a new career/career conditional appointment using the VEOA appointing authority?**

A. Yes. Currently, a career/career conditional employee who meets time-in-grade and eligibility requirements would be able to apply directly to a merit promotion announcement without the need to use the VEOA authority. However, under the plain language of the VEOA, the law would allow current career/career conditional Federal employees who are preference eligibles or veterans meeting the eligibility criteria of the vacancy announcement to apply to those positions advertised under an agency's merit promotion procedures when seeking candidates from outside its own workforce. The term preference eligibles is defined in title 5, United States Code section 2108.

**Q. Can a current career/career conditional employee who meets time-in-grade and eligibility requirements apply as a VEOA candidate under an agency merit promotion announcement when he or she is outside the stated area of consideration?**

A. Yes. A career/career conditional employee who meets time-in-grade and eligibility requirements would be able to apply using VEOA to a merit promotion announcement when outside the stated area of consideration.

**Q. Can a preference eligible or eligible veteran who is outside the agency merit promotion announcement's area of consideration apply as a VEOA candidate?**

A. Yes. A preference eligible or eligible veteran would be able to apply using VEOA to a merit promotion announcement even though he or she is outside the vacancy announcement's area of consideration.

**Q. We understand that VEOA eligibles are expected to compete with agency merit promotion eligibles under the agency's merit promotion plan. But, is the agency expected to create a different crediting plan for considering VEOA candidates?**

A. No. VEOA candidates are considered along with agency candidates, and under the same crediting plan.

**Q. To be eligible for an appointment under the VEOA authority, a veteran must be "separated" from the service. Does this mean that he or she cannot apply and be considered until actually separated?**

A. No. Whether or not to consider someone who is still in the military is entirely at the discretion of the employing agency. By law, a person on military duty cannot be appointed to a civilian position (unless on terminal leave), but he or she can certainly be considered should the agency wish to do so. The determining factor, here, should be whether the person will be available when the agency needs to have the job filled.

**5 U.S.C. 3304, 3330; 5 CFR 213.3202 (n) and 335.106**