

## STAFFING

**1. REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) procedures regarding the application of Veterans Preference in making appointments to occupations covered by 38 U.S.C. 7401(3) (Hybrid Title 38).

**2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains mandatory procedures on staffing. The pages in this handbook replace the corresponding page numbers in VA Handbook 5005. Revised text is contained in [brackets]. These changes will be incorporated into the electronic version of VA Handbook 5005 that is maintained on the [Office of Human Resources Management](#) Website. Significant changes include:

- a. Clarifies the difference between application of Veterans preference in making appointments to full Title 38 occupations (38 U.S.C. 7401(1)) and Hybrid Title 38 occupations (38 U.S.C. 7401(3)).
- b. Provides new guidance and policy on application of Veterans Preference when making appointments to occupations covered by 38 U.S.C. 7401(3), also known as the “Hybrid Title 38” occupations.

**3. RESPONSIBLE OFFICE:** The Recruitment and Placement Policy Service (059), Office of the Deputy Assistant Secretary for Human Resources Management.

**4. RELATED DIRECTIVES:** VA Directive 5005, Staffing.

**5. RESCISSIONS:** None.

**CERTIFIED BY:**

**BY DIRECTION OF THE SECRETARY  
OF VETERANS AFFAIRS:**

/s/  
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Assistant Secretary for Information and  
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/s/  
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**[CHAPTER 4. PREFERENCE TO VETERANS IN MAKING  
HYBRID TITLE 38 APPOINTMENTS]**

**1. GENERAL.** This chapter contains administrative requirements and procedures relating to the application of Veterans preference in making new appointments to hybrid title 38 occupations identified in 38 U.S.C. § 7401(3) or approved for hybrid status by the Assistant Secretary for Human Resources and Administration. This section applies both to full-time permanent appointments under 38 U.S.C. § 7401(3) and part-time, intermittent or time-limited appointments under 38 U.S.C. § 7405. *This does not apply to the application of Veterans preference in making appointments to full title 38 positions under 38 U.S.C. § 7401(1).*

**2. BACKGROUND**

a. It is Department of Veterans Affairs (VA) policy that qualified preference eligibles and other Veterans receive appropriate VA employment preference. In April 2012, the Merit Systems Protection Board (MSPB) affirmed its earlier 2010 opinion that held that VA is required to follow title 5 Veterans' preference rules when hiring individuals for hybrid title 38 positions (Graves v. VA, 117 M.S.P.R. 697 (2012)). In its 2010 ruling, MSPB clarified that VA is required to "comply with the competitive service Veterans' preference requirements set forth in title 5 of the United States Code in filling positions under 38 U.S.C. § 7401(3)". Graves v. VA, 2010 MSPB 118, at 6 (June 22, 2010); Graves v. VA, 2010 MSPB 123, at 9 (June 30, 2010).

b. MSPB's ruling is based upon its interpretation of 38 U.S.C. § 7403(f)(2) and f(3). Section 7403(f)(2) states that when VA appoints individuals to hybrid positions, it "shall apply the principles of preference for the hiring of Veterans and other persons established in subchapter I of chapter 33 of title 5". Section 7403(f)(3) states that the "applicability of the principles of preference referred to in paragraph (2) . . . shall be resolved under the provisions of title 5 as though such individuals had been appointed under that title." MSPB interpreted these provisions to require VA to follow title 5 Veterans preference requirements when hiring individuals into hybrid occupations.

**3. DEFINITIONS**

a. **Appointing Official.** The Human Resources Officer (HRO)/Manager.

b. **External Applicants.** All United States Citizens who are not Federal employees.

**NOTE:** Federal employees who apply to an external announcement with an area of consideration of U.S Citizens only will be considered an external applicant and Veterans preference will apply.)

c. **Federal Applicants.** All current permanent Federal employees who apply for a vacant position.

d. **Internal Applicants.** VA applicants located at the facility and/or Community Based Outpatient Clinic (CBOC) where the vacant position exists.

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e. **VA Nationwide Applicants.** All other VA applicants employed by VA, Veterans Health Administration (VHA), Veterans Benefits Administration (VBA), or National Cemetery Administration (NCA) but not located at the facility and/or CBOC where the vacant position exists.

f. **Objection.** A request to remove an eligible applicant from consideration on a particular referral list. An objection may only be sustained if it is based on proper and adequate reasons (see Appendix E).

g. **Pass Over.** A request to pass over a preference eligible that results in the selection of a non-preference eligible.

h. **Referral List.** A list of eligible, qualified applicants for a hybrid title 38 vacancy.

i. **Selecting Official.** The supervisor/manager who is responsible for making selections of employees in subordinate positions.

j. **Unranked Order.** When numerical scores are not assigned to hybrid title 38 applicants as part of the referral process, all qualified applicants will be referred in preference order.

k. **VA Residents/Trainee Candidates.** Any candidate that has successfully completed or is expected to successfully complete a formal VA sponsored training program specific to hybrid title 38 occupations identified in 38 U.S.C. § 7401(3).

l. **Functional Statements (FS).** An official statement of the major duties and responsibilities of a position that are in alignment with the qualification standards. Functional statements should be in alignment with the qualification standards of the position and include the specialty area where work is performed and the specialized experience that is required for the assignment.

m. **Basic Requirements.** Basic requirements are defined as: citizenship, English language proficiency, experience and/or education, licensure/certification, and physical requirements as described in VA qualification standard for the occupation. **Note:** Basic requirements could also include, specialized experience, which should be reflected in the qualification standards for the position, and may include the following: one year of specialized experience for assignments at the next lower grade level for those assignments above the entry level, and any specialized experience required for the specific assignment.

#### 4. FUNCTIONAL STATEMENTS

FS must be established and utilized for the purpose of recruitment, evaluation, and organizational design for all covered hybrid title 38 positions and employees. A FS must be in writing and prepared before a position can be recruited and filled. Management is responsible for creating a FS for each position with the assistance of HR. The duties reflected in the FS must be the actual duties performed. For a position that will be recruited or filled at grade levels below the full performance level (FPL), FS must be developed for each grade level up to and including the FPL. Managers and HR are responsible for ensuring the duties reflected in the FS are in alignment with those defined in the qualification standards

for the assignment and grade level and resolving any issues before the position is recruited and filled. The FS must include: general description of assigned duties; functions or scope of assigned duties to include specialized duties as defined in the assignment within the qualification standard consistent with the definition of basic qualifications outlined in paragraph 3m above; supervisor controls; citation of qualification requirements; customer service requirements; age, development and cultural needs of patient's requirements; and computer security. Functional statements are required to include specialty areas where work is performed and the specialized experience that is required for the assignment in alignment with the qualification standards (i.e. LPN for ICU).

## **5. HIRING VA RESIDENTS/TRAINEE CANDIDATES**

a. VA residency and trainee programs are a critical part of VA's succession plan and a key source of candidates for critical hybrid title 38 occupations.

b. Similar to other external hybrid title 38 hiring practices, external announcements are not required in order to recruit upcoming graduates and/or to appoint a candidate that has completed a VA residency/trainee program. Pools of upcoming or current graduates may be targeted for recruitment either locally or nationwide prior to graduation and subsequent to graduation, and individuals selected for these positions may be appointed into the occupation without further competition. Facilities may establish local procedures for referral of and selection of candidates from VA residency/trainee programs. These procedures should take into account any internal recruitment and/or bargaining unit agreements which must be satisfied prior to consideration of VA residency/trainee program candidates.

c. Qualified preference eligible candidates who have completed a VA residency/trainee program for a hybrid title 38 occupation who are being considered along with other qualified VA residency/trainee candidates must receive consideration in accordance with the provisions set forth in this chapter for external hiring practices and Veterans' preference.

## **6. JOB OPPORTUNITY ANNOUNCEMENTS (JOA)**

a. Facilities must consult and follow local and national bargaining agreements to determine the area of consideration.

b. Hybrid title 38 vacancies can be filled without posting a JOA. If there are Veterans' preference eligible applications on file that were not solicited via an external JOA, the qualified Veterans' preference eligible applicants must be considered before an external non-preference eligible applicant may be selected.

c. JOA processes are at the discretion of the servicing HR Officer and selecting official who may choose to utilize USA JOBS or other avenues of recruitment such as local newspaper advertisements, journal advertisements, etc. To announce on USA JOBS, hybrid title 38 vacancies must be posted using the USA Staffing system.

d. JOAs must include the duties reflected in the FS and any requirements of specialized experience consistent with the definition of basic requirements outlined in paragraph 3m above.

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e. JOAs may be posted internally, externally or both. The area of consideration should be considered before posting a JOA in order to attract a sufficient number of well-qualified applicants. The following guidance should be followed when posting announcements on USA Staffing:

(1) **Internal Announcement Requirements**

(a) Announcement of hybrid title 38 vacancies is not required by law or VA policy; however, hiring facilities must abide by the terms of their local/national labor master agreements.

(b) Area of consideration includes internal facility employees and/or all VA nationwide applicants and **may** include current permanent Federal applicants of other agencies. Veterans' preference does not apply to promotions, reassignment, a change to lower grade or transfer for internal announcements.

(c) Hybrid title 38 internal announcements must be announced at all grade levels up to the full performance level.

(d) When hybrid title 38 positions above the full performance level are filled, the position can only be established for that specific grade level and may not be targeted to a higher grade. Additionally, the selectee **MUST** qualify for that specific grade level and cannot be placed in the position at a lower grade level and then targeted to higher grade.

(2) **External Announcement Requirements**

(a) Area of Consideration includes all U.S. Citizens or all U.S. Citizens and other current permanent Federal employees of other agencies. If the area of consideration is all U.S. Citizens, Veterans' preference applies and should be specified in the JOA. Veterans' preference does not apply for other current permanent Federal agency employees as long as they are listed as part of the area of consideration.

(b) External Announcements for positions at or below the full performance level may be announced on USA JOBS using the USA Staffing system at all grades from the entry level to the full performance level (if this option is used, all grades **must** be listed on the JOA) or only at the full performance level.

(c) When hybrid title 38 positions above the full performance level are filled, the position can only be established for that specific grade level and may not be targeted to a higher grade. Additionally, the selectee **MUST** qualify for that specific grade level and cannot be placed in the position at a lower grade level and then targeted to higher grade.

## 7. APPLICATION REVIEW AND QUALIFICATION DETERMINATIONS

HR is responsible for performing a review of the basic requirements consistent with paragraph 3m above on each application submitted for the position. The review of basic requirements must be completed prior to applying veteran's preference and referral to the selecting official. The basic requirements

include citizenship, English language proficiency, experience and/or education, licensure/certification, and physical requirements. **Note:** Basic requirements could also include specialized experience, which should be reflected in the qualification standards for the position, and may include the following: one year of specialized experience for assignments at the next lower grade level for those assignments above the entry level, and any specialized experience required for the specific assignment.

## 8. REFERRAL LIST

### a. Internal Referral List

(1) When hybrid title 38 vacancies up to the full performance level are announced, all applicants must be evaluated by the servicing Human Resources (HR) office for basic requirements consistent with paragraph 3m above; HR is responsible for ensuring that applicants meet all the qualification requirements in the VA qualification standard for the occupation/assignment. The review of basic requirements must be completed prior to referral to the selecting official.

(2) For positions above the full performance level of the occupation, applicants must meet the basic requirements consistent with paragraph 3m above; HR is responsible for ensuring that applicants meet all the qualification requirements in the VA qualification standard for the occupation/assignment. The review of basic requirements must be completed prior to referral to the selecting official.

(3) Once all eligible and qualified applicants have been determined, internal applicants must be referred to the selecting official/hiring manager in the following order without regard to Veterans' preference.

- (a) Internal applicants
- (b) VA Nationwide applicants
- (c) Other permanent Federal agency applicants (if applicable)

### b. External Referral List

(1) For positions at the full performance level or below, applicants must meet the basic requirements, consistent with paragraph 3m above; HR is responsible for ensuring that applicants meet all the qualification requirements in the VA qualification standard for the occupation/assignment. The review of basic requirements must be completed prior to applying veteran's preference and referral to the selecting official.

(a) If announced below the full performance level all external qualified applicants will be referred by grade levels up to and including the full performance level. HR will identify qualified candidates that meet the basic requirements for the occupation as well as the requirements for each individual grade level.



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(b) If announced only at the full performance level all external qualified applicants will be referred at that grade level. HR will identify candidates that meet the requirements for the occupation as well as requirements for the full performance level.

(2) For positions above the full performance level of the occupation, applicants must meet the basic requirements consistent with paragraph 3m above; HR is responsible for ensuring that applicants meet all the qualification requirements in the VA qualification standard for the occupation/assignment. HR will identify candidates that meet the requirements for the occupation as well as requirements for the specific grade level. The review of basic requirements must be completed prior to applying veteran's preference and referral to the selecting official.

(3) Other current permanent Federal agency applicants must be referred on a separate referral list as long as they are listed as part of the area of consideration. Veterans' preference does not apply to promotions, reassignment, change to lower grade or transfer if the external area of consideration includes other current permanent Federal agency employees.

(4) When making appointments to any hybrid title 38 occupations identified in 38 U.S.C § 7401(3) or approved for hybrid status by the Assistant Secretary for Human Resources and Administration, under the authority of 38 U.S.C. § 7401(3) or 7405, external applicants for new appointments must be referred in accordance with the provisions of 5 CFR 302.304(b)(4) and/or 5 CFR 302.304(b)(5) as listed below:

(a) In accordance with 5 CFR 302.304(b)(4), professional and scientific positions at the GS-9 level and above, or equivalent, must be referred with no numerical scores (unranked order). All preference eligibles will be considered together, regardless of the type of preference, followed by all other applicants. (See Appendix F)

(b) In accordance with 5 CFR 302.304(b)(5) unranked order should be used when no numerical scores are assigned to external applicants. Applicants who have received eligible ratings for positions (other than professional and scientific positions at the GS-9 level and above addressed in subparagraph (a)) will be considered in the following order:

1. CPS/CP. Preference eligible having a compensable service-connected disability of 10 percent or more.

2. XP. A Veteran who served at any time and has a present service-connected disability or is receiving compensation, disability retirement benefits, or pension from the military or the VA but does not qualify as a CP or CPS; or a Veteran who received a Purple Heart. Both a mother and a spouse (including widow or widower) may be entitled to preference on the basis of the same Veteran's service if they both meet the requirements. However, neither may receive preference if the Veteran is living and is qualified for Federal employment. This is called "derived preference" because it is based on service of a Veteran who is not able to use the preference.

3. TP. 5-point preference

4. SSP (Sole Survivorship Preference, Public Law 110-317). Under SSP the individual does not receive Veterans' preference points. The individual is listed ahead of non-preference eligibles. SSPs are entitled to receive the same pass over rights as other preference eligibles and are entitled to credit experience in the armed forces to meet the qualification requirements for Federal jobs. The SSP is a preference eligible category for Veterans released or discharged from a period of active duty from the armed forces, after August 29, 2008, by reason of a "sole survivorship discharge." A sole survivorship discharge is a separation of a member from the armed forces, at the request of the member, pursuant to Department of Defense policy permitting the early separation of a member who is the only surviving child in a family in which the father or mother or one or more siblings (1) served in the armed forces and (2) was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently 100 percent disabled or hospitalized on a continuing basis (and is not employed gainfully because of the disability or hospitalization) where (3) the death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or sibling and was not incurred during a period of unauthorized absence.

5. All Other Applicants

## 7. SELECTIONS

a. Qualified preference eligibles are an important source of external applicants and must receive full consideration when making external hiring decisions. Whether or not the vacancy was announced externally, when qualified preference eligible Veterans are referred for vacancies, the provisions of this chapter must be followed and documented.

(1) Selecting officials may make a selection from any referral list at any grade level.

(2) Veterans' preference applies at the grade level from which the selection is made.

b. According to provisions contained in 5 CFR 302.401, when making a selection from a list of applicants in unranked order a selection must be made from the highest available preference category (as long as at least three (3) applicants remain in that group). When fewer than 3 applicants remain in the highest category, consideration may be expanded to include the next category. Professional and scientific positions at the GS-9 level and above are considered to be a single category as all preference eligibles are considered together regardless of the type of preference.

c. 5 CFR 302.401(a)(2) states that an agency is not required to consider an applicant that has been previously considered three times. The following criteria pertain to three considerations: excepted service employees must be considered three times for the same announcement; and if three selections are made from the same announcement, then the applicant has been considered three times. An objection or pass over request must be submitted for thirty (30) percent or more preference eligibles.

d. 5 CFR 302.401(a)(2) also states that a preference eligible that has been discontinued for a position based on an objection to or pass over request being sustained does not have to be considered.

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e. When making an external selection, a non-preference eligible applicant may not be selected over a qualified preference eligible applicant without first receiving approval to object to or pass over the preference eligible.

f. Recruitment case files must be retained and available as proof that preference eligibles have been afforded the opportunity to apply for and receive consideration for any appropriate hybrid title 38 vacancy for which facilities conduct external recruitment.

g. When unfavorable information is received during the pre-employment process (i.e., VetPro, background, physicals, etc.), an objection to or pass over request must be submitted in order to select from the next preference category or a non-preference eligible.

## 8. OBJECTION OR PASS OVER REQUESTS FOR HYBRID TITLE 38 POSITIONS

a. A request to object to or pass over a preference eligible with a compensable service-connected disability of 30 percent or more must be adjudicated by OPM. A request to object to or pass over a preference eligible with a compensable service-connected disability of less than 30 percent must be adjudicated by the servicing Human Resources Officer. **NOTE:** *See paragraph 9 to object to or pass over a preference eligible based on physical/medical conditions and paragraph 10 to object to or pass over a preference eligible based on suitability.*

b. The due date of the referral list must be extended if the request to object to or pass over is pending adjudication. When a JOA contains multiple vacancies, other selections may be made; however, one vacancy must be held for the Veteran while the request to object to or pass over is pending adjudication approval/disapproval. If the JOA only has one vacancy, then no selection can be made until a decision has been made.

c. The procedures listed below must be used to request OPM approval to object to or pass over a preference eligible with a compensable service-connected disability of 30 percent or more.

(1) If the preference eligible applicant has a compensable service connected disability of 30 percent or more, an objection to or pass over request, signed by the facility Director, must be sent by the servicing HRO to the address below for review. Upon completing a review of the request, OHRM will forward the request to OPM for adjudication or return the objection to or pass over request to the facility HRO without approval.

Director, Recruitment and Placement Policy Service (RPPS/059)  
Office of Human Resources Management (OHRM)  
810 Vermont Avenue, N.W., Washington, DC 20420

(2) The objection to or pass over request must include written justification from the selecting official that fully documents the reason(s) for the objection to or pass over request. Appropriate documentation may include interview notes, questions, reference checks, police reports, qualification standard, etc.

(NOTE: See appendix E for adequate reasons to sustain an objection to or pass over request and SF62, Agency Request to Pass Over a Preference Eligible or Object to an Eligible.)

(3) If the pass over request directly related to patient care, an assessment related to the clinical competencies of the preference eligible applicant and the applicant selected should be included. The selecting official must include written justification on how the Veteran does not have the skills, knowledge or clinical requirements for the position.

(4) Submit the OHRM/VACO objection to or pass over checklist (see appendix G) along with all of the completed documents listed on the checklist. **NOTE:** See appendix H for the sample letter of notification to the Veteran referenced on the checklist.

(5) OPM will issue a decision letter that states whether the request is approved or denied. If OPM denies the objection to or pass over, the facility has the following options:

1. Challenge OPM's decision by submitting additional information to support a favorable decision within 30 days from the date of the OPM letter.

2. Consider/select the preference eligible for the position.

d. The procedures listed below must be used to object to or pass over a preference eligible rated less than 30 percent. Such requests must be adjudicated by the HRO.

(1) The selecting official must fully document and submit the reason(s) for the objection to or pass over request. It is important to treat every request as if it is going to be adjudicated by OPM. Appropriate documentation may include interview notes, questions, reference checks, police reports, qualification standard, etc. **NOTE:** See appendix E for criteria to sustain an objection to or pass over request.

(2) If the objection to or pass over is directly related to patient care, a clinical assessment of the competencies of the preference eligible applicant and the applicant selected must be included.

(3) The HRO is required to document a decision in a formal memorandum for the record that states whether the request is approved or denied and the basis for the approval or denial. The justification documentation should be the same as the documentation submitted for a 30 percent disabled Veteran objection to or pass over request and maintained in the facility case file. (See Appendix G).

## 9. OBJECTION OR PASS OVER REQUEST FOR PHYSICAL OR MEDICAL CONDITIONS

a. Requests to object to or pass over any preference eligible based on a physical or medical condition must be adjudicated by OPM. A selecting official may submit a request to object to or pass over a preference eligible when it is believed the applicant may have a physical or medical (including mental) condition that will prevent him or her from performing the full range of essential duties and responsibilities of the position safely and efficiently.

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b. The selecting official must assess whether reasonable accommodation can be provided to permit performance of the job despite the condition when considering whether a physical or medical condition will have an impact on an eligible's capacity to perform the job efficiently and safely. The servicing HRO must submit the request, signed by the facility Director, along with thorough supporting documentation to OPM at the following address:

Office of Personnel Management  
Human Capital Leadership and Merit System Accountability Division  
Employment Division – Medical Passovers  
1900 E. Street NW, Room 6500  
Washington, D C 20415-0001

c. If OPM sustains the objection to or pass over request, the preference eligible must be removed from consideration for the vacant position and the selecting official may select the next available certified preference or non-preference eligible on the referral.

d. If OPM does not sustain the objection to or pass over request, the selecting official may challenge the decision by submitting additional information to support a favorable decision; or consider/select the preference eligible for a job.

#### **10. OBJECTION OR PASS OVER OF A PREFERENCE ELIGIBLE BASED ON SUITABILITY**

a. The servicing HR Office must consult with the VA Office of Operations, Personnel Security and Suitability Service (07C) to determine if an objection to or pass over is warranted locally for a preference eligible rated less than 30 percent, based on potentially disqualifying suitability information.

b. A request to object to or pass over a preference eligible with a compensable service-connected disability of 30 percent or more based on suitability must be adjudicated by OPM. The servicing HRO must submit the request, signed by the facility Director, along with thorough supporting documentation to the VA Office of Operations, Security and Preparedness; Personnel Security and Suitability Service (07C). VA Office of Operations, Security and Preparedness; Personnel Security and Suitability Service (07C) will forward the request to OPM for adjudication or return the request to the facility HRO without action. Requests for suitability based actions must be sent to:

Department of Veterans Affairs  
Director, Personnel Security and Suitability Service (07C)  
810 Vermont Avenue, N.W.  
Washington, D.C. 20420

**11. OVERSIGHT.** The local facility Director and HRO must make selecting officials aware of their responsibilities and hold them accountable for supporting the hiring of qualified preference eligibles and

other Veterans. Training and advisory services should be available to supervisors and managers through means such as HR:

- a. Providing individual advice and assistance to recommending/selecting officials;
- b. Providing recommending/selecting officials with checklists, guidelines, and instructions along with a listing of eligibles (as applicable);
- c. Conducting periodic supervisory training as well as new supervisor training; and
- d. Providing guidance via the facility's web site, supervisor's manual, internal guidance, newsletter, senior management meetings, etc.]



## APPENDIX E. GROUNDS FOR OBJECTION OR PASS OVER REQUESTS

The following specific reasons for objections are provided for guidance on how to proceed with an objection. There may also be other grounds on which an objection may be based. This guidance expresses the principles to follow, but, unless specifically indicated to the contrary, each case must be adjudicated on its own merits. In all cases, the written record used to support such decisions must be complete and maintained for review.

**1. Affiliations.** Any affiliations the applicant may have which could clearly be expected to present a conflict of interest may constitute a valid objection. The need to consider the applicant's affiliations must be demonstrated in writing and concurred by the appointing office. Ordinarily, objections of this type may not be sustained.

### 2. Availability

a. The employing office must determine the applicant's availability for a specific position, at a certain salary and at a specific duty location. Objections will not be sustained on the basis of a presumption that an applicant is unavailable, e.g., does not indicate availability, geographic location etc.

b. Objections on the basis of unavailability and the effect on patient care to Veterans will be sustained *only* if there is evidence that the selecting official was unable to communicate with the applicant.

c. Objections based on unavailability for positions with specialized or unusual requirements must show what the requirements are and that they were made known to all applicants. They should, therefore, be included in the announcement. Such requirements include, but are not limited to, frequent travel, geographic location, and drug testing.

**3. Experience.** Objections based on lack of experience (minimum qualifying experience, either general or specialized) may be sustained only when that experience is part of the minimum requirements for the position. Experience requirements for grade levels should be evident in the Job Opportunity Announcement (JOA) and/or functional statements for a particular specialty and/or assignment in accordance with the VA Qualification Standard requirements for the occupation. (NOTE: Generic functional statements which do not clearly identify specialized experience requirements for the grade level in question will not be sufficient evidence to support or sustain an objection based on lack of experience.)

**4. Fraud or False Statements.** A selecting official may object to an eligible on the basis of material, intentional false statements or deception or fraud on appointment.

**5. Gender.** Consideration may be restricted to one gender only in unusual circumstances and only upon specific approval of OPM. The determination as to whether a position should be restricted in this way should always be made **before** an announcement is issued and included in the announcement.



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**6. Habitual Use of Alcohol.** A selecting official may object to an eligible on the basis of alcohol abuse of a nature and duration which suggests that the applicant would be prevented from performing the duties of the position or would constitute a direct threat to the property or safety of others.

**7. Illegal use of Narcotics.** A selecting official may object to an eligible on the basis of illegal use of narcotics, drugs, or other controlled substances, without evidence of substantial rehabilitation.

**8. Medical.** An applicant may be medically disqualified when he/she has a physical or medical (including mental health) condition that will prevent him/her from performing the full range of essential duties and responsibilities of the position safely and efficiently.

**9. Performance Rating.** An objection can be based on an unsatisfactory performance rating assigned in some previous period of Federal employment. The service resulting in the performance rating is the significant factor as it relates to the position to be filled, not the rating itself.

**10. Personal Characteristics**

a. Personal characteristics are the most difficult requirements to measure and evaluate in the referral process. They are usually identified and assessed during a pre-selection interview or reference check. An objection may be based on the absence of desirable or the presence of undesirable, personal qualities (i.e., mature judgment, tact, objectivity, flexibility, temperament, lack of initiative, unreliability, etc.), if they are essential for satisfactory job performance.

b. In objecting to an applicant based on personality traits, the selecting official should:

(1) Identify which elements of a position require the possession of certain personal characteristics, and

(2) Demonstrate, through specific examples, how a particular eligible lacks these desired traits or exhibits undesirable trait.

**11. Previous Service.** A selecting official may object to an eligible on the basis of negligence or misconduct in previous service/employment with the same or another agency/employer.

**12. Religion.** A selecting official may object to an eligible whose religion prevents working on a day included in the regular tour of duty.

**13. Security Clearance.** An objection may be based on the inability to grant a security clearance to an applicant for any reason.]

### APPENDIX F. PROFESSIONAL AND SCIENTIFIC POSITIONS WITH POSITIVE EDUCATION REQUIREMENTS

Candidates for the following professional and scientific positions at the GS-9 and above, or equivalent, should be referred in unranked order. This list is not inclusive.

<b>Series</b>	<b>Position Titles</b>
0101	Licensed Professional Mental Health Counselor (LPMHC)
0101	Marriage and Family Therapist (MFT)
0180	Psychologist
0185	Social Worker
0601	Blind Rehabilitation Specialist (BRS)
0601	Blind Rehabilitation Outpatient Specialist (BROS)
0630	Dietitian
0631	Occupational Therapist (OT)
0633	Physical Therapist (PT)
0635	Kinesiotherapist
0644	Medical Technologist (MT)
0660	Pharmacist
0665	Speech Pathologist
0665	Audiologist
0665	Audiologist/Speech Pathologist
0858	Biomedical Engineering

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**APPENDIX G. OHRM/VACO OBJECTION OR PASS OVER CHECKLIST  
30 PERCENT OR MORE VETERANS PREFERENCE**

**FACILITY NAME:** \_\_\_\_\_

**FACILITY ADDRESS:** \_\_\_\_\_

**NAME OF VETERAN:** \_\_\_\_\_

**POSITION TITLE/SERIES/GRADE:** \_\_\_\_\_

**VACANCY ANNOUNCEMENT NUMBER:** \_\_\_\_\_

*Please note that you must retain a vacancy in the event that the objection or pass over request is not approved in order to place the Veteran.*

☐ SF62, *Agency Request to Pass Over a Preference Eligible or Object to an eligible* (5 U.S.C. 3318); signed by the Human Resource Officer (HRO) as the agency appointing official.  
[http://www.opm.gov/forms/pdf\\_fill/sf62.pdf](http://www.opm.gov/forms/pdf_fill/sf62.pdf)

☐ Memo from the selecting official to HRO indicating the reasons or justification for objecting to or passing over the preference eligible. The objection to or pass over justification should be detailed, clear, and supportable.

☐ Signed memo from the HRO recommending the objection to or pass over to include the facility Director's signature approving the request to be forwarded to OHRM for review prior to submission to OPM for adjudication.

☐ A copy of the proposed objection to or pass over notification letter sent to the preference eligible with a compensable service-connected disability of 30 percent or more (CPS) (5 U.S.C. 3318(b)(2)). The notification letter must include:

☐ the facility name and address, title/series/grade of the job, duty location, and referral list number;

☐ an explanation of the reasons for the proposed objection to or pass over; and

☐ the right to respond to those reasons to the appropriate office within 15 calendar days of the notice.

☐ A copy of the CPS preference eligible's response to the agency notification, if any.

☐ Referral list of eligibles.

PART I

APPENDIX G

- ☐ Resume or an application for Federal employment claiming Veterans preference.
- ☐ College transcripts, if used to qualify based on education.
- ☐ Functional statement(s) (FS) and position risk and sensitivity level designation.
- ☐ Qualification standard used for this position.
- ☐ Vacancy announcement for the position.
- ☐ SF15, *Application for 10-Point Veteran Preference* and other preference supporting documents; i.e., service connected disability letter and DD214.
- ☐ Any other documentation to include reference checks or emails pertaining to the selection process.
- ☐ Interview: If the objection to or pass over is based on an interview, a copy of the interview questions with panel comments and final outcomes must be submitted.
- ☐ Selectee's application package.

**NOTE:** *OHRM/VACO will review the entire package to ensure that the information supports an objection to or pass over request prior to forwarding the request to OPM. If the package does not support an objection to or pass over request, OHRM/VACO will return the package to the medical center director with no action taken.*

**HR POC/Phone Number:** \_\_\_\_\_

**Additional Comments:**

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July 27, 2016

**VA HANDBOOK 5005/88  
PART I  
APPENDIX H**

**APPENDIX H. SAMPLE NOTIFICATION LETTER**

Mr. John A. Doe  
123 Main Street  
Nashville, Tennessee 73695

Dear Mr. Doe:

Your name was referred for consideration for the position of (title, pay plan, series, and grade of position) located in (organization and duty location). This is to notify you that the selecting official has submitted a request to object to or pass over your name to select a non-preference eligible. The basis for this objection to or pass over is (cite reason for pass over). This objection or pass over request will be submitted to the Recruitment and Placement Policy Service (RPPS/059), Office of Human Resources (OHRM) for review and submission to OPM for adjudication.

You have 15 days from the date of this notice to respond to the reasons listed above for the objection to or pass over request. The response should be sent to the Office of Personnel Management (OPM) at the address below:

U.S. Office of Personnel Management  
Employee Services  
1900 E Street, NW, Room 6500  
Washington, DC 20415

You will be notified of the adjudication results as soon as possible.

Sincerely,

Name  
Title]



### 3. APPOINTMENT REQUIREMENTS AND DETERMINATIONS

#### a. Preference to Veterans [for Full Title 38]

(1) The primary consideration in making appointments of physicians, dentists, podiatrists, optometrists, chiropractors, nurses, nurse anesthetists, PAs and EFDAs under 38 U.S.C., chapter 73 or 74, will be the professional needs of VHA. Consistent with this policy, however, Veterans will be given preference when qualifications of candidates are approximately equal. This includes qualified disabled Veterans and preference eligibles as defined in 5 U.S.C. 2108. [See part I, chapter 4, for positions identified in 38 U.S.C. 7401(3).]

[ ]

[(2)] When qualified Veterans apply for appropriate vacancies, it is important that VA health care facilities establish and maintain documentation within HR files to demonstrate that qualified preference eligible and other Veteran applicants received appropriate consideration for positions being filled, and to address the relative qualifications of preference eligible and other Veteran applicants. At a minimum, facilities must be able to demonstrate from the written record why the qualifications of non-selected preference eligibles and other Veterans are not approximately equal to those of selected candidates who either lack preference or are non-Veterans, respectively.

#### b. Dual Employment and Dual Compensation Restrictions

(1) Except as provided in the subparagraphs below, no full-time employee appointed under authority of 38 U.S.C., chapter 73 or 74, will concurrently hold any other type of **paid** appointment in VA.

(2) The following personnel may hold more than one appointment provided it is not contrary to 5 U.S.C. 5533 and VA Directive and Handbook 5007, Appendix F, Paragraph 3, Pay Administration: full-time personnel appointed under 38 U.S.C. 7401(3), personnel in occupations listed in 38 U.S.C. 7401(3) who are appointed on a full-time or part-time basis under 38 U.S.C. 7405(a)(1)(B), and medical.