Department of Veterans Affairs
Washington, DC 20420

VA DIRECTIVE 5005
Transmittal Sheet
April 15, 2002

STAFFING

1. REASON FOR ISSUE: To issue Department of Veterans Affairs (VA) policy regarding staffing and recruitment.

2. SUMMARY OF CONTENTS/MAJOR CHANGES: This directive sets forth policies previously contained in numerous other issuances. No substantive changes have been made.

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

4. RELATED HANDBOOK: VA Handbook 5005, "Staffing."

5. RESCISSIONS: Refer to the Transmittal Sheet for VA Directive 5001, "General Introduction and Administration."

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PART I. RECRUITMENT/GENERAL EMPLOYMENT

CHAPTER 1. GENERAL

1. THE RECRUITMENT PROCESS. Recruitment, or more specifically, *positive recruitment,* is the proper application of the elements that comprise the planned process of identifying general and specific staffing needs and of locating, attracting, and employing the best qualified available individuals. This is achieved by properly identifying and publicizing VA needs and opportunities, by developing and cultivating general and specific sources of candidate supply, and by identifying individual prospects and accomplishing the preliminaries necessary to appoint appropriate individuals. The process requires a continuous awareness of current and projected employment market conditions in order to capitalize on the availability of persons who are best qualified to perform the work of VA. It is the proper blending of publicity; employment market contacts, including schools, colleges, universities, minority group organizations and professional placement associations; knowledge of applicant supply; and aggressive efforts to seek out the best possible applicants that characterize the positive effort, rather than the routine recruitment procedure. It also requires determining and applying the proper mix of these elements in direct response to the staffing needs of VA. Some of the more common sources of candidates, and available recruitment aids, are discussed in paragraphs 4 and 5.

2. COORDINATION OF RECRUITMENT ACTIVITIES

a. **Recruitment Activities within VA.** For recruitment purposes, there are no clear-cut boundaries between field facilities and recruitment efforts overlap in areas where two or more field facilities are each conducting recruitment activities. Coordinated efforts, therefore, should be a common goal to facilitate certain recruitment relationships among VA field facilities in proximity to each other, as well as with educational institutions and other organizations. For example, Veterans Health Administration field facilities should coordinate their efforts within the Veterans Integrated Service Network (VISN) so that a cohesive, unified and economical recruitment effort is maintained.

b. **Recruitment Activities Sponsored by Non-VA Organizations.** VA Human Resources Management (HRM) and other officials will participate, as appropriate, in recruitment activities sponsored by such organizations as the U.S. Office of Personnel Management (OPM), Federal Executive Boards, chambers of commerce, educational institutions, and professional organizations. This participation should normally be in proportion to expected benefits to VA. VA officials who are in a position to influence the content of such efforts should ensure that VA recruitment needs are adequately represented.

3. RECRUITMENT PLANNING

a. **General.** An important responsibility of the HRM Officer is to anticipate the staffing needs of the installation and, in conjunction with other field facility officials, to develop plans for meeting those needs. This requires:

(1) Understanding the nature of the work done in each segment of the installation and of its relationship to the work of other segments;

(2) Understanding the knowledges, skills, abilities, and personal attributes required to do the work of the segment most effectively;

(3) Awareness of situations, conditions, and developments which indicate future personnel needs in each program; and

(4) Active participation in committees whose actions affect staffing decisions, e.g., budget, position management, equal employment opportunity, and employment of disabled veterans and handicapped individuals.

b. **Prior Determinations.** Before recruiting for a specific position, the HRM staff must determine:

(1) That an authorized position vacancy exists, or will exist, and that appropriate approval for filling the position has been given;

(2) For title 5 positions, that the position is properly classified and if any limitation exists as to the number of employees that can be supported at a given grade level;

(3) For title 38 positions, that the functional statement and credential requirements are reviewed and are current;

(4) The type of appointment and any special conditions of employment such as hours of duty, shift arrangements, time limitations, and alternate grade levels;

(5) The appropriate qualification standard and any selective certification or quality ranking factors which may be appropriate;

(6) The appropriate recruitment sources and techniques to use and whether to use them singularly or in combination. In this regard a determination must be made as to whether there exists any applicable negotiated agreement provisions which would govern the sources and techniques to be used or the sequence of their use; and

(7) That all requirements under the VA Career Transition Assistance Program (CTAP), Interagency Career Transition Assistance Program (ICTAP), and other priority consideration programs have been met. See parts III and IV of this handbook.

c. **Selection and Training of Recruitment Officials.** An important part of the recruitment planning process is the selection and training of recruitment officials. VA personnel who contact candidates for employment or officials of recruitment sources should be those best qualified for this purpose. A favorable image presented by the recruiter can be the first step in bridging the gap between interest and employment. The selection and training of recruitment officials is, therefore, of paramount importance.

d. **Recruitment Strategies**

(1) Intensive cultivation of newspaper, radio, and television outlets for news about VA job opportunities. This includes public service announcements, cable television advertising, advertisement in professional journals and on organizational and professional web sites.

(2) Use of mailing lists of professionals in the community, schools, vocational counseling offices, and particularly of professional or other occupational associations. Such organizations may be willing to circulate information to their members about VA career opportunities.

(3) Inviting students and others to indicate their vocational interests for possible future employment. When vacancies occur, facility officials will have a ready list of candidates to contact about VA employment.

(4) Careful development of institutional relationships with teachers, editors, influential professionals, etc.

(5) Preparation and strategic distribution of well-illustrated pamphlets on specific occupations or professions, medical center fact sheets, and local Chamber of Commerce brochures, etc.

(6) Periodic visits and programs directed to college/university campuses to interest students in working for VA.

(7) Maintaining impressive and informative exhibits of VA careers at conventions, state fairs, and similar events where large numbers of persons are in attendance.

(8) Sponsoring an “open house” or “job fair.”

(9) Personalized letters to applicants who are interested in employment instead of patterned or photocopied letters.

(10) Telephone contacts, particularly by officials from those facilities actively seeking candidates, demonstrate a genuine interest in the prospect and provide for an expeditious exchange of pertinent information.

(11) Paying travel expenses for pre-employment interviews and for reporting to the first duty facility, if such actions may be authorized.

(12) Maintaining contacts with branches of the military that may be discharging persons with needed skills.

(13) Regularly informing veterans service organizations about VA staffing needs and career opportunities.

(14) Encouraging follow-up contacts when recruiting for VHA mission critical positions by using promotional items of nominal value, in accordance with the provisions of paragraph 5b(1)(h) of this chapter, and MP-4, pt. V, chap. 3, paragraph 3A.13.1a.

4. RECRUITMENT SOURCES

a. **General.** Recruitment sources are varied and numerous. The extent to which the sources will be utilized will depend on local recruiting needs and resources. The sources described below, plus any developed locally, may be used singularly or in combination as circumstances indicate.

b. **Standard Sources.** When labor market conditions are favorable, the following recruitment sources will normally produce a sufficient number of highly qualified candidates.

(1) **Vacancy Databases**

(a) Under 5 CFR 330.707, facilities must post on OPM's USAJOBS vacancy database all VA title 5 competitive service vacancies for positions which last over 120 days and for which applicants outside VA will be accepted, unless the position is filled by an ICTAP eligible. The USAJOBS posting requirement does not apply to appointments under title 5 excepted service authorities (e.g., 5 CFR, parts 213 and 307), but does cover positions of 121 days and up filled under 5 CFR, part 316 time-limited hiring authorities, even if based on excepted appointment eligibility such as VRA under 5 CFR, part 307. Facilities have the option of posting other vacancies on USAJOBS such as those in the excepted service of title 5 or any in the title 38 excepted service.

(b) VHA's [Healthcare Retention and Recruitment Office (HRRO/10A2D) operates the VACareers Web site which links interested applicants to USAJOBS postings of VHA title 38 and title 5 vacancies, as well as other VA vacancies.]

(2) **Civil Service Certificates of Eligibles.** [Along with consideration of candidates identified through in-service placement activities] the primary recruitment sources for filling competitive service positions are certificates of eligibles obtained from a VA or other Federal delegated examining unit or an OPM services office. (Ref: 5 U.S.C. § 1104 and VA-OPM Interagency Agreement # [D]VA-1 on delegated examining) [See Appendix B of this part.]

(3) **Reemployment Priority List.** Former VA employees on the facility's reemployment priority list will be given consideration as required by 5 CFR 330.201 – 330.209 and 5 CFR 351.803 and part IV of this handbook.

(4) **Surplus and Displaced Employees.** Surplus and [d]isplaced employees of VA and other Federal agencies will be given employment consideration as required by 5 CFR, part 330 [subparts F and G] and part IV of this handbook.

[(5)] **Applicant Supply System.** An applicant supply system may also be used to maintain applications from persons having eligibility for excepted or noncompetitive appointment. Any applicable vacancy announcement requirements must be met.

c. **Other Sources.** When the above recruitment sources fail to supply a sufficient number of well-qualified candidates, other sources such as the following should be explored. Candidates identified through outside recruiting sources, such as the following, must be considered for Federal employment in accordance with applicable VA and civil service regulations, requirements and procedures, including veteran preference.

(1) **Colleges and Universities.** Through its close ties with medical and other schools, VA is associated on a day-to-day basis with these potentially productive recruitment sources. From a recruitment standpoint, professional contacts by line and staff officials with their academic counterparts are invaluable and should be cultivated and maintained. Such contacts, however, do not assure that these recruitment sources are being fully utilized. Therefore, VA field facilities will conduct a long range, general VA employment information program at local colleges and universities. Positive recruitment efforts are necessary to fully capitalize on these sources. HRM Officers should assume a leadership role in coordinating these efforts. Central Office staff officials who develop similar programs for specific positions pertinent to their functions will attempt to maintain the same alignment of local schools and field facilities. General instructions to field facilities concerning such separate programs will be coordinated with the Deputy Assistant Secretary for HRM[&LR] prior to issuance. Similarly, VA field facility officials participating in local, State, or regional college recruitment programs will, if feasible, do so in affiliation with the local schools.

(2) **Other Educational Institutions.** Appropriate efforts should be conducted at educational institutions below the bachelor's degree level. Junior colleges, trade and technical schools, and high schools may prove to be productive sources of candidates for specific local recruitment needs. To some extent, the value of these efforts must be judged in terms of long-range objectives attained through career orientation and motivation of students.

(3) **VA Employees.** One of the most productive recruitment sources for a field facility is its own employees. To capitalize on this source, responsible officials need to keep employees informed about VA recruitment needs. This may be accomplished by the use of e-mail and other electronic communication systems such as the internet and/or VA intranet (e.g., the VA Vacancy Database referred to in paragraph 4b(1)(b) of this chapter; conspicuous posting of local and VA-wide employment opportunities on employee bulletin boards; publicity in facility newsletters; and staff meeting announcements). For positions which are included in exclusively recognized units, facility management may consider seeking the assistance of the labor organization which holds exclusive recognition for that unit in the facility's recruiting effort. Employee assistance in recruitment can be encouraged by granting appropriate incentive awards, including cash awards, to those employees whose efforts result in the appointment of a candidate to a hard-to-fill position. (See VA Handbook 5017, Employee Recognition and Awards.)

(4) State Employment Services. Local offices of the various State employment services are equipped to give advice regarding labor market conditions, publicize position vacancies, and screen and refer applicants. Many of these offices are organized to provide recruitment assistance for professional occupations, as well as for skilled and unskilled workers.

(5) Outside Recruiting Assistance from Commercial Recruiting Firms and Non-profit Employment Services. Profit-making commercial recruiting firms and professionally sponsored non-profit employment services are legitimate sources in recruiting for hard-to-fill positions. The services are provided via written contract and typically include publicizing an employer's vacancies and referring resumes of any interested applicants who appear to meet the basic qualification requirements. See 5 CFR 300.401 – 300.408 and Appendix I-A for applicable regulatory and procedural requirements. Participation in professional associations' conventions and meetings, many of which feature on-site placement operations, also often pays recruitment dividends. In addition to these formal approaches, informal contacts with professional associations at the national, regional, State, and local levels are often productive. Line and staff officials can play an important role in recruitment activities of this type.

(6) Competing Organizations. Contacts with other Federal, State, county and municipal agencies and private institutions employing the same types of personnel as VA are sometimes productive not to recruit their staff but to invite referrals of personnel who may have declined their offers or are surplus to their staffing needs.

(7) Career Days. Career days, job fairs, and other similar events can serve as productive sources. Such events are sponsored by educational institutions, chambers of commerce, civic groups, and other organizations.

(8) [Pathways Programs for Students and Recent Graduates]. This source yields [employees] who tend to be more immediately productive as they are already familiar with the working environment of VA or another Federal agency [, as applicable]. (See 5 CFR 213.[3402] (a) and (b) and section C of chapter 2, this part.)

(9) Allied Health Training. This source includes VA-funded allied health trainees, such as those established in social work, dietetic and psychology disciplines.

(10) Normally Unemployed Persons. Workers in seasonal industries within the local area may be available for off-season work in VA. Also, the possibility may be explored of obtaining services from members of the local population who normally are not employed, such as students, homemakers, and retired persons. Appropriate consideration should be given to establishing part-time positions to capitalize on the skills and motivation of such individuals.

(11) State Licensing Bodies. State licensing organizations will often furnish names and addresses of newly licensed individuals who may consider employment with VA.

(12) Special Interest Groups. Community action groups, women's organizations, fraternal societies, welfare groups, rehabilitation organizations concerned with training and placement of persons with disabilities, and similar organizations will often provide placement assistance.

(13) **Organizations Representing Minorities or Applicants With Disabling Conditions**

(a) **Minority Applicants.** A program to recruit minority applicants should include ongoing relationships with historically black colleges and universities, the Hispanic Association of Colleges and Universities, alumni associations, and other organizations involved in the placement of minority applicants [(HACU)].

(b) **Applicants With Disabling Conditions.** Efforts to recruit applicants with disabling conditions should include contacts with the local Equal Employment Opportunity specialists; rehabilitation agencies connected with State, county, municipal or private health care facilities; local, State or national offices of professional, veterans or other associations furthering employment opportunities for people with disabilities; and colleges, universities and other schools with candidates for employment in occupations found in VA.

(14) **Veterans Organizations and U.S. Military Services.** In addition to other sources listed, to reach the work-ready veteran population, including disabled veterans, information about vacancies may be communicated to Veterans Benefit[s] Administration vocational rehabilitation counselors, VA Vet Centers and veterans organizations. When feasible, recruitment contacts may also be made with military separation centers.

(15) **VA Placement Service.** [VHA's] Health Care Staff Development and Retention Office (HCSDRO/10A2D), 1555 Poydras Street, Suite 1971, New Orleans, LA 70112, maintains placement and referral services for [Title 38 full excepted service occupations and Title 38 hybrid occupations]. Those filing application forms with the VA Placement Service are referred, based on their geographic preference and specialty, to medical centers requesting lists of candidates. Applicants may obtain registration materials or additional information by calling the HCSDRO toll-free on 1-800-949-0002. VA facilities may request Placement Service referrals for a vacancy via the same toll-free number.

(16) **VA Central Office Program Officials.** When health care facilities have been unsuccessful in recruiting for vacancies, they may request informal advice and assistance from the appropriate Service Director or other appropriate program official on VA Central Office staff. Contacts should reference all pertinent information on the assignment involved. For physicians, the contact should identify the specialty, required qualifications, and intended assignment.

(17) **Supplemental Sources.** Potentially productive sources also include the public interest programs for such individuals as enrollees of Federally funded economic opportunity programs, people with disabilities, rehabilitated public offenders, and others.

(18) **VA Central Office Assistance.** The Office of Human Resources Management and Labor Relations (057) and the Office of Diversity Management and Equal Employment Opportunity (06) are available to assist in the development of recruitment programs.

5. AIDS TO RECRUITMENT

a. **Recruitment Incentives.** Several incentives are available for use in enhancing VA's ability to recruit, particularly for hard-to-fill positions. Plans for recruitment should capitalize on these provisions to the maximum extent necessary. Among these incentives are:

(1) **Higher Salary Rates**

(a) **Special Salary Rates for Recruitment and Retention.** Special salary rates and ranges are established under the provisions of 5 U.S.C. 5305 for certain occupations and grade levels for which there are significant recruitment or retention hindrances. (See 5 CFR 530.301 – 530.307, and VA Handbook 5007, Pay Administration.) Recruitment officials must be aware of these rates in order to conduct effective recruitment and be alert to situations which might justify requesting approval of these rates for other occupations on either a local or nationwide basis.

(b) **Above Minimum Rates for Candidates With Superior Qualifications.** Under the provisions of 5 U.S.C. 5333, certain persons may be appointed to positions at a salary rate above the minimum rate for the particular grade level on the basis of the candidate's superior qualifications. (See 5 CFR 531.203(b) and part II, chapter 3, paragraph 4 of VA Handbook 5007, Pay Administration.)

(c) Above Minimum Rates for Occupations Involving Direct Patient-Care Services. Under the provisions of 38 U.S.C. 7408(b), individual appointments above the minimum rate of the grade may be made in General Schedule and title 38 occupations which provide direct patient-care services or services incident to patient-care services. (See part II, chapter 3, paragraph 3 of VA Handbook 5007, Pay Administration.)

(2) **Travel and Transportation to First Post of Duty.** Authority exists for the payment of travel and transportation expenses for appointees to report to their first post of duty. (See 5 CFR, part 572 and MP-1, pt. II, ch. 2.) Where such expenses may be paid, this possibility should be communicated to prospective employees so that it will have the maximum favorable effect on recruitment.

NOTE: *Travel expenses that can be paid for new employees are limited in scope. Refer to MP-1, part II, chapter 2 before informing prospective employees. (There is a related service obligation agreement requirement.)*

(3) **Travel Expenses for Visits of College Officials.** VA field facilities may pay travel expenses of educational institution officials for the purposes of consulting with them on VA employment opportunities and on recruitment problems and techniques. VA officials should consider capitalizing on these provisions in instances where they sponsor or participate in career day programs, host open house events, or host student groups for tours of field facilities for long-range recruitment purposes. (See MP-1, pt. II, ch. 2.)

(4) **Travel Expenses for Pre-employment Interviews.** Payment of travel expenses for pre-employment interviews may be a useful and necessary approach for ascertaining an applicant's qualifications for a position. (See 5 CFR, part 572, and MP-1, pt. II, ch. 2.)

(5) **Recruitment Bonuses.** Authority exists for the payment of a recruitment bonus as a lump-sum payment of up to 25% of basic pay to an employee newly appointed to a position that would otherwise be difficult to fill. In return, the employee must sign an agreement to fulfill a period of service with VA. (See 5 CFR, part 575, subpart A and VA Handbook 5007.) Where such a bonus may be paid, this possibility should be communicated to prospective employees so that it will have the maximum favorable effect on recruitment.

(6) **Relocation Bonuses.** Authority exists for the payment of a relocation bonus as a lump-sum payment of up to 25% of basic pay to a current employee who must relocate to a position in a different commuting area that would otherwise be difficult to fill. In return, the employee must sign an agreement to fulfill a period of service with VA. (See 5 CFR, part 575, subpart B, and VA Handbook 5007.) Where such a bonus may be paid, this possibility should be communicated to prospective employees so that it will have the maximum favorable effect on recruitment.

NOTE: *Information on retention allowances can be found in 5 CFR, part 575, subpart C and VA Handbook 5007.*

b. **Recruitment Techniques**

(1) **Publicizing VA Recruitment Needs.** Publicizing VA recruitment needs will normally be initiated by HRM officials in collaboration with line and staff officials. When non-HRM officials take such initiative, their activities will have the prior concurrence of the HRM Officer for the field facility or of the Deputy Assistant Secretary for HRM in Central Office, as appropriate. To supplement the vacancy databases covered in paragraph 4b(1) of this chapter, there are several added means of making VA employment opportunities known to recruitment sources. Among these are:

(a) **Advertising**

1. VA regulation in 38 CFR 2.4 delegates authority to the following officials to order paid advertising for recruitment purposes: Administration Heads; Assistant Secretaries; Other Key Officials (the General Counsel, the Inspector General, the Chairman, Board of Veterans' Appeals, the Chairman, Board of Contract Appeals, and the Director, Office of Small and Disadvantaged Business Utilization); Deputy Assistant Secretaries; the Deputies of such Officials; the Deputy Assistant Secretary for HRM; Associate Deputy Assistant Secretary for HRM; and field facility directors.

2. Prior Central Office approval is not required in placing recruitment advertisements having a local or State-wide audience or for advertising regarding title 38 positions; and there are no restrictions on the type of advertising media used, e.g., newspapers, periodicals, radio, or television. Paid advertisements for positions in the competitive service having a nation-wide audience or area of publicity will require the prior approval of the Deputy Assistant Secretary for HRM (05). When a number of field facilities request approval to advertise nationwide for a particular position, consideration will be given to utilizing a larger VA-wide advertisement placed by the Office of HRM or other central office component in lieu of the smaller advertisements requested by the field facilities. All advertisements should be in good taste and appear in media that are appropriate in terms of the type and location of the positions involved.

3. A file for each advertisement will be established and maintained for 2 years. The file will include such pertinent information as a copy of the advertisement, media used, cost, and a concise assessment of the results achieved. This information will be evaluated to determine the effectiveness of advertisements and to plan any needed improvements in future advertising efforts. Upon request, this information will be forwarded through channels to the Deputy Assistant Secretary for HRM[&LR] (05) for review and analysis.

[ ]

[(b)] **Recruitment of Minorities and Women.** Recruitment activities will be designed to reach and attract job candidates from all segments of society. Where appropriate, these activities should be tailored to improve their effectiveness among members of special groups. The following techniques may be helpful in this respect:

1. Participation in recruitment activities and outreach contacts of program coordinators for employment of Hispanics, women, disabled veterans and other people with disabilities, and students/graduates of the {HACU] and of Historically Black Colleges and Universities, or other EEO representatives;

2. Spanish translation of job announcements, fact sheets, pamphlets, and other recruitment literature;

3. Use of the Spanish language to reach the Hispanic public via the various media (radio, television, newspapers, and magazines);

4. Pictures of Hispanic and other minority employees and women in recruitment literature and exhibits; and

5. Identification of specific positions in which the employment of bilingual, bicultural persons would enhance VA's responsiveness to the unique needs of a large segment of the population which it serves.

[(c)] **Recruitment Literature.** Recruitment literature developed by VA Central Office or by OPM is usually designed to support recruitment efforts on a VA-wide basis. This literature may be supplemented by additional material identified or developed by field facilities.

[(d)] **Recruitment Exhibits.** Several professionally prepared recruitment exhibits are available from Central Office for use by field facilities on special occasions. Requests for these exhibits should be made through channels to the [Director, Office of Administration] or [ ] for some [health care] occupation portable exhibits, to the Under Secretary for Health, HCSDRO (10A2D). These exhibits may be supplemented by ones developed locally.

[(e)] **VA Fact Sheets.** These are descriptive summaries of VA field facilities, their mission and special programs, and the community and surrounding areas, which are used to inform and interest prospective applicants in employment. Photographs are used to show facility features and activities, as well as historical and recreational items of interest. Fact Sheets are developed by the field facility with the advice and assistance of the Deputy Assistant Secretary for HRM&LR (059).

[(f)] **Open House Activities.** An effective means of publicizing VA recruitment needs is through local open house activities. Such activities are usually held in conjunction with Veterans Day, National Hospital Week, or similar observances; and they present excellent opportunities to publicize local, as well as VA-wide employment possibilities. Presentation of exhibits, distribution of recruitment literature, showing of film and similar recruitment messages can often be used effectively during activities of this type.

[(g)] **Promotional Items of Nominal Value in Recruiting for VHA Positions.** Under 38 U.S.C. 7423(f), VA organizations and facilities may expend appropriated funds to purchase items of nominal value for use in recruiting individuals for employment in positions filled under 38 U.S.C. chapter 74 in the Veterans Health Administration (VHA). Promotional item use will be limited to recruitment for occupation(s) considered mission critical based on the need to interest qualified applicants given current and anticipated job market conditions. (The companion Finance policy is in MP-4, pt. V, chap. 3, paragraph 3A.13.1a, dated June 18, 1993.)

1. An item whose total cost (including any taxes and related fees) amounts to no more than $5.00 per individual recipient is considered to be of nominal value. Note that suitable items are usually available for a small fraction of the $5.00 maximum. Purchase requests for such items will document the justification for the expenditure level in keeping with the criticality of the recruitment need.

2. The item's purpose of serving as a recruitment aid must be evident on the item itself. To serve as a recruitment aid, the item will include a permanent display of:

a. The Department's VA logo and/or the name of either the Department of Veterans Affairs or the VHA facility purchasing the item.

b. A telephone number and/or address (e-mail, mailing, and/or [W]eb site) to provide potential applicants with a VA point of contact for recruitment follow-up.

c. Space permitting, a recruitment slogan or message.

3. The entire item's design is to be professional and tasteful, and to reflect favorably on VA as a preferred employer.

(2) **Recruitment on an Individual Basis.** The approach to be used in recruiting for a specific position should be tailored to fit local needs and circumstances existing at the time. There are some fundamental principles, however, that apply across-the-board in all recruitment activities. Some of these principles are discussed below.

(a) **Communicating With Prospects.** One of the most important stages in the recruitment process is the initial contact with a potential applicant. Whether by telephone, written communication, or otherwise, the initial contact represents the point in the recruitment process at which an individual either loses interest in VA employment or becomes an interested candidate.

(b) **Interviews.** An equally important stage in the recruitment process is the employment interview, whether at the initial contact stage or at the selection consideration stage. Officials with responsibilities in this area should be thoroughly trained in the techniques of conducting successful interviews. In tight labor market situations, consideration should be given to publicizing and conducting interviews after normal working hours and during weekends, either on-site or at locations more convenient to prospective candidates. Other field facilities located closer to an applicant's home should be utilized to the maximum extent possible to conduct personal interviews.

(c) **Administrative Requirements.** Application procedures and subsequent processing requirements should be accomplished with the prospect's convenience in mind at all times. The objective should be to make it as easy as possible for a prospect to make application, be interviewed, have a physical examination conducted if required, and be appointed.

6. EVALUATING THE RECRUITMENT PROGRAM. The effectiveness of the recruitment program must be reviewed and evaluated on a continuous basis. The objectives and evaluation standards and procedures outlined in VA Handbook 5001 will be followed.

CHAPTER 2. SPECIAL RECRUITMENT PROGRAMS

SECTION A. VETERANS EMPLOYMENT PROGRAMS

1. EMPLOYMENT OF DISABLED VETERANS, VIETNAM ERA VETERANS AND OTHER QUALIFIED VETERANS. Field facilities are to make on-going efforts to employ and advance disabled veterans and Vietnam era veterans. All facilities should use these key techniques:

a. Demonstrated support from each facility's top management.

b. Productive recruitment outreach activities, including liaison with VA Counseling Psychologists and/or Vocational Rehabilitation Counselors, State employment service offices, State rehabilitation agencies, OPM service[s office]s, veterans organization representatives, etc.

c. Effective use of available special appointing and training authorities.

d. Full implementation of the field facility affirmative action program plans for employment of disabled veterans and other persons with disabilities.

e. Assurance that these veterans have full access along with other employees to promotion, training, and advancement opportunities.

f. Periodic evaluation of facility progress. A report which should provide some basis for these internal reviews is the quarterly statistical Disabled Veteran and Vietnam Era Veteran Employment Report (computer-generated COIN PAI 204 Report).

2. SPECIAL APPOINTING AND TRAINING AUTHORITIES

a. **Authorities for Appointment and Training of Veterans.** There are a number of title 5 authorities specifically covering appointment and training of veterans and/or preference eligibles. These authorities cover: appointment under the amended Veterans Employment Opportunities Act (VEOA); Veterans [Recruitment] Appointments (VRAs); time-limited appointment of VRA eligibles; noncompetitive appointment of disabled veterans with a service-connected disability of 30 percent or more; unpaid training/work experience and possible subsequent noncompetitive appointment of service-disabled veterans (see subparagraph b [ ]); and appointment of Congressional Medal of Honor recipients. Additional details on these authorities are located in part II, chapter 2 of this handbook.

b. **Unpaid Training/Work Experience for Service-Disabled Veterans.** VA policy is to promote maximum use of authority granted by 38 U.S.C., chapter 31 to provide unpaid training for certain service-disabled veterans and by 5 CFR 3.1 and 315.604 to noncompetitively appoint such veterans to continuing positions and then convert them to career-conditional (or career). Facility heads will assess areas appropriate for chapter 31 training and advise the rehabilitation and employments staffs of servicing VA regional offices of these opportunities so that trainees may be referred.

(1) **Utilization and Training.** There are two means through which Federal agencies may provide on-the-job training for disabled Veterans under Chapter 31 authority—as paid employees via a regular appointment and as Chapter 31 unpaid trainees. Chapter 31 unpaid trainees will not replace or be used in lieu of regular employees for whom funds and ceiling have been provided. This training is to be provided on a host-enrollee basis for which an agreement, VA Form 22-1904, Agreement to Train On-the-Job Disabled Veterans, is required. WOC (without compensation) appointments are inappropriate.

(2) [**Noncompetitive] Appointments.** Special emphasis will be directed toward full utilization of the 5 CFR 315.604 [noncompetitive] appointment authority to enhance employment opportunities for disabled Veterans who complete training. Every effort will be made to place Chapter 31 unpaid trainees who successfully complete training. This should include close coordination with Veterans Benefits Administration (VBA) rehabilitation and education staffs, referral for employment consideration to other VA facilities, and referral to other Federal agencies if employment opportunities are not available within VA.

c. **General.** Authorities specifically covering appointment and training of Veterans are referred to above. Numerous other hiring or training authorities, while not specifically aimed at the Veteran population, also often prove useful for those Veterans who meet the applicable eligibility requirements. Examples include: the various authorities for appointing persons with disabilities (see 5 CFR, part 213 and part II, chapter 2, section C, this handbook); the time-limited appointment authorities (see 5 CFR, part 316), and part II, chapter 2, section B, this handbook); and such programs as [Pathways Programs] (see 5 CFR, part 213 and part II, chapter 2, section C, this handbook) and VA Alcohol and Drug Abuse Rehabilitation Counseling (see part II, chapter 2, section C, this handbook). See also 5 CFR, part 330, subpart D for information on positions restricted to preference eligibles (custodian; guard; messenger; and elevator operator). In addition, 38 U.S.C. 4214(g) authorizes the Secretary to accord preference for employment in VA of qualified Vietnam era Veterans and certain disabled Veterans as Veterans benefits and psychological readjustment counselors, Veterans claims examiners, outreach personnel, and Veterans' representatives at educational institutions. See also, paragraph 5 of part II, chapter 2.

3. EMPLOYMENT OF VETERANS WITH MEDICAL MILITARY OCCUPATION SPECIALTIES

a. **Statutory Basis.** Section 201 of the Veterans Health Care Expansion Act of 1973 (Public Law 93-82) amended section 7302 of title 38, United States Code, which now requires VA to ". . .carry out a major program for the recruitment, training, and employment of Veterans with medical military occupation specialties as (A) physician assistants; (B) expanded-function dental auxiliaries; and (C) other medical technicians . . . [including] measures to advise all such qualified Veterans . . . and members of the armed forces about to be discharged or released from active duty . . . of employment opportunities with the Veterans Health Administration . . ." The phrase "other medical technicians" includes all the positions associated with the direct [healthcare] of patients, as well as research and other medical related professional, technical, and assistant or aid type career fields.

b. **Employment Information.** Recruiting materials for specific occupations are sent to U.S. military discharge centers as part of the initial distribution process, and are also available upon request.

c. **Field Facility Actions**

(1) VA HRM offices and veterans assistance offices will use [VA recruitment information] with veterans having medical military occupation specialties. Veterans who request information as a result of computer generated letters (FL 20-680) will be provided the [ ] appropriate recruitment literature.

(2) When outside recruitment is appropriate, the recruitment process will include notification of the vacancy, with a summary of the qualifications needed, to be furnished to the appropriate VA Vet Center and State Employment Service office. Positive efforts will be made to employ applicants referred by these offices.

(3) VA HRM officers will review the monthly Specialty Discharge Listing furnished by the VA Automation Center, Austin, Texas. Those veterans identified as possible applicants for present and anticipated vacancies will be contacted promptly to explore their interests in VA employment.

(4) Chiefs, HRM at VHA facilities will maintain liaison with appropriate offices of military installations to the extent feasible in meeting the objectives of the law.

d. **Reports.** Periodic reports are generated through the PAID system to provide information to Central Office officials on VA progress in employing veterans with medical military occupation specialties. To identify such employees for reporting purposes through the PAID system, the Special Identifier Code "1" for Medical MOS must be entered on OLDE screens A120/A220, as indicated on page 6D-141 of MP-6, Part V, Supplement No. 1.5.

SECTION B. SELECTIVE PLACEMENT PROGRAMS

1. AFFIRMATIVE EMPLOYMENT PROGRAM PLANS

[a.] Affirmative employment program plans for people with disabilities and disabled Veterans are required by section 501 of the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974. These plans are developed in accordance with instructions issued by the Equal Employment Opportunity Commission (EEOC) and the Office of Personnel Management. Internal VA instructions for plan preparation and submission are issued by the Office of Diversity [and Inclusion.

b. VA committed to establishing Selective Placement Coordinators at all VA field facilities in its FY2006 EEO Report/FY2007 EEO Plan submitted to the EEOC under EEO Management Directive 715. Specific roles and responsibilities of Selective Placement Coordinators are outline in VA Directive 5975, "Diversity Management and Equal Employment Opportunity," dated March 6, 2007.]

2. PLACEMENT REQUIREMENTS

a. **General**

[(1)] In many instances, a specific disability bears no relationship to the actual abilities, skills, and knowledges required for successful performance of a specific job. It is essential[,] therefore, that each appointing officer and selecting official consider the individual capabilities of each disabled Veteran or other person with [a] disability[ ] in relation to the actual physical [and other] requirements of the position. Particular attention will be given to the degree to which the applicant or employee with [a disability can perform the essential job functions of the position with appropriate reasonable accommodation.] In addition, sound job redesign techniques should be employed to facilitate the placement[,] retention[, and advancement] of [ ] qualified people with disabilities. Reasonable accommodation [ ] will often enable people with disabilities to function effectively in positions for which they otherwise might appear to be unsuitable.

[(2)] Appointing officers and selecting officials should [familiarize themselves with diversity management and EEO policies contained in VA Directive 5975 maintained on the Office of Diversity and Inclusion Web site. Additionally, they should] explore the full range of placement flexibilities available in efforts to make effective placements of disabled Veterans and people with disabilities. This should include seeking professional advice and assistance from appropriate resources, including [Selective Placement Coordinators and other VA experts, such as Human Resources staff], when necessary in making sound placement decisions. In particular,[and as needed,] the guidance of counseling and rehabilitation specialists at VA regional offices and medical care facilities should be fully considered.

[(3)] People with [intellectual disabilities, severe physical disabilities, and psychiatric disabilities] appointed under 5 CFR 213.3102(u) in Schedule A may be afforded concurrent consideration with competitive service employees under merit promotion procedures. Such an approach may significantly improve upward progression opportunities for employees with [intellectual disabilities, severe physical disabilities, and psychiatric disabilities]. (See paragraph 12 of part III, chapter 3, this handbook.)

b. **Physical Examinations.** Physical standards for title 5 positions are covered in part II, chapter 2, section D, this handbook. For title 38 positions, see part II, chapter 3, section A, this handbook. [Pre-placement physical examinations to determine fitness for employment are required for all full-time, part-time, and intermittent employees in designated positions (see VA Handbook 5019, Occupational Health Services). Fitness determinations for initial assignments and position changes to designated positions will be documented using Optional Form 178 (OF 178), Certificate of Medical Examination.] Only those functional requirements and environmental factors applicable to the specific job are to be [listed on the OF 178]. The Occupational Health Physician/Occupational Health Care Provider (VA Handbook 5019, Occupational Health Services) will review the health qualification findings [and recommend] employment where the abilities of the individual are predictive of successful performance in the position without hazard to the individual or others.

[c. **Proof of Disability.** Proof of an applicant's disability is required prior to making an appointment under Schedule A. Acceptable proof of an individual's intellectual disability, severe physical disability, or psychiatric disability includes records, statements, or other appropriate information issued from a licensed medical professional (e.g., a physician or other medical professional duly certified by a State, the District of Columbia, or a U.S. territory, to practice medicine); a licensed vocational rehabilitation specialist (*i.e.*, State or private); or any Federal agency, State agency, or an agency of the District of Columbia or a U.S. territory that issues or provides disability benefits.]

[d.] **Written Tests.** Where written tests are required by the Office of Personnel Management or approved for use by the Deputy Assistant Secretary for HRM[(05)] appropriate arrangements will be made for applicants with physical impairments to demonstrate pertinent knowledges, skills, and abilities by testing methods adapted to their special needs and circumstances. This includes those who are blind, deaf, and all others who may have difficulties in taking an examination in the normal manner.

[e.] **Placement Evaluations.** Special attention will be given to the 90-day placement follow-up and the probationary (trial) period certification as one means of ensuring that [an] employee with [a] disability[ ] is properly placed and has full opportunity to succeed. Should another assignment be indicated or if termination cannot be justifiably avoided, appropriate personnel action will be taken. (Title 5 references: In this handbook, part II, chapter 2, see requirements in section A, paragraph 10 on placement follow-up, and in section C, paragraph 5h on trial period. In VA Handbook 5021, Employee/Management Relations, see part III, chapter 2 for separations during trial period.)

3. SPECIAL TITLE 5 APPOINTING AUTHORITIES. In addition to the special appointing authorities specifically for disabled Veterans listed in paragraph 2, section A, this chapter, there are a number of title 5 excepted appointment authorities which may be used to facilitate employment of either disabled Veterans or [ ] persons with disabilities. These authorities cover appointment of: [people with intellectual disabilities;] people with severe physical disabilities; people with psychiatric disabilities; [ ] readers for employees who are blind; interpreters for employees who are deaf; and personal assistants for employees with disabilities. Details on these authorities are located in part II, chapter 2 of this handbook.

4. [DISABILITY] SELF-IDENTIFICATION PROCEDURE. HRM Officers will ensure that new appointees have the opportunity to [privately] self-identify any [disability] they may have by completing an SF 256, Self-Identification of [Disability, during new employee orientation. Completion of an SF 256 is voluntary for all employees except those appointed under Schedule A, 5 CFR 213.3102(u). Employees appointed under 5 CFR 213.3102(u) will be requested to identify their disability staus and, if they decline to do so, their disability code will be obtained from medical documentation used to support their appointment]. Since an employee's [disability] status may change, facilities will annually encourage employees to keep their [disability] identification code current [electronically by accessing https://secure.vssc.med.va.gov/SF256 or manually] by visiting [their local] HRM office [ ]. Appointees and employees alike should be assured that the privacy of their [disability] identification will be preserved. [Disability data codes do] not appear on [ ] personnel records [within an employee's Official Personnel Folder.] VA's affirmative employment program for people with disabilities [uses the resulting data only for statistical reports to reflect the level of program support and effectiveness].

SECTION C. [STUDENT EMPLOYMENT AND HEALTHCARE ADMINISTRATIVE RESIDENTS, INTERNS AND TRAINEES]

1. POLICY

a. All VA establishments are encouraged to participate in the employment of students under the title 5 [Pathways Programs] and under title 38 authorities, especially when such participation will contribute to VA-wide employment objectives or facilitate recruitment for shortage category positions at individual field facilities. Facility use of such student employment features as the title 5 [Pathways Internship Program], which allows [noncompetitive] conversion to competitive positions, is an effective means of furthering equal employment opportunity objectives. Particular attention will be given to providing opportunities for Vietnam era Veterans, disabled Veterans, and students with disabilities. Details on student employment authorities are in part II of this handbook in chapter 2 for title 5 and chapter 3 for title 38.

b. Healthcare facilities will take full advantage of the staffing flexibility offered by VA training programs in healthcare administration by appointing trainees in such programs under the [Pathways Internship Program]. Upon successful completion of the Internship Program, these trainees may be converted to [term,] career-conditional or career appointments, as appropriate.

2. REFERENCES

a. [5 CFR 213.3402(a)]

b. 38 U.S.C. 7405(a)(1)(D)

c. [5 CFR, part 362]

CHAPTER 3. GENERAL EMPLOYMENT

SECTION A. APPLICATION FORMS

1. TITLE 5 EMPLOYMENT APPLICATIONS

a. **General**

(1) Individuals not currently employed by VA may choose the written format for presenting their qualification and general eligibility data when applying for VA title 5 positions. Applicants will provide information needed to make suitability determinations separately on a form for that purpose. For positions whose qualification standard requires a credential (i.e., certification, licensure or registration (CLR)), the Federal Government-wide suitability questions may be supplemented by additional VA questions regarding required credential(s). [For USA Staffing recruitments, applicants should submit a résumé. Applicants are responsible for providing the information needed to determine their qualifications for the vacancy. This includes information such as: the vacancy announcement number, position title and grade; how to contact the applicant; descriptions of jobs held, including the name and address of employer, job title, description of duties, beginning and ending date (month/year) of employment, average hours worked per week, and supervisor's name and phone number; education, including name and location of college, dates attended, and type and date of any degree earned; and other information, such as possession of licenses, certificates, etc. Descriptions of duties must be sufficiently detailed to document the applicant's level of experience. Although not mandatory, if the position is (was) with the Federal government (military or civilian), applicants should state the series and grade or pay grade (rank) and the date of last promotion.]

(2) To facilitate compliance with Veterans Health Administration (VHA) credentialing and privileging and other similar requirements, applicants for CLR occupations and other positions in VHA for which clinical privileges may be granted, will be required to respond to related supplementary questions.

(3) VA employees will apply for VA positions using specified application forms.

b. **Employment Applications From Outside Applicants**

(1) **Employment Applications.** The Standard Form 171, Application for Federal Employment, [and the Optional Form 612 , Optional Application for Federal Employment, no longer serve as Federal Government-wide standard employment application forms]. Applicants from outside VA may provide their qualifications and general eligibility background data for title 5 VA positions in a written format of their choosing. Among the acceptable formats are resumes and existing copies of the expired SF 171 [and OF 612. For USA Staffing recruitments, a résumé is preferred. Applicants for USA Staffing recruitments apply online or fax their applications to the USA Staffing Processing Center. Exceptions may be provided for applicants with disabilities and applicants for title 38 and hybrid-title 38 vacancies, when applying outside the system.]

(2) **Federal Employment Declarations.** In developing new application procedures for Federal employment, the Office of Personnel Management has separated qualification information from

suitability data. Suitability and various other questions previously on the SF 171 are now contained on the Optional Form 306 [(OF 306)], Declaration for Federal Employment. In VA, the following time frames have been established for an applicant's submission of the OF 306:

(a) Applicants for the following occupations/positions will submit a completed OF 306 with their initial application, except as provided in paragraph 1b(2)(c) below. (An occupation/position may be covered in multiple categories.)

1. All current Testing Designated Positions in VA (see VA Handbook 5021).

2. All positions whose qualification standard requires a credential, i.e., certification, licensure, or registration (CLR). (See also paragraph 1b(2)(d).) Current CLR positions as of this handbook's issuance are:

Chaplain, GS-060	Diagnostic Radiologic Technician/Technologist, GS-647
Psychologist, GS-180 (VHA only)	Therapeutic Radiologic Technician/Technologist, GS-648
Social Worker, GS-185	Dental Assistant, GS-681
Nuclear Medicine Technologist, GS-601	Dental Hygienist, GS-682
Dietitian and Nutritionist, GS-630	General Attorney, GS-905
Motor Vehicle Operator, WG –5703	Air Conditioning Equipment Mechanic, WG -5306

3. Veterans Health Administration (VHA) positions for which clinical privileges may be granted consistent with medical facility by-laws, such as Audiologist/Speech Pathologist, GS-665, and Orthotist/ Prosthetist, GS-667. (See also paragraph 1b(2)(d).)

4. All positions filled by VA delegated examining units.

5. Additional occupations/positions which local officials determine control significant VA funds and/or materiel resources, e.g., Accountant, GS-510; Agent Cashier, GS-530; and positions in other General Schedule series such as 1101, 1102, and 2001.

6. Positions determined to warrant initial receipt of the OF 306 for early review at the documented discretion of a Central Office Administration/Staff Office Head or designee, or the local facility Director or designee, for those positions within their respective jurisdictions.

(b) Other outside applicants are to submit a completed OF 306 in time to allow for review of the OF 306 and final eligibility determinations prior to referral of a list of candidates to the selecting official.

(c) Exception to early OF 306 Declaration submission as provided in paragraph 1b(2)(a): At the discretion of a Central Office administration/staff office head or designee, or the facility Director or designee, for those positions within their respective jurisdictions, the OF 306 submission can be required from all applicants for a given position vacancy or occupation **subsequent** to the initial application, if determined beneficial to attracting sufficient applicants and provided the requirements of paragraph 1b(2)(b) are met.

(d) A supplemental credentials questionnaire will be submitted with the OF 306 by applicants for CLR positions in VHA and any other VHA positions for which clinical privileges may be granted.

c. **Employment Applications From Internal Applicants**

(1) **Employment Applications.** [The SF 171 and the OF 612 no longer serve as Federal Government-wide standard employment application forms. Instead of using these application forms, applicants from outside VA may provide their qualifications and general eligibility background data for title 5 VA positions in a written format of their choosing] to the VA Human Resources Management Office responsible for staffing the specific vacancy. [Among the acceptable formats are resumes and

existing copies of the expired SF 171 and OF 612. For USA Staffing recruitments, a résumé is preferred. Applicants for USA Staffing recruitments apply online or fax their applications to the USA Staffing Processing Center. Exceptions may be provided for applicants with disabilities and applicants for title 38 and hybrid-title 38 vacancies, when applying outside the system.] This policy is modified by the following exceptions:

(a) An SF 171 [or OF 612] may [also be submitted] if the employee so chooses.

(b) VAF 4078, Application for Promotion or Reassignment, may be substituted by local facility employees when acceptable at that VA facility. [This form is not required for USA Staffing recruitments.]

(c) Until national union contracts citing the SF 171 are amended, those contract provisions continue in effect for positions of the appropriate bargaining unit(s).

(2) **Federal Employment Declarations.** Upon applying for initial entry into positions covered by paragraph 2, employees will be required to submit the OF 306 and the supplemental VHA credentials questionnaire, as applicable.

d. **References**

(1) ***Federal Register*** Vol. 59, No. 241, dated December 16, 1994.

(2) 5 CFR, chapter 1, parts 110, 210-4, 250, 293-4, 297, and all 300's.

(3) 5 U.S.C. 1104, 1302, 3301, 3304, 3320, 3361, 3393, 3394 and 8716.

(4) 38 U.S.C., chapters 73 and 74.

2. TITLE 38 EMPLOYMENT APPLICATIONS

a. **Application Forms.** Candidates seeking employment under 38 U.S.C., chapter 73 or 74, must complete one of the following application forms:

(1) VA Form 10-2850, Application for Physicians, Dentists, Podiatrists, Optometrists, and Chiropractors;

(2) VA Form 10-2850a, Application for Nurses and Nurse Anesthetists;

(3) VA Form 10-2850b, Application for Residency;

(4) VA Form 10-2850c, Application for Associated Health Occupations;

(5) Standard Form 171 and 171A, Application for Federal Employment, or Optional Form 612, Optional Application for Federal Employment, and Optional Form 306, Declaration for Federal Employment. These forms are to be used by applicants for whom [ ] the above forms [are not] appropriate; primarily, this includes applicants for medical support or nonmedical consultant appointments. [The SF 171, 171A, and OF 612 forms are not required for USA Staffing recruitments. In USA Staffing, a résumé is preferred. Applicants for USA Staffing recruitments apply online or fax their applications to the USA Staffing Processing Center. However, exceptions may be provided for applicants with disabilities and applicants for title 38 and hybrid-title 38 vacancies, when applying outside the system.]

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(5) **[Office of Personnel Management Optional and Standard Application Forms.** The Standard Form 171 and 171A, Application for Federal Employment, or Optional Form 612, Optional Application for Federal Employment are obsolete and not required for USA Staffing recruitments.] In USA Staffing, a résumé is preferred. Applicants for USA Staffing recruitments apply online or fax their applications to the USA Staffing Processing Center. However, [servicing HR offices may provide] exceptions for applicants with disabilities and applicants for title 38 and hybrid title 38 vacancies, when applying outside the system.

b. **Application Review.** The HR Officer or designee will thoroughly review each employment application [package] to assure that [all required documents are submitted], questions are answered, [signatures are complete], and that additional information is provided where required. Applicants [must] account for, [and document] any gaps in their work history. [Applicants must document this information in] the employment application [package], along with reference checks and other information obtained in the credentialing process, [for consideration] in the selection process. [HR staff cannot process incomplete applications and must notify applicants that they will not be considered for employment in such instances. HR staff will review application [packages] for compliance with administrative and regulatory requirements and provide notice to applicants who do not meet appointment requirements.

3. [PRE-EMPLOYMENT REFERENCE CHECKS.

a. **General.** Pre-employment reference checks are an assessment method used in the hiring and selection process to verify the information provided by an internal or external candidate (generally on a résumé/application and during an interview); gain additional knowledge regarding a candidate's abilities; and assist a hiring official with making a final selection for a position. Servicing HR offices and hiring officials demonstrate compliance with this policy by using the VA application and onboarding system of record, USA Staffing.

b. **Applicability.** Pre-employment reference checks are applicable to all positions in VA to include all competitive and excepted service positions appointed under title 5 in grades GS-01 through GS-15 (wage grade or equivalent) and hybrid title 38 and full title 38 excepted service positions appointed under 38 U.S.C. Chapter 74.

c. **Exceptions.** The following are exceptions and do not require pre-employment reference checks:

(1) Internal candidates who are members of a hiring official's work unit. A work unit is a group of employees organizationally aligned under a hiring official (that is, line official or supervisor).

(2) Positions and candidates for positions that have an approved exception from this policy in subparagraph g of this paragraph.

d. **Conducting Reference Checks.** A hiring official, or an appropriate designee, must conduct reference checks prior to HR staff extending the tentative offer of employment. At a minimum, reference checks must include contacting at least two appropriate references (current/former supervisors or approved alternatives described in subparagraph e of this section) for all placement actions. If available, references from current or former supervisors are required. Current or former supervisors have observed a candidate's work products, performance, aptitude, conduct, and so forth. Prior to contacting a supervisory reference, a hiring official must comply with the following:

(1) In cases where a candidate has not provided oral or written consent (or similar documentation) and the hiring official is aware of a candidate's current or former supervisors, the hiring official must obtain consent from a candidate prior to contacting these references. The hiring official must validate (orally and/or in writing) a candidate's consent/permission to contact a reference. If a candidate does not grant permission to contact the reference, and a hiring official has obtained required, acceptable reference checks (see subparagraphs d and e), no further action is required toward securing reference checks from current or former supervisors to extend a tentative offer.

NOTE: Permission/release of information is not required to obtain references on internal candidates or internal selectees. All current, internal candidates/selectees are presumed to have an OF-306, Declaration for Federal Employment, located in their electronic Official Personnel Folder which satisfies permission requirements. (See the Office of Personnel Management Operating Manual, The Guide to Personnel Recordkeeping).

(2) While conducting reference checks, it is possible to receive an unsolicited reference check. If this occurs, a hiring official must obtain permission from the candidate and then request the source of the unsolicited reference check provide the information in writing and in good faith for it to be considered. If the reference check is negative or questionable, the hiring official must alert the appropriate servicing HR office or legal counsel as outlined in subparagraph f(1)(g) below for further consultation.

NOTE: In cases where a current/former supervisor or employer requests a release of information prior to providing a reference, a hiring official must provide the release of information signed by the candidate to that supervisor or employer if they have obtained consent from the candidate. Under no circumstance will the hiring official or servicing HR office provide the OF-306 form as the release of information.

(3) If a candidate's résumé/application indicate they granted permission to contact the references listed, no further action is necessary, and a hiring official may proceed with conducting reference checks.

(4) If a candidate's résumé/application indicates they did not grant permission or do not specify whether a potential reference may be contacted, a hiring official must contact a candidate to obtain their permission prior to conducting reference checks, and advise that failure to obtain references may impact the selection process. The hiring official may obtain this information either in writing (memo or email), or orally (for example, during the interview). If obtained orally, the hiring official must document the permission via report of contact and include it in the recruitment case file.

(5) If a candidate does not grant permission to conduct reference checks with current/former supervisors or a hiring official is unable to reach two supervisory references, and the candidate is unable to provide any alternative references as described in paragraph e below, a hiring official must document and communicate the lack of acceptable references to the HR staff. A hiring official must consider the lack of acceptable references as a factor during the selection process if they were unable to verify work products, performance, aptitude, conduct, and so forth. A hiring official must cease selection consideration of that candidate.

(6) A candidate may request to delay the reference check for their current supervisor. In this case, the hiring official can request an alternative reference (see subparagraph e) for the HR staff to proceed with the tentative offer. When the current supervisor is not contacted for a reference check prior to the tentative offer, the hiring official must notify the candidate and conduct this supervisory reference check prior to HR staff extending a final offer of employment. The hiring official must submit this reference check to the HR staff for inclusion in the recruitment case file.

e. **Appropriate Alternatives to Supervisory References or Additional References.** If two supervisory references are not available, or if a hiring official desires additional perspectives, they may ask the candidate for alternate or additional references. References should come from professional sources, such as co-workers, professors, or other individuals, who have directly observed the candidate's work products, performance, aptitude, conduct, etc. Acceptable alternatives to supervisory references or additional references are as follows:

(1) If it is not possible for a hiring official to obtain at least two supervisory references, per paragraph d above, a hiring official may substitute one co-worker or another employment-based source who was able to directly observe the candidate and can provide information about the candidate's professional work products, performance, aptitude, conduct, and so forth.

(2) A hiring official may substitute academic sources, such as professors, teachers or instructors, as supervisory references for a candidate who has only academic history and/or limited or no employment history.

(3) A hiring official may substitute using personal references such as friends, relatives, and so forth as a last resort, and only if the candidate has no employment or academic references available. The personal references should be able to attest to a candidate's work skills (for example, general and technical) and their work habits, including the behaviors needed for the position.

f. **Reference Check Documentation.** A hiring official does not have to use a specific form or format when conducting reference checks, if as long as it provides an additional assessment of the candidate's past work product, performance, aptitude, conduct, competencies, and general or technical skills and behaviors.

(1) When conducting the reference check, a hiring official must consider the following:

(a) Describe the position and duties that the candidate will perform to the reference.

(b) Ask the same questions of all references for all candidates under consideration.

(c) Verify information from the candidate's résumé and interview, as appropriate.

(d) Clarify any conflicting information received from references with the candidate.

(e) Avoid asking questions or validating criteria that may reveal protected personal information or are illegal, discriminatory, and/or biased in nature.

(f) Evaluate all information obtained from references and consider that information in the selection process.

(g) Consult with HR staff or the appropriate legal counsel, if a negative or questionable reference is provided on a candidate prior to proceeding with selection of the candidate.

(2) HR staff are responsible for ensuring reference check documentation is accurate and appropriately uploaded into the recruitment case file on those selectees requiring a reference check. HR staff must ensure reference

check documents are uploaded into USA Staffing and retain them in the recruitment case file. Hiring officials must submit the following on those selectees requiring a reference check to the servicing HR office that includes:

(a) Written documentation confirming completed reference checks to HR staff along with the name(s) of the selected candidate(s).

(b) All completed reference check documentation to HR staff, including documentation for selected and non-selected candidates. **NOTE:** This means that a hiring official must submit documentation for non-selected candidates that received a reference check, but were not eventually selected to the servicing HR office.

g. **Exception.** Pre-employment reference checks are required; however, the Office of the Chief Human Capital Officer (05) may approve exceptions to the requirements of this policy on a case-by-case basis. Requests for exceptions must be reasonable and demonstrate compliance with the intent of this policy. Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries or their designees must submit exception requests for approval by the Chief Human Capital Officer (05) through the Director, Recruitment and Placement Policy Service (059).]

SECTION B. PART-TIME CAREER EMPLOYMENT PROGRAM

1. GENERAL. The Federal Employees Part-Time Career Employment Act of 1978 (PL 95-437, approved October 10, 1978) requires each agency to establish by regulation a program of part-time career employment. The Act expanded on the President's memorandum of September 16, 1977, which called for an increase of permanent part-time employment opportunities in the Federal Government. 38 CFR 1.891 through 1.897 form the basis for this program and provide the general guidelines for operating a part-time career program in VA.

2. PROGRAM DESCRIPTION

a. The Act defines part-time career employment as permanent employment with a scheduled tour of duty of between 16 and 32 hours per week. The Office of Personnel Management (OPM) regulations further define this type of part-time employment as that performed by individuals in tenure groups I and II. Thus, this program covers employees who have permanent-type appointments, in either title 5 competitive or excepted service, whose regularly scheduled tour of duty is between 16 and 32 hours per week.

b. The Act permits each agency head to make certain exceptions as necessary to carry out the agency's mission. OPM has determined that this exception permits an agency to employ individuals for 1 to 15 hours per week, but does not permit such employment in excess of 32 hours per week.

c. OPM regulations prohibit an agency from employing someone under a permanent-type appointment on a regularly scheduled tour of more than 32 hours per week. Consequently, anyone employed on a part-time basis under title 5 authority for more than 32 hours per week can be given only a nonpermanent, time-limited appointment (such as temporary, NTE 1 year), or be utilized on an intermittent basis.

d. A part-time employee on the rolls prior to April 8, 1979, may continue to work the same regular tour of duty, regardless of length. A part-time employee on the rolls prior to April 8, 1979, may also have a tour of duty adjusted, including adjustments to tours in excess of 32 hours per week. On or after April 8, 1979, however, no one can be appointed under title 5 authority on a permanent part-time basis, nor can an employee change from full to part-time, if, in either case, the employee's tour of duty will exceed 32 hours per week.

e. Individuals employed under the authority of 38 U.S.C., ch. 74 are not subject to the 32 hour per week OPM regulatory limitation described above. According to the Veterans Canteen Service Policy Letter #94-25 (HR) regarding VCS-1, Pt. III, Chapter 522.02, paragraph 03, an intermittent appointment is to be used for 38 U.S.C., ch. 78 positions of less than 16 hours per week.

f. The Act did not change appointment authorities or procedures for filling part-time positions. Except as otherwise restricted by the provisions of this chapter, existing appointment and placement policies and procedures continue to apply.

g. 38 CFR 1.897 permits the Secretary, or designees, to except positions from inclusion in this program as necessary to accomplish the Department's mission. Accordingly, field facility heads may except any position, or group of positions, over which they have appointment authority. Centralized positions may be excepted by the appropriate administration or staff office head. They will also exercise this authority for central office positions, except for positions centralized to the Secretary. This exception provision may also be used in a similar manner to appoint individuals for less than 16 hours per week.

h. An employee's hours may be extended beyond the 32-hour limitation for short periods of time to accommodate unexpected workloads or to provide necessary training. Generally, an employee should not be assigned extra hours for more than 4 pay periods. If it appears necessary to provide full-time coverage for an extended period, management should consider establishing a temporary or permanent full-time position.

3. REVIEWING POSITIONS

a. VA regulation 38 CFR 1.892 requires that full-time positions be reviewed when they become vacant to determine whether they can be converted to part-time. Along with considering whether a vacant position should be filled at all and its proper classification, and reviewing appropriate methods by which to fill it, management should also consider whether the duties of a position could be performed on a less-than-full-time basis. If the duties of a position require full-time coverage, consideration should also be given to restructuring the job. Job restructuring techniques include:

(1) **Dividing the Duties of a Position Into Distinct Parts When the Duties Are at the Same Grade Level.** Part-time workers would be responsible for only those duties that are assigned to their part. For example, a mail and file clerk job could become two part-time jobs: a mail clerk and a file clerk. If a job is divided in this manner, separate position descriptions are required, and each position must be separately classified according to the appropriate classification standard.

(2) **Dividing the Workload of a Position.** Part-time workers would perform all the duties of a position, but only for that portion of the time they actually worked. This technique is more commonly known as job-sharing.

(3) **Dividing the Duties of a Job Into Different Levels.** One part-time employee would handle that portion of a job which covers the more technical or difficult duties, while another would handle the less difficult duties. As with jobs that are split as described in paragraph 3a(1) above, separate position descriptions are required. The duties must also be appropriately classified.

b. In addition to reviewing them when they become vacant, positions should also be reviewed for possible conversion to part-time as part of the normal position management review. Positions need not be reviewed, however, if:

(1) A position or group of similar positions has been reviewed for any reason within the previous 6 months.

(2) A determination has been made that the present mix of full-time and part-time positions within a group of positions is most appropriate for accomplishing the facility's mission.

c. The following should be considered when reviewing positions:

(1) The duties of a supervisory position are generally more difficult to perform effectively on a part-time basis.

(2) Reduced staffing levels may inhibit establishing additional part-time positions. On the other hand, reduced employment ceilings may increase the need for additional part-time workers to make the most effective use of available resources.

(3) There may or may not be an adequate supply of qualified candidates willing to work part-time.

(4) Jobs with routine duties are often easier to fill on a part-time basis. However, some higher level professional, technical, and administrative positions at entry, middle, and upper grades can be effectively utilized as part-time as well.

(5) Part-time employees can be used effectively to cover peak work periods during the day.

(6) Part-time employees may enable a facility to extend its hours of service to beneficiaries who may be unavailable during normal duty hours. Part-time staff, for example, might be used to keep an activity open 1 to 2 nights per week and on Saturday mornings where there is a demonstrated need for such extended services.

d. The grade level of a position should not be the principal determinant of whether it can be converted to part-time. Its relationship to the organization, the actual workload of the position, and the availability of interested candidates are more important considerations.

4. PUBLICIZING VACANCIES

a. Part-time vacancies should be publicized in the same manner as full-time vacancies.

b. One objective of the program is to increase employment opportunities for older people, students, parents, and individuals with disabilities. Organizations which serve or represent these groups should be provided information on part-time vacancies when the need is indicated. Information on part-time vacancies should also be provided to groups representing or serving disabled and other veterans, women, and minorities, as appropriate.

c. Hard-to-fill part-time vacancies, particularly for technical, professional or administrative positions, should be included in the VA Recruitment Bulletin. (See paragraph 5b(1)(b) of chapter 1, this part.)

SECTION C. TEMPORARY ASSIGNMENT OF EMPLOYEES UNDER THE INTERGOVERNMENTAL PERSONNEL ACT (IPA)

1. GENERAL

a. This section contains VA policies to be followed in implementing the Intergovernmental Personnel Act (IPA) Mobility Program. Office of Personnel Management (OPM) regulations and instructions are contained in title 5 Code of Federal Regulations (CFR), part 334, "Temporary Assignment of Employees Between Federal Agencies and State, Local, and Indian Tribal Governments, Institutions of Higher Education, and other Eligible Organizations." Additional information and guidance on interpretation may be found in OPM's A Handbook on the Intergovernmental Personnel Act Mobility Program.

b. Only permanent, full-time title 5 and title 38 employees will be considered for temporary assignments. Employees serving on time-limited, temporary or term, non-career (SES), excepted service, or noncompetitive appointments are excluded from participation in the IPA Mobility Program. Additionally, students employed in research, graduate, or teaching assistant positions are not eligible to participate in the IPA Mobility Program.

c. IPA assignments are intended to strengthen Federal, State, and local government management capabilities and should involve issues of mutual concern and benefit. The goal of the IPA Mobility Program is best served when employees with unique skills and knowledge participate. In general, the IPA Mobility Program is intended for persons holding appointments without limitations. Therefore, it is inappropriate to consider VA employees serving on Schedule C appointments, non-career executive assignments, or time-limited appointments (e.g., term appointments). In order to appoint to a limited term non-VA IPA-assignee to a career SES position, VA Central Office must first obtain authority from OPM.

d. No individual or organization may participate in the IPA program if they are listed on the Department of Health and Human Services (HHS) Inspector General's Exclusionary List. This restriction ensures compliance with the Balanced Budget Act of 1997 (Public Law 105-33) which specifies that no excluded individual or entity may receive payments from any Federal health care program for services furnished. (For additional information on the HHS Exclusionary List, see part II, chapter 1, section B of this handbook.)

2. POLICY

a. VA will cooperate with State and local governments, institutions of higher education, Indian tribal governments, and other outside organizations in carrying out the provisions of the Act. Indian tribal governments and organizations are included in the term "State and local governments" when used in this directive. Before a VA or State/local government employee enters into a temporary assignment, a determination must be made that such action will contribute to more effective intergovernmental relations and programs. There must also be assurance that such assignments are filled by highly qualified employees. The temporary assignment of a VA employee must not impair VA services to veterans and their beneficiaries.

b. Assignments may be made on an intermittent, part-time, or full-time basis. No assignment should be made for more than 2 years initially. A single assignment may not exceed 4 years. An employee may not participate in additional assignments without a 12-month break in service. VA employees would return to their respective VA position and non-VA employees would return to their non-Federal organization. Successive assignments without a break of at least 60 calendar days are regarded as continuous service. Federal employees may not serve more than 6 years on IPA assignments during their career. This limitation does not apply to private sector employees.

c. Within VA, the majority of IPA agreements are approved to support VHA research projects through the use of affiliated university staff. Under no circumstances should IPA agreements be used as a mechanism for hiring clinical staff or as a substitute for scarce medical specialist, sharing, commercial item, or other clinical services contracts. Nor is it appropriate to use IPA agreements for administrative and support positions. In general, IPA agreements should not be used to circumvent restrictions on hiring due to budget constraints, reductions-in-force, freezes on grade levels, or ceiling allocations. Temporary assignment agreements for employees of State and local governments, institutions of higher education, and other outside organizations, who are detailed or appointed to VA, will be made in accordance with guidance provided in 5 CFR 334.106. Non-VA employees may exercise supervision over VA employees. Non-VA employees must be employed in a permanent position by their organization for at least 90 days to be eligible for an IPA assignment. Details of these employees may be made on a reimbursable, nonreimbursable, or a shared cost basis. VA employees may be detailed or placed in leave without pay status, to a State or local government or institution of higher education. In either case, non-VA and VA employees remain employed by their original organization and retain the rights, benefits, and obligations associated with their original appointment.

NOTE: *A non-VA employee assigned by detail to a CLASSIFIED position in VA is entitled to earn the basic rate of pay, including any locality payment, which the duties of the assignment position would warrant under the applicable classification and pay provisions of VA. If the assignee's non-Federal salary is less than the minimum rate of pay for the VA position, VA must supplement the salary to make up the difference. Supplemental pay may vary because of changes in the rate of pay of the VA position. Supplemental pay cannot be paid in advance or in a lump sum and is not conditional on the completion of the full period of the assignment. Supplemental pay may be paid directly to the employee or reimbursed to the non-Federal organization.*

d. If an agreement involves nonprofit organizations, certification must be obtained before the assignment agreement can be approved. Authority for certification of VA nonprofit research corporations, who are members of the National Association of Veterans' Research and Education Foundations (NAVREF), has been delegated to the Chief Research and Development Officer (12). All other requests for certification must be approved by the Secretary (see appendix I-C for submitting requests for Secretarial approval). A centralized list of Federally-approved certifications of nonprofit organizations is maintained by the Office of the Deputy Assistant Secretary for Human Resources Management [and Labor Relations], Human Resources Management [Recruitment and Placement Policy] Service (05[9]). If an organization has been certified by another Federal agency, that certification may be accepted or the VA facility requesting the agreement can choose to recertify through VA's certification process.

NOTE: *This policy does not change any relationships that VA has or may establish with medical, professional, and other schools affiliated with VA for training purposes.*

e. Cost-sharing arrangements for mobility assignments are negotiated between participating organizations. Normally, the larger share of the costs should be absorbed by the organization benefiting most from the assignment. Exceptions might occur if an organization's resources do not permit costs to be shared on a relative benefit basis.

f. A VA employee given a temporary assignment of 90 days or less may be placed on leave without pay status or detailed, with the assignment being made on a reimbursable, or shared-cost basis. (However, because of the VA Appropriation Act limitations, any detail of VHA employees involved in the examination of other than VA beneficiaries, must be on a reimbursable basis.) For a temporary assignment over 90 days, an employee may be placed on a leave without pay status or he/she may be detailed. Any VA expenditures for assignments over 90 days may be fully reimbursable and credited to the VA appropriation from which payment is made. Exceptions to this policy may be approved by the person having approval authority for filling the position.

g. A non-VA employee may be detailed or appointed on a reimbursable, nonreimbursable, or shared-cost basis. If appointed for more than 1 year on a continuing appointment, the appointee is eligible for within-grade increases. Usually, an IPA-assignee is appointed at the minimum rate of the grade. However, if desired and properly negotiated, an advanced step rate for a position at GS-1 through GS-15 may be conferred, based upon superior qualifications.

h. Non-VA detailees are not eligible to enroll in the Federal Employees Health Benefits program, group life insurance, or the Federal Employee Retirement System. Non-VA appointees are not covered by any Federal retirement system or by the Federal Employees Group Life Insurance Program. They are not eligible for enrollment in the Federal Employees Health Benefits program unless their appointment with VA results in loss of health coverage from their non-Federal health benefits system.

i. Costs associated with an IPA assignment must include pay provisions with specific salary rate(s), any provisions for cost-of-living adjustments (COLA), fringe benefits, travel and relocation expenses, and income derived from certain private consulting work (usually considered as part of the pay of university employees).

j. The hours of duty must be cited, along with any additional requirements for additional work hours anticipated. Non-Federal detailees usually have the same workweek and hours of duty as other employees of the organization assigned. If the detailee is a non-Federal employee, they are eligible to participate in alternative work schedule arrangements. It is important to note which organization will be responsible for maintaining time and attendance records. All deviations from the standard tour of duty must be reported. It is important to maintain accurate timekeeping records for audit and review purposes.

k. Details are covered under the policy of the permanent employer's leave system. The assignment agreement should specify which organization will be responsible for approving and reporting leave. The agreement should also spell out what holidays will be observed by the assignee.

l. Indirect administrative costs associated with preparing and maintaining payroll records, developing reports, negotiating the IPA agreement, office space, furnishings, supplies, staff support, and computer time are prohibited.

m. If a VA employee fails to fulfill an agreement before the expiration of the agreement or fails to complete one year of service under the agreement, whichever is less, applicable travel and transportation expenses are recoverable from the employee unless the assignment is terminated for reasons which are beyond the employee's control and are acceptable to VA. Recoveries will be returned to the paying office where VA was initially reimbursed for such expenses. The approving authority will be guided by the criteria for waiving such recovery as described in MP-1, Part II, Chapter 2, Appendix H, Employee's Agreement To Remain In The Government Service for Twenty-Four (24) Months Or To Repay The Costs Of Travel And/Or Transportation Advanced.

n. If a non-VA employee terminates an assignment before the entire period or 1 year, whichever is shorter, he/she is liable for paid travel, relocation, and per diem expenses.

o. If an organization terminates the assignment, a 30-day notice to all parties involved is advised. This notification should be in writing and include the reasons for termination. Mobility assignments must be terminated immediately whenever an assignee is no longer employed by his/her original employer.

p. VA facilities are encouraged to admit State and local government employees to training programs established for facility employees. In many instances, the training can be provided with little or no additional cost. In such cases, reimbursement from the State or local government will not be requested. As a general guide, reimbursement will usually be required only in instances where the additional costs involved in providing the training exceed $100.

q. Training shall be provided only upon written request of a State or local government. The request shall normally be made by the chief executive or other responsible official of these entities. The appropriate level of the requesting official will depend on the training requested. For example, a request from the top official of a State office in the same locality as a VA installation to add one person or a few persons to a particular course would meet the requirement. Adding a number of persons over a period of time might require a higher requesting level. In any event, appropriateness of the level of the requesting official is left to facility determination.

r. Annual reports may be required by OPM at the beginning of each calendar year. As the reporting requirements may differ from year to year, facilities will receive instructions on what information must be submitted and by what mechanism (e.g., electronic, etc.) the information should be transmitted. Generally, information on both VA and non-VA IPA-assignees will be requested.

3. RESPONSIBILITIES

a. **Facility IPA Mobility Program Coordinators.** Human Resources Management Officers will serve as IPA mobility program coordinators for their respective facilities. They will be the principal points of contact for mobility assignment matters.

b. **VA IPA Mobility Program Coordinator.** The Director, Human Resources Management [Recruitment and Placement Policy] Service (05[9]), Office of Human Resources Management [and Labor Relations], is the VA IPA Mobility Program Coordinator, and is the principal agency point of contact for matters relating to mobility assignments. Any inquiries or requests, which cannot be promptly acted on at the local level, should be expeditiously referred through channels to this coordinator and staff.

4. PROCEDURES

a. Initial IPA mobility assignments are requested by the facility program official with responsibility for the IPA-related project/program or affected VA employee. The following steps should be followed to secure approvals of IPA assignments.

(1) The Optional Form 69, Assignment Agreement, issued by OPM, should be completed by the requesting official and signed by the employee. All information pertinent to the agreement including such issues as special pay conditions, who will administer leave requests and other benefits outside of the standard package should be included on the form. Cost-sharing arrangements should be negotiated between both involved organizations (lending and receiving). Reimbursement may include salary and income derived from any job-related outside consulting work and should be specified on the form.

(2) Authorizing Officials from both the lending and receiving organizations should sign the form before referring to the facility HR office (HRO) for final administrative review. The HRO will review all IPA agreements for administrative accuracy (e.g., do they meet legal requirements such as purpose, timeframes, etc.). The VA approving official may wish to designate a management representative to review and concur on the technical aspects of the request (e.g., is this a bona fide research assignment).

(3) Authority is delegated to Administration Heads, Assistant Secretaries, and Other Key Officials to initiate and approve IPA assignments under their jurisdiction. Approval authority covers the start date of the initial assignment through a period exactly 2 years later (e.g., 01-01-00 through 12-31-02). The official approving any extension beyond 2 years must be at a level higher than the official who approved the original IPA agreement. Extensions may be requested for any period of time not to exceed 2 years. No agreement may be approved for more than a total of 4 years.

(4) Once an initial or extension of assignment agreement has been approved, copies should be provided to the facility HRO, facility fiscal office, the employee, and the office that generated the request.

(5) Modifications to either the original or extended agreements should be recorded and approved in the same manner as mentioned in subparagraphs a, b, and c. Modifications include significant changes in an employee's duties, responsibilities, salary, work assignment location or schedule (e.g., part-time to full-time) or supervisory relationships.

b. Most research assignments are filled by employees of the National Association of Veterans' Research and Education Foundations. These Foundations have been previously approved by the Chief,

Research and Development Officer (12). Assignment requests involving these approved organizations should be processed as noted in subparagraphs 4a(1)-(3).

c. If an assignment request involves "other" nonprofit organizations (e.g., national, regional, statewide, area-wide, or metropolitan organizations representing State or local governments; or a nonprofit organization whose primary function is to offer professional advisory, research, education, or development services to governments or universities), such organizations must be certified by the Secretary. This certification process **must** be completed before any assignment agreements can be approved.

(1) The Office of Human Resources Management [and Labor Relations] (OHRM[&LR]), Human Resources Management [Recruitment and Placement Policy] Service (05[9]), serves as coordinator and clearinghouse on behalf of the Secretary for requests for IPA certifications submitted by non-Federal organizations who are not members of the National Association of Veterans' Research and Education Foundations (NAVREF).

(2) The procedures for requesting certification are as follows:

(a) All requests for certification packages must contain a cover letter describing why the organization wishes to participate with VA in the IPA Mobility Program and how its participation would benefit VA, copies of the organization's Articles of Incorporation, Bylaws, Internal Revenue Service Nonprofit Statement, and any other information which describes the organizations function (such as offering professional advisory, research, educational or developmental services, or related services to governments or universities concerned with the public management). All requests for certification should be sent to VACO Human Resources Management [Recruitment and Placement Policy] Service (05[9]).

(b) OHRM[&LR] will review certification requests and route the packages to the appropriate program office for further review and concurrence. If the program office concurs, they will route the package to the Office of General Counsel (OGC) for legal review and concurrence. Once OGC concurs, the package is returned to OHRM for action. OHRM[&LR] will then prepare the final package for the Secretary's approval.

(c) Upon receipt of the Secretary's approval, OHRM[&LR] will implement the Secretary's decision by notifying OGC, the program office, and the requesting office. If the Secretary disapproves the request, OHRM[&LR] will notify the organization directly.

[SECTION D. VETERANS' PREFERENCE

1. GENERAL. Veterans' preference is administered in accordance with applicable laws and regulations under 5 CFR, part 211 and 5 U.S.C. 2108. Veterans who are disabled or served on active duty for specific time periods or who have received a campaign badge or medal are entitled to preference over others in the hiring process. Veterans may be considered for competitive appointments as well as special non-competitive appointments as described in Part II, Chapter 2 , Section B of this handbook. In accordance with 5 U.S.C. 3309, preference eligibles other than those who received a sole survivorship discharge are entitled to have 5 or 10 points added to their passing score on a civil service examination under traditional ranking and selection procedures. In accordance with 5 U.S.C. 3319, preference eligibles are listed ahead of non-preference eligibles within each quality category under alternative ranking and selection procedures, i.e., category rating. Although a sole survivorship preference (SSP) Veteran does not receive preference points, he/she is listed ahead of non-preference eligibles with the same score on an examination, or ahead of non-preference eligibles under category rating procedures, and is entitled to a higher retention standing in a reduction in force (RIF).

2. DEFINITIONS

a. **Active Duty or Active Military Duty**

(1) Active duty or active military duty for Veterans defined in paragraphs 2(i)(1) through (3) below and disabled Veterans defined in paragraph 2d below means active duty with military pay and allowances in the armed forces, *including* training or for determining physical fitness and *including* service in the Reserves or National Guard.

(2) Active duty or active military duty for Veterans defined in paragraph 2(i)(4) through (6) below means fulltime duty with military pay and allowances in the armed forces, *except* for training or for determining physical fitness and *except* for service in the Reserves or National Guard.

b. **Armed Forces.** The United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

c. **Certification.** Any written document from the armed forces that certifies the individual will separate from active duty service under honorable conditions no later than 120 days after the certification is submittted for consideration in the hiring process, at the time and in the manner prescribed in the applicable job opportunity announcement.

d. **Disabled Veteran.** A person who has been discharged or released from active duty in the armed forces under honorable conditions performed at any time, or who has a certification as defined in 5 CFR 211.102 (also referenced in para 2c and 4) and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or a pension because of a statute administered by the Department of Veterans Affairs (VA) or a military department.

e. **Discharged or Released from Active Duty.** Formal separation from active duty in the armed forces under honorable or general conditions. The Department of Defense is responsible for administering and defining military discharges.

f. **Preference Eligible.** A SSP Veteran, spouse, widow, widower, mother, disabled Veteran, or Veteran as defined in paragraph 2i of this section. For the purposes of this section, "preference eligible" does not include a retired member of the armed forces unless the individual is a disabled Veteran or the individual retired below the rank of major (or equivalent).

g. **Retired Member of the Armed Forces.** A member or former member of the armed forces who is entitled to, under statute, retired, retirement, or retainer pay due to service as a member.

h. **Sole Survivorship Discharge.** The early separation of a member from the armed forces (granted after August 29, 2008), at the request of the 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;

(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 gainfully employed because of the disability or hospitalization); and

(3) The death 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.

NOTE: *An individual released after August 29, 2008, who does not meet the minimum continuous 181 day active duty service requirement under 5 U.S.C. 2108(1)(D) and paragraph 2i(6) below, but meets remaining preference eligibility criteria, is still entitled to preference eligibility though active duty service which was cut short by a sole survivorship discharge.*

i. **Veteran.** A person who has been discharged or released from active duty in the armed forces under honorable conditions, or who has certification as defined in paragraph 5 CFR 211.102 (also referenced in par 2c and 4) of this section, if active duty service was performed:

(1) In a war; or

(2) In a campaign or expedition for which a badge has been authorized; or
(3) During the period beginning April 28, 1952, and ending July 1, 1955; or

(4) For more than 180 consecutive days, other than for training, any part of which occurred during the period beginning February 1, 1955, and ending October 14, 1976; or

(5) During the period beginning August 2, 1990, and ending January 2, 1992; or

(6) For more than 180 consecutive days, other than for training, any part of which occurred during the period beginning September 11, 2001, and ending on August 31, 2010, the last day of Operation Iraqi Freedom.

NOTE: Campaign medal holders and/or Gulf War Veterans (specifically 5 point preference eligibles) who originally enlisted (regular Armed Forces) after September 7, 1980 or began active duty on or after

October 14, 1982, must have served continuously for 24 months or the full period called or ordered to active duty. The 24 month service requirement does not apply to 10 point preference eligibles separated for disability aggravated or incurred in the line of duty, or to Veterans separated for hardship or other reasons under 10 U.S.C 1171 or 1173.

3. TYPES OF PREFERENCE. The preference categories and points listed below are based on 5 U.S.C. 2108 and 3309. In order to receive preference, the Veteran must have been discharged or released from active duty under honorable conditions.

a. **5 Point Preference (TP).** Five points are added to the passing examination score or rating of a Veteran as defined under paragraph 2i above.

b. **10 Point Compensable Disability Preference (CP).** Ten points are added to the passing examination score or rating of a disabled Veteran who served at any time and has a compensable service-connected disability rating of at least 10 percent but less than 30 percent.

c. **10 Point 30 Percent Compensable Disability Preference (CPS).** Ten points are added to the passing examination score or rating of a disabled Veteran who served at any time and has a compensable service-connected disability rating of 30 percent or more.

d. **10 Point Disability Preference (XP).** Ten points are added to the passing examination score or rating of a disabled Veteran serving at any time who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or a pension from the VA or the military but does not qualify for CP or CPS preference; or a Veteran who received a Purple Heart.

e. **10 Point Derived Preference (XP Other).** Ten points are added to the passing examination score or rating of spouses, widows, widowers, or mothers of disabled or deceased Veterans. 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.

(1) **Spouse.** Ten points are added to the passing examination score or rating of the spouse of a disabled Veteran who is unable to qualify for a Federal position along the general lines of his or her usual occupation because of a service-connected disability. Such a disqualification may be presumed when the Veteran is unemployed; and

(a) Is rated by appropriate military or VA authorities to be 100 percent disabled and/or unemployable; or

(b) Has retired, been separated, or resigned from a civil service position on the basis of a disability that is service-connected in origin; or

(c) Has attempted to obtain a civil service position or other position along the lines of his or her usual occupation and has failed to qualify because of a service-connected disability.

(2) **Widow/Widower.** Ten points are added to the passing examination score or rating of the widow or widower of a Veteran who was not divorced from the Veteran, has not remarried, or the remarriage was annulled, and the Veteran either served during a war or during the period April 28, 1952, through July 1, 1955, or in a campaign or expedition for which a campaign medal has been authorized; or died while on active duty that included service described immediately above under conditions that would not have been the basis for other than an honorable or general discharge.

(3) **Mother of a Deceased Veteran.** Ten points are added to the passing examination score or rating of the mother of a Veteran who died under honorable conditions while on active duty during a war or during the period April 28, 1952, through July 1, 1955, or in a campaign or expedition for which a campaign medal has been authorized; and

(a) She is or was married to the father of the Veteran; and

(b) She lives with her totally and permanently disabled husband (either the Veteran's father or her husband through remarriage); or

(c) She is widowed, divorced, or separated from the Veteran's father and has not remarried; or

(d) She remarried but is widowed, divorced, or legally separated from her husband when she claims preference.

(4) **Mother of a Disabled Veteran.** Ten points are added to the passing examination score or rating of a mother of a living disabled Veteran if the Veteran was separated with an honorable or general discharge from active duty, including training service in the Reserves or National Guard, performed at any time and is permanently and totally disabled from a service-connected injury or illness; and

(a) She is or was married to the father of the Veteran; and

(b) She lives with her totally and permanently disabled husband (either the Veteran's father or her husband through remarriage); or

(c) She is widowed, divorced, or separated from the Veteran's father and has not remarried; or

(d) She remarried but is widowed, divorced, or legally separated from her husband when she claims preference.

4. DOCUMENTATION. The following documents are required to adjudicate Veterans' preference.

a. **Certificate of Release or Discharge from Active Duty (DD Form 214).** VA accepts the Member 4 or the Service 2 copy of the DD form 214 to adjudicate Veterans' preference. The copy must show the character of service and the dates of service.

b. **Certification.** In lieu of a DD Form 214, a service member may submit a letter on official letterhead from his/her respective branch of service which provides the military service dates including the date of expected discharge or release from active duty and character of service. The anticipated

discharge or release date must be within 120 days after the certification is submitted and must also be under honorable conditions. If the Veteran submits a certification, his/her preference must be verified before the effective date of the appointment unless the service member is appointed under the provisions of 5 U.S.C. 5534a regarding dual employment and pay during terminal leave from the uniformed service.

c. **Application for 10-Point Veterans' Preference (SF 15).** In order to receive 10-point preference, the Veteran or Veteran's family member must provide a completed SF 15 and any supporting documentation listed on page 2 of the SF 15. Disabled Veterans who have not been discharged or released from active duty can submit any documentation listed in sections B or C of page 2 of the SF 15 to establish 10-point preference when applying to Federal positions.

5. RESTRICTIONS. Veterans preference may not apply in every scenario and may be subject to certain restrictions.

a. **Hiring**. Veterans preference does not apply to inservice placements such as promotion, reassignment, change to lower grade, transfer or reinstatement actions. Military retirees at the rank of major (or equivalent) or above are not entitled to preference unless they are disabled. However, Veterans who meet eligibility criteria in 5 CFR 307 may still be appointed under Veterans Recruitment Authority (VRA). VRA is a separate and distinct non-competitive appointment authority that is not always subject to this limitation, since certainVRA eligibles may or may not be preference eligibles. VRA appointments provisions are covered in 5 CFR 307 and Part II, Chapter 2 of this handbook.

b. **Application of Preference Points**. Preference points described in paragraph 3, are not assigned under merit promotion procedures. Preference points also do not apply when the category rating selection process is applied under delegated examining procedures.

c. **Veterans Preference in RIF**. Preference eligibles are entitled to a higher retention standing in the event of a RIF. Veterans Opportunity to Work Act (VOW) requires that certain Veterans be treated as preference eligibles for appointment purposes, but does not afford preference to those Veterans who are not yet released from active duty in the event of a RIF.]

[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.

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.

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.

(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

9. 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.

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.

10. 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 11 to object to or pass over a preference eligible based on physical/medical conditions and paragraph 12 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).

11. 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.

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.

12. 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

13. 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 A.
OUTSIDE RECRUITING ASSISTANCE FROM COMMERCIAL RECRUITING FIRMS AND NONPROFIT EMPLOYMENT SERVICES

1. PURPOSE. This appendix provides policy and guidance on contracting with commercial recruiting firms and nonprofit employment services to locate an additional source of applicants.

2. BACKGROUND. The Government use of commercial and nonprofit employment services is authorized in 5 CFR, part 300, subpart D. Use of commercial recruiting firms is a supplement to, not a substitute for, a VA organization's own recruiting efforts. Candidates identified through outside recruiting sources must be evaluated, considered and appointed through regular VA and Federal civil service rules and employment procedures including veteran preference.

3. POLICY

a. VA will comply with the requirements in subpart D of 5 CFR, part 300, the Federal Acquisition Regulation (FAR), and the Veterans Affairs Acquisition Regulation (VAAR) when contracting for outside recruiting assistance.

b. These regulations apply to filling positions: in the title 5 competitive service; in the title 5 excepted service under Schedules A, B, and C; in the title 5 Senior Executive Service; and in the title 38 excepted service of the Veterans Health Administration (VHA).

c. Equal Employment Opportunity (EEO) principles will be observed in the administration of this authority.

4. DELEGATIONS OF AUTHORITY

a. The authority to determine the need to contract for outside recruiting assistance is delegated to Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries. This authority is further delegated as the following indicates and shall not be delegated below the facility Director.

b. In accordance with 38 U.S.C. 8110, contracting authority in VHA is delegated to the field facility Director.

c. In VA Central Office, the authority to determine the need to contract is delegated to Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries with the concurrence of the Director, Central Office Human Resources Service (035).

d. The authority to determine the need to contract is delegated to all other facility directors.

5. PROCUREMENT. Contracts for use of outside recruiting assistance must be acquired in accordance with contract types and procedures stipulated in FAR. In order to expedite the urgent requirement for such services, establishing indefinite delivery/indefinite quantity contracts may be appropriate. Contracting activities may elect to submit solicitations to Acquisition Program Management (95A) in VA Central Office for technical/legal review if the estimated value is less than the threshold specified in VAAR 801.602-70.

6. RECORDS MAINTENANCE INSTRUCTIONS. In all instances of contracting for use of outside recruiting assistance, the basis for the determination of the need for recruiting assistance shall be documented and records pertaining to the procurement action maintained by the Human Resources Management (HRM) office in an auditable form. The records to be maintained are those necessary to determine that using commercial recruiting firms or nonprofit employment services is cost effective and has not resulted in the violation of merit system principles or the commission of any prohibited personnel practice. Upon request from the Office of Personnel Management (OPM) or VA Central Office, facilities will provide reports on the use of outside recruiting assistance.

7. RESPONSIBILITIES

a. The Deputy Assistant Secretary for Human Resources Management [and Labor Relations], Human Resources Management [Recruitment and Placement Policy] Service (05[9]) is responsible for providing assistance to VA HRM officials to ensure that the use of the authority is consistent with OPM regulations, and is also responsible for providing any Department-level reports to OPM.

b. The Deputy Assistant Secretary for Acquisition and Materiel Management (90) is responsible for providing assistance to VA officials concerning the procurement and contract administration processes.

[APPENDIX B. DELEGATED EXAMINING (DE)

1. PURPOSE. This appendix provides VA procedures and guidance on the filling of competitive service positions under case examining from certificates of eligibles obtained from a VA delegated examining unit (DEU) or other DEU or Office of Personnel Management (OPM) services office. It ensures proper use of VA's authority to examine for title 5 competitive service positions as authorized by the Interagency Delegated Examining Agreement between VA and OPM. This guidance should be used in conjunction with OPM's Delegated Examining Operations Handbook (DEOH), specific authorities cited in the Department's delegation agreement and applicable laws in title 5 of the United States Code, and regulations published in the Code of Federal Regulations. While the information in this appendix is current as of the date of issue, any changes in regulation or law will supersede the information in this appendix or the DEOH.

2. BACKGROUND

a. Historically, VA DEUs have: examined for selected occupations on a nationwide basis; provided facility-specific, regional, or organizational coverage; provided examining services to some VA facilities on a reimbursable basis; and/or provided examining services to another Federal agency.

b. The Interagency Delegated Examining Agreement between VA and OPM authorizes VA to examine for all title 5 occupational series and grade levels nationwide except Administrative Law Judge positions.

3. RESPONSIBILITIES. All VA officials engaging in actions concerning delegated examining will do so in full compliance with the requirements of the merit system principles in the 5 U.S.C 2301 and the prohibited personnel practices in 5 U.S.C. § 2302.

a. **Deputy Assistant Secretary for Human Resources Management.** Approves the establishment of a DEU.

b. **Recruitment and Placement Policy Service (059), Office of Human Resources Management (OHRM)**

(1) Makes recommendation to the Deputy Assistant Secretary for Human Resources Management on the establishment of a DEU.

(2) Prepares all requests to OPM to request Delegated Examining (DE) authority for additional VA components, notification of termination of VA components and changes of DE programs.

(3) Monitors DEU's submission of completed quarterly workload reports to OPM in the Delegated Examining Information System (DEIS).

(4) Monitors training and certification of individuals responsible for conducting DE activities and audits.

(5) Provides guidance and review for variation requests due to erroneous appointments.

(6) Prepares annual reports to Congress and OPM after each of the first 3 years of category rating use.

c. **Oversight and Effectiveness Service (054), OHRM**

(1) Coordinates and conducts annual VA DEU evaluations.

(2) Evaluates DEUs for adherence to merit systems principles.

d. **Human Resources Officers (HROs)**

(1) Ensure the locally established Reemployment Priority List (RPL) and the Career Transition Assistance Plan (CTAP) listing have been cleared before requesting DEU certificates of eligibles for vacancies.

(2) Submit complete requests for delegated examining to include job analysis and proposed crediting plan. See Appendix G of the DEOH for procedures on conducting job analysis and developing a crediting plan.

(3) Collaborate with the selecting official to determine the adequacy of the justification for any requested pass over or objection and to develop and submit any warranted request to OPM.

(4) Perform initial audit of used DEU certificate of eligibles before it is returned to DEU.

e. **Delegated Examining Units (DEUs)**

(1) Ensure VA's selecting officials have a sufficient pool of well-qualified eligibles from which to fill vacant competitive service positions.

(2) Uphold the laws, regulations and policies of merit system principles.

(3) Prepare and publish accurate, clear and concise recruitment announcements and public notices.

(4) Develop assessment instruments.

(5) Acquire and maintain adequate supplies of needed standard and optional forms.

(6) Screen applications for minimum qualifications.

(7) Rate applications.

(8) Rank eligibles based on their ratings.

(9) Apply/adjudicate Veterans preference in accordance with Chapter 4, Section B of the DEOH.

(10) Notify applicants of the status of their applications in a timely fashion beginning with the receipt of the application, eligibility results, notice of rating and/or referral or non-referral, and finally the selection or non selection. Record the date of each of the four applicant notifications in the automated systems: USA Staffing and/or USAJOBS.

(11) Administer and score written tests, if applicable.

(12) Approve selective and quality ranking factors identified and documented through the job analysis process.

(13) Screen applications for potential suitability concerns.

(14) Determine that applicants have met time-after-competitive-appointment requirements.

(15) Recruit, examine and refer eligibles in compliance with VA's Career Transition Assistance Plan (CTAP) and the Interagency Career Transition Assistance Plan (ICTAP).

(16) Implement VA's procedures through which applicants may request reconsideration of their ratings. (Administrative grievance or ADR procedures)

(17) Issue certificates of eligibles, audit certificates, and implement objection/pass over procedures.

(18) Ensure certification of individuals responsible for conducting delegated examining activities.

(19) Comply with reporting and record-keeping requirements by thoroughly documenting all methods and processes used for each case in the event reconstruction is necessary.

(20) Submit information into the Delegated Examining Information System (DEIS) on a timely basis.

4. DEFINITIONS

a. **Amended Certificate.** A modification of the original certificate with additional name(s) which were not on the original.

b. **Appointing Official.** The person having the authority, by law, or by duly delegated authority, to appoint, employ, or promote individuals to positions in an agency. The human resources officer/manager holds this authority.

c. **Category Rating.** An alternative rating, ranking and selection method which has a minimum of two quality categories.

d. **Certified Eligible.** An applicant whose application package is assessed as qualified and meeting eligibility requirements whose name is placed on the certificate of eligibles.

e. **Objection.** A request to remove an eligible from consideration on a particular certificate.

f. **Pass Over Request.** An objection filed against a certified preference eligible which may result in the selection of a certified non-preference eligible.

g. **Priority Consideration.** A special order of consideration for placement given to an eligible who was previously denied consideration due to an administrative error, law or regulatory violation.

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

5. ESTABLISHMENT OF A DEU. A VA organization interested in requesting approval to establish a DEU should submit a written request through the channels appropriate to that organization to the Recruitment and Placement Policy Service (059), OHRM. For example, all three VA administrations have existing DEUs and the respective head of the Administration-level human resources organization is the appropriate official to initiate a request for additional DEUs. Similarly, the executive in charge of the human resources issues for a VA Staff Office would initiate a request to establish a DEU for the respective Staff Office. The request to establish a DEU must include the following:

a. Name of the Federal organizational entities, VA or non VA, for which competitive examining will be provided;

b. The geographic area to be covered;

c. The classification and organizational titles, pay plans, series, and grades for the positions for which the DEU will examine;

d. The address, room number and mailing address, of the proposed DEU;

e. The name, title, phone number, fax number, and email address of the proposed DEU Manager. The DEU Manager must be a human resources (HR) specialist possessing a thorough knowledge of title 5 staffing, at no less than a GS-11 level or equivalent;

f. The names and titles of all HR specialists that will be performing competitive examining work, including administrative assistance. HR specialists assigned to a DEU must have acquired demonstrated and necessary work experience and skill in staffing and placement using title 5 procedures at a functional level of competency prior to taking the required OPM DEU certification training;

g. The number of USA Staffing system licenses needed for competitive examining work, as well as the number of licenses that are already in place, if any; and

h. If the DEU plans to conduct OPM written tests, the names and phone numbers of the DEU staff members who will serve as the Test Administrator and the Test Security Control Officer.

6. BEGINNING THE COMPETITIVE EXAMINING PROCESS. The HRO must submit a complete recruitment package to the designated servicing DEU to fill a position using competitive examining procedures. The recruitment package includes the position description, job analysis and crediting plan, copy of the completed SF-52 Request for Personnel Action, and a copy of the merit promotion announcement, if applicable.

a. The DEU is responsible for assuring a suitable number of well-qualified candidates are available for consideration on the certificate of eligibles. The process begins when the DEU receives the recruitment package.

b. All DEU announcements must be posted on USAJOBS. USAJOBS is the official jobsite for the Federal government. The DEU must use the USA Staffing recruitment system to accept and assess applications.

c. The DEU job opportunity announcement must include the following content in accordance with 5 CFR 330.707:

(1) Title, series, pay plan, and grade (or pay rate);

(2) Duty location;

(3) Open and closing dates, plus any other information dealing with how the receipt of applications will be controlled, such as the use of early cut-off dates;

(4) Name of issuing agency and announcement number;

(5) Qualification requirements, including knowledge, skills, and abilities, and a specialized experience definition;

(6) Entrance pay;

(7) Brief description of duties;

(8) Basis of rating;

(9) What to file;

(10) Instructions on how to apply;

(11) Information on how to claim Veterans' preference, if applicable;

(12) The agency's definition of well-qualified;

(13) Information on how CTAP and/or ICTAP candidates may apply, including proof of eligibility required;

(14) Equal employment opportunity statement; and

(15) Reasonable accommodation statement.

d. Assessment tools must be job related and used in accordance with 5 CFR, part 300. Examples of assessment tools are: job knowledge tests, rating schedules, ability tests, work samples, situational judgment tests, and structured interviews.

e. The DEU HR specialist must review the applications for: age, citizenship, selective service requirements, and minimum qualifications. Next, the DEU HR specialist adjudicates Veterans preference, rates and ranks the applications. The DEU HR specialist must assess applicant's suitability before appointment into the position for which selected.

7. TYPES OF RATING PROCEDURES. Numerical rating and category rating are the two types of rating procedures available to DEU HR specialists to assess applicants and develop the list of eligible candidates.

a. **Numerical Rating.** Under numerical rating procedures, a maximum score of 100 points is produced or 110 points for some certified Veterans preference eligibles. There are three procedures used to attain the numerical scores:

(1) Rank and select using numerical test scores. When using this procedure the test assesses the applicant's job-related KSAs/competencies;

(2) Rank and select using quality level rating (A-C-E). When using this procedure the applicant's total qualifying experience is combined with the education/training into a single quality level rating. It also provides for assigning additional points, on the basis of an evaluation of the applicant in terms of specific competencies/knowledge, skills and abilities (KSAs) that are important for successful performance of the duties of the position. This procedure uses three quality levels; and

(3) Rank and select using a generic rating (education/training and experience). When using this procedure a position has the same basic minimum qualifications and general competency/KSA requirements but the specialty or specialized experience required varies by series, e.g., Electronic Engineering or Mechanical Engineering.

b. **Category Rating.** Under the category rating procedure, applicants who meet basic minimum qualification requirements established for the position and whose job-related competencies or KSAs have been assessed are ranked by being placed in one of two or more quality categories, e.g., Highly Qualified and Qualified; Best Qualified, Well Qualified, and Qualified; or Excellent, Highly Satisfactory, and Satisfactory, etc., instead of being ranked in numeric score order. Quality categories should be written to reflect the requirements to perform the job successfully and to distinguish differences in the quality of candidates' job-related competencies/KSAs. Test scores may be used as part of the job-related criteria to place eligible candidates into quality categories, as long as the test assesses job-related competencies/KSAs. The selecting official and servicing HRO must establish and define the quality categories in the job analysis prior to issuing the job opportunity announcement. Preference eligibles are listed ahead of non-preference eligibles within each quality category. Veterans' preference is absolute within each quality category. Information on how to establish quality categories can be found in Chapter 5 of the DEOH

8. ORDER OF SELECTION ON THE CERTIFICATE OF ELIGIBLES. After completing the rating procedure process, each eligible must be ranked by score in his or her entitlement group to establish the "order of selection". Within each entitlement group, eligibles must be ranked in the order of their numerical rating, including Veterans' preference points (under numerical rating). If there is a tie in the numerical scores between eligibles in different preference categories, the order of ranking is: 30 % Compensable Disability Preference (CPS)/Compensable Disability Preference (CP), Disability Preference (XP), tentative preference (TP) and then non preference (NV). In the 3rd category listed below (subparagraph a(1)(c)), CPS and CP go to the top of the certificate of eligibles, regardless of numerical rating. If there is more than one CPS or CP eligible, they are listed in score order. For this purpose there is no difference between CPS and CP Veterans. If tied scores occur, one of the tie-breaking procedures identified in paragraph 10 must be applied.

a. **Numerical Rating.** The order of selection for numerical rating procedures is as follows:

(1) **Order of Selection for Most Positions and Grade Levels Under Numerical Rating Procedures.** The order of selection on a certificate of eligibles for most positions and grade levels (excluding Professional and Scientific positions at the GS-9 grade level and above and positions restricted to preference eligibles) is as follows:

(a) Interagency Career Transition Assistance Program (ICTAP) Eligibles;

(b) Eligibles that lost consideration due to erroneous certification;

(c) All 10-point preference eligibles with a service-connected disability of 10 percent or more (CPS and CP); and

(d) All remaining eligibles in score order.

(2) **Order of Selection for Positions Restricted to Preference Eligibles Under Numerical Rating Procedures.** Non preference eligibles may only be certified if the supply of preference eligibles has been exhausted. When non preference eligibles are certified, they are listed below the last preference eligible. The order of selection on a certificate of eligibles for positions restricted to preference eligibles is as follows:

(a) ICTAP eligibles entitled to Veterans' preference;

(b) Preference eligibles that lost consideration due to erroneous certification;

(c) All 10-point preference eligibles with a service-connected disability of 10 percent or more;

(d) All remaining preference eligibles;

(e) Non-preference ICTAP eligibles;

(f) Non-preference eligibles that lost consideration due to erroneous certification; and

(g) All remaining eligibles (if non-Veterans were allowed to compete).

[**NOTE:** *See part II, chapter 2, paragraph 5 for procedures regarding appointment to positions restricted to preference eligibles*.]

(3) **Order of Selection for Professional and Scientific Positions at the GS-9 Grade Level and Above Under Numerical Rating Procedures.** Within each entitlement group, eligibles must be ranked in the order of their numerical rating, including Veterans' preference points. Professional and scientific positions are identified in the OPM publication *Handbook of Occupational groups and Families*.
It is very important to verify whether the series is in a professional occupation, since a misidentification could lead to a violation of veterans' preference law and the invalidation of an appointment. The order of selection on a certificate of eligibles for Professional and Scientific positions at the GS-9 grade level and above is as follows:

(a) ICTAP eligibles;

(b) Eligibles that lost consideration due to erroneous certification; and

(c) All other eligibles in score order.

b. **Category Rating.** The order of selection for category rating procedures is as follows:

(1) **Order of Selection for Most Positions and Grade Levels Under Category Rating Procedures.** The certificate of eligibles list certified eligibles in the following order:

(a) ICTAP eligibles;

(b) Eligibles who lost consideration due to erroneous certification;

(c) Eligibles in highest quality category; and

(d) Eligibles in the next lower quality categories, as needed.

(2) **Order of Selection for Professional and Scientific Positions at the GS-9 Grade Level and Above Under Category Rating Procedures.** Within each of the groups, eligibles are ranked in the order of their numerical ratings. Compensable disabled preference eligibles (CPS/CP) are not automatically placed at the top of the certificate of eligibles. Professional and scientific positions are identified in the OPM publication. *Handbook of Occupational Groups and Families.*. It is very important to verify whether the series is in a professional occupation, since a misidentification could lead to a violation of veterans' preference law and the invalidation of an appointment. The certificate of eligibles list certified eligibles in the following order:

(a) ICTAP eligibles;

(b) Eligible candidates who lost consideration due to erroneous certification (eligibles entitled to priority consideration); then

(c) Eligible candidates in numerical order, highest numbers first (under traditional numerical rating) or eligibles in the highest quality category (under category rating).

9. PLACEMENT OF QUALIFIED ELIGIBLES ON THE CERTIFICATE OF ELIGIBLES

a. **Application of the "Rule of Three" Using Traditional Numeric Rating Procedures.** When selecting from a certificate of eligibles under the "rule of three" procedures, each eligible is afforded his or her right to receive a bona fide employment consideration. This can only occur if a valid selection is made. An eligible who is among the top three eligibles does not receive a "consideration" if no one is selected. Additionally, the "rule of three" allows a selecting official to eliminate an eligible that has been considered for three separate appointments from the same or different certificates for the same position. After arranging all the eligibles in score order by their entitlement, the number of names of certified eligibles referred to the selecting official for consideration is determined. The general rule for referring the appropriate number of eligibles per vacancy is that there must be enough names certified from the highest ranking eligibles to permit the selecting official to consider at least three names for appointment to each vacancy in the competitive service. This means the appointing official is entitled to consider three eligibles for each vacancy. There may not always be three eligible names to refer to the selecting official. If there are less than three eligibles for a particular position on a certificate of eligibles, you may refer the names to the selecting official or readvertise the position to attract additional candidates for consideration. At the discretion of the appointing official, additional names may be certified to compensate for eligibles that are within reach for consideration but will decline or fail to respond to an inquiry of availability or interview.

(1) When using traditional numerical rating procedures for most positions and grade levels, if there are less than three eligibles and they are either all preference eligibles or all non preference eligibles, the eligibles do not need to be rated and ranked. The eligibles may be simply listed randomly on the certificate with a notation "Eligible" in lieu of a rating and referred to the selecting official or the

position may be re-advertised to attract additional candidates for consideration. However, if there are three or more eligibles or if the group of eligibles is a mix of preference eligibles and non-preference eligibles, you must assign a numerical score and place the eligibles on the certificate in descending score order, including Veterans preference points, with ties broken within their entitlement category, e.g., 30% or more compensable disabled Veteran (CPS), tentative Veterans preference (TP), non-Veteran (NV), etc. On the certificate, the preference eligible Veterans rise to the top, with the exceptions of ICTAP eligibles and eligibles that lost consideration due to erroneous certification. The certificate of eligibles must be documented and annotated for any action taken on a certified eligible.

(a) **Filling One Vacancy.** The selecting official may select from any of the first three available certified eligibles if all available certified eligibles are preference Veterans or all the available certified eligibles are non-preference eligibles. The selecting official may only select the certified preference eligible at the top of the certificate if the other available certified eligibles are non-preference eligibles.

(b) **Filling Multiple Vacancies.** The selecting official may select from all available certified Veterans preference eligibles at the top of the certificate. If there are still vacant positions to be filled after the top certified Veterans preference eligibles have been selected, the selecting official may select from any of the next three available certified eligibles**.**

(c) **Three Considerations.** An appointing officer is not required to consider an eligible who has been considered by the appointing officer for three separate appointments from the same or different certificates for the same position.

(2) When using traditional numerical rating procedures for Professional and Scientific positions at the GS-9 grade level and above, the eligibles must be placed on the certificate of eligibles in rank order according to his or her numerical rating in descending order, including Veterans preference points, with ties broken. On these types of certificates the preference eligible does not rise to the top. All certified eligibles stay in rank order. The selecting official is entitled to consider a minimum of three certified eligibles for each vacant position and the action taken for each certified eligible must be documented and annotated on the certificate of eligibles.

(a) **Filling One Vacancy.** The selecting official may select from the first three available certified eligibles when using a professional/scientific certificate at the GS-9 grade level or above. However, if the first available certified eligible is a preference eligible, the selecting official may only select the certified preference eligible.

(b) **Filling Multiple Vacancies.** The selecting official may select from the first three available certified eligibles when using a professional/scientific certificate at the GS-9 grade level or above. For each additional vacancy, the selecting official may select from any of the next three available certified eligibles available.

b**. Application of Category Rating Using Alternative Rating Procedure.** When selecting from a certificate of eligibles under category rating procedures, a selecting official makes a selection from among all of the eligibles in the highest quality category. A selecting official may not select a non-

preference eligible over a preference eligible. A selection must be made from within the highest quality category regardless of the number of candidates (i.e., the rule of three does not apply). Preference eligibles receive absolute preference within each category. If a preference eligible is in the category, you may not select a non-preference eligible unless a request to pass over the preference eligible in accordance with 5 U.S.C. § 3318, is submitted and the request is approved.

(1) When using category rating procedures for most positions and grade levels, the certified eligible must be placed in his/her appropriate quality categories. Certified compensable service-connected eligibles of at least 10% are placed ahead of all the other certified eligibles in the highest quality category. All other certified eligibles are kept within their appropriate quality categories in any order e.g., alphabetical order (by first or last name). There must be a sufficient pool of candidates from which to select. Therefore, if there are less than three certified eligibles in the highest quality category, the DEU HR specialist in conjunction with the selecting official may decide to merge the top two quality categories. The newly merged category becomes the new highest quality category. The certified compensable service-connected preference eligibles must be kept above the non-preference eligibles in the newly merged category.

(a) **Filling One Vacancy.** The selecting official must make selections from the certified available eligibles in the highest quality category. Veterans receive absolute preference within each category; therefore, the selecting official may not select a certified non-preference eligible unless the DEU obtains approval to pass over the certified preference eligible from OPM. To fill one vacancy, the selecting official selects from any of the certified preference eligibles in the highest quality category. If there are no certified preference eligibles, the selecting official may select from any of the certified eligibles in that quality category.

(b) **Filling Multiple Vacancies.** The selecting official must select from any of the certified preference eligibles in the highest quality category until there are only two candidates left in the highest quality category. If there are still vacant positions to be filled, the DEU HR specialist in conjunction with the selecting official may decide to merge the top two quality categories; thereby making the newly merged category the new highest quality category. After merging the categories, the DEU HR specialist must place the certified preference eligibles above the non-preference eligibles in the newly merged highest quality category. The selecting official may continue to make selections in the new highest quality category, selecting first from among the certified preference eligibles. A non preference eligible may only be selected after the certified preference eligibles have been exhausted.

(2) When using category rating procedures for Professional and Scientific positions at the GS-9 grade level and above, the certified eligibles are placed in the appropriate quality categories in alphabetical order (by first or last name)or some other random number order with the applicant's Veterans preference noted.

(a) **Filling One Vacancy.** The selecting official may select from the first three available certified eligibles when using a professional/scientific certificate at the GS-9 grade level or above. For each additional vacancy, the selecting official may select from any of the next three available certified eligibles.

(b) **Filling Multiple Vacancies.** The selecting official must first select from among the certified preference eligible Veterans in the highest quality category. A non-preference eligible may only be selected after the certified preference eligibles have been exhausted. If there are less than three certified available eligibles in the highest quality category, the DEU HR specialist in conjunction with the selecting official may decide to merge the top two quality categories; thereby making the newly merged category the new highest quality category. After merging the categories, the DEU HR specialist must place the certified preference eligibles above the non-preference eligibles in the newly merged highest quality category. The selecting official may continue to make selections in the new highest quality category, selecting from among the certified preference eligibles.

NOTE: *The three valid considerations rule for each certified eligible does not apply when using category rating.*

10. METHODS OF BREAKING TIED RATINGS. You may use any of the following types of tie breaking methods. Listing eligibles alphabetically when breaking a tie is not acceptable. Whichever tie-breaking procedure is used must be recorded and kept with the certificate of eligibles documentation records.

a. **Job-Related Factor.** A job-related factor may be used to break tied scores provided that you did not use these factors in the ranking process;

b. **Name Request.** The selecting official may submit a name request within the tied range; you may place the name request ahead of other eligibles with the same rating within the sub-group;

c. **Name Request Based on Job-Related Factor.** A name request may also be identified after a certificate of eligibles is issued to the selecting official. If a certificate of eligibles includes eligibles with tied scores and the selecting official determines that he or she would like to identify an eligible as a name request from among the eligibles with tied scores, you must apply the tied score procedures identified for name requests when the certificate is returned to the DEU. The identification of the eligible should be based on a job related factor; or

d. **Random Number or Random Referral.** The random referral procedure is used when all job-related methods for breaking ties have been exhausted. It is used to rank tied eligibles by matching the last digit of the identification number such as the Social Security Number, against a randomly chosen number sequence from a table of random numbers which is changed daily.

11. REQUIRED SELECTION AND PRIORITY CONSIDERATION

a. The special selection priority of a well-qualified eligible in the Interagency Career Transition Assistance Plan (ICTAP) is the only situation where an eligible must be selected.

b. Priority consideration is provided to an eligible that was previously denied consideration due to an administrative error, law or regulatory violation.

12. IMPROPER SELECTION DURING THE SELECTION PROCESS

a. If an improper selection is discovered during the audit of a certificate but before the selectee has entered on duty, the selecting official and the appointing officer must be notified immediately. Any further selections from the certificate of eligibles for which the selectee was selected must be placed "on hold" until after a correction is made (before the selectee enters on duty, if possible).

b. If improper selection is discovered during an audit of a certificate and the selectee that was erroneously selected has entered on duty, the DEU must notify the servicing HR office immediately. The servicing HR office in consultation with the selecting official must immediately pursue regularization of the appointment of the individual erroneously appointed. The individual who should have been selected will be notified by the DEU and the DEU will advise the individual of her or his eligibility for priority consideration for the next vacant position in the same occupational series, grade and geographical location. The case file must be thoroughly documented with all facts of the case and follow-up actions must be taken to preclude any recurrence of the error.

c. If the erroneous appointment is regularized, the servicing HRO must submit a variation request [for service credit for the period of time the employee served in the position erroneously]. If the erroneous appointment is not regularized, the servicing HRO must submit a variation request to retain the employee as a result of an administrative error [and for service credit for the period of time the employee served in the position erroneously]. Both types of variation requests must be submitted to OPM via the Recruitment and Placement Policy Service (059), OHRM. The request should include:

(1) A cover memo that includes the name(s) of the affected employee(s); the name of the HR specialist that posted the job opportunity announcement, evaluated the applicants, and certified the certificate of eligibles; explains how and when the erroneous appointment was made; explains how the erroneous appointment was regularized; and explains what steps have been taken to ensure no recurrence of such error; and

(2) All documentation used to support the erroneous appointment and used to regularize the appointment, i.e., application, job opportunity announcement, certificate of eligibles, DD 214, SF 15, SF 50, transcript, passport, driver's license, required letters of eligibility, PCS orders, licenses, certifications, etc.

[**NOTE:** *For additional guidance on regularizing erroneous appointments and submitting staffing variation requests, see VA Handbook 5005, Part I, Appendices C and D.*]

13. OBJECTIONS AND PASS OVERS

a. **Objection of a Non Preference Eligible.** Occasionally, an appointing official may have adequate and proper reasons to remove one or more of the highest ranking eligibles from consideration and may wish to select a certified eligible who is not among the highest ranking eligibles.

(1) The appointing official must evaluate each objection on its own merit and may sustain the objection if it is based on proper and adequate reasons, some examples are: age, education, intentional

fraudulent statements discovered upon examination, habitual use of alcohol or narcotics, unsatisfactory performance rating, etc.

(2) The selecting official must submit an objection using the SF 62 form, *Agency Request to Pass Over a Preference Eligible or Object to an Eligible,* along with thorough supporting documentation justifying the objection to the servicing Human Resources Office (HRO). The servicing HRO must review the package for completeness before forwarding it to the originating DEU.

(3) The DEU must review the content of the objection package and make a decision.

(4) The DEU must notify the selecting official of its decision in writing through the servicing HRO. If the DEU sustains the objection, the DEU HR specialist must remove the certified eligible's name from the certificate of eligibles.

(5) If the DEU does not sustain the objection, the DEU must notify the selecting official of its decision in writing through the servicing HRO and the certified eligible's name must remain on the certificate of eligibles for consideration.

(6) When an objection is not sustained, the selecting official may select the eligible candidate for the vacancy or challenge the decision by submitting additional information to support a favorable decision from the DEU. The additional information must not be frivolous and must give weight to the non selection.

b. **Pass Over of a Preference Eligible.** Requests to pass over certified preference eligible Veterans are not acceptable without proper and thorough documentation to warrant approval. The procedures used to pass over a preference eligible under category rating are the same as those used in the traditional numerical "rule of three" process.

(1) **Pass Over of a Preference Eligible Based on a Proper and Adequate Reason.** A selecting official may submit a request to pass over any certified preference eligible Veteran (except a 30% or more compensable service-connected disabled Veteran) on the SF 62 form, *Agency Request to Pass Over a Preference Eligible or Object to an Eligible,* along with thorough documentation to the designated DEU via the servicing HRO.

(a) A pass over request may be sustained by the DEU only if the request is based on a proper and adequate reason. If the DEU sustains the pass over request, the certified preference eligible Veteran is removed from consideration. The servicing HR specialist must document the SF 39 form, *Request for Referral of Eligibles,* with the appropriate action code. The servicing HR specialist must attach all documentation and applications to the SF 39 form and return the certificate of eligibles to the DEU.

(b) If the DEU does not sustain the pass over request, the certified preference eligible may be selected.

(2) **Pass Over of a 30% or More Compensable Service-Connected Disabled Veteran.** A selecting official may submit a request to pass over a certified 30% or more compensable service-connected disabled Veteran. The selecting official must submit the request on the SF 62 form, *Agency Request to Pass Over a Preference Eligible or Object to an Eligible,* along with supporting documentation that justifies the pass over to the servicing HRO. The servicing HRO must send a notice to the certified 30% or more compensable service-connected disabled Veteran of a proposed pass over explaining the reasons. The notice must include the OPM address and must inform the Veteran of his or her right to respond to the reasons identified in the notice within 15 days of the postmark. At the same time, the servicing HRO must submit the SF 62 form, *Agency Request to Pass Over a Preference Eligible or Object to an Eligible,* and the supporting documentation sent from the selecting official to OPM for adjudication. In addition, the servicing HRO must provide evidence to OPM that the notice was sent to the disabled Veteran's last known address no more than a period of 1-2 days prior to submitting the package to OPM for adjudication.

(a) If OPM sustains the pass over request, the servicing HRO must remove the certified 30% or more compensable service-connected disabled Veteran from consideration by annotating the certificate of eligibles appropriately. The selecting official may select the next available certified eligible on the certificate of eligibles.

(b) If OPM does not sustain the pass over request, the selecting official may select the certified 30% or more compensable service-connected disabled Veteran or challenge the decision by submitting more information to support a favorable adjudication.

(3) **Pass Over of a Preference Eligible Based on a Physical or Medical Condition.** A selecting official may submit a request to disqualify 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. 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 along with thorough supporting documentation to OPM.

(a) If OPM sustains the pass over request, the DEU must remove the preference eligible from consideration for the vacant position and the selecting official may select the next available certified preference or non preference on the certificate.

(b) If OPM does not sustain the 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.

(4) **Pass Over of a Preference Eligible Based on Suitability.** A selecting official may submit a request to pass over a preference eligible based on possible adverse suitability for the position. The selecting official must submit the request in writing along with thorough supporting documentation via

the servicing HRO to the VA Office of Operations, Security and Preparedness (007) for final determination.

14. RECONSIDERATION OF RATINGS. A reconsideration of a rating may be provided upon reasonable demonstration that a review is necessary. Applicants who believe their rating is in error and warrants review must make their request for reconsideration in writing to the DEU that made the original rating decision and indicate why they believe the original rating was not proper.

a. The reconsideration procedures for applicants that are non VA employees are as follows:

(1) Upon the DEU receiving the applicant's request for reconsideration, a VA DEU HR specialist who did not make the original rating decision must conduct the review in consultation with the team lead or first line supervisor;

(2) The DEU's response to the reconsideration of the original rating decision must contain a full explanation of the reasons for the decision without unduly compromising the rating schedule;

(3) If the reconsideration prompts a rating change, the applicant's record and the certificate of eligibles, providing it has not been issued, must reflect the change. If the certificate of eligibles has been issued, it should not be amended unless:

(a) The new rating is "ineligible";

(b) Veterans preference points were improperly awarded; or

(c) The rating error was erroneous certification.

(4) If an applicant submits an appeal of the 1st reconsideration decision, a second level review must be conducted by the Director of the DEU. The 2nd reconsideration decision is final and there is no further appeal to OPM.

b. VA employees who are applicants and who are in a bargaining unit and dissatisfied with their rating from a VA DEU may follow either:

(1) Administrative grievance procedures in VA Handbook 5021; or

(2) The negotiated grievance procedure that applies to their bargaining unit e.g., AFGE, SEIU, NAGE, etc.

c. VA employees who are applicants who are not in a bargaining unit and are dissatisfied with their rating from a VA DEU may follow the administrative grievance procedures in VA Handbook 5021.

15. EXTENSIONS OF CERTIFICATE OF ELIGIBLES AND LATE APPLICATIONS

a. **Extensions Certificate of Eligibles.** Issued certificates of eligibles expire on the 30th day after the date of issuance. A selecting official may request the DEU to extend a certificate of eligibles. Extensions may be made in 30 day increments up to a total of 90 days from the first date of issuance.

b. **Late applications.** As a general rule, applications received after the closing date are late and should not be considered. However, late applications from persons who are entitled to file late must be accepted and processed until the time that a certificate is issued. Once a certificate of eligibles is issued, it should not be amended to include late applications unless you are requested to do so by the selecting official. If you amend the certificate based on the selecting official's request, then you must refer the applications of all qualified applicants received on the same date and earlier. Individuals with entitlement to file late applications are:

(1) Applicants who are preference eligibles that applied within 90 days after resignation without delinquency or misconduct from a career or career-conditional appointment;

(2) Applicants that are 10-point preference eligible applying to a position for which a non-temporary appointment has been made in the preceding three years; list of eligibles currently exists but is closed to new applicants; or list of eligibles is about to be established;

(3) Applicants unable to file for an open competitive examination or to appear for a test due to service in the armed forces or hospitalization continuing for up to one year following discharge from the armed services;

(4) Applicants unable to file an application or to appear for a written test due to overseas service with a Federal agency or international organization in which the U.S. Government participates (e.g., Peace Corps);

(5) Applicants on an inventory of eligibles but who lost eligibility for appointment due to active duty in the Armed Forces; and

(6) Applicants who are Federal employees and who are unable to file for an open competitive examination or to appear for a test due to active Reserve duty continuing beyond 15 days.

16. RETENTION MATERIALS FOR DOCUMENTING THE CASE FILE. All records documenting the job opportunity announcement should be kept in an examination file. The examination file must show that the 10-point point preference eligible file was checked for any eligible candidates and include the names of any 10-point preference eligibles whose applications were pulled from the file and to whom additional material was sent. In addition, the file should include the following information:

a. Position descriptions or any other material gathered to identify the task and competency requirements of the position

b. The job analysis results (i.e., tasks, competencies/KSAs, and task-competency linkages), the quality level definitions, any selective factors identified, and other criteria used to distinguish qualifications through the assessment process. If any other rating, ranking, or weighting of competencies/KSAs is made, you should maintain this information and its basis;

c. A copy of the actual rating procedure;

d. The reference to the OPM occupational qualification standard applied or a copy of the OPM-approved standard if it is different from the OPM qualification standard. Raters' initials and dates of qualification determinations for each applicant;

e. A copy of the supplemental application form, if developed. (OMB must approve supplemental forms and the forms must contain Privacy Act Information if the information is being collected from the general public;

f. The tie-breaking method developed from job-related criteria, if used; and

g. The identification of the subject matter experts and human resource professionals who participated in the development and application of the examining plan (i.e., name, title, series, and grade).

17. SPECIAL HANDLING OF APPLICATIONS FOR 10-POINT PREFERENCE ELIGIBLES

a. A 10-point preference eligible is entitled to file an application at anytime for an examination for any position to which an appointment was made within the preceding three years.

b. When a 10-point preference eligible's application is received, the DEU should review the DEUs records to identify if any non-temporary appointments were made in the preceding three years; and compare the 10-point preference eligible's application against the title, series, grade, and duty location of the position identified. If the records are inconclusive as to the similarity of the positions, the 10-point preference eligible must be given the benefit of the doubt, and the application must be accepted.

c. If the 10-point preference eligible applies for a specific position, meets the qualifications of the position, and is within reach for referral for the position, the DEU must ensure that the preference eligible is referred on the certificate as soon as possible.

d. If no job announcement is open and a 10-point preference eligible's application is received, the DEU must retain the 10-point preference eligible's application in a special file for referral on certificates for future vacancies for up to three years.

e. The 10-point preference eligible should be informed in writing of these procedures, as well as the status of his or her application.

18. MATERIAL TO BE MADE AVAILABLE BY AUTHORITY OF THE PRIVACY ACT. An applicant has the right under the Freedom of Information Act (FOIA) and Privacy Act (PA) to request certain materials for review or photocopying.

a. The following materials must be made available for review or photocopying by applicants who are the subject of the materials, or to their designated representative, when requested under the Privacy Act. In addition, this information may be made available to a third party only with written authorization from the person who is the subject of the information requested.

(1) Application materials submitted by the requesting individual. Notations made by raters or reviewers showing earned rating, Veterans' preference, and final rating may remain, as well as notations on experience blocks showing qualifying experience or quality level;

(2) Inventory (register) cards or other documentation;

(3) Certification history – identification of dates, jobs, and organization for which the eligible's name was certified;

(4) Certificates of eligibles, with the names, addresses, social security numbers, phone numbers and any other personal information pertaining to all other eligibles marked out. **NOTE:** *The names of appointed individuals - but not other personal information about them - are matters of public record, and therefore may remain unmasked on the certificate. However, care should be taken to determine that the individual shown as selected actually entered on duty. The names of applicants selected for law enforcement related positions may be withheld;*

(5) Availability inquiry responses and position descriptions in the certification file; and

(6) Reasons, submitted by the appointing authority, in support of a proposed pass over of a preference eligible must be furnished to the preference eligible, or his or her representative, upon request (Reference 5 U.S.C. § 3318(b)).

b. The following material is exempt and should not be made available or disclosed to members of the public, including the applicant:

(1) Answer keys;

(2) Rating schedules or crediting plans;

(3) Rating sheets;

(4) Test booklets or items;

(5) Transmutation tables; and

(6) Names of raters or reviewers.

c. Confidential disclosure of exempt and privacy materials should only be made on a need-to-know basis.

(1) Equal employment opportunity (EEO) counselors, investigators and other individuals often request to see confidential information, while observing agency rules and procedures, for such things as applications and rating schedules/crediting plans. Discretion should be used in deciding what information to disclose and under what conditions.

(2) EEO officials are usually allowed to review all documentation, the DEU and the servicing HRO should control that review. The DEU or the servicing HRO must arrange for the review to take place in the presence of a DE office representative or servicing HRO representative and prohibit photocopying of documents.

19. IMPROPER PARTICPATION IN DELEGATED EXAMINING PROCEDURES

a. If any DEU HR specialist intends to apply for a vacancy or knows that a relative or member of his or her household intends to apply for a vacancy which is handled by the DEU section in which he or she is employed, the DEU HR specialist must notify the supervisor in writing of his or her intent to apply and must not participate in the development and administration of the vacancy announcement or the assessment of candidates for the vacancy. Also, similar notice must be given if any DEU staff member intends or knows a relative or household member intends to apply for such a vacancy.

b. Subject matter experts who participate in assessments or ranking of applicants must notify the selecting official and their supervisor in writing if they know a relative or household member intends to apply for a vacancy for which they are assessing applicants. A person that has been asked to serve as a subject matter expert in the assessment or ranking of applicants of a job opportunity announcement must remove himself/herself from the assessment process.

c. Cases of alleged misconduct in a DEU should be forwarded to the Office of Special Counsel to determine if a prohibited personnel practice has been committed.

20. REPORTING AND ACCOUNTABILITY REQUIREMENTS

a. Each DEU must conduct annual internal audits of their delegated examining operations; submit to periodic reviews by OPM's Human Capital Leadership and Merit System Accountability Division (HCLMSA) and annual audits by the Oversight and Effectiveness Service, OHRM; and submit quarterly workload data using the OPM Delegated Examining Information System (DEIS). The quarterly workload data must be entered into DEIS by the 1st day of the month following the end of the reporting quarter (i.e., January 1, April 1, July 1, and October 1). Required data includes the following information:

(1) Number of applications processed;

(2) Number of selections made;

(3) Number of preference eligibles selected;

(4) Number of certificates audited;

(5) Number of audited certificates that had preference eligibles at the top;

(6) Number of audited certificates that did not have preference eligibles at the top;

(7) Number of audited certificates that were used;

(8) Number of audited certificates that were unused;

(9) Number of certificates that were unused due to CTAP/ICTAP referral;

(10) Certification that the annual self-review required in paragraph 20 has been completed; and

(11) Other certification as required by a specific delegation agreement.

b. Each DEU is responsible for supplying the following information related to the use of category rating to the Recruitment and Placement Policy Service (059), OHRM. OHRM will use this data to prepare a report to Congress and to OPM annually for the 3 years following the establishment of policy and procedures beginning in 2011. The DEUs must submit the information no later than January 30th of each year through 2013.

(1) Number of employees hired under category rating;

(2) Impact category rating has had on the hiring of Veterans and minorities, including those who are Native Americans or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and

(3) An explanation of methods used to train managers in the administration of category rating.

21. ANNUAL SELF-AUDITS

a. A DEU must conduct annual "self-audits" of its delegated examining operations as prescribed by the Interagency Agreement for Delegated Examining Authority. The DEU must use VA staff not involved in the delegated examining activities of the office being audited to conduct the annual self-audit. These self-audits may only be conducted by persons who have received delegated examining training and are currently certified.

b. The DEU may substitute its annual self-audit review when OPM's Human Capital Leadership and Merit System Accountability Division (HCLMSA), Merit Systems Compliance Group conducts a review of the delegated examining operation.

c. The DEU must certify annually that the required self-audit has been completed and submit the certification to the local OPM Services Branch as specified on the Delegated Examining Quarterly Workload Report Form.

22. TERMINATION, SUSPENSION OR REVOCATION OF A DEU. A DEU's delegated examining authority may be terminated by either OPM or the Deputy Assistant Secretary for Human Resources Management with 90 days advance notice. OPM may suspend or revoke certification of a delegated examining office at any time, with or without advance notice. Termination, suspension, or revocation may be as a result of negligence or non compliance of a DEU's responsibility as identified in the Interagency Delegated Examining Agreement. In such cases, the DEU is not able to fill positions using competitive examining procedures. DEU's that wish to terminate its delegated examining authority must submit a written explanation to the Recruitment and Placement Policy Service, OHRM and must include the following:

a. The address, room number and mailing address, if different than the DEU; and

b. The reason for termination of the DEU.

23. REFERENCES

a. 5 CFR, part 294

b. 5 CFR, part 297

c. 5 CFR, part 300

d. 5 CFR, part 310

e. 5 CFR, part 315

f. 5 CFR, part 330

g. 5 CFR, part 332

h. 5 CFR, part 337

i. 5 CFR, part 339

j. 5 CFR, part 731

k. 5 CFR, part 1320

l. 5 U.S.C. § 302

m. 5 U.S.C. § 552

n. 5 U.S.C. § 1104

o. 5 U.S.C. § 1302

p. 5 U.S.C. § 2301

q. 5 U.S.C. § 2302

r. 5 U.S.C. § 3110

s. 5 U.S.C. Chapter 33, subchapter I

t. 29 CFR, part 1607

u. Delegated Examining Operations Handbook: *A Guide for Federal Agency Examining Offices*

v. *Guide to Processing Personnel Actions*]

[APPENDIX C. REGULARIZING ERRONEOUS TITLE 5 APPOINTMENTS

In accordance with Appendix B, paragraph 12 of this part, if an illegal appointment of an employee (e.g., reinstated improperly; appointed noncompetitively when ineligible for noncompetitive appointment, etc.) is discovered, the servicing Human Resources (HR) office must attempt to place the erroneously appointed employee on a legal appointment. To regularize (correct/legalize) an erroneous appointment, follow the steps below:

Step 1 – If the employee is in a bargaining unit, notify the union and employee, in writing, of the erroneous appointment. The notice must include: (1) a summarized description of the erroneous appointment; (2) what steps the servicing HR office will take to regularize the appointment; (3) what the ramifications are if the servicing HR office is unable to regularize the appointment; and (4) MSPB rights.

Step 2 – HR officer/manager should meet with the employee to explain: (1) that her/his placement into the position was erroneous; (2) what steps the servicing HR office will take to regularize the appointment; and (3) what role the employee will play in regularizing the appointment. The servicing HR office should also advise the employee that if the servicing HR office cannot regularize the appointment and OPM does not grant a variation to retain the employee, the servicing HR office must then terminate the employee.

Step 3 – The HR officer/manager should discuss with the employee and research all the employee's documents (in eOPF) to determine whether the employee has any special noncompetitive appointment eligibilities, such as VRA, 30% service-connected disabled veteran, Schedule A - 5 CFR 213.3102(u), etc.

Step 4 – If the employee had special noncompetitive appointment eligibility at the time of the erroneous appointment, the servicing HR office may place the employee in the position using the appropriate appointment authority. If so, the servicing HR office must correct the appointment SF 50 to reflect the appropriate appointment authority along with the appropriate remarks.

Step 5 – If the employee does not have special noncompetitive appointment eligibility, the HR officer/manager must make further efforts to give the employee a legal appointment via competitive examining through a Delegated Examining Unit (DEU).

Step 6 – The HR officer/manager should ask its designated DEU if any certificates existed from the date of the erroneous appointment to the present that mirror the occupational series and grade of the position to which the employee was erroneously appointed. If any have existed, the DEU may be able to reconstruct the certificate and amend it to add the employee.

Step 7 – If the employee is within reach on the reconstructed DEU certificate of eligibles, the facility should select the employee and use that action to regularize the appointment.

Step 8 – If the employee is not within reach on the *RECONSTRUCTED* Delegated Examining (DE) certificate of eligibles, the DEU should publish a new vacancy announcement to allow the employee to apply. The HR officer/manager should notify the employee of the vacancy announcement, its opening and closing dates, and qualification requirements. The HR officer/manager should also consult with the employee to answer any questions regarding the vacancy announcement and/or the application process.

This would be the *FIRST ATTEMPT* to regularize the erroneous appointment by publishing a competitive examining vacancy announcement.

NOTE: *The servicing HR office is strongly encouraged to make only two attempts to reach the employee on a DE certificate of eligibles.*

Step 9 – If the *FIRST ATTEMPT* results in the employee being within reach on the DE certificate of eligibles, the facility should select the employee and use that action to regularize the appointment. After regularizing the appointment, the HR officer/manager must prepare a staffing variation request for service credit for the period of time the employee served in the position erroneously. Follow the steps in Appendix D, *Title 5 Staffing Variation Requests*, to submit a staffing variation request.

Step 10 – If the employee is not within reach on the DE certificate of eligibles after the *FIRST ATTEMPT*, the servicing HR officer/manager should have the DEU advertise a vacancy announcement a second time after the required amount of time has passed (confer with your designated DEU). If the employee is within reach on the certificate of eligible after the *SECOND ATTEMPT*, the facility should select the employee and use that action to regularize the appointment. Then, the servicing HR office should follow the steps in Appendix D, *Title 5 Staffing Variation Requests*, to submit a staffing variation request.

Step 11 – If the employee is not within reach on the DE certificate of eligibles after the *SECOND ATTEMPT*, the servicing HR office should prepare a staffing variation request to retain the employee and for service credit for the period of time the employee served in the position erroneously. The servicing HR office should follow the steps in Appendix D, *Title 5 Staffing Variation Requests*, to submit a staffing variation request.]

[APPENDIX D. TITLE 5 STAFFING VARIATION REQUESTS

The Office of Personnel Management (OPM) has authority under 5 CFR 5.1 to permit variation (i.e., an exception) from the strict letter of the regulations whenever precise compliance with them would impose practical difficulties and unnecessary hardship and when no other remedy exists within the regulations.

OPM may grant a variation if it is within the spirit of the regulations and adequately meets the objectives of and accomplishes the purpose of the regulation as far as the Government and the competitive service are concerned. Staffing variation requests **may only** be submitted to OPM through the Office of Human Resources Management (OHRM) Recruitment & Placement Policy Service (R&PPS) (059). R&PPS will submit appropriately documented requests to OPM and communicate outcomes to facility officials.

OPM may approve Title 5 staffing variations (1) to alleviate hardship to individuals resulting from department/agency errors in effecting personnel actions, e.g., erroneous appointments; or, (2) to permit a department/agency to take action in unusual situations which the letter of the regulation cannot accommodate, e.g., extension of term appointments, beyond 4 years.

While 5 CFR 5.1 authorizes variations that affect requirements established by personnel regulations, OPM has no legal authority to modify requirements established by law, Executive order, or court decision, e.g., citizenship or Veterans Recruitment Appointment (VRA). A variation cannot regularize an action that violated such requirements (e.g., appointment of a noncitizen in the competitive service and the employee is still a noncitizen or a VRA appointment of someone who did not meet the eligibility requirements). In these cases, if the servicing HR office cannot identify a proper appointment authority, termination is the only recourse. For such an OPM-instructed termination, per Rule 55, Table 31-B, Chapter 31, *Guide to Processing Personnel Actions*, use NOAC 357, Termination, with Authority Code A3M, CS Rule V.

To prepare a staffing variation request for submission and consideration, follow the steps below:

Step 1 - Gather copies of documents that confirm events (i.e., SF 50s showing error and corrections, vacancy announcements, Merit Promotion referral certificates, Delegated Examining Certificates of Eligibles, Defense Department 214s, transcripts, licenses/certifications, etc.). If a promotion, change in position, transfer, etc., has occurred since the initial error, include the documentation for that personnel action, too.

Step 2 - Prepare a memorandum to the Director, R&PPS (059) from the facility Director which explains the chain of events, in chronological order, that relate to the specific request. Be sure to include the name of the impacted employee; the title, series, and grade of the impacted position; and, an explanation of corrective action management has taken to ensure such an error does not occur in the future.

Step 3 - Packages should be assembled and labeled to correlate with the chronological order of events. Once assembled, the package (i.e., memorandum and supporting documents) must be forwarded from the facility through its respective Administration/Staff Office-level Human Resources program office to confirm proper package construction (i.e., completeness and appropriate documentation) before forwarding to: Director, Recruitment and Placement Policy Service (R&PPS) (059), OHRM, VA Central Office, 810 Vermont Avenue, N.W., Washington, DC 20420.

TITLE 5 STAFFING VARIATION REQUEST PACKAGE CHECKLIST

ITEM NEEDED	ITEM DESCRIPTION
Memo requesting variation (1 memo per case)	Memo must: 1. Clearly state what is being requested, i.e., service credit, retention, or both. 2. Explain chain of events from erroneous appointment to present, in chronological order. 3. Include what steps have been taken to ensure that errors in making appointments do not occur again.
Erroneous Appointment Documents	1. Vacancy announcement used in the initial erroneous appointment. 2. Certificate(s) that resulted from the initial announcement. **NOTE:** *Certificates should be complete with the documented action taken on each of the eligibles as well as the printed name, signature, address, and phone number of the selecting and appointing officials.* 3. SF 50 for erroneous appointment.
Documents for Other Actions	If a promotion, change in position, transfer, etc., has occurred since the initial error, include the documentation for that personnel action also. *1. Vacancy announcement used, if applicable.* 2. Certificate(s) that resulted, if applicable. **NOTE:** *Certificates should be complete with the documented action taken on each of the eligibles as well as the printed name, signature, address, and phone number of the selecting and appointing officials.* 3. SF 50 for any change.
Documentation for Regularization Attempts **NOTE:** *Include documents for <u>EACH</u> attempt made to regularize the appointment via competitive examining for which the employee was blocked or not within reach.*	1. Vacancy announcement(s) used in attempt to regularize the erroneous appointment. 2. Certificate(s) that resulted from announcement(s) used in attempt to regularize the erroneous appointment. **NOTE:** *Certificates should be complete with the documented action taken on each of the eligibles as well as the printed name, signature, address, and phone number of the selecting and appointing officials.*
Regularized Appointment Documents	1. Vacancy announcement(s) used to regularize the erroneous appointment. 2. Certificate(s) that resulted from announcement(s) used to regularize the erroneous appointment. **NOTE:** *Certificates should be complete with the documented action taken on each of the eligibles as well as the printed name, signature, address, and phone number of the selecting and appointing officials.* 3. SF 50 for the regularized appointment.

Bargaining Unit Status	If employee(s) included in bargaining unit, you must: 1. Notify union official(s); and, 2. Include copy of such notification with request.
ITEM NEEDED	**ITEM DESCRIPTION**
Discovery of Erroneous Appointment	Include copy of the written notice given to each affected employee at initial stage of discovery, informing each employee of: 1. The identified error; 2. Steps to be taken to regularize the appointment, and request a variation to waive the error; 3. Implications of not being able to regularize the appointment or acquire a variation waiver; and, 4. MSPB rights.
NOTE: *OPM is not able to grant a variation to waive compensation/salary received by the employee while in the position erroneously; therefore, you will need to work with your finance office to submit a bill of collection to the employee on behalf of the Department. So that the employee is not adversely impacted, it is recommended that the servicing HR office submit a request to the finance office stating that the error(s) were caused by the servicing HR office and asking for a waiver of the debt.*]	

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.

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.

Series	Position Titles
0183	Licensed Professional Mental Health Counselor (LPMHC)
0182	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

]

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

☐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.

☐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:

_____

]

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]

STAFFING

PART II. APPOINTMENTS

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PART II. APPOINTMENTS

CHAPTER 1. GENERAL APPOINTMENT PROVISIONS

SECTION A. GENERAL

1. SCOPE

a. This chapter contains appointment provisions and requirements that apply to appointments made under both title 5 and title 38.

b. The contents of this chapter are to be used in conjunction with the policies and procedures contained in chapters 2 and 3 of this part.

2. EMPLOYEE ORIENTATION

a. All newly appointed employees must be oriented to the mission, policies, and functions of VA and their particular facility. They are also to receive information concerning human resources policies, employment benefits, performance expectations, customer service standards, conduct requirements, and, where appropriate, a copy of their collective bargaining agreement.

b. Facilities are to establish systems for orienting employees that meet the requirements of the Joint Commission on the Accreditation of Health Care Organizations (JCAHO).

SECTION B. APPOINTMENT REQUIREMENTS AND DETERMINATIONS

1. VA DRUG-FREE WORKPLACE PROGRAM

a. Certain position titles and categories have been designated as jobs that will be subject to random drug testing under the VA Drug-Free Workplace Program. Additional individual positions may also be designated for drug testing based upon the specific duties assigned.

b. Applicants tentatively selected for employment in a testing designated position may be subject to testing prior to appointment. Applicants with a verified positive test result, and those who refuse to be tested, will be denied employment with VA and may not reapply to VA for employment for a period of six months.

c. The policies and procedures for the VA's Drug-Free Workplace, including the list of jobs designated for testing, are contained in VA Directive 5383, VA Handbook 5383.1 and VA Handbook 5383.2

2. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) EXCLUSIONARY LIST

a. Section 4331(c) of the Balanced Budget Act of 1997, Public Law 105-33, amended sections 1128(a) and (b) of the Social Security Act to significantly expand the authority of the HHS Office of Inspector General (OIG) to exclude certain individuals and entities from all Federal healthcare programs. The law requires that all Federal healthcare programs ensure that no excluded individual or entity is receiving payments (including salary and wages) from any Federal healthcare program for services furnished on or after the date of the OIG exclusion.

b. In accordance with the requirements in paragraph a above, VA's healthcare program funds may not be used to make payments to excluded individuals and entities. Relevant funding sources for VA's healthcare programs include those funds provided in the Medical Care and Medical Administration and Miscellaneous Operating Expenses (MAMOE) appropriations, and any other fund programs, such as Medical Facilities Revolving Fund, General Post Fund, Supply Fund, Construction (Major and Minor) and the Parking Revolving Fund.

c. Persons and entities affected include all persons appointed to title 5 and title 38 positions and contracts that will be funded with Federal healthcare program funds. This includes all accessions to VHA, including competitive transfers or assignments between VHA facilities. It includes, but is not limited to appointments to positions as full time, part time, intermittent, permanent, temporary, term and fee basis. However, it does not apply to individuals appointed on a without compensation basis or other employment situations where there will be no payment to the individual from VHA funds. All individuals with appointing authority such as Human Resource Management Officers will be responsible for assuring that excluded individuals are not appointed.

d. Every transaction as indicated above will require that the appointment authority screen the HHS OIG List of Excluded Individuals/Entities before obligating the Agency in any binding agreement. This HHS exclusionary list can be accessed electronically at the http://oig.hhs.gov/fraud/exclusions.html. Information can be retrieved by searching the database on an individual's or an entity's name.

e. Where a reviewer can determine with certainty that a match exists, then no query to HHS is required. However, in the event that the individual or entity in question appears to be listed on the exclusionary list, but there is inadequate information to certify a match, the apparent match must be verified with HHS OIG prior to proceeding with the appointment/accession.

f. The validation inquiry may be forwarded to HHS OIG by e-mail to SANCTION @OS.DHHS.GOV. This query requires the individual/entity name, specialty, DOB, SSN, tax ID number (if different from SSN), and address. The reply from the HHS OIG will become a part of the appropriate recruitment/merit promotion file and will be maintained as long as the file itself is maintained.

g. In the event that the individual or entity withdraws their application, a report of contact documenting the apparent match and any subsequent conversation will be entered into the file for that transaction and maintained as a part of the file as long as the file itself is maintained.

h. It is prohibited to hire or contract with individuals or entities during the validation process. If a match is confirmed, the applicant may not be paid from Federal healthcare program funds.

i. Regulatory information is contained in 42 CFR, parts 1000, 1001, 1002, 1003, and 1005.

3. SUITABILITY

a. Suitability determinations will be made in accordance with the provisions of 5 CFR, part 731, and applicable instructions in chapters 2 and 3, this part.

b. If there is any question about an applicant's suitability, no appointment action will be taken, nor will an employment commitment be made, until the matter has been resolved.

c. Questions concerning the use of adverse information in making suitability determinations should be directed to the Regional Counsel or to the Office of Human Resources Management [ ] (05), as appropriate. Questions concerning the legality of adverse determinations and personal liability involvement will also be referred to the Regional Counsel.

[**4. STATUTORY BAR TO APPOINTMENT OF PERSONS WHO FAIL TO REGISTER WITH SELECTIVE SERVICE SYSTEM (SSS).** VA facilities must comply with Selective Service requirements and procedures in 5 CFR 300, subpart G with respect to title 5 applicants and employees. VA facilities must also comply with VA Handbook 5005, Part II, Appendix R, which provides policies and procedures appropriate to title 5 and title 38 (full/hybrid) applicants and employees.]

SECTION C. EMPLOYMENT OUTSIDE THE CONTINENTAL UNITED STATES

1. GENERAL

a. This section contains the policies and procedures governing the employment of U.S. citizens at VA facilities in Manila, Republic of the Philippines; the States of Alaska and Hawaii; and the Commonwealth of Puerto Rico. It applies to all employees in the competitive and excepted civil service, including employees in the Veterans Health Administration employed under 38 U.S.C. chs. 73 and 74, (except as provided below) and also to employees in the Senior Executive Service. It does not apply to the appointment of non-U.S. citizens at the VA Regional Office Outpatient Clinic in Manila, Republic of the Philippines under 38 U.S.C. ch. 74 (see chapter 3, section G, paragraph 8, this part). It also does not apply to Veterans Canteen Service employees whose employment is authorized by 38 U.S.C. ch. 78.

b. For the purpose of this section, "continental United States" means the [48 contiguous] States and the District of Columbia, but does not include Alaska or Hawaii. The term "tours of duty" as used in this section encompasses and is synonymous with the term "period of service" as used interchangeably in 5 U.S.C. 5728(a) and in FPMR 302-1 in 41 CFR ch. 302. The term "vacation leave" as used in this section refers to annual leave granted to eligible employees in Alaska and Honolulu, between tours of duty, in connection with a Government authorized round trip back to their actual place of residence and return to Alaska or Honolulu. To be approved for an additional tour of duty and home leave or vacation leave, an employee must sign a transportation agreement (MP-1, pt. II, ch. 2) to remain in the service of VA at the present facility for the required additional tour. The term "home leave" has the meaning given in 5 U.S.C. 6305(a) and 5 CFR 630, subpart F. The place of "actual residence" as used in this section means the employee's actual residence at the time of appointment or transfer to the post of duty outside the continental United States (Unpublished Comp. Gen. B136029, June 24, 1958; 5 U.S.C. 5728(a) and FPMR 302-1, paragraph 302-1.12(c)(3)(ii)). In connection with the same appointment, FPMR 302-1, paragraph 302-1.12(c)(3)(iii) states, "After an employee has been transferred or appointed to a post of duty outside the continental United States, the location of the place of actual residence incorporated in the official records of such employment shall be changed only to correct an error in the designation of residence."

c. This section also applies to any VA facilities that may be established in the future in foreign countries or in areas controlled by the United States that are outside the continental United States.

2. POLICY

a. All positions at Manila which are filled by U.S. citizens are centralized to the Secretary or Administration Head, as appropriate.

b. The selection of employees for positions centralized to the Secretary or to an Administration Head will be approved in accordance with the Department delegations of authority described in VA Handbook 5001, General Introduction and Administration, part II, chapter 2, paragraph 8 for title 5 and title 38 positions. For title 38 positions, also see chapter 3, this part.

c. Whenever possible, highly qualified VA employees will be selected for key positions outside the continental United States to be filled by U.S. citizens. Consideration of candidates may be limited, however, to those who apply when vacancies are announced or those who have officially indicated a willingness to accept these assignments.

d. Key positions at VA facilities outside the continental United States may be filled by appointment, or by the promotion, reassignment, or demotion of highly qualified VA employees. Appointments to these key positions from outside the Department, however, will be rare.

e. Merit principles will be followed in filling positions in the competitive service and the excepted service. Promotion actions in the competitive service will be taken under appropriate promotion plans, i.e., promotion plans for positions centralized to the Secretary or the Administration Head, or facility promotion plans.

3. RESPONSIBILITIES

a. Appointments and other employment actions involving positions centralized to the Secretary will be approved by the Secretary. Exceptions to established policies determined to be in the best interest of the service will also be approved by the Secretary or an appropriate designee.

b. Administration or staff office heads approve appointments and other employment actions for positions centralized to them; make recommendations on actions requiring the Secretary's approval; and, as appropriate, authorize additional tours of duty and extensions of tours of duty which are determined to be in the best interest of VA (see paragraph 4 [ ].)

c. Facility directors recommend second tours of duty or extensions thereof at Manila (see paragraph 4a and d); approve additional tours of duty in Alaska, Honolulu, and San Juan (see paragraph 4b [ ]); grant home leave or vacation leave (see paragraphs 5 and 6 [ ]); and separate employees who do not exercise their administrative reassignment rights, in accordance with the provisions of VA Directive and Handbook 5021, Employee/Management Relations**.**

d. For personnel actions involving centralized positions, the Deputy Assistant Secretary for Human Resources Management and Labor Relations advises on and assists with the recruitment of personnel for assignment to such positions; coordinates movements between releasing and receiving facilities; initiates requests for security clearance, when applicable; and takes other actions necessary for assignment to, or return of the employee from, facilities outside the continental United States.

e. The Director, Office of Human Resources in the Veterans Benefits Administration, or designee, and appropriate Central Office program officials are responsible for providing necessary orientation to employees selected for assignment outside the continental United States.

4. TOURS OF DUTY

a. Assignment of VA employees recruited from the continental United States to Manila will be for a minimum of one initial 2- or 3-year tour of duty, as determined in advance by the Administration Head, and for a second tour of duty of an additional 2 or 3 years, when recommended by the facility Director

and approved by the Administration Head, not to exceed two consecutive tours of duty and a maximum of 5 years. Administration Heads are delegated authority to make exceptions to this policy concerning tours of duty except for positions centralized to the Secretary. Exceptions, however, will be approved only when clearly justified as being in the best interest of VA.

(1) Approximately 5 to 6 months prior to completion of the first tour of duty at Manila, and subject to satisfactory completion of a physical examination of the employee and family members residing with the employee, a request for an additional tour of duty may be initiated by the employee in accordance with the provisions of paragraph 4a above. If the facility Director concurs, the recommendation will be forwarded to the appropriate Administration Head for approval.

(2) Employees at Manila will not be permitted to remain beyond two consecutive tours of duty unless an exception is granted in accordance with paragraph 4a above. Employees at Manila who elect not to exercise their administrative reassignment rights will be separated in accordance with the provisions of VA Directive and Handbook 5021.

b. Assignment of VA employees recruited from the continental United States to Alaska, Honolulu, or San Juan will be for an initial tour of 3 years with subsequent tours of 2 years duration when approved by the facility Director for noncentralized positions or by the Administration Head, staff office head, or Secretary, as appropriate, for centralized positions. Administration or staff office heads are delegated authority to make exceptions to this policy concerning tours of duty except for positions centralized to the Secretary. Exceptions, however, will be approved only when clearly justified as being in the best interest of VA.

c. Employees eligible for reassignment rights (see paragraph 10) assigned to a VA facility outside the continental United States are required to complete VA Form 8207, Agreement for Assignment After Tour(s) of Duty Outside Continental United States, prior to departure from the continental United States for their post of duty.

d. Time spent in the continental United States on leave and time spent in travel to and from the United States are excluded in computing the maximum period of service outside the continental United States. Any extension after completion of the first tour of duty and the beginning of travel for home leave, vacation leave, or for reassignment, which is administratively determined to be necessary, is also excluded. Such extensions will not exceed 6 months and must be approved by the Administration Head for Manila and by the facility Director for Alaska, Honolulu, or San Juan.

5. HOME LEAVE

a. Employees assigned outside the continental United States who meet the criteria of Office of Personnel Management regulations issued pursuant to 5 U.S.C. 6305 earn home leave as a matter of law. This right to earn home leave vests even in employees transferred to Puerto Rico from the continental United States for their own convenience and at their own expense.

b. In accordance with the provisions of VA Directive and Handbook 5011, Hours of Duty and Leave, home leave is granted under the circumstances cited in 5 CFR 630, subpart F.

c. The right to earn home leave under 5 U.S.C. 6305 is separate and distinct from the right to Government paid round trip travel for the purpose of taking home leave under the provisions of 5 U.S.C. 5728(a) (see paragraph 6 below).

d. Employees transferred to Alaska or Hawaii from the continental United States are not entitled to earn home leave.

e. Employees who are residents of Puerto Rico who transfer to VA facilities in the continental United States do not earn home leave.

f. Employees serving under overseas limited appointments are not eligible for home leave or vacation leave. They are, however, eligible for regular annual leave.

g. Certain employees appointed under 38 U.S.C. ch. 73 and 74 earn and are granted leave on the same basis as employees subject to the provisions of 5 U.S.C. ch 63. (See VA Directive and Handbook 5011, Hours of Duty and Leave.)

6. TRAVEL AND TRANSPORTATION EXPENSES FOR PURPOSE OF TAKING HOME LEAVE AND VACATION (ANNUAL) LEAVE

a. Under the authority of 5 U.S.C. 5728(a), round trip travel and transportation expenses from the post of duty outside the continental United States to the place of actual residence and return, for the purpose of taking home leave or vacation leave, are payable only in those cases where transfer outside the continental United States was for the convenience of the Government, moving expenses were paid by the Government under 5 U.S.C. 5724(a), there has been an actual completion of the initial or any subsequent agreed period of service and the employee agrees to serve an additional tour of duty at the same or another post of duty outside the continental United States under a new written agreement completed before departing from the post of duty to take leave.

b. Round trip travel and transportation expenses for eligible employees covered by 5 U.S.C. ch. 63, in connection with the granting of home leave or vacation leave for the purpose of returning to their place of actual residence in the continental United States, will be approved by authorizing officials, subject to the determination that the employee's services are to be continued for an additional tour of duty in accordance with the provisions of paragraph 4a or b, as appropriate. Prior to departure for home leave or vacation leave, employees must complete a new written agreement to remain in the service of VA at the assigned facility for an additional tour of duty as prescribed in paragraph 6a above. Employees and their dependents at Manila must satisfactorily complete the required medical examination (see paragraph 4a (1)) prior to departure for home leave purpose. (See 5 U.S.C. 6305; 5 CFR 630 subpart F, for regulations pertaining to home leave; also see 5 U.S.C. 5728(a) and MP-1, pt. II, ch. 2, for regulations governing round trip travel for home leave or vacation leave purposes.)

c. Employees who are residents of Alaska, Hawaii, or Puerto Rico who transfer to VA facilities in the continental United States are not entitled to Government paid travel expenses for the purpose of returning to their place of residence on leave.

7. REQUIREMENTS AND SELECTION FACTORS

a. **Qualification Standards.** The same qualification standards used for assignment to positions in the United States will be used to determine basic eligibility for employment at facilities outside the continental United States.

b. **Personal Characteristics.** U.S. citizens assigned to Manila are considered to be representatives of the United States Government. Employees who are well regarded for competence, stability, and decorum should be encouraged to apply when vacancies are announced.

c. **Medical Requirements.** U.S. citizen employees and their dependents who will accompany them to Manila must undergo an appropriate medical examination as specified below:

(1) Dependents, for this purpose, are the employee's spouse and children, including stepchildren and adopted children who are unmarried and under 21 years of age, or regardless of age if incapable of self-support and such incapacity existed on the 21st birthday of the child.

(2) Medical examinations are mandatory upon initial assignment to Manila. Such examinations will normally be conducted by medical facilities of VA for the employee and dependents age 12 and over. Children under 12 years of age will normally be examined by the family's physician. In accordance with Department of State regulations (DOS Foreign Affairs Manual FAM 3), for each eligible person examined by a private physician, the employee is entitled to be reimbursed a reasonable cost for the examination based upon presentation of the receipted bill from the examining physician.

(3) Employees and their dependents may be required to undergo medical examinations and tests as ordered by appropriate officials at the Manila regional office when such examinations are considered pertinent to questions concerning the employee's retention in a position, eligibility for retirement, or return to duty after absence due to illness or injury. Dependents may, based on religious convictions, refuse to take medical examinations at these times, but if they do not take them they will not be eligible for the medical care provided at Government expense under the medical and health program administered by the Department of State.

d. **Security Clearance.** Certain positions at Manila filled by U.S. citizens are designated "critical-sensitive" and thus require full security clearance; the remaining positions are deemed to be "noncritical-sensitive."

NOTE: *See appendix II-A for additional instructions related to employment procedures for positions in Manila.*

8. ORIENTATION

a. Before departing from the United States for assignment to Manila, an employee will be given orientation by VA Central Office concerning employment and living conditions in that area. Further orientation may be given by the Department of State. Additional orientation will be provided for each employee upon arrival at Manila.

b. As deemed necessary, employees selected for assignment to other VA facilities outside the continental United States may be given orientation by the appropriate Administration Head and program officials.

9. U.S. CITIZENS RECRUITED IN MANILA

a. **Positions in the Competitive Service**

(1) **Authority to Appoint.** U.S. citizens recruited in Manila will be given overseas limited term appointments. The facility Director will appoint the employee after the Administration Head has approved the selection. The initial overseas limited term appointment will be for a period not to exceed 3 years and may be extended, upon approval of the Administration Head, for an additional 2 years, for a maximum period of 5 years.

(2) **Qualifications.** Each applicant must meet the qualification requirements for the position to which appointed.

(3) **Medical Requirements.** Medical requirements for those employees and their dependents are the same as those required for employees recruited in the United States (see paragraph 7 above).

(4) **Security Clearance.** These employees are subject to the same security requirements as employees recruited in the continental United States, except appointment may be authorized on the basis of an interim security clearance subject to completion of satisfactory field investigation.

b. **Positions Excepted Under 38 U.S.C. Chs. 73 and 74.** The requirements and procedures in chapter 3 of this part apply when filling these positions.

10. ADMINISTRATIVE REASSIGNMENT RIGHTS

a. **General.** The term "administrative reassignment rights," as used in this chapter, means an employee's entitlement to another continuing assignment in VA following a period of employment outside the continental United States. This right differs from statutory reemployment rights in that it is granted administratively by VA. The placement of the employee may involve promotion or demotion, as well as reassignment.

b. **Eligibility Requirements.** Administrative reassignment rights are applicable to VA employees recruited in the continental United States for employment outside the continental United States and who were transferred outside the continental United States under the conditions stated in paragraph 6a above. The employee must have completed at least one tour of duty unless ill health of the employee or a family member makes it necessary for the employee to return to the United States, or unless it is determined by VA that the employee's return would be in the best interest of VA.

c. **Competitive Service Employees.** An employee eligible for administrative reassignment will be given placement consideration as indicated in subparagraphs (1) through (4) below, as appropriate. Placement consideration will be accorded on a step-by-step priority sequence as set forth in these subparagraphs (e.g., all efforts for placement under subparagraph (1) must be exhausted before initiating

procedures under subparagraph (2); subparagraph (2) procedures completed before initiating procedures under subparagraph (3)).

(1) The returning employee will be placed in their former position if vacant, unless the employee requests another available assignment. VA approval for such an alternative assignment is required. (Every effort, however, will be made to place the employee in a vacant position, if one exists at any VA facility at the grade presently held, or with a minimum grade reduction, if the employee's present grade is higher than the one relinquished when the employee accepted employment outside the continental United States.)

(2) If the returning employee's former position is not vacant or no longer exists, the employee will be assigned to a position (existing or otherwise available) at any VA facility where there is an appropriate assignment available, at a grade not lower than the one relinquished when the employee accepted employment outside the continental United States.

(3) When management determines that there is no position available in which the returning employee can be placed, then as a last resort, if the employee is at the same or a higher grade than that held at the time of assignment outside the continental United States, the employee will be returned to the facility and position formerly held, provided the position is occupied by an employee who can be displaced under reduction-in-force regulations by the returning employee. If the incumbent of such a position formerly held by the returning employee cannot be displaced in this manner, the returning employee will be considered to be assigned to this former position for the purpose of making the "best offer" possible under reduction-in-force regulations.

(4) If the employee presently occupies a position at a lower grade than that relinquished at the time of assignment outside the continental United States, efforts consistent with appropriate merit promotion requirements will be made to place the employee in a vacant position at any VA facility at the grade level formerly held. If this is not possible, efforts will be made to place the employee in a vacant position at any VA facility at the grade level currently held. When management determines that there are no appropriate positions available, then, as a last resort, the employee will be considered to be returned to the facility to which formerly assigned in the continental United States at the grade currently held for the purpose of making the "best offer" possible under reduction-in-force regulations.

d. **Excepted Service Employees (Other Than Title 38).** Excepted service employees (other than those employed under 38 U.S.C. ch. 73 or 74) will have the same administrative reassignment rights given to competitive service employees as explained above except for assignment through reduction in force. When reduction in force is necessary, the assignment rights for the excepted service employee will be those described in part IV of this handbook.

e. **Title 38, United States Code, chapter 73 or 74 Employees.** U.S. citizen employees recruited in the United States and serving under 38 U.S.C. ch. 73 or 74 authority are entitled to return to an assignment at the same grade level currently held. The position may be at the facility from which recruited or at another VA facility.

f. **SES (Senior Executive Service) Employees.** After satisfactorily completing their agreed tour(s) of duty outside the continental United States, employees in the Senior Executive Service will be reassigned to another Senior Executive Service position in VA.

g. **Employees Recruited in Manila.** Employees recruited in Manila do not have administrative reassignment rights to positions in the United States. U.S. citizen employees serving under overseas limited term appointments may, however, be considered for such assignments. To be considered, they must be eligible for competitive appointment and the facility Director must certify that their work and conduct have been satisfactory. These employees will be considered only for vacant positions, and, where possible, should be considered for positions equivalent in grade to that held under the overseas limited term appointment.

h. **Employees Recruited in Alaska, Honolulu, and San Juan.** Local residents hired by these facilities do not have administrative reassignment rights to positions in the continental United States. They may, however, apply for employment consideration to other VA facilities under the same procedures that apply to employees within the continental United States (part III of this handbook).

i. **Limitation on Reassignment Rights.** An employee who has exercised administrative assignment rights is not eligible for another assignment outside the continental United States with such rights for a period of 2 years after such rights were last exercised. Exceptions to this policy may be approved by the appropriate administration or staff office head, except for positions centralized to the Secretary. Such exceptions must be clearly justified as being in the best interest of VA.

11. APPLICATION FOR RETURN TO THE CONTINENTAL UNITED STATES

a. At the request of an employee who is eligible for administrative reassignment, the facility Director will forward the employee's completed application (OF 612, Optional Application for Federal Employment or authorized equivalent form) in duplicate, reduction-in-force data (except for title 38 employees), supervisory evaluations, and information needed to prepare SF 50-B, Notification of Personnel Action. This information will be forwarded to the appropriate administration or staff office head at least 120 days before the employee's intended departure. The administration or staff office head, with the advice and assistance of the Deputy Assistant Secretary for Human Resources Management [and Labor Relations], is responsible for making the necessary administrative arrangements with the releasing and receiving facilities for the employee's return. Employees and their dependents at Manila must also take the prescribed medical examination prior to returning to the United States for assignment or separation.

b. Similar action will be taken for employees serving under overseas limited term appointments who desire a VA position in the United States, except that reduction-in-force data are not required.

c. If an employee eligible for administrative reassignment rights elects not to exercise those rights and resigns or retires, the resignation or retirement is processed by the Human Resources Management Officer for the employee's current duty facility. In establishing the effective date, travel time (actual or constructive) will be allowed to the employee's place of residence in the United States without charge to leave. If the employee remains in the facility area, travel time is not considered in establishing the effective date.

PART II. APPOINTMENTS

CHAPTER 2. TITLE 5 APPOINTMENTS

SECTION A. GENERAL

1. SCOPE. This chapter contains the policies and requirements which apply to employment actions in the competitive and excepted civil service under title 5, U.S. Code. It does not apply to excepted service positions in the Veterans Health Administration filled under 38 U.S.C. ch. 73 and 74 or to excepted positions in the Veterans Canteen Service filled under 38 U.S.C. ch. 78. The scope of this chapter is expanded for "Priority Placement Program for Employees in Retained Grade or Pay Status," appendix III-F of part III, this handbook only, to include Nonappropriated Fund employees in the Veterans Canteen Service who are subject to the Federal Wage System.

2. EMPLOYMENT PROGRAM MANAGEMENT

a. To the maximum extent possible, employment will be accomplished in accordance with a planned program, rather than resorting to emergency measures to fill vacancies as they occur. Employment requirements and estimates will be based on projected staffing needs, including such considerations as employee turnover, workload and budgetary forecasts, work technology, and organization and functional changes. The complexity of such plans depends upon the scope and nature of projected needs. This will involve planning and coordinating such functions as job analysis, equal employment opportunity, position management, recruitment, internal placement, cost considerations, and training and development to assure the availability of new and replacement staff in the number and quality required to meet current and future needs.

b. VA positions will be filled by selection from among those well-qualified individuals available through the recruitment method(s) used. Such persons will be placed in positions where their education, experience, training, aptitudes, abilities, interests, and personal traits best fit them for successful performance.

c. It is VA policy to provide maximum opportunities for career advancement of VA employees and optimum utilization of their skills. To this end, VA employees will be fully considered for vacancies for which they qualify, especially those which offer advancement opportunities. This policy, however, does not preclude the selection of a qualified candidate from outside VA whenever in the judgment of the selecting official, such selection would be in the best interest of VA. Outside sources of candidates may include employees of other Federal facilities who wish to transfer, former Federal employees who are eligible for reinstatement, eligibles on civil service certificates, and those eligible for excepted appointments. VA employees and applicants from outside sources may be considered concurrently for a vacant position; or, at the option of the selecting official, consideration may be given first to applicants from one source and then to those from another. One source may also be used exclusively. The decision as to which source of candidates or combination thereof will be used may be made at the time it is decided to fill a position, or at any point during the action to fill it, or it may be made as a part of the overall staffing plan for groups or categories of positions.

d. Standards for selection will be applied systematically, equitably, and impartially to all interested candidates who meet the requirements for consideration. Employment actions will be taken without discrimination for such reasons as race, color, religion, national origin, sex, lawful political affiliation, marital status, physical or mental disability when the individual with disability(ies) is qualified to do the work, age, or membership or nonmembership in a labor organization.

e. The principle of broad areas of consideration will be applied to the maximum practicable extent in order to recruit an adequate number of qualified candidates and to enhance the diversity of the candidate pool.

f. In relating employment actions to other personnel considerations, attention will be given to providing assignments which will permit the development of employees and full utilization of their potential for advancement through realigning duties, establishing trainee and understudy positions, conducting special training programs, and detailing employees, as appropriate.

g. A special effort will be made to retain qualified employees who become disabled or whose positions are surplus to current needs, and to minimize the adverse effect of management decisions on employees, by assignment to other continuing positions.

h. Employment actions will conform to the requirements governing the employment of relatives (5 CFR, part 310 and paragraph 5o below).

i. Periodic studies will, to the extent necessary and feasible, be made by the facility and by Central Office to evaluate the effectiveness of the various employment practices in achieving management objectives.

3. FILLING POSITIONS

a. **Responsibilities of Selecting Officials.** Officials authorized to recommend or to approve the selection of a person for a position are responsible for being familiar with and following the policies and principles expressed in this chapter.

b. **Priority Consideration.** Priority in selection for assignment to a position must be given to persons with statutory entitlement. This includes employees applying for restoration after active military service or after recovery from a compensable work-related injury (5 CFR, part 353, and chapter 6 of part III, this handbook), and others entitled to a position under law. Then, priority consideration will be given to other persons having rights under civil service regulations or specific VA policy, as appropriate. Priority placement under VA's Priority Placement Program will be in accordance with OPM and VA policies.

c. **Basis for Selection.** Selections for positions will be based on the objective evaluation of the candidates' total qualifications for the position. "Qualifications" means the combination of experience, training, education, skills, knowledges, abilities, personal characteristics, and merit factors deemed to be pertinent to successful performance.

4. TYPES OF APPOINTMENTS

a. **Competitive Service Appointments (5 CFR 315 and 316).** Subject to meeting the requirements of law, Office of Personnel Management (OPM) regulations, and VA policies, appointing officers may use any applicable civil service authority to make competitive and noncompetitive appointments in the competitive service. Also see 5 CFR, parts 300, 330, and 332, and section B, this chapter for related information.

b. **Excepted Service Appointments.** For information on these appointments, see section C of this chapter and 5 CFR, parts 213, 300, 302, 304, 307 and 308. Other relevant statutory references may be found in 5 U.S.C. chapter 31, subchapter I.

c. **WOC (Without Compensation) Appointments [5 U.S.C. 3111, 38 U.S.C. 513, 5 CFR 213.3102(k) and] 5 CFR 304.102(h)**

(1) As a general rule, voluntary or gratuitous services furnished on the initiative of a person, without a written agreement with VA, will not be accepted, neither will such services be used in lieu of the regular employment of employees under the competitive or excepted service procedures. When such services are used[,] they must be supplementary to the employment of essential personnel.

(2) Voluntary or gratuitous services may be accepted under an agreement (See 7 Comp. Gen. 810. Also see VHA [Handbook 1620.1], for information on the VA Voluntary Service program, and chapter 3, this part, for information on WOC appointments made under 38 U.S.C. ch 74. See 5 CFR, part 308, for information concerning voluntary performance by students in connection with educational programs under authority of 5 U.S.C. 3111.) VA is specifically authorized by 38 U.S.C. 513 to accept uncompensated services for the purpose of carrying out all laws administered by VA. To perform such services the person must meet legal and regulatory requirements and enter into a written agreement containing the following points as a minimum:

(a) The identity of the person.

(b) The identity of the VA establishment, the organizational segment where the service is to be performed, and the nature of the service.

(c) The inclusive dates of the agreement[;] or in lieu of a terminal date[,] a statement such as “for an indefinite period.”

(d) A waiver of all claims to monetary remuneration.

(e) A provision to cancel the agreement by either party upon written notification.

(f) Authority under which the agreement is made (38 U.S.C. 513).

(g) Signature of the person and the VA appointing official. [(Reference: VA Handbook 5001, Part II, paragraph 8c.)]

NOTE: *Unpaid work experience may be provided for service-disabled veterans who are participating in training programs under chapter 31, title 38, U.S.C. and for clients of State vocational rehabilitation facilities. These trainees are not WOC employees. They receive on-the-job training through written agreements between the employing Federal facility and the Counseling and Rehabilitation Section at the appropriate VA regional office or the State vocational rehabilitation facility. (See 5 CFR 213.3102(k) for additional information.)*

5. EMPLOYMENT REQUIREMENTS AND DETERMINATIONS. Detailed information on the legal and regulatory requirements for employment in VA is contained in OPM's Guide to Processing Personnel Actions and this chapter. In addition, appointing officers will observe the following:

a. **Effective Date of Personnel Actions**

(1) **General.** Unless specifically authorized by law or regulation based on law, personnel actions filling positions through any method cannot be effective before the date the approving authority determines that requirements have been met and approves the action. In those rare instances, however, where the required administrative approval was inadvertently overlooked, the approving official may subsequently confirm the action and allow the original effective date to stand. Requirements include determinations that a position has been established and that appropriate legal, regulatory, and administrative approvals have been obtained.

(2) **Appointments (OPM Guide to Processing Personnel Actions).** Appointments must be approved by the appointing authority on or before the date the employee enters on duty. When an employee is to enter on duty on the first Monday of a pay period, the effective date of the appointment will be the first day of the pay period (Sunday). When an employee enters on duty on any day other than the first Monday of the pay period, the effective date of appointment will be the date of entrance on duty unless an earlier date is required to satisfy statutory or regulatory provisions, e.g., restoration after military service. When the first Monday of the pay period is a holiday, the appointment will be effective on the entrance on duty day.

b. **Security Requirements.** See VA [Directive &] Handbook 0710 [Personnel Suitability & Security Program] for VA instructions concerning position sensitivity designations [Section A, Paragraph 2 and Appendix A] and other security requirements.

c. **Qualifications Requirements.** Prior to appointment, a determination will be made that the candidate meets established minimum qualification standards requirements. Procedures and policies relating to the use of qualifications standards, as well as the standards for specific occupations, are found in the OPM Operating Manual – Qualification Standards for General Schedule Positions, OPM's X-118C Handbook, section D of this chapter, and appendix II-F [ ] of this handbook.

d. **Verification of Qualifications and Suitability Data (5 CFR, part 731)**

(1) **General.** In the case of appointments from civil service certificates, qualification and suitability requirements can reasonably be assumed to have been met where the examination included "vouchering" or other verification of the information in the application. This does not necessarily apply to the examination of applicants for VA police officer positions (see subparagraph [5d](5) [ ]). In all other

appointments, human resources management officials will review the application and reconcile any discrepancies or incomplete entries.

(2) **Verification of Federal Employment.** In all appointments where the applicant has been or is now employed in the Federal Government, appointing officials will obtain verification of employment and satisfy themselves that employment of the applicant is consistent with VA requirements. Whenever necessary and available, an applicant's personnel folder should also be obtained and all actions reviewed. In reemployment actions, current eligibility for reinstatement must be verified and appointing officials should not be misled by terminology which may be similar in both the competitive and excepted service.

(3) **Methods of Verification (OPM Guide to Processing Personnel Actions).** Verification of employment and suitability can be made by FL 5-127, Inquiry Concerning Applicant for Employment, letter, telephone, or personal visit. Documents generated will become a part of the employment investigation records with telephone calls and personal visits summarized for the record. Upon employment, such records will accompany the SF 85, Questionnaire for Non-Sensitive Positions (or SF 86, Questionnaire for National Security Positions) and SF 87, OPM Fingerprinting Chart, when they are submitted to OPM.

(4) **Timing of Verification.** Normally verification will be accomplished prior to employment of the applicant. Where local conditions in individual cases prevent completion prior to appointment, the verification may (except for inquiry to last Federal employer) be accomplished on a post-appointment basis. Preemployment inquiries will not be sent to persons or firms who have previously replied to similar inquiries where the replies are available for review. Neither should they be sent where an appointment must be made promptly without regard to the reply. OPM will, however, voucher such sources after appointment as a part of the investigative program covered in 5 CFR, part 736. In any event, the data on any inquiries and the application will be compared with OF 306, Declaration for Federal Employment, on the date of appointment.

(5) **Preemployment Screening Procedures for VA Police Officer Candidates**

(a) **Screening Process.** All applicants being considered for appointment to VA police officer positions will be vouchered to the extent possible prior to entrance on duty. This will include, as a minimum, conducting telephonic interviews of former employers and former supervisors to verify listed qualifying experiences and work habits of tentatively selected applicants, and will include contacts with police officials in the applicant's State or former State(s) of residence. For each applicant the Human Resources Management (HRM) office should review experience and education against the qualification standard and appropriate knowledges, skills, abilities, and other characteristics. Applicants must provide official supporting documentation as needed to verify military service or other experience. The HRM Officer will refer each qualified applicant under definite consideration to the supervisory police officer for interview. For tentatively selected candidates, supervisory police officers will: complete SF 87, Fingerprint Charts; conduct arrest record checks through Federal and state agencies; complete parts I and II of VA Form 0120, VA Police Officer Pre-Employment Screening Checklist; and otherwise comply with the pre-employment screening requirements in VA Directive 0730, Security and Law Enforcement, and VA Handbook 0730's paragraph 3a(2). If no adverse information is received from the arrest record checks, supervisory police officers will return the VA Form 0120 to the HRM office for vouchering of the

applicant's qualifying experience and most recent 5 years of experience and completion of parts III and IV of VA Form 0120[, VA Police Officer Pre-employment Screening Checklist]. The HRM office is responsible for scheduling medical examination[s for] selected applicants. See [VA] Handbook 0730 [Secuirty and Law Enforcement,] appendix A, Specific Medical Standards for VA Police Officer Applicants and Incumbents.

(b) **Use of Adverse Information as Basis for Nonselection.** When facility officials become aware of adverse information during pre-employment screening, it should be reviewed against suitability and/or security criteria and adjudicated or referred to OPM, as appropriate, in accordance with 5 CFR, parts 731 and 732. When facility officials determine that, based on adverse information obtained in the above screening process, an objection to an eligible on a civil service certificate is warranted or when a preliminary decision is made to nonselect an individual based on information obtained in this pre-employment screening process, the Regional Counsel and [Deputy Assistant Secretary (DAS) for] Human Resources Management [ ] and [Labor Relations (OHRM&LR)] (05[ ]) should be contacted for advice and assistance related to the use and disposition of such adverse information. Questions concerning the legality of adverse determinations and personal liability involvement will also be referred to the Regional Counsel.

(c) **Disposition of Documents and Records.** After a police officer applicant has accepted an offer of employment, Human Resources Management (HRM) officials should promptly contact the Security Officer (07C), VA Office of Security and Law Enforcement, about initiating the required Minimum Background Investigation, using the SF 86, Questionnaire for National Security Positions. HRM officials will tell police officer applicants that the investigation is a requirement of employment and that the completed investigation must be favorably adjudicated. The applicant will be told that the investigation will be conducted after appointment. To provide a record of satisfactory vouchering, Copy 1 of the VA Form 0120 is filed in the locked and restricted access VA Police Investigative Records File in the facility Director's office. This file shall be subject to the provisions of the Privacy Act system of records titled "OPM/CENTRAL 9." Facility copies of VA Form 0120 on hired police applicants will be kept on file until the employees have been separated or reassigned from serving in a Police Officer position. Copy 2 is mailed or faxed directly to the Director, VA Law Enforcement Training Center, Building 101, 2200 Ft. Roots Drive, North Little Rock, AR 72114. Documents obtained during the pre-employment screening process for those applicants not selected for VA police officer positions will be destroyed.

e. **Appointment Documents SF 61 and OF 306**

(1) All appointees in competitive and excepted service including WOC employees will complete the appointment documents as described in OPM's Guide to Processing Personnel Actions. In addition to appointment actions, the OF 306, Declaration for Federal Employment, must be executed for certain conversion actions in the competitive service (OPM Guide to Processing Personnel Actions).

(2) The SF 61 Oath of Office (part A) should be administered in a dignified manner to impress the appointee with the seriousness of taking an oath and the significance of entering Federal employment.

(3) The Oath of Office will normally be administered on or before the date of entrance on duty. When an appointee enters on duty on a day, e.g., Sunday, when the authorized person is not available to

administer the oath, taking of the oath may be delayed and administered at the earliest opportunity. No right to compensation accrues until the oath is taken (OPM Guide to Processing Personnel Actions).

f. **Physical Requirements and Examinations.** See VA Directive and Handbook 5019, Occupational Health Services, for policy and procedures on determining physical fitness for appointment and placement actions.

g. **Pay Determinations.** For determination concerning applicable pay rates in appointment and placement actions, see Directive and Handbook 5007, Pay Administration.

h. **Citizenship**

(1) General appropriation acts permit the employment by VA of noncitizens of the United States under certain conditions. For example, a Treasury and General Government Appropriation Act providing funds for VA in a recent fiscal year stated that: "Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person: (1) is a citizen of the United States; (2) is a person in the service of the United States on the date of the enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States; (3) is a person who owes allegiance to the United States; (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence; (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975; or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992 . . . This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies."

(2) Generally, all positions in VA are subject to the citizenship requirement outlined in subparagraph [h](1) [ ]. Citizenship requirements for certain positions in the Veterans Health Administration are contained in sections 7402(c) and 7407 to title 38, U.S.C. For competitive service positions under title 5, U.S.C., citizenship requirements are contained in 5 CFR 338.101.

(3) Noncitizens who have been accorded permanent resident alien status in the United States may be considered for appointment to certain positions in the excepted service of title 5, U.S.C. (e.g., Attorney, Chaplain, Rehabilitation Technician, etc.) unless otherwise precluded by law, Executive Order, or regulation. Generally, however, certain excepted service positions, of a policymaking or confidential nature, such as division/service chief or equivalent or higher at field facilities and equivalent positions in Central Office, or sensitive positions (as defined in MP-1, pt. I, ch. 5, paragraph 5) will be filled by United States citizens. Prior approval by the appropriate administration or staff office head is required before noncitizens can be appointed to these positions. Requests should be forwarded through channels to Central Office (ATTN: [DAS for OHRM&LR] 05[ ]).

NOTE: *Any questions on employing noncitizens, e.g., nationals of those countries allied with the United States in the current defense effort, may be referred by telephone, e-mail or letter to the DAS for OHRM (05).*

i. **Age Limits**

(1) **General.** Age limits for both competitive and excepted service positions will be consistent with the requirements contained in 5 CFR 338.601 unless specified otherwise in a qualification standard. In addition, field facility directors will conform to any State or local laws relating to employment of minors and women.

(2) **Firefighters.** Maximum entry age for firefighters is established as provided for in section 3307(d) of title 5, United States Code.

(a) For initial appointments, applicants can not have reached their 37th birthday by the day of appointment.

(b) Applicants who have passed the designated entry age limit noted, but who have previously served in a covered position may be eligible to re-enter the fire service provided that they:

1. Meet all applicable qualifications for the position; and

2. Will be able to complete a total of 20 years of covered and creditable Federal firefighter service by the time the Federal firefighter reaches the age of 57. Prior service in covered positions and creditable towards retirement may be subtracted from the applicant's age to determine if the Federal firefighter meets the maximum entry age.

j. **Licensure, Registration, or Bar Membership**

(1) The qualification standards for certain occupations require that applicants have current State licenses, registration or certification to be considered for employment. Likewise, attorneys must have bar membership. It follows that these employees must maintain their licensure, registration, certification, or bar membership on a current basis to continue their employment in such positions.

(2) Appointing officers will [verify] Licensure, Registration, or Bar Membership [by primary source verification from State Licensing Boards (SLB). Information obtained through the verification process must be documented in writing, either by letter, memo, report of contact, or appropriate web verification. Documentation of verification will be filed on the right side of the employee's personnel folder. For VHA health care professionals, the documentation will also be maintained in the VHA credentialing file.] Thereafter, an expiration date follow-up will be coded as provided for on page App C - 8 of VA Manual MP-6, part V, supplement No. 1.5 (PAID). The facility Director will designate the official(s) who will be responsible for the follow-up verification of the employee's current license, registration, [certification] or bar membership. [ ]

(3) Employees who do not maintain their current license, registration, or bar membership, must be removed from their positions and assigned to other positions for which they qualify or be separated under appropriate procedures.

k. **Applicant Drug Testing.** See VA Directive 5383 and VA Handbooks 5383, 5383.1 and 5383.2.

l. **HHS Exclusionary List.** See chapter 1 of this part.

m. **National Practitioner Data Bank Screening.** See VHA Handbook 1100.19, Credentialing and Privileging.

n. **Employment of Retired Military Officers.** Effective October 1, 1999, PL 106-65 repealed 5 U.S.C. 5532, titled "Employment of retired members of the uniformed services; reduction in retired or retainer pay."

o. **Dual Pay.** Section 5533 of title 5, U.S.C., authorizes the appointment of persons to more than one civilian office under certain conditions. Appointment officers wishing to use this authority will be guided by the regulations and requirements in 5 CFR 550.501, and VA Handbook 5007, Pay Administration, part II.

p. **Restrictions on the Employment and Placement of Relatives.** See part VII, Employment of Relatives, in VA Directive 5025, Legal.

[ ]

6. CONTROL OF VA EMPLOYEE-VETERAN RECORDS. HRM offices for facilities listed in M21-1, part II, chapter 4, para. 4.07, must complete and forward VA Form 20-0344, Annual Certification of Veteran Status and Veteran-Relatives, formerly VA Form 4535, Notice of Employment, Transfer, or Separation of Veteran, as provided in the M21-1 manual, whenever they appoint or take an action which results in a change of appointing authority of an employee who is a veteran. The M21-1 citation is available on the VA Intranet at http://vaww.va.gov.

7. PART-TIME AND INTERMITTENT EMPLOYMENT. Employment on a part-time and/or intermittent basis may be appropriate when: the position to be filled requires less than full-time service; it is the only way the services of a well-qualified employee can be obtained; or circumstances are such that the part-time or intermittent appointment would be in the best interest of management and/or the employee. Provisions of the Federal Employees Part-Time Career Employment Act of 1978 (PL 95-437) are contained in 5 CFR, part 340 and part I, chapter 3, section B, this handbook.

8. FILLING A POSITION OCCUPIED BY AN EMPLOYEE ON LEAVE. If a replacement is required while the incumbent employee is on extended leave, an interim position may be established. Generally, interim positions will be terminated within 1 year or less, and may be extended only under extenuating circumstances. If an interim position is filled from outside VA, the appointment will be limited to the period of time the interim position will be required unless it can be expected that another position of like status, grade, and pay will be available for the appointee when the interim position ends. (See part III, this handbook for provisions related to placement of an employee in an interim position.)

9. PROBATIONARY PERIOD/TRIAL PERIOD

a. Employees [appointed] in [ ] the competitive service will serve a 1-year probationary period as explained in 5 CFR, part 315, subpart H, and part III, this handbook. An employee given a career-conditional or career appointment by selection from a certificate of eligibles is required to serve a probationary period. This applies not only to the first appointment of this kind, but to any subsequent career-conditional or career appointment by selection from a certificate of eligibles, regardless of whether the appointee had previously completed a probationay period.

b. Employees who are placed in a supervisory or managerial position in the competitive service are required to serve a 1-year probationary period subject to the exemptions and exceptions contained in 5 CFR, part 315, subpart I, and appendix III-A of part III, this handbook.

c. Employees in excepted service positions will serve a 1-year trial period as explained in paragraph 6h of section C, this chapter.

[d. Employees appointed to Hybrid occupations on either a permanent full-time (38 U.S.C. 7401(3)) or part-time (38 U.S.C. 7405 (a)(1)(B)) basis must also serve a 1-year probationary period.]

10. PLACEMENT FOLLOW-UP. A placement follow-up will be used to evaluate the employee's progress and adjustment during the probationary or trial period. The placement follow-up will also be used, as appropriate, following position changes for employees who have completed the probationary or trial period. Follow-ups will be made for all initial appointments and significant position changes. After the employee has completed at least 90 days in the assignment, a human resources management office staff member will interview the supervisor to obtain information about the employee's performance and adjustment to the job, and any training or other needs or outstanding work that warrants attention for further placement consideration. Where deficiencies are reported, the employee should also be interviewed to further explore the courses of action that may be taken to overcome them. The follow-up form, VA Form 5-97, Notice of Pending Personnel Action, will be annotated to show that the follow-up was made, and only significant results will be recorded. These procedures are minimum requirements and where possible, extension of the follow-up interview for all placement actions is encouraged. For example, a follow-up of all promotions can be a valuable aid in assessing the results of the facility's promotion plan and the validity of the evaluation and selection process. Also, separate placement follow-ups with employees can be a valuable source of placement information as well as being an effective employee relations technique. (See MP-6, pt. V, supp. No. 1.5, Appx. C, sec. II.)

11. ECONOMIC OPPORTUNITY AND EDUCATIONAL ASSISTANCE PROGRAMS

a. The special economic opportunity and educational assistance programs described in 42 U.S.C. 2751-2756a, 3056 et seq., 5001; 20 U.S.C. 2301; and part I of this handbook are designed to help those who are unemployed or underemployed and those in need of educational assistance to develop the skills necessary for regular employment. To the extent feasible, VA will participate in these programs as an employer, or most often, as a host, by providing work training and experience opportunities.

b. Since a frequent objective of these programs is the employment of enrollees in permanent full-time positions upon completion of their work-training and experience status, facility management will look at the host-enrollee relationship as an important initial step which may lead to regular employment. Enrollees will be encouraged to compete in entrance level and other Federal civil service examinations so that they may share in the greater opportunities for permanent employment in or outside VA.

c. An agreement between VA and the sponsoring organization will usually be made for each group to be assigned for work-training and experience purposes. Generally, such agreements have a standard format developed by the parent organization of the sponsor which describes the relationships and responsibilities of the organizations involved as well as those relating to the participants. If necessary, such agreements will be modified to meet VA needs and requirements at the time they are negotiated.

d. As new programs develop or changes are made in existing ones, any additional VA instructions needed to implement the OPM issuance will be issued.

12. USE OF PRIVATE SECTOR TEMPORARIES. VA will comply with the requirements identified in 5 CFR, part 300, subpart E on Use of Private Sector Temporaries, Federal Acquisition Regulation (FAR) and Veterans Affairs Acquisition Regulation (VAAR) when contracting for private sector temporaries. See appendix II-B for specific instructions on use of temporary help services in VA.

SECTION B. EMPLOYMENT IN THE COMPETITIVE SERVICE

1. GENERAL. Employment in the competitive service in the Department of Veterans Affairs will be administered in accordance with applicable laws and regulations, including title 5 of the U.S. Code and the Code of Federal Regulations.

a. **Job Announcement Posting Requirements.** To meet VA's Interagency Career Transition Assistance Plan (ICTAP) obligations, all title 5 competitive service vacancies lasting over 120 days must be posted on OPM's USAJOBS system when applicants from outside VA are accepted. This includes jobs being filled under most direct appointment authorities. (See 5 CFR 330.102(a) and (b); 5 CFR 330.707.)

b. **Employment from Federal Civil Service Certificates Under 5 CFR, Part 332.** Under Interagency Agreement # VA-1 between VA and the Office of Personnel Management (OPM), Federal civil service certificates can be obtained from a VA delegated examining unit (DEU), another Federal agency DEU, or an OPM examining office. OPM publishes its Employment Service Pricing Guide on a fiscal year basis. VA and other Federal DEUs each have their own procedures and requirements for providing services. Some may issue certificates for VA facilities, but charge a fee or require other forms of resource exchange for doing so. A VA organization interested in requesting approval to establish or disband a DEU should contact OHRM&LR's [ ] Recruitment and Placement Policy Service (059). The DEU Chief should also notify (059) of changes in the roster of OPM-trained staff as they occur. Information on the Federal delegated examining process is available on OPM's [W]eb site [at www.opm.gov/deu/index.asp].

[c. **Nonselection of Eligibles from Federal Civil Service Certificates.** Selections from competitive Federal civil service certificates should be made from among the best qualified candidates. If VA wishes not to appoint an individual on a certificate, there are two options from which to choose. First, VA may object or request to pass over a candidate pursuant to 5 CFR 332.406. Alternatively, VA may make a suitability determination under 5 CFR 731.202. While either route is permissible, the standards applicable to the chosen procedure must be satisfied.

(1) **Objection and Pass Over**

(a) If there is a nonselection of an eligible candidate, an objection request is required. An objection request is a request to remove a candidate from consideration on a particular certificate. Objections are based on factors such as lack of required experience, fraud or false statements, misconduct in previous employment, and other suitability issues (see 5 CFR Part 731 and OPM's Delegated Examining Operations Handbook).

(b) If there is a nonselection of a preference eligible, then a pass over request is required. A pass over request is an objection filed against a preference eligible that results in the selection of a nonpreference eligible. Pass over objections are based on factors such as physical or medical conditions that would prevent performance of the full range of essential duties of the position or suitability issues to select a non-preference eligible (see 5 CFR Part 339).

(c) VA DEUs have delegated examining authority from OPM to adjudicate most objection and pass over requests. However, OPM retains exclusive authority to make medical qualification determinations pertaining to preference eligibles or disabled veterans in certain circumstances (see 5 CFR, part 339), and grant or deny pass over requests of preference eligibles who are 30% or more compensably disabled. VA must refer any objection, including pass over request, that is based on material, intentional false statement or deception in examination or appointment to OPM for a suitability action where warranted under 5 CFR, part 731.

(d) Objection and pass over requests described in 5 CFR, part 332 are processed through OPM using the form SF-62, Agency Request to Pass Over a Preference Eligible or Object to an Eligible. For DEU-adjudicated objection and pass over requests, the HR Officer must submit a written justification with a reason(s) for the objection or pass over of an individual to the DEU that issued the certificate. For OPM-adjudicated pass over requests of a preference eligible or disabled veteran, the request must be submitted directly to OPM. Passover requests should include the following documentation: vacancy announcement, certificate of eligibles, application of the selectee, application of the preference eligible or disabled veteran not selected, and written justification supporting the reason(s) for non-selection. DEU or OPM- sustained objections and pass overs are not appealable to MSPB.

(2) **Suitability.** Suitability refers to a person's identifiable character traits and conduct sufficient to decide whether an individual's employment or continued employment would or would not protect the integrity or promote the efficiency of the service. Guidance on the process of non-selection of a candidate based on suitability can be found at 5 CFR, part 731 subpart D, in the OPM Delegated Examining Operations Handbook, and in VA Directive and Handbook 0710.

(a) **Definitions**

1. **Suitability Determination.** A decision by OPM or an agency with delegated authority that states a person's suitability for employment in covered positions in the Federal Government or a specific Federal agency.

2. **Suitability Action.** An action described in 5 CFR 731.203 (cancellation of eligibility, removal, cancellation of reinstatement eligibility, debarment) that may be taken by OPM or an agency with delegated authority under the procedures in 5 CFR, part 731, subparts C and D after a person is determined to be unsuitable. These actions are appealable to MSPB.

(b) **Procedural Options.** The procedure used to take an action determines the standards applicable and whether that action may be appealed**.** Non-selection, or cancelation of eligibility for a specific position based on an objection to an eligible under 5 CFR 332.406, is not a suitability action even if it is based on reasons set forth in 5 CFR 731.202. An individual has no right of appeal to MSPB from an OPM or VA DEU decision to sustain an objection or grant a pass over request, regardless of the reason for the decision.]

2. CAREER-CONDITIONAL AND CAREER EMPLOYMENT

a. **Purpose.** Permanent employment in the competitive service is governed by the career-conditional employment system. The system is designed to permit adjustment of the career service to necessary fluctuations in Federal employment, and to provide equitable and orderly principles and practices for stabilizing the Federal workforce.

b. **Basic Elements.** Under the career-conditional employment system, employees are generally brought into the service under a career-conditional appointment. A career-conditional employee must prove an interest in a career in the Federal service by completing three years of substantially continuous service before becoming a full career employee. It is during this same 3-year period that the ability and desire of the Government to retain the employee is demonstrated. Career employees have superior tenure to that of career-conditional employees. Certain employees are appointed directly as career employees or are otherwise exempt from the 3-year length of service requirement for career tenure. (See 5 CFR, part 315, subpart B.)

[c. **Career-Conditional or Career Appointment of Persons Eligible Under the Veterans Affairs Choice and Quality Employment Act of 2017.**
Under Public Law 115–46, § 204, VA may appoint, via transfer or reinstatement, a qualified former VA career or career conditional employee to any position within the competitive service without regard to Veteran's preference or competitive examining rating and ranking procedures. The appointment may be up to one grade (or equivalent) higher than the grade (or equivalent) of the VA position previously occupied by the employee. When filling positions under this authority, facilities must adhere to agency Career Transition Assistance Plan (CTAP) and Interagency Career Transition Assistance Plan (ICTAP) provisions in 5 CFR, part 330, subparts F-G.

(1) Qualified former employees must have:

(a) formerly occupied any career or career conditional position at the VA within two years before applying for reemployment at VA;

(b) voluntarily departed such position, or was subject to a reduction in force, and had a satisfactory performance record while occupying such position; and

(c) since departing VA has maintained licensing requirements, related to the position, if any, and gained skills, knowledge, or other factors related to the position.

(2) Additionally, the former employee must have at least one year of specialized experience equivalent to the next lower grade level.]

[d]. **Career-Conditional (or Career) Appointment of Persons Eligible Under the Amended Veterans Employment Opportunities Act (VEOA).** Under 5 CFR 315.611, (a) preference eligibles, or (b) Veterans whose most recent military separation was under honorable conditions after substantially completing at least 3 years of continuous active military service: may receive a career-conditional (or, if appropriate, career) appointment if selected from among the best qualified under a merit promotion competition that was announced to candidates outside VA's workforce. As it is customary for the military to release individuals a few days before completing 3-year tours "for the convenience of the Government," a facility should normally consider these individuals eligible. Reasonable and consistent use of the "few days" criteria by an operating HRM office is expected.

[e]. **Noncompetitive Appointment of 30 Percent Service-Connected** [**Disabled**] **Veterans.** Under 5 CFR 315.707, a disabled Veteran with a service-connected disability of 30 percent or more, who is serving under a time-limited appointment not limited to 60 days or less, may be converted noncompetitively to a career-conditional appointment (or career, if otherwise eligible), provided the Veteran meets the applicable qualification requirements. [S]pecial time-limited authorities for these 30-percent disabled Veterans allow temporary appointments up to 1 year under 5 CFR 316.402(b)(4) and provisional appointments under 5 CFR 316.403(b)(1). However, conversions may also be made from any time-limited appointment with a not-to-exceed time of 61 days or more, regardless of whether it is in the competitive or excepted service. Conversions may occur after 1 day of service on such a time-limited appointment.

[f]. **Conversion to Career-Conditional (or Career) Appointment of Disabled Veterans and Other Persons with Intellectual Disabilities, Severe Physical Disabilities, or Psychiatric Disabilities Serving Under Schedule A Appointments.** Under 5 CFR 315.709, after 2 or more years of satisfactory service the subject employees serving under 5 CFR 213.3102(u) in a nontemporary appointment may be converted to competitive status, at the facility's discretion.

[g]. **Status Quo Appointment and Conversion to Career-Conditional (or Career) Appointment of Disabled Veterans who Complete 38 U.S.C, Chapter 31 Training.** A facility may give a status quo appointment under 5 CFR 3.1 and 315.604(a) to a service-connected disabled Veteran who satisfactorily completed training under 38 U.S.C. chapter 31 for that position, or class of positions in a Federal agency. A facility may subsequently noncompetitively convert the Veteran so appointed at any time to a career-conditional (or, if appropriate, career) appointment under 5 CFR 315.604(b). A probationary period is not required.

[h]. **Congressional Medal of Honor-Recipient Appointments.** Executive Order 9268 provides that upon recommendation of the Secretary of Veterans Affairs to the Director, Office of Personnel Management, Veterans who have been awarded the Congressional Medal of Honor may be appointed as Contact Representatives in VA. HR Offices may obtain advice on individual cases from the Recruitment and Placement Policy Service (059).

[i]. **Noncompetitive Career-Conditional (or Career) Appointment of Student Trainees in Associated Health Care Disciplines**

(1) In accordance with 38 U.S.C. 7403(g), VA facilities are authorized to appoint under title 5, without regard to competitive Federal civil service announcement, examining and certification procedures, eligible graduates who have a degree, diploma, or certificate in an associated health care discipline from an accredited institution of post-secondary education, and who have successfully completed an affiliated clinical education training program in a VA health care facility. See appendix II-C for specific instructions on use of this noncompetitive appointment authority and a general list of covered associated health care disciplines.

(2) This employment authority does not apply to individuals in training programs that will result in post-training appointments under 38 U.S.C. 7401(1) or (3) or under 38 U.S.C. 7405 to an occupation listed under those paragraphs.

(3) For provisions for appointing students in associated health care disciplines before graduation, see paragraphs 5 and 6, section G, chapter 3 of this part.

[j]. **Noncompetitive Appointment of Certain Military Spouses**

(1) **General.** In accordance with eligibility criteria in 5 CFR 315.612, certain spouses of members of the armed forces may receive noncompetitive, career-conditional (or, if appropriate, career) appointments in the competitive service. Eligibility for appointment does not confer hiring preference or special selection priority. When filling positions under this authority, facilities must adhere to agency Career Transition Assistance Plan (CTAP) and Interagency Career Transition Assistance Plan (ICTAP) provisions in 5 CFR, part 330, subparts F-G.

(2) **Definitions**

(a) **Active Duty.** Full-time duty in the armed forces, including full-time National Guard duty, except that for Reserve Component members the term “active duty” does not include training duties or attendance at service schools.

(b) **Armed Forces.** The Army, Navy, Air Force, Marine Corps, and Coast Guard.

(c) **Duty Station.** Permanent location to which a member of the armed forces is assigned for duty as specified on the individual's permanent change of station (PCS) orders.

(d) **Member of the Armed Forces or Service member.** An individual who:

i. Is serving on active duty in the armed forces under orders specifying that he or she is called or ordered to active duty for more than 180 consecutive days, has been issued orders for a permanent change of station, and is authorized for dependent travel (i.e., the travel of the service member's family members) as part of the orders specifying the individual's permanent change of station;

ii. Retired from active duty in the armed forces with a service-connected disability rating of 100 percent as documented by a branch of the armed forces, or retired or was released or discharged from active duty in the armed forces and has a disability rating of 100 percent as documented by the Department of Veterans Affairs; or

iii. Was killed while serving on active duty in the armed forces.

(e) **Permanent Change of Station.** The assignment, reassignment, or transfer of a member of the armed forces from his or her present duty station or location without return to the previous duty station or location.

(f) **Spouse.** The husband or wife of a member of the armed forces.

(3) **Coverage and Eligibility.** Consistent with regulatory guidance in 5 CFR 315.612, facility HR offices may appoint qualified military spouses who meet the following eligibility criteria:

(a) A spouse who married a service member on, or prior to, the date of his or her PCS orders, and relocated with the service member to the designated duty station on his/her PCS orders;

(b) A spouse of a service member released from active duty; or a retiree, who incurred a 100 percent service-connected disability on active duty in the armed forces; or

(c) A widow or widower of a service member who was killed while serving on active duty in the armed forces. The time served on active duty is not limited to combat service. The widow or widower is eligible for appointment under this authority until he/she remarries.

(4) **Eligibility Period.** With the exception of spouses of deceased or 100 percent disabled Veterans, covered individuals may receive a permanent appointment or multiple temporary or term appointments within 2 years of the date on the PCS orders. However, spouses of deceased or 100 percent disabled Veterans have unlimited eligibility under this authority.

(5) **Eligibility Documentation.** Prior to appointment, facility HR staff must obtain the following documentation from the spouse to verify eligibility.

(a) A spouse of a current service member must provide a copy of the marriage license and the service member's PCS orders specifying: the effective date of the PCS, the duty location, and a statement authorizing the dependent/spouse to accompany the service member to the duty station.

(b) A spouse of a former service member released from active duty, or a retiree, who incurred a 100 percent service-connected disability while serving on active duty in the armed forces must provide: a copy of the marriage license, a DD Form 214, and VA or DoD documentation of the 100 percent service-connected disability.

(c) A widow/widower of a service member who was killed while serving on active duty in the armed forces must provide: a copy of the marriage license, a DD Form 214, documentation of the deceased service member's service-connected death, and a statement validating that the widow/widower is the un-remarried widow/widower of the deceased service member.

(6) **Exclusions.** A spouse who does not accompany the service member to the new duty station, marries the service member after he/she relocates; or a spouse of a service member on deployment, temporary duty (TDY), or other non-PCS orders, is not eligible for appointment under this authority. However, a spouse is eligible if the service member's orders indicate that the service member will proceed to a TDY assignment en route to a new duty station.

(7) **Geographic Restriction.** With the exception of spouses of Servicemembers with 100 percent service-connected disabilities or spouses of Servicemembers killed on active duty, facilities may not appoint eligible spouses to positions outside the geographic area of the permanent duty station designated in the Servicemember's PCS orders. The geographic area is not mile-radius specific. [The geographic area] encompasses the Servicemember's duty station and the surrounding area from which individuals may reasonably commute daily. In accordance with 5 CFR 315.612, the Assistant Secretary for Human Resources and Administration may waive this limit if there are no Federal agencies or departments within the geographic area of the Servicemember's duty station.

(a) Facility Directors may submit requests to waive the geographic restriction. Requests must include a copy of the vacancy announcement, the Servicemember's PCS orders, a brief statement from the spouse indicating her/his desire to waive the geographic restriction, and a statement from the facility that there are no Federal agencies or departments within the local commuting area of the Servicemember's duty station.

(b) Requests to waive the geographic restriction must be submitted to: Director, Recruitment and Placement Policy Service (059), Office of Human Resources Management (OHRM), VA Central Office, Washington, DC 20420.

[k]. [**Noncompetitive Conversion to Career or Career-Conditional Appointments of Students and Recent Graduates Employed through the VA Choice and Quality Employment Act of 2017**

(1) In accordance with the VA Choice and Quality Employment Act of 2017, Public Law 115-46, VA facilities are authorized to make excepted appointments of students and recent graduates of qualifying educational institutions in title 5 occupations that lead to noncompetitive conversion to career or career-conditional appointments. The conversions, under title 5, are made without regard to competitive Federal civil service announcement, examining, and certification procedures, or Veterans' preference requirements. See Appendix II-D for specific instructions on the use of the excepted appointment authority and the noncompetitive conversion action.

(2) This excepted appointment and conversion authority does not apply to individuals in training programs that result in post-training appointments to an occupation listed in 38 U.S.C. § 7401(1) or (3), or 38 U.S.C. § 7405.

[l]. **Administrative Protections for Career-Conditional and Career Employees**

(1) **Retention Priority in Reduction in Force.** Employees who have career-conditional appointments are in group II for reduction in force purposes. Employees who have career appointments have group I tenure for reduction in force [purposes,] unless they are serving a probationary period, in which case they are in group II. (See 5 CFR, part 351, and part IV, this handbook.)

(1) Protection Against Arbitrary Removal. Non-probationary career conditional and career employees [are protected] against arbitrary removal described in 5 C.F.R. § 432 and 752 and VA Directive and Handbook 5021, Employee/Management Relations. While serving probation, career conditional and career groups have limited protection covered in 5 C.F.R. § 315(h), and VA Directive and Handbook 5021.

m. [**Sharing Certificates with Other Federal Agencies.** In accordance with the Competitive Service Act of 2015, P.L. 114-137, VA facilities are authorized:

(1) To share a competitive certificate issued under delegated examining (DE) procedures with one or more appointing authorities at different agencies or departments, and,

(2) To make an appointment from a delegated examining shared certificate to a position that is in the same occupational series, grade level (or equivalent), full performance level and duty location during the 240-calendar-day period following the issue date of the initial certificate of eligibles. See Appendix II-O, this part, for specific instructions on the use of shared certificates.]

3. NON-PERMANENT EMPLOYMENT.

a. Scope.

(1) This paragraph supplements regulations contained in 5 C.F.R. § 316 and should be used in conjunction with that reference and other applicable portions of this chapter.

(2) Regulations for temporary appointments in the excepted service of title 5, United States Code are contained in 5 C.F.R. § 213. This includes the 30-day critical needs appointment authority. (See section C of this chapter.)

(3) This paragraph does not apply to excepted service positions in the Veterans Health Administration filled under 38 U.S.C. § 73 and 74 or to excepted positions in the Veterans Canteen Service filled under 38 U.S.C. § 78. These positions are covered in chapter 3 of this part.

b. Policy. Temporary and term appointment authorities will be used only under conditions authorized by the Office of Personnel Management (OPM). To meet VA's Interagency Career Transition Assistance Plan (ICTAP) obligations, all title 5 competitive service vacancies lasting over 120 days must be posted on OPM's USAJOBS system when applicants from outside VA are accepted. (See paragraph 1a of this section.)

c. Temporary Limited Appointments. Temporary limited appointments may be used to fill short-term employment needs expected not to exceed 1 year, and

d. continuing positions expected to be needed for placement of the organization's permanent employees who would otherwise be displaced. (See 5 C.F.R. § 316(d).)

(1) Facilities have the authority to make temporary limited appointments of 1 year or less to positions in the General Schedule and the Federal Wage System. Supervisory certification of the temporary nature of the employment need is to be documented in accordance with 5 CFR 316.401(b). [ ]

(2) While temporary limited appointments may generally be extended up to 2 years from the date of initial appointment in increments of 1-year or less, appointments to seasonal and intermittent work are specifically governed by the criteria specified in 5 CFR 316.401(d)(1). OPM will authorize exceptions to the regulatory time limits only when necessitated by major reorganization, restructuring, facility closing or other unusual circumstances. Requests for agency-wide exceptions must be made to OPM by VA Central Office. Requests of an agency-wide nature may be sent to [OHRM&LR] (05[ ]). A facility may submit a request for extending an appointment to a specific position or project based on other unusual circumstances to the appropriate OPM Service Center.

d. **Term Appointments.** Term appointments may be for a period of more than 1 year but not more than 4 years to positions where the need for an employee's services is not permanent. Term appointments are often appropriate for persons employed to work on medical research projects. This authority, however, is not limited to research situations and may be used for other appropriate needs as indicated in 5 CFR, part 316, subpart C.

(1) Facilities are delegated the authority for determining whether term appointments are appropriate for particular positions. Selections for term employment, however, must be made under applicable competitive or noncompetitive procedures. Outside-the-register procedures in 5 CFR, part 333 may **no longer** be used for competitive term appointments. (See 5 CFR 316.302 (a).) If an exception to the 4-year limit is clearly justified, a facility may submit a request to make and/or extend a term appointment beyond 4 years to the appropriate OPM Service Center.

(2) Use of this authority will be carefully reviewed during VA and OPM personnel management evaluation visits. Documentation of the reasons for authorizing a term appointment should be maintained in accordance with VA records disposal schedules.

e. **Time-Limited Appointment of VRA Eligibles.** A VRA eligible may be given a noncompetitive temporary appointment of up to 1 year under 5 CFR 316.402(b)(2) or a term appointment under 5 CFR 316.302 not to exceed 4 years to any position in the competitive service at or below GS-11 or equivalent for which the VRA eligible is qualified. Appointment under these authorities does not give the privilege of conversion to competitive status. Because these appointments are not in the title 5 excepted service like the VRA appointment, those over 120 days must be posted on OPM's USAJOBS vacancy announcement system. (See 5 CFR, parts 307 and 316.)

[ ]

4. SCIENTIFIC AND PROFESSIONAL (ST) POSITION APPOINTMENTS. ST system positions may be established and filled in the competitive service under 5 U.S.C. 3104 and 5 CFR, part 319 outside the General Schedule (and above grade GS-15) to carry out research and development functions requiring the services of specially qualified individuals. A facility wishing to appoint an individual in an

ST position would follow the same procedure to establish an ST position as is used to establish a Senior Executive Service (SES) position. (See VA Handbook 5027, Senior Executive Service.)

5. APPOINTMENT TO POSITIONS RESTRICTED TO PREFERENCE ELIGIBLES. 5 U.S.C. § 3310 and 5 C.F.R. § 330.401 prohibit competitive examination and the placement of a non-preference eligible into a restricted position when a preference eligible is available. Covered occupations include guards, elevator operators, messengers and custodians. [Effective August 10, 2022, Section 905 of the Sergeant First Class Heath Robinson Honoring Our Promise to Address Comprehensive Toxics (PACT) Act of 2022, Expansion of Opportunities for Housekeeping Aids, amended 5 U.S.C § 3310 to exempt Housekeeping Aids, 3566 occupational series, positions in VA from the preference eligible recruitment restriction. This also exempts Housekeeping Aids, 3566 series, positions from the provisions and requirements of 5 C.F.R. § 330.401 and this paragraph. The exception is specific only to Housekeeping Aids in VA and the restriction remains in effect for the recruitment of other covered occupations.]

a. **Recruitment Methods.** VA Human Resources (HR) offices may use any of the following methods to announce and fill restricted positions with preference and nonpreference eligibles consistent with the governing rules for each process.

(1) **Delegated Examining Procedures.** The recommended and primary recruitment method which yields the widest candidate pool and greatest potential for placing a preference eligible is delegated examining. The restriction on competing and filling a covered occupation with a non-preference eligible applies under this process. When using this method, the delegated examining unit must certify that the supply of preference eligible applicants has been exhausted prior to filling a restricted position with a non-preference eligible. If this [criterion] is met, Office of Personnel Management (OPM) approval is not required. If there are additional vacancies in restricted positions, the servicing HR office may request to extend the associated referral certificate in accordance with the procedures outlined in VA Handbook 5005, Part I, Appendix B, Delegated Examining (DE).

(2) **Position Change Procedures (Internal to the Organizational Entity).**

Title 5 C.F.R. § 330.402(a)(2) outlines an exception that permits the reassignment, promotion or demotion (i.e., change to lower grade) of a current permanent non-preference eligible employee from [one] restricted position [ ] to another [ ] position within the organizational entity [ ] without prior OPM approval. [An organizational entity in this context is a VA service or business line (or its equivalent) that employs individuals in restricted positions, but it is not limited to a specific facility or work location.] This exception permits movement within the organizational entity of individuals

who were properly appointed to their current restricted position, but do not have preference. Essentially, when a nonpreference eligible's initial appointment meets regulatory requirements facilitating [their] proper placement in a restricted position, no further approval is required for subsequent movement to other restricted positions within the organizational entity. However, if a non-preference eligible moves outside of the organizational entity into a non-restricted position, the HR office must ensure any subsequent hiring actions are excepted by [law,] regulation or approved by OPM (subparagraph a(3) of this paragraph).

NOTE: Internal movements must follow the guidance in VA Handbook 5005, Part III, Internal Placement and Merit Promotion.

(3) **Recruiting Candidates External to the Organizational Entity and VA.**

(a) Consistent with 5 C.F.R. § 330.402(b), VA HR offices are prohibited from noncompetitively filling a restricted position with a non-preference eligible without obtaining approval from the Director, Recruitment and Placement Policy Service (RPPS) (059) and OPM prior to appointment (see subparagraph b of this paragraph). This applies to any hiring or selection action of a nonpreference candidate outside of the organizational entity or an action that yields a new competitive service appointment, e.g., conversion of a current employee, reinstatement, transfer, interchange agreement, appointments under 5 C.F.R. § 315 authorities of a nonpreference eligible into a restricted position.

(b) Under certain circumstances, OPM approval is not required when filling restricted positions with a former nonpreference eligible employee by reemployment, reinstatement or reappointment of certain temporary employees as outlined in 5 C.F.R. § 330.402(a)(3)-(5).

b. **Requests for OPM Approval to Fill a Restricted Position with a Nonpreference Eligible Applicant under 5 C.F.R. § 330.402(b).** In general, competitive examination and merit promotion (internal to the organizational entity) recruitment efforts produce a sufficient pool of preference and nonpreference eligible applicants. When recruitment efforts do not produce a sufficient number of applicants, it may be necessary to solicit applications from other candidates external to the organizational entity and/or VA, including those described in a(3) of this part. When this occurs, servicing HR offices must send requests for OPM approval to the Director, RPPS (059), for review. The request must include a justification memorandum outlining the need to fill the position with a nonpreference eligible, a copy of the job opportunity announcement(s), a corresponding referral certificate(s), and additional documentation validating the unavailability of preference eligible applicants,

through competitive examination and merit promotion procedures as described in subparagraphs a(1) and a(2), respectively.

Documenting the Standard Form 50 (SF-50), Notification of Personnel Action. It is imperative that VA properly document and track the appointments of nonpreference eligibles into restricted positions. When a servicing HR office places a nonpreference eligible in a position that is restricted to a preference eligible, the HR office must annotate the SF-50 with a second VA-specific legal authority code and an appropriate remarks code. The legal authority code is 601, which prints on the SF 50-B as “5 C.F.R. § 330.402.” In addition, a remark code on the SF-50 must state that the nonpreference eligible was appropriately selected and identify the exception from 5 C.F.R. § 330.402(a) or (b). If the appointment was based on an exception other than those listed in 5 C.F.R. §330.402(a) that required OPM approval prior to appointment, the date of the OPM approval letter must also be included.

SECTION C. EMPLOYMENT IN THE EXCEPTED SERVICE

1. VETERANS [RECRUITMENT] APPOINTMENT (VRA). Under 38 U.S.C. 4214, certain Vietnam era and other veterans may be given excepted VRA appointments under 5 CFR 307.103 to positions otherwise in the competitive service at GS-11 or below (or the equivalent in another pay system). For any VRA appointee who has less than 15 years of education, the facility must establish a training or education program, which should meet the needs of both the employee and VA. In VA, a VRA appointee must serve a 1-year trial period (see paragraph 6h of this section), and termination during this year is handled as provided in VA Handbook 5021. Merit promotion provisions cover VRA employees (see part III of this handbook), and they may be promoted above GS-11 level if other requirements are met. Other appointment and conversion requirements are in 5 CFR, part 307.

2. APPOINTMENT OF EXPERTS AND CONSULTANTS

a. **General**

(1) This paragraph contains the VA policies and procedures that apply to the employment of experts and consultants when there is an employer-employee relationship as explained in 5 CFR, part 304, and such employment is in positions excepted from the competitive service by statute or by the Office of Personnel Management. The employee's services may be obtained by contract or appointment under an appropriate appointing authority (e.g., 5 U.S.C. 3109) and be in a pay or, when appropriate, a non-pay basis. This paragraph does **not** apply to the employment of consultants and VHA consulting attendings under title 38, U.S.C. ch. 74 authority. See chapter 3 of this part for appointment of [employees to] the[s]e positions.

(2) Experts and consultants will be employed only when their services are proper, legitimate, and the most practical way for VA to accomplish its management, operational, and service responsibilities. They will be employed on a temporary or intermittent basis but not-to-exceed 1 year unless specifically provided otherwise by law or for a lesser period of time when the need for their services will be completed earlier. They will not be employed to do a job that regular employees can do as well or to perform the duties of a continuing full-time position; neither will experts and consultants be employed where their appointments circumvent competitive employment procedures or General Schedule pay limitations.

(3) In accordance with 5 CFR 304.103(a)(2), experts and consultants who work on strictly an intermittent basis may be appointed without time limit and all others must receive temporary appointments. However, the above VA policy limits intermittent appointments to not-to-exceed 1 year. Also, the 5 CFR definition for temporary employment clarifies that the appointment may have a full-time, part-time, seasonal, or intermittent work schedule.

(4) The appointment of experts and consultants employed on an intermittent basis can be renewed from year to year; those serving under temporary appointments cannot, except as provided for by 5 CFR 304.103(c).

b. **Authorities and Responsibilities**

(1) **Office of the Secretary**

(a) The Secretary will determine the need for experts and consultants to be appointed to the Office of the Secretary. This includes responsibility to review and certify each proposed appointment or its extension, when applicable. (See paragraph 3c [ ].)

(b) All final selections of experts and consultants must be approved by the Secretary or other appropriate official, with the advice and assistance of the Deputy Assistant Secretary for [O]HRM[&LR]. Field facility heads will forward their recommendations for the appointment and employment of experts and consultants through channels to Central Office for approval. OHRM&LR (05[ ]) will review staff office/administration requests prior to (00) approval.

(2) **Line Management.** The authority to perform pre-appointment certifications for requests to appoint experts and consultants and for any extensions of such appointments is delegated to [Under Secretaries], Assistant Secretaries, and Other Key Officials for requests under their jurisdiction. (See paragraph 3c [ ].)

(3) **Human Resources Management Officers**

(a) Human Resources Management Officers (HRMOs) (including the Director, Central Office Human Resources Service (05HRS), in Central Office) will ensure that all procedures and requirements (e.g., dual employment, dual pay, conflict of interest, leave administration, and records documentation) for the appointment and employment of experts and consultants are followed (see 5 CFR 304.103-107).

(b) HRMOs will conduct the quarterly review of the employment of experts and consultants to assure that their utilization is proper. The reviews will be documented, maintained, and signed by the HRMO as explained in paragraph c, which follows.

c. **Review and Certification**

(1) **General.** With the advice and assistance of OHRM[&LR], the responsible selecting official will review and certify each proposed appointment, or the extension of an appointment, on the basis of the following considerations:

(a) Necessity for the position;

(b) Correctness of the judgment that the position requires the services of an expert or consultant;

(c) Propriety of the designation of the position as temporary or intermittent;

(d) Soundness of the decision that this is the most appropriate appointing authority to use;

(e) Qualifications of the proposed appointee;

(f) Appropriateness of the intended level of pay in relation to both the work to be performed and the qualifications of the proposed appointee; and

(g) Completeness of documentation.

(2) **Documentation.** The selecting official will sign an individually prepared certification attesting that all the requirements in preceding subparagraph (1) have been met for each appointee. The certification will be filed with the permanent records in each appointee's personnel folder and be worded along the lines of the sample in appendix II-M.

d. **Review During Employment**

(1) **General.** The responsible HRMO will review the utilization of each expert or consultant on a quarterly basis (i.e., March 31, June 30, September 30, and December 31). The HRMO will obtain documentation from the appropriate selecting officials as is deemed necessary to facilitate the review and certification to assure that in each case the:

(a) Circumstances requiring the initial employment of the expert or consultant are substantially the same;

(b) Duties performed are still those of an expert or consultant;

(c) Time limits are being observed;

(d) Documentation is kept current; and

(e) Duties of record are actually being performed.

(2) **Exclusions.** The quarterly review may be omitted for those experts or consultants who worked for 10 days or less during the quarter.

(3) **Documentation**

(a) Each review will be documented and signed by the HRMO. The review report will cover all experts and consultants and describe how the review was made, summarize the findings, and describe the actions taken to correct any deficiencies noted in the review. Where exclusions in subparagraph [2d](2) [ ] have been made, a statement describing the extent of the exclusion will be included in the report. Records of reviews will be retained for examination by OPM.

(b) Field facilities will forward a copy of each quarterly review, through channels, to the [OHRM&LR] (05[ ]). Negative reports are not required.

e. **Annual Reviews.** Selecting officials (see paragraph 2b(1) [ ]) will be notified by OHRM[&LR] at the close of each fiscal year of their responsibilities and obligations for the proper employment and utilization of experts and consultants. (See [VA] Handbook 5001 for Annual Report on Expert and Consultant Appointments.)

3. SPECIAL NEEDS APPOINTMENTS 5 CFR 213.3102(i)(2)

a. **General**. Facilities may make excepted temporary limited appointments of not to exceed 30 days duration to meet any legitimate special need that cannot be met by another appointment authority. These appointments may be made without regard to the general eligibility requirement in instances when a facility determines there is a critical need to fill a position on an interim basis pending completion of competitive examining, clearances or other procedures required for a longer appointment. Temporary limited appointments of longer duration are not authorized for this purpose.

b. **Extensions**.

(1) Facilities may extend the service of an employee serving under a special needs appointment for up to 30 additional days provided that:

(a) Continued employment is essential to facility operations;

(b) The initial appointment was properly made; and

(c) The conditions which justified the original appointment still exist.

(2) This authority may not be used to exceed a service limitation imposed by some other appointing authority. A facility may not employ an individual under this type of appointment for more than 60 days in any 12-month period.

(3) The action extending a special needs employee's service is processed as a conversion.

4. [PATHWAYS PROGRAMS

a. **Purpose**. This paragraph establishes VA policy for implementing the selection, appointment, and movement of Pathways Programs participants in the Internship, Recent Graduate, and Presidential Management Fellows (PMF) Programs. On December 27, 2010, Executive Order (E.O.) 13562 established the Internship Program and the Recent Graduates Program and revised and reinvigorated the PMF Program. These two new programs, along with the PMF Program, collectively form the Pathways Programs. The Office of Personnel Management (OPM) issued the final rule for the Pathways Programs on May 11, 2012 *(77 FR 28194)*, with an effective date of July 10, 2012. The Pathways Program requirements are found in part 362 of title 5, Code of Federal Regulations (CFR). The appointing authorities for the Pathways Programs are found in 5 CFR 213.3402(a), (b), and (c).

b. **Scope**.

(1) **Coverage**. This policy applies to appointments of students and recent graduates in the title 5 excepted service using the Pathways Programs, Schedule D hiring authority. Appointing authorities for the Pathways Programs are found in 5 CFR 213.3402(a), (b), and (c) and part 362. This section replaces Human Resources Management Letter 05-13-01, Implementing the Title 5 Excepted Service Pathways Programs in VA dated January 3, 2013. The Pathways Programs regulations replace the former Student Career Experience Program (SCEP) and Student Temporary Employment Program (STEP) formerly

covered under 5 CFR 213.3202 and PMF program formerly covered in 5 CFR 213.3102(ii) and (jj) and 5 CFR, part 362.

(2) **Exclusions**. This paragraph does not apply to: enrollees in manpower or education programs hosted at no cost to VA or on a cost reimbursable basis, volunteers, WOC (without compensation) employees, or students enrolled in baccalaureate curricula appointed under authorities other than 5 CFR 213.3402(a), (b) and (c), direct patient care student positions (i.e., interns, residents, and trainees) [appointed under the authority of 38 U.S.C. 7405], or positions in the title 38 (full or hybrid) excepted service.

c. **Policy**.

(1) Any programs established under the auspices of this paragraph must comply with the criteria as outlined in the referenced authorities.

(2) Guidance for establishing programs under this authority may be found in Appendix II-N of this part.

d. **Responsibilities**.

(1) **Assistant Secretary for the Office of Human Resources and Administration (OHRA) (006).** Serves as the designated agency official, as VA's Chief Human Capital Officer, making the decision to enter into a Pathways Memorandum of Understanding (MOU) with the Office of Personnel Management (OPM).

(2) **Dean of VA Learning University (VALU)**. Serves as the designated official for administering and managing the Pathways Programs in VA. The Dean of VALU is responsible for designating the Department's VA Pathways Programs Officer (VA PPO) and the VA PMF Coordinator.

(3) **Pathways Program Management Office (PPMO)**. Provides governance, administration, management, marketing and support for all Pathways Programs within the National Cemetery Administration (NCA), Veterans Benefits Administration (VBA), Veterans Health Administration (VHA), and VA Central Office (VACO). The PPMO serves as the centralized Pathways resource for best practices, standard operating procedures, tools, templates, data analysis, tracking, reporting and systems, and supporting Participants, hiring officials, HR Offices, and other key stakeholders. The PPMO provides support for other stakeholders involved in the Pathways Program.

(4) **VA Pathways Programs Officer (PPO)**. The VA PPO is organizationally aligned in the VA Pathways Program Management Office (PPMO) in VALU. The headquarters VA PPO's duties and responsibilities include:

(a) Administers VA's Pathways Programs hiring plan, recruitment, and on-boarding process for VA Pathways Programs Participants, which includes coordinating with VA stakeholder officials, such as the PPOs for the three Administrations and VA Central Office;

(b) Serves as a liaison with the Office of Personnel Management (OPM) by providing updates and reports on VA's implementation of the Pathways Programs and the number of individuals hired and converted; clarifying technical or programmatic issues, sharing VA best practices; and conducting periodic audits to ensure program compliance;

(c) Provides technical guidance and advice to Administration PPOs, hiring officials, supervisors, and operating human resources officials on the provisions of the Pathways Programs;

(d) Coordinates and submits the Departmental Pathways MOU to OPM no less frequently than every 2 years;

(e) Coordinates and submits reports and other updates to OPM and VA senior officials, as requested;

(f) Coordinates and submits requests for Recent Graduates programs lasting more than one year to OPM for approval;

(g) Designs and implements guidance for an on-boarding process for each Pathways Program;

(h) Develops approval criteria for granting extensions and approving/denying requests for extension of appointment of Recent Graduate and PMF Programs Participants up to an additional 120 day to cover rare and unusual circumstances or situations other than a major reorganization, base closing, or an agency wide restructuring;

(i) Adjudicates requests for credit or waiver of service hours for Internship Program Participants;

(j) Works with the VA PMF Coordinator, Administration PPOs, and Administration PMF Coordinators, and other VA Key Stakeholders to plan program budgets and to project the number of PMF hires in the Department; and

(k) Monitors and tracks outreach activities to determine their overall effectiveness in recruiting quality applicants.

(5) **VA PMF Coordinator**. The VA PMF Coordinator is organizationally aligned in VALU. The VA PMF Coordinator's duties and responsibilities include:

(a) Administers the VA PMF Program and serving as the VA PMF Program liaison with OPM;

(b) Manages the placement of PMFs within VA, which includes: recruitment (posting job opportunity announcements to the OPM PMF portal); ensuring that Veterans' preference is applied before providing eligible PMF candidates to the hiring official; and developing other Program-related activities of PMFs appointed in VA staff offices;

(c) Works with the Administration PPOs and Administration PMF Coordinators designated for NCA, VBA, VHA and VACO to ensure accomplishment of comparable matters for those Administrations, including required assignment of mentors and creation of approved IDPs, and required developmental assignment;

(d) Collaborates with the hiring official or supervisor to ensure a mentor is assigned to the PMF, to ensure 80 hours of formal interactive training per year are completed by the PMF that fully addresses the competencies outline in the PMF's IDP, and to ensure that the PMF completes the 4-6 month developmental assignment;

(e) Reviews and recommends approval/disapproval to the Dean of VALU petitions for readmission and reappointment of a PMF who withdrew from the program; and

(f) Coordinates the submission of each Fellow's certification of completion through VA's Executive Resources Board (ERB).

(6) **Office of Human Resources Management (OHRM) (05)**.

(a) Establishes and maintains VA policy and guidelines for the implementation and utilization of the Pathways Programs;

(b) Provides technical guidance and advice to the VA HR community regarding the policy related to the Pathways Programs; and

(c) Reviews and submits, to OPM, facility requests for pass over of 30% or more service connected disabled Veterans in relation to Pathways recruitment actions for Internship Program positions and non-*Luevano Consent Decree* covered Recent Graduates Program positions.

(7) **Administration Pathways Program Officers (PPO)**. Administration PPOs provide program guidance on all Pathways Program-related decisions at the administration level including VHA, VBA, NCA and VACO. The Administrations PPOs duties and responsibilities include:

(a) Coordinates the Pathways Programs hiring plan and Pathways-related reporting input for their designated Administration;

(b) Oversees the recruitment and on-boarding process for Participants within the Administration;

(c) Provides technical guidance and advice to hiring officials, supervisors, facility-level Pathways Program Coordinators and operating human resources officials within the respective Administration regarding the Pathways Programs;

(d) In concert with the headquarters VA PPO and VA PMF Coordinator, ensures the assignment of mentors and creation of approved IDPs for Recent Graduates and PMFs assigned to the respective Administration;

(e) Reviews and makes determinations for crediting comparable experience acquired by an Intern in a non-Federal or student volunteer service program;

(f) Advises on requests for breaks in program for Internship Program Participants during periods of absences; and

(g) As applicable, provides copies of Administration-wide programs (i.e., VHA's Technical Career Field Program), incorporating the use of Pathways Programs, to OHRM (05) prior to implementation. Any programs implemented under this authority must comply with the provisions of this part.

(8) **Human Resources (HR) Officer/Director**.

(a) HR Officer/Director, or designee, have responsibilities that run parallel to those of the Administration's PPO in the organizations for which her/his staff provides HR services. The HR Officer/Director may designate technical responsibility of the Pathways Programs to a HR Specialist with extensive knowledge of federal staffing regulations and procedures. However, the HR Officer/Director is ultimately responsible for oversight of the designee and overall compliance of the Program at the facility. The HR Officer's/Director's duties and responsibilities include:

(b) Serves as the facility-level Pathways Programs Coordinator and ensures the Pathways Programs complies with the provisions in this section, 5 CFR 213.3402 and part 362;

(c) Participates in local workforce planning efforts to ensure permanent placement opportunities are available for Pathways Participants converting to the competitive service;

(d) Provides technical guidance and advice to hiring officials, supervisors, and operating human resources staff within the respective facility regarding the Pathways Programs;

(e) Advises hiring officials and supervisors in the design and development of formal training plans, individual development plans (IDPs), Participant Agreements, performance plans, mentoring, and the on-boarding requirements;

(f) Ensures proper application of Veterans' preference when filling Pathways positions, excluding PMF Program positions. PMF Program positions are adjudicated for Veterans' preference by the VA PPO prior to providing the certificate of eligibles to the HR office or hiring manager;

(g) Makes qualification determinations for appointments in the VA Pathway Internship and Recent Graduates Programs and for PMF appointments at the GS-11 or GS-12 grade level. OPM makes qualification determinations for PMF Finalists at the GS-9 grade level;

(h) Serves as a liaison with participating schools on matters pertaining to student employment programs in VA and stays informed of developments in the area of student employment both in the public and private sectors;

(i) Ensures hiring officials and supervisors comply timely to the mandatory requirements of each Pathways Program, including but not limited to, issuing performance standards, executing Pathways Participant Agreements, creating individual development plans (IDPs), assigning mentors, etc. Identifies expectations and other mandatory requirements in accordance with 5 CFR 362.106;

(j) Obtains certification of enrollment and recurring transcripts from Interns as proof of satisfactorily seeking a degree (diploma, certificate, etc.) in a qualifying educational institution, on a full or half-time basis (as defined by the institution in which the student is enrolled);

(k) Submits reports and other updates regarding the hiring and conversion upon request to the headquarters VA PPO through the respective Administration's PPO;

(l) Adheres to Pathways Programs hiring projections reported for the respective facility and reports deviations to the headquarters VA PPO through the respective Administration PPO;

(m) For consideration of crediting waiver of service credit for conversion to the competitive service, makes the determination that Intern's work experience demonstrates high potential by outstanding academic achievement and exceptional job performance under an Internship Program appointment; and

(n) Advises hiring officials and supervisors of their duties and responsibilities as defined in paragraph 9 of this chapter.

(9) **Hiring Officials and Supervisors**. The Hiring Official and Supervisor's duties and responsibilities include:

(a) Supervises daily work activities of the Pathways Participant and serves as the Pathways Participant's primary point of contact for any questions related to the program;

(b) Adheres to all requirements of the applicable Pathways Program for each Pathways Participant, including all of the provisions in the governing Participant Agreement, along with providing a meaningful on-boarding process. The hiring official and/or supervisor is responsible for orienting the Participant to VA's mission and the Participant's role in that specific facility and ensuring access to all necessary technological and program resources; providing ample work; career guidance; and regular performance feedback throughout the Program;

(c) Establishes performance elements and standards directly related to acquiring and demonstrating the various leadership, technical, and/or general competencies expected of the Participant, as well as, the elements and standards established for the assigned duties. VA Handbook 5013, Performance Management Systems, Part I - Title 5 Performance Appraisal Program, does not require a formally established performance plan for temporary title 5 excepted service employees expected to work 90 calendar days or less in a 12-month period, e.g., a Pathways Intern hired for the summer with a corresponding not-to-exceed date. Participant Agreements must include performance expectations;

(d) Designs and develops formal training plans, Participant Agreements, and performance plans for Participants with advice from the HR Officer/Director or designee;

(e) Assigns duties and responsibilities to Internship Participants that are consistent with their educational background and career interests and purpose of appointment;

(f) In coordination with workforce planners, ensures that an adequate number of permanent positions will be available to convert Pathways Participants who successfully complete their Program;

(g) Ensures Recent Graduate and PMF Participants are assigned an appropriate mentor;

(h) Ensures Participant Agreement is established within 10 calendar days of the appointment date and a copy is provided to the Participant and the servicing Human Resources Office;

(i) Verifies enrollment and eligibility of a Participant for continued participation in the Internship Program;

(j) Communicates to Participants all program requirements as related to conversion eligibility, special training requirements, and establishes a mutually agreeable work schedule; and

(k) Review, for approval or denial, an Internship Program Participant's request for a break in program.

(10) **Internship Program Participant**.

(a) Adhere to the Internship Program requirements required by Federal regulation and VA policy.

(b) Meet the definition of a "student" as defined in 5 CFR 362.202 as an individual accepted for enrollment or enrolled and seeking a degree (diploma, certificate, etc.) in a qualifying educational institution, on a full or half-time basis (as defined by the institution in which the student is enrolled), including awardees of the Harry S. Truman Foundation Scholarship Program under Public Law 93–842. Students need not be in actual physical attendance, so long as all other requirements are met. An individual who needs to complete less than the equivalent of half an academic vocational or technical course-load immediately prior to graduating is still considered a student for purposes of this Program.

(c) Provide proof of enrollment in a qualifying educational institution and academic transcripts at the end of each academic period and upon request.

(d) As applicable, at the time of appointment and upon request, demonstrate an acceptable overall Grade Point Average (G.P.A.) of at least a 2.0 or above on a 4.0 scale, as recorded on the official transcript.

(e) Adhere to an established work schedule approved by the supervisor.

(f) Perform, successfully, the duties and responsibilities in the assigned position description.

(g) Observe all workplace rules, such as dress code, office conduct and behavior.

(h) Participate in all VA mandatory training programs (either on-line or in the classroom).

(i) For individuals appointed in Intern positions (without time limit) expected to last 1 year or longer, establish an IDP with the assistance of the supervisor. The IDP must be executed within 45 calendar days from the appointment date, and must be established in concert with the assignment of performance requirements, as applicable.

(j) Notify the supervisor of any changes in the completion of the educational program, such as graduation date, changes in the major degree requirements, or changes in the educational institution's accreditation.

(k) Submit requests for breaks in program to the supervisor within a timely manner.

(11) **Recent Graduates Participant**.

(a) Adhere to the Recent Graduate Program requirements required by Federal regulation and the VA policy.

(b) Adhere to an established work schedule approved by the supervisor.

(c) Perform, successfully, the duties and responsibilities in the assigned position description.

(d) Observe all workplace rules, such as dress code, office conduct and behavior.

(e) Establish an IDP with the assistance of the supervisor. The IDP must be completed within 45 calendar days of appointment and include a plan to obtain at least 40 hours of formal interactive training, and must be established each year in concert with the assignment of performance requirements.

(f) Collaborate with the supervisor to identify a mentor within 90 calendar days of the appointment date.

(g) Participate in all VA mandatory training programs (either on-line or in the classroom).

(h) Attend regularly scheduled meetings with designated mentor.

(12) **Presidential Management Fellows Program Participant**.

(a) Adhere to the PMF Program requirements required by Federal regulation and the VA policy.

(b) Adhere to an established work schedule approved by the supervisor.

(c) Perform, successfully, the duties and responsibilities in the assigned position description.

(d) Observe all workplace rules, such as dress code and office conduct and behavior.

(e) Establish an IDP with assistance of the supervisor. The IDP must be completed within 45 calendar days of appointment and include a plan to obtain at least 80 hours of formal interactive training per year, and must be established each year in concert with the establishment of the performance requirements.

(f) Collaborate with the supervisor to identify a mentor within 90 calendar days from the appointment date and attend regularly scheduled meetings with designated mentor.

(g) Participate in a VA mandatory training programs (on-line and classroom).

(h) Complete a 4-6 month developmental assignment as described in 5 CFR 362.405(b)(4).

e. **References**.

(1) Title 5, United Stated Code (U.S.C.), 2108, Veteran; Disabled Veteran; Preference Eligible

(2) Title 5, U.S.C. 2301, Merit Systems Principles

(3) Title 5, U.S.C. 2302, Prohibited Personnel Practices

(4) Executive Order (E.O.) 13562, Recruiting and Hiring Students and Recent Graduates, December 30, 2010

(5) Title 5, CFR, 213.3402, Schedule D Entire Executive Civil Service; Pathways Programs

(6) Title 5, CFR, part 302, Employment in the Excepted Service

(7) Title 5, CFR, part 310, Employment of Relatives

(8) Title 5, CFR, part 362, Pathways Programs

(9) Office of Personnel Management, Memorandum for Chief Human Capital Officers, Use of Third-Party Intern Providers, dated October 19, 2012

(10) Office of Personnel Management, Pathways - Transition and Implementation Guidance, July 2012

(11) Office of Personnel Management, Pathways for Students and Recent Graduates, Questions and Answers, October 2014

f. **Definitions**. For the purposes of this policy, definitions are as follows:

(1) **Academic Year of Undergraduate Education**. Thirty (30) semester hours, 45 quarter hours, or the equivalent in an accredited college or university.

(2) **Advanced Degree**. A professional or graduate degree, e.g., master's, MBA, Ph.D., J.D.

(3) **Agency**. An Executive department. For the purpose of this policy agency means Department of Veterans Affairs (VA).

(4) **Break In the Program**. A period of time when an Intern is working but is unable to go to school, or is neither attending classes nor working for the Department.

(5) **Certificate Program**. A post-secondary education, in a qualifying educational institution, equivalent to at least one academic year of full-time study that is part of an accredited college-level, technical, trade, vocational, or business school curriculum. Certificate programs may not be used to

appoint individuals enrolled in short term "certificate programs" that are not required for the position employed or which lack sufficient academic rigor.

(6) **Exceptional Job Performance**. A formal evaluation conducted by the student's Internship supervisor, consistent with the applicable performance appraisal program that results in a rating of record (or summary rating) of higher than fully successful or equivalent.

(7) **Executive Resources Board (ERB)** (applies to PMFs). Senior officials who have been given responsibility for executive resources management and oversight by the agency head. The individual(s) review PMF Fellows' conversion packages and certify whether PMF Fellows have successfully completed Program requirements. These senior officials have been given responsibility for executive resources management, merit staffing and oversight by the Secretary of VA.

(8) **Extension of Program**. An agency may extend the Recent Graduate or PMF Program for a Participant for a period for up to an additional 120 calendar days to cover rare, unusual circumstances or situations. These circumstances and situations are outlined in the VA-OPM Pathways Memorandum of Understanding (MOU). Also, see the definition of Memorandum of Understanding. Extensions of the program are approved by the headquarters VA PPO.

(9) **Individual Development Plan (IDP)**. A formal written document (sometimes called a professional development plan) that outlines how a Participant will improve current performance and/or meet future anticipated performance requirements and career aspirations. An IDP is a tool that guides development through formal training, education or certification from a college or university, on-the-job experiences, or coaching and mentoring. Participants in the Recent Graduates and PMF Programs are required to be assigned IDPs within 45 calendar days of appointment. Supervisors of participants appointed in Internship Program positions (without time limits) expected to last more than 1 year should assign Participants an IDP within 45 calendar days of appointment.

(10) **Initial Appointment**. An individual's first Pathways appointment in any particular agency/department.

(11) **Internship Program Participant or Intern**. An Internship Program Participant or Intern is an eligible student, as defined in 5 CFR 362.202, who is participating in the Internship Program. Interns may serve on temporary appointments not to exceed 1 year and are referred to as temporary Interns. Those students serving on appointments without a not-to-exceed date are referred to as indefinite Interns.

(12) **Memorandum of Understanding (MOU)**. A formal bilateral or multilateral agreement between two or more parties that expresses a convergence of will between the parties, indicating an intended common line of action. The Pathways Programs MOU is established between OPM and the Assistant Secretary of the Office of Human Resources and Administration (006) in VA Central Office.

(13) **Outstanding Academic Achievement**. A student in the Internship Program who possesses an overall grade point average (G.P.A.) of 3.5 or better, on a 4.0 scale; standing in the top 10 percent of the student's graduating class; and/or induction into a nationally-recognized scholastic honor society.

(14) **Participant Agreement**. A written agreement between VA and each Pathways Participant. The agreement must clearly identify expectations, including but not limited to: responsibilities of Pathways Participant and the Supervisor; a general description of duties; work schedules; the length of the appointment and termination date; mentorship opportunities; training requirements, as applicable; evaluation procedures that will be used for the Participant; requirements for continuation and successful completion of the Program; and the minimum eligibility requirements for noncompetitive conversion to term or permanent competitive service employment according to the requirements of the applicable Pathways Program; and the option to convert the Participant to position that has promotion potential (i.e., a career ladder). The agreement is signed by the Participant, Supervisor, and HR Officer/Director or designee.

(15) **Presidential Management Fellow (PMF) or Fellow**. An individual appointed, at the GS-9, GS-11, or GS-12 level (or equivalent), in the excepted service under 5 CFR 213.3402(c).

(16) **Program Participant or Pathways Participant**. An individual appointed under a Pathways Program.

(17) **Qualifying Educational Institution**. A public high school whose curriculum has been approved by a State or local governing body, a private school that provides secondary education as determined under State law, or a homeschool that is allowed to operate in a State; and any of the following educational institutions or curricula that have been accredited by an accrediting body recognized by the Secretary of the U.S. Department of Education: a technical or vocational school; a 2-year or 4-year college or university; a graduate or professional school (e.g., law school, medical school); or a post-secondary homeschool curriculum.

(18) **Quality Ranking Factors**. Knowledge, skills, and abilities (KSAs) or competencies that could be expected to enhance significantly the performance in a position, but are not essential for satisfactory performance. Applicants who possess such knowledge, skills, and abilities or competencies may be ranked above those who do not, but no one may be rated ineligible solely for failure to possess such KSAs or competencies. Quality ranking factors must be based on the work of the position and must comply with the OPM Operating Manual for Qualification Standards for General Schedule Positions.

(19) **Selective Factor or Selective Placement Factor**. Knowledge, skills, abilities, or special qualifications that are in addition to the minimum requirements in a qualification standard, but are determined to be essential to perform the duties and responsibilities of a particular position. Applicants who do not meet a selective factor are ineligible for further consideration. Selective Factors must be based on the work of the position and must comply with the OPM Operating Manual for Qualification Standards for General Schedule Positions.

(20) **Student**. An individual accepted for enrollment or enrolled and seeking a degree (diploma, certificate, etc.) in a qualifying educational institution, on a full or half-time basis (as defined by the institution in which the student is enrolled), including awardees of the Harry S. Truman Foundation Scholarship Program under Public Law 93-842. Students need not be in actual physical attendance (i.e., taking online courses), so long as all other requirements are met. An individual who needs to complete less than the equivalent of half an academic/vocational or technical course-load immediately prior to graduating is still considered a student for purposes of this Program.

(21) **Third-party Internship Provider**. A non-Federal entity that contractually provides internship experiences to students that are comparable to the Pathway's Internship Program.]

5. [EMPLOYMENT OF HEALTHCARE ADMINISTRATION RESIDENTS, INTERNS AND TRAINEES. To be used with 5 CFR 213.3402(a), 5 CFR, part 362, and Appendix II-N. When using the Pathways Programs authorities to appoint healthcare administration residents, interns and trainees, HR Offices must consider all eligible and qualifying individuals and must not screen candidates who are not pursuing or have completed education from a preferred program accrediting body.

a. **Healthcare Administration Residents**.

(1) Healthcare administration residents are graduate students pursuing a master's degree in a program approved by the Commission on Accreditation of Healthcare Management Education (CAHME). Practical experience is for 1 year and is usually performed following the completion of 1 academic year of graduate study.

(2) Residents will be appointed in the Pathways Internship Program under 5 CFR 213.3402(a). The Office of Personnel Management has authorized VA to employ residents for a period of 12 months as an exception to the requirements of 5 CFR, part 308.

(3) Compensation for residents is locally established by facility Directors at appropriate levels within maximums prescribed by Federal civil service regulations and part II, chapter 2, paragraph 3 of VA Handbook 5007, Pay Administration.

(4) Residents appointed under 5 CFR 213.3402(a) may be noncompetitively converted to term, career-conditional or career appointments, as appropriate, provided all requirements of 5 CFR 362.204 are met.

b. **Healthcare Administration Interns**.

(1) Healthcare administration interns are graduate students pursuing a master's degree in a program approved by the CAHME. Practical experience is typically available during the summer between 2 years of graduate level academic study and is for a period of 2 to 4 months.

(2) Interns whose work assignments are anticipated to equal or exceed 640 hours necessary for noncompetitive conversion must be appointed [in an indefinite appointment (i.e., without time limitation) in the Pathways Internship Program under 5 CFR 213.3402(a). Those interns whose work assignments are not anticipated to meet the 640 hours requirement in the Internship Program will be appointed under the authority of 38 U.S.C. 7405.

(3) Compensation for interns appointed under 5 CFR 213.3402(a) is locally established by facility Directors at appropriate levels within maximums prescribed by Federal civil service regulations and part II, chapter 2, paragraph 3 of VA Handbook 5007, Pay Administration. Compensation for those interns who are appointed under the authority of 38 U.S.C. 7405 will also be in accordance with the provisions of VA Handbook 5007, Pay Administration.

(4) Interns appointed under 5 CFR 213.3402(a) may be noncompetitively converted to term, career-conditional or career appointments, as appropriate, provided all requirements of 5 CFR 362.204 are met.

c. **Healthcare Administration Trainees**.

(1) Healthcare administration trainees are undergraduate students pursuing a bachelor's degree in healthcare administration or a closely related field. Practical experience is usually from 2 to 4 months during the summer between the junior and senior years.

(2) Trainees whose work assignments are anticipated to equal or exceed 640 hours must be appointed in the Pathways Internship Program under 5 CFR 213.3402(a)]. Appointment will be at the GS-3 grade level if the trainee has completed 1 year of college and at the GS-4 grade level if the trainee has completed 2 years of college. Those trainees whose work assignments are not anticipated to meet the 640 hours requirement necessary in the Pathways Internship Program under 5 CFR 213.3402(a) for noncompetitive conversion to term, career-conditional or career appointments, as appropriate, will be appointed under 38 U.S.C. 7405.

(3) Compensation for trainees appointed under 5 CFR 213.3402(a) will be at the pay levels for GS-3 or GS-4, as appropriate. Compensation for those trainees who are appointed under authority of 38 U.S.C. 7405 will be in accordance with the provisions of VA Handbook 5007, Pay Administration.

(4) Trainees appointed under in the Pathways Internship Program under 5 CFR 213.3402(a) may be noncompetitively converted to term, career-conditional or career appointments, as appropriate, provided all requirements of 5 CFR 362.204 are met.

d. **Conversion to Term, Career-Conditional and Career Appointments**. Students meeting all the requirements specified in the Pathways Internship Program under 5 CFR 213.3402(a) may be converted to term, career-conditional or career positions, as appropriate, at the employing medical facility. Those appointed under the authority of 38 U.S.C. 7405 are not eligible for noncompetitive appointment to the competitive service under 5 CFR 362.204. If there is no appropriate position available locally for a student who is considered a good candidate for conversion, the medical facility or the student may check lists of vacancies published by VA Headquarters and contact other VA installations at which the student is interested in being employed.]

[ ]

6. OTHER EXCEPTED SERVICE APPOINTMENTS.

a. **General**.

(1) This paragraph contains the requirements and procedures to be followed in making appointments and position changes to positions through grade GS-15 or equivalent in the excepted civil service under 5 CFR, part 302, other than those covered by paragraphs 1 and 2 of this section. It does not apply to excepted service employment in the Veterans Health Administration under 38 U.S.C. ch. 73 and 74, or to employment in the Veterans Canteen Service under 38 U.S.C. ch. 78.

(2) The requirements of 5 CFR, part 302, and the provisions of this paragraph do not apply to the examination and selection of attorneys in VA. Administration and staff office heads, including the Chairman, Board of Veterans' Appeals, have complete responsibility for accepting attorney applications, evaluating relative qualifications of these candidates, according [V]eterans' preference as appropriate, and except for positions centralized to the Secretary, making final selections.

(3) The Office of Personnel Management excepts positions from the competitive civil service under authority of 5 CFR 213.101. These positions are identified as Schedule A, Schedule B, [Schedule C or Schedule D]. Those excepted positions which are common to more than one agency are listed in 5 CFR, part 213. Those specific to one agency are published annually in the Federal Register under 5 CFR, part 213.

(4) Except where specific VA limitations are otherwise imposed, appointing officers may use any applicable Schedule A or Schedule B authority listed in 5 CFR, part 213 to meet employment needs.

(5) Schedule C positions in VA are of a policy-determining or confidential character and may be made without an OPM or other civil service examination. Schedule C positions are normally located in Central Office. Therefore, the processing of appointments under Schedule C, section 213.3301 or 213.3302 authority is the responsibility of the Central Office Human Resources Service [(05B)].

b. **Qualification Standards.** Except where the qualification standards of the Office of Personnel Management are appropriate, e.g., Handbook X-118C for purchase and hire employees, necessary VA qualification standards for positions in the excepted service will be developed by the Office of Human Resources Management [and Labor Relations] (05) in conjunction with interested department, administration and staff officials. Appointing officers wishing to modify or waive requirements of a qualification standard will be guided by the policies and principles stated in section D of this chapter.

c. **Accepting Applications**

(1) All applications solicited and accepted for employment consideration for positions in the excepted civil service must be complete, dated, and signed by the applicant. Applications for chaplain positions are to be forwarded through channels to the Director, Chaplain Service. All other official applications accepted for employment will be maintained by VA Boards of Excepted Service Examiners in applicant supply files.

(2) Verification of qualifications and suitability will be made as described in this handbook and 5 CFR, part 731. Where verification or subsequent investigation following employment discloses disqualifying factors to such a degree that a satisfactory explanation or resolution is not possible, the responsible official may disqualify the applicant, or separate the employee under appropriate trial period or adverse action procedures. The disqualifying factors may be:

(a) Dismissal from employment for delinquency or misconduct;

(b) Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct;

(c) Intentional false statement or deception or fraud in examination or appointment;

(d) Habitual use of intoxicating beverages to excess;

(e) Reasonable doubt as to the loyalty of the person involved to the Government of the United States.

(f) Any legal or other disqualification which makes the individual unfit for service; or

(g) Lack of United States citizenship.

(3) Applicants will be contacted at approximately yearly intervals to determine whether they are still available and wish continued consideration for employment. Where the applicant fails to reply or declines further consideration, the application will be filed in the inactive section of the applicant supply file and then be disposed of in accordance with VA records disposal procedures.

d. **Examining for Excepted Positions**

(1) **VA Boards of Excepted Service Examiners.** Examination and certification of applicants for excepted service positions will be accomplished by VA Boards of Excepted Service Examiners.

(a) **Field Facilities**. Field facility HRM offices having positions to fill in the excepted service, except positions centralized for appointment and placement purposes to the Secretary or an administration or staff office head, will establish a Board. The Human Resources Management Officer is designated as the chairperson of the Board, with an appropriate staff employee, grade GS-7 or above, as the executive secretary. When the staff employee does not meet this requirement, the Human Resources Management Officer will serve both as the chairperson and the executive secretary. Each organizational element having excepted positions for which the Board examines will be represented on the Board by one or more examining members. The members will serve on examining panels when called for such service by the chairperson. While assigned to rating duties, the members will report to the chairperson.

(b) **Central Office**. The Director, Chaplain Service, or designee will establish a Board which examines and certifies candidates for chaplain positions in accordance with the provisions of this paragraph, 5 CFR 6.3 and part 302. The Deputy Assistant Secretary (DAS)/HRM will establish a Board to examine and certify eligibles to Central Office positions and to excepted positions centralized for employment purposes to the Secretary or an administration or staff office head. The DAS/HRM will designate the chairperson of the Board and he/she in turn will designate the executive secretary. Each organizational element having excepted positions for which the Board examines will be represented on the Board by one or more examining members. The members will serve on examining panels, as needed, when called for such service by the chairperson. While assigned to rating duties, the members will report to the chairperson.

(2) **Rating Applications**. Applicants will be rated against the appropriate qualification standard and assigned numerical ratings on a scale of 100, with 70 the minimum eligible rating. Such ratings will be augmented by 10 or 5 points, as appropriate, for applicants entitled to [Veterans'] preference. When the number of applicants, following the "rule of three" described in subparagraph (3) below, does not exceed the number of positions to be filled, a rating of "eligible" may be assigned in lieu of a numerical rating. In either case, a notice of the rating must be given to the applicant upon request.

[**NOTE:** *See Appendix II-N for specific procedures for rating certain Pathways Programs positions.*]

(3) **Certifying Eligibles**. In response to a request (SF 39) from the appointing officer, eligible candidates will be certified (VA Form 4681) by the Board for employment consideration. Generally, the Board will refer sufficient available candidates to permit selection consideration within the "rule of three." The preference order for referring candidates for professional and scientific positions at GS-9 and higher will follow the pattern described in 5 CFR 302, subpart C. For other positions, either Order A, B, or C described in the above CFR reference, may be selected to refer candidates. Once the order has been selected, it will be consistently used to certify candidates for employment considerations.

NOTE: *The VA Form 4681 is superseded by the referral format in USA Staffing, when USA Staffing is used*.

(4) **Records**. Applications, examination records, register cards, and records of certification will be maintained in Board files in such a manner that inspection by VA or Office of Personnel Management representatives is possible. VA Form 3959, Application Roster Sheet, may be used in lieu of register cards to show the status of and actions taken on applications. For USA Staffing recruitment, system records are sufficient to meet the requirement for documentation. Job analysis records can be imported directly into USA Staffing.

e. **Modification of Examining Procedure**

(1) **Schedule C Positions.** Modification of the examining procedure above may be made for qualified candidates for Schedule C positions. Such candidates may be given an "eligible" rating by the appointing officer, or representative, and be selected for appointment without regard to the "rule of three." The

principles of [V]eteran preference must be followed, as far as administratively feasible. At the discretion of the Secretary, the evaluation and rating process resulting in a numerical rating by the Board may be applied in filling Schedule C positions.

(2) [**Schedule D Positions**. Modifications to examining procedures for Pathways Programs positions are outlined in Appendix II-N of this handbook.]

[(3)] **Former Federal Employee Applicants**. Any [V]eteran preference applicant meeting the qualification requirements of the excepted position may be given an "eligible" rating by the appointing officer, or representative, provided the applicant had prior civilian service in the executive branch of the Federal Government. Such an applicant may be referred by the appointing officer and be selected without regard to the "rule of three."

[(4)] **Purchase and Hire Employees**. Modification of the examining procedure above may be made for purchase and hire employees when the number of qualified applicants does not exceed the number of jobs to be filled. In this case the applicants may be given an "eligible" rating by the appointing officer, or representative, and be considered for appointment in order of their preference, i.e., 10 percent or more compensably service-connected disabled [V]eterans, other 10-point preference eligibles, 5-point preference eligibles, and non-preference eligibles, in keeping with 5 CFR 302.304(b)(5)(i).

f. **Reasons for Nonselection**. When requesting passover of a preference eligible with a compensable service-connected disability of 30 percent or more in favor of lower ranking preference or non-preference eligibles, appointing officers must follow the procedures contained in 5 U.S.C. 3312 and 3318; and, 5 CFR 332.406 and 339.306(b). The Office of Personnel Management (OPM) retains exclusive authority to approve a request to pass over a preference eligible with a compensable service-connected disability of 30 percent or more. HR Offices must send these pass over requests to OPM for adjudication. Requests must include a completed SF 62 form and all required supporting documentation.

g. **Placement Follow-up**. A placement follow-up will be used to evaluate the appropriateness of specific placement and employment actions in excepted service positions. Follow-ups will be made for all initial appointments and significant position changes. After the employee has completed at least 90 days in the assignment, a human resources management office staff member will forward a placement follow-up form to the supervisor to obtain information about the employee's performance, his/her adjustment to the job, and any training or other needs or outstanding work that warrants attention for further placement consideration. Where deficiencies are reported, the employee should also be interviewed to further explore the courses of action that may be taken to overcome them. The follow-up form, VA Form 5-97, Notice of Pending Personnel Action, will be annotated to show that the follow-up was made, and only significant results will be recorded. These procedures are minimum requirements and where possible, extension of the follow-up interview for all placement actions is encouraged. For example, a follow-up of all promotions can be a valuable aid in assessing the results of the facility's promotion plan and the validity of the evaluation and selection process. Also, separate placement follow-ups with employees can be a valuable source of placement information as well as being an effective employee relations technique.

h. **Trial Period Certification.** Excepted service employees appointed to positions lasting more than 1 year (indefinite) are required to serve a trial period of 1 year. The trial period is a most important part of the examining procedure. This is the period when new employees are tested on the job for qualities and characteristics essential for satisfactory performance. To meet this responsibility supervisors must:

(1) Establish reasonable standards of performance and conduct for trial period employees to meet.

(2) Inform trial period employees about the standards and requirements.

(3) Help trial period employees to meet standards through necessary training and guidance.

(4) Promptly take steps to terminate trial period employees who, after a fair and reasonable trial, do not meet and keep the standards.

(5) Make the formal 10-month evaluation of each trial period employee a realistic and well-reasoned appraisal and base each recommendation for retention on a positive determination that the trial period employee has lived up to expectations and can reasonably be expected to continue to meet acceptable standards. [ ]

i. **VA Single-Agency Schedule A, B, and C Excepted Appointment Authorities.** [OPM publishes notice of the following VA-specific Schedule A, B, and C excepted appointment authorities annually in the Federal Register instead of title 5 of the Code of Federal Regulations]**.**

(1) **Schedule A - Section 213.3127**

(a) Purchase and hire [(P&H)] appointees are temporary workers in trades, crafts, or manual labor occupations [supporting construction or major repair projects. P&H appointments are subject to service limitations in 5 CFR, part 213. Servicing Human Resources (HR) offices must consider the use of competitive procedures when filling positions that do not meet the definition a temporary appointment as described in 5 CFR 213.104(a)(1). To ensure appropriate use of the P&H appointment authority, the following procedures apply:

1. Recruit to fill P&H vacancies only when the preferred method of contracting services to a private sector construction firm is impractical or disruptive to patient care activities. Announce P&H vacancies in a manner expected to yield a sufficient number of qualified candidates consistent with provisions in part I, chapter 1, paragraph 4 of this handbook.

2. P&H appointments are subject to Veterans preference and excepted service appointment procedures referenced in 5 CFR, part 302 and part II, chapter 2, section C, paragraphs 6e(3) and 6f of this handbook.

3. Use the Schedule A, section 213.3127(a)(1) appointment authority to fill P&H vacancies not-to-exceed (NTE) a prescribed period of up to one year (consistent with the duration of the project).

4. When requesting to fill a P&H position via initial recruitment action or extension of appointment, selecting officials must submit written justification to the servicing HR office certifying the temporary nature of the work required for the appointment, a description of the work/project, its objectives and a definitive timeframe/remaining timeframe to complete the required work. The related SF-52 must identify the project, worksite, and duration of each appointment.

5. The remark codes on the appointment SF-50 must identify the project, the designated work site, and the start and completion date. Servicing HR offices must monitor NTE dates via automated payroll system reminders to prevent exceeding the prescribed NTE dates. HR offices must also terminate appointments upon expiration or at the completion of each project, whichever occurs first.

6. P&H appointees must only perform work on an intermittent (when-actually employed) basis under the project for which they are hired. P&H appointees may not perform work on a current project beyond the expiration of their appointment or move non-competitively from one project to another under any circumstances.

7. Consistent with 5 CFR 213.104(b), servicing HR officers may renew P&H appointments for the time required to complete any unfinished project work. This renewal is NTE one additional year. When necessary, the selecting official may submit a written request for extension to the servicing HR Officer for review and approval/disapproval. The extension request must be submitted at least 30 days prior to the appointment expiration date and should contain the documents described in part II, chapter 2, paragraph 6i(1)(a)4 of this handbook. Restrictions on refilling positions under temporary appointments in 5 CFR 213.104(b)(2) apply.

NOTE: *In accordance with 5 CFR 213.104(b)(3)(i), service limits and restrictions on refilling P&H positions do not apply if employment in the same or successor position totals less than 6 months (1,040 hours), excluding overtime, in a service year. The service year is the calendar year that begins on the date of the employee's initial appointment. Should employment in the position be 6 months or more in any service year, the general limits set out in 5 CFR 213.104 would apply to subsequent extensions or reappointments. An individual may be employed for training purposes up to 120 days following the initial appointment and up to 2 weeks a year thereafter without regard to the service year limitation.*

8. Notwithstanding provisions in 5 CFR 213.104(b)(3)(iii), VA-specific P&H appointments are not renewable beyond 2 years.

9. P&H appointees receive fringe benefits under the local Davis-Bacon wage schedule. In accordance with OPM benefits guidance, employees who work on an intermittent basis are typically ineligible for Federal benefits due to their irregular work schedules. Refer to the OPM website and VA Handbook 5007, part VIII, chapter 13 for guidance on benefits, wage rates and compensation entitlements available to P&H appointees.

10. Should any change in work schedule occur, process applicable personnel action to reflect change from intermittent to part-time or full-time employment and ensure that employees receive applicable service credit and notice of benefits eligibility criteria.]

(b) Not to exceed 400 positions of rehabilitation counselors GS-3 through GS-11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients. These employees will be appointed under Schedule A, section 213.3127(b).

1. Employees appointed under this authority must be ***former*** VA or non-VA drug dependent or alcoholic patients who have been rehabilitated through a prescribed treatment program. Former patients, including those that are continuing to receive outpatient maintenance therapy, may be appointed under this authority. In-hospital patients will not be appointed to these positions.

2. Prior approval by VA Central Office must be obtained before any appointment commitment is made. The application, showing pertinent experience, the name and location of the applicant's rehabilitation program, and letters or statements attesting to candidate's rehabilitation will be forwarded to the Assistant

Deputy Under Secretary for Health [for Workforce Services (10A2)] for approval. Once the appointment has been approved, these letters and/or statements will be disposed of in accordance with VHA Records Control Schedule 10-1. Facility directors will ensure that copies of letters or statements concerning an applicant's drug or alcohol dependence rehabilitation are not retained in personnel files nor made a part of the employee's medical records.

3. Applicants for Rehabilitation Technician positions must meet the qualification requirements contained in the VA qualification standard for Rehabilitation Technician, GS-181.

4. This Schedule A authority may be used in addition to, rather than in lieu of, the regular competitive civil service employment procedures. Continuing efforts should be made to convert employees holding excepted appointments to competitive status when warranted by their performance. This will give these employees the greater benefits of competitive status such as reinstatement and transfer rights and eligibility for in-service placement to other lines of work.

5. The number of Rehabilitation Technicians employed under Schedule A authority will be controlled to ensure that the OPM employee limitation is not exceeded. To accomplish this, Directors will notify the Assistant Deputy Under Secretary for Health (10N/05[ ]) of each appointment, giving the following information:

a. Name of employee.

b. Position title, series, and grade.

c. Date of appointment.

d. Veteran preference (5 or 10 point) and whether the employee is a Vietnam era veteran (military service between Aug. 5, 1964, and May 7, 1975).

e. Agency (VA or non-VA) in which employee completed rehabilitation treatment.

6. Directors will likewise notify Central Office whenever a Rehabilitation Technician leaves excepted service (including conversion to competitive status), giving:

a. Name of employee.

b. Date and reason for leaving.

(2) **Schedule B - Section 213.3227(a).** Not to exceed 400 principal investigatory, and 400 scientific, professional and technical positions at grade GS-11 and above in the medical research program. Although the authority does not require a time-limitation, the authority remains project oriented. All appointments should be made in association with a specific research project. Thus, appointments should be made with not-to-exceed dates consistent with the funding time frames, and extended if necessary to complete a project.

(a) **Appointments**

1. The Schedule B authority is not intended to replace other available appointment authorities. One example of an appropriate use of the authority would be the appointment of a new principal investigator just completing Ph.D. requirements and having no experience as the lead investigator in a major medical research project.

2. VHA facilities using this authority for scientific, professional and technical positions at GS-11 and above, and principal investigator positions at the GS-12 level are required to follow 5 CFR, part 302 and VA Excepted Board procedures in paragraph [6]d [ ] in filling these positions.

3. VHA facilities using this authority for principal investigator positions at GS-13 and above are **not** required to follow 5 CFR, part 302 and VA Excepted Board procedures. Veteran preference, however, must still be applied, to the extent administratively feasible, in filling these positions.

4. Applicants for these positions must meet the appropriate VA or OPM Operating Manual - Qualification Standards for General Schedule Positions qualification requirements for the specific position to which appointed.

5. The citizenship requirements contained in paragraph 5g of section A of this chapter, are applicable.

(b) **Use of Other Appointing Authorities**

1. Many research positions are continuing in nature and are filled by career-conditional or career appointment. The career-conditional or career appointment should be used whenever it is appropriate.

2. Projects which are expected to last no more than 4 years may continue to be staffed through the use of the 4-year term appointment authority.

(c) **Employee Rights, Privileges and Benefits**

1. **Position Changes.** Employees may be demoted, promoted or reassigned to positions under the same excepted authority.

2. **RIF (Reduction in Force).** In instances where a project is terminated prior to the time the appointment of Schedule B employees expired, RIF procedures must be used to remove such employees. Schedule B employees are in group III for RIF. As excepted service employees, they have no assignment rights when released from their competitive levels.

3. **Disciplinary and Adverse Actions.** Employees may have entitlements to due process and certain appeal or grievance rights, depending on the length of current continuous service, veterans preference and bargaining unit status. When contemplating disciplinary or adverse actions, the provisions of VA Handbook 5021, Employee/Management Relations, parts I and IV, as well as the terms of any applicable collective bargaining agreement, should be reviewed.

4. **Leave.** Excepted employees are covered by the same time and leave regulations applicable to employees in the competitive service.

5. **Retirement.** Generally, excepted employees whose appointments are for more than 1 year are covered by the OPM retirement system. Excepted employees whose appointments are for 1 year or less are generally covered under Social Security. Exclusions in regulations or law will be observed, e.g., any applicable to certain visa categories, such as F and J visas.

6. **Life Insurance and Health Benefits.** Excepted employees whose appointments are for more than 1 year are entitled to life insurance and health benefits.

(3) **Schedule C - Sections 213.3301 and 2.** Schedule C positions are of a confidential or policy determining character and may be made without an OPM examination. Schedule C positions are normally located in Central Office. Therefore, the processing of Schedule C appointments is the responsibility of Central Office Human Resources Service.

[ ]

SECTION D. QUALIFICATION STANDARDS

1. SCOPE. This section supplements and is to be used in conjunction with related parts of the 5 CFR, e.g., 338, and 339, and the instructions contained in the Office of Personnel Management (OPM) Operating Manual for Qualification Standards for General Schedule Positions and OPM's X-118C Handbook. The section provides VA policies and procedures for the development and use of qualification standards and examining guides for VA positions except:

a. Excepted positions in the Veterans Canteen Service under 38 U.S.C. ch. 78.

b. Positions filled by WOC (without compensation) employees. (See section A, paragraph 4c, this chapter.)

c. Positions filled by physicians, dentists, optometrists, podiatrists, chiropractors, nurses, nurse anesthetists, physician assistants, expanded function dental auxiliaries, [and all Hybrid Title 38 occupations] under 38 U.S.C., chapters 73 and 74.

d. Positions filled by purchase and hire employees under VA's single-agency Schedule A appointment authority. (See paras. 5e(3) and 5i(1)(a) of section C, this chapter.) Qualification standards of comparable positions, however, will apply. (See OPM X-118C Handbook.)

2. POLICY

a. Qualification standards establish minimum requirements which are predictive of successful performance. These standards will be applied uniformly for like positions throughout VA, unless labor market conditions or atypical positions within an occupational group or other meritorious reasons warrant modifications or waivers of the standard to meet management objectives. Unless stated otherwise in the standard or other applicable instruction, the standards for noncompetitive actions will be the same as those for competitive appointments.

b. In the interest of sound human resources management, VA standards for positions not requiring formal technical or professional education or training will permit latitude for rotating and shifting employees in career development programs and other training and placement plans. Where feasible, standards will be developed or appropriately changed to permit the employment of persons who are economically disadvantaged or for persons with disabilities.

c. The application of qualification standards in VA is an integral part of the facility's overall human resources program. In that context, it includes, unless stated otherwise in an individual standard, application of those related policies and procedures in the following parts of the Code of Federal Regulations:

(1) 5 CFR, part 337, "Examining System," including the provision for giving appropriate credit to applicants for experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether pay was received therefor.

(2) 5 CFR, part 412, "Executive, Management, and Supervisory Development."

(3) 29 CFR, part 1614, "Federal Sector Equal Employment Opportunity."

(4) 5 CFR, part 930, "Programs for Specific Positions and Examinations (Miscellaneous)."

3. GENERAL GUIDELINES

a. **Definition.** As used in this section, a qualification standard is a statement of the minimum requirements that an individual must meet to be qualified for appointment or assignment to a position. These requirements include such considerations as experience, education, training, personal characteristics, physical ability, minimum age, citizenship, and licensure or certification. In a broad sense, a qualification standard includes the examining guides, rating schedules, rating scales and other standardized measuring devices and techniques through which the qualifications of candidates are evaluated. A qualification standard does not include the more general requirements such as restrictions on employment of relatives, security, or time-in-grade requirements.

b. **Minimum Standards.** Qualification standards issued by OPM and VA establish minimum requirements. They usually cover an entire occupation and apply throughout the Federal Government or VA. The title, series codes, and grades stated in the standards serve the dual purpose of identifying the standard and its scope in terms of position coverage. Some standards, usually those concerning more than one class or series, may have a general title that is descriptive of all the positions covered.

c. **Interpreting Standards.** The determination as to whether an individual meets qualification requirements is made through an analysis of personal data or experience records, as well as interviews, approved tests (oral, written, or performance), and qualification investigations. In applying VA and OPM standards, VA appointing and examining officials are expected to make decisions on the interpretation of standards. When such matters cannot be reconciled, interpretations or decisions will be obtained from the servicing OPM office or from the Deputy Assistant Secretary for [O]HRM[&LR] (05), as appropriate.

d. **Selective Certification (5 CFR 332.403).** These procedures may be used as appropriate.

e. **Selective Placement Factors (5 CFR, part 335).** These factors may be used in applying qualification standards. See OPM Operating Manual - Qualification Standards for General Schedule Positions, Section II, General Policies and Instructions, E. Application of Qualification Standards, 6. Using Selective Factors.

f. **Relationship of "Classification Qualification Statements" to Qualification Standards (OPM Operating Manual – Qualification Standards for General Schedule Positions).** The minimum nature of qualification standards distinguishes them from the "qualification statements" contained in classification or wage position evaluation standards. The latter often describe levels of skills or abilities which are normally acquired through performance in a position.

g. **Progressively Responsible Experience (OPM Operating Manual - Qualification Standards for General Schedule Positions, Section II, General Policies and Instructions, E. Application of Qualification Standards, 3. Experience Requirements).** In qualification standards requiring progressively responsible experience, where that term is not specifically defined, candidates must show pertinent experience of increasing importance and responsibility, at successively higher levels, with a substantial portion having been performed at a level comparable to the grade normally below the grade in the line of work for which they are candidates.

h. **Training and Promotion Agreements (5 CFR 410.307).** Special training agreements negotiated with OPM are, in effect, changes in qualification standards. These are, by nature of the agreement, conditional and limited in nature, but constitute an approved exception to the normal application of a standard.

(1) **Agreement for Training-Promotion of Service Disabled Veterans**

(a) A master agreement has been negotiated with OPM which delegates to VA the authority to develop and implement training plans that result in successful training being used as a substitute for normal qualifications, including time-in-grade requirements. For unpaid training, when noncompetitive appointment to a position or class of positions is the goal of the training, the initial training plan will be reviewed in Central Office (05[ ]) prior to approval by the field facility Director. Field facilities will forward a copy of the locally approved training plan to their servicing OPM service center.

(b) VBA rehabilitation and education staff may determine that training is necessary for disabled veterans who technically meet requirements of the qualification standard. Such cases should be processed in the same manner as others with a detailed justification of the training submitted for review with the training plan. Detailed justification should be developed by the rehabilitation staff.

(c) For positions subject to OPM qualification standards, 1 month of intensive, carefully planned training may be considered the equivalent of 2 months of experience when it has been determined that the training halves the time usually required to qualify for the position. Requests for such modification of OPM qualification standards should be submitted through channels to the DAS for [O]HRM&LR (05[ ]) for approval. Similarly, for positions subject to VA qualification standards, this determination may be made by VA officials authorized to modify VA qualification standards. Local approval of modifications permitting experience credit for positions grade 5 and below should be documented in writing and a copy of the approved modification forwarded to Central Office (see paragraph 8c of this chapter).

(2) **Training Plan Qualification Modification Requests.** Requests for modification of OPM and VA qualification standards which must be approved in VA Central Office should be accompanied by a copy of the training plan, VA Form 22-1905a (Training Program and Progress Record), OF 612 (Optional Application for Federal Employment) or resume, and a copy of the VA rehabilitation and education approval, VA Form 28-8871 (Certification of Eligibility and Feasibility).

i. **Physical Standards (see 5 CFR, part 339 and VA Handbook 5019).** The Office of Personnel Management is responsible for establishing physical requirements, including mental and emotional stability, for all positions in the competitive service. These requirements are issued as a part of the

qualifications standards, including those issued by VA. (See also appendice[x] II-F[ ].) A general physical requirements paragraph applies to all General Schedule qualification standards covering occupations in which the positions typically involve sedentary, light, or moderate duties. A more detailed physical requirements paragraph applies to qualification standards for occupations in which the positions typically involve arduous or hazardous duties. Excepted civil service qualification standards established by appointing officers will be governed by these same physical requirements paragraphs, as appropriate.

4. VA QUALIFICATION STANDARDS

a. **General.** VA develops its own qualification standards or approves the use of OPM qualification standards for the following:

(1) Classified positions through grade GS-15 excepted from the competitive service under 5 CFR, part 213, Schedule A or C and 5 CFR, part 6 (Rule VI).

(2) Medical support positions in the Veterans Health Administration as authorized in 38 U.S.C. 7402. As a matter of general policy, VA will not use this authority for clerical, administrative, crafts and unskilled positions except where the needs of VA clearly require different standards from those issued by OPM for similar positions. This policy recognizes the desirability of having the same requirements for like positions in all Federal facilities.

b. **Authority to Approve VA Standards.** The Deputy Assistant Secretary for [O]HRM[&LR] is authorized to approve for the Secretary qualification standards and examining guides which are established within the Department. OPM will be furnished copies when they relate to positions in the competitive civil service.

c. **Issuance of Standards.** VA qualification standards are usually issued in an appendix to this part. They are also issued by OPM in the Operating Manual - Qualification Standards for General Schedule Positions, noted as approved for use in the Veterans Health Administration or as a VA Single Agency Qualification Standard, when applicable.

d. **Maintenance of Standards.** VA qualification standards (appendice[x] II-F[ ]) may be maintained in occupational series order with this handbook, and/or they may be interfiled in occupational series order in the OPM Operating Manual - Qualification Standards for General Schedule Positions.

e. **Selective Certification.** Through agreement with OPM, VA standards will be used to request certification from any Federal examining office. Any misunderstandings concerning this agreement are to be reported, through channels, to the Deputy Assistant Secretary for [O]HRM&LR (05[ ]).

5. ENGLISH LANGUAGE PROFICIENCY FOR VHA POSITIONS

a. [No person will be appointed under authority of 38 U.S.C. chapter 73 or 74, to serve in a direct patient-care capacity in VHA who is not proficient in written and spoken English].

b. Provisions of appendix II-I of chapter 3, this part will be used, as applicable, to determine that title 5 employees in direct patient-care positions meet the English language proficiency requirements of 38 U.S.C. 7402(d).

c. When vacancies for direct patient-care positions are announced (including promotion opportunities and open-continuous announcements), the announcement, citing 38 U.S.C. 7402(d), must include the English language proficiency requirement as a selective factor.

d. When appointing officials determine that eligibles on a Federal civil service certificate do not possess the required proficiency, they may object to those eligibles citing 38 U.S.C. 7402(d). Similarly, when candidates who are not proficient in English have previously been certified by OPM or a VA or other Federal delegated examining unit, the appointing official may request selective certification based on English proficiency.

6. OPM QUALIFICATION STANDARDS

a. **Issuance of Standards.** OPM develops and issues qualification standards in its Operating Manual - Qualification Standards for General Schedule Positions and Handbook X-118-C. These are supplemented by examining guides for (1) the preparation of examination announcements and (2) the development of rating schedules and procedures. OPM may amend OPM qualification standards for the positions involved for both competitive and noncompetitive actions. Facilities may do so only to the extent provided in the OPM Operating Manual's section II, General Policies and Instructions.

b. **Exceptions to OPM Qualification Standards.** Facility directors and the Director, Central Office Human Resources Service, may negotiate with and obtain the prior approval of the servicing OPM office for exceptions to OPM qualification standards, except for the positions below, which require the prior approval of the Under Secretary for Benefits:

(1) All positions in adjudication functions of the Veterans Benefits Administration in the GS-101 and 996 series, grade 5 and above.

(2) All Counseling Psychologist positions in the GS-180 series. Recommendations for these positions will be forwarded to the Deputy Assistant Secretary for [O]HRM&LR (05[ ]) through channels.

c. **Coordinating and Approving Standards.** The Deputy Assistant Secretary for [O]HRM[&LR] is responsible for coordinating all qualification standards matters within VA and with other agencies. This includes coordinating the approval of standards to be issued as Single Agency Qualification Standards and the adoption of OPM standards for use in the Veterans Health Administration.

7. DEVELOPING QUALIFICATION STANDARDS

a. **General.** Qualification standards (VA or OPM) and examining guides will be developed by the Deputy Assistant Secretary for [O]HRM[&LR] in cooperation with interested administration, Central Office, and field facility officials. VA established standards and guides will be approved by the Deputy Assistant Secretary for [O]HRM[&LR], with proposed OPM standards and guides forwarded to OPM for necessary action.

b. **Field Facilities.** Field facilities, including the Central Office Human Resources Service, are encouraged to make recommendations for new or revised standards or examining guides to the Deputy Assistant Secretary for [O]HRM&LR (05[ ]) through channels. Submissions will follow the standards format of OPM's Operating Manual - Qualifications Standards for General Schedule Positions or qualification standard appendices to this section. Explanatory background material, organizational and position coverage data, along with other pertinent supporting information will be included.

c. **Reviewing Proposed Qualification Standards.** From time to time, field facilities will be requested to review and comment on tentative drafts of VA as well as OPM qualification standards. The letter of transmittal will establish a due date for return of the comments. At times, arrangements will be made for OPM to send drafts directly to selected field facilities. When this occurs, field facilities will forward their comments to the Deputy Assistant Secretary for [O]HRM[&LR] (05), through channels, no later than the midpoint date between the receipt of the draft and its due date as established by OPM.

8. MODIFICATION OF VA QUALIFICATION STANDARDS--GENERAL

a. **Definition.** Modification of a VA qualification standard is the changing of the requirements of a standard used to evaluate the qualifications of all candidates for a position. A standard may be changed only in the absence of fully qualified eligibles for both competitive and noncompetitive actions, e.g., appointments, reassignments, and promotions.

b. **Effect on Later Actions.** When an action has been taken on a modification of a standard, employees will be considered as having met the full requirements of the position when determining eligibility for subsequent placement actions, unless the applicable standard or other instructions specifically exclude this. (OPM Operating Manual - Qualification Standards for General Schedule Positions, par. IIE8, Special Inservice Placement Provisions.)

c. **Documenting Modifications.** Modifications of VA qualification standards will be appropriately documented for the approving official and the record. The record will be supported by the following, as applicable:

(1) A summary of the recruitment and placement efforts made to locate qualified candidates.

(2) OF 612, SF 171 or comparable document or a summary of the pertinent qualifications of the candidate(s).

(3) A summary of how the candidate(s) fails to meet the standards.

(4) Recommendations for the proposed modification by appropriate operating officials including any implications which should be known by the approving official.

9. MODIFICATION OF VA QUALIFICATION STANDARDS FOR COMPETITIVE EXAMINATIONS

a. **Field Facilities**

(1) Facility directors and the Director, Central Office Human Resources Service, may make agreements with the servicing OPM office to modify *only* experience requirements of VA qualification standards for local examining purposes for noncentralized positions. If more than one VA facility is in the area to be serviced by an announcement or an established register, the agreement will be coordinated with all concerned facilities. The initiating facility will report such modifications, through channels, to the [OHRM&LR] (05[ ]) and, if appropriate, include any specific recommendation for revision of the standard.

(2) Where modification of the training or education requirements of a standard is needed, or a centralized position is involved, the facility Director will forward his/her recommendation, through channels, to the [OHRM&LR] (05[ ]).

b. **Central Office.** The Deputy Assistant Secretary for [O]HRM&LR may make agreements with OPM to modify training and education requirements and to modify standards for which examinations are conducted on a centralized basis and coordinate such agreements for positions centralized to the Secretary or the [Under Secretaries].

10. MODIFICATION OF VA QUALIFICATION STANDARDS FOR TEMPORARY EMPLOYMENT

a. **General.** In the absence of qualified eligibles, modification of a VA standard for temporary employment (time-limited [ ]) is appropriate in accordance with the following criteria:

(1) Where reasonable positive staffing efforts have not located acceptable candidates who meet the qualification standard, modification of the length or type of experience, the amount of training, or education may be approved for temporary employment to enable the appointment of the candidate who most nearly meets the existing standard. Statutory or other requirements not shown above such as citizenship, licensure, and registration will not be modified.

(2) "Reasonable positive staffing efforts" means that thorough attempts have been made to locate fully qualified eligibles within the normal labor market area including VA, other agencies, appropriate registers, the applicant supply file, the local office of the Employment Service, and any other sources that are used in intensified recruitment.

(3) In determining whether to modify a standard, consideration must include the likelihood of the person meeting the requirements for career appointment during his/her employment under the temporary appointment.

b. **Field Facilities**

(1) Facility directors and the Director, Central Office Human Resources Service, may modify *only experience* requirements of a VA qualification standard for positions at their facility, except those centralized to the administration or to the Secretary. The modified standard is applicable to all like positions at the location and is to be uniformly applied in all actions affecting the positions involved for

the duration of the circumstances which justify the modification. The initiating facility will report such modifications, through channels, to the Deputy Assistant Secretary for [O]HRM&LR (05[ ]).

(2) Where modification of the education or training requirements of a standard is needed, or a centralized position is involved, the facility Director will forward his/her recommendation, through channels, to the [OHRM&LR] (05[ ]).

11. MODIFICATION OF VA QUALIFICATION STANDARDS FOR NONCOMPETITIVE ACTIONS

a. **Scope.** Certain requirements of VA qualification standards may be modified in noncompetitive actions as explained below. Those requirements which are prescribed by statute, e.g., the licensing, degree, and registration requirements of 38 U.S.C. 7402, however, will not be modified.

b. **Criteria.** Among the criteria which may form the basis for modifying a standard are:

(1) The absence of acceptable candidates who meet the standard. This contemplates that "reasonable positive staffing efforts" have been made and that the candidates for whom the modification is proposed represent those prospects who most nearly meet the qualification standard, in the judgment of the appointing officer concerned.

(2) Availability of candidates whose type or degree of qualification would probably have been included in the standard had they been considered when the standard was developed. In this instance, action will concurrently be initiated to recommend revision of the standard.

(3) Adequate consideration could not otherwise be given employees in terms of local merit promotion, placement, or employee development programs, in which valid evaluation and selection techniques are used.

c. **Approving Modifications (Statutory Requirements Excluded)**

(1) Facility [D]irectors and the Director, Central Office Human Resources Service, may modify *only experience* requirements of a VA qualification standard for noncompetitive actions. This authority is limited to noncentralized General Schedule positions GS-5 and below. For modification of the experience requirements for positions GS-6 and above, or when modification of the education or training requirements is needed, or a centralized position is involved, the facility Director will forward his/her recommendation, through channels, to the Deputy Assistant Secretary for [O]HRM&LR (05[ ]). A notice of each approved modification will similarly be forwarded.

(2) [Under Secretaries], Veterans Integrated Service Network (VISN) Directors, [ ] Deputy Under Secretar[y] for [Health for Operations and Management,] or VAMC Directors, after considering the recommendation of the Program Director, will approve modification of length of experience, training, and education requirements for their field positions except those delegated in [subparagraph] (1) [ ] and those centralized to the Secretary.

(3) The Deputy Assistant Secretary for [O]HRM[& LR] will approve modifications of qualification requirements for Central Office positions except those delegated in subparagraph (1) [ ] and those centralized to the Secretary.

(4) The Secretary or his/her designee approves modifications of qualification requirements for positions centralized to him/her.

12. WAIVER OF VA QUALIFICATION STANDARDS

a. **General.** A waiver is an exception to the qualification requirements of a standard applied to an individual in a noncompetitive action.

(1) A waiver may be made when it can be justified as the most appropriate means of filling the position. This means that consideration should be given first to alternate methods of filling the position such as developing a training program, modifying the qualification standards, making use of detail provisions or recruiting from the outside. Generally, waivers are more appropriate for shortage category positions than in situations where qualified persons are available. A shortage category position is one where "positive recruitment effort" fails to produce qualified persons or where past experience has demonstrated that acceptable candidates are not available.

(2) In approving waivers there should be reasonable assurance that the employee's potential and demonstrated ability gives evidence of satisfactory performance in the new position and that necessary on-the-job or other required training will be available.

(3) Waivers are not proper where there is competition for the position such as a promotion made under a merit promotion plan.

b. **Effect on Later Actions.** When an employee is placed in a position through the waiver of the requirements of a standard, a correct application of a valid standard has not been made. To be considered for subsequent placement actions, the employee must make up the waived requirements when pertinent to the standard unless action is taken to again waive or modify the requirements.

c. **Documenting Waivers.** Waivers of VA qualification standards will be documented as described for modifications in paragraph 8c [ ].

d. **Approving Waivers (Statutory Requirements Excluded).**

(1) Facility [D]irectors and the Director, Central Office Human Resources Service, may waive *only experience* requirements of a VA qualification standard in a noncompetitive action to a noncentralized position. Where waiver of the training or education requirements of a standard is needed, or a centralized position is involved, the facility Director will forward his/her recommendation, through channels, to the [OHRM & LR] (05[ ]). A notice of each approved waiver will similarly be forwarded.

(2) [Under Secretaries], Network Directors, or [ ] Deputy Under Secretar[y] for [Health for Operations and Management], after considering the recommendation of the Program Director, will approve waivers of

length of experience, training, and education requirements for their field positions except those delegated in subparagraph (1) [ ], and those centralized to the Secretary.

(3) The Deputy Assistant Secretary for [O]HRM[&LR] will approve waivers of qualification requirements for Central Office positions except those delegated in subparagraph [12d](1) [ ] and those centralized to the Secretary.

(4) The Secretary or his/her designee approves waivers of qualification requirements for positions centralized to him/her.

13. INTERIM STANDARDS

a. **General.** When a position is not covered by a qualification standard or rating schedule, field facilities, including the Central Office Human Resources Service, will develop "interim" standards and related instructions as explained below. Such standards, examining guides, and rating schedules will follow the format and procedures of the applicable VA or OPM standards program. They will be identified as "interim" and will be superseded by a regular standard at the earliest practicable date.

b. **VA Qualification Standards**

(1) Facility directors approve "interim" VA standards, guides, or schedules for their positions except those positions centralized to the Administration Head or the Secretary.

(2) The Director, Central Office Human Resources Service, approves "interim" VA standards and related instructions for Central Office positions except those centralized to the Secretary.

(3) Proposed "interim" VA standards and instructions for centralized positions will be forwarded to the Deputy Assistant Secretary for [O]HRM&LR (05[ ]), through channels, for necessary approval action by the Administration Head or the Secretary.

c. **OPM Qualification Standards.** The official having appointing authority over the position (see subparagraph b (1) and (2) [ ]) will recommend "interim" standards and related instructions to the servicing OPM office for those positions subject to OPM qualification standards. For positions centralized to the Administration Head or the Secretary, the proposed "interim" standard will be forwarded to the Deputy Assistant Secretary for [O]HRM&LR (05[ ]), through channels, for processing.

d. **Distribution.** Two copies of each approved and recommended "interim" standard and related instructions will be forwarded to the Deputy Assistant Secretary for [O]HRM&LR (05[ ]), through channels. In addition, two copies of "interim" standards proposed for positions subject to the VA qualification standards program will be forwarded by the approving authority to the appropriate OPM office.

PART II. APPOINTMENTS
CHAPTER 3. TITLE 38 APPOINTMENTS
SECTION A. GENERAL

1. SCOPE.

a. **General.** This chapter contains administrative requirements and procedures relating to the appointment of individuals to occupations identified in 38 U.S.C. § 7306, 7401(1), and 7401(3); and employees in those occupations who are appointed under 38 U.S.C. § 7405. This section also applies to medical support personnel appointed under authority of 38 U.S.C., chapter 73 or 74.

NOTE: All references throughout this handbook to occupations identified in 38 U.S.C. § 7401(3) includes those occupations not specifically listed in Section 7401(3) but approved for hybrid status by the Assistant Secretary for Human Resources and Administration/Operations, Security and Preparedness in accordance with the provisions of paragraph 2 below. See Part III, appendix III-O for a complete list of hybrid occupations. [ ]

b. **Veterans Health Administration (VHA) Central Office Appointments (VHACO).** Provisions of this section apply to Central Office employees in the occupations indicated in subparagraph a. who are appointed under 38 U.S.C. §§ 7306, 7401(1), 7401(3) or 7405. The terms “medical center officials” and “facility director or designee” in Central Office refer to the Under Secretary for Health or designee.

c. **Residents.** Medical and dental residents appointed under 38 U.S.C. § 7406 and podiatry, optometry and chiropractic residents and trainees appointed under 38 U.S.C. § 7405 are included within the scope of this section. The term resident as used in this chapter includes interns.

d. **Exception from the Competitive Service and the Provisions of 5 U.S.C. Chapter 51.** The appointments of persons under 38 U.S.C. §§ 7306, 7401(1), 7405, and 7406 are excepted from the competitive service and from 5 U.S.C. chapter 51. VA has the authority to exempt persons appointed under 38 U.S.C. § 7401(3) from 5 U.S.C., chapter 51 in specific instances.

2. AUTHORITY AND RESPONSIBILITY.

a. Designation of Hybrid Title 38 Status for Health Care Occupations

(1) The Assistant Secretary for Human Resources and Administration/Operations, Security and Preparedness, subject to the concurrence of the Under Secretary for Health, is delegated the authority to approve health care occupations for conversion to hybrid title 38 status under 38 U.S.C. § 7401(3) provided such health care occupations:

(a) Are not occupations relating to administrative, clerical or physical plant maintenance and protective services;

(b) Would otherwise receive basic pay in accordance with the General Schedule under section 5332 of title 5;

(c) Provide direct patient care services or services incident to direct patient care services; and

(d) Would not otherwise be available to provide medical care or treatment for Veterans.

(2) Not later than 45 days before the effective date of an appointment or conversion to a hybrid occupation established under subparagraph (1) above, the Secretary must submit notice of the new hybrid occupation to Congress under the provisions of 38 U.S.C. § 7401(3)(B). The Recruitment and Placement Policy Service (059) is responsible for preparing this notice for approval of the Secretary.

(3) Prior to submitting notice under subparagraph (2) above, comments shall be solicited from applicable labor organizations and such comments will be included in the notice.

b. **Effecting Appointments.** Appointments will be effected only by appointing officers (responsible Human Resources Officer). These appointing officers will effect appointments after the approval of the qualifications and the selection for appointment has been made by the approving official designated below.

c. **Approval of Qualification and Selection for Appointment.** [ ] The approving officials for appointment to positions in VHA under 38 U.S.C., chapter 73 or 74, will be as follows:

(1) **The Secretary.**

(a) On advice of the Under Secretary for Health, the approval of the qualifications and selection of all persons to be appointed under the authority of section 7306.

(b) The approval of all network and facility directors appointed under the authority of 38 U.S.C. § 7401(1).

(c) The approval of network directors appointed under 38 U.S.C. § 7306 (for network directors appointed in the Senior Executive Service, see 5 U.S.C. § 3393 and VA Handbook 5027, Senior Executive Service).

(d) The approval of Veterans Integrated Service Network (VISN) Chief Medical Officers appointed under the authority of 38 U.S.C.§ 7401(1).

(2) **Under Secretary for Health or Designee in Central Office.** Except as limited by subparagraph (1) above, the Under Secretary for Health or designee is the approving official for the appointment of all individuals who are appointed in Central Office under 38 U.S.C., chapter 74, irrespective of the type of appointment, title or grade.

(3) **Network Directors.** Network directors have the authority to appoint facility chiefs of staff. Facility officials will forward chief of staff nominations to the [VISN Chief Human Resources Officer]. The [VISN Chief Human Resources Officer] will provide a technical review of the nomination [ ] and forward the completed nomination to the network director for approval. [Notification of a nomination will be forwarded to VHA Executive Resources and Staffing].

(4) **Facility Directors.** Except as limited by subparagraphs (2) and (3) above, the facility director is the approval authority for the following appointment and assignments.

(a) **Physicians.** The approval of the qualifications and selection of physicians appointed under the authority of 38 U.S.C. §§ 7401(1) and 7405, including associate chiefs of staff and physicians in service chief or comparable positions. See appendices II-G2 and II-H1 for procedures for qualifying and appointing physicians to service chief and comparable positions.

(b) **Dentists.** The approval of the qualifications and selection of dentists appointed under the authority of 38 U.S.C. §§ 7401(1) and 7405, including chiefs of dental service or comparable positions and staff dentists. See appendices II-G3 and II-H2 for procedures for qualifying and appointing dentists.

(c) **[Nurses and Advanced Practice Nurses (APNs) (Certified Nurse Practitioners, Clinical Nurse Specialists and Certified Nurse Midwives)].** The approval of the qualifications and selection of RNs and APNs appointed under the authority of 38 U.S.C. §§ 7401(1) and 7405. See appendices II-G6 and II-H5 for procedures on qualifying and appointing RNs and APNs. In addition, the facility director may delegate authority to the nurse executive to approve the appointment of RNs and APNs up to and including Nurse III.

(d) **[APN (Certified Nurse Anesthetists (CNAs)).** The approval of the qualifications and selection of CNAs, including Chiefs of Nurse Anesthesiology under the authority of 38 U.S.C. §§ 7401(1) and 7405. Refer to appendices II-G6d and II-H6 for procedures for qualifying and making appointments to Chief, Nurse Anesthesiology positions.]

(e) **Podiatrists.** The approval of the qualifications and selection of all podiatrists appointed under authority of 38 U.S.C. §§ 7401(1) and 7405. Refer to appendices II-G4 and II-H3 for procedures for qualifying and appointing podiatrists.

(f) **Optometrists.** The approval of the qualifications and selection of all optometrists appointed under authority of 38 U.S.C. §§ 7401(1) and 7405. Refer to appendices II-G5 and II-H4 for procedures for qualifying and appointing optometrists.

(g) **Physician Assistants (PA)** The approval of the qualifications and selection of all PAs, [ ] under authority of 38 U.S.C. §§ 7401(1) and 7405. Refer to appendices II-G8 [ ] for procedures for qualifying and making appointments of PAs. [In addition, the facility director may delegate authority to the facility chief of staff or PA (facility lead or equivalent, at PA IV or V) to appoint PAs up to and including PA III.]

(h) **Expanded-Function Dental Auxiliary (EFDA).** The approval of the qualifications and selection of all EFDAs appointed under the authority of 38 U.S.C. §§ 7401(1) or 7405. Refer to appendices II-G9 and II-H2 for procedures for qualifying and appointing EFDAs. The [facility] director may delegate approval authority for appointments of EFDAs to the facility chief of staff.

(i) **Pharmacists.** The approval of the qualifications and selection of all pharmacists, including Chiefs of Pharmacy Service (all grades), clinical pharmacists/pharmacy specialists and program specialists [ ] appointed under the authority of 38 U.S.C. §§ 7401(3) and 7405. Refer to appendix II-G15 [ ] for qualifications. In addition, the [facility] director may delegate authority to the facility chief of staff or to the Chief, Pharmacy Service, to approve the appointment of pharmacists at GS-12 and below and of Assistant Chiefs, Pharmacy Service at GS-13.

(j) **Physical Therapist (PTs) and Occupational Therapist (OTs).** The approval of the qualifications and selection of PTs and OTs for section chief positions and positions at GS-12 appointed under the authority of 38 U.S.C. §§ 7401(3) and 7405. The [facility] director may delegate approval authority for appointments of other PTs and OTs to the facility chief of staff. Refer to appendices II-G12, II-G14, and II-H9 for procedures for qualifying and making appointments to section chief positions.

(k) **Respiratory Therapists (RTs).** The approval of the qualifications and selection of all RTs. The [facility] director may delegate approval authority for appointments of RTs to the facility chief of staff

appointed under the authority of 38 U.S.C. §§ 7401(3) and 7405. Refer to appendix II-G11 for qualifying RTs.

(l) **Licensed Practice Nurse/Licensed Vocational Nurse (LPNs/LVNs).** The approval of the qualifications and selection of all LPNs/LVNs appointed under the authority of 38 U.S.C. §§ 7401(3) or 7405. The [facility] director may delegate approval authority for appointments of LPNs[/LVNs] to nurse executive. Refer to appendix II-G13 for qualifications.

(m) **Chiropractors.** The approval of the qualifications and selection of all chiropractors appointed under authority of 38 U.S.C. §§ 7401(1) and 7405. The [facility] director may delegate approval authority for appointments of chiropractors to the facility chief of staff. Refer to appendices II-G16 and II-H10 for procedures for qualifying and appointing chiropractors.

(n) **Other occupations appointed under the authority of 38 U.S.C § 7401(3) or 7405.** The approval of the qualifications and selection of all individuals appointed in occupations listed in 38 U.S.C. § 7401(3) or approved for 38 U.S.C. § 7401(3) hybrid status by the Assistant Secretary for Human Resources and Administration[/Operations, Security and Preparedness] in accordance with the provisions in paragraph 2a of this section. The facility director may delegate approval authority for appointment of employees in the hybrid occupations. (See chapter 3, section A, this part.)

[ ]

(5) **Human Resources Officer Responsibilities.** The Human Resources Officer will be responsible for:

(a) Adhering to administrative and regulatory requirements;

(b) Reviewing each case for completeness before forwarding to VHA Central Office;

(c) Advising supervisory officials on administrative and regulatory requirements pertaining to appointments, advancements and probationary reviews;

(d) Notifying prospective appointees of their selection.

3. APPOINTMENT REQUIREMENTS AND DETERMINATIONS.

a. Preference to Veterans.

(1) The primary consideration in making appointments of physicians, dentists, podiatrists, optometrists, chiropractors, [registered nurses, advanced practice nurses], 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 eligible as defined in 5 U.S.C. § 2108.

(2) When candidates for positions identified in 38 U.S.C. § 7401(3), are determined to be approximately equally qualified for a particular opening, hiring preference will be given to Veterans and preference eligibles as defined in 5 U.S.C. § 2108. Selections from candidates determined to be approximately equal will be made in the following order:

(a) Disabled Veterans who have a service-connected disability of 10 percent or more.

(b) Preference eligible under 5 U.S.C. § 2108(3)(C) through (H) other than those above (e.g., disabled Veteran; unmarried widow or widower of a Veteran who served on active duty in wartime or other designated service period; spouse of a service-connected disabled Veteran not qualified for civil service employment; mother of a Veteran who lost his/her life in wartime or other designated service period; mother of a service-connected permanently and totally disabled Veteran.)

(c) Preference eligible under 5 U.S.C. § 2108(3)(A) and (B) (i.e., Veterans who served on active duty in wartime or other designated service period.)

(d) All other candidates.

(3) When qualified Veterans apply for appropriate vacancies, it is important that VA health care facilities establish and maintain documentation within Human Resources (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 eligible and other Veterans are not approximately equal to those of selected candidates who either lack preference or are non-Veterans, respectively.

NOTE: The 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). See VA Handbook 5005 Part I, Chapter 4.)

b. **[Employment in More Than One Appointment.**

(1) Provided it is not contrary to VA Handbook 5007, Pay Administration, Part II, Appendix F and Part VIII, Chapter 5, or paragraphs b(2) thru b(8) below and the Department's conflict of interest regulations (38 C.F.R., part 0), the following personnel may hold more than one appointment:

(a) Personnel appointed under 38 U.S.C. §§ 7401(1) or 7401(3). **Note:** Any additional appointment may only be on a fee basis as described in paragraphs b(3) thru b(4).

(b) Personnel appointed under 38 U.S.C. §§ 7405(a) and 7406.

(2) Part-time personnel appointed under 38 U.S.C. § 7405(a)(1) in any occupation may hold more than one appointment provided the combined number of regularly scheduled hours including all part-time or intermittent appointments do not exceed 1,820 hours (7/8th) per year and the appointments conform to the provisions in VA Handbook 5007, Part II, Appendix F and Part VIII, Chapter 5. Dual compensation under a fee-basis appointment does not count towards the 1,820 hours (7/8th) per year limit. Fee-basis compensation cannot be based on an hourly rate or period of time, as such compensation is calculated per procedure or per task.

(3) Physicians, dentists, optometrists, chiropractors, and podiatrists who hold a full-time, part-time, and/or intermittent appointment can be appointed by the facility director on a fee basis appointment for another VA facility or for their own facility to provide coverage when no other staffing options are available and it is necessary to meet 24/7 staffing levels, provided the criteria in paragraph b(6) below are met and such an appointment would not be contrary to VA Handbook 5007, Pay Administration, Part II, Appendix F or the Department conflict of interest regulations (38 C.F.R., part 0). When full-time employees are appointed on a fee basis at a second VA facility, management officials at both facilities must agree that the arrangement permits staffing needs to be met and that the fees are paid on other than a time basis, and the arrangement results in an employer-employee relationship.

(4) Nurses, physician assistants, other health care personnel, and non-medical consultants who hold a full-time, part-time, and/or intermittent appointment may be appointed on a fee basis by the facility director only for another VA facility and provided the criteria in paragraph b(6) below are met and such an appointment would not be contrary to VA Handbook 5007, Part II, Appendix F or the Department conflict of interest regulations (38 C.F.R., part 0).

(5) A physician resident or fellow who has successfully completed a core residency program (that is, post-training chief resident, OAA advanced fellow, or fellow in Accreditation Council for Graduate Medical Education (ACGME) accredited subspecialty programs) and who is privileged as a licensed independent practitioner is eligible for appointment on a fee basis.

(6) The facility Director may approve more than one appointment subject to the following conditions and restrictions:

(a) Services are essential to the health care needs of patients.

(b) No other equally qualified individual in the specific specialty is available in the locality.

(c) There is no violation of compensation statutes (for example, 5 U.S.C. § 5533) or VA policies.

(7) The facility Director may approve the following multiple appointments, only in exceptional circumstances and when the requirements in 3b above and VA Handbook 5007, Pay Administration are met:

(a) Utilization as a consultant or attending in combination with employment on a part-time or intermittent basis at the same facility.

(b) Fee-basis appointments on-facility or at an alternate worksite approved by a management official (that is, telework location) under the schedule of fees in combination with utilization as a consultant or attending at the same facility. (This subparagraph does not apply to outpatient services of off-facility fee-basis personnel in a private office or private clinic, even though consultant or attending services may be performed on the same day.)

(c) Part-time or intermittent employees, or currently employed consultants and attendings, in combination with an on-facility fee-basis, or at an alternate worksite approved by a management official (that is, telework location) appointment to perform an operation, give treatment.

(8) Recommendations to approving officials should include sufficient information to indicate that employment in more than one appointment is justified. Officials will ensure that appointments in more than one appointment will not present or lead to a conflict of interest or the appearance thereof. Questions concerning conflict of interest matters may be directed to OGC ethics officials].

c. **Equal Opportunity for Employment.** Employment actions will be taken on the basis of merit and without discrimination for such reasons as age, race, color,

religion, national origin, sex, lawful partisan political affiliation, marital status, physical or mental disability (when the individual is qualified to do the work), or membership or non-membership in a labor organization.

d. **Member of Family Restrictions.** Employment actions will conform to the restrictions governing the employment of family members as provided in 5 C.F.R., part 310. (For further guidance, refer to chapter 2, this part).

e. **Restrictions Regarding Political Activity.** Employees appointed under authority of 38 U.S.C., chapter 73 or 74, are subject to the political activity restrictions in 5 U.S.C., chapter 73 and VA Handbook 5025, Legal.

f. Qualification Standards.

(1) **General.** The basic qualification requirements for individuals appointed under 38 U.S.C., chapters 73 and 74, in occupations identified in under 38 U.S.C. §§ 7401(1) and 7401(3), are contained in VA Qualification Standards approved, under the delegated authority, by the Assistant Secretary for Human Resources and Administration/Operations, Security and Preparedness upon recommendations of the Under Secretary for Health. These standards apply to all appointments in these occupations under authority of 38 U.S.C., chapter 73 or 74, regardless of the nature or tenure of the appointment.

(2) **Qualification Standards for Occupations.** The qualification standards for individual occupations are contained in appendix II-G of this chapter.

(3) **Education.**

(a) Approved schools and satisfactory internships or their equivalents for the purpose of 38 U.S.C. § 7402, will be those designated in the appropriate qualification standards. The accrediting agency or body for verifying education of applicants is also identified in the qualification standards.

(b) Provisions of 38 U.S.C., chapter 73 or 74, require that individuals have education and licensure, registration or certification as specified in the appropriate qualification standard in order to qualify for assignment of patient care responsibility. Unless otherwise indicated in the qualification standard, an unlicensed candidate may not use professional education as a substitute for the accredited education and/or training required by the qualification standards of another occupation. For example, an unlicensed physician may not be appointed as a PA by using graduation from medical school as a substitute for completion of an approved PA training program. Likewise, an unlicensed dentist may not be appointed as an EFDA by using graduation from dental school as a substitute for completion of approved dental assistant or hygienist training.

(4) **Grade Level Determinations.** The grade to which an applicant is appointed will be determined by the individual's qualifications and assignment. Under the Title 38 "rank-in-person" system, candidates are to be appointed at the highest grade or level within the grade for which they are fully qualified up to the full performance level. For positions above the

full performance (journey level) the complexity of the assignment and scope of responsibility are considered in determining grades.

g. Citizenship.

(1) To be eligible for appointment in VHA, an applicant must be a citizen of the United States (U.S.), except as provided in 38 U.S.C. § 7407(a) and subparagraph (2). The acquisition of "first papers" or the "owing of allegiance to the United States" does not satisfy the basic requirement of citizenship. Naturalized citizens must furnish evidence of citizenship.

(2) After a determination is made that it is not possible to recruit qualified citizens, necessary personnel may be appointed on a temporary basis under authority of 38 U.S.C. § 7405 without regard to the citizenship requirements of 38 U.S.C. § 7402 or any other law prohibiting the employment of or payment of compensation to a person who is not a citizen of the United States. Candidates must meet all other requirements for the grade and position concerned.

(3) Requests to petition the U.S. Department of State (DOS) for waiver of the 2-year home residence requirement under 22 C.F.R., part 514 must be approved VHA Workforce Management and Consulting Office (106A1). Requests to petition DOS will be submitted in accordance with instructions contained in appendix II-J of this chapter and VHA Handbook 5005.1, "Requests to Petition the United States Department of State for a Waiver of the Two-Year Home Residency Requirement on Behalf of an Exchange Visitor". No appointment may be effected or commitment made until the required approval is received from the U.S. Citizenship and Immigration Service's (USCIS), formerly the Immigration and Naturalization Service.

(4) Officials of VHA will not commit positions to noncitizens not legally entitled to reside in this country.

(5) Consistent with provisions in this paragraph, the appointment of noncitizens may be approved by the following officials:

(a) The facility director is the approval authority for appointment of:

i All noncitizens as residents.

ii Immigrants (aliens who have been admitted for permanent residence.) As of September 20, 1994, all immigrants are required to have an Alien Registration Receipt Card, Form I-551. Form I-551 has the lawful holder's photograph, fingerprint and signature on a white background; it is commonly known as the "green card."

NOTE: The Form I-151 and all previous forms are no longer valid after September 19, 1994.

iii All nonimmigrants (e.g., exchange visitors, alien students, visiting professors), provided employment is authorized by the USCIS. This includes authority to sponsor an individual for a nonimmigrant visa or an extension of such visa. The authorization for employment may be cited on the nonimmigrant's visa or the nonimmigrant may possess an Employment Authorization Form (I-688B). In cases where the authority to accept compensated or non-compensated employment by the nonimmigrant is not clearly evident, a report of contact with USCIS officials verifying the employment authorization must be made. A copy of the document used to verify the employment authorization of the nonimmigrant is to be filed in the appointee's personnel folder.

(b) The Under Secretary for Health or designee is the approval authority for the appointment of noncitizens to centralized positions.

(c) The paid appointment of noncitizen associated health trainees is not generally permitted. Any exception requires the approval of the Under Secretary for Health or designee. (See section G, paragraph 8, this chapter.)

h. **Credentialing Requirements (Including License Registration or Certification)**. See section B of this chapter.

i. **List of Excluded Individuals and Entities (LEIE) and Healthcare Integrity and Protection Data Bank (HIPDB) Sanction List**. See chapter 1, section B, paragraph 2 of this part.

j. **English Language Proficiency.** No person will be appointed under authority of 38 U.S.C., chapter 73 or 74, to serve in a direct patient care capacity in VHA who is not proficient in written and spoken English. (See appendix II-I of this chapter.)

k. Physical Requirements.

(1) **General.**

(a) Guidelines for physical and mental fitness for appointment and retention in VHA shall be established by the Under Secretary for Health. (See VA Directive and Handbook 5019, Part II, [Employee] Occupational Health [Service].)

(b) Only those persons who are physically and mentally capable of satisfactorily performing the duties of their assignments are to be employed and retained in VHA.

(c) Determinations of physical and mental fitness will be made without discrimination for such reasons as age, race, color, religion, national origin, sex, lawful partisan political affiliation, marital status, physical or mental disability (when the individual is qualified to do the work) or membership or non-membership in a labor organization.

(2) **Pre-employment Physical Examinations.**

(a) **General.** See VA Directive and VA Handbook 5019, Employee Occupational Health Service. Pre-employment physical examination is not required of residents and interns who furnish evidence of satisfactory physical condition based on a physical examination within the past 12 months. An examination is required for any action moving an employee from a position not requiring an examination to one requiring and examination.

(b) **Scope and Conduct of Examination.** See VA Directive and Handbook 5019, [Employee Occupational Health Service], Part II.

l. Oath, Affidavit and Declaration of Appointee.

(1) All employees of VHA appointed under authority of 38 U.S.C., chapter 73 or 74 (except those utilized on a fee-basis) are required to take the oath of office and execute the affidavit (subversive activity), affidavit (striking against the Federal Government) and the declaration of appointee. Noncitizens shall be required to execute only those affidavits on Standard Form (SF) 61, Appointment Affidavit, outlined in the OPM Guide to Processing Personnel Actions. The SF 61 shall be executed in accordance with the requirements set forth in chapter 2, section A, paragraph 5e of this part.

(2) Only employees delegated the authority will administer the oaths necessary for effecting appointments in VHA.

m. **Security Requirements for Employment.** See VA Directive and Handbook 0710, Personnel Security and Suitability Program, for VA instructions concerning security requirements.

n. **Effective Date of Appointment.** Appointments will be effective on the entrance-on- duty day, except as follows:

(1) **Full-Time Physicians, Dentists, Podiatrists, Optometrists, Chiropractors, and Other Personnel Appointed Under 38 U.S.C. § 7306.** When an appointee is to enter on-duty on Monday, the appointment will be effective on the preceding Sunday provided the employee is available for duty on that day. Sunday will be considered an administrative non-duty day. If Monday is a holiday, the appointment will be effective on the entrance-on-duty-day.

(2) **RNs, APNs, PAs, EFDAs, and Hybrid Title 38 occupations.** When the appointee is to enter on-duty on the first Monday in a pay period, the appointment will be effective on the first Sunday of the pay period. If Monday is a holiday, the appointment will be effective on the entrance-on-duty-day.

(3) **Restoration After Military Service or Compensable Injury.** An exception to these effective dates may be made if required to satisfy statutory or regulatory provisions such as restoration after military service or compensable injury.

o. **Overseas Employment.** See chapter 1, section C of this part.

p. **Grade and/or Step Adjustments.** If, on review of an appointment by the appropriate supervisory official, in collaboration with Human Resources staff, it is determined that an employee has been appointed at a grade or level within the grade which is not commensurate with qualifications, the approving authority for initial appointment may approve an adjustment in the grade, level, and/or step rate within the grade. (See section E, paragraph 2, this chapter, for limitations on adjusting step rates within the grade for this purpose). These adjustments in grade and/or step rate will be effected as of the beginning of the next pay period following approval. The nature of action on SF 50-B will be “Promotion” or “Change to Lower Grade,” as appropriate. In the case of step rate adjustments, the nature of action on SF 50-B will be “Administrative Pay Increase” or “Administrative Pay Decrease,” as appropriate. The authority for such actions will be “38 U.S.C.§ 7403.” The following statement will be placed in “Remarks” on SF 50B for such actions: “Adjustment for consistency with standardized qualification requirements.”

NOTE: Service in a lower step rate prior to adjustment of step(s) within the grade will not be credited toward meeting the required waiting period for periodic step increase.

4. PROBATIONARY PERIOD.

a. Requirement to Serve a Probationary Period.

(1) Full-time permanent appointments of physicians, dentists, podiatrists, optometrists, chiropractors, RNs, APNs, PAs and EFDAs made under authority of 38 U.S.C. § 7401(1) are subject to a two-year probationary period requirement as specified in 38 U.S.C. § 7403(b)(1). **NOTE:** Full-time temporary appointments under 38 U.S.C. § 7405(a)(1) are excluded from the requirement to serve a probationary period, and service in this time-limited capacity is not creditable towards a probationary period as specified in 38 U.S.C. § 7403(b)(1).

(2) Individuals appointed as of May 5, 2010, as part-time or intermittent RNs under 38 U.S.C. § 7405(a)(1), are subject to a two-year probationary period requirement, except as provided below. Upon completion of the probationary period, the appointment is no longer considered temporary. The following appointments are considered temporary, thus are not subject to a probationary period. These appointments are on a time-limited basis of three years or less:

(a) Part-time or intermittent appointments resulting from an academic affiliation or teaching position in a nursing academy of the Department;

(b) Appointments as a result of a specific research proposal or grant; or

(c) Appointments of non-United States citizens under 38 U.S.C. § 7407(a).

(3) Full-time permanent appointments of hybrid title 38 employees made under authority of 38 U.S.C. § 7401(3) are subject to the one-year title 5 probationary period requirements (see chapter 2, section A, paragraph 9, of this part).

(4) Employees who satisfactorily completed the probationary period required by 38 U.S.C. § 7403(b) will not serve a new probationary period upon reappointment unless their separation was for cause.

b. Purpose of Probationary Period.

(1) The probationary period is an extension of the appointment process. It provides the final test of the appointee’s qualifications, i.e., actual performance on the job. During the probationary period, the employee’s conduct and performance will be closely observed. The employee may be separated from the service if not found fully qualified and satisfactory. Thus, the probationary period provides a safeguard against retention of any person who, despite having met legal and regulatory requirements for appointment, is found in actual practice to be unsuited for retention in the Veterans Health Administration (VHA). Retention of employees during the

probationary period shall be contingent upon demonstrating that they are fully qualified and satisfactory. Only those employees who satisfactorily complete the probationary period shall acquire status as permanent employees in VHA.

(2) The probationary period also affords an opportunity for fostering the interest of the employee in a VA career. Thoughtful and considerate treatment during the probationary period will have a lasting effect on the employee's career.

c. Length of Probationary Period.

(1) The probationary period for employees appointed under 38 U.S.C. § 7401(1), as well as employees appointed as part-time or intermittent RNs/APNs under 38 U.S.C. § 7405(a)(1), on or after May 5, 2010, is two years. The probationary period for part-time RNs/APNs are computed based on calendar time, in the same manner as for full-time employees.

(2) The probationary period for intermittent RNs/APNs is computed based on one day of credit for each day or part of a day in pay status. Individuals appointed as intermittent RNs/APNs must serve 520 days in a pay status to complete the required 2-year probationary period. The probationary period, however, cannot be completed in less than two calendar years.

(3) Probationary requirements for hybrid employees appointed under 38 U.S.C. § 7401(3) is the same as those for title 5 employees and can be found in chapter 2, section A, this part. The calculation for part-time and intermittent creditable service is the same as above.

d. Last Day of Probationary Period.

(1) For full-time employees paid on a daily basis (physicians, dentists, podiatrists, optometrists, and chiropractors), the probationary period ends at midnight on the last calendar day before the employee's anniversary date, whether or not the employee is in a duty status that day. For example, a probationary period beginning November 1, 2011, would normally end at midnight on October 31, 2013.

(2) For full-time and part-time employees paid on an hourly basis (RNs, APNs, physician assistants, and expanded-function dental auxiliaries) the probationary period is completed at the end of the last scheduled tour of duty before the employee's anniversary date. For the purposes of this paragraph, scheduled duty includes normal and overtime duty, leave, excused absence, including holidays and absence without leave. For

example, an employee subject to a two-year probationary period beginning November 1, 2011, is completed as follows:

(a) For an employee, whose last tour of duty prior to November 1, 2013, occurs at 4:30 p.m. on October 31, 2013, the probationary period is completed at 4:30 p.m. on October 31, 2013.

(b) For an employee, whose last tour of duty prior to November 1, 2013, is from 11:00 p.m., October 31, 2013, to 7:00 a.m., November 1, 2013, the probationary period is completed at midnight on October 31, 2013.

(c) For an employee, whose last tour of duty prior to November 1, 2013, (because of days off) is October 29, 2013, [the probationary period is completed at midnight on October 29, 2013.]

(d) For an employee, whose last tour of duty prior to November 1, 2013, is 4:30 p.m. on October 29, 2013, but he/she calls in sick for scheduled tours of duty on October 30 and October 31, 2013, the probationary period is completed at 4:30 p.m. on October 31, 2013.

(e) If completed satisfactorily, the employee will automatically complete the required probationary period at the end of the last tour of duty worked or scheduled to work.

e. **Creditable Service.** The following service is creditable toward completion of the probationary period:

(1) Continuous service in an appointment under 38 U.S.C. §§ 7401(1), 7306 or part-time or intermittent (including temporary) service for RNs/APNs appointed under 38 U.S.C. § 7405(a)(1).

(2) Prior satisfactory probationary service of at least six months duration followed by a break(s) in service totalling one year or less if the break was not due to separation for cause. A break in service is defined for the purpose of this subparagraph as a period during which no service is rendered under 38 U.S.C. §§ 7306, 7401(1), or 7405(a)(1) for part-time or intermittent RNs/APNs.

(3) Time spent in a probationary period served under 38 U.S.C. § 7403(b) prior to holding some other type of appointment in VHA, if the employee is subsequently appointed under 38 U.S.C. § 7401(1), provided all other conditions of subparagraph d are met. Example: A full-time RN/APN appointed under 38 U.S.C. § 7401(1) in July 2011 accepts a position of Supervisory Health System Specialist (Domiciliary Administrator) under title 5 in December 2012. The individual returns to an RN/APN position under

38 U.S.C. § 7401(1) in October 2014. The previous time served as an RN/APN from July 2011 through December 2012 is not creditable towards the completion of the probationary period because the time served under the title 5 appointment was longer than one year.

(4) All leave with pay during creditable service.

(5) Leave without pay during the probationary period is considered creditable service when it does not exceed a total of 40 calendar days for physicians, dentists, podiatrists, optometrists or chiropractors, or 235 hours for RNs, APNs, physician assistants, and expanded-function dental auxiliaries and 110 hours for part-time RNs. **NOTE:** When determining this total, each hour of leave without pay taken by an RN or APN on the Baylor Plan is to be multiplied by 1.667.

(6) Time before restoration during which a probationary employee received work injury compensation from the Office of Workers' Compensation Programs.

f. [Mid-Probationary Periodic Review and Probationary Review Board (PRB)

(1) **Employees Covered.** A mid-probationary periodic review will generally be conducted by a Probationary Review Board (PRB) for covered title 38 probationary employees after they receive their first proficiency rating or performance appraisal. These procedures apply to the following employees serving a probationary period: employees appointed under 38 U.S.C. § 7401(1); and part-time RNs and APNs, including intermittent, serving on a temporary permanent appointment under 38 U.S.C. § 7405(a)(1)(A). These procedures do not apply to: employees appointed under 38 U.S.C., Chapter 3 or §§ 7306, 7401(2), 7401(3), 7401(4), 7405 (except part-time RNs and APNs serving on a temporary or permanent employment) or 7406; or employees occupying positions described in 38 U.S.C. § 7405(g)(3).

(2) **Establishing PRBs.** The need to establish a PRB on an ongoing or ad hoc basis will be dependent upon the needs of the occupation or facility. In some cases, the number of probationary employees at a facility may call for establishing an ongoing/standing PRB for the occupation, e.g., for registered nurses or physicians. In other cases, the number of probationary employees in the occupation may be so limited or rare that the PRB will be established on an ad hoc basis, e.g., chiropractors or ophthalmologists. The authorizing official has discretion regarding the establishment of PRBs.

(3) **Authorizing Officials and PRB Membership**. The following identifies the appropriate authorizing officials. Authorizing officials are responsible for coordinating and establishing standing or ad hoc PRBs, as needed, and

appointing PRB members, pursuant to the probationary employee's occupation or organizational assignment. For probationary employees in the Veterans Health Administration Central Office (VHACO) the authorizing official is the appropriate service director (or equivalent) position or above.

(a) For probationary VISN Directors, the authorizing official is the Assistant Under Secretary for Health for Operations (AUSHO).

(b) For probationary VISN Chief Medical Officers (CMO), Quality Management Officers (QMO) or Chief Nursing Officers (CNO) or equivalent, the authorizing official is the VISN Director.

(c) For probationary employees in a VISN, except the CMOs, QMOs, CNOs or equivalent, the authorizing official is the CMO, QMO, CNO or equivalent, depending on the probationary employee's organizational alignment.

(d) For probationary VHA Facility/Medical Center Directors or Deputy VISN Directors appointed under 38 U.S.C. § 7401(1), the authorizing official is the VISN Director.

(e) For probationary VHA Medical Center Chief of Staffs (COS) or equivalents, the authorizing official is the Facility Director.

(f) For probationary Associate Directors for Patient Care Services (ADPCS) or equivalents, the authorizing official is the Facility Director.

(g) For probationary Assistant/Associate Chiefs, Nursing Services and RNs/APNs, Grade IV, the authorizing official is the ADPCS or equivalent.

(h) For all other VHA probationary facility employees, the authorizing official is the appropriate service chief or equivalent, depending upon the probationary employee's organizational alignment.

(4) **Composition of the PRB.**

(a) The authorizing official should attempt to convene a PRB with three board members, appointed under title 38 in the same occupation as the probationary employee being reviewed. However, if that is not possible or practical, at least one PRB member will be in the same title 38 occupation at the same grade or higher than the probationary employee being reviewed. In the case of RNs/APNs, at least two PRB members will be in the same occupation.

(b) Persons selected to serve on the PRB will be fair, impartial, and objective.

(c) Other Considerations.

i If an authorizing official determines a local PRB cannot be properly established, the authorizing official and the servicing HR Office will facilitate the process for obtaining members from facilities other than the reviewing employee's facility to serve on an PRB.

ii Persons in a position to prejudice the action of a PRB, such as an employee's immediate or second level supervisor, may not serve on an PRB.

(5) **Mid-Probationary Periodic Review.** The PRB has responsibility for periodically reviewing the services of probationary employees for those hired in occupations under 38 U.S.C. § 7401(1). At a minimum, at least one formal periodic review will be done during the probationary period, in accordance with the below.

(a) The servicing HR Office will establish monitors to ensure completion of mid-probationary periodic reviews.

(b) The mid-probationary periodic review will be initiated by the supervisor, typically following completion of the employee's first Proficiency Report or Performance Appraisal, but not later than 18 months after the employee's appointment to the occupation. If the supervisor believes the employee is satisfactory and there is a standing PRB for the occupation at their facility, they will submit the employee's performance record (proficiency report or performance appraisal, whichever is applicable) and qualifications record (VetPro qualification verification or application/resume) to the PRB for further review. If there is no applicable standing PRB, the supervisor should alert the appropriate authorizing official so that one can be appointed. If the supervisor believes the employee is unsatisfactory, they will request that a Summary Review Board (SRB) review the employee in accordance with the procedures set forth in VA Handbook 5021, Employee/Management Relations.

(c) The PRB will review the employee's performance and qualification record submitted by the supervisor, and determine whether the employee is fully qualified and satisfactory to continue to work for the VA. After review of the performance and qualification record, the PRB members will convene at least once in person, telephonically or via video teleconference to discuss their review of the performance and qualification record, findings, and recommendations.

(d) If the PRB determines the employee's conduct, performance, and/or qualifications are satisfactory, the PRB will record that finding by endorsing the current Proficiency Report or by preparing a separate memorandum report. The supervisor will advise the employee of the satisfactory finding. The PRB's findings and recommendation will be recorded on VA Form 10-2543, Board Action.

(e) If the PRB does not determine that the employee's conduct, performance, and/or qualifications are satisfactory, the PRB will submit their recommendation on the Board Action, notifying the supervisor that an SRB must be convened. The supervisor must submit the PRB's recommendation to the authorizing official to convene an SRB in accordance with the procedures set forth in VA Handbook 5021, Part III, Chapter 1. The PRB's recommendation on the Board Action to the supervisor will include any records reviewed and their assessment supporting this determination. The supervisor's submission to the authorizing official will also include this information.

(6) Ongoing Reviews.

(a) Supervisors will review the services of employees through observation and evaluation of their performance and conduct during the probationary period. When the employee has had an opportunity to understand performance expectations, the supervisor should consider any inadequacies in performance. The employee's weaknesses should be discussed objectively with the employee and suggestions made for improvement. If the employee's performance is considered good or outstanding in some aspect, this fact should be made known to the employee.

(b) If at any time during the probationary period, the employee's performance or conduct are not satisfactory, the employee's immediate or higher-level supervisor will submit a written request for immediate review by an SRB in accordance with VA Handbook 5021, Employee/Management Relations.]

SECTION B. CREDENTIALING AND LICENSURE

1. GENERAL.

a. Scope.

(1) This section contains administrative requirements and procedures relating to the credentialing and licensure of applicants and employees appointed to occupations identified in 38 U.S.C. §§ 7306, 7401(1), and 7401(3); and employees in those occupations who are appointed under 38 U.S.C. 7405, including individuals utilized on an on-facility fee-basis, on-facility contract or on-facility sharing agreement basis. This includes such employees as physicians, dentists, podiatrists, optometrists, chiropractors, nurses, nurse anesthetists, physician assistants (PAs), expanded-function dental auxiliaries (EFDAs), and Hybrid Title 38 occupations. Provisions of this section apply to Central Office employees who are employed in the occupations indicated above under 38 U.S.C. §§ 7306, 7401(1), 7401(3), or 7405. Individuals appointed under 38 U.S.C. § 7405, whether paid or without compensation, on an intermittent or fee-basis, including consultants and attendings, must be fully credentialed in accordance with provisions of this section, although they are considered employees only during periods when actually engaged in VA service.

(2) The provisions of this section should be used in conjunction with VHA Handbook 1100.20 'Credentialing of Health Care Providers.'].

b. **Residents.** Medical, dental, podiatry, chiropractic, and optometry residents and trainees appointed under 38 U.S.C. §§ 7405, 7406 are included within the scope of this section. As indicated in paragraph 21 of this section, the appropriate program director is responsible for certifying that the credentials and licensure of residents and trainees have been verified prior to their appointment. Specific procedures described in paragraphs 3 through 19 are not applicable to residents functioning within the scope of their training program, but program directors, where possible, should use verification procedures, which are generally consistent with those described.

c. **Definitions.**

(1) Active, current, full, and unrestricted license or registration in a State. Authorizes the licensee to practice outside VA without any change being needed in the status of the license. An employee is responsible for paying any fees necessary to maintain a full and active license in a State. If a State waives fees for any reason, such as for an out-of-state practice or for employment in a Federal facility, the employee may not accept the waiver if this will place the license in an inactive or other restricted status.

(2) Credentialing. The systematic process of screening and evaluating qualifications and other credentials, including licensure, required education, relevant training and experience, current competence and health status.

(3) Licensure. The official or legal permission to practice in an occupation, as evidenced by documentation issued by a State in the form of a license and/or registration.

(4) “Medical Center officials” and “facility director or designee” refer in Central Office to the Under Secretary for Health or designee.

(5) Primary source verification. Documentation from the original source of a specific credential that verifies the accuracy of a qualification reported by an individual health care practitioner. This can be documented in the form of a letter, telephone contact or secure electronic communication with the original source.

(6) “Registration” or “Certification”. The official attestation by a professional organization that one has fulfilled the requirements or met a standard skill to practice the profession.

(7) State. Any of the states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(8) VetPro. VHA’s electronic credentialing system which must be used for credentialing all providers. The system is used by applicants and practitioners to provide evidence of licensure, registration, certification, and/or other relevant credentials for verification prior to appointment, throughout the appointment process and upon transfer from another medical facility. The system provides an electronic file for continued maintenance of accurate, complete and timely credentials for all VHA health care providers who claim licensure, certification or registration, and are permitted by the facility to provide patient care services or oversee the delivery of those services.

d. Responsibilities of VA Officials.

(1) The Under Secretary for Health or designee will establish additional credentialing, licensure and/or registration requirements and procedures to assure that only fully qualified and suitable candidates are appointed and retained in VHA. Procedures will be established to thoroughly evaluate applicant credentials, licensure and/or registration status and to monitor these on a continuing basis for health care employees appointed under 38 U.S.C. §§ Chapter 73, 74.

(2) Facility directors are responsible for implementing policy and procedures outlined in this section and for providing necessary resources to ensure that the verification of credentials and licensure is effectively and efficiently managed. So that only fully qualified and suitable individuals are appointed and retained under 38 U.S.C. §§ Chapter 73, 74, [clinical executives (chiefs of staff, Chiefs of Patient Care Services, Nurse Executives), Service Chiefs,] hiring officials [ ] and HR Officers will ensure that the qualifications of candidates for appointment are thoroughly screened and evaluated. The credentialing process includes verifying the individual's licensure and/or registration, relevant training and/or experience, current competence, and physical and mental fitness. (See Appendix II-L of this chapter for a credentialing checklist.) Officials described in this paragraph will ensure all applicants and employees covered by this policy are made aware of their responsibilities with respect to credentialing and licensure.

(3) The credentialing and licensure verification process is a shared responsibility, requiring extensive interchange and continuing communication between the Chief of Staff and HR Officer. Facility directors will establish local policies and procedures delineating functions to be accomplished by each of these officials to assure that responsibilities are clearly understood and can be effectively carried out.

(4) Compliance with credentialing and licensure provisions of this section does not obviate the responsibility to determine suitability for employment following guidelines in 5 C.F.R, part 731 or to initiate background investigations of employees using procedures specified in 5 C.F.R. § part 736.

e. **Documentation.** Information obtained through the verification process must be documented in writing, either by letter, memo, report of contact or secure electronic verification, as appropriate. Documentation will be filed permanently in the VHA credentialing file, VetPro. Facsimile copy may be used with appropriate authentication of the source providing the information via facsimile. This needs to be independently authenticated and the authentication needs to be documented, e.g., entry into comments section of VetPro. A coversheet by itself is not considered independent authentication but may be scanned as the last page of the document, not the first, as well as documentation of the independent verification of the sender's source. If independent authentication of the source cannot be made, the facsimile copy must be followed up with an original document.

NOTE: Authentication of the source of the facsimile requires the recipient to document knowledge that the appropriate source that owned the verification information transmitted the facsimile. For example, if the recipient of the facsimile confirmed with the verifying entity that the facsimile was indeed transmitted by the verifying entity

then this confirmation should be documented on the facsimile coversheet, signed and dated by the individual completing the independent authentication, to include name and title of both transmitting and confirming individuals and date of confirmation.

f. Action Prior to Credentialing.

(1) No appointment action will be taken, nor will an employment commitment be made, in any case where officials have reason to question a candidate's suitability for VA employment. All information obtained through the credentialing process will be carefully considered before an employment decision is made. An RN, APN, PA, EFDA or candidate for appointment to an occupation identified in 38 U.S.C. § 7401(3), may be appointed under 38 U.S.C. § 7405(a)(1) pending completion of the full credentialing process referenced in [VHA Directive 1100.20, Credentialing of Health Care Providers]. However, a physician, dentist, podiatrist, optometrist or chiropractor will be appointed only after credentialing information is received [ ] except as noted in paragraph 2 below.

(2) In exceptional circumstances and where required to meet an emergent patient care situation, the facility director may approve the temporary appointment of a physician, dentist, podiatrist, optometrist or chiropractor under 38 U.S.C. § 7405 [ ] following the procedures in [VHA Directive 1100.20, Credentialing of Health Care Providers]. The [facility] director will document for the record the specific circumstances and patient care situation which warranted such an appointment. The appointment will be made only after evidence of current, full and unrestricted licensure has been obtained and a judgment has been made that the individual is fully qualified for the assignment.

g. **Applicant and Employee Responsibilities.** Applicants and employees will provide evidence of licensure, registration, certification, and/or other relevant credentials, for verification prior to appointment and throughout VA employment as requested. They are responsible for keeping VA apprised of anything that would adversely affect or limit the credentials discussed in this section, and for advising VA of anything that would adversely affect or otherwise limit their clinical privileges. Failure to keep VA fully informed on these matters may result in administrative or disciplinary action.

h. **Verification of Credentials After Short Breaks in Service.** An applicant who has had a break in VA service of no more than 15 workdays may be reappointed in the same occupation without the full credentialing process required for initial appointment (i.e., verification of education background, licensure status, certifications by professional organizations, references, etc.). The applicant must complete a new employment application form [ ]. Facility officials will verify any licensure or qualification information that has not previously been documented in

the personnel folder or the Credentialing and Privileging Folder, as appropriate. The official designated by the facility director will note in the appropriate folder the reason that credentials were not reverified. Typically, the reason will be that the break in service was for less than 15 workdays. Reverification of credentials is not required for residents or trainees who rotate for training during the academic year between a VA facility and its affiliate(s). (See paragraph 20 for resident credentialing procedures.)

NOTE: For those subject to the credentialing and privileging provisions of [VHA Directive 1100.20, Credentialing of Health Care Providers], any break in service requires the verification of those credentials (time-limited) which could have changed since last verified (State licensure, Drug Enforcement Administration (DEA) certification, board certification, etc.).

2. APPLICATION.

a. **Application Forms.** Candidates seeking employment under 38 U.S.C. §§ Chapter 73 or 74, must complete one of the following application forms:

(1) VA Form 10-2850, Application for Physicians, Dentists, Podiatrists, Optometrists, and Chiropractors;

(2) VA Form 10-2850a, Application for Nurses and Nurse Anesthetists, nurse practitioners, and graduate nurse technicians;

(3) VA Form 10-2850b, Application for Residency;

(4) VA Form 10-2850c, Application for Associated Health Occupations;

(5) Optional Form 612, Optional Application for Federal Employment is [obsolete, but can] be used by applicants for whom none of the above forms are appropriate; primarily, this includes applicants for medical support, students, trainees or nonmedical consultant appointments. The OF 612 is not required for USA Staffing recruitments. In USA Staffing, a resume is preferred.

b. **Application Review.** The HR Officer or designee will thoroughly review each employment application to assure that all questions are answered, and that additional information is provided where required. Applicants are to be asked to account for any gaps in their work history. This information shall be documented on the employment application, and, along with reference checks and other information obtained in the credentialing process, considered in the selection process. Incomplete applications are to be returned and applicants notified that they will not be considered for employment until their application has been fully completed. The HR Officer or designee will review applications for compliance

with administrative and regulatory requirements. Applicants who do not meet appointment requirements should be so notified.

3. EDUCATIONAL CREDENTIALS.

a. Verification of Educational Credentials.

(1) For independent practitioners, educational credentials relating to qualifications for employment are to be verified through primary source(s) whenever feasible. This includes education used to qualify for appointment, advancement or which is otherwise related to an individual's employment. This verification should also include a comparison of the educational institution(s) cited on the application against existing lists of accredited institutions on the Department of Education web site to guard against institutions or "diploma mills" which sell fictitious college degrees and other professional credentials. The accrediting agency or body for verifying the accreditation status of schools is identified in the appropriate VA qualification standard.

(2) For dependent practitioners, educational credentials relating to qualifications for employment are to be verified as follows:

(a) If most recent licensure for the occupation was issued in 1990 or later: Only education used to qualify for an appointment (i.e., first nursing degree) is required to be verified; and this verification may be accomplished by a secondary source (i.e., copy of diploma or transcript is acceptable). Advanced education credentials above the initial qualifying degree are to be primary source verified. This verification also needs to include a comparison of the educational institution(s) cited on the application against existing lists of institutions or "diploma mills" which sell fictitious college degrees and other professional credentials. The accrediting agency or body for verifying the accreditation status of schools are identified in the appropriate VA qualification standard.

(b) If most recent licensure for the occupation was issued prior to 1990: Educational credentials relating to qualifications for employment are to be verified through the primary source(s), whenever feasible. This includes education used to qualify for appointment or advancement. This verification also needs to include a comparison of the educational institution(s) cited on the application against existing lists of institutions or "diploma mills" which sell fictitious college degrees and other professional credentials. The accrediting agency or body for verifying the accreditation status of schools is identified in the appropriate VA qualification standard. The appropriate document

from the primary source must be used for the actual verification of the credential but could include a transcript.

(3) For individuals who will have clinical privileges, written verification of internships, residencies, fellowships, advanced education, clinical practice programs, etc., from the appropriate program director or school is required. For foreign medical graduates, facility officials must verify with the Educational Commission for Foreign Medical Graduates (ECFMG) that the applicant has met requirements for certification, and must obtain a copy of the ECFMG certificate, if claimed by the applicant.

(4) In cases of graduates of foreign schools of professional nursing, possession of current, full, active, and unrestricted registration will meet the requirement of graduation from an approved school of professional nursing [equal to an associate degree/diploma level education]. Documentation from the Commission on Graduates of Foreign Nursing Schools (CGFNS) will serve as primary source verification of education, if applicable. [In order to credit nursing education at a level higher than the associate degree/diploma level, a VA-recognized credentials evaluation service must be utilized to verify foreign degree equivalency to a US-based nursing degree.]

(5) For Physical Therapists, documentation from the Foreign Credentialing Commission on Physical Therapists (FCCPT) will meet the requirement of graduation from an approved school.

(6) For Occupational Therapists, documentation from the National Board for Certification in Occupational Therapy (NBCOT) will meet the requirement of graduation from an approved school.

(7) If education cannot be verified because the school has been closed, because a school is in a foreign country and no response can be obtained, or for other similar reasons, all efforts to verify the applicant’s education will be documented. In any case, facility officials must verify that candidates meet appropriate VA qualification standard educational requirements prior to appointment.

b. Transcript of Higher Education.

(1) An applicants may be asked to provide a transcript of their qualifying education for evaluation [prior to appointment. If an individual has a degree in a related field, consideration should be given to obtaining a transcript of this program as well. Transcripts may be requested from other applicants, including APNs, PAs, EFDAs, and candidates selected for appointment to an occupation identified in 38 U.S.C. § 7401(3).

(2) Transcripts should be evaluated to consider the specific course work completed, grades received and overall level of difficulty of the program.

c. **Educational Profile for Physicians.** Facilities may obtain, from the American Medical Association, a profile listing all medical education a physician candidate has received in this country and available licensure information for follow-up as necessary. It should be noted, however, that this is a secondary source and, by itself, is not considered sufficient for verification purposes.

4. EMPLOYMENT RECORD AND PREEMPLOYMENT REFERENCES.

a. **References.** Due diligence should be exercised in checking references before making an offer of employment. Facilities at the local level have the discretion to decide how many references are required prior to appointment. VA will still require a total of three, but only one reference (preferably from the applicant's current or most recent employer(s)) is required prior to appointment and the remaining two within 90 days after appointment. The references should be obtained from employer(s) or other individuals who are knowledgeable about the applicant's work record (i.e., performance, aptitude, conduct, etc.).

(1) For any candidate whose most recent employment has been private practice, facility officials will contact institution(s) where clinical privileges are and/or were held, professional organizations, [professional] references listed on the application form and/or other agencies, institutions or persons who would have reason to know the individual's qualifications.

(2) The VA Form Letter 10-341a, Appraisal of Applicant, may be used to obtain references on applicants. However, supplemental information may be required to fully evaluate the educational background and/or prior experiences of an applicant (see subparagraph (3) below). Initial and/or follow-up telephone or personal contact with those having knowledge of an applicant's qualifications and suitability are encouraged as a means of obtaining a complete understanding of the composite employment record. All references must be documented in writing. Written records of telephone or personal contacts must report who was spoken to, that person's position, the date of the contact, a summary of the information provided, and the reason why a telephone or personal contact was made in lieu of a written communication. Reports of contact are to be filed with other references in the personnel folder and, as appropriate, in the Credentialing and Privileging Folder, as appropriate.

(3) Ideally, references should be from authoritative sources, which may require that facility officials obtain information from sources other than the references listed by the applicant. As appropriate to the occupation for which the applicant is being considered, references should contain specific

information about the individual's scope of practice and level of performance. For example, information on:

(a) The number and types of procedures performed, range of cases managed, appropriateness of care offered, outcomes of care provided, etc.

(b) The applicant's clinical judgment and technical skills as reflected in results of quality assurance activities and peer review, where appropriate.

(c) The applicant's health status in relation to proposed duties of the position and, if applicable, to areas where clinical privileges are being sought.

b. **Former Federal Employees.** For an applicant with prior Federal service, the personnel folder should be obtained before the individual is given a probationary or permanent appointment. If an applicant has prior VA service, a reference must be obtained from the last two assignments or all VA assignments in the last 5 years, whichever is longer.

5. PREEMPLOYMENT INTERVIEW. A personal interview is recommended prior to the appointment of any candidate under 38 U.S.C. Chapter 73 or 74. The interview should normally be conducted at the VA facility where the individual is to be employed. Arrangements may be made for the interview to be conducted at another VA facility convenient to the applicant. The interview will be conducted by the appropriate official(s) designated by the facility director. An interview report will be completed and filed with the application. Travel expenses for preemployment interviews may be paid only under provisions of 5 C.F.R., Part 572. The appropriate chief consultant in Central Office may require that a personal interview be conducted for individuals in any occupation included within the scope of this section. [ ].

6. VERIFYING LICENSURE, REGISTRATION AND CERTIFICATION. As part of the credentialing process, the status of the applicant's licensure and/or registration and that of any required or claimed certifications will be thoroughly reviewed and verified. Specific requirements for these verifications are contained in paragraphs 13 through 17 for independent practitioners and VHA policy for the credentialing of health care professionals.

7. VERIFYING SPECIALTY CERTIFICATION.

a. **Definition.** For the purposes of this paragraph, specialty certification means having fully completed the requirements of a recognized specialty board or other

certifying organization, including the successful passing of the board or certifying examination, as appropriate.

b. **Applicants.** Prior to appointment, specialty certification will be verified from the primary source. The chief of staff will confirm evidence of specialty certification claimed by a physician, dentist, podiatrist or chiropractor, and certify that verification in the VHA credentialing folder, VetPro. At the request of the chief of staff, the facility director may delegate responsibility for obtaining information about a candidate's board certification. However, the chief of staff must personally certify in the VHA credentialing file that the documentation is of record. For other applicants, the official designated by the facility director will document verification of specialty certification where required in the VHA credentialing file. See paragraph (d) for procedures on documenting specialty certification.

c. **On-Duty Employees.** On-duty employees attaining specialty certification will have their certification verified under Paragraph (d).

d. **Verification Procedures.** If listings of specialists are used to verify specialty certification, these schedules must be maintained by the primary source with a disclaimer regarding authenticity and be from current or recently issued copies of the publications as follows:

(1) **Physicians.** Board certification may be verified through the Compendium of Medical Specialists, published by the American Board of Medical Specialists, the Directory of American Medical Specialists, published by Marquis' Who's Who, or by direct communication with officials of the appropriate board. A letter from the board is acceptable for those recently certified. (The address and telephone number of the board may be obtained from the latest Directory of Approved Residency Programs published by the Accreditation Council for Graduate Medical Education). Copies of documents used to verify certification are to be filed in the VHA credentialing file.

(2) **Dentists.** Board certification may be verified by the listings in the American Dental Directory published annually by the American Dental Association or by contacting the appropriate Dental Specialty Board. Addresses of these boards may be obtained from the American Dental Association, 211 East Chicago Avenue, Chicago, Illinois 60611.

(3) **Podiatrists.** Three specialties are currently recognized by the House of Delegates, American Podiatric Medical Association and VA: the American Board of Podiatric Surgery, American Board of Podiatric Orthopedics, and American Board of Podiatric Public Health. Addresses of these boards may be obtained from the latest American Podiatric Directory.

(4) **Other Occupations.** Board certification and other specialty certificates will be verified by contacting the appropriate specialty board or certifying organization.

e. **Evidence of Continuing Certification.** For professions or occupations in which current certification is required, employees must present evidence of such certification upon request throughout VA employment.

8. DRUG ENFORCEMENT ADMINISTRATION CERTIFICATION.

a. **Background.** Physicians, dentists, podiatrists, and certain other professional persons may apply for and be granted renewable certification by the Drug Enforcement Administration (DEA)/Controlled Dangerous Substance (CDS), Federal and/or State to prescribe controlled substances as a part of their practice. However, certification will be verified as indicated below for individuals who claim on the employment application form to currently hold or to have held DEA/CDS certification in the past.

b. **Application Form.** Each applicant in these occupations must provide, on the appropriate VA employment application form, information about his or her current or most recent DEA/CDS certificate, if applicable. Any applicant whose DEA/CDS certificate has ever been revoked, suspended, limited, restricted in any way or voluntarily relinquished shall be required to provide a detailed explanation of such action at the time of application for employment.

c. **Restricted Certificates.** A State licensing board may obtain a voluntary agreement from an individual not to apply for renewal of certification or may decide not to approve the individual's application for renewal as a part of a disciplinary action taken in connection with the individual's professional practice. While there are a number of reasons a license may be restricted which are unrelated to DEA/CDS certification, an individual's State license is considered restricted or impaired for purposes of VA employment if a State licensing board has suspended the person's authority to prescribe controlled substances or other drugs; selectively limited the individual's authority to prescribe a particular type or schedule of drugs; or accepted an individual's offer or voluntary agreement to limit authority to prescribe. (See Paragraphs 13 and 17.)

d. **Verification.** Current DEA/CDS certification will be verified prior to appointment and documented in the VHA credentialing file. Automatic verification of Federal DEA/CDS certification can be performed in VetPro when a match can be made against the current Federal DEA certification information maintained and electronically updated monthly. If verification cannot be made automatically, an authenticated copy of the DEA/CDS certificate must be entered into VetPro. Current DEA certification will also be sighted during VA employment at the same time as State licensure. (See Paragraphs 13 and 17.) The employee will be asked to fully explain in writing if DEA certification has been revoked,

suspended, limited, restricted or voluntarily relinquished since last verified. Upon receipt of such explanation, the chief of staff will initiate a review of the employee's clinical privileges, if appropriate.

e. Required Action by VA Officials.

(1) If action taken on an employee's DEA/CDS certificate has the effect of restricting the individual's only State license, immediate action will be initiated to separate the employee under provision of VA Directive and Handbook 5021, Employee/Management Relations, Part VI.

(2) If, as a result of the review of clinical privileges, a decision is made to propose revocation of an employee's clinical privileges, separation action will be initiated using procedures in VA Directive and Handbook 5021, Employee/Management Relations, Part II.

9. CLINICAL PRIVILEGES.

a. **Review of Clinical Privileges.** Applicants completing VA application forms will be required to respond to questions concerning clinical privileges at VA and non-VA facilities. If possible, copies of clinical privileges will be obtained for review from the applicant or from the institutions where privileges are or were most recently held.

b. **Evaluation of Privileges.** As part of the credentialing process, information on clinical privileges will be evaluated by appropriate facility officials. Details concerning any limitation(s) on privileges will be carefully considered prior to appointment.

c. **On-Going Review.** Clinical privileges will be established and reviewed throughout the individual's employment following standards and guidelines issued by VHA and established in the VA facility's medical staff bylaws. The clinical privileging process must be completed prior to initial appointment.

NOTE: Additional VHA policy concerning clinical privileges is contained in [VHA Directive 1100.20, Credentialing of Health Care Providers.]

10. MALPRACTICE CONSIDERATIONS.

a. **Applicants.** VA employment applications forms require applicants to give detailed written explanations of any involvement in administrative, professional or judicial proceedings, including Federal torts claims proceedings, in which malpractice is or was alleged. If an applicant has been involved in such proceedings, a full evaluation of the circumstances will be made by officials participating in the credentialing, selection and approval processes prior to making any recommendation or decision on the candidate's suitability for VA employment.

b. **Employees.** Each employee will be asked to indicate at the time of licensure verification any involvement in proceedings described in subparagraph a, and to provide a written explanation of the circumstances, if appropriate. A review of clinical privileges, as appropriate, will be initiated if clinical competence issues are involved.

c. **Evaluation of Circumstances.** Facility evaluating officials will consider VA's obligation as a health care provider to exercise reasonable care in determining that individuals are properly qualified, recognizing that many allegations of malpractice are proved groundless. Facility officials will evaluate employee to provide copies of documents pertaining to the case. Reasonable efforts will be made to assure that only individuals who are well-qualified to provide patient care are permitted to do so. Questions concerning legal aspects of a particular case should be directed to the Regional Counsel.

11. DEANS COMMITTEE, MEDICAL ADVISORY COMMITTEES, AND OTHER ADVISORY BODIES. At healthcare facilities with teaching programs, the Under Secretary for Health will approve the establishment of a Deans Committee, Medical Advisory Committees, and other advisory bodies (See VHA Handbook 1400.03, Veterans Health Administration Educational Relationship for more information). The Deans Committee may nominate, for consideration by the facility director, physicians, and dentists for appointment to the professional staff of the facility, including chiefs of service. Nominees may include individuals appointed on a paid or without compensation assignment on a full-time, part-time or intermittent basis; to those appointed on an on-facility fee-basis; and to consultants and attendings. The facility director should consider the Deans Committee's recommendations, but the facility director has the final appointment decision.

12. SUITABILITY.

a. **General.** If facility officials obtain adverse information during the credentialing process, they will review this against suitability criteria and make a determination in accordance with 5 C.F.R. § 731. The District Counsel can answer questions concerning the use of adverse information in making suitability determinations or the legality of adverse determinations and personal liability involvement.

b. **Applicants.** If there is any question about an applicant's suitability, no appointment action will be taken, nor will an employment commitment be made, until the matter is resolved.

c. **Employees.** Conclusive evidence of preemployment unsuitability (character traits, past work performance, etc.) may arise after an individual's appointment under 38 U.S.C. Chapter 73, 74. If continued employment is not in the best interest of the service, the employee's appointment will be terminated under VA

Handbook 5021, Employee/Management Relations, Part VI, Employee Title 38 Separations Not Covered by Parts II and III of this Handbook.

13. GENERAL LICENSURE AND REGISTRATION REQUIREMENTS.

a. **General.** Specific licensure, registration and certification requirements for individuals appointed under 38 U.S.C. Chapters 73 or 74 are included in paragraphs which follow and in the appropriate qualification standard for the occupation. This paragraph contains definitions and general provisions which apply to all occupations for which licensure and/or registration are required. Applicants must possess at least one active, current, full, and unrestricted license, registration or certification which must be verified by primary source verification from the state licensing board (SLB), to be eligible for appointment, if required for the occupation in the appropriate qualification standard. If all licenses, registrations or certifications are impaired, the individual is ineligible for appointment in VA. Additionally, if the applicant's sole license is considered to be inactive by the state issuing the license (e.g., the state considers the license to be "inactive" because the individual is not practicing in the state where the license is held), the individual is ineligible for appointment in VA.

b. Definitions.

(1) **Active Licensure**. An active, current, full, and unrestricted license, registration or certification in a state is one which authorizes the licensee to practice outside VA without any change needed in the status of the license. Employees are responsible for paying fees necessary to maintain a full and active license in a state. If a state waives fees for any reason, such as for an out-of-state practice or for employment in a Federal facility, the employee may not accept the waiver if this will place the license in an inactive or other restricted status.

(2) **Primary Source Verification**. Primary source verification is documentation from the original source of a specific credential verifying the accuracy of a qualification.

(3) **State**. The term "state" means any of the states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

c. **Qualification Requirements Pursuant to 38 U.S.C. § 7402(f).** Covered licensure actions are based on the date the credential was required by statute or VA qualification standard for the occupation.

(1) For the purposes of 38 U.S.C. § 7402(f), "for cause" means professional misconduct, professional incompetence, substandard care or any issue requiring VA to report a provider to a SLB under 38 C.F.R. § 47.2. The

District Counsel will address questions concerning interpretation of “for cause" or an assessment of whether a matter constitutes “for cause.” The following are examples of reasons a license may be revoked, terminated or voluntarily relinquished that would be considered “for cause.” This is not a comprehensive, exhaustive or exclusive list, and a “for cause” assessment should be reviewed on a case-by-case basis.

(a) Higher than expected radiology misinterpretations;

(b) Higher than expected surgical complication rates;

(c) Failure to address critical alerts in a timely manner;

(d) Failure to adequately document patient care;

(e) Diversion of drugs;

(f) Providing or intending to provide patient care while under the influence of drugs or alcohol;

(g) Inappropriate relationship with patient;

(h) Patient abuse;

(i) Intentional harm of a patient;

(j) Research malfeasance;

(k) Exhibiting a pattern of poor professional judgment and skill; and/or

(l) Egregious instances of unacceptable actions related to patient care (inadvertently leaving a clamp in a patient after a surgical procedure).

(2) Applicants seeking appointment on or after November 30, 1999, (see Veterans Millennium Health Care and Benefits Act, P.L. 106-117), who have been licensed, registered or certified, as applicable to the occupation for which they are seeking employment, in more than one state and who are being credentialed for a position identified in 38 U.S.C. § 7402(b), other than a facility director, are not eligible for appointment in that occupation if:

(a) The applicant’s license, registration or certification has ever been revoked or terminated “for cause” by any of those states; or

(b) The applicant has voluntarily relinquished a license, registration or certification in any of those states, after being notified in writing by that state of potential revocation or termination for cause.

i Such individuals may only be eligible for appointment in the occupation if their revoked, terminated or voluntarily relinquished license, registration or certification is restored to a full and unrestricted status.

ii Covered licensure actions are based on the date the credential was required by statute or the VA qualification standards for the occupation. For example, if VA first required the credential in 1972, the credential was terminated or voluntarily relinquished in 1983, and the individual applies, or was appointed, to VA after November 30, 1999, the individual is not eligible for VA employment in the covered occupation unless the terminated or voluntarily relinquished credential is restored to an active, current, full and unrestricted status. However, if the credential was terminated or voluntarily relinquished in 1970, before it was a VA requirement, eligibility for VA employment would not be affected. For guidance regarding eligibility for employees with an impaired license, registration or certification, and for those employees appointed before November 30, 1999, with an impaired license refer to paragraph 17 below-Continuing Licensure, Registration and/or Certification Requirements for Employees.

(3) If an individual has voluntarily surrendered their license, registration or certification, applicable to the position, VA must confirm from the primary source that the individual was notified in writing of the potential for termination for cause. If the entity verifies written notification was provided, the applicant is not eligible for employment unless the surrendered credential is fully restored to an active, current, full and unrestricted status.

(4) Where the state licensing, registration or certifying entity fully restores the revoked, terminated or voluntarily relinquished credential, the provider's eligibility for employment is restored. These individuals are subject to the same employment process that applies to all individuals in the same job category who are entering the VA employment process. In addition to the credentialing requirements for the position, facility officials must conduct a complete review of the facts and circumstances concerning the action taken against the state license, registration or certification and the impact of the action on the professional conduct of the applicant. Facility officials must document this review in the licensure section of the credentials file.

(5) This guidance applies to licensure, registration or certification required as applicable to the position subsequent to the publication of this policy and required by statute or VA qualification standards, effective with the date the credential is required.

d. **Primary Source Verification.** Information obtained through the verification must be documented in writing, either by letter, memo, report of contact or secure electronic verification (e.g., website) in the VHA credentialing file. Facility officials must verify licensure from a primary source at the time of initial appointment, reappointment and expiration in accordance with policy in VHA Handbook 1100.20, "Credentialing and Privileging" and VHA Directive 2006-067, "Credentialing of Health Care Professionals."

e. **Changes in Authority to Prescribe.** The license of an individual in an occupation authorized to prescribe is considered to be restricted or impaired if the SLB has suspended the individual's authority to independently prescribe controlled substances or other drugs; selectively limited the individual's authority to prescribe a particular type or schedule of drugs; or accepted an individual's offer or voluntary agreement to limit the authority to prescribe. The state's action may be taken in connection with the individual's Drug Enforcement Administration (DEA) certification and/or with a separately issued state authorization to prescribe. (See paragraph 8 of this section.) This is only one example of a situation in which an individual's license may be restricted or impaired.

f. **Changes in State Licensure Requirements.** Employees are responsible for complying with any changes in licensure and/or registration requirements which may be imposed by the state(s) of licensure. If employees show they were not notified of the new requirement and proceeded in good faith under the assumption that the license remained full and unrestricted, this is accepted as prima facie evidence of licensure up until discovery of the change in requirements. When employees are notified through any source of a change in requirements, they must act immediately to make the license whole at the earliest possible date, normally no more than 15 workdays after notification. If employees are unable to make the license whole and, as a result, holds no full unrestricted license in a state, actions to separate for failure to meet qualification requirements must be taken under VA Handbook 5021, Employee/Management Relations.

g. Administrative Delay by State Licensing Board (SLB).

(1) Facility officials who learn that a SLB has declared a system-wide delay in processing renewal applications of registration prior to the expiration date and has granted a special grace period as a result of the delay, should notify Office of the Chief Human Capital Officer (OCHCO), Recruitment and Placement Policy Service (RPPS) so a general notice to all VHA facilities can be issued. The delay must be general rather than personal in scope and impact. If no such notice has been issued by OCHCO, RPPS, facility officials should verify with the state board that VA employees are considered to be fully licensed, registered or certified during the delay period. Verification of current licensure, registration or certification may be

obtained through telephone contact with the state board pending receipt of the renewal. Typically, this will involve a large amount of license renewals and would not pertain to the individual renewal license.

(2) Under these unique circumstances, if employees are unable to present evidence of current licensures, registrations or certifications prior to the expiration date, facility officials must verify through written or telephone contact with the SLB that the employees' applications for renewal are received and the employees are considered to be fully licensed, registered or certified. If officials are unable to verify this with the SLB prior to the expiration date of licensure, employees will be required to provide evidence that the application for renewal was made in a timely manner (e.g., 30 days) in order to be permitted to continue in a work status. Where possible, a facility official must cite evidence of the employees' application for licensure, registration or certification renewal and appropriately document in the VHA credentialing file until primary source verification of renewal is received. Employees are notified in writing that separation actions may be initiated under provisions of VA Handbook 5021, Part II, Part III or Part VI, if evidence of renewal is not received within 30 workdays of the expiration date. Some states authorize a "grace period" after the licensure, registration and/or certification expiration date, during which an individual is considered to be fully licensed, registered and/or certified whether or not the individual has applied for renewal on a timely basis. Facility officials must not initiate separation procedures for failure to maintain licensure, registration or certification on a practitioner whose only license, registration and/or certification has expired if the state has such a grace period and considers the practitioner to be fully and currently licensed, registered or certified.

h. **Questionable Licensure Status.** Facility officials must consult with District Counsel if circumstances cause them to question the status of an employee's license, registration or certification or if it meets statutory or regulatory requirements. See subparagraph 17.c. of this section for additional information.

i. **Payment of Licensure or Registration Renewal Fees.** VA employees are responsible for paying any required fees in a timely basis to ensure their licensures, registrations or registrations are maintained in a current, active status. If an affiliated institution normally pays the fees for VA employees who work part-time or have teaching agreements at that institution, employees are still responsible for assuring that licensures, registrations or certifications are maintained in an active, current status.

14. LICENSURE FOR PHYSICIANS, DENTISTS, PODIATRISTS, OPTOMETRISTS, AND CHIROPRACTORS.

a. **General.** Any physician, dentist, podiatrist, optometrist or chiropractor appointed under 38 U.S.C. Chapters 73 or 74 is required to possess an active, current, full and unrestricted license to practice medicine, surgery, osteopathy, dentistry, podiatry or optometry, as appropriate, in a state, and must furnish evidence of this prior to appointment. Current registration will be maintained in accordance with the requirements of the state of licensure and evidence of such licensure and registration must be presented by the employee for verification periodically as requested throughout VA employment. A limited license or any other license less than a full, unrestricted state license; however, denominated (e.g., temporary, limited or institutional), will not meet the licensure requirement for appointment under 38 U.S.C. Chapters 73 or 74.

b. **Exceptions.** The only exceptions to the licensure requirements are:

(1) Individuals meeting all the professional requirements for admission to the state licensure examination and passed the examination but possess a state license limited on the basis of non-citizenship or not meeting the residence requirements of the state.

(2) Individuals granted an institutional license by the state which permits faculty appointments and full, unrestricted clinical practice at a specified educational institution and its affiliates, including the VA healthcare facility; or an institutional license permitting full, unrestricted clinical practice at the VA healthcare facility. This exception is used only to appoint individuals who are well-qualified, recognized experts in their fields, such as visiting scholars, clinicians, and/or research scientists and only under authority of 38 U.S.C. § 7405. It may not be used to appoint individuals whose institutional licenses are based on actions taken by SLBs as described in paragraph 13c above.

(3) Individuals meeting all the professional requirements for admission to the state licensure examination and have passed the examinations, but who have been issued time-limited or temporary state licenses or permits pending a meeting of the state licensure board to give final approval to the candidates' request for licensure. The licenses must be active, current, and permit a full, unrestricted practice. Appointments of individuals with such licenses must be made under authority of 38 U.S.C. § 7405 and will be time-limited not to exceed the expiration date of licensure.

(4) Residents holding licenses which geographically limit the area which practice is permitted or which limits residents to practice only in specific healthcare facilities but authorizes them to independently exercise all the professional and therapeutic prerogatives of the occupation. In some

states, such licenses may be issued to residents to permit them to engage in outside professional employment during the period of residency training. This exception does not permit the employment of a resident who holds a license which is issued solely to allow the individual to participate in residency training.

c. **Verification.** The facility chief of staff will ensure physicians, dentists, podiatrists, optometrists, and chiropractors licensures and registrations are verified prior to their appointment under 38 U.S.C. §§ 7306, 7401 or 7405. This includes all individuals serving on a full-time, part-time, intermittent or on-facility fee-basis (including consultants and attendings), whether paid or without compensation.

(1) **Licensure Verification with State Boards.** The facility ~~chief of staff~~ Chief of Staff will confirm in the VHA credentialing file, VetPro, the status of all licenses claimed by physicians, dentists, podiatrists, optometrists, and chiropractors, are verified with the appropriate SLB for all states in which the applicant lists having ever held a license. This includes licenses which the applicant lists as active, current, full, and unrestricted as well as licenses the applicant lists which were held at any time in the past and which have been allowed to lapse or which are no longer current for any reason. [The] facility Chief of Staff or designee is responsible for sighting verification of the licensure of these individuals.

(2) **Review of Employment Application.** Facility officials must contact the state board to ensure that no restriction or revocation action has occurred for candidates with recent employment in a state in which no licensure is indicated on the application form.

(3) **Physician Screening with Federation of State Medical Boards (FSMB).** Facility officials must conduct a mandatory FSMB query and document the results in the VHA credentialing file, VetPro.

d. **Licensure History.** For guidance on appointments, refer to Paragraph (13.c.), Qualification Requirements Pursuant to of 38 U.S.C. § 7402(f).

e. Waiver of Licensure Requirement.

(1) The appointing official may waive the licensure requirement of physician, dentist, podiatrist, optometrist, or chiropractor occupations if the candidates are being appointed to a research, academic or administrative position when they have no direct responsibility for patient care.

(2) The facility director may waive the licensure requirement if the individual is serving in a country other than the United States and licensure is in that country (i.e., Philippines).

15. REGISTRATION FOR [REGISTERED] NURSES [RNS] AND [ADVANCED PRACTICE] NURSES [APNS].

a. **General.** Any [RN or APN] appointed under 38 U.S.C. Chapters 73 or 74 is required to possess active, current, full, and unrestricted registration as a graduate professional nurse in a state, which must be verified by primary source verification from the SLB prior to appointment. Information obtained through the verification process must be documented in writing, either by letter, memo, report of contact or secure electronic verification. Documentation will be filed permanently in the official personnel folder. A limited registration or any other registration less than a full, unrestricted state registration does not meet the registration requirement for appointment. [See VA Handbook 5005, Part II, Appendix G6a-G6d for additional information on specific licensure and certification requirements for APNs.]

b. **Verification.** The HR Officer or nurse executive or designee, must obtain primary source verification from the SLB of the registration of all [RNs and APNs] prior to their appointment under 38 U.S.C. Chapters 73 or 74. This includes full-time, part-time, intermittent and on-facility fee-basis [RNs or APNs] (including consultants), whether they are paid or serving without compensation. [RNs and APNs] utilized on an on-facility contract or on-facility sharing agreement basis are also covered by provisions of this paragraph.

(1) Except as provided in subparagraph d, every VHA [RN and APN] must have at least one active, current, full and unrestricted registration as a graduate professional nurse in a state.

(2) The appropriate official will certify in the VHA credentialing file, VetPro, that the status of all registration(s) has been verified with the appropriate state board(s) for all state(s) in which the applicant lists having ever held registration. This includes registration(s) which the applicant lists as active, current, full, and unrestricted as well as registration(s) the applicant lists which were held at any time in the past and which have been allowed to lapse or which are no longer current for any reason.

(3) For [RNs or APNs] with recent employment in a state in which no registration is indicated on the application form, the state board will be contacted to assure that no restriction or revocation action has occurred.

c. **Impaired Registration.** Appointing officials may approve the appointment or reappointment of a [RN or APN] who has previously had impaired registration, provided the candidate currently has full and unrestricted registration (refer to paragraph 17c of this section).

d. **Waiver of Registration Requirement.** The facility director may waive the registration requirement of a [RN or APN] if the individual is serving in a country

other than the United States and the registration is in that country (i.e., Philippines).

16. LICENSURE, REGISTRATION, AND/OR CERTIFICATION FOR TITLE 38 ASSOCIATED HEALTH PERSONNEL.

a. **General.** Any employee in a physician assistant (PA) or expanded-function dental auxiliaries position appointed under 38 U.S.C. §§ 7401(1) or 7405(a)(1)(A) must meet licensure, registration or certification requirements as specified in the appropriate qualification standard. Individuals appointed under 38 U.S.C. § 7401(3) or under 38 U.S.C. §§ 7405(a)(1)(B), 7306 to occupations listed in 38 U.S.C. § 7401 must meet licensure, registration and/or certification requirements in the appropriate qualification standard for the occupation. Applicants will provide evidence of current licensure, registration and/or certification and other relevant credentials for verification prior to appointment and throughout the appointment process as requested. Using the VHA credential process, facility officials will verify credentials from a primary source prior to appointment. Once appointed, employees must maintain multiple licenses, registrations and/or certifications in good standing and keep VA officials apprised of anything that would adversely affect or otherwise limit their appointment, e.g., health issues, proposed and final actions against a claimed credential, etc. A limited license, registration or certification or any status of these which is less than full and unrestricted will not meet the qualification standard requirement for the occupation.

b. **Verification.** Prior to appointment, each applicant's credentials will be checked as follows and verified in accordance with applicable VHA credentialing policy for dependent practitioners and documented in the VHA credentialing folder, VetPro, by officials designated by the facility director as follows:

(1) The facility director designates the official(s) responsible for documenting the status of all licenses, registrations or certifications with the appropriate state boards for all states the applicant lists ever having licensure, registration or certification on VA Form 10-2850C, Application for Associated Health Occupations. This includes licenses registrations or certifications which the applicant lists as active, current, full and unrestricted as well as license(s), registration(s) or certification(s) the applicant lists which were held at any time in the past and which have been allowed to lapse or which are no longer current for any reason.

(2) Candidates for appointment under 38 U.S.C. § 7401(3) or 38 U.S.C. § 7405(a)(1)(B) and expanded-function dental auxiliaries (EFDAs) appointed under 38 U.S.C. §§ 7401(1), 7405(a)(1)(A) must present evidence of license, registration or certification by the appropriate national certifying body prior to appointment. The official(s) designated by

the facility director documents the verification in the VHA credentialing file, VetPro.

(3) PAs must present evidence of certification by the appropriate national certifying body prior to appointment for verification by the official(s) designated by the facility director in the VHA credentialing file, VetPro. Licensure is required for PAs to practice outside VA in some states, although it is not required for VHA employment. If a PA claims licensure in any state(s), the official(s) designated by the facility director verifies licensure status with the SLBs as a part of the credentials review and documents the verification in the VHA credentialing file.

(4) The appropriate official(s) must contact state boards to ensure that no restriction or revocation has occurred for candidates with recent employment in a state in which no licensures, registrations or certifications are indicated on the application form. Such verification must be documented in the VHA credentialing file.

c. Impaired Licensure. Appointing officials may approve the appointment or reappointment of an individual covered by this paragraph who has previously had an impaired license, registration or certification, provided the candidate currently has full/unrestricted license, registration or certification (refer to paragraph 17c of this section).

17. CONTINUING LICENSURE, REGISTRATION, AND/OR CERTIFICATION REQUIREMENTS FOR EMPLOYEES.

a. Verification of Primary License.

(1) The expiration date of an appointee's primary license, registration, and/or certification, is coded for follow-up purposes [ ]. For coding purposes, the appointee will specify the state in which primary licensure is claimed. The facility director will designate the official(s) who is responsible for the follow-up verification of these credentials. Facility designees will verify licensure, certification, and registration by primary source verification from SLB. Information obtained through the verification process must be documented in writing, either by letter, memo, report of contact or secure electronic verification (e.g., website). Documentation is filed permanently in the employee's VHA credentialing file.

(2) Only the initial and latest verification must be maintained in the VHA credentialing file. HR staff are not required to code follow-up expiration dates for employees whose registration or certification is issued on a one-time basis for whom there is no continuing requirement to maintain currency.

b. Other Verification.

(1) Individuals with multiple licenses, registrations, and/or certifications are responsible for maintaining these credentials in good standing and of informing the facility director or designee of any changes in the status of these credentials.

(2) Employees must provide confirmation for any active license that is not renewed at the time of expiration or at the time of reappraisal that such license expired in good standing.

(3) Facility directors are responsible for establishing a mechanism for assuring that such multiple licenses, registrations, and/or certifications are consistently held in good standing or, if allowed to lapse, are relinquished in good standing. For any such credentials which were held previously, but which are no longer held or no longer full and unrestricted, the employee will be asked to provide a written explanation of the reason(s). The verifying official will contact the state board(s) or issuing organization(s) to verify the reason(s) for any change.

c. Impaired Licensure.

(1) When facility officials learn an employee with an active, current, full, and unrestricted license, registration or certification in a state has had any other license or registration or certification to practice, as applicable to their current occupation, revoked or terminated for cause, or such license, registration or certification was voluntarily relinquished after being notified in writing by that state of the potential termination for cause, they must determine if the employee is eligible to maintain their appointment. See paragraph 2 below and 38 U.S.C. § 7402(f).

(2) In those cases where the license, registration or certification has been revoked, terminated or the employee has voluntarily relinquished such license, registration or certification after being notified in writing by that state of the potential termination for reasons other than “for cause,” facility officials will investigate to ascertain the full circumstances and, if appropriate, will initiate a review of clinical privileges, take disciplinary action and/or separation procedures.

(3) If the findings of the investigation determine the employee did not violate 38 U.S.C. § 7402(f), then the employee may be retained. In cases where the license, registration or certification has been suspended, denied, restricted, limited, issued/placed on probationary basis, facility officials will engage in the same process identified in paragraph (2).

(4) The following individuals are not eligible for continued appointment:

(a) Individuals who were appointed before November 30, 1999, to a position identified in 38 U.S.C. § 7402(b) (other than a facility director) who have maintained continuous appointment since that date and are identified as having been licensed, registered or certified (applicable to their current position) in more than one state and, on or after November 30, 1999, have had such license, registration or certification revoked or terminated for cause by any of those states; or

(b) Individuals who were appointed before November 30, 1999, to a position identified in 38 U.S.C. § 7402(b) (other than a facility director) who have maintained continuous appointment since that date and are identified as having been licensed, registered or certified (as applicable to their current position) in more than one state and, on or after November 30, 1999, voluntarily relinquished a license, registration or certification in any of those states after being notified in writing by that state of potential termination for cause.

(5) Individuals who were appointed prior to November 30, 1999, and have been on a continuous appointment since that date are not disqualified for employment by any license, registration or certification revocations or terminations for cause, or voluntary relinquishment after being notified in writing by that state of potential termination for cause that predate November 30, 1999, provided they possess one full and unrestricted license applicable to the position. See 38 U.S.C. § 7402(f).

d. Failure to Maintain Current Licensure, Registration or Certification.

(1) An employee who does not maintain an active, current, licensure, registration and/or certification (if required), or who fails to show evidence of such when requested, must be separated under appropriate procedures in VA Handbook 5021, Part VI, [Employee/Management Relations]. The District Counsel will answer questions about whether to separate an employee based on failure to maintain current licensure, registration or certification.

(2) Some states authorize a grace period after the licensure, registration, and/or certification expiration date, during which an individual is considered to be fully licensed, registered, and/or certified whether or not the individual has applied for renewal on a timely basis. Facility officials will not initiate separation procedures for failure to maintain licensure, registration or certified on an employee whose only license, registration, and/or certification has expired if the state has such a grace period and considers the employee to be fully and currently licensed/registered/certified.

18. REPORTING TO STATE LICENSING BOARDS. Licensed, registered, and/or certified employees and former employees will be reported to state licensing, registration or certifying boards and/or to other monitoring bodies in accordance with provisions VHA Handbook 1100.18, Reporting and Responding to SLBs. This requirement applies to all licensed, registered, and/or certified employees included within the scope of this chapter, including residents.

19. HEALTH STATUS OF APPLICANTS AND EMPLOYEES.

a. **General.** The credentialing process includes an evaluation of the health status of applicants as well as employees. Policies and procedures related to physical requirements for applicants and employees are contained in VA Handbook 5019, Employee Occupational Health Service, Part II, Examinations and Evaluations.

b. **Preemployment Physical Examination.** All full-time, part-time and intermittent employees are required to satisfactorily complete a preemployment physical examination prior to appointment as required for positions with positive physical and mental requirements outlined in VA Handbook 5019[Employee Occupational Health Service].

c. **Certification of Physical and Mental Fitness.** All applicants and employees, whether paid or appointed on a without compensation basis, who request clinical privileges, including those utilized on a full-time, part-time or intermittent basis, as consultants or attendings or on a fee-basis, and including those utilized on an on-facility contract or on-facility sharing agreement basis, are required to certify that they are physically and mentally capable of performing the requested privileges. Service chiefs will be required to certify that, to the best of their knowledge, the applicant or employee is physically and mentally capable of satisfactorily performing the requested clinical privileges. In cases where the service chief is a nonphysician, certification of satisfactory health status must also be obtained from a physician who is familiar with the duties the individual is privileged to perform.

20. CREDENTIALS OF RESIDENTS AND TRAINEES.

a. **General.** Medical, dental, podiatry, optometry, and chiropractic residents and trainees appointed under 38 U.S.C. §§ 7405, 7406 must meet the licensure requirements for residents and trainees specified in the appropriate qualification standard for the occupation. If licensure is required, evidence of licensure must be furnished prior to appointment and periodically throughout VHA employment as requested.

NOTE: See VHA Handbook 1400.01, Supervision of Physician, Dental, Optometry, Chiropractic, and Podiatry Residents.

b. Verification.

(1) The program director for an integrated program must send the Trainee Qualifications and Credentials Verification Letter (TQCVL) (formerly the Residents/Trainees Credentials Verification Letter or RCVL) through the facility chief of staff to the facility director for approval prior to the facility director's approval of the appointment of any resident or trainee, whether paid or without compensation. If the residency or training program is not integrated with an affiliate, the VA facility program director must verify all credentials of residents or trainees and sign the TQCVL. A new TQCVL is required for each academic year that the resident or trainee is appointed to a VA facility.

(2) The TQCVL contains certification that all the documents needed for the appointment of that particular individual into the program are in order. For medical residents, these documents must be in compliance with the requirements of the Accreditation Council for Graduate Medical Education (ACGME) and must also meet all requirements of the program. The program director must verify all credentials (diplomas, letters of reference, certificates of advanced training and, where applicable, Educational Council for Foreign Medical Graduates (ECFMG) certification, DEA certification and all state professional licenses held prior to entry into the program or obtained during residency training), and affirm the resident or trainee is physically and mentally fit to take care of patients. (See appendix II-K of this chapter for sample TQCVL letter.)

(3) The program director will notify the facility director if a resident or trainee has had any credentialing problems. Specifically, this will include any problems relating to diplomas, references, previous residency or other training, licensure, clinical privileges, DEA certification, and/or professional liability insurance as indicated on the employment applications. (VA Form 10-2850b, Application for Residency, for medical and dental residents and VA Form 10-2850c for other residents and trainees.)

(4) Residents functioning within the scope of their training program must meet clinical practice requirements as specified in VHA Handbook 1400.01, [Supervision of Physician, Dental, Optometry, Chiropractic, and Podiatry Residents]. The program director, or in certain cases, by the appropriate VA service chief must provide the TQCVL that confirms that ACGME-established criteria for the essentials and special requirements for residency training programs have been followed. Such residents are generally excluded from clinical privileging requirements required for VHA staff physicians, except as provided for in subparagraph d of this paragraph.

(5) Appendix II-K of this chapter contains a sample format for the TQCVL. It must include a list of all the paid or without compensation residents or trainees to be rotated at any time during the academic year to the VA facility.

(6) The facility chief of staff will retain the original TQCVL from each program director for the academic year in a Resident/Trainee Credentials Verification File for five years.

(7) Until the facility director countersigns the program director's TQCVL, a resident or trainee will not be allowed to participate in any of the patient care activities at the VA facility. There will be no exceptions to this policy.

c. **Application Form.** Prior to appointing any resident or trainee, the facility chief of staff or the facility director's designee will document in the VHA credentialing file evidence of current, full, and unrestricted licensure, registration, and/or certification has been verified by primary source from the SLB in which the applicant claims to have ever been licensed. The TQCVL may be cited as evidence of licensure verification and as evidence of verification of other required credentials. If the TQCVL is cited as evidence of credentials verification, this will be noted on the VA Form 10-2850b and 10-2850c or on VA Form 4682, Certification of Licensure, Registration, or Bar Membership.

d. **Employment of Residents as Admitting Physicians.** Medical residents functioning outside the scope of their training program who are appointed as admitting physicians must meet VA physician qualification standard requirements, including licensure in a state, be fully credentialed in accordance with provisions of this section, and be privileged in accordance with provisions applicable to VHA staff physicians.

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SECTION D. CENTRAL OFFICE AND OTHER APPOINTMENTS AND DESIGNATIONS UNDER 38 U.S.C. 7306

1. STATUTORY DESIGNATIONS. 38 U.S.C. 7306 provides for the appointment by the Secretary of a limited number of employees to fill specifically designated positions in VHA. These positions include:

a. Deputy Under Secretary for Health

b. Associate Deputy Under Secretary for Health

c. Eight Assistant Under Secretaries for Health (AUSH), including one dentist responsible for the operations of Dental Service. Not more than two AUSHs may be individuals qualified in administering health services who are not physicians or dentists. One AUSH must be a physician trained in or with extensive experience in geriatrics responsible to the Under Secretary for Health for evaluating all research, educational and clinical health care programs in VHA in geriatrics and who serves as the principal advisor to the Under Secretary for Health in this area.

d. Medical Directors

e. Chief Officers for the Office of Nursing Services and the Pharmacy Benefits Management [Services].

f. Directors of Chaplain Service, Nutrition and Food Service, Podiatry Service, and Optometry Service.

g. Directors of professional or auxiliary services.

2. GENERAL APPOINTMENT REQUIREMENTS. Persons appointed under authority of 38 U.S.C. 7306 will be required to meet the basic qualifications set forth in 38 U.S.C., chapter 73 or 74 and VA qualifications standards. Recommendations for appointment will be made by the Under Secretary for Health and forwarded with appropriate documentation through the Assistant Secretary for Human Resources and Administration to the Secretary for approval. An application form is required for candidates who are not VA employees.

3. TERMS OF APPOINTMENT

a. **Length of Appointments and Reappointments.** Except for the Director, Chaplain Service, appointments made by the Secretary under authority of 38 U.S.C. 7306 will be for a period of four years.

(1) Individuals may be reappointed for successive four-year periods.

(2) Upon expiration, initial appointments or reappointments may be *extended* by the Secretary for any period not to exceed three years. Appointments may be extended any number of times, but the combined period of continuous service on such extensions may not exceed three years.

(3) Individuals serving on 38 U.S.C. 7306 appointments may be reassigned at the same grade level during a period of initial appointment, reappointment, or extension of the appointment. However, if a reassignment involves a change in grade, the employee must be given a new four-year appointment.

(4) Individuals serving on initial 38 U.S.C. 7306 appointments, reappointments or extensions are subject to termination or suspension actions for cause by the Secretary per the provisions of VA Handbook 5021, Employee/Management Relations.

b. **Senior Medical Investigators.** See M-3.

c. **Director, Chaplain Service.** Under the provisions of 38 U.S.C. 7306(e)(1), the Secretary may designate a member of the Chaplain Service of VA as Director, Chaplain Service, for a period of two years. Redesignation may be made for any period not exceeding two years.

d. **Reemployment After Appointment Under 38 U.S.C. 7306**

(1) The Under Secretary for Health may recommend to the Secretary reappointment of individuals appointed under 38 U.S.C. 7306.

(2) An employee initially appointed under authority of 38 U.S.C. 7306 may be reemployed under authority of 38 U.S.C. 7401(1), except for individuals ineligible for such an appointment.

(3) An employee who relinquished an appointment under 38 U.S.C. 7401(1) in order to accept an appointment under 38 U.S.C. 7306 shall be entitled to reemployment under authority of 38 U.S.C. 7401(1) upon termination of the appointment under 38 U.S.C. 7306 for any reason other than cause.

(4) An employee who relinquished a permanent appointment under 38 U.S.C. 7401(3) in order to accept an appointment under 38 U.S.C. 7306 shall be entitled to reemployment under authority of 38 U.S.C. 7401(3) upon termination of the appointment under 38 U.S.C. 7306 for any other reason than cause.

(5) An employee who relinquished a permanent title 5 appointment in the competitive service in order to accept an appointment under 38 U.S.C. 7306 shall be entitled to reemployment in the competitive service under authority of title 5 upon termination of the appointment under 38 U.S.C. 7306 for any reason other than cause.

(6) An employee who relinquished a permanent title 5 appointment in the excepted service in order to accept an appointment under 38 U.S.C. 7306 shall be ineligible for noncompetitive reemployment in the competitive service under the authority of title 5 upon termination of the appointment under 38 U.S.C. 7306, unless the employee had otherwise previously gained eligibility for reemployment in the competitive service under the authority of title 5.

e. **After Designation as Director, Chaplain Service Under 38 U.S.C. 7306(e)(1).** An employee designated as Director, Chaplain Service, shall be entitled to return to the position, grade, and status held immediately prior to this designation upon completion of the period of service. All service as Director, Chaplain Service, shall be creditable as service in the position held prior to the designation.

SECTION E. GENERAL APPOINTMENT PROVISIONS UNDER 38 U.S.C. CHAPTER 74

1. APPOINTMENT PROCESSING REQUIREMENTS.

a. **Applications Received by Facilities.** Applications received by facilities will be referred promptly to the Human Resources (HR) Office. The HR Office staff will review applications for compliance with administrative and regulatory requirements. Candidates who fail to meet these requirements and thus fail to qualify for appointment will be notified by the Human Resources Management Officer. Applications from selectees who meet VA requirements for appointment under 38 U.S.C § 7401(1) will be referred to the appropriate [supervisory official] for necessary action as follows:

NOTE: See section F of this part for those occupations under 38 U.S.C. § 7401(3)):]

(1) Selection and Appointment Action.

(b) The [supervisory official, in collaboration with HR,] will evaluate qualifications and recommend a grade level and step based on VA qualification standard requirements. Except for physicians, dentists, and podiatrists, the [supervisor] will also recommend a rate of pay with due consideration being given to prior service and professional achievement. (See VA Directive and Handbook 5007, Pay Administration, Part II.) [ ] For physician service chiefs and comparable positions, see appendix II-H1.

(c) For podiatrists, see appendix II-H3.

(d) For optometrists, see appendix II-H4.

(e) For chiefs of nurse anesthesiology sections, see appendix II-H6.

[ ]

(f) For Chiefs of Pharmacy Service (all grades), [ ] see appendix II-H8.

(g) For occupational and physical therapists as section chief, see appendix II-H9.

(h) For registered nurses [and advanced practice nurses] at grades IV and V, see appendices II-H5.

(i) For Dentists and EFDAs, see appendix II-H2.

(j) For doctor of chiropractic, see appendix II-H10.

NOTE: See section B, paragraph 11 of this chapter for provisions relating to Deans Committee recommendations.

(2) **Action When No Facility Vacancy Exists.** When a facility receives an application and no appropriate vacancy exists at that facility, and the applicant wishes employment elsewhere, the HR Officer will advise the applicant to consult the VHA vacancy database [www.vacareer.va.gov] for the location of current vacancies. At the applicant's request, the application will be referred for employment consideration to the VA facility of the applicant's choice which has a suitable vacancy.

b. **Applications Received by Central Office.** If the applicant is to be considered for facility assignment, the application will be referred to the facility of the applicant's choice and processed as provided in subparagraph (1). If the applicant is to be considered for Central Office assignment, an interview may be conducted in Central Office or at a VA facility determined to be more convenient. The [hiring official] will consider the applicant's professional qualifications [ ] and forward [selection] to the appropriate approving authority. The [servicing HR Office for VA] Central Office will take the necessary appointment action.

c. **Applicants Not Recommended for Appointment.** When an applicant is not recommended for appointment [ ], the applicant will be notified in a letter, signed by the facility chief of staff or appropriate approving authority that the individual's appointment has not been recommended. The letter will briefly state the basis for the action. The letter should be reviewed by the HR Officer for adherence to technical requirements.

2. APPOINTMENT ABOVE THE MINIMUM FOR SUPERIOR QUALIFICATIONS.

a. Full-time, part-time or intermittent podiatrists, optometrists, chiropractors, RNs, APNs, PAs, and EFDAs, who meet the qualification requirements for appointment, may have their initial rate of pay fixed at a step rate above the minimum of the appropriate grade in recognition of superior qualifications, experience, and/or achievement exceeding the expected standards for the grade. The initial rate of pay may be set at any step rate within the grade (See VA Directive and Handbook 5007, Pay Administration, Part II.)

NOTE: Physicians and dentists are not eligible for appointment above the minimum rate of the grade. The step rate for a physician or dentist is determined by the number of total years of service the individual has worked in the VHA as reflected by his/her VA service date. However, superior qualifications for physicians and dentists can be addressed through the use of market pay. See part IX of VA Handbook 5007, Pay Administration.

b. Individuals appointed under authority of 38 U.S.C. § 7401(3), or under authority of 38 U.S.C. 7405 to occupations identified in 38 U.S.C. § 7401(3), may be appointed above the minimum step of the grade under provision of VA Directive and Handbook 5007, Pay Administration. This includes hybrid title 38 occupations. The step rate for occupations under 38 U.S.C. § 7401(3) cannot be based on the number of years of experience alone. The specific criteria for steps above the minimum rate in VA Handbook 5007, Pay Administration, Part II, Chapter 3, Paragraph 3b must be justified.

c. Appointment at a step rate above the minimum shall be based on conclusive evidence of superior qualifications which equates to the step rate assigned. Qualifications used to meet minimum grade level requirements in the qualification standard will not be used to also justify appointment at a step rate above the minimum of the grade. Determinations as to whether an individual should be appointed at a step rate above the minimum will be made fairly, consistently and according to Department criteria. The following are examples of appropriate criteria:

(1) Significant and distinguished contribution in some phase of the appropriate occupation as evidenced by difficult and original research, writing, and publications in professional media of stature or special recognition in teaching, or professional practice.

(2) Special competence in the occupation as evidenced by service with professionally recognized committees, groups or responsible offices in professional societies above the local level, or consultative services within the occupation. The competence attained must be supported by achievement of renown on a regional or wider basis.

(3) Educational preparation that clearly exceeds requirements for the grade, expertise in specialized treatment modalities, outstanding competence as a clinical practitioner or significant contributions concerning some aspect of the occupation.

(4) Eligibility for certification or certification by an American Specialty Board.

(5) Certification by the appropriate national certifying body to formally recognize a level of excellence based on demonstrated superior performance in clinical practice, assessment of knowledge and colleague endorsement.

(6) Other appropriate evidence of professional stature.

d. [ ] **Processing.** The approval of step rates above the minimum is subject to the following requirements:

(1) **RNs/APNS.** The facility director (or nurse executive, if so delegated) [ ] may approve the appointment of RNs at any step above the minimum of the grade.

(2) **APNs (CNAs).** The facility director [(or chief of staff or nurse executive, if so delegated)] may approve the appointment of APNs (CNAs) to any step above the minimum of the grade. APNs (CNAs) appointed on or after May 4,1993, may not be appointed at a step rate above the minimum for the grade based on certification by the Council on Certification of Nurse Anesthetists. Certification is a condition of employment and may not be used as a basis for appointment above the minimum step of the grade on initial appointment or reappointment.

(3) **PAs.** The facility director [ ] may approve the appointment of PAs to any step above the minimum of Chief grade or below.

SECTION F. APPOINTMENTS UNDER 38 U.S.C. § 7401

1. **GENERAL.** The primary consideration, prior to making selections and appointments under this authority, is to evaluate qualifications and personal characteristics as they relate to what is essential to successful performance of assigned responsibilities. Prior to effecting appointments under this authority, [ ] HR staff [ ] and hiring officials are required to determine that the candidate's professional qualifications, physical and mental capacity, emotional stability, and any other pertinent qualifying factors, warrant a permanent appointment. The use of this appointment authority should essentially provide tenure for the employee and ensure the continuation of quality service for VHA. (See section G for procedures concerning full-time temporary, part-time, intermittent or fee-basis appointments under 38 U.S.C. § 7405.)

2. **APPOINTMENTS UNDER 38 U.S.C. § 7401(1).** Only full-time permanent appointments of physicians, dentists, podiatrists, optometrists, chiropractors, RNs, APNs, PAs, and EFDAs are made under authority of section 7401(1). These appointments are subject to a two-year probationary period requirement as specified in 38 U.S.C. § 7403(b)(1). (See Sections A and G of this chapter for probationary period requirements for individuals appointed as part-time or intermittent registered nurses under 38 U.S.C. § 7405(a)(1)).

   a. [The appropriate supervisor will obtain approval to fill a vacant position in accordance with local facility procedures. Once approval is obtained, the service will initiate the recruitment action and contact the servicing HR Office.

   b. Before recruitment is initiated, HR staff will work in collaboration with the hiring official and/or designated occupational subject matter expert (SME) to identify the eligibility and qualifications requirements pertaining to the assignment and grade level for the position to be filled in accordance with the qualification standards found in VA Handbook 5005, Part II, Appendix G. If the hiring official is not a SME in the profession, the supervisor must consult with the profession's SME throughout the recruitment and onboarding process for the vacant position.

   c. Once applications are received, HR staff will determine eligibility and qualifications in accordance with standards found in VA Handbook 5005, Part II, Appendix G, document the determination as instructed by VHA national policy office and recommend the appropriate grade to the hiring official for appointments, promotions, reassignments, details, and change to lower grades. The qualification determination for each applicant must be documented by HR completing a separate VHA qualification form for each of the applicants.

   d. HR staff will notify candidates who fail to meet the requirements and fail to qualify for appointment.

e. Processing requests for promotions, reassignments, and change to lower grades must be made in compliance with VA Handbook 5005, Staffing, Part III, Chapter 4, paragraph 9.

f. The hiring official will receive a list of qualified applicants from HR staff for consideration of the vacancy. If the hiring official is not a SME for the profession, the hiring official must consult with the profession's SME throughout the recruitment and onboarding process for the vacant position. The hiring official and/or occupational SME will review applicant(s) referred for selection. This may take the form of a panel.

   (1) Acceptable SMEs may be identified by national program offices for specific assignments.

   (2) If a SME designation is not made by the national program office for the assignment, then a SME is a person with direct knowledge or with bona fide expert knowledge of what is performed in the job.

   (3) An SME must have received training on the requirements in the qualification standard for the occupation/assignment and should typically be at or above the grade levels being considered for the candidate.

g. The SME will resolve any issues and/or concerns with HR regarding functional statements, announcements, and qualification determinations of applicants being referred and considered.

h. When there is a disagreement on the interpretation of a qualification standard for the development of a functional statement, posting of vacancy or qualification standard determination, the servicing HR Office will request guidance, interpretation, and decision from the Office of Workforce Management and Consulting (WMC). WMC will seek guidance from the designated national program office. If further resolution is needed, WMC will consult with the OCHCO, Recruitment and Placement Policy Service (059).

i. The Facility/Medical Center Director/Network Director or delegated officials will (for personnel under their jurisdiction) review and serve as the deciding official on requests for above the minimum entrance rate on appointments. (See VA Handbook 5007, Pay Administration, Part VI, chapter 6.)

j. The Under Secretary for Health or delegated/designated Central Office Officials will (for personnel under their jurisdiction) review and serve as the deciding official on requests for above the minimum entrance rate on appointments.]

3. APPOINTMENTS UNDER 38 U.S.C. § 7401(3). Only full-time permanent appointments of hybrid title 38 employees are made under authority of section 7401(3). These appointments are subject to title 5 probationary period requirements. (See chapter 2, section A, paragraph 9, this part.)

a. The supervisor at the appropriate level will obtain an approval to fill a vacant position in accordance with local procedures. Once approval is obtained the service will initiate recruitment action and contact the servicing HR Office.

b. Before recruitment is initiated, HR staff will work in collaboration with the [selecting official and/or designated occupational subject matter expert (SME)] to determine the eligibility and qualifications requirements that pertain to the assignment and grade level for the position to be filled in accordance with the qualification standards found in VA Handbook 5005, Part II Appendices found in Appendix G. If the [selecting official] is not a subject matter expert in the profession, the supervisor must consult with the profession's subject matter expert throughout the recruitment and onboarding process for the vacant position.

c. HR staff will determine eligibility and qualifications in accordance with standards found in VA Handbook 5005, Part II found in Appendix G, document the determination as instructed by VHA national policy office and recommend the appropriate grade to the selecting official for appointments, promotions, reassignments, [details] and change to lower grades. The qualification determination for each applicant must be documented by HR staff completing a separate VHA qualification form for each of the applicants.

d. HR staff will notify candidates who fail to meet the requirements and fail to qualify for appointment.

e. Processing requests for promotions, reassignments and change to lower grades in compliance with VA Handbook 5005, Part III, Chapter 4, paragraph 9.

f. [The selecting official will receive a list of qualified applicants from HR staff for consideration of the vacancy. If the selecting official is not a SME for the profession, the selecting official must consult with the profession's SME throughout the recruitment and onboarding process for the vacant position. The selecting official and/or the occupational SME will review applicant(s) referred for selection. This may take the form of a panel.

g. An SME is one who holds a position that is designated by the national program office as the SME (e.g., Social Work Chief) through guidance provided in policy; or if the SME designation is not made by the national program office, then an SME is a person with direct knowledge or with bona fide expert knowledge of what is done in the job. An SME must have received training on the qualification standard of the occupation and assignment. The SME will address any issues

and/or concerns with HR regarding functional statements; announcements; and qualification determinations of applicants being referred and considered. When there is a disagreement on the interpretation of a qualification standard for the development of a functional statement, posting of vacancy or qualification determination, the servicing HR Office will request guidance, interpretation, and decision from the Office of Workforce Management and Consulting (WMC). WMC will seek guidance from the designated national program office and/or Recruitment and Placement Policy Service (059) when appropriate and/or necessary.]

h. Once a selection is made the supervisor will consult with HR and the profession subject matter expert (if applicable) and submit supporting documentation for utilization of pay setting flexibilities (if applicable) found in VA Handbook 5007, Pay Administration, Part II, Chapters 2, 3 and 4, pertaining to hybrid title 38.

i. Facility/Medical Center Director or Network Director will (for personnel under their jurisdiction) review and serve as the deciding official on requests for additional steps above the minimum on appointments.

NOTE: For more information on probationary periods, see section A, paragraph 4 of this chapter and VA Directive and Handbook 5021, Employee/Management Relations, Part III.

SECTION G. APPOINTMENTS UNDER 38 U.S.C. § 7405

1. TEMPORARY FULL-TIME APPOINTMENTS UNDER 38 U.S.C. § 7405(a)(1).

a. **General.** Temporary full-time appointments are made under authority of 38 U.S.C. § 7405(a)(1). These appointments may be made when they are in the best interest of the service, such as under the following circumstances:

(1) To employ individuals in occupations identified in sections 7401(1) and 7401(3) when the work to be performed by the employee is of a temporary nature and can be completed within a 3-year or shorter period.

(2) To employ [temporary full-time RNs, APNs, PAs, EFDAs or hybrid title 38 employees pending processing of probationary appointments when the applicants meet the basic requirements for appointment. [ ] This includes appointments above the minimum step of the grade for temporary full-time RNs, APNs, PAs, and EFDAs provided the application and related documentation show evidence of superior qualifications as described in section E, paragraph 2 of this chapter.

(3) To employ physicians pending processing of probationary appointments when probationary appointments require the approval of the Under Secretary for Health or designee.

(4) To employ residents who have just completed their formal VA residency training and are awaiting probationary appointment.

(5) To reemploy annuitants.

(6) To employ noncitizens when it is not possible to recruit qualified citizens for necessary services.

(7) To employ non-licensed physicians, dentists, podiatrists, optometrists, and chiropractors for utilization in research or academic positions or in positions where there is no direct responsibility for the care of patients. (See section B, paragraph 14.)

(8) To employ non-licensed physicians, dentists, podiatrists, optometrists, chiropractors, or unregistered nurses and nurse anesthetists when the individual is to serve in a country other than the United States and the individual is licensed or registered in the country in which the individual is to serve. (See section B, paragraphs 14 and 15.)

(9) To employ physicians in the Research and Development Program as research associates [ ].

(10) To employ physicians in the Distinguished Physician Program [ ].

b. **Duration of Appointments.** Temporary full-time appointments may be made for any period up to three years depending on the needs of the service. Such appointments may be renewed, but the aggregate period of temporary service normally will not exceed six years. The facility director may grant exceptions to permit renewals (in increments of up to three years) beyond six years when this type of appointment best meets the needs of the VA medical program.

c. **Consideration for Probationary or Permanent Appointment.** Individuals serving under this type of appointment who meet requirements in 38 U.S.C. § 7402 and in the appropriate VA qualification standard may be considered [ ] for an appointment under 38 U.S.C. §§ 7401(1) or 7401(3), as appropriate, on recommendation of the appropriate service chief or equivalent position. If their services are needed for an indefinite period, they should be considered for such an appointment in connection with any consideration for an additional 3-year appointment.

d. **Processing.** Applicants for temporary full-time appointments will be processed in the same manner as regular full-time appointees, except the qualifications of RN, APN, PA, and hybrid title 38 applicants being considered for temporary full-time appointments pending processing of a probationary appointment will be reviewed by the appropriate service chief or equivalent position. The service chief will make a recommendation for appointment to the facility director [or delegated deciding official].

2. PART-TIME AND INTERMITTENT APPOINTMENTS UNDER 38 U.S.C. § 7405(a)(1).

a. Use of Part-Time and Intermittent Personnel.

(1) It is VHA policy to use the services of qualified individuals on a part-time or intermittent basis when necessary to alleviate recruitment difficulties and in all cases where VHA work requirements do not support employment on a full-time basis. Decisions concerning utilization of part-time or intermittent employees must be related to patient care and other VA work requirements and supported by relevant staffing guidelines. Part-time physicians on adjustable work hours are also to be held accountable for providing the expected level of patient care and other services to VA as outlined in the Worksheet for Determining Percentages on Memorandum of Service Level Expectations, Appendix B, VA Handbook 5011, Hours of Duty and Leave.

(2) A part-time appointment shall be utilized when an employee’s services are required on less than a full-time basis. An intermittent appointment shall be used when the need for services is of such a nature that it is not possible or desirable to establish a regular and prearranged schedule.

(3) Part-time or intermittent appointments may be made either on a time-limited basis or without time limit depending on the needs of the facility.

(4) Part-time and intermittent appointments shall be reviewed on a regular periodical basis and when vacancies occur and when there are significant workload changes to as certain whether the utilization specified is realistic and meets the objectives of the organizational unit's staffing plan. Network and medical center directors must document each review assessing whether or not the position meets VA's needs. When actual utilization does not meet original expectations, the appointment action shall be amended to show the new conditions of utilization. For part-time physicians on adjustable work service level agreement.

(5) [VA HR office staff may affect a temporary part-time appointment of non-citizens for any period up to 3 years when it is not possible to recruit qualified United States (U.S.) citizens for necessary services, depending on the needs of the service. VA HR office staff may renew these appointments only when no qualified U.S. citizens are available. The aggregate period of temporary service normally will not exceed 6 years. The facility Director may grant exceptions to permit renewals (in increments of up to 3 years) beyond 6 years when this type of appointment best meets the needs of the VA medical program.]

b. **Special Provisions for Part-Time Physicians on Adjustable Work Hours.** Part-time physicians on adjustable work hours must sign a memorandum related to service level expectations as outlined in VA Handbook 5011, Hours of Duty and Leave. Physicians may decide to discontinue complying with the Memorandum of Service Level Expectations at any time. However, this must be done in writing as a current, signed memorandum related to service level expectations is required to participate in adjustable work hours. In addition, a memorandum related to service level expectations does not alter the applicability of VHA regulations and procedures concerning terms, conditions, and duration of employment, nor does this memorandum constitute an employment contract.

c. **Processing Appointments.**

(1) Part-time and intermittent appointments made under authority of 38 U.S.C. § 7405(a)(1) will be processed (including Board Action for occupations under 38 U.S.C. § 7401(1)) in the same manner as regular full-time appointments. Appointees must meet the basic requirements for appointment in VHA.

(2) For part-time employees, the expected number of hours to be performed during the service year will be determined before an appointment is

affected. The expected number of hours will also be recorded on SF 50-B and will not be exceeded unless the facility director authorizes the excess.

(3) A part-time or intermittent employee appointed under 38 U.S.C. § 7405(a)(1) (except Physicians) may not be scheduled for employment which will exceed 1872 hours of full-time employment during a calendar year. Generally, for employees who hold more than one type of appointment (i.e., fee-basis and part-time or intermittent), the combination of basic pay and fees may not exceed the basic salary of a seven-eighths

part-time employee in the same grade and step in a fiscal year. (See VA Directive and Handbook 5007, Pay Administration.)

3. UTILIZATION OF CONSULTANTS AND ATTENDINGS.

a. **General.** This paragraph contains procedures for the employment of consultants and attendings on an individual basis under the authority of 38 U.S.C. § 7405(a)(1) or (2).

b. Definitions.

(1) **Consultant.** A well-qualified specialist in an occupation identified in 38 U.S.C. 7401(1) or (3) who is capable of giving authoritative views and opinions on subjects in the consultant's particular field. A consultant's expertise may consist of broad administrative or professional experience enabling the consultant to give advice of distinctive value.

(2) **Attending.** An individual in an occupation identified in 38 U.S.C. §§ 7401(1) or (3) of demonstrated ability in the field who is employed to perform or supervise the performance of duties related to various professional activities such as teaching, patient treatment, etc.

(3) **Nonmedical Consultant.** An individual, not in one of the occupations indicated in subparagraphs (1) and (2), who has excellent qualifications and a high degree of attainment in the consultant's field. Because of superior knowledge, and mastery of principles and practices, the consultant is regarded as an authority or practitioner of unusual competence.

(4) **Lump-Sum Fee.** A method of paying consultants and attendings by the payment of a flat sum for each visit or period of service rendered. It consists of the fee for services to be rendered, plus the cost of transportation if required, and per diem at the applicable rate if travel is involved. The service fee is that portion of the fee exclusive of travel and per diem allowances.

(5) **Per Annum Salary.** A method of paying consultants and attendings on a per annum basis. The salary is computed by multiplying the number of projected visits to be made during the year by the fee authorized per visit.

(6) **Salary Limitation.** A ceiling placed on the amount of compensation a consultant or attending may receive from VA during the fiscal year.

(7) **Visit.** Attendance at a VA facility for consultation or conference work of a continuing nature dealing with one or more cases or matters of a

professional nature. If a visit is interrupted by an overnight break, services performed on subsequent days are counted as additional visits.

c. Appointment and Reappointment Approving Authorities.

(1) The Under Secretary for Health or designee is the approval authority for appointments and reappointments of VHA Central Office consultants.

(2) The facility director is the approval authority for appointments and reappointments not requiring approval of the Under Secretary for Health or designee.

d. Types of Utilization.

(1) **Authority.** Consultants and attendings, including nonmedical consultants, are normally employed under the authority of 38 U.S.C. §§ 7405(a)(1) and 7405(a)(2). Section 7405(a)(1) will be used for all consultants and attendings paid on a per annum basis and section 7405(a)(2) for those paid on a lump-sum fee-basis.

(2) **Methods of Pay.**

(a) **Per annum.** Employment of consultants and attendings on this basis is predicated on general availability for recurring and regularly scheduled duty to meet the anticipated needs of VA.

i When a consultant or attending is available for duty but is not called to render service on a particular day of the scheduled tour, no recovery proceedings for payment will be instituted.

ii When a consultant or attending is unavailable for a particular period, the individual will be in a non-pay status and the salary reduced for the number of projected visits missed. If the individual is frequently unavailable for call, a change to lump-sum fee-basis utilization should be considered.

iii Normally, the number of visits made during the fiscal year will equal or exceed the projected number used in computing the per annum salary. The exception would be those cases of reducing salary for unavailability as outlined in subparagraph 2. However, if experience during the fiscal year shows that the original projection of the need for services was too high or too low, the chief of staff will notify the HR Officer to modify the appointment to reflect the new conditions of utilization. The action will be effective at the beginning of the next pay period.

(b) **Lump-Sum Fee-Basis.** This type of utilization is required for intermittent services. In addition, it is required in the employment of consultants and attendings who have been authorized to perform services at other than VA facilities; and when travel is performed on a day immediately before and/or after service is rendered. At the option of local management, lump-sum fee-basis may also be used for regularly scheduled services.

(c) **Without Compensation (WOC) Basis.** Services of consultants and attendings may be accepted on a WOC basis under the same conditions applying to other WOC individuals covered in paragraph 7 of this section.

e. Employment Requirements and Determinations.

(1) **Qualification Requirements.** Consultants, attendings, and nonmedical consultants must meet the basic requirement of 38 U.S.C. § 7402 and/or appropriate qualification standards, in addition to having outstanding professional ability in their respective fields. [ ]

(2) **Duration of Employment.** Consultants and attendings will be employed for a fiscal year or fraction thereof, depending on the need. All appointment and reappointment actions will be made to terminate not later than September 30 of each year. Past appointments will be reviewed annually by the HR Officer and reappointments effected only for those consultants and attendings the facility expects to use during the upcoming fiscal year.

(3) **Dual Employment.** The dual employment of consultants or attendings may be approved in accordance with the provisions of section A, paragraph 3b, this chapter. It is the responsibility of facility officials to as certain whether or not a consultant or attending serves another VA facility or another Federal agency and to make sure that the individual is not paid by VA for more than one visit a day. The apportionment of the maximum annual pay limitation for each type of employment should be furnished by the facility requesting dual employment.

f. Appointment and Reappointment Procedures.

(1) **Recommendations for Approval.** See section B of this chapter for application, interview and credentialing requirements relating to the appointment of consultants and attendings.

(2) **Processing.**

(a) **Central Office Consultants.** For Central Office consultants, FL 10-332, Letter of Appointment on a Lump-Sum Fee-Basis, will be used

for appointments and reappointments and will be prepared for the signature of the Under Secretary for Health. Reappointment letters will be automatically produced by the Austin Automation Center (AAC).

(b) Security Forms - Dual Employment.

i The HR Officer will ascertain whether the required security forms have been processed in order to avoid duplication of effort. It generally should be possible to determine this by review of the application form or contacting the individual to find out whether the person is being utilized by another VA facility or another Government agency. In that case the necessary information may be secured from the particular VA facility or the Government agency and a copy of any correspondence placed in the employee's file folder to obviate further processing of security forms.

ii When processing of security forms is required, the HR Officer located nearest the residence of the consultant or attending, or as agreed on locally by the HR Officers of the applicable facilities, will prepare the necessary security forms. The HR Officer, after processing the forms, will notify the HR Officer(s) of the other facilities where the individual is being utilized. Evidence of such notification will be filed by each facility in the employee's file folder.

NOTE: See VA Directive and Handbook 0710, Personnel Suitability and Security Program.

(c) **Appointments.** The HR Officer is responsible for processing appointments of consultants and attendings.

i **Per Annum.** Appointment actions for consultants and attendings on a per annum basis under authority of 38 U.S.C. § 7405(a)(1) will be effected using SF 50 B, Notification of Personnel Action. SF 50-B will reflect the following information:

(A) The nature of action will be "Excepted appointment NTE 9/30/(YR)____.

(B) Indicate under item 20 the per annum salary.

(C) In the "Remarks" section show "Computation of annual salary of $___is based on an estimated__visits at $____per visit during the fiscal year 20(YR). Entitlement to salary is based on availability for duty."

(D) In some cases, it may be necessary to modify an appointment to reflect new conditions of utilization. The "Remarks" section will show the revised basis of computation of the per annum salary.

ii **Lump-Sum Fee-Basis.** FL 10-332, Letter of Appointment on a Lump-Sum Fee-Basis, will be issued to appoint consultants and attendings on a lump-sum under authority of 38 U.S.C. § 7405(a)(2), including nonmedical consultants. A new letter will be issued if needs of the service and conditions of utilization change during the first year of appointment.

(d) Reappointments.

i **Per Annum.** Per annum consultants and as described in subparagraph (c) 1, except that the nature of action will be "Conversion to excepted appointment NTE 9/30(YR)_."

ii **Lump-Sum Fee-Basis.** Fee-basis consultants and attendings will be reappointed using FL-10-332a, Letter of Reappointment on a Lump-Sum Fee-Basis, in accordance with current VHA instructions. The form will be signed by the facility director, chief of staff, or HR Officer.

(e) Disposition of Forms.

i Applications and other forms for consultants and attendings will be placed in a file folder with a tab listing the individual's name, date of birth, and social security number.

ii Folders will be maintained alphabetically by appointment category and filed in location designed by the facility.

4. APPOINTMENT OF PROFESSIONAL AND TECHNICAL PERSONNEL ON A FEE-BASIS UNDER 38 U.S.C. § 7405(a)(2).

a. **General.** On recommendation of the facility chief of staff, the facility director may appoint professional and technical personnel on an on-facility fee-basis under authority of 38 U.S.C. § 7405(a)(2). The Chief, Dental Service, will recommend appointments of dentists and EFDAs. Appointments may be made for an indefinite period of time.

b. **Application.** Applicants will submit an appropriate application form to the facility where they seek employment. Forms to be used are VA Form 10-2850, Application for Physicians, Dentists, Podiatrists, Optometrists, and Chiropractors; VA Form 10-2850a, Application for Nurses and Nurse

Anesthetist; VA Form 10-2850c, Application for Associated Health Occupations or OF 612 [ ]. All items will be completed in sufficient detail to enable the responsible official to make determinations concerning citizenship, licensure or registration, and other qualifications. In emergency situations, the facility director may approve appointments of individuals who have not completed an application if applicants meet appropriate qualification requirements. (See section B, this chapter, for credentialing requirements, including those related to emergency appointments.)

c. Selection.

(1) The facility chief of staff will determine qualifications, select and recommend physicians, podiatrists, chiropractors, optometrists, RNs, APNs, and PAs. The Chief, Dental Service will do this for dentists and EFDAs.

(2) The HR Officer will determine qualifications for other professional and technical personnel consistent with VA or Office of Personnel Management requirements. The appropriate program officials will select and recommend employment for these individuals.

d. Appointment.

(1) **Approval Authority.** The facility director will approve appointments.

(2) **Letter of Appointment.** The facility director or HR Officer will sign a letter of appointment giving all pertinent details. The original of the letter will be given to the appointee, with copies to the servicing HR Office, Fiscal Service and the utilizing service.

(3) **Disposition of Forms.** Records of personnel appointed under this paragraph will be placed in a file folder (not personnel folder) with a tab listing the individual's name, date of birth, and social security number. These records will be maintained alphabetically by appointment category and filed in a location designated by the facility.

e. **Pay.** See VA Directive and Handbook 5007, Pay Administration, Part II.

NOTE: Persons authorized to provide outpatient services at VA expense on an off-facility fee-basis in professional offices, clinics or other non-VA facilities are not considered employees for the purposes of this chapter. Instructions for their utilization are contained in VHA Manual M-1, part I, chapter 18.

5. APPOINTMENT OF STUDENTS AND OTHER TECHNICIANS UNDER 38 U.S.C. § 7405 (a)(1)(D).

a. General.

(1) **Student Technicians.**

(a) A student enrolled in an approved nursing school, an approved school of nurse anesthesia or enrolled in an approved training or educational program for an occupation identified in 38 U.S.C. § 7405(a)(1)(A) or (B), may be appointed on a temporary full-time, part-time or intermittent basis under the provisions of 38 U.S.C. § 7405(a)(1)(D) for a period not to exceed the duration of the individual's program.

(b) The appointment of student technicians can help meet patient care needs and also enhance the recruitment of promising students for career service with VA. With the proper orientation to the assignment and under appropriate professional supervision, students can perform duties consistent with the courses they have successfully completed. For example, a student nurse technician could give medications under supervision of the registered nurse, give baths, check vital signs, provide tracheotomy care, and detect signs and symptoms of bleeding and respiratory problems.

(2) **Other Student Employment.**

(a) **General. [**Directors of health care facilities] may approve appointments of students in occupations other than those cited in paragraph (1) under authority of 38 U.S.C. § 7405(a)(1)(D).

(b) Selection.

i Candidates normally will be selected from among students whose interests or career objectives are in health care areas.

ii Normally, a panel will be established for the purpose of screening qualifications and ranking student applicants for selection consideration. Preference will be given to students whose qualifications, personal traits, and career motivation appear to offer the best potential for service in VHA and for future contributions to the career field in general. The hiring official will choose applicants for employment from the listing developed by the qualification-screening panel.

iii VA student volunteer workers who have demonstrated interest in a health-related career should be encouraged to apply for student employment. Selection of qualified students from this group encourages continued volunteer youth participation and acts as an incentive to other students to serve as volunteers.

iv The Human Resources Officer is responsible for the administration of this program, including determining the extent to which the program is publicized and the selection process to be used by the facility. This official is also responsible for documenting all such determinations once they are made.

(c) Funds.

i Available facility funds must be used. If research funds are used, appointments of students for medical research activities will be approved by the facility's Research and Development Committee. Education funds are not to be used for the employment of students.

ii This employment has no relation to authorized training programs or clinical clerkships under which paid or without compensation (WOC) students receive credits from affiliated universities.

(3) **Nurse Technician Pending Graduation.**

(a) In a limited number of states, students who have completed a designated segment of their nursing studies but have not yet graduated are permitted to obtain registration as a graduate professional nurse.

(b) A student enrolled in an approved nursing school who possesses active, current registration to practice nursing in a State may be appointed on a temporary full-time, part-time or intermittent basis under the provision of 38 U.S.C. § 7405(a)(1)(D) for a period not to exceed the duration of the individual's academic program.

(4) **Graduate Technicians.**

(a) A graduate nurse who has successfully completed a full course of nursing in an approved nursing school; a graduate physician assistant who has completed a full course of training as a physician assistant in an approved program; or a graduate of an approved training or educational program in an occupation identified in 38 U.S.C. § 7405(a)(1)(B), whose licensure or registration in a state, or certification by the appropriate national certifying organization, is

pending may be appointed on a temporary full-time, part-time or intermittent basis under the provisions of 38 U.S.C. § 7405(a)(1)(D) for a period not to exceed 2 years (e.g., graduate nurse technician, graduate physical therapy technician, graduate pharmacy technician, etc.). Appointments may not be extended.

(b) A graduate nurse or LPN who fails to qualify for registration [upon two attempts within 120 days of appointment,] will be separated from the service on 2 weeks' notice regardless of the termination date of the temporary appointment. In [unusual circumstances, the 120-day period for obtaining registration may be extended on a case-by-case basis (i.e., delays in State Nursing Boards ability for timely examination). Extensions must be requested in writing through the ADPCS, or equivalent, for a formal decision by the VISN Chief Nurse Officer (CNO), or equivalent. See VA Handbook 5005, Part II, Appendices G6a-G6d for information on graduate nurses for APN assignments.]

(c) A graduate PA or other hybrid title 38 employees who fails to qualify for licensure, registration or certification when required will be permitted to remain on VA rolls pending results of reexamination provided reexamination occurs prior to the expiration date of the temporary appointment.

(d) Graduate technician experience can be credited as successful nursing practice or as successful experience which may be used in meeting grade level requirements as indicated in the appropriate qualification standard.

b. **Approved Training or Educational Programs.** Approved programs must be in schools or educational institutions approved by the Secretary as indicated in the appropriate qualification standard.

c. **Approval Authority.** On recommendation of the appropriate service chief or equivalent, the facility director may approve technician appointments. The facility director may delegate approval authority for hybrid title 38 employees as indicated in paragraph 2 of section A, this chapter.

d. Processing.

(1) Student technicians will submit OF 612 [ ]. Nurse technicians pending graduation and graduate nurse technicians will submit VA Form 10-2850a. Other graduate technicians will submit VA Form 10-2850c.

(2) After determining that the applicant meets qualification requirements, the appropriate service chief or equivalent will forward SF 52, Request for

Personnel Action, to the HR Officer. Following approval by the facility director, the HR Officer will effect the appointment. [ ].

e. **Pay.** See VA Directive and Handbook 5007, Pay Administration.

f. **Conversions.** Processing technicians for conversion should be initiated prior to their eligibility dates whenever possible [ ]. Conversions will be effected the first day of the pay period following administrative approval.

(1) **Student Technicians.** A student technician who graduates from an approved school and is pending licensure or registration in a State, or certification by the appropriate national certifying organization, may be converted to a graduate technician appointment. [ ].

(2) **Nurse Technicians Pending Graduation.** Following graduation from an approved nursing school, a nurse technician selected for continued VA employment will be converted to a registered nurse appointment under 38 U.S.C. §§ 7401(1) or 7405(a)(1)(A) at the grade and step rate for which qualified, without regard to any other restrictions. [ ]

(3) **Graduate Technicians.** Following attainment of licensure or registration in a State or certification by the national certifying organization, a graduate technician selected for continued VA employment will be converted to an appointment in the appropriate occupation under 38 U.S.C. §§ 7401(1), 7401(3), 7405(a)(1)(A) or 7405(a)(1)(B).

6. [ ] APPOINTMENT OF MEDICAL SUPPORT PERSONNEL UNDER 38 U.S.C. §7405(a)(1).

a. General.

(1) 38 U.S.C. § 7405(a)(1) is primarily used to obtain the services of physicians, dentists, RNs, APNs and other individuals in occupations identified in 38 U.S.C. § 7401(1) and 7401(3). However, it may be used under certain conditions to obtain the services of medical support personnel in occupations other than those identified in 38 U.S.C. §§ 7401(1) and 7401(3). Appointments of medical support personnel, other than trainees and students, may be made on a temporary full-time basis for a period not to exceed three years, or on a part-time or intermittent basis for a period not to exceed one year. Full-time appointments under this authority may be renewed for one or more additional periods not in excess of three years each. Part-time and intermittent appointments are non-renewable. Appointments of associated health trainees and students in occupations other than those identified in 38 U.S.C. § 7401(1) and 7401(3) may be made on a temporary full-time basis not to exceed three years, or on a part-time or intermittent basis for a

period of time consistent with individual training program requirements. (See subparagraph b. below.)

(2) The use of this authority is desirable and appropriate for the employment of trainees accepted in VA associated health training programs; high school graduates and college students participating in the VHA summer employment program; students and others, particularly those engaged in the medical research programs, when it is determined impracticable to obtain the necessary services through regular competitive employment procedures. Under no circumstances may this authority be used to circumvent the competitive employment procedures, the competitive system pay limitations and the qualification requirements for competitive appointments.

b. Appointment of Associated Health Trainees.

(1) **Type of Appointment.** Appointments of trainees in VA associated health training programs are made by the facility director under the authority of 38 U.S.C. § 7405(a)(1) on a full-time basis, not to exceed 3 years, or on a part-time or intermittent basis for a period consistent with individual training program requirements. (See [VHA Handbook 1400.08, Education of Associated Health Professions and] Section H for discussion of limited circumstances when associated health trainees may be appointed under 38 U.S.C. § 7406.).

(2) **Qualification Requirements.** Trainees must meet citizenship requirements and shall be qualified as prescribed in appendices II-D of this part. Requests for approval to appoint paid noncitizen trainees will be forwarded to the Assistant Deputy Under Secretary for Health (10N_/143). Without compensation (WOC) appointments of noncitizen trainees may be approved by the facility director.

(3) **Selection and Appointment of Candidates.** Handbook 1400.08, Education of Associated Health Professions sets forth the selection process and the approval authority for appointment of trainees.

(4) **Appointment Action.** The HR Officer, with the approval of the facility director, will affect the appointment on SF 50-B. The type of action will be "Excepted Appointment NTE (date)".

c. Appointments of Other Medical Support Personnel.

(1) Criteria for Approval of Appointments

(a) Full-time appointments must be temporary not to exceed 3 years and are renewable for like periods. Part-time and intermittent

appointments must be temporary not-to- exceed 1 year and are non-renewable.

(b) Qualifications of appointees must be comparable to those required for competitive service employees performing similar duties.

(c) Compensation must be commensurate with that paid to competitive service employees occupying similar positions which are subject to the requirements of 5 U.S.C. Chapter 51. (See VA Directive and Handbook 5007, Pay Administration.)

(2) **Approval Authority.** Facility directors are authorized to approve appointments of medical support personnel, except for paid noncitizen associated health trainees. (See paragraph 3.b.(2) above.)

(3) **Documentation.** All appointments effected under the provisions of this paragraph will be properly documented to support the action.

(4) **Processing.** Applicants will submit the OF 612 [ ] to be processed for appointment in the same manner as other similar appointees.

7. ACCEPTANCE OF SERVICES ON A WITHOUT COMPENSATION BASIS UNDER 38 U.S.C. § 7405(a)(1).

a. **General.** The acceptance of the services of qualified individuals who may be directly or indirectly involved in patient care activities on a WOC basis is permissible. It is not intended that the services of individuals utilized on a WOC basis be accepted in place of those which are usually expected to be performed by personnel for whom funds are provided on a continuing basis.

b. Occupations Identified in 38 U.S.C. § 7401(1) and (3).

(1) **Authority for Appointment.** Services will be accepted under the authority of 38 U.S.C. § 7405(a)(1), except that any resident requiring a disbursement agreement will be appointed under authority of 38 U.S.C. § 7406. Appointments will be recommended by the Chief of Staff and approved by the facility director. (See section B of this chapter for credentialing requirements.)

(2) **Processing.**

(a) VA Forms 10-2850, 10-2850a, 10-2850b, 10-2850c or 10-2850d (for trainees) as appropriate, will be submitted by individuals who desire to participate in the VA medical program on an uncompensated basis.

(b) VA Form Letter 10-294, [WOC Personnel Authorization], will be issued setting forth the terms of utilization. Following approval of the

appointment by the facility director, the letter will be signed by the individual attesting to agreement to the conditions specified and countersigned by the HR Officer. The form letter will be prepared in duplicate, with the original given to the employee and the duplicate filed in a location designated by the facility and later disposed of in accordance with existing VHA instructions.

c. Student Trainees, Residents, Research Personnel, and All Others.

(1) **Classes.** The classes of personnel who may be utilized on a WOC basis are:

(a) Medical and dental students who serve as clinical clerks.

(b) Nursing students who are enrolled in hospital, college or university schools of nursing and who are assigned for clinical experience and instruction.

(c) Students and residents from affiliated institutions who are in associated health care occupations, such as all physical medicine and rehabilitation therapists and coordinators, orientation and mobility specialists, social workers, psychologists, medical technicians or technologists, medical radiology technicians, hospital librarians, pharmacists, medical record librarians, dietitians, dental hygienists, dental assistants, dental laboratory technicians, and other occupations listed in 38 U.S.C. §§ 7401(1) and 7401(3).

NOTE: Students in associated health care occupations who successfully complete an affiliated clinical education training program in a VA health care facility may be eligible for noncompetitive appointment under title 5 following graduation from an accredited institution of post-secondary education in accordance with 38 U.S.C. § 7403(g). (See Appendix II-C, this part.)

(d) Scientific and technical personnel and laboratory assistants who are utilized in a medical research program. Usually, individuals utilized on this basis are employed by associated medical or dental schools or universities to engage in medical or dental research for which a grant has been made under auspices of the VHA Office of Research and Development and their policies and procedures.

(e) The facility director is the approving authority for WOC appointments at facilities.

(2) **Full or Part-Time Utilization.** WOC appointments may be made on a temporary full- time or part-time basis, depending on the objective of the program.

(3) **Processing.** Employees should be processed and appointed as outlined in subparagraph b (2). When a large group of students is to be appointed, facility directors may adapt the FL 10-294 to a mass action type document for appointment purposes provided they retain its basic content. Applications for employment need not be solicited unless they are needed to comply with the requirements of section A, paragraph 3 and/or credentialing requirements of section B, this chapter.

(4) **Payments in Kind.** When facilities are available, students in certain designated programs approved by the Under Secretary for Health or designee, in return for services rendered, may be furnished quarters and subsistence during the whole or any part of the training period. Uniforms also may be laundered by VA if facilities are available. [ ]

d. **Noncitizens.** Noncitizens may be utilized on a WOC basis when no qualified citizens are available, and it is deemed to be in the interest of the facility.

8. OVERSEAS EMPLOYMENT OF NON-U.S. CITIZENS UNDER TITLE 38 U.S.C. § 7405 (a)(1).

a. **Scope.** This paragraph contains basic policies and procedures for appointing non-U.S. citizens at the VA Regional Office Outpatient Clinic, Manila, Republic of the Philippines in the following occupations:

(1) Physicians, dentists, podiatrists, optometrists, chiropractors, RNs, nurse anesthetists, PAs and EFDAs appointed under 38 U.S.C. § 7405(a)(1).

(2) Individuals appointed under 38 U.S.C. § 7405(a)(1) to occupations listed in 38 U.S.C. § 7401(3).

(3) Medical support personnel.

(4) Trainees in health care or associated health care occupations appointed under 38 U.S.C. § 7405(a)(1).

b. **Appointment Authority.** The Regional Office Director may appoint the following personnel:

(1) The categories of personnel listed in paragraph a (1) and (2) may be appointed on a temporary full-time, part-time, intermittent, without compensation or fee-basis.

(2) Medical support personnel may be appointed on a temporary full-time basis not to exceed three years, or on a temporary part-time or intermittent basis not to exceed one year.

(3) Trainees in health care or associated health care occupations may be appointed on a full-time, part-time or intermittent basis with or without a time limit.

c. Qualification and Licensure Requirements.

(1) VA Qualification Standards will be used to determine the appropriate grade levels for applicants appointed under provisions of this paragraph. The Regional Office Director may, under unusual circumstances, approve a deviation from the grade requirements when the composite record of qualifications justifies the action.

(2) The Regional Office Director may waive the licensure, registration or certification requirements for the occupation, provided the individual is properly credentialed in the Philippines.

[ ]

d. **Physical Requirements.** The physical requirements and procedures for determining fitness for duty are governed by the provisions of VA Directive and Handbook 5019, Employee Occupational Health Service.

9. APPOINTMENT OF STUDENTS AND RECENT GRADUATES THROUGH THE VA CHOICE AND QUALITY EMPLOYMENT ACT OF 2017.

a. **Policy.** This paragraph establishes policy for appointing additional categories of students and recent graduates of qualifying educational institutions through the VA Choice and Quality Employment Act of 2017 (the Act). The Act, established through Public Law 115- 46, gives the Secretary of VA the authority to make excepted service appointments for students and recent graduates that lead to career or career conditional appointments, as applicable. This authority applies to title 5 occupations and extends appointment eligibility to students and recent graduates who fall in one of the following categories:

(1) Those employed in a qualifying internship or fellowship program at the Department;

(2) Those employed in the Department in a volunteer capacity and who are performing substantive duties comparable to those of individuals in internship or fellowship programs and who meet the required number of hours for conversion;

(3) Those employed in the Department under a contract or agreement with an external non-profit organization and who are performing substantive duties comparable to those of individuals in internship or fellowship programs;

(4) Those who have received Post 9/11 Educational Assistance under chapter 33 of title 38, United States Code (U.S.C.).

b. **Guidance.** Specific guidance for making excepted appointments and subsequent noncompetitive conversions using this authority are in Appendix II-D, Noncompetitive Appointment of Students and Recent Graduates through the VA Choice and Quality Employment Act of 2017, of this part.

SECTION H.
APPOINTMENT OF MEDICAL, DENTAL, [AND OTHER] RESIDENTS UNDER 38 U.S.C. [§] 7406

1. **GENERAL.** Medical and dental residents are appointed under authority of 38 U.S.C. § 7406 for graduate training leading to qualification in a specialty. (See [VHA Handbook 1400.09 Education of Physicians and Dentists] for policies relating to the establishment and maintenance of medical and dental residency programs in VA.). [Year-long associated health trainees such as podiatry, optometry, psychology, and others may be appointed as residents under 38 U.S.C. § 7406 if their program would benefit from utilization of a disbursement agreement as a payment mechanism.]

2. **METHODS OF APPOINTMENT AND COMPENSATION.** Medical and dental residents may be given full-time appointments and paid directly by VA through a direct stipend mechanism. (As indicated in [VHA Handbook 1400.09 Education of Physicians and Dentists], part-time appointments may not be used.) Residents may also be utilized on a WOC [ ] basis. Alternatively, when authorized pursuant to the [requirements in VHA Handbook 1400.05 Disbursement Agreements], they may be appointed and paid through a disbursement agreement with a medical school or other appropriate third party [disbursing agent. [Appointments of trainees in associated health programs may be made under the authority of 38 U.S.C. § 7406 (a)(1) on a full-time basis. These specific training programs and facilities must be authorized by written approval of the Office of Academic Affiliations (contact information may be found on the (Office of Academic Affiliation's Website.) to pay [associated health] trainees via the disbursement agreement mechanism.]

3. **APPOINTMENT DOCUMENTATION**

   a. For residents paid directly by VA, the nature of action on the SF-50-B is [ ]"170 Excepted Appointment" [ ] with the following statement in "Remarks:" "This appointment is for the duration of this training unless sooner terminated and is subject to periodic review [by the VHA Associate Chief of Education/Designated Education Officer].

   b. Residents paid from disbursement agreements must have without compensation VA appointments. A sample appointment letter has been created for this purpose that can be downloaded from the Office of Academic Affiliation's Website. A copy of this letter, [a completed 10-2850d form], and a completed Standard Form (SF) 61, Appointment Affidavit, will serve as the appointment documentation for residents with no prior federal service. These documents may be filed per local facility policy consistent with Privacy Act and Freedom of Information Act (FOIA) requirements. Residents with prior Federal service should be directed to the servicing Human Resources Management Office for any additional processing that might be necessary. Do not establish a personnel folder for, or process into the [HR Smart] system, residents covered by a full disbursement agreement unless the individual has prior Federal service and Civil Service Retirement System (CSRS) retirement coverage.

4. COMPENSATION

a. **Conditions of Direct Compensation.** The VA medical center may [pay residents directly via stipend continuously during their residency program. VA does not recommend using intermittent appointment authorities to take residents on and off the payroll. Residents who are paid via direct stipend mechanisms must be replaced by a Without Compensation exchange resident if they rotate to other non-VA facilities.] The second option is to pay a resident under a without compensation

exchange mechanism. Under this option, the resident continues to receive pay from VA while on training rotations to non-VA facilities based on the presence of exchange residents who hold VA WOC appointments.

b. **Without Compensation.** Residents may be utilized on a WOC basis. They will be processed for appointment as indicated in paragraph 5 below and appointed in accordance with section G, paragraph 7, this chapter.

c. **Disbursement Agreements.** When VA medical centers are authorized to appoint and pay residents through disbursement agreements, the instructions in VHA Directive 98-031 are to be followed.

5. PROCESSING

a. VA Form 10-2850b, Application for Residency, and, when requested by the facility Director, SF-88, Report of Medical Examination, will be submitted. (See VA Directive and Handbook 5019.)

b. Ordinarily, applications will be submitted to the Resident Review Board and to the Deans Committee for review and recommendation as to appointment and grade. Recommendations will be documented on VA Form 10-2850b.

c. On approval by the facility Director, the HRM Officer will effect the resident's appointment. On rejection by the Resident Review Board or the Deans Committee, the Chairman, Resident Review Board, will notify the applicant and explain the reasons. The SF 88 and VA Form 10-2850b will be returned to the applicant.

6. DETAILS. Details are documented and controlled by the office responsible for supervising the resident's training. The documentation includes the resident's name, length and location of detail, and salary.

7. HUMAN RESOURCES MANAGEMENT (HRM) OFFICER'S RESPONSIBILITIES. As part of the HRM Officer's overall staff responsibilities to provide advice and assistance on personnel matters, the HRM Officer will:

a. Advise and assist the Resident Review Board, Deans Committee and appropriate professional personnel in all aspects of the administrative processes.

b. Review resident appointments in relation to scheduling at the end of each 6-month interval. (It is the continuing responsibility of the appropriate service chief or equivalent to schedule residents in accordance with the resident's appointment and pay plan.)

8. CHIEF RESIDENT

a. **Purpose.** Facility directors may approve, with the concurrence of the Resident Review Board and Deans Committee or Medical Advisory Committee, the designation of medical and dental Chief Residents where required for the successful linkage of quality medical care with effective residency training.

b. **Responsibilities.** As the first level representative of the service chief or equivalent, the Chief Resident will be assigned specific responsibility for administration, consultation and education in the total program area. Typical assignments would be: duty scheduling, liaison officer with other facility services including the referrals for consultations, serving as a junior consultant, conducting the morning report and chart review conferences with service chiefs or equivalent, serving as a junior member of the facility, scheduling conferences and other educational activities, teaching students and house staff in formal and informal rounds, and consulting with house staff on the performance and progress of medical and dental residents assigned to the service.

c. **Selection.** The Chief Resident will be in at least the second year of residency training, and will have demonstrated exceptional ability in the specialty as well as teaching and administrative talents. The resident should have tact, understanding, maturity, and the respect of contemporaries. On recommendation of the concerned service chiefs or equivalent, the Chief of Staff will nominate candidates for Chief Resident. Nominations will be reviewed for concurrence by the Resident Review Board and Deans Committee or Medical Advisory Committee. Final approval of Chief Resident nominees rests with the facility Director.

d. **Service as Chief Resident.** Following approval by the Director, the Chief Resident will be paid the approved Chief Resident stipend rate on the date such duties are assumed. The duration of service as Chief Resident will be for any period approved by the Director during the remaining portion of the resident's approved residency training, except that the period may not exceed 1 year beyond the time the resident completes board requirements. Except for receiving the Chief Resident stipend rate in lieu of the rate otherwise payable, the Chief Resident will continue to serve in the same manner as other residents, in the position of "Physician (Resident)" or "Dentist (Resident)" at the grade appropriate to the year of training in accordance with the provisions of this manual.

NOTE: *See VA Directive and Handbook 5007 for information on Chief Resident stipends and MP-6, part V, supplement No. 1.5, for information on PAID processing requirements.*

APPENDIX A. EMPLOYMENT PROCEDURES FOR POSITIONS IN MANILA

1. ANNOUNCEMENT OF VACANCIES. Vacancies for which applicants are desired will usually be announced to all field facilities, or field facilities of the administration concerned, depending on whether such positions are usually filled through agency-wide consideration of candidates or limited to applicants within a single department. Vacancy announcements should be called to the attention of all eligible employees.

2. SUBMITTING AND PROCESSING APPLICATIONS

a. The names of employees who apply and meet qualification standards and legal requirements will be transmitted to the appropriate administration.

b. Employees who are within 3 months of meeting experience or time-in-grade requirements may be considered qualified.

c. The following data will be forwarded to the appropriate administration by the date specified in the vacancy announcement:

(1) Personnel folder;

(2) Current Federal employment application, in duplicate;

(3) Appropriate supervisory appraisals.

(4) Full name, date and place of birth, and relationship of dependents who would accompany employee; and

(5) Recommendation by facility Director as to suitability of the employee for the assignment.

d. When an employee is tentatively selected for assignment, the facility will be notified and requested to forward the following:

(1) SF 86, Questionnaire for National Security Positions, when required, in triplicate;

(2) SF 87, Office of Personnel Management (OPM) Fingerprint Chart;

(3) Reports of medical examination for employee and members of the family who will accompany the employee;

(4) VA Form 8207, Agreement for Assignment After Tour(s) of Duty Outside Continental United States, in triplicate;

(5) Transportation Agreement, in triplicate. (See MP-1, part II, chapter 2, appendix I.)

(6) SF 20, Residence and Dependency Report, in triplicate.

3. TRAVEL ARRANGEMENTS

a. An employee should not make arrangements for departure until notified that the selection is approved.

b. Upon approval of the employee's selection, the appropriate administration will notify the employee's current duty facility and the Manila regional office. Officials at the employee's current facility will ascertain from the employee the anticipated date of departure from the current duty facility, the mode of stateside travel, the expected date of departure from the port of embarkation, estimated weight of household goods and personal effects and whether an automobile will be included in the shipment. This information will be sent by the employee's current duty facility to the Manila regional office for preparation of travel orders.

c. The employee's current facility will initiate the requests for passports for the employee and appropriate family members. Requests will be forwarded through channels to the Director, Office of Human Resources, Veterans Benefits Administration in VA Central Office, at least 30 days prior to scheduled departure.

d. Arrangements for packing and shipping of household goods will be made by the transferee's current duty facility. The acquisition and materiel management officer at the transferee's current facility will counsel the transferee and request routing instructions in accordance with the provisions of VA Directive and Handbook 7240, Transportation and Traffic Management.

APPENDIX B. USE OF PRIVATE SECTOR TEMPORARIES

1. PURPOSE. This appendix provides requirements and guidance on contracting with temporary help service firms for private sector temporaries to meet short-term needs in VA.

2. BACKGROUND. The Government use of private sector temporaries is authorized in 5 CFR, part 300, subpart E. The authority is intended as an option which officials may consider in meeting short-term needs after good faith attempts to locate employees have been unsuccessful. Organizations are required to maintain basic records to establish that use of temporary help services is consistent with OPM requirements.

3. POLICY

a. VA will comply with the requirements identified in 5 CFR, part 300, subpart E, on Use of Private Sector Temporaries, Federal Acquisition Regulation (FAR) and Veterans Affairs Acquisition Regulation (VAAR) when contracting for private sector temporaries.

b. These regulations apply to VA positions under title 5, U.S. Code, in the competitive service as well as Schedules A and B in the excepted service. Temporary help services may not be used for the Senior Executive Service or for the work of managerial or supervisory positions. These regulations also do not apply to occupations covered by title 38, U.S.Code. Established procedures for scarce medical specialist contracts under 38 U.S.C. 7409 remain in effect.

c. Temporary help services shall not be used:

(1) In lieu of the regular recruitment and hiring procedures for permanent appointment in the competitive civil service;

(2) To displace a Federal employee;

(3) To circumvent controls on employment levels; or

(4) In lieu of appointing a surplus or displaced Federal employee as required by: the VA Career Transition Assistance Plan (VA CTAP) under 5 CFR, part 330, subpart F; and the Interagency Career Transition Assistance Plan (ICTAP) under 5 CFR, part 330, subpart G.

4. EQUAL OPPORTUNITY. Equal opportunity principles will be observed in the administration of this authority.

5. RESPONSIBILITIES

a. The Deputy Assistant Secretary for Human Resources Management and Labor Relations (05[ ]) is responsible for providing assistance to VA officials to ensure that the use of the authority is consistent with OPM regulations.

b. The Deputy Assistant Secretary for Acquisition and Materiel Management (90) is responsible for providing assistance to VA officials concerning the procurement and contract administration processes.

6. DELEGATIONS OF AUTHORITY

a. The authority to determine the need to contract for use of private sector temporaries is delegated to [Under Secretaries], Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries. This authority is further delegated as indicated below and shall not be delegated below the facility Director.

b. Pursuant to 38 U.S.C. 8110, the decision to contract in VHA is delegated to the facility Director.

c. In VA Central Office, the authority to determine the need to contract is delegated to [Under Secretaries], Assistant Secretaries, Other Key officials, and Deputy Assistant Secretaries with the concurrence of the Director, Central Office Human Resources Service (0[5HRS]).

d. The authority to determine the need to contract is delegated to all other facility directors.

7. PROCUREMENT. Contracts for use of temporary help services must be acquired in accordance with contract types and procedures stipulated in the FAR. In order to expedite the urgent acquisition of such services, establishing indefinite delivery/indefinite quantity contracts may be appropriate. Contracting activities may elect to submit solicitations to Acquisition Policy Team [049A5A] for technical/legal review if the estimated value is less than the threshold specified in VAAR 801.602-70.

8. REQUEST DOCUMENTATION. The checklist which is included in this appendix is to be used to ensure that work needs are communicated accurately, regulations are followed, and operating relationships among the using office, the Human Resources Management (HRM) office, and the procurement office are reflected. The HRM office should ensure VA's competitive service recruitment obligations are fulfilled before a requesting organization is given part I of the checklist to complete.

9. RECORDS MAINTENANCE INSTRUCTIONS. In all instances of contracting for private sector temporaries, the basis for the determination of the need for private sector temporaries shall be documented, and records pertaining to the procurement action maintained by the HRM office in an auditable form for possible VA or OPM review of individual actions. Facilities may dispose of checklists, justification statements and initial/extension request authorizations after the completion of an OPM compliance and evaluation review or after 3 calendar years have passed, whichever occurs first. Facility records will include the following:

a. Facility name, location, and host organizational element(s);

b. Name and telephone number of facility contact for information about the contract;

c. Request checklist, justification statements, and initial/extension authorization(s);

d. Total amount of money the facility paid to temporary help service firms;

e. Total number of hours worked at the facility by temporary help service firm employees (as reflected on firms' bills or employees' weekly work report);

f. Type of temporary help service performed; e.g., secretarial, typing assistance, accounting, computer support, engineering, medical, technical, other (specify); and

g. Procurement procedure used; e.g., purchase orders, negotiated contracts, blanket purchasing agreements, other (specify).

CHECKLIST FOR USE OF PRIVATE SECTOR TEMPORARIES

PART I. To be completed by requesting/using office.

Private sector temporaries may be used in accordance with requirements in 5 CFR 300, subpart E. At such time as you may wish to use private sector temporaries, please provide the following information for your Human Resources Management (HRM) office. Some of that information will be furnished to temporary help firms to secure outside temporary(ies) to match your particular needs.

1. OPM regulations authorize use of private sector temporaries in the two short-term situations described below. Check the one that exists in your work unit:

a. An employee is absent - for a temporary period because of a personal need, including emergency, accident, illness, parental or family responsibilities, or mandatory jury service. This does not include vacations or other circumstances which are not shown to be compelling in the judgment of the authorizing organization.

b. The organization must carry out work for a temporary period which cannot be delayed in the judgment of the authorizing organization because of a critical need. A critical need is a sudden or unexpected occurrence, an emergency, a pressing necessity, or an exigency. Such occasions are characterized by additional work or deadlines required by statute, Executive order, court order, regulation or formal directive from the agency head or subordinate official authorized to act for the agency head. A recurring, cyclical peak workload. by itself, is not a critical need.

2. Starting date needed: _____ Ending date: _____ If work is other than full-time continuing, also show workdays and/or hours needed.

NOTE: *An organization may use temporary help service firm(s) in a single situation for no more than 120 workdays. Provided that situation continues beyond the initial 120 workdays, an organization may extend its use of those temporary help services up to the maximum limit of 240 workdays. Also, an individual employee of any temporary help firm may work at a major headquarters or field organizational element for up to 120 workdays in a 24-month period. The authorizing organization may make an exception for an individual to work up to a maximum of 240 workdays only after determining that using the same individual's services will prevent significant delay. Otherwise, if an appropriate need still exists, a different outside temporary may be secured.*

3. Identify the exact work to be performed: typist, word processor, secretary, mail or file clerk, data entry clerk, receptionist, accountant, computer programmer, etc.

4. List the specific knowledges, skills, and abilities needed to do the job. (Position descriptions usually are too general for this purpose.)

5. What equipment will be used? Show make and model of personal computer, word processor, typewriter, mail sorter, etc.

6. If a specific computer program is required, show name.

7. Describe the work environment. In what setting will the temporary be working: general office, front office, typing pool, information desk, mailroom, warehouse, etc.

8. List any applicable physical abilities required, such as: a significant amount of walking (mail clerk), bending and lifting (warehousing), standing (clerk-photocopying).

9. List any other special conditions of the work, for example, security clearance requirements.

10. List administrative information such as location or work place, building and room number; daily starting and ending times; and lunch times.

11. Name, room, and telephone number of the person to whom the temporary should report.

12. I certify that no employee can be reassigned or detailed to that work without causing undue delay in the employee's regular work. (In addition, the HRM office must check whether it has any applications from job candidates who are qualified and available for short-term appointment.)

13. Signature and title of requesting official. Date.

PART II. To be completed by Human Resources Management Office.

14. Review part I for compliance with regulatory requirements and for appropriate information to place an order. (As in other procurement actions, procurement specialists usually place orders with firms; when authorized, HRM specialists or other designated personnel also may place orders.)

15. Were the 30 percent or more disabled veteran list, applicant supply file, and reemployment priority list, checked for candidates? If any were available and qualified, list names and disposition. [5 CFR 300.503(b)]

16. For needs exceeding the initial 120-workday authorization, was a vacancy announcement posted to allow VA Career Transition Assistance Plan (VA CTAP) and Interagency CTAP eligibles an opportunity to apply? If any were available and qualified, list names and disposition. [5 CFR 300.503(c)(4)]

17. Signature and title of HRM specialist and date.

PART III. Optional. (The procurement office, at its option, may wish to add as part III of the checklist any procurement steps or information it considers significant for its operations; e.g., firms contacted, price quotes.)

APPENDIX C.
NONCOMPETITIVE CAREER-CONDITIONAL (OR CAREER) APPOINTMENT OF STUDENT TRAINEES IN ASSOCIATED HEALTH CARE DISCIPLINES

1. PURPOSE. This appendix contains requirements and information which supplement paragraphs 2h(1) and (2) of section B, chapter 2, part II of this handbook.

2. BACKGROUND. Under its statutory mission to develop and carry out a program of education and training of health care personnel for the Nation, VA annually trains thousands of affiliated students in associated health care disciplines. In order to provide maximum flexibility in hiring graduates of these programs, Public Law 101-237, dated December, 18, 1989, authorized VA to appoint under title 5, without regard to competitive Federal civil service examining and certification procedures, eligible graduates who have a degree, diploma or certificate in an associated health care discipline from an accredited institution of post-secondary education, and who have successfully completed an affiliated clinical education training program in a VA health care facility. The citation for this authority is 38 U.S.C. 7403(g).

3. AUTHORITY

a. **General.** In accordance with 38 U.S.C. 7403(g), VA facilities are authorized to appoint under title 5, without regard to competitive Federal civil service examining and certification procedures, eligible graduates who have a degree, diploma or certificate in an associated health care discipline from an accredited institution of post-secondary education, and who have successfully completed an affiliated clinical education training program in a VA health care facility.

b. **Exclusions.** This employment authority does not apply to individuals in training programs that will result in post-training appointments under 38 U.S.C. 7401(1) or (3) or under 38 U.S.C. 7405 to an occupation listed under those paragraphs.

4. EQUAL OPPORTUNITY. Consideration for appointment will be made without regard to race, color, religion, sex, national origin, or disability. As part of VA affirmative employment efforts relating to disabled veterans, minorities, persons with disabilities, and women, health care officials need to ensure that appointments fully reflect VA's commitment to equal opportunity.

5. DEFINITIONS

a. **Associated Health Care Disciplines.** Affiliated nationally recognized health care professions with entry level training at the post-secondary level, other than medicine and dentistry (except for exclusions in the preceding subparagraph 3b). A general list of the major associated health care disciplines is provided in appendix C1 of this part. (Reference: VHA Manual M-8, part II, chapter 2)

b. **Clinical Education.** The portion of education or training that takes place at the site of VA clinical care rather than the affiliated institution. Clinical education does not include activities which are: shorter than 40 hours per year; only observational with no patient contact; for laboratory research purposes only; and on-the-job training only.

c. **Undergraduate and Graduate Educational Programs.** Educational activities which take place following secondary education for which a recognized degree or certificate is awarded.

d. **Students.** Persons enrolled in undergraduate and graduate educational programs who participate in clinical education activities at the VA health care facility for 40 hours or more per year and who are appointed on either a paid or without-compensation (WOC) basis.

e. **Affiliated.** Linked by a formal Memorandum of Affiliation (see M-8, part I, chapter 2). Affiliations shall exist only with accredited institutions of post-secondary education.

6. REQUIRED DOCUMENTATION. A personnel folder will be established for eligible student trainees whose appointments are documented on an SF 50-B, Notification of Personnel Action. For those students on WOC appointments, a file folder will be established, and a VHA Form Letter (FL) 10-294, Authorization (WOC Personnel) will be completed. All documents, including the SF 50-B or FL 10-294, relating to a student's VA training must be maintained in these files. These documents are necessary for verification of completion of clinical education, which is one of the eligibility requirements for employment under 38 U.S.C. 7403(g). Although the student is responsible for producing this verification, the file for each student on a WOC appointment will be maintained in the Human Resources Management (HRM) office for at least 1 year after completion of all eligibility requirements.

a. **Initial Associated Health Student Trainee Appointment (Temporary or WOC).** VA automated personnel system remark code #T is to be included on the student trainee's appointment SF 50-B or FL 10-294. Remark code #T reads: "UPON SATISFACTORY COMPLETION OF THE ASSOCIATED HEALTH CARE TRAINING PROGRAM, AND WITHIN 1 YEAR AFTER GRADUATION, YOU ARE ELIGIBLE FOR A NONCOMPETITIVE CAREER-CONDITIONAL (OR, IF APPROPRIATE, CAREER) APPOINTMENT TO A VA POSITION IN THE HEALTH CARE DISCIPLINE FOR WHICH TRAINED. COMPLETION OF THESE REQUIREMENTS DOES NOT, HOWEVER, GUARANTEE APPOINTMENT." HRM officials will ensure that students, clinical educators, and other VA officials responsible for administering VA's clinical education programs are thoroughly briefed on the eligibility requirements for appointment under this authority, including the importance of maintaining all employment forms required to verify successful completion of training. A recommended sample information letter is located at the end of this appendix.

b. **Upon Completion of the Associated Health Student Trainee Appointment (Temporary or WOC).** Upon completion of training, an SF 50-B will be issued for employees on whom a personnel folder has been maintained. For the SF 50-B, use VA automated personnel system remark code T – "Reason for Termination: Training completed at this station." The following statement is also to be placed on the SF 50-B or the FL 10-294: "Clinical education successfully completed, which satisfies one of the requirements for basic eligibility for noncompetitive appointment under the provisions of 38 USC 7403(g)."

7. APPLICATION PROCEDURES. Openings for which student trainees may qualify will be publicized as widely as possible within each VA facility as well as in affiliated institutions. Upon request, the HRM office will assist applicants in obtaining the necessary forms.

a. Each application package must include:

(1) Completed Optional Form (OF) 612 - Optional Application for Federal Employment, or resume. A Standard Form (SF) 171 – Application for Federal Employment is also acceptable. (The HRM office should have blank OF 612's available.) [The SF 171, 171A, and OF 612 forms are not required for USA Staffing recruitments. In USA Staffing, a résumé is preferred.]

(2) Copy of degree, diploma, license (if appropriate), or certificate documenting graduation in a health care discipline covered under the provisions of 38 USC 7403(g).

(3) Copy of SF 50-B or FL 10-294 documenting completion of VA affiliated clinical education. (The HRM office would assist with, or advise on, requests for the individual's SF 50-B or FL10-294.)

b. Applications may be accepted from students who will meet all eligibility requirements within 6 months. These applications may be processed and employment commitments made subject to completion of all requirements. The HRM office is responsible for ensuring that selectees meet minimum qualification requirements, including training, education, and necessary credentials, prior to entry on duty.

c. Applicants who wish to be considered for employment at a VA facility other than the one in which they trained may contact the facility of their choice to inquire about prospective openings about 2 months before they are available for appointment. Facility officials may assist applicants by checking the VA Vacancy Database on the VA intranet for appropriate openings for which these individuals are eligible.

8. SELECTION PROCEDURES. The HRM office will forward a certificate of candidates qualified for this noncompetitive appointment to the selecting official. Preference will be given to disabled veterans and other preference eligibles as follows.

a. All eligible, qualified candidates will be assigned a basic score of 70. Extra points will be added to this score for preference eligibles. For all positions, candidates will be referred in the following priority group order:

(1) Disabled veterans who have a service-connected disability of 10 percent or more, who have 10 points added under 5 U.S.C. 3309;

(2) Preference eligibles as defined under 5 U.S.C. 2108(3)(C) through [(H)], other than those in the preceding paragraph 8a (1), who receive 10 points;

(3) Preference eligibles as defined under 5 U.S.C. 2108 (3)(A) and (B), who receive 5points;

(4) All other candidates.

b. Regardless of preference category, any preference eligible may be selected. However, a preference eligible may not be passed over for selection of a nonpreference eligible.

c. If there are no disabled veterans or other preference eligibles, any candidate may be selected.

9. RECORDS. A case file will be established for every new appointment made under this authority. Include in the file a copy of the announcement, all applications with supporting documentation, the register of applicants, the certificate of candidates referred, and the selecting official's decision. This file will be maintained in accordance with General Records Schedule (GRS) 1, item 15.

10. APPOINTMENTS. Appointments under this authority are subject to all competitive service appointment requirements, except for those concerning use of competitive Federal civil service examining and certification procedures. HRM officials will ensure that academic, training, and qualification requirements are met before making appointments. Appointees are subject to the provisions of title 5, U.S.Code. in all other employment matters such as performance appraisal, leave, hours of duty, and adverse actions.

a. **Conditions for Eligibility.** Individuals are eligible for a noncompetitive appointment upon completion of the following:

(1) Successful completion of a course of study in an accredited institution of post-secondary education. Associate's, Bachelor's, Master's or Doctoral degrees or certificates or diplomas in a major field of study which satisfy requirements in the qualification standard for the entry position are acceptable. Completion must be verified by diploma or certificate, degree, or other official school document. The institution must be accredited by a nationally recognized agency that has been identified by the U.S. Department of Education. Information on accredited institutions is contained in either: the reference Accredited Institutions of Postsecondary Education, published annually by the American Council on Education (ACE) and distributed for ACE by Oryx Press, P.O. Box 33889, Phoenix, AZ 85067-3889, phone: 800-279-6799 or 602-265-2651; or the Higher Education Directory on colleges or universities, published annually by Higher Education Publications, Inc., 6400 Arlington Boulevard, Suite 648, Falls Church, VA 22042, phone: 888-349-7715 or 703-532-2300.

(2) Satisfactory completion of an affiliated associated health clinical education training program, as required by the institution's curriculum, in a VA health care facility. Completion of the training program is to be verified by a copy of the SF 50-B or FL 10-294.

(3) Meet all qualification standard requirements, including certification/licensure, if required.

(4) Are applying for an appointment to a position in a health care occupation for which they trained.

(5) Meet United States citizenship requirements (5 CFR 338.101).

(6) As required by law, registration with the Selective Service System (5 U.S.C. 3328; 5 CFR, part 300, subpart G).

b. **Time Limit on Appointment Eligibility.** Qualified individuals are eligible for this noncompetitive appointment within 1 year after graduation, with date to be verified by diploma or certificate, degree, or official school document. [ ]

c. **Grade Level.** Students may be noncompetitively appointed to a position for which they trained at any grade level for which they qualify.

d. **Tenure and Status.** An individual appointed under this authority becomes a career-conditional employee (or a career employee if the service requirement has been met (5 CFR 315.201).

e. **Probationary Period.** An individual appointed under this authority must serve a 1-year probationary period. Time in the student trainee position is not creditable toward completion of the probationary period (5 CFR 315.801-2).

f. **Service Computation Date (SCD).** Time served under the temporary student trainee appointment in a paid status is counted toward the SCD and is considered creditable service for leave purposes only. Time served under a WOC appointment is not counted toward the SCD and, therefore, is not creditable for leave. Student trainee appointments are excluded by law from retirement coverage under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) (5 U.S.C. chapters 83 and 84; 5 U.S.C. 5351).

g. **Appointment Authority.** Appointments will be effected in accordance with instructions in OPM's Guide to Processing Personnel Actions, chapter 9, Career and Career-Conditional Appointments, Table 9-G. Use Nature of Action Code 101 for career-conditional (or, if appropriate, 100 for career) for individuals no longer on VA rolls, and 501 (or 500) to convert those currently on VA rolls. Although OPM's Guide indicates that the proper authority code is ZLM, that code is generic and without definition in VA's automated personnel system. In its place, use VA legal authority code Z41, which prints properly on the SF 50-B as "ZLM 38 U.S.C. 7403(g)(1)(B)."

h. **Movement after Noncompetitive Appointment.** The time-after-competitive appointment restriction does not apply to this noncompetitive appointment (5 CFR 330.501).

11. WAIVERS. The Under Secretary for Health or designee may approve justifiable waivers of the 1-year time limit for noncompetitive appointment of a student trainee. Facility directors must send to VA Central Office (10NA/05[ ]), through their Network Director, requests for such waivers for individuals who, because of unusual circumstances, were not able to accept an appointment within the 1-year period after graduation. Requests will be evaluated on a case-by-case basis.

APPENDIX C1. LIST OF MAJOR ASSOCIATED HEALTH CARE DISCIPLINES

Public Law 101-237, section 203, authorized noncompetitive title 5 appointments under 38 U.S.C. 7403(g) of graduates in certain associated health-care disciplines who have successfully completed a course of study in an accredited institution of post-secondary education that is affiliated with the Department of Veterans Affairs (VA). As part of a course of study, students must have successfully completed a required clinical education training program in a VA health care facility.

A general list follows of the associated health care disciplines for which VA training is currently being provided. To assist in determining which disciplines may be appropriate for appointment under this authority, classification series representing the predominant General Schedule occupations for each educational program are provided. Questions concerning any series (listed or not) may be directed to the [Office of O]HRM[&LR] (05[ ]) in VA Central Office.

[ ]

Biomedical Instrumentation and Machine Operation

Biomedical Instrumentation Technician (GS-802)
[ ]

Certified Nursing Assistant (GS-621)

Dental Auxiliaries

[ ]
Dental Laboratory Technician (GS-683)

Dietetics

[ ]
Clinical Dietetic Technician (GS-640)

Health Services Research and Development (GS-601)

Health System Administrator (GS-670)

Health System Specialist (GS-671)

Librarian

Hospital Librarian (GS-1410)
Hospital Librarian Technician (GS-1411)

Medical and Clinical Laboratory

Clinical Laboratory Technician/Assistant (GS-645, 601)
Cytotechnologist (GS-601)
Histologic Technician/Technologist (GS-646, 601)
[ ]
Medical Laboratory Technician (GS-645)

Medical Media

Medical Illustrator (GS-1020)
Medical Photographer (GS-1060)

[ ]

Patient Health Educator (GS-1701)

[ ]

Rehabilitation

Educational Therapist (GS-639)
Manual Arts Therapist (GS-637)
[ ]

Recreation

Recreation Assistant (GS-189)
Recreation/Creative Arts Therapist (Arts/Music) (GS-638)

Rehabilitation Counseling

Alcohol/Drug Rehabilitation Counselor (GS-101)
[ ]
Mental Health Associate (GS-640)
Vocational Rehabilitation Counselor (GS-1715)

Social Work

[ ]
Social Work Associate (GS-187)

Sonography

Diagnostic Medical Sonographer (GS-640)

Surgical Auxiliaries

Ophthalmic Medical Assistant (GS-640)

Veterinary Science

Biological Science Technician (GS-404)

APPENDIX C2. EMPLOYMENT INFORMATION - RECOMMENDED SAMPLE LETTER

Dear Student:

Upon satisfactory completion of your Department of Veterans Affairs (VA) affiliated clinical education training program, and within 1 year after graduation [ ] or certification from an accredited institution of post-secondary education, you will be eligible for a direct appointment with VA. Employment opportunities will depend on vacancies at each health-care facility. Openings are publicized within each VA facility and copies of announcements, as well as all forms, are available in the Human Resources Management (HRM) office.

To apply, forward the following information to the HRM office: a completed Optional Form (OF) 612, Optional Application for Federal Employment, or a resume also acceptable: a completed Standard Form (SF) 171, Application for Federal Employment; a copy of your diploma, license (if appropriate), certificate, or degree documenting completion of course study in the affiliated educational program; and a copy of any SF 50B, Notification of Personnel Action, or VA Form Letter 10-294, Authorization (Without-Compensation Personnel) documenting completion of your VA clinical education.

If you wish to be considered for employment at a VA facility other than the one in which you trained, you may contact the facility of your choice to inquire about prospective openings about 2 months before you are available for appointment. Facility officials may assist you by checking the VA Vacancy Database on the VA intranet for appropriate openings for which you are eligible. You should follow application instructions in vacancy announcements in which you are interested.

Sincerely yours,

[APPENDIX D. NONCOMPETITIVE APPOINTMENT OF STUDENTS AND RECENT GRADUATES THROUGH THE VA CHOICE AND QUALITY EMPLOYMENT ACT OF 2017

1. PURPOSE. This appendix outlines hiring guidance for section 206 of Public Law 115-46, VA Choice and Quality Employment Act of 2017 (or the Act). Section 206 of the Act authorizes VA to appoint students and recent graduates into excepted service appointments that lead to noncompetitive conversion to career or career-conditional appointments, as applicable. The policy for the Act is established in chapter 3, section G, paragraph 9, Appointment of Students and Recent Graduates through the VA Choice and Quality Employment Act of 2017, of this part.

2. COVERAGE. This appendix applies to appointments for students and recent graduates in title 5 occupations, and subsequent conversion to the title 5 competitive service, as permitted under the Act. Student trainees appointed under the provisions of noncompetitive career-conditional (or career) appointment of student trainees in associated health care disciplines, as outlined in Part II, Appendix C., of this handbook are not covered by the provisions in this paragraph. In addition, this authority is not intended to employ individuals in direct patient care positions that lead to employment in the title 38 (full or hybrid) excepted service. Those provisions are covered under chapter 3, title 38 appointments, of this part.

3. REFERENCES.

a. Public Law 115-46, VA Choice and Quality Employment Act of 2017, dated August 12, 2017

b. 5 U.S.C. § 2108, Veteran; Disabled Veteran; Preference Eligible

c. 5 C.F.R. § 302, Employment in the Excepted Service

d. 38 U.S.C. § 7405, Temporary full-time appointments, part-time appointments, and without-compensation appointments

4. RESPONSIBILITIES.

a. **Assistant Secretary for the Office of Human Resources and Administration (HRA) (006).** Serves as the designated agency official, as VA's Chief Human Capital Officer, implementing policy for the Act.

b. **Deputy Assistant Secretary for Office of Human Resources Management (OHRM) (05).** Establishes and maintains VA policy and guidelines for the implementation and utilization of this excepted authority. Provides technical guidance and advice to the VA HR community regarding the policy.

c. **Human Resources (HR) Officer/Director**. The HR Officer/HR Director's duties and responsibilities include:

(1) Provides oversight of the designee and overall compliance of this authority at the facility;

(2) Provides technical guidance and advice to hiring officials, supervisors, and operating human resources staff within the respective facility regarding this authority;

(3) Ensures proper application of Veterans' preference when filling excepted service positions, as required;

(4) Makes qualification determinations for excepted appointments;

(5) Serves as a liaison with participating schools on matters pertaining to student employment programs in VA and stays informed of developments in the area regarding student employment in the public and private sectors;

(6) Ensures hiring officials and supervisors comply with the mandatory requirements of the authority;

(7) Obtains certification of enrollment and recurring transcripts from students and recent graduates; and

(8) Advises hiring officials and supervisors of their duties and responsibilities.

d. **Hiring Officials and Supervisors**. Oversee and assign the daily work activities of the student or recent graduate and serves as the primary point of contact for any questions related to the excepted appointment.

5. DEFINITIONS. For the purposes of this paragraph, definitions are as follows:

a. **Contractor.** A student or recent graduate employed in VA under a contract or agreement with an external nonprofit organization.

b. **Eligibility Category.** A group of students and/or recent graduates identified in the Act that are eligible for consideration for an excepted service appointment in VA that lead to noncompetitive conversion to a career or career-conditional appointment. Noncompetitive conversion to the competitive service is not guaranteed, but is at the facility's discretion.

c. **Fellowship Program.** Any formal program used in the Department to employ recent graduates from qualifying educational programs.

d. **Good Standing.** Specific criteria for meeting "good standing" is defined under each eligibility category under paragraph 5 below, "Eligibility Categories for Excepted Appointments." In addition, all students and recent graduates must furnish evidence of "good standing" by providing a transcript documenting a minimum 2.0 on a 4.0 grade point average (G.P.A.) scale. Facilities can use the most recent semester's G.P.A. or

the overall G.P.A., whichever is most advantageous to the applicant, to document "good standing." For individuals who are attending or have graduated from educational institutions that do not use a G.P.A. system, the HR Officer/HR Director or designee must request verification of achieving an average or above average standing from the educational institution.

e. **Internship Program.** Any formal program used in the Department to employ current students from qualifying educational institutions.

f. **Qualifying Educational Institution.** A public high school whose curriculum has been approved by a State or local governing body, a private school that provides secondary education as determined under State law, or a homeschool that is allowed to operate in a State; and any of the following educational institutions or curricula that have been accredited by an accrediting body recognized by the Secretary of the U.S. Department of Education: a technical or vocational school; a 2-year or 4-year college or university; a graduate or professional school (e.g., law school, medical school); or a post-secondary homeschool curriculum.

g. **Recent Graduate.** An individual who obtained a qualifying diploma, associate, bachelors, master's, professional, doctorate, vocational or technical degree, or certificate from an accredited, qualifying educational institution within the preceding 3 years.

NOTE: *Veterans, as defined in section 2108 of title 5, United States Code (U.S.C.), who furnish evidence of intervening military service must be afforded 3 years of eligibility of consideration for an excepted appointment under the Act.*

h. **Student.** An individual accepted for enrollment or enrolled and seeking a degree, diploma, certificate, etc. in a qualifying educational institution, on a full or half-time basis (as defined by the institution in which the student is enrolled). An individual who needs to complete less than the equivalent of half an academic/vocational or technical course-load immediately prior to graduating is still considered a student for purposes of this program.

i. **Substantive Duties**. Meaningful and considerable work responsibilities that are like those of individuals in VA internship and fellowship programs who are assigned formal structured and/or classified duties. These duties are typically duties that are outlined in classified position descriptions.

j. **Volunteer.** A student in volunteer service as described in 5 CFR, part 308. A volunteer is also a student or recent graduate serving on a Without Compensation (WOC) appointment under 38 U.S.C. § 7405 (a)(1)(D).

6. ELIGIBILITY CATEGORIES FOR EXCEPTED APPOINTMENTS. The Act gives VA flexibility to broaden the applicant pool to certain categories of students and recent

graduates. These applicants can be quickly appointed to support the mission of VA and to fill the Department's growing workforce and succession planning needs. A student or recent graduate in "good standing," (as described in the eligibility categories in sections a through d of this paragraph) may be considered for a title 38 excepted appointment in a title 5 occupation that may result in conversion to the competitive service. These excepted appointments are made under 38 U.S.C. § 7405 (a)(1)(D) and may not exceed one year unless an exception is approved by the Director of Recruitment and Placement Policy Service (059). Individuals can serve on a full-time or part-time work schedule based on the needs of the facility. The positions may have a career promotion (i.e., career ladder opportunity) but must be permanently funded and properly classified. There is no grade level limitation for the initial appointment. Applicants must meet the applicable qualification requirements. After meeting the minimum service requirements of 640 hours in the excepted appointment, a student or recent graduate may be considered for noncompetitive conversion to a career or career-conditional appointment as outlined in paragraph 7 of this appendix. Students and recent graduates in the following eligibility categories that meet the minimum qualification requirements and the definition of "good standing" for that category can be considered for an excepted appointment in VA:

a. **Internship or Fellowship Program.** Students and recent graduates employed in a qualifying internship or fellowship program at the Department are eligible for an excepted service appointment. In addition to the definition of "good standing" in paragraph 5.d. above, for this eligibility category, "good standing" is evidenced by a performance plan with a rating of fully successful (or higher) or a letter of good standing from the current supervisor, program manager, or equivalent.

b. **Volunteer Program.** Students and recent graduates in a volunteer capacity in the Department performing substantive duties comparable to those of individuals in internship or fellowship programs and who are in good standing are eligible for an excepted service appointment. In addition to the definition of "good standing" in paragraph 5.d. above, for this eligibility category, "good standing" is evidenced by a performance plan with a rating of fully successful (or higher) or a letter of good standing from the current supervisor, program manager, or equivalent. The student or recent graduate must be a current, active volunteer in the Department and provide proof of completing 20 hours of volunteer or without compensation service within the preceding one year.

c. **External Nonprofit Organization Contract or Agreement.** Students and recent graduates employed in the Department under a contract or agreement with an external nonprofit organization and performing substantive duties comparable to those of individuals in internship or fellowship programs and who are in good standing are eligible for an excepted appointment. In addition to the definition of "good standing" in paragraph 5.d. above, for this eligibility category, "good standing" is evidenced by a performance plan with a rating of fully successful (or higher) or a letter of good standing from the current supervisor, program manager, or equivalent. The student or recent graduate must provide proof of completing 20 hours of service under the agreement.

d. **Educational Assistance Programs.** Students and recent graduates who have received Post 9/11 Educational Assistance under chapter 33 of title 38 U.S.C. and meet the definition of "good standing" in paragraph 5.d. above are eligible for an excepted appointment.

7. REQUIREMENTS FOR EXCEPTED APPOINTMENT. Before making excepted service appointments, facilities must ensure compliance with the following identified requirements:

a. **Public Notification Methods.** When filling positions under this authority, public notice must be provided to afford applicants an open and fair opportunity to be hired. Facilities may post an internal and/or external job posting to solicit applications. HR Offices must announce positions for a minimum of three (3) business days or for a minimum number of days defined by any applicable labor contract.

b. **Internal Job Posting.** Students and recent graduates currently serving in VA may apply to internal job opportunity announcements (JOA). At a minimum, the facility may limit the area of consideration to those serving in VA in a specific eligibility category. The facility must use the option in USA Staffing® to post the JOA to "Agency Employees Only – Intranet Posting Only" or "Internal Only." If more than one individual is interested, the agency must apply the selection procedures for employment in the excepted service under 5 CFR, part 302.

c. **External Job Posting**. Students and recent graduates not currently serving in VA must apply for posted job opportunities. When a posting is open to applicants outside of VA, the hiring facility will use USA Staffing® to post the vacancy on the USAJOBS Web site, to ensure the vacancy is open to those in the general public who meet the eligibility category requirements for the program. To mitigate the likelihood of a high volume of applications, HR Offices should consult with hiring officials to tailor the job analysis and other assessment tools to obtain the desired candidate pool. If more than one individual is interested, the agency must apply the selection procedures for employment in the excepted service under 5 CFR, part 302.

d. **Priority Consideration.** Appointments and related noncompetitive conversions to the competitive service are not subject to the regulatory provisions in the competitive service for the Reemployment Priority List (RPL), the Career Transition Assistance Plan (CTAP), or the Interagency Career Transition Assistance Plan (ICTAP), as stated in 5 CFR 330.211(f)(3), 5 CFR 330.609(e)(3), and 5 CFR 330.707(h)(3), respectively.

e. **Applicability of Veterans' Preference.** In general, excepted appointments are exempt from competitive service principles; however, positions exempt from appointment procedures as indicated in 5 CFR 302.101(c) requires the principle of Veteran's preference be followed to the extent possible. VA HR Offices must apply Veteran's preference when students and recent graduates are considered for excepted appointments. Subsequent conversions to the competitive service are not subject to Veterans' Preference requirements. HR Offices must follow pass over procedures outlined in 5 CFR, part 302, subpart D, § 302.401 (b).

f. **Appointment Requirements.** Excepted appointments and subsequent conversions to the competitive service are coded in accordance with OPM's Guide to Processing Personnel Actions. The legal authority for excepted appointments is 38 U.S.C. § 7405 (a)(1)(D), and for subsequent conversion to the competitive service is Public Law 115-46.

8. NONCOMPETITIVE CONVERSION TO THE COMPETITIVE SERVICE. Noncompetitive conversion to the competitive service (i.e., career or career-conditional employment) is not guaranteed or required. The facility may convert a student or recent graduate noncompetitively to a career or career-conditional appointment in the competitive service after the student or recent graduate (serving on the excepted appointment) obtains a minimum of 640 hours on the excepted appointment. A facility may use previous education and/or experience as the basis to qualify a student or recent graduate for conversion into the targeted position.

a. **Crediting Time Served under a Volunteer Program or External Nonprofit Organization Contract or Agreement.** When students and recent graduates have served as volunteers or contractors, hours served performing substantive duties are creditable for meeting the 640 hours required for conversion to the competitive service. The servicing HR Office may review the employee's employment records and other documents to justify crediting up to 320 hours performed under a Volunteer Program or External Nonprofit Organization Contract or Agreement.

b. **Crediting Service for Probation.** Time spent in the excepted appointment is time-limited and is not creditable towards completion of the probationary period required in 5 CFR 315, subpart H.

c. **Crediting Service for Career Tenure.** Time spent in the excepted appointment is time-limited and is not creditable towards meeting the service requirement for career tenure as outlined in 5 CFR 315, subpart A.]

APPENDIX E.
HEALTHCARE SYSTEM MANAGEMENT ADMINISTRATION RESIDENTS, INTERNS AND TRAINEES

1. HEALTHCARE SYSTEM MANAGEMENT ADMINISTRATION RESIDENTS.

a. Healthcare system management administration residents are graduate students pursuing a master's degree in a program approved by the Commission on Accreditation of Healthcare Management Education (CAHME). Practical experience is for 1 year and is usually performed following the completion of 1 academic year of graduate study.

b. Residents will be appointed under [the Pathways Internship Program under 5 CFR 213.[3402(a)].

c. Compensation for residents is locally established by facility Directors at appropriate levels within maximums prescribed by Federal civil service regulations and VA. (See VA Handbook 5007, Pay Administration.)

d. Residents appointed under 5 CFR 213.[3402(a)] may be noncompetitively converted to career-conditional, term, or career appointments, as appropriate, provided all requirements of 5 CFR [362.204] are met.

NOTE: *When using the Pathways Programs authorities to appoint healthcare administration residents, HR Offices must consider all eligible and qualifying individuals and must not screen candidates who are not pursuing or have completed education from CAHME or other similar accrediting body.*

2. HEALTHCARE SYSTEM MANAGEMENT ADMINISTRATION INTERNS.

a. Healthcare system management administration interns are graduate students pursuing a master's degree in a program approved by the CAHME. Practical experience is typically available during the summer between 2 years of graduate level academic study and is for a period of 2 to 4 months.

b. Interns whose work assignments are anticipated to equal or exceed 640 hours necessary for noncompetitive conversion must be appointed under [the Pathways Internship Program under 5 CFR 213.3402(a)]. Those interns whose work assignments are not anticipated to meet the 640 hours requirement under 5 CFR 213.[3402(a)] will be appointed under the authority of 38 U.S.C. 7405.

c. Compensation for interns appointed under 5 CFR 213.[3402(a)] is locally established by facility Directors at appropriate levels within maximums prescribed by Federal civil service regulations and VA. (See VA Handbook 5007) Compensation for those interns who are appointed under the authority of 38 U.S.C. 7405 will be in accordance with the provisions of VA Handbook 5007.

d. Interns appointed under 5 CFR 213.[3402(a)] may be noncompetitively converted to career-conditional, term, or career appointments, as appropriate, provided all requirements of 5 CFR [362.204] are met.

NOTE: *When using the Pathways Programs authorities to appoint healthcare administration interns, HR Offices must consider all eligible and qualifying individuals and must not screen candidates who are not pursuing or have completed education from CAHME or other similar accrediting body.*

3. HEALTHCARE SYSTEM MANAGEMENT ADMINISTRATION TRAINEES.

a. Healthcare system management administration trainees are undergraduate students pursuing a bachelor's degree in healthcare administration or a closely related field. Practical experience is usually from 2 to 4 months during the summer between the junior and senior years.

b. Trainees whose work assignments are anticipated to equal or exceed 640 hours must be appointed in [the Pathways Internship Program under 5 CFR 213.3402(a)]. Appointment will be at the GS-3 grade level if the trainee has completed [1] year of college and at the GS-4 grade level if the trainee has completed [2] years of college. Those trainees whose work assignments are not anticipated to meet the 640 hours requirement necessary under 5 CFR 213.[3402(a)] for noncompetitive conversion to[term,] career-conditional or career appointments, as appropriate, will be appointed under 38 U.S.C. 7405.

c. Compensation for trainees appointed under 5 CFR 213.[3402(a)] will be at the pay levels for GS-3 or GS-4, as appropriate. Compensation for those trainees who are appointed under authority of 38 U.S.C. 7405 will be in accordance with the provisions of VA Handbook 5007.

d. Trainees appointed under 5 CFR 213.[3402(a)] may be noncompetitively converted to career-conditional, term, or career appointments, as appropriate, provided all requirements of 5 CFR [362.204] are met.

4. CONVERSION TO [TERM,] CAREER-CONDITIONAL AND CAREER APPOINTMENTS. Students meeting all the requirements specified in 5 CFR [362.204] may be converted to [term,] career-conditional or career positions, as appropriate, at the employing medical facility. If there is no appropriate position available locally for a student who is considered a good candidate for conversion, the medical facility or the student may check lists of vacancies published by VA Central Office and contact other VA installations at which the student is interested in being employed.

DEVELOPMENT OF QUALIFICATION STANDARDS FOR VETERANS HEALTH ADMINISTRATION (VHA) POSITIONS FILLED UNDER 38 U.S.C. § 7401(3)

1. SCOPE. This appendix provides VA procedures for the development of qualification standards by VHA Central Office program officials and occupation-specific subject matter experts, working with representatives of the Office of Human Resources Management and Labor Relations, for VHA positions under 38 U.S.C. § 7401(3). Authority is given to the Secretary under 38 U.S.C. § 7402 to prescribe qualifications for occupations identified in § 7401(3).

2. BACKGROUND. The following provides basic information about qualification standards and specific information about VA qualification standards.

a. A qualification standard is a statement of the minimum requirements that an individual must meet to be qualified for entry into and promotion in the occupation. This includes education, experience, citizenship, credentialing requirements (licensure, registration, certification), physical requirements and specific competencies (knowledge, skills, abilities and personal characteristics).

b. The basic qualification requirements for individuals appointed under 38 U.S.C. § 74 in occupations identified in section 7401(3), are contained in VA qualification standards approved by the Secretary of Veterans Affairs upon recommendation of the Under Secretary for Health.

c. The Assistant Secretary for Human Resources and Administration is authorized to approve for the Secretary, qualification standards and examining guides that are established within the Department.

d. Qualification standards for individuals appointed under 38 U.S.C. § 7401(3) are based primarily on the rank-in-person concept where the combination of individuals' accomplishments, performance and qualifications determine their grade level. This differs from the Title 5 rank-in-position concept where the grade level is based solely on the duties and responsibilities of the position held. For positions above the full-performance (journey level) the complexity of the assignment and scope of responsibility are considered in establishing grade levels.

e. The qualification standards will be used extensively by members of the occupation who are not human resources professionals. Therefore, the language of Title 38 Hybrid qualification standards must be plain and clear without excessive use of human resources references.

f. These standards apply to all appointments in Title 38 Hybrid occupations under authority of 38 U.S.C. § 7401(3) regardless of the nature or tenure of the appointment.

g. Current VA qualification standards for Title 38 Hybrid positions are located in VA Handbook 5005, Part II, I-G1 through the last appendix.

3. IMPLICATION. Qualification standards are critically important documents necessary for the identification of candidates with the needed knowledge, skills, and abilities to perform VA's work. Qualification standards establish basic requirements which are predictive of successful performance. The application of qualification standards in VHA is an integral part of ensuring a fully qualified workforce is available to care for our patients.

4. INTERPRETING QUALIFICATION STANDARDS. The following information is pertinent to the interpretation of VA qualification standards:

a. VHA appointing officials, Professional Standards Boards, [and Human Resources Officers] act for the Under Secretary for Health in applying the qualification standards in a fair and consistent manner. Such decisions are made through an analysis of personal data and/or experience records. [Training will be provided to Human Resources Officers and management officials regarding the interpretation of qualification standards.]

b. When there is disagreement on the interpretation of a qualification standard, the appropriate HRM Officer may request an interpretation or decision from the Deputy Assistant Secretary for Human Resources Management [ ](059). A courtesy copy of such request will be sent to the appropriate VHA Program Official in VA Central Office, and representatives of union organizations at the national level.

5. RESPONSIBILITIES. The following is an explanation of responsibilities associated with the development of VA qualification standards:

a. Qualification standards are developed by teams with representatives from the Office of Human Resources Management [ ] and subject matter experts from VHA. At least 25% of the VHA team membership will be non-managerial members who are performing the work as a full time practitioner.

b. VHA Field facilities may be requested to review and comment on drafts of VA qualification standards.

6. GENERAL GUIDELINES

a. **Education and Experience Requirements.** When developing VA qualification standards, the principle of equal pay for equal work will be followed. The framework for determining grade levels for positions is contained in
5 U.S.C. § 5104 and shall be used for Title 38 Hybrid positions. Other legal provisions providing guidance include: Equal Pay Act, 29 U.S.C. § 206; Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq.; Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 et seq.; Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.

b. **Education and Grade Equivalents for one-grade interval positions.** The following table should be used as a guideline for determining appropriate grade levels based on education substitution alone. Specific education substitutions will be included in the individual occupation qualification standard.

Appropriate Grade Levels and Qualifying Education

Grade	Qualifying Education
GS-2	High school graduation or equivalent
GS-3	1 year above high school with courses related to the occupation (Completion of an intensive, specialized course of study of less than l year may meet in full the experience requirements for GS-3)
GS-4	2 years above high school with courses related to the occupation or associate's degree
GS-5	4 academic years above high school leading to a bachelor's degree with courses related to the occupation, **or** Bachelor's degree
GS-6 and above	Graduate education or an internship may be used to substitute for specialized experience *only* in those instances where it is directly related to the position being filled.

c. **Education and Grade Equivalents for two-grade interval positions.** The following table should be used as a guideline for determining appropriate grade levels based on education substitution alone. Specific education substitutions will be included in the individual occupation qualification standard. In some VHA occupations graduate education leading to a degree may not be substituted for the full degree.

Appropriate Grade Levels and Qualifying Education

Grade	Qualifying Education
GS-5	4 academic years above high school leading to a bachelor's degree, **or** Bachelor's degree
GS-7	See Advanced Entry-Level Placement Criteria (for two-grade interval work)
GS-9	Master's degree (or equivalent graduate degree such as LL.B. or J.D.) **or** 2 academic years of progressively higher level graduate education in a related field
GS-11	Ph.D. or equivalent doctoral degree **or** 3 academic years of progressively higher level graduate education leading to a degree in a related field

NOTE: *Educational training programs, such as an internship, practicum, etc., that are included in, or supplemental to, an academic degree are not creditable for professional experience. Such programs are considered part of the basic requirements for professional practice in the field.*

d. **Criteria for Advanced Entry-Level Placement.** Applicants who meet all qualification requirements for the GS-5 grade level of **two-grade** interval occupations may be appointed at the GS-7 grade level if they possess **one** of the following:

(1) Bachelor's degree from an accredited college or university in a major field of study related to the Title 38 Hybrid occupation, including those occupations that have a positive education requirement.

(2) Bachelor's degree from an accredited college or university unrelated to the Title 38 Hybrid occupation that included or was supplemented by at least one of the following:

(a) At least 30 semester hours (or at least the same number of hours required by the educational institution for a major field) of directly related, upper level undergraduate courses (e.g., at least 200-course level or higher, or as identified by the college or university) for the hybrid occupation, or one full year of graduate level coursework (typically at least 15-18 semester hours) for the hybrid occupation; or

(b) Directly related practicum/internship in the hybrid occupation, either included in the degree or post-degree; or

(c) Directly related certification/licensure/registration for the hybrid occupation.

(3) Bachelor's degree from an accredited college or university, with an exemplary academic record as demonstrated by at least one of the following:

(a) Class Standing: Applicants must be in the upper third of the graduating class in the college, university, or major subdivision, such as the College of Liberal Arts or the School of Business Administration, based on completed courses.

(b) Grade-Point Average (GPA): Applicants must have a grade-point average of:

1. 3.0 or higher out of a possible 4.0 ("B" or better) as recorded on their official transcript, or as computed based on 4 years of education, or as computed based on courses completed during the final 2 years of the curriculum; or

2. 3.5 or higher out of a possible 4.0 ("B+" or better) based on the average of the required courses completed in the major field or the required courses in the major field completed during the final 2 years of the curriculum.

(c) Election to Membership in a National Scholastic Honor Society: Applicants can be considered eligible based on membership in one of the national scholastic honor societies. These honor societies are listed in the *Association of College Honor Societies: Booklet of Information* (1992-95) and/or Baird's *Manual of American College Fraternities* (1991). Membership in a freshman honor society cannot be used to meet the requirements of this provision.

e. **Intervening Grade Levels.** In general, standards for two-grade interval work (e.g., professional/scientific) are written in a two-grade interval progression whereas standards for *technical/medical support* work are written in a one-grade interval progression. In writing qualification standards, intervening grades in two-grade interval standards may be used to denote assignments of

unusual responsibility/complexity, such as the sole practitioner, team leader, or other special circumstance unique to the occupation. In addition, intervening grade levels may be included in grandfather clauses for current employees. VHA Program Officials in VA Central Office who wish to include intervening grade levels in the qualification standard for a particular occupation must submit such request, with supporting documentation, through the Under Secretary for Health (10) to Human Resources and Administration (006). Final determination on all grade levels will be made during the job analysis process.

f. **Full Performance Levels.** For occupations covered by these guidelines, the full performance (journey) level may vary depending on the complexities of the assignment or the competencies possessed by the individual and is not dependent on the entry level grade of the occupation. In this rank-in-person system, the promotion potential of positions may not be limited to grades below the full performance level as identified in the qualification standard.

g. **Pay Determinations.** Grade levels should not be used to address pay issues or problems. Recruitment or retention incentives (e.g., special salary rates, recruitment bonuses, relocation bonuses, retention bonuses, etc.) may be used to address pay-related recruitment or retention issues.

7. EIGHT STEPS TO DEVELOPING A TITLE 38 HYBRID QUALIFICATION STANDARD

a. For the development of a Title 38 Hybrid qualification standard for which there is little to no current occupational information or no current and usable job analysis, all eight steps will need to be completed.

b. For the development of a Title 38 Hybrid qualification standard for which there is current occupational information and/or a current and usable job analysis, but some significant changes to the basic requirements for the profession are anticipated, some steps may not need to be completed.

c. If an existing Title 5 qualification standard is being converted to the Title 38 Hybrid system and there are no changes to the basic requirements for the profession, only half the steps will be needed. Steps 1 through 3 will need to be completed in order to identify the appropriate knowledge, skills, and abilities at each grade level that will be listed in the qualification standard. The product of Step 8 is the actual qualification standard itself, and will need to be completed.

d. Subject-matter experts should review this guide and identify which steps to complete in consultation with their Human Resources Advisor and the Recruitment and Placement Policy Service (059) in the Office of Human Resources Management and Labor Relations. For each step, a required product is described.

(1) Step 1. Gather classified position descriptions (including signed OF-8) and/or task/job statements, as appropriate. These descriptions should represent the full range of assignments at different types and sizes of facilities, including outpatient clinics, small and large medical centers, etc. Identify representative assignments, duties, tasks, performance requirements/measurements, etc. for each grade level. Identify and describe special assignments at appropriate grade levels and the routine supervision/guidance received when performing these tasks.

Product: Representative critical duties/task statements and performance requirements/measurements for all grade levels and special assignments.

(2) Step 2. Compare representative critical duties/task statements and performance requirements/measurements to statutory descriptions for each grade level.

Product: Analysis demonstrating how the grade levels assigned to representative critical duties/task statements meet the statutory descriptions for each grade level.

(3) Step 3. Conduct analysis to identify knowledge, skills, abilities and other characteristics (KSAOs) required to perform the work of the position.

Product: A job analysis worksheet for each separate grade level that identifies the duties performed and the KSAOs required to perform each duty, and a list of the most important KSAOs required for each grade level.

(4) Step 4. Identify the source or means by which each KSAO is obtained, for example, through specific education, training, or experience.

Product: Itemized list of KSAOs and means by which they are obtained.

(5) Step 5. Gather information on private sector practices regarding licensure, certification, registration, and positive educational/training requirements.

Product: Summary of findings with supporting documents attached.

(6) Step 6. Compare findings of Step 5 with results of Step 4.

Product: List of duties with respective required KSAOs, and required certification, licensure, and registration, and positive education/training requirements identified.

(7) Step 7. Review product of Step 6 with statutory descriptions for grade levels.

Product: Analysis discussing results of comparison.

(8) Step 8. Write qualification standard in Title 38 Hybrid format.

Product: Qualification standard with all supporting documents from Steps 1 through 8.

8. NEW QUALIFICATION STANDARD PACKAGE SUBMISSIONS. VHA Program Officials must submit new qualification standard packages and supporting documentation through the Under Secretary for Health (10) to Human Resources and Administration (006). All qualification standard packages should contain:

a. The new qualification standard.

b. A copy of the old qualification standard.

c. Explanation of the need (if any) to tailor the standard grandfather provision set forth in paragraph 10.c.

d. Required products of the Eight Steps to Developing a Qualification Standard, including the following documentation of the Job Analysis:

(1) Date and location of the job analysis;

(2) Names, series, grade, job titles and duty stations of all SMEs and HR Advisor;

(3) SME participants and demographic data;

(4) Task Statement/Inventory List (VA Form 5-4771);

(5) Knowledge, Skills, Abilities, and Other Characteristics (KSAO) List (VA Form 5-4772);

(6) Task/KSAO linkage sheet (any data sheet in the VA Form 7051 series); and

(7) Certifications from all subject-matter experts (SMEs): SMEs must indicate by their signatures that they concur in the results of the job analysis. This may be done by having them sign in the spaces provided on the Task Statement List and KSAO List and on the data sheet used to align tasks and KSAOs.

e. OPM Issuances such as:

(1) Classification standards; and

(2) Qualification standards.

f. VA Issuances/Data such as:

(1) Copies of classified position descriptions or functional statements, as appropriate;

(2) Organizational charts;

(3) Distribution of incumbents in the series by grade and job title (if applicable);

(4) Minority representation within series by grade;

(5) VHA Directives relating to the occupation scope of practice and positions functioning in the field.

(6) VA Human Resource Letters (HRMLs) relating to the use and proper classification of the position; and

(7) Comparative data by grade level within VHA.

g. Published Materials such as:

(1) *Dictionary of Occupational Titles*; and

(2) Professional standards, ethics, and criteria for accreditation from professional associations.

h. Curricula review based on curricula and course catalogs from various colleges and universities around the country which offer degrees in the occupation

i. Employment Practices Survey derived from:

(1) Job descriptions and qualifications required by private sector facilities nationwide;

(2) Material from the occupation's professional organizations (i.e., occupational studies or job analysis); and

(3) Survey information (if a qualification standard already exists)

9. CHANGES TO EXISTING QUALIFICATION STANDARD PACKAGE SUBMISSIONS. VHA Program Officials requesting changes to existing qualification standards must submit such changes through the Under Secretary for Health (10) to Human Resources and Administration (006). Such packages should contain:

a. The new qualification standard.

b. A copy of the old qualification standard.

c. Explanation of the reason for the change to the existing standard.

d. Certifications from all subject-matter experts (SMEs) regarding the rationale for the change as well as products of any of the Eight Steps to Developing a Qualification Standard that were necessary to demonstrate and support the change.

e. Any additional material described in paragraph 8, e. through i., which demonstrates and supports the need for the change.

f. Justification and impact statement for changes to the grade structure and/or qualifications. Documentation should address fiscal impact, changes in industry/professional standards, impact on recruitment and diversity, and consistency with grades for similar, comparable occupations.

10. MINIMUM ELEMENTS FOR QUALIFICATION STANDARDS

a. **Coverage.** Include a brief description of the occupation.

b. **Basic Requirements.** Include U.S. citizenship requirements, education and/or experience required, required credentials (licensure, certification, registration), physical requirements, and English language proficiency requirement.

c. **Grandfathering Provision Clauses.** Include, if applicable, the following standard statement. If the statement is tailored for the specific occupation, a supporting explanation must be included in the package submission described in paragraph 8 of this appendix:

Grandfathering Provision. The following is the standard grandfathering policy for all Title 38 hybrid qualification standards. [The grandfathering provision does not apply to a newly established occupation and the related qualification standard that is implemented for that occupation in the VHA.] Some of these provisions may not apply to this occupation. Please carefully review the qualification standard to determine the specific education and/or licensure/certification/ registration requirements that apply to this occupation.

[All persons employed in VHA in this occupational series or in another occupational series that are also performing the duties as described in the qualification standard on the effective date of this qualification standard are considered to have met all qualification requirements for the grade held, including positive education and licensure/certification/registration that are part of the basic requirements of the occupation. For employees who do not meet all the basic requirements required in this standard, but who met the qualifications applicable to the position at the time they were appointed to it, the following provisions apply:]

Such employees in an occupation that does not require a licensure/certification/registration, may be reassigned, promoted, or demoted within the occupation.

Such employees in an occupation that requires a licensure/certification/registration, may be reassigned, promoted up to and including the full performance level, or demoted within the occupation, but may not be promoted beyond the full performance level or placed in supervisory or managerial positions.

Such employees in an occupation that requires a licensure/certification/registration only at higher grade levels must meet the licensure/certification/registration requirement before they can be promoted to those higher grade levels.

Employees who are appointed on a temporary basis prior to the effective date of the qualification standard may not have their temporary appointment extended or be reappointed, on a temporary or permanent basis, until they fully meet the basic requirements of the standard.
Employees initially grandfathered into this occupation, who subsequently obtain additional education and/or licensure/certification/registration that meet all the basic requirements of this qualification standard must maintain the required credentials as a condition of employment in the occupation.

d. **Grade Requirements.** Include definitions and determinations (education and/or experience requirements; required KSAOs; and typical assignments). Identify all grade levels covered within the occupation to include the full performance level (FPL) and KSAOs at each grade level. Provide specific examples of all assignments above the FPL (both supervisory and/or non-supervisory) that are necessary at each of those grades, including the specific KSAOs appropriate to each assignment. For assignments

above the FPL, the higher-level duties must consist of significant scope, complexity (difficulty), and range of variety, and be performed by the incumbent at least 25% of the time.

e. **Deviations.** Include, if applicable, the following standard statement. If the statement is tailored for the specific occupation, a supporting explanation must be included in the package submission.

"The appointing official may, under unusual circumstances, approve reasonable deviations to the grade determination requirements for an employee whose composite record of accomplishments, performance, and qualifications, as well as current assignment warrants such action. The placement of individuals in grade levels not described in the qualification standard must be approved by the Under Secretary for Health or designee in VA Central Office, pursuant to delegated authority from the Secretary. Under no circumstances will the educational or credential requirement be waived for those occupations with a positive education requirement, or when specific credentials are identified as necessary to meet minimum requirements."

f. **Loss of Credential.** The qualification standard for an occupation that requires a license, certification, and/or registration must include the following statement regarding the loss of that credential:

"An employee in this occupation who fails to obtain licensure/certification/registration within the required time frame, or who fails to maintain the required licensure/certification/registration must be removed from the occupation, which may also result in termination of employment.
For occupations which require an active credential (licensure/certification/registration) at all grade levels, at the discretion of the appointing official, an employee may be reassigned to another occupation for which he/she qualifies if a placement opportunity exists. For occupations which require an active credential (licensure/certification/registration) in assignments above the full-performance level only, at the discretion of the appointing official, an employee may remain at an appropriate lower grade level in the occupation when both of the following apply: the credential is not a requirement and a placement opportunity exists."

11. GLOSSARY OF TERMS

Accredited college or university	An educational institution, beyond the high school level, which has been accredited by an accrediting institution recognized by the U.S. Department of Education.
Certification	See Credentials
Complex[1]	Complex may refer to a program within a service (such as Rehabilitation Medicine Service) that offers the full range of available services (for example, in regard to Audiology, hearing conservation, advanced audiologic and electrophysiologic assessment and interpretation, comprehensive tinnitus evaluation, treatment, and retraining therapies, advanced central auditory function assessment and treatment, assessment and treatment of patients with surgically-implanted bio-electric or cochlear implants, intraoperative (surgical) monitoring, advanced vestibular assessment and rehabilitation, and analysis and fitting of advanced amplification technology involving acoustic signal processing algorithms). This is compared to a program which offers a limited range of available services.
Complex[2]	Complex may refer to an individual assignment that has a range of variety and technical difficulty that covers at least the full range of professional practice of the occupation and may include assignments of greater difficulty, scope, and variety.
Credentials (Certification, Registration, Licensure)	Evidence of successful competence by an individual in a specific occupation which has been awarded by professional organizations with responsibility for establishing the guidelines necessary to acquire, and maintain, professional credentials appropriate to a career field. Licensure refers to a specific license which has been issued by a state to an individual to perform a specified function.

Full Performance Level	This is also called the journey level. The independent level of operation for a particular type of work. This is not necessarily the highest level of non-supervisory work, but does represent the typical level for an independent worker. All individuals who perform successfully and acquire the required competencies may progress without competition to the full performance level.
Grandfather clause	A provision which allows for individuals who are officially assigned to a given occupation at the time of an approved change in the qualification requirements for that occupation to remain in that occupation at their current grade whether or not they meet the revised/new qualification requirements.
Intervening grades	This term applies to occupations which normally progress in two grade intervals from GS-5 through GS-11. It means the even numbered grade levels (that is, GS-6, GS-8, GS-10) which are between the usual progression of grades, would generally not exist. However, specific exceptions to this general rule may appear in some two-grade interval standards to cover unique circumstances.

Job Analysis	A job review to identify the tasks involved in any job and the associated knowledge, skill, ability, or other characteristics required to successfully perform the identified tasks and succeed in the job. Job analysis is conducted by Subject Matter Experts (SMEs) with a Human Resources advisor. Job analysis is done to guard against possible discrimination in employee selection. A systematic method for gathering, documenting, and analyzing information about the content, context, and requirements of a job. It demonstrates that there is a clear relationship between the tasks performed on the job and the competencies/KSAs required to perform the tasks. Job analysis information is used to develop employee selection procedures, identify training needs, define performance standards, and for other uses.
KSAs/Competencies	This acronym stands for Knowledge, Skill, and Ability. Sometimes the letter "O" is added to indicate other characteristics.

Leader	Leadership and supervision may be thought of as points along a continuum from nonsupervisory to managerial work. Team Leaders usually also perform work that is of the same kind and level as the highest level of work accomplished by the team led. For occupations classified in one-grade intervals work leaders as a regular and recurring part of their assignment lead three or more employees in accomplishing work by performing a range of duties such as distributing workload, instructing employees in specific tasks and job techniques, giving on the job training to new employees, checking on work in progress, resolving simple informal complaints, monitoring working conditions, and amending or rejecting work. For occupations classified in two-grade intervals leaders as a regular and recurring part of their assignment and at least 25% of their duty time lead a team of employees in accomplishing two-grade interval work. They work with team members to achieve specific tasks, produce work products and services, and meet program and production goals. Typically they assist the team through knowledge and application of leadership and team building skills and techniques such as group facilitation, coordination, coaching, problem solving, interpersonal communication, integration of work processes and products, obtaining resources, and liaison with the supervisor.
Licensure	See Credentials
Loss of Credential	A situation which exists when a specific certification, registration, or license is suspended or revoked by the issuing organization or when allowed to expire by the individual holding the credential.

One-grade interval positions	One grade interval occupations progress by single grade increments, for example, GS-4 to GS-5. These include technical occupations.
Organizational Title	A title commonly given to a position by the employing organization which is not an official title established by the classification and/or qualification standard applicable to the position. For example the official title might be Supervisory Orthotist but the organizational title could be Chief, Orthotics Laboratory.
Positive Educational Requirement	This generally refers to a professional occupation requiring education and training in the principles, concepts, and theories of the occupation that typically can only be gained through completion of a specified curriculum at a recognized college or university. A specific educational requirement that all individuals in a given occupation have completed in order to enter the occupation. This may be defined in terms of a specific degree (associate, bachelors, masters, or doctoral) or in terms of specific coursework.
Post-doctoral experience	This refers to any work experience in the occupation which is gained AFTER the Ph.D or similar doctoral degree has been awarded by a university.
Post-master's experience	This refers to any work experience in the occupation which is gained AFTER the master's degree has been awarded by a university.
Program Coordinator/Program Manager	A supervisory or non-supervisory assignment that includes professional and highly technical work including responsibility for development, evaluation, and promotion of a program. Such programs may vary in scope and complexity.

Progressively higher level graduate education	Education beyond the bachelor's degree level which involves more difficult and specialized coursework. This education is generally leading to an advanced degree. For example, coursework for a second master's degree in a different field would not be progressively higher level graduate coursework.
Qualification Standard	A statement of the minimum requirements that an individual must meet to be qualified for entry into and promotion in an occupation.
Registration	See Credentials
Signatory Authority	Delegated authority to sign documents obligating the VA to pay for provided services and products.
Statutory descriptions	Title 5, United States Code, governs the classification of positions in the Federal Service. This law provides that positions shall be classified based on the duties and responsibilities assigned and the qualifications required to do the work. Section 5104 of Title 5 provides definitions for the grade levels of the General Schedule. These grade levels are the foundation upon which the classification standards are built.
Subject Matter Expert (SME)	A person with bona fide expert knowledge about what it takes to do a particular job. First-level supervisors are normally good SMEs. Superior incumbents in the same or very similar positions and other individuals may also be used as SMEs if they have a current and thorough knowledge of the job's requirements.
Substitution of education	A provision within a specific qualification standard which allows an individual to qualify for a grade level based on identified education rather that experience.

Supervisory position	Supervisory work, at a minimum, includes responsibility for planning and scheduling work; assigning work to employees; accepting, amending, or rejecting completed work; assuring that production and accuracy requirements are met; appraising performance and recommending performance standards and ratings; approving leave; and effecting disciplinary measures. Additionally, the duties of a supervisor typically include prioritizing and scheduling work and finding ways to improve the quality and/or quantity of the work directed.
Two-grade interval positions	Two-grade interval occupations progress by two grade increments from GS-5 to GS-11 and include professional and administrative occupations defined by the Office of Personnel Management.

[APPENDIX G40. DEVELOPMENT OF QUALIFICATION STANDARDS FOR VETERANS HEALTH ADMINISTRATION (VHA) POSITIONS FILLED UNDER 38 U.S.C. § 7401(1)

1. SCOPE. This appendix provides VA procedures for the development of qualification standards by VHA Central Office program officials and occupation-specific subject matter experts, working with representatives of the Recruitment & Placement Policy Service (R&PPS) (059), for VHA positions under 38 U.S.C. § 7401(1). Authority is given to the Secretary under 38 U.S.C. § 7421 to prescribe qualifications for occupations identified in § 7401(1).

2. BACKGROUND

a. Qualification Standards are critically important documents for the identification of candidates with the needed knowledge, skills, and abilities to perform VA's work. Qualification standards establish minimum requirements that are predictive of successful performance.

b. A qualification standard is a statement of the minimum requirements that an individual must meet to be qualified for appointment or assignment to a position.

c. Minimum requirements include such considerations as experience, education, training, personal characteristics, physical ability, minimum age, citizenship, and licensure or certification.

d. In a broad sense, a qualification standard includes the examining guides, rating schedules, rating scales and other standardized measuring devices and techniques through which the qualifications of candidates are evaluated.

e. A qualification standard does not include the more general eligibility requirements such as restrictions on employment of relatives, security/suitability determinations, etc. of successful performance. The application of qualification standards in VHA is an integral part of ensuring a fully qualified workforce is available to care for Veteran patients.

3. INTERPRETING QUALIFICATION STANDARDS. The following information is pertinent to the interpretation of VA qualification standards:

a. VHA appointing officials and Professional Standards Boards act for the Under Secretary for Health in applying the qualification standards in a fair and consistent manner. Such decisions are made through an analysis of personal data and/or experience records.

b. When there is disagreement on the interpretation of a qualification standard, the appropriate HRM Officer may request an interpretation or decision from the Deputy Assistant Secretary for Human Resources Management (05). A courtesy copy of such request will be sent to the appropriate VHA Program Official in VA Central Office.

4. RESPONSIBILITIES. The following is an explanation of responsibilities associated with the development of VA qualification standards:

a. Qualification standards are developed by teams with representatives from R&PPS (059) and subject matter experts from VHA.

b. VHA Field facilities may be requested to review and comment on drafts of VA qualification standards.

c. Professional Standards Boards may recommend changes to qualification standards electronically to R&PPS (059) to improve the quality and clarity of the standards. R&PPS (059) will consult with the appropriate VHA program officials before final proposed changes are submitted for consideration.

5. GENERAL GUIDELINES. These procedures describe a step-by-step process for assembling, analyzing, and verifying occupational information that can then be used to convert a qualification standard from Title 5 to Title 38 format or to revise an existing or develop a new Title 38 qualification standard.

a. For each step, an expected product is described. When the product for each step is completed, it should be forwarded to the R&PPS email box (Staffing Policy 059/VACO@ va.gov). Work on the next steps(s) should proceed while R&PPS (059) representatives are reviewing each completed product.

b. For the development of a Title 38 qualification standard for which there is little to no current occupational information or no current and usable job analysis, all eight steps will usually need to be completed.

c. For the development of a Title 38 qualification standard for which there is current occupational information and/or a current and usable job analysis, but some significant changes to the basic requirements for the profession are anticipated, some steps may not need to be completed.

d. Subject-matter experts should review these procedures and identify which steps to complete in consultation with R&PPS (059) in the Office of Human Resources Management.

6. EIGHT STEPS TO DEVELOPING A TITLE 38 QUALIFICATION STANDARD

a. **Step 1.** Gather functional statements. Functional statements should represent the full range of assignments at different types and sizes of facilities, including outpatient clinics, small and large medical centers, etc. Identify representative assignments, duties, tasks, etc. for each grade level, and identify and describe special assignments at appropriate grade levels.

Product: Representative critical duties/task statements for all grade levels and special assignments.

b. **Step 2.** Compare representative critical duties/task statements to statutory requirements for each grade level.

Product: Analysis demonstrating how the grade levels assigned to representative critical duties/task statements meet the statutory requirements for each grade level.

c. **Step 3.** Conduct analysis to identify knowledge, skills, abilities and other characteristics required to perform the work of the position.

Product: A job analysis worksheet for each functional statement that identifies the duties performed and the KSAOs required to perform each duty, and a list of the most important KSAOs required for each grade level.

d. **Step 4.** Identify the source or means by which each KSAO is obtained, for example, through specific education or training.

Product: Itemized list of KSAOs and means by which they are obtained.

e. **Step 5.** Gather information on private sector and other Federal healthcare organization's practices regarding licensure, certification, registration, and positive educational/training requirements, and comparable pay rates.

Product: Summary of findings with supporting documents attached.

f. **Step 6.** Compare findings of Step 5 with results of Step 4.

Product: List of duties with respective required KSAOs, and required licensure, certification, registration, and positive education/training requirements identified.

g. **Step 7.** Review product of Step 6 with statutory requirements for grade levels.

Product: Analysis discussing results of comparison.

h. **Step 8.** Write qualification standard in Title 38 format.

Product: Qualification standard with all supporting documents from Steps 1 through 8.

Duty/Task	Knowledge, Skill, Ability, Other Characteristic Required	Means of Obtaining KSAO

]

APPENDIX H1. PROCEDURES FOR APPOINTING PHYSICIANS TO SERVICE CHIEF AND COMPARABLE POSITIONS

1. **SCOPE.** This appendix covers appointments of physicians to service chief or comparable positions. (For information on comparable positions, See VA Handbook 5007, Pay Administration.) It does not apply to those in an “acting” capacity.

2. **PROCEDURES.**

   a. The facility initiates recruitment and contacts the appropriate VA Central Office program office, which may recommend additional candidates for consideration.

   b. Candidates are screened, interviewed and tentatively selected at the facility.

   c. If the candidate is board certified in an appropriate specialty or specialties, the Chief of Staff or designee discusses the proposed selection with the appropriate VA Central Office program official who may provide comments or recommendations concerning the proposed selection within five working days. For candidates who are not board certified or who are certified in a specialty or specialties not appropriate to the proposed assignment, the Chief of Staff or designee will forward the candidate’s curriculum vitae, employment application, and credentialing/privileging information to the Office of Patient Care Services (11), which will provide comments concerning the proposed selection within 15 working days.

   d. The Chief of Staff recommends a candidate to the facility director [ ]. The recommendation shall include any comments made by the VA Central Office program official.

   e. The facility obtains the concurrence of the Dean’s or Medical Advisory Committee, where appropriate.

   f. The facility director approves or disapproves the appointment.

   g. The facility advises the program official and the Network Director that the selection has been approved.

      NOTE 1: Special pay agreements must be approved in VA Central Office if the candidate’s total pay (basic, special pay and bonus or allowance) would exceed $190,000. See VA Directive and Handbook 5007, Pay Administration.

      NOTE 2: Communications with VA Central Office officials need not be in a formal written format.

      NOTE 3: Facility officials are to maintain documentation regarding their recruitment process. This documentation is to include: (1) A summary

of any comments from Department of Veterans Affairs Central Office program officials regarding the recommended candidate; and (2) If the position is advertised and a noncitizen candidate is selected, the names of all citizen applicants and the reason(s) why the citizen applicants were not qualified for the position.

APPENDIX H2. PROCEDURES FOR APPOINTING DENTISTS AND EFDAs

1. **SCOPE.** This appendix covers appointments of dentists to position of Chief, Dental Service and comparable positions. It does not apply to those "acting" in such positions. It also covers the appointment of staff dentists and EFDAs (Expanded-Function Dental Auxiliaries).

2. **APPOINTMENT TO POSITION OF CHIEF, DENTAL SERVICE, AND COMPARABLE POSITIONS.**

   a. The facility initiates recruitment and contacts the Office of Dentistry (112D) which may recommend additional candidates for the position. Vacancy announcements are to be accomplished by the facility. These announcements need to reach all potential VA candidates and allow employees the opportunity to be informed of, and compete for, vacancies.

   b. Candidates are screened, interviewed, and tentatively selected at the facility.

   c. The facility chief of staff or designee discusses the proposed selection with the Office of Dentistry which has five working days to make comments or recommendations concerning the proposed selection.

   d. The facility chief of staff recommends a selection to the facility Director. Recommendations related to advancements and assignments shall include any comments made by the Office of Dentistry. [ ]

   e. The facility obtains the concurrence of the Dean's or Medical Advisory Committee, if appropriate.

   f. The facility director approves or disapproves the appointment or assignment.

   g. The Office of Dentistry and the network directors are notified.

3. **APPOINTMENT TO STAFF DENTIST POSITIONS.**

   a. The facility initiates recruitment and contacts the Office of Dentistry (112D), which may recommend additional candidates for the position. Vacancy announcements are to be accomplished by the facility. These announcements need to reach all potential VA candidates and allow employees the opportunity to be informed of and compete for vacancies.

   b. On notification of a dentist vacancy by a facility, the VA Health Care Staff Development and Retention Office will forward to the facility HR Office the applications and related materials of qualified candidates who have indicated availability for that facility or geographical area.

   c. Candidates are screened, interviewed and tentatively selected at the facility.

d. The Chief of Dental Service or designee is to discuss the proposed selection with the Office of Dentistry, which has five working days to make comments or recommendations concerning the proposed selection.

e. The recommendation is forwarded through channels to the facility Director for consideration. The recommending official shall include any comments made by the Office of Dentistry.

f. The facility obtains the concurrence of the Dean's or Medical Advisory Committee, if appropriate.

g. The facility director approves or disapproves the appointment or assignment.

h. The facility advises the Office of Dentistry of the selection.

4. APPOINTMENT OF EFDAS.

a. When an EFDA vacancy occurs, the facility initiates recruitment and contacts the Office of Dentistry, which may recommend additional candidates for the position.

b. The service Chief screens, interviews and tentatively selects a candidate.

c. A recommendation is forwarded through channels to the facility Director [ ].

d. The facility Director approves or disapproves the appointment or assignment.

e. The facility advises the Office of Dentistry of the selection.

[ ]

NOTE 1: Facility communications with the Office of Dentistry in Central Office need not be in a formal written format.

NOTE 2: Facility officials are to maintain documentation regarding the process of recruiting dentists and EFDAs. This documentation is to include:

- A summary of any comments from Central Office program officials regarding the recommended candidate; and

- If the position is advertised and a noncitizen candidate is selected, the names of all citizen applicants and the reason(s) why the citizen applicants were not qualified for the position.

APPENDIX H3. PROCEDURES FOR APPOINTING PODIATRISTS

1. **SCOPE.** This appendix establishes the procedures for the appointment of all podiatrists in VHA.

2. **PROCEDURES.**

   a. The facility initiates recruitment and contacts the Director of Podiatry Service who may recommend additional candidates for the position.

   b. The appropriate official screens, interviews, and tentatively selects a candidate for the position.

   c. [ ] The Chief of Staff or designee discusses the proposed selection with the Director of Podiatry who has five working days to make comments or recommendations concerning the proposed selection.

   d. The recommendation is forwarded through channels to the facility director for consideration. Recommendations are to include the comments of the Director of Podiatry Service. [ ]

   e. The facility obtains the concurrence of the Dean's or Medical Advisory Committee, if appropriate.

   f. The facility director approves or disapproves the appointment or assignment.

   g. The facility advises the Director of Podiatry Service of the selection.

      [ ]

   NOTE 1: Facility communications with VA Podiatry Service officials need not be in a formal written format.

   NOTE 2: Facility officials are to maintain documentation regarding their recruitment process. This documentation will include:

   - A summary of any comments from Central Office program officials regarding the recommended candidate; and
   - If the position is advertised and a noncitizen candidate is selected, the names of all citizen applicants and the reason(s) why the citizen applicants were not qualified for the position.

APPENDIX H4. PROCEDURES FOR APPOINTING OPTOMETRISTS

1. **SCOPE.** This appendix establishes the procedures for the appointment of all optometrists in VHA.

2. **PROCEDURES.**

   a. The facility initiates recruitment and contacts the Director of Optometry Service who may recommend additional candidates for the position.

   b. The appropriate official screens, interviews, and tentatively selects a candidate for the position.

   c. [ ] The Chief of Staff or designee discusses the proposed selection with the Director of Optometry who has five working days to make comments or recommendations concerning the proposed selection.

   d. The recommendation is forwarded through channels (including the Dean's or Medical Advisory Committee, where appropriate) to the facility director for consideration. Recommendations are to include the comments of the Director of Optometry Service. [ ]

   e. The facility director approves or disapproves the appointment or assignment.

   f. The facility advises the Director of Optometry Service of the selection.

   NOTE 1: Facility communications with VA Central Office Optometry Service [program] officials need not be in a formal written format [ ]

   NOTE 2: Facility officials are to maintain documentation regarding their recruitment process. This documentation will include:

   - A summary of any comments from VA Central Office Optometry Service program officials regarding the recommended candidate; and

   - If the position is advertised and a noncitizen candidate is selected, the names of all citizen applicants and the reason(s) why the citizen applicants were not qualified for the position. [ ]

   NOTE 3: Information concerning promotion of optometrists can be found in Part III, Appendix M, this handbook.

   NOTE 4: Additional program information covering optometrists can be obtained through the Director of Optometry Service or the VHA Optometry Service website via the following link: http://vaww1.va.gov/optometry/.

APPENDIX H5. RECRUITMENT, APPOINTMENT, ADVANCEMENT, CHANGE IN ASSIGNMENT, AND REASSIGNMENT OF REGISTERED NURSES (RNs) AND [ADVANCED PRACTICE NURSES (APNS) IN GRADES IV AND V]

1. **SCOPE.** This appendix covers recruitment, appointments, advancements, changes in assignment, and reassignments of RNs [and APNs (certified nurse practitioner, clinical nurse specialist, certified nurse mid-wife) in grades IV and V assignments. (See Appendix G6d for APN (CNA) Nurse IV and V assignments.)]

2. RECRUITMENT, APPOINTMENT, ADVANCEMENT, CHANGE IN ASSIGNMENT, AND REASSIGNMENT OF KEY NURSING PERSONNEL.

a. **Recruitment. [**The appropriate supervisory official will collaborate with HR to determine the best recruitment flexibilities to utilize in filling the position which may or may not include formal vacancy announcements or advertisements, use of a search committee, utilization of recruitment and relocation incentives or other incentives, direct selection of a qualified candidate, etc.

b. **Qualification.** HR staff will evaluate all candidate(s) to determine if the basic qualification requirements for the grade level and assignment have been met and refer qualified candidates to hiring official.

c. **Selection.**

(1) The hiring official will review applications referred for selection. Hiring officials who are not SMEs must consult SMEs when evaluating applications. SMEs must be at or above the grade level of the position being considered. SME review may take the form of a panel or consultation with the SME for the profession. **NOTE:** Office of Nursing Services will identify appropriate SMEs for Nurse IV and V grade level assignments. (See Chapter 3, Section F for additional information on SME requirements.)

(2) Once a selection is made, the supervisor will consult with HR staff and the profession's SME (if applicable) and submit supporting documentation for utilization of pay setting flexibilities (if applicable), found in VA Handbook 5007, Part II, for consideration by the deciding official.]

d. **Reassignments and Changes in Assignment.** A reassignment is a change from one position to another. A change in assignment is a change in the duties and responsibilities of a specific position.

(1) **Reassignment.** If a nurse is reassigned and the reassignment does not involve a change in grade, [no additional review is required, and the supervisory official may move forward with an appropriate reassignment

action in collaboration with HR staff.] If a change in grade is involved, the procedures in paragraph 2c will be used.

(2) **Change in Assignment.** If the duties and responsibilities of a position are significantly changed, the procedures in paragraph [2c] will be used to determine whether the employee should be advanced to a higher grade. Minor changes in duties and responsibilities may be accomplished by revising or amending the employee's functional statement.

3. [ ] APPOINTMENT, ADVANCEMENT, REASSIGNMENT, AND CHANGE IN ASSIGNMENT OF NURSE EXECUTIVES. Procedures for the recruitment, appointment, advancement, change in assignment, and reassignment of nurse executives are the same as in paragraph 2. However, when a selection is made for one of these positions, facility officials will notify the appropriate network director and the Office of Nursing Services in VA Central Office.

[ ]

4. CRITERIA FOR GRADING [RN AND APN] LEADERSHIP POSITIONS AT [GRADE] IV AND [GRADE V]. Assignment of the Nurse IV and Nurse V grade levels is based on the complexity and responsibility of the assignment and the individual's qualifications. [ ]Criteria for determining whether the complexity of an assignment warrants placement at the [RN or APN] grades [IV and V] are outlined in paragraph 5 below.

5. COMPLEXITY OF ASSIGNMENT REQUIRED FOR PLACEMENT AT [GRADE] IV AND V.

a. **General.** [RNs and APNs] are appointed and promoted to grades IV and V [grade levels] based on the scope and complexity of their assignment and qualifications. Assignments of IV and V grade levels are position specific. This appendix provides guidance for determining whether facility, VISN or Central Office [ ] positions meet the criteria for placement at [grade IV or V].

b. **Nurse Executive Positions.** The term "Nurse Executive" refers to the top nursing management position at a VHA healthcare facility/system. Nurse executives are members of the senior management team. The organizational title of the Nurse Executive position will vary (e.g., Chief Nurse, Nurse Executive, Associate Director for Nursing Services, Associate Director for Patient Care Services) but must be consistent with senior management titles recognized by VA Central Office. Appointment or advancement to a Nurse Executive position is based on the complexity of the position. [ ]. Generally, Nurse Executives are appointed at the Nurse V grade level [ ].

c. Key Nursing Personnel.

(1) **Comparability to Nurse Executive Positions.** VA policy provides that [RNs and APNs] in assignments other than Nurse Executive may be appointed or advanced to [grade IV or V].

(2) **Establishing Positions.** The facility, VISN or VACO Program Office should establish a formal process for approving the design and implementation of such positions. Responsibilities in new positions should not duplicate or otherwise reduce responsibilities of other positions if the grades of those other positions are based the responsibilities involved.

(3) **Key Nursing Assignments Warranting [Grade] IV or V.** Positions at these grades are typically located in organizational settings where there is a high rate of activity and a broad mission involving a full range of complex programs and/or services. Program responsibility includes full responsibility for program design, integrating the program with other related programs and organizational goals, monitoring, as well as responsibility for evaluating and administering the program. Positions at IV and V grades also have full accountability for program outcomes.

(a) Examples of [Grade] IV Positions [include but are not limited to:]

i Managers for Service Lines;

ii Positions in VISN offices that have broad program responsibility for a single program that covers all facilities within the network; and

iii Positions at facilities with full program responsibilities that meet criteria in [appendix G6d, Part II].

(b) Examples of [Grade] V Positions [include but are not limited to:]

i VISN positions with broad program responsibility for multiple programs covering all facilities within the network;

ii Positions with substantial sphere of influence across multiple sites or programs and across the full continuum of care;

iii [Service Line Executives in complex settings.]

iv Positions with substantial involvement in multi-site, regional, and/or national professional and health related issues; and

v Positions at tertiary facilities that have full program responsibility for more than one of the following programs: clinical, education, research or quality management.

(4) **Consideration Procedures.** Nurse Executives and facility directors must initially determine that a position meets the scope and complexity requirements before an individual can be considered for appointment or promotion. [ ]. Procedures for such determinations and employee consideration are outlined in VA Handbook 5005, Part III, chapter 4 [ ].

d. **Vacancies and Reassignments.** [Grades] IV and V are based on a combination of assignment characteristics and individual qualifications [ ]. Positions of individuals at the Nurse IV or Nurse V grade should not be significantly modified, nor should individuals in these positions be assigned to other positions or duties, which may not warrant IV or V [grade level.] [ ].

6. [EXAMPLES OF APN-SPECIFIC GRADE IV AND V ASSIGNMENTS (excludes CNA IV and V that are covered in Part II, Appendix G6d). The roles below are examples that meet the scope and complexity of grade IV and V assignments. Other roles may also be developed to address organizational, VISN or VHA needs if the role meets the scope and complexity.

(1) **Nurse IV**. APN positions in this grade execute clinical and administrative leadership that is characterized by substantial and continuous responsibility and accountability for population groups or integrated programs at the facility, VISN or program office level. Roles include but are not limited to APN Facility Lead, APN Facility Lead or Residency Program Director, and APN Clinical Leader/Administrative Leader.

(a) **APN Facility Lead.** Facility lead APNs have a thorough understanding of the various functions involved in patient care delivery, and the ability to interact effectively with a diverse health care team. Demonstrates knowledge and expertise pertaining to APN employment, credentialing and clinical practice. Serves as a mentor and monitors work to include clinical standards of practice, polices and regulatory standards. Influences others to improve care and provides feedback on fellow APNs' work performance. Required experience may include progressive leadership responsibilities, such as serving on local committees, workgroups or taskforces. The Lead APN represents the interests of the APN profession and serves as a liaison for professional APN practice.

(b) **APN Facility Education Lead or Residency Program Director.** APN Facility Education Leads or APN Residency Program Directors are responsible for the management, structure and administration of the APN clinical trainee program. Ensures programs comply with VA Office of Academic Affiliation standards and accrediting bodies of sponsoring affiliated institutions while activities are being held at VA facilities. Develops, implements and enhances APN clinical education training programs. Required experience may include one or more of

the following educational assignments: precepting APNs or medical students, setting up continuing education for local VHA APNs, participating in community health events, serving as an APN assistant or coordinator in a VHA residency program or stipend program and serving as a member or staff of an academic APN program.

(c) **APRN (Clinical Leader/Administrative Leader).** Clinical/Administrative APN Leaders are engaged with strategic planning and administrative/managerial responsibilities for integrated programs that cross service and/or discipline lines and influence organizational mission and health care. Monitors or evaluates services or programs with interaction of senior administration. Required experience may include one or more of the following: leadership assignments that involved formulating program objectives and priorities, implementing plans and practices and interpreting regulatory and organizational guidance to develop and implement policies and/or procedures.

(2) **Nurse V.** APN positions at this grade may include but are not limited to: APN Service Chief/Service Line Executive, APN VISN Program Manager/Lead, APN Central Office Executive/Lead or administrative clinical leadership positions of an executive nature, comprised of complex leadership and administrative components, associated with critical health care issues and activities that influence agency or organizational mission, health care, and policy.

(a) **APN (Service Line Executive**). APN (Service Line Executive) manages a complex multi-disciplinary service line providing direct oversight to program operations. Provides leadership, direction, and guidance on all aspects of the program(s). Coordinates with network and facility executives in developing and establishing the long and short-range organizational goals for the program(s), ensuring organizational goals and policies are aligned with Medical Center, VISN, and national goals. Evaluates, develops, coordinates, implements, and improves program operations. Manages the overall service budget, to include determining resource needs, allocating resources, and ensuring proper utilization in productivity, efficiency, and cost effectiveness of operations. Responsible for clinical practice, program management, education and personnel management. Establishes and maintains effective interpersonal relationships at all organizational levels. Manages healthcare system staff to perform the functions and activities expected. Interprets and applies national policy, as well as leads policy-making activities for the program(s). Forecasts technological changes, analyzes current and projected utilization patterns/workload/staffing and cost comparisons to provide

feedback and recommendations to executive leaders. Exhibits leadership that reflects current standards and expectations provided by VHA Central Office (VHACO). Required experience may include assignments that involved directing and evaluating complex patient care or administrative programs, services or operations for a healthcare system or at multiple sites. The assignments would have required planning, organizing and assessing healthcare services or programs; implementing national initiative and organizational targets; developing long and short-term program goals, and analyzing developing options; and implementing solutions to health care operational or administrative problems.

(b) **APN (VISN Program Manager/Lead).** APN (VISN Program Manager/Lead) manages one or more large, complex patient care or administrative programs across one or more VISNs. Responsible for the program(s) and significantly influences overall functioning of the program(s) throughout the VISN(s). Provides leadership, direction, and guidance on all aspects of the program(s). Coordinates with network and facility executives in developing and establishing the long and short-range organizational goals for the program(s), ensures organizational goals and policies are aligned with VISN and national goals. Evaluates, develops, coordinates, implements and improves program operations within the VISN(s). Manages the overall budget for the program VISN-wide, to include determining resource needs, allocating resources, and ensuring proper utilization in productivity, efficiency, and cost effectiveness of operations. Responsibility for clinical practice, program management, education and human resources management of the program. Establishes and maintains effective interpersonal relationships with all levels of stakeholders at the facility, network or beyond. Interprets and applies national policy, as well as develops VISN-wide supplemental guidance regarding the program(s). Assist in policy-making activities and the overall functioning of administrative and clinical programs. Collaborates with other staff to establish and maintain programs that cross service and/or discipline lines and influence organizational mission and health care. Utilizes forecasts of technological changes, utilization patterns, future workloads, staffing projection, and cost comparisons to provide feedback and recommendations to VISN leadership that reflects current standards and expectations provided by VHACO. Required experience may include assignments that involved directing and evaluating complex patient care or administrative programs, services or operations for a healthcare system or at multiple sites. The assignments would have required planning, organizing, and assessing healthcare services or programs; implementing national initiative and organizational targets; developing long and short-term

program goals and analyzing developing options, and implementing solutions to health care operational or administrative problems.

(c) **APN (Central Office Program Executive/Lead).** APN (Central Office Program Executive/Lead) manages a national VHA program or programs and provides overall administration of all aspects of the program(s) throughout VHA, to include planning, directing, and executing the program(s). Analyzes and develops program specific plans, programs and budgets for a national program office. Provides leadership and direction for the assigned program(s) that significantly impacts the overall functioning of the program(s) VHA-wide, to include ensuring the program(s) meet VA mission requirements. Develops succession plans, monitors trending program data and academic preparation for the profession(s). Develops national policies, directives, informal letters, white papers, and other guidance regarding the program(s). Coordinates and collaborates with Federal and state regulatory agencies, national program offices such as Regulatory Affairs, Legislative Affairs, and General Counsel when developing national policies, procedures, and operations for the program(s). Provides agency-level interpretation and clarification of national policies and directives. Writes or provides technical reviews of proposed legislation regarding the program for the agency. Responds to Congressional offices and other high-level inquiries from internal and external organizations related to the program(s) and/or program office. Required experience may include assignments which involved directing and evaluating complex patient care or administrative programs, services or operations for a healthcare system or at multiple sites. The assignments would have required planning, organizing, and assessing healthcare services or programs; implementing national initiative and organizational targets; developing long and short-term program goals; and analyzing developing options, and implementing solutions to health care operational or administrative problems.]

APPENDIX H6. PROCEDURES FOR APPOINTING [ADVANCED PRACTICE NURSE (ANESTHETISTS)] TO SECTION CHIEF POSITIONS

1. **SCOPE.** This appendix covers the appointment of nurse anesthetists as Chief of the Nurse Anesthesiology Section. It does not apply to those in an “acting” capacity.

2. **PROCEDURES.**

   a. When a position becomes vacant, the facility will initiate recruitment (where appropriate) and contact the Deputy Director for Nurse Anesthetists, VA Anesthesiology Service, who may recommend additional candidates for consideration.

   b. Candidates are screened, interviewed, and tentatively selected by the appropriate facility official.

   c. The facility chief of staff or designee is to discuss the proposed selection with the Deputy Director for Nurse Anesthetists who has five working days to make comments or recommendations concerning the proposed selection.

   d. The recommendation is forwarded through channels to the facility Director for consideration. Recommendations are to include the comments of the Deputy Director for Nurse Anesthetists. [ ]

      NOTE 1: Communications with program officials need not be in a formal written format.

      NOTE 2: Facility officials are to maintain documentation regarding their recruitment process. Documentation will include:

      - A summary of any comments from Central Office program officials regarding the recommended candidate; and

      - If the position is advertised and a noncitizen candidate is selected, the names of all citizen applicants and the reason(s) why the citizen applicants were not qualified for the position.

[ ]

APPENDIX H7. PROCEDURES FOR APPOINTING PHYSICIAN ASSISTANTS (PAs) at CHIEF GRADE

1. If appropriate, local recruitment efforts are initiated.

2. Once a candidate is identified, the recommendation is sent through the appropriate Physician Assistant Professional Standards Board to the facility Director for approval or disapproval.

NOTE: *Any movement to another assignment requires a determination that the new assignment warrants Chief grade. Such determinations shall consider the recommendation of the appropriate Physician Assistant Professional Standards Board.*

APPENDIX H8. PROCEDURES FOR APPOINTING CHIEFS OF PHARMACY SERVICE (ALL GRADES) [ ]

1. **SCOPE.** This appendix covers appointment of all Chiefs of Pharmacy Service [ ]. It does not apply to those in any of these positions in an “acting” capacity.

2. **PROCEDURES [FOR CHIEFS OF PHARMACY SERVICE].**

[ ].

a. Recruitment efforts are initiated. [ ] Candidates are interviewed, screened, and tentatively selected at the facility.

b. The Chief of Staff or designee discusses the proposed selection with Pharmacy Benefits Management Strategic Health Group (119), which has five working days to comment or make recommendations concerning the proposed selection.

c. The appropriate facility official recommends the selection to the facility director. [ ] The facility director approves or disapproves the action.

d. The facility notifies the Pharmacy Benefits Management Strategic Health Group and the Network Director of the selection.

APPENDIX H9. PROCEDURES FOR APPOINTING OCCUPATIONAL AND PHYSICAL THERAPISTS AS SECTION CHIEF

1. **SCOPE.** This appendix covers the appointment of occupational and physical therapists to section chief positions. It does not apply to those in an acting capacity.

2. **PROCEDURES.**

   a. Local recruitment efforts are initiated by the facility.

   b. The service chief or equivalent screens and interviews candidates.

   c. The service chief or equivalent forwards the recommended candidate through channels to the facility director for consideration. [ ]

   d. The facility director approves or disapproves the action.

[ ]

APPENDIX H10. PROCEDURES FOR APPOINTING AND ADVANCING DOCTORS OF CHIROPRACTIC

1. **SCOPE.** This appendix establishes procedures for the appointment and advancement of all doctors of chiropractic in VHA.

2. **APPOINTMENT PROCEDURES.**

   a. The facility initiates recruitment procedures and contacts the VHA Director of Chiropractic Service, who may recommend additional candidates for the position.

   b. The appropriate facility officials screen, interview, and tentatively select a candidate for the position.

   c. [The] facility Chief of Staff or designee discusses the proposed selection with the VHA Director of Chiropractic Service who has five working days to make comments or recommendations concerning the proposed selection.

   d. [The] recommendation is forwarded to the facility director for consideration. Recommendations are to include the comments of the VHA Director of Chiropractic Service. [ ]

   e. [The] facility director will approve or disapprove the recommendation for appointment.

   f. The facility advises the VHA Director of Chiropractic Service of the selection.

   NOTE 1: The Director of Chiropractic Service may be contacted through the VA Connecticut Healthcare System as follows:

   Director, VHA Chiropractic Service
   VA Connecticut Healthcare System
   950 Campbell Avenue
   Mail Stop 111D
   West Haven, CT 06516

   [ ]
   NOTE 2: The facility must maintain documentation regarding the recruitment process that was used to solicit applications. This documentation will include:

   - A summary of any comments from VHA Central Office Director of Chiropractic Service regarding the recommended candidate;

   - Copies of any paid advertisement that may have been done; and

   - If the position is advertised and a noncitizen candidate is selected,

the names of all citizen applicants and the reason(s) why the citizen applicants were not qualified for the position.

NOTE 3: Additional program information covering chiropractors may be obtained through the Director of Chiropractic Service or the VHA Chiropractic Service.

[ ]

APPENDIX I. ENGLISH LANGUAGE PROFICIENCY

1. GENERAL

a. No person will be appointed under authority of 38 U.S.C. chapter 73 or 74, to serve in a direct patient-care capacity in VHA who is not proficient in written and spoken English. This includes all full-time, part-time, intermittent, without compensation, consultant, attending, and on-facility fee-basis appointments.

b. The facility Director is responsible for identifying all positions involving direct patient-care responsibilities and for determining which applicants are proficient in English. The Director may delegate responsibility for carrying out the administrative functions required to make the language proficiency determinations to the HRM Officer or designee.

c. When a VA facility serves a substantial number of veterans with limited English-speaking ability, the Director must ensure the identification of sufficient numbers of staff members who are fluent in both the language most appropriate to these veterans and in English.

d. The General Counsel has determined that, in making language proficiency determinations and assessments, the Uniform Guidelines on Employee Selection Procedures (41 CFR 60-3) do not apply. However, the facility Director should try to minimize, if possible, any disproportionate adverse impact on members of groups whose primary and native written and spoken language is not English.

2. DEFINITIONS

a. **Required English Language Proficiency.** Ability to communicate in spoken and written English with patients and other health care personnel with sufficient fluency to satisfactorily carry out assigned responsibilities.

b. **Direct Patient-Care Capacity.** Face-to-face contacts with a patient for the purpose of providing care, diagnosis, counseling, or treatment. This does not include personnel in nondirect patient-care capacities who may come in contact with patients incidental to their primary job responsibilities. This does include trainees in all health care occupations. This may include, but is not limited to:

(1) Any person technically and/or professionally responsible for supervising the performance of direct patient-care activities such as the Chief of Staff, service or section chief, clinical service supervisors, etc;

(2) Any person responsible for contributing diagnostic, treatment, or counseling information for the patient's medical record;

(3) Any physician or dentist (including residents), podiatrist, optometrist, [chiropractor,] nurse, nurse anesthetist, physician assistant (PA) or expanded-function dental auxiliary (EFDA), except those appointed under authority of 38 U.S.C. 7405 solely for the purpose of carrying on activities other than direct patient care, such as purely academic or research activities;

(4) [Appropriate occupation/position listed as Hybrid Title 38 under 7401(3)]; and

(5) Any person appointed under 38 U.S.C. 7405 to serve in an allied health capacity in support of the total treatment team effort, such as clinical psychologists, social workers, rehabilitation medicine therapists, nursing assistants, and laboratory and radiology personnel, dietitians, etc., who are in direct contact with patients in a diagnostic, treatment, counseling, or care capacity.

c. **Appointment.** Any action to assign an individual to a direct patient-care capacity is considered an appointment for the purpose of this appendix. This includes initial appointment and any initial assignment to a direct patient-care position, such as transfer, reassignment or promotion.

3. DETERMINATION OF PROFICIENCY. One of the following criteria will be used to determine English language proficiency:

a. The candidate's primary and native written and spoken language is English.

b. The candidate has completed a combination of 4 or more years of education and/or experience as follows:

(1) Education in this country or in any school in which the basic curriculum is conducted in English, which may include any time spent in graduate and postgraduate training.

(2) Successful work experience in a health care facility in which the primary written and spoken language is English and in which the individual is required to communicate in English.

c. For physicians, any of the following additional criteria may be considered as qualifying for English language proficiency:

(1) Graduation from a medical school accredited by the LCME (Liaison Committee on Medical Education), as listed in the current Association of American Medical Colleges' Directory.

(2) Graduation from a foreign medical school whose curriculum was taught and examined in English.

(3) United States citizenship by birth and graduation from a foreign medical school.

(4) Certification by the ECFMG (Educational Council for Foreign Medical Graduates) with a certificate dated 1976 or later.

(5) Successful completion of the VQE (Visa Qualifying Examination).

(6) Certification by an American Specialty Board.

(7) For residents appointed to an integrated graduate training program (i.e., accredited in the name of an affiliated institution), certification by the Deans Committee or Medical Advisory Committee of having met the written and spoken English proficiency requirements.

4. TOEFL (TEST OF ENGLISH AS A FOREIGN LANGUAGE)

a. If a physician, dentist, podiatrist, optometrist, chiropractor, nurse, nurse anesthetist, [EFDA,] or PA does not meet the above criteria or if proficiency is questionable even though one or more criteria are met, the candidate must successfully complete the TOEFL before a determination of proficiency is made. Successful completion of the paper-based version of this test is the achievement of a minimum converted total score of 550 and a minimum converted total score of 213 on the computer-based version. Where the three-part test is taken, a minimum unconverted score of 55 on each of the three parts of the paper-based version, or an unconverted score of 21 on the computer-based version is required.

b. The TOEFL is administered by Educational Testing Services, Inc., of Princeton, NJ, several times each year in centers around the country. For application materials and information about tests (including testing center locations, filing, deadlines, and test dates), facilities or applicants should call 609-771-7100, or access the website. Payment for testing and training of applicants for employment will not be made by VA.

5. QUESTIONABLE PROFICIENCY

a. If an individual in any occupation not listed in paragraph 4a [ ], [ ] does not meet the proficiency criteria or if proficiency is questionable even though one or more criteria are met, the facility Director will determine on an individual basis whether the individual is sufficiently proficient for the assignment involved. Although English language proficiency tests are not required, extreme caution should be exercised in assessing written and spoken English proficiency. This can normally be accomplished through personal interview, reference checks, etc., conducted by the appointing official. In doubtful cases, a final determination should be made only after review and interview by a second management official whose native language is English.

b. If any person, at a facility where the primary written and spoken language of the predominant number of patients is other than English, has not demonstrated proficiency as indicated above, or if proficiency is questionable, the facility Director will determine on an individual basis whether the individual is sufficiently proficient for the assignment involved. This determination will be made as described above.

6. DOCUMENTATION. The determination that an employee is proficient in English will be documented on the appointment SF 52, Request for Personnel Action, which will be retained for the duration of VA employment.

7. TEMPORARY APPOINTMENT PENDING PROFICIENCY DETERMINATION

a. A physician, dentist, podiatrist, optometrist, chiropractor, nurse, nurse anesthetist, [EFDA,] or PA may be appointed under 38 U.S.C. 7405(a)(1)(A) pending successful completion of the TOEFL. The

facility Director or designee will determine on an individual basis, through personal interview, reference checks, etc., that the candidate is sufficiently proficient to have a reasonable assurance of successfully completing the examination.

b. A written statement will be provided to any candidate thus appointed explaining the requirement for the TOEFL and that continued employment is contingent upon its successful completion.

c. The TOEFL must be successfully completed during the first year of VHA employment in a direct patient-care assignment. An employee whose test scores fail to qualify for successful completion of the exam will be terminated from the service on 2-weeks' notice. If the employee's temporary appointment expires in less than 2 weeks, the employee may not be retained beyond this date.

APPENDIX J. REQUESTS FOR APPROVAL TO PETITION THE UNITED STATES DEPARTMENT OF STATE (DOS) FOR SUPPORT OF A WAIVER OF THE 2-YEAR HOME RESIDENCE REQUIREMENT OF THE UNITED STATES EXCHANGE VISITOR PROGRAM [ ]

1. SCOPE. This appendix [concerns policy and] criteria for requesting [ ] approval to petition [the Department of State (]DOS[)] for support [on] behalf of an individual on a J-1, Exchange Visitor, visa for a waiver of the 2-year home residence requirement by [United States Citizenship and Immigration Services, a bureau of the Department of Homeland Security].

2. BACKGROUND. The Immigration and Nationality Act requires that certain foreign nationals, who are in the United States (U.S.) as participants in the Exchange Visitor Program, leave the U.S. for 2 years to apply newly acquired training and skills in their home countries. This 2-year home residence requirement also prevents circumvention of the usual methods of immigration to the U.S. Under unusual circumstances, the head of an interested Federal agency may request a waiver of this requirement when that agency determines that such a waiver is in the interest of a program of the U.S. and in the public interest. (Title 22 CFR, part [62], and the Immigration and Nationality Act, section 212(e), as amended.)

3. POLICY. The Department of Veterans Affairs (VA) supports the Exchange Visitor Program and the 2-year home residence requirement and will seek waivers only when it is clearly in the interest of the Department and its programs. For VHA, the Secretary has delegated to the Under Secretary for Health, or designee, authority to approve such requests and to determine when submission of requests for waivers are appropriate. [For VA organizations other than Veterans Health Administration (VHA), waiver requests will only be considered on a case-by-case basis for approval by the Secretary. Inquiries concerning such waiver requests may be directed to the Office of the Deputy Assistant Secretary for Human Resources Management and Labor Relations (059).]

4. [VHA POLICY AND CRITERIA CONCERNING WAIVER REQUEST SUBMISSIONS. VHA Handbook 5005.1, "Requests to Petition the United States Department of State for a Waiver of the Two-Year Home Residency Requirement on Behalf of an Exchange Visitor," dated January 26, 2005, revises instructions and submission procedures related to facility requests for VHA Central Office to petition DOS for waivers of the 2-year home residency requirement on behalf of Exchange Visitors (J-1 visa holders). This VHA Handbook serves as a supplement to this Appendix. The VHA Handbook can be found at the following Web link: http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1219].

APPENDIX K. RCVL (RESIDENT/TRAINEE CREDENTIALS VERIFICATION LETTER)

Department or Program
Medical School
Date _____

Director (00)
VA Medical Center
(Address)_____

Dear

I certify that the residents/trainees listed on the enclosed sheet, to be appointed to the Department of Veterans Affairs _____(Medical Center)_____, to work at varying times during the period of July 1, 20__ through June 30, 20__, are physically and mentally fit to perform the duties assigned to them. They meet, in full, the education, credential, and program requirements established by __(medical school or VA medical center)___in this __ACGME (Accreditation Council for Graduate Medical Education) or nationally accredited__training program. Their credentials (diplomas, letters of reference, certificates of advanced training, all State professional licenses held prior to entry into the program or obtained during residency training, and, where applicable, DEA (Drug Enforcement Administration) certification and ECFMG (Educational Council for Foreign Medical Graduates) certification, have been verified, and you have been advised of any problems relating to the credentials of these residents/trainees, where appropriate.

I also certify that the process of privileging of residents for clinical procedures will be completed and appropriately updated by me as program director (or by the appropriate VA service chief), in accordance with ACGME-established criteria for the essentials and special requirements for residency training programs. If you have any questions or require additional information, let me know.

Signed _____
Program Director or VA Service Chief
Department of _____

VAMC Chief of Staff
Accept/Do Not Accept _____ Comments: _____
Date _____

VAMC Director
Accept/Do Not Accept _____ Comments: _____
Date _____

Attachment: List of Residents/Trainees

Department or Program
School

ATTACHMENT TO RCVL

(Medical Residents)

Academic Year ___

Title of Residency Program

Name Specialty

Department or Program
School

ATTACHMENT TO RCVL

(Dental, Podiatry [,] Optometry [, and Chiropractic] Residents/Trainees)

Academic Year_____

(List all residents/trainees by program.)

Name **Program**

APPENDIX L. CREDENTIALING CHECKLIST

Applicant: _____

	Action Initiated	Action Completed
1. Application Form (including follow-up as required)		
2. State Licensure/Registration (verify in all States where claimed by applicant)		
3. Certification(s) Verification (national board or other certifications)		
4. Drug Enforcement Certification (DEA) (obtain copy of DEA card)		
5. Reference Letter(s) (VA Form Letter 10-341a may be used; one reference must be from current or most recent employer; obtain personnel folder if applicant has prior Federal service; additional references may be required.)		
6. Citizenship Documents (visa status or evidence of naturalization)		
7. Physical Examination (or statement of mental and physical health status, as appropriate)		
8. Federation of State Medical Boards (FSMB) Screening (physicians only, copy of FSMB letter) (Optional)		
9. Copy of Clinical Privileges (current or most recent privileges)		
10. Education/Training Verification		
11. Deans Committee Nomination (as appropriate)		
12. Medical Staff Bylaws Acknowledgment (required for clinical privileging)		
13. Board Action		

Date Appointed: _____

APPENDIX M. SAMPLE CONSULTANT CERTIFICATE

"In approving the filling of this consultant position without regard to the laws and regulations governing appointments in the competitive civil service, and in approving the rate of pay set for this position without regard to the classification and pay laws, I have considered the requirements of law (5 U.S.C. 3109), and relevant Comptroller General decisions that spell out the conditions under which consultants may be appointed.

"More specifically, I have satisfied myself that:

"(a) The position is necessary;

"(b) The position is a 'consultant position' as defined in 5 CFR 304.102(b);

"(c) The work is temporary in nature, that is, will not exceed 1 year or, as appropriate '. . . requires services only irregularly (that is, with no regular tour of duty) or occasionally,' requires a high level of expertness not available in the regular workforce, is of a purely advisory nature, and does not include the performance or supervision of operating functions;

"(d) This authority is the most appropriate appointing authority for meeting VA's needs;

"(e) The proposed appointee meets OPM's definition of 'consultant' in 5 CFR 304.102(b) and does, in fact, possess the kind and level of expertness that will permit him/her to render the services VA seeks;

"(f) The daily rate intended to be paid the proposed appointee is commensurate with the level of the work he/she is to perform and his/her qualifications for the work; and

"(g) Required documentation is in order."

In some situations, it will be necessary to modify the sample certificate as, for example, when the appointment is made under an authority other than 5 U.S.C. 3109, the pay is set under the General Schedule (primarily if an appointment is under Schedule A), or the appointee will serve without compensation. Slight modification will also have to be made if the position is that of an expert rather than a consultant, although all the basic elements of the consultant sample must be included.

[APPENDIX N: PATHWAYS PROGRAMS

1. PURPOSE. This section outlines the policy and procedures for the use of the Pathways Programs, which consists of the Internship, Recent Graduates and Presidential Management Fellows (PMF) Programs.

2. GENERAL REQUIREMENTS APPLICABLE TO ALL PATHWAYS PROGRAMS APPOINTMENTS.

a. **Core Principles**. The Pathways Programs are intended to be limited in scope, transparent, and fair to Veterans. The Programs also require an investment from hiring officials in the training, mentoring, and career development of the individuals who are brought into these Programs. HR offices play a critical role in ensuring that hiring officials comply with the intended use of these Programs as a supplement to, rather than a substitute for, the competitive hiring process.

b. **Merit System Principles and Equal Employment Opportunity**. In all actions related to the Pathways Programs, HR Offices must adhere to the merit system principles in 5 U.S.C. 2301(b), avoid prohibited personnel practices in 5 U.S.C. 2302, and provide equal employment opportunity without regard to race, ethnicity, color, religion, sex (including pregnancy and gender identity), national origin, age, disability, sexual orientation, genetic information, or any other non-merit-based factor, as stated in 5 CFR 362.101(c).

c. **Pathways Memorandum of Understanding (MOU)**. The VA Pathways Program Officer coordinates the reestablishment of the MOU with OPM at least every two years and coordinates modifications to the MOU, as requests for changes are received. The Assistant Secretary for OHRA (006) is delegated authority to enter into agreement on behalf of VA. An approved and current MOU must be in place prior to HR Offices making appointments in the Pathways Programs. In accordance with the MOU and 5 CFR 362.104(c), VA will:

(1) Provide to OPM any information it requests on VA's Pathways Programs;

(2) Adhere to any caps on the Pathways Programs imposed by the OPM Director;

(3) Provide information to OPM about VA job opportunities for individuals interested in participating in the Pathways Programs;

(4) Ensure adherence to the requirements for accepting applications, assessing applicants, rating and ranking qualified candidates, and affording Veterans' preference in accordance with the provisions of 5 CFR, part 302; and

(5) Provide a meaningful, consistent on-boarding process for each Pathways Programs Participant.

d. **OPM Pathways Programs Oversight**. The OPM Director may establish caps on the number of Pathways Participants whom VA or the entire Federal Government may appoint or convert in any Pathways Program. In the event the OPM Director determines that any caps would be appropriate, OPM will publish notice of such caps in a manner chosen by the OPM Director. The OPM Director may

establish such caps based on VA or Government-wide use of the Pathways Programs, input from the Executive agencies, and consideration of the following:

(1) Department MOU compliance;

(2) Department approach to entry-level hiring;

(3) Department engagement in sound workforce planning to ensure that an adequate number of permanent positions will be available to which hiring facilities can convert Pathways Participants who successfully complete their Programs;

(4) Department record in using the Pathways Programs as a supplement to competitive examining, rather than as a substitute for it;

(5) Department record of publicizing positions in the Pathways Programs, and recruiting and selecting from a broad array of sources; and

(6) Any other information the OPM Director deems relevant.

e. **Workforce Planning and Budgetary Impact**.

(1) As key members of the position management team, Human Resources Officials should work with other key players responsible for fiscal functions. Before filling any position under these Programs, hiring officials must determine if the use of the Pathways Programs will help meet the long-term and short-term workforce needs of the facility. The need must be included in their workforce planning to ensure that an adequate number of permanent positions will be available to convert Participants who successfully complete their programs to the title 5 competitive service. This step must occur before a Pathways position is advertised or filled. Facilities must ensure this information is accounted in their workforce plans. Hiring officials must consider the future availability, career path and grade level of target positions when determining to employ a Participant with the expectation of conversion to a permanent position in the competitive service upon completion of the Program. However, under extenuating circumstances it may be appropriate to convert a Participant to a term position and later convert the Participant to a permanent position.

(2) The HR Officer/Director or designee should advise the facility's leadership and other key players of the structure, impact and intent of each Pathways Program. This information may have considerable impact for workforce planning in determining and allocating funding needs, the facility structure, and full-time equivalents (FTE). VA facilities that hire individuals in the Pathways Programs must use available facility funds and FTE allocations.

(3) A Recent Graduate and PMF position funded by the facility is a full-time position and counts toward the maximum number of FTE that an organization may employ. A Recent Graduates and PMFs count against personnel ceilings and their salaries are paid by the employing organization. In some cases, these salaries may be paid or reimbursed by an outside organization (i.e., Administration-level organization). In these cases, the employing facility may determine it unnecessary to account for the

funded position; however, consideration should be given when the facility is planning to convert the Participant to a term or permanent position upon completion of the Pathways program.

(4) Facilities should determine the best approach for accounting for funded and non-funded indefinite Internship (without time limitation) and temporary Internship (not to exceed one year) positions. An Intern whose work assignment is indefinite is appointed without time limits and should be converted permanently to the competitive service upon successful completion of the program.

g. **Bargaining Unit Coverage**. The HR Officer/Director or designee must consult with their designated Labor Management Relations Specialist and/or Classification Specialist to determine if Pathways positions are included or excluded from provisions in applicable labor agreements.

h. **Outreach and Recruitment**.

(1) Facilities are encouraged to conduct outreach and to build partnerships with local colleges, universities, trade schools, etc. to promote the Pathways Programs. This may occur through on-line and/or on-campus informational events and liaison activities.

(2) When actual Pathways opportunities are available and the organization facility is actively recruiting, the recruitment strategy should target individuals from various locations, colleges/universities, and backgrounds helping to create a diverse applicant pool. For Pathways positions, recruitment efforts should not be exclusive to only one institution, but should be a part of comprehensive recruitment strategy that includes a variety of outreach resources.

(3) HR Offices must ensure that public notification requirements are met in accordance with 5 CFR 362.105(b). The public notification requirements are met by posting a job opportunity announcement (JOA) as described in paragraph 2(i) of this appendix. An advertisement or a notice of recruiting event/job fair on OPM's USAJOBS Web site will also assist with marketing upcoming recruitment events and Pathways opportunities. If the recruiting office has Pathways Programs opportunities and attends a recruitment event (i.e., job fair), a JOA should be opened to allow interested individuals to apply to the opportunities available to attendees of the recruitment event. This ensures that all applications are recorded properly in USA Staffing ®, 5 CFR, part 302 procedures are followed, Veterans' preference rules are applied with regard to referral and selection. Policy regarding JOAs are found in paragraph 2(i) of this appendix. Policy regarding job advertisements and notices are in paragraph 2(j) of this appendix.

i. Job Opportunity Announcement (JOA).

(1) Posting of JOAs ensures that Pathways opportunities meet public notification requirements. JOAs must be posted for at least 5 calendar days and comply with any labor obligations. Hiring offices cannot limit a Pathways JOA to a specific educational institution or geographic area. Opportunities, except for PMF JOAs, are posted on OPM's USAJOBS web site using the USA Staffing® system.

(2) Pathways JOAs must include the following OPM-mandated requirements:

(a) Position title, series, and grade of the position(s) being filled;

(b) Geographic location(s) of the position(s) being filled;

(c) Information about How to Apply;

(d) Reasonable Accommodation statement;

(e) Information about how to claim Veterans' preference; and

(f) OPM standardized language for fair employment opportunities.

(3) Pathways JOAs must include the following VA-mandated requirements:

(a) Special employment Consideration statement;

(b) Brief description of duties of the job(s) to be filled;

(c) Available work schedules for the job(s) to be filled;

(d) Information about the possibility of conversion to permanent appointment (if applicable);

(e) Promotion potential (i.e., career ladder) and target grade while serving in the Program (if applicable);

(f) Availability of relocation expenses or recruitment/relocation incentives (if applicable);

(g) Eligibility for placement, upon conversion, in a position with promotion potential (i.e., career ladder) (if applicable);

(h) Any strategies utilized by a facility to limit the number of applicants (if applicable);

(i) For Internship Program JOAs, eligibility for conversion based on Superior Academic Achievement (S.A.A.) (if applicable);

(j) Any other special requirements and/or agreements (i.e., mobility agreement or continued service agreement);

(k) For Recent Graduate Program JOAs, any positive education requirement from the OPM qualification standard (if applicable);

(l) For Internship Program JOAs, the required current academic program for a position that are expected (through workforce planning) to convert to a position with positive education requirement (if applicable); and

(m) For Recent Graduate Program JOAs, a note stating an applicant within 9 months of completing qualifying education may apply, but he/she must successfully complete academic requirements prior to appointment. The HR office may use this flexibility at its discretion based on hiring needs and the

timing of the recruitment. See the OPM Operating Manual for Qualification Standards for General Schedule Positions.

NOTE: *Internship and Recent Graduate JOAs posted prior to the issuance of this policy may not comply with these mandated requirements. To convert a Participant into a position with a career ladder that was not communicated in the original JOA, the servicing HR Office must initiate a new JOA as outlined in* paragraph (2)(i)(4)(b). *The facility also has the option to convert the Participant to the competitive service at the appropriate grade for which he or she qualifies and later initiate recruitment for a career ladder position under competitive promotion procedures.*

(4) **Public Notification Methods**. For Internship and Recent Graduate positions, HR Offices must announce positions using the Group Rating procedure described in paragraph 3 of this appendix. To meet public notification requirements, facilities may use the following methods for posting Internship and Recent Graduate JOAs:

(a) **Positions announced to facility and/or all VA Employees**. When the hiring facility chooses to limit the JOA of an Internship or Recent Graduate position to all facility and/or VA employees, the facility must use the option in USA Staffing® to post the JOA to "Agency Employees Only – Intranet Posting Only." In this case "Intranet" is the VA Careers Web site. Applicants must meet the program eligibility criteria to be considered for the program and be serving in an appointment in the competitive or excepted service. If more than one individual is interested, the agency must apply the selection procedures under 5 CFR, part 302. (Reference: Announcement Work Area of the Desk Guide for Merit Promotion Purposes Using USA Staffing.)

(b) **Positions limited to VA Employees in a specific Pathways Program**. When the hiring facility chooses to limit the JOA of a Pathways Internship or Recent Graduate opportunity to all of facility and/or VA employees currently in a specific Pathways Program, the facility will use the option in USA Staffing® to post the vacancy to "Exclusive Posting – Will Not Appear on USAJOBS Web site or VA Intranet." The facility will then provide information about the JOA and its web link via an e-mail to the targeted employee population or on a shared network drive accessible to that employee population. Applicants must meet the program eligibility criteria to be considered for the program and be serving in a Pathways appointment in excepted service. If more than one individual is interested, the agency must apply the selection procedures under 5 CFR, part 302. (Reference: Announcement Work Area of the Desk Guide for Merit Promotion Purposes Using USA Staffing.)

(c) **Positions announced to Candidates outside of VA**.

1. When any Pathways Internship or Recent Graduate position will be open to applicants outside VA, the hiring facility will use USA Staffing® to post the vacancy on USAJOBS Web site open to the general public who meet the eligibility requirements for the program. When Internship or Recent Graduate Program opportunities announced to potential candidates outside of the Department's current workforce are likely to yield an overwhelming high number of applicants. To mitigate the impact, HR Offices should consult with hiring officials to tailor the job analysis and other assessment tools to obtain the desired candidate pool.

2. The consultation with the hiring official should consider various factors that include, but are not limited to the following: shortening or extending the length of the announcement period; limiting the number of applications on midnight of the day on which applications reach a specified number, e.g., 75 or 100; and using specific eligibility requirements for entrance into the Pathways Internship Programs, e.g., ability to work a specified number of hours each week or at a specific location or maintenance of a minimum grade point average as an eligibility criteria. Any strategies utilized by a facility must be defensible and included in the job opportunity announcement so that all potential applicants are informed.

NOTE: *Current Internship Participants from other agencies may apply to VA Internship public notices announced to candidates outside of VA. Paragraph 2(i) does not cover conversions of Interns from other agencies into VA competitive service positions which are covered in Paragraph 4(p) of this appendix.*

(d) **Presidential Management Fellows (PMF) Program**. OPM administers the announcement for PMF positions and determines the open period for interested individuals to apply for the Pathways PMF Program. This process also includes an assessment. OPM then publishes a list of PMF finalists. To meet public notice requirements for PMF positions, the facility-level Pathways Program Coordinator (PPC) must work with their respective Administration Pathways Programs Officer (PPO) who will coordinate the posting of the vacancy on the PMF Program web site. For specific job openings, for which PMF finalists may apply, VA will place job postings on an OPM-maintained PMF Program web site.

j. **Publication of Job Advertisements and Notices of Recruiting Event/Job Fairs**.

(1) When hosting or attending recruitment events or job fairs HR Offices must post Internship and Recent Graduate JOAs on OPM's USAJOBS web site and use the system to allow applicants to apply online. This practice builds consistency within the Department and ensures that all applications are recorded in USA Staffing®. HR Offices may consider using USA Staffing® to post a job advertisement or a notice of a recruiting event/job fair on the USAJOBS web site to publicize Pathways Internship and Recent Graduate opportunities in addition to hosting or attending a recruitment event or job fair.

(2) A job advertisement or notice of a recruiting event or job fair is posted similarly to a JOA, but does not include the "apply online" feature. The job advertisement and notice is used to specifically direct interested applicants to a VA intranet site, i.e., VA Careers, which contains information about the event and how to apply if an interested person is unable to attend the actual event.

k. **Appointments**.

(1) Facilities must fill all positions under the Pathways Programs using the excepted service appointing authority provided by 5 CFR 213.3402 (a), (b), or (c); and will be documented with the appropriate codes and remarks from OPM's Guide to Processing Personnel Actions. OPM's Guide to Processing Personnel Actions contains Nature of Action and Legal Authority Codes and required remarks to be used when documenting the Pathways appointment and the conversion actions to the competitive service on the Standard Form 50.

(2) Facilities must follow the procedures of 5 CFR, part 302 as described in VA Handbook 5005, Staffing, Part II, Chapter 2 when filling a position under a Pathways Program. Appointments are subject to all the requirements and conditions governing term, career-conditional, or career employment, including the investigation to establish an appointee's qualifications, eligibility, and suitability. Hiring documentation should be properly filed in the electronic Official Personnel Folder (e-OPF) in accordance with OPM's Guide to Recordkeeping and guidance issued by OHRM's Human Resources Information Service (056).

l. **Qualification Standards**. To ensure consistency in the Department, Internship Program applicants are to be evaluated using the VA Pathways Internship Program qualification standard in Appendix II-F4. Recent Graduates and PMF Programs positions are evaluated using the appropriate OPM qualification standards for the specific occupational series.

m. **Selective Factor**.

(1) For Internship and Recent Graduate positions, a hiring facility may use a selective factor, sometimes referred to as a screen-out factor, to identify special requirements that are absolutely needed to perform the work of an individual position. A selective factor can include a requirement for a specific knowledge, skill, and ability (KSA) or competency or Federal or State requirement for licensure or certification. A selective factor becomes part of the minimum requirements for a position, and individuals who do not meet it are ineligible for further consideration. A selective factor can be used for a position at any grade level where specialized experience is used to meet the minimum qualification requirements.

(2) It is essential that any selective factor used in filling a particular vacancy be included in the JOA and is established during the job analysis process. Hiring facilities cannot require applicants to meet selective factors that were not established prior to advertising a position, nor can they require selective factors that were not made known to applicants. Selective factors cannot be so narrow that they preclude from consideration applicants who could perform the duties of the position; require KSAs/competencies that could be learned readily during the normal period of orientation to the position; be so specific as to exclude from consideration applicants without prior Federal experience; be so restrictive that they run counter to the goal of placing applicants from priority placement lists established to assist in the placement of employees affected by reductions in force; or require the completion of educational requirements for specific coursework for occupations that do not have a positive education requirement.

n. **Quality Ranking Factor**.

(1) A quality ranking factor (QRF) is a knowledge, skill, or ability (KSA) that could be expected to enhance performance in a position, but are not essential for satisfactory performance. QRFs focus on the level of proficiency the applicant brings to the position. A QRF can be used for a position at any grade level where specialized experience is used to meet the minimum qualification requirements.

(2) QRFs are determined and recorded during the job analysis process. Applicants with higher proficiency levels should perform better in the position. Applicants who possess such QRFs may be ranked above those who do not, but no applicant may be rated ineligible (i.e., screened out) for failure to

possess a QRF. QRFs are based on the work of the positon and must comply with the OPM Operating Manual for Qualification Standards for General Schedule Positions.

o. **Citizenship**. Facilities may appoint a non-citizen provided that the Pathways Participant is lawfully admitted to the United States as a permanent resident or is otherwise authorized to be employed. A Pathways Participant **must** be a United States citizen or national to be eligible for noncompetitive conversion to the competitive service.

p. **Compensation**. Pay setting policies are covered in VA Handbook 5007, Pay Administration. The rules for setting pay upon the initial appointment and conversion of a Participant are governed by the pay administration rules of the pay system or pay plan of the Participant's position under the Pathways program. In determining the Participant's compensation, facilities may also use any applicable pay flexibilities, within guidelines, available under the title 5 pay system for General Schedule (GS) and Federal Wage Grade (WG) pay plans (e.g., recruitment, relocation, and retention incentives GS schedule positions, special rates under 5 CFR, part 530, subpart C; pay retention eligibility under 5 CFR, part 536, subpart C; and the superior qualifications and special needs pay setting authority and the maximum payable rate rule under 5 CFR, part 531, subpart B).

q. **Employment of relatives**. Appointments and conversions of Pathways Programs Participants must comply with 5 CFR, part 310. A Pathways Participant may work in the same facility with a relative when there is no direct reporting relationship and the relative is not in a position to influence or control the Participant's appointment, employment, promotion, advancement, performance rating or training opportunities.

r. **Performance and Progress Evaluation**. Each Participant serving more than 90 calendar days in a 12 month period must be placed on a performance plan, as prescribed by 5 CFR, part 430 or other applicable law, regulation or VA policy, establishing performance elements and standards that are directly related to acquiring and demonstrating the various leadership, technical, and/or general competencies expected of the Participant, as well as the elements and standards established for the duties assigned. VA Handbook 5013, Performance Management Systems, Part I - Title 5 Performance Appraisal Program, does not require a formally established performance plan for temporary title 5 excepted service employees expected to work 90 calendar days or less in a 12-month period, e.g., a Pathways Intern hired for the summer with a corresponding not-to-exceed date. However, performance expectations must still be communicated to the Intern in writing in accordance with the Participant Agreement.

s. **Separations**.

(1) A Hiring official or supervisor, in consultation with the servicing HR Office, may terminate a Pathways Participant for reasons including misconduct, poor performance, failure to meet the requirements set forth in the Participant Agreement, or for a suitability issue under the provisions of this chapter and in accordance with VA Handbook 5021, Employee/Management Relations.

(2) A Pathways Participant may resign at any time during the Program by submitting a notice of resignation. The notice should include the effective date of resignation, forwarding contact information

(e.g., address, phone number and email) and, if desired, a reason for the resignation. This information should be documented in accordance with Chapter 31 of OPM's Guide to Processing Personnel Actions, and properly filed in the e-OPF in accordance with OPM's Guide to Recordkeeping and guidance issued by OHRM's Human Resources Information Service (056).

t. **Tenure or Career Tenure**. Time spent serving as a Pathways Participant counts towards career tenure when the individual is noncompetitively converted to a permanent position in the competitive service upon completion of the Program, with or without an intervening term appointment, and without a break in service of one day. Though Pathways Participants are eligible for noncompetitive conversion to the competitive service upon successful completion of their Program and any other applicable conversion requirements, service in a Pathways Program confers no right to further employment in either the competitive or excepted service. Facilities wishing to convert Pathways Participants must execute the required actions to do so.

u. **Trial Period**.

(1) Policy concerning trial periods for title 5 Excepted Service appointments is covered in Part II, Chapter 2, Section C, Paragraph 6h of this handbook. Individuals selected for Pathways excepted appointments lasting more than 1 year (indefinite) are required to serve a 1-year trial period. This means that all Pathways Participants, with the exception of those appointed to temporary Internship appointments (not to exceed 1 year), serve or the time served is creditable towards meeting a trial period.

(2) The entire period served under an Internship Program (appointed indefinitely) will count toward the 1-year trial period if the appointment is initially established with an ending date of more than 1 year. VA Handbook 5005, Staffing, Part II, Chapter 2, Section C, Paragraph 6h, requires a 1-year trial period for excepted indefinite appointments lasting more than 1 year. If the Intern has served at least 1 year in the Pathways Program, upon conversion to the competitive service from these programs, the Intern is not required to serve a probationary period in accordance with 5 CFR 315.802. If a full year is not served prior to conversion, the prior Federal civilian and creditable Pathways program service is credited toward the completion of the trial period in the same manner as prescribed in 5 CFR 315.802.

(3) The entire period served under the Recent Graduates and Presidential Management Fellows Programs is a trial period. Upon conversion to the competitive service from these programs, the employee is not required to serve a probationary period in accordance with 5 CFR 315.802. Furthermore, prior Federal civilian service is credited toward the completion of the required trial period in the same manner as prescribed in 5 CFR 315.802.

v. **Requirement for Considering Excepted Service Priority Referral Eligibles**. Pathways appointments, which are in the title 5 excepted service, are subject to the regulatory provisions governing any facility-established Priority Reemployment List (PRL) and/or Reemployment List (RL) under 5 CFR, part 302, subpart C. Pathways appointments and related noncompetitive conversions to the competitive service are not subject to the regulatory provisions in the competitive service for the Reemployment Priority List (RPL), the Career Transition Assistance Plan (CTAP), or the Interagency Career Transition Assistance Plan (ICTAP), as stated in 5 CFR 330.211(f)(3), 5 CFR 330.609(e)(3), and 5 CFR 330.707(h)(3), respectively.

w. **Reporting**. On an annual basis the VA PPO will collect from each Administration PPO, at a minimum, the following information:

(1) For the coming year:

(a) The occupations for which the Pathways Programs will be used to fill entry-level positions.

(b) The percentage of positions to be filled under the Internship, Recent Graduates, and PMF Programs.

(2) For the previous year:

(a) The number of participants initially appointed under each Pathways Program.

(b) The percentage of the agency's overall hires made from each Pathways Program.

(c) The number of Pathways Program participants converted to the competitive service for each Pathways Program.

(d) The number of Pathways Program participants who were separated for each Pathways Program.

x. **Applicability of VA Time-in-Grade Restrictions for Pathways Programs**.

(1) VA Handbook 5005, Staffing, Part III, Chapter 2, paragraph 5b, and Appendix III-B, extends time-in-grade (TIG) restrictions to VA title 5 excepted service GS positions; however, TIG restrictions do not apply to promotions or appointments of a Pathways Programs Participant.

(2) If otherwise eligible, Internship and Recent Graduate Participants serving in career-ladder Pathways positions may be promoted upon successfully meeting educational requirements.

(3) TIG restrictions do not apply to a conversion of a Pathways Participant to a position in the competitive service. This means that upon meeting the eligibility requirements for noncompetitive conversion the Participant may be converted to a higher grade level in the competitive service if the qualification requirement is met as long as the job opportunity announcement included the target position for conversion. After conversion to the competitive service, TIG restrictions apply to movements in accordance with TIG provisions in 5 CFR, part 300, subpart F.

(4) A current and former competitive service federal employee is not required to meet TIG requirements to be appointed into any Pathways positions in the excepted service. In addition, current Pathways Participants selected for and converting to a new Pathways Programs appointment (i.e., Intern NTE converting to Internship (without time limitation) are not required to meet TIG restrictions).

(5) Time-in-grade restrictions are not applicable to Federal Wage Grade (WG) System positions. However, promotions to WG positions must follow merit system principles even in the absence of specific controls or restrictions.

y. **Veterans' Preference**. For any Pathways position, the hiring facility must ensure that Veterans' preference provisions in 5 CFR, part 302, subpart C, are applied for applicants for all Pathways Program positions regardless of the area of consideration.

NOTE: *Regarding a referral for PMF candidates, the VA PMF Coordinator must adjudicate Veterans' preference prior to issuing the list to the hiring official.*

z. **Voluntary Reassignments and Demotions for Pathways Participants**. The HR Officer/Director or designee, should consult with the hiring official to determine the best recruitment and hiring strategy. An organization is permitted, at its discretion, to process a voluntary reassignment or voluntary demotion when the following conditions are met:

(1) The Participant is eligible to remain in the specific Pathways Programs.

(2) The new position is in the same type of Pathways Program (i.e., Intern NTE to Intern NTE).

NOTE: *Movements to a different program (i.e., Internship to Recent Graduate) or a different appointment type (i.e., Internship NTE to Internship without time limitation) must meet public notification and Veterans' preference requirements.*

(3) The new position is in the same organizational entity (i.e., service or division) as indicated by an approved organizational chart or position listing.

(4) The Participant is qualified for the new position.

(5) The movement results in a reassignment or demotion to a position without any known promotion potential.

(6) No more than one employee requests a reassignment or demotion for a certain position. If more than one request is received and/or there are other potentially eligible Participants in the facility, a public notification must be issued at a minimum to all current Program Participants in the facility. The selection procedures in 5 CFR, part 302 will apply.

(7) The selection does not violate any prohibited personnel practice and/or merit system principle.

(8) Noncompetitive movement of an Internship Program Participant from another organization or VA facility is prohibited unless the move is a condition of employment (i.e., mobility agreement) and it was included in the original JOA. A selection of a Participant from another federal agency requires public notice as described in paragraph 2(i) of this appendix.

aa. **Participant Agreement**. Each VA Pathways Programs Participant must be issued a Participant Agreement. The appropriate officials must sign the agreement within 10 calendar days of the appointment. A change to the Participant Agreement warrants a new agreement with new signatures each signing party. The PPMO office provides the Participant Agreements.

bb. **Movement from the Competitive to the Excepted Service**. If selected for a Pathways Position, a current civilian employee serving under a non-temporary appointment in the competitive service may not be moved to the excepted service unless the employee has been informed in writing how his/her rights, tenure, and benefits are affected by the change. The employee must also submit a written statement acknowledging that he/she is leaving the competitive service voluntarily to accept a new appointment in the excepted service.

cc. **Records**. An electronic recruitment case file must be established and maintained for every new Pathways appointment. The file should a copy of the JOA, all applications with supporting documentation, referral certificates, and the selecting official's decision.

3. REFERRAL AND SELECTION PROCEDURES.

a. **Introduction**. Applicants for VA Pathways Internship and Recent Graduate Programs positions are to be rated, referred, and selected using a category-rating like process called Group Rating. Group Rating is similar to category rating for competitive service positions. The group rating system provides eligible Veterans and priority eligibles the same referral advantage as traditional methods described in 5 CFR, part 302. The recruitment procedures covered in this section apply to internal and external job opportunity announcements (JOAs) for Pathways positions.

b. **Exclusion**. *Luevano Consent Decree* covered positions that fall under Administrative Careers with America (ACWA) testing requirements in the Recent Graduate Program are not covered by the procedures in this section. An appropriately assigned VA Delegated Examining Unit (DEU) conducts recruitment for these positions as rating and ranking is based on ACWA numerical scores, as applicable. ACWA applies to certain two-grade interval administrative positions that are being recruited for at the GS-5 and/or GS-7 grade levels. Any alternative testing tool (i.e., other valid assessment) used in the place of the ACWA test must be approved for use by Recruitment and Placement Policy Service (059).

c. **Application of Group Rating Procedure for Internship and Recent Graduate positions**. Group Rating is a category-rating like process designed for VA Pathways Programs and allows for selection from a large, high quality group of candidates. The hiring official must make a selection from among all of the eligibles in the highest quality group. A hiring official may not select a non preference eligible over a preference eligible unless an objection or pass over request is sustained. A selection must be made from within the highest quality group regardless of the number of candidates. Preference eligibles receive absolute preference within each group.

d. **Occupational Assessments**. It is imperative that the hiring official (or other subject matter expert), in consultation with the servicing HR Office, develop a strong job analysis. This helps differentiate between candidates. The hiring official and servicing HRO must establish and define the quality groups in the job analysis prior to issuing the JOA. In Group Rating, numerical scores are not assigned to applicants; however, the job analysis is used to create the occupational assessment which is used, along with the other application materials, to place applicants in the appropriate quality group.

e. **Quality Groups**. In Group Rating there must be defined quality groups. Quality groups are defined to reflect the requirements to perform the job successfully and to distinguish differences in the quality of each applicant's job-related competencies or knowledge, skills, and abilities (KSAs).

(1) **Internship Positions**. Under the Group Rating procedure, eligible applicants who meet basic minimum qualification requirements established for the position and whose job-related competencies or KSAs have been assessed are ranked by being placed in one of three quality groups: (1) Best Qualified (2) Well Qualified and (3) Qualified.

(2) **Recent Graduate Positions**. Under the Group Rating procedure, eligible applicants who meet basic minimum qualification requirements established for the position and whose job-related competencies or KSAs have been assessed are ranked by being placed in one of four quality groups: (1) Highly Qualified (2) Best Qualified (3) Well Qualified and (4) Qualified.

NOTE: *Due to the type of positions filled using the Recent Graduates authority, it is appropriate to assess Recent Graduates positions in the same manner as VA competitive service positions subject to Category Rating.*

(3) **PMF Positions**. The Office of Personnel (OPM) administers the application process for the PMF Program and conducts a competition for the selection of Finalists based on 5 CFR, part 302. OPM determines the qualifications for PMF finalists at the GS-9 grade level.

f. **Job Opportunity Announcement (JOA) Requirements**. Servicing HR Offices must describe each quality group in the JOA. The JOA must clearly state how applicants will be rated, ranked, and selected with the pre-defined quality groups (i.e., "Highly Qualified and Qualified" or "Highly-Qualified, Well-Qualified, and Qualified"). The JOA must clearly describe how Veterans' preference is applied under group rating procedures.

g. **Veterans' Preference**.

(1) After the appropriate quality group is identified for each qualified applicant, Veterans' preference is adjudicated for each applicant based on his/her supporting documentation submitted with their application materials. In Group Rating, certified preference eligible Veterans are listed ahead of non preference eligibles within each quality group. In Group Rating, Veterans' preference order is as follows:

(a) 30% Compensable Disability Preference (CPS)/Compensable Disability Preference (CP) Eligibles

(b) Disability Preference (XP) Eligibles

(c) Tentative Preference (TP) Eligibles

(d) Sole Survivorship Preference (SSP) Eligibles

(e) Non Preference (NV) Eligibles

(2) For Professional and Scientific positions at the GS-9 grade level and above, CPS and CP eligibles do not automatically float to the top of the highest quality group. Applicants are placed in the appropriate quality groups, preference eligibles are then listed ahead of non preference eligibles within

each group. Professional and scientific positions are identified in the OPM Handbook of Occupational Groups and Families. For all other positions, eligible and qualified CPS and CP eligibles automatically float to the top of the highest quality group followed by other preference eligibles and last non preference eligibles.

h. **Issuing Referral Certificates**. To issue a referral certificate, certified eligibles are placed in the appropriate quality groups using a score-based group rating method. As described in VA Handbook 5005, Staffing, Part I, Appendix B, test scores may be used as part of the job-related criteria to place eligible candidates into quality categories, as long as the test assesses job-related competencies/KSAs. If using test scores, HR Offices may rank applicants using this score-based method. USA Staffing will assign each applicant a score based on his/her occupational assessment responses. The HR Office assesses each applicant for minimum qualifications. For those applicants that meet the minimum qualifications, they are placed in predetermined groups based on the following score ranges:

(a) The Internship Program, certificates have three (3) groups:

1. Best Qualified Group - Applicants who have a score between 97 and 100.

2. Well Qualified Group - Applicants who have a score between 85 and 96.99.

3. Qualified Group - Applicants who have a score between 70 and 84.99.

(b) The Recent Graduate Program, certificates have four (4) groups:

1. Highly Qualified Group - Applicants who have a score between 97 and 100.

2. Best Qualified Group - Applicants who have a score between 90 and 96.99.

3. Well Qualified Group - Applicants who have a score between 80 and 89.99.

4. Qualified Group - Applicants who have a score between 70 and 79.99.

NOTE: *Scores are not listed on referral certificates and should not be used to order the applicants. In addition, Veterans' preference points are not added to the scores. Veterans' preference, once adjudicated, is used to place preference eligibles at the top of the appropriate category as described below.*

i. **Selection**.

(1) **Requirement for Considering Excepted Service Priority Referral Eligibles**. Pathways appointments, which are in the title 5 excepted service, are subject to the regulatory provisions governing any facility-established Priority Reemployment List (PRL) and/or Reemployment List (RL) under 5 CFR, part 302, subpart C. Pathways appointments and related noncompetitive conversions to the competitive service are not subject to the regulatory provisions in the competitive service for the Reemployment Priority List (RPL), the Career Transition Assistance Plan (CTAP), or the Interagency Career Transition Assistance Plan (ICTAP), as stated in 5 CFR 330.211(f)(3), 5 CFR 330.707(e)(3), and 5 CFR 330.707(h)(3), respectively. The order of selection under group rating is as follows:

(2) **Order of Selection for Professional and Scientific Positions at the GS-9 Grade Level and Above**. Within each of the quality groups, preference eligibles are listed ahead of non preference eligibles with Veterans' preference status annotated in alphabetical order (by first or last name). Non preference eligibles are placed in alphabetical order (by first or last name) following preference eligibles. CPS and CP preference eligibles are not automatically placed at the top of the highest quality group. The certificate of eligibles must identify certified eligibles in the following order within each quality group:

(a) Persons entitled to priority consideration as defined in 5 CFR 302.103.

(b) Eligible candidates in the highest quality group.

(c) Eligible in the next lower quality group.

(3) **Order of Selection for All other positions**. Within each of the quality groups, preference eligibles are listed ahead of non preference eligibles with Veterans' preference type noted in alphabetical order (by first or last name). The remaining eligibles are placed in alphabetical order (by first or last name). CPS and CP preference eligibles are automatically placed at the top of the highest quality group. The certificate of eligibles must identify eligibles in the following order:

(a) Persons entitled to priority consideration as defined in 5 CFR 302.103.

(b) Eligibles in highest quality group by Veterans' preference status.

(c) Eligibles in the next lower quality group (if the top two groups are merged).

(4) **Pass over and Objection Procedures**. Veterans' preference is absolute within each quality group. A hiring official is only permitted to select a non preference eligible over a preference eligible if an appropriate objection and/or pass over request, as applicable is sustained. 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 non preference eligible or a preference eligible with a compensable service-connected disability of less than 30 percent must be adjudicated by the servicing Human Resources Officer/Director. Objection and pass over procedures based on medical and suitability reasons are described in paragraphs (7) and (8) of this section.

(5) **Objection or Pass over of a preference eligible with a compensable service-connected disability of 30 percent or more**.

(a) The objection to or pass over request must include written justification from the hiring 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. and must include Standard Form 62 (SF-62), Agency Request to Pass over a Preference Eligible or Object to an Eligible. The objection to or pass over request, signed by the facility Director, must be sent by the servicing HRO to Director, Recruitment and Placement Policy Service (RPPS) (059).

(b) Upon completing a review of the request, RPPS/059 will forward the request to OPM for adjudication or return the objection to or pass over request to the servicing HR Office without approval. OPM will issue a decision letter that states whether the request is approved or denied. If OPM does not sustain the objection to or pass over request, the hiring official may challenge the decision by submitting additional information to support a favorable decision; or consider/select the preference eligible for a job.

(6) **Objection or pass over of a preference eligible rated less than 30 percent**.

(a) The hiring official must fully document and submit the reason(s) for the objection to or pass over request. It is important to prepare and treat local requests similarly to those submitted to OPM. Appropriate documentation may include interview notes, questions, reference checks, police reports, qualification standard, etc. and must include the SF-62.

(b) The HR Officer/Director 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 uploaded and maintained in the recruitment case file in USA Staffing.

(7) **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 hiring 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.

(b) The hiring 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 HR Office must submit the request, signed by the facility Director, along with thorough supporting documentation to the Office of Personnel Management, Human Capital Leadership and Merit System Accountability Division, Employment Division – Medical Pass overs.

(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 hiring official may select the next available certified preference or non preference eligible on the referral. If OPM does not sustain the objection to or pass over request, the hiring official may challenge the decision by submitting additional information to support a favorable decision; or consider/select the preference eligible for a job.

(8) **Objection or Pass over of a Preference Eligible based on Suitability**.

(a) The servicing HR Office must consult with the VA Office of Operations, Security and Preparedness; 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 HR Office 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 servicing HR Office without action, if the request is incomplete. Requests for suitability based actions must be sent to the Department of Veterans Affairs, Director, Personnel Security and Suitability Service (07C), 810 Vermont Avenue, NW, Washington, DC 20420.

4. INTERNSHIP PROGRAM. The Pathways Internship Program provides the opportunity for students to explore Federal careers as paid employees while completing their education in high schools, colleges, trade schools, and other qualifying educational institutions.

a. **Eligibility**. Participant must be a student that is accepted for enrollment or enrolled and seeking a degree diploma, certificate, etc. in a qualifying educational institution, on a full or half-time basis (as defined by the institution in which the student is enrolled), including awardees of the Harry S. Truman Foundation Scholarship Program under Public Law 93-842.

(1) A student need not be in actual physical attendance, so long as all other requirements are met;

(2) An individual who needs to complete less than the equivalent of half an academic/vocational or technical course-load immediately prior to graduating is still considered a student for purposes of this Program; and

(3) A student accepted for enrollment who then does not actually enroll for that educational term loses eligibility to receive a Pathways Internship appointment or to remain in one if already appointed unless it falls under the definition of a break in the program as identified in paragraph 4n.

b. **Classification and Qualification Requirements**.

(1) Intern positions under Pathways Programs may only be classified using OPM classification standards for title 5 positions. Intern positions under the G.S. or appropriate pay plan must be classified to the -99 series of the appropriate occupational group. Intern positions under the Federal Wage System must be classified to the -01 series of the appropriate occupational group. The -99 series and -01 series may be classified as one and two grade intervals positions.

(2) All positions classified to student trainee series, including -99 series and -01 series, must be titled *Student Trainee* followed by a parenthetical title consistent with the occupational field involved. For example: Student Trainee (Human Resources Management), Student Trainee (Accounting), or Student Trainee (Civil Engineering).

(3) Individuals' qualifications must be evaluated using the VA Pathways Internship Program Qualification Standard in Appendix II-F4. Interns may be appointed at the highest grade level of the position advertised in which they are qualified.

c. **Grade Point Average (G.P.A.)**. Students must possess an acceptable average G.P.A. as defined by the educational institution to be eligible for appointment and to remain eligible for participation in the Program. As applicable, at the time of appointment and upon request, students must demonstrate an overall Grade-Point Average (G.P.A.) of 2.0 or above on a 4.0 scale as recorded on the official transcript. This equates to "C" or better. G.P.A.'s should be rounded to one decimal place. For example, 1.95 will round to 2.0 making a student eligible for appointment and continuation in the program. A 1.94 will round to 1.9 making a student ineligible for appointment in the Internship Program. For students in educational institutions that do not use a G.P.A. system, the HR Officer/Director or designee should request that the student provide verification of achieving an average or above standing with the institution.

NOTE: *Interns appointed prior to the release date of this policy are not required to meet the G.P.A. requirement; however, they must be deemed by their education institution as academically in "good standing" to remain eligible for participation in the Program. If an Internship Program Participant is promoted, demoted, or reassigned into a new Pathways Programs position, he/she must meet the G.P.A requirement.*

d. **Appointments**. Appointments must be pursuant to the VA Pathways MOU using the Schedule D excepted service appointing authority 5 CFR 213.3402(a) and comply with workforce planning efforts. Facilities may make initial appointments of Interns at any grade level consistent with the VA Pathways Internship Program Qualification Standard in Appendix II-F4, depending on the candidates' qualifications and the facility's needs. The duties of the position to which the individual is appointed must be related to either the Intern's academic or career goals. If the public notice included the option for possible noncompetitive conversion to the competitive service, the Intern should possess and must be working towards meeting the minimum qualifications for the expected position of conversion.

e. **Types of Appointments**.

(1) Prior to announcing an Internship position, the facility must initially determine the needs of the organization based on documented workforce planning efforts. The Internship Program may be used to meet long term and temporary staffing needs.

(2) Facilities may appoint an Intern without time limitation for an initial period expected to last more than 1 year. Intern appointments are not required to have an end date (i.e., not to exceed (NTE) date). However, facilities are required to specify an end date of the appointment in the Participant Agreement with the Intern.

(3) Facilities may appoint an Intern on a temporary basis, not to exceed (NTE) 1 year, to complete temporary projects, to perform labor-intensive tasks not requiring subject-matter expertise, or to fill traditional summer jobs. Interns appointed on a temporary basis, not to exceed 1 year, **must** be coded with a not to exceed date which is the ending date. Facilities may fill these temporary appointments and extend them without regard to service limits and restrictions in 5 CFR 213.104.

f. **Appointments into Internship Program Positions with Positive Education Requirements**.

(1) A positive education requirement is minimum educational requirement in a qualification standard that is established when the work cannot be performed by a person who does not possess the prescribed minimum education.

(2) An Internship JOA may include educational eligibility criteria if the position is targeted for conversion to a position that has a positive education requirement. This means that the facility may indicate that only applicants who have completed and those who are currently completing certain required course work are eligible for the Pathways appointment. The JOA should clearly state that the positive education requirement is not a minimum qualification requirement, but that possession of the coursework (completed and/or in progress) is based on the targeted position's occupational qualification standard. The JOA must identify the targeted position and a statement about the possibility of conversion to the competitive service.

(3) For positions that do not have positive education requirements, agencies may not impose education degree requirements or require that specific courses have been, or will be, taken as an eligibility requirement. The agency may indicate in the Pathways job opportunity announcement that they seek or prefer candidates who are pursuing specific degree paths or courses. However, agencies must follow the selection procedures in 5 CFR, part 302, before making a selection.

g. **Compensation**. Pay setting policies are covered in VA Handbook 5007, Pay Administration. Since education is the primary basis for qualifications for the Pathways Internship Program, it is not appropriate to use superior qualifications or special needs pay setting authority in 5 U.S.C. 5333 to set the basic pay for the initial appointment of an individual to the Intern Program. Pay for initial appointments for Interns as a civilian employee of the Federal Government must be set using the payable rate of basic pay (regardless of tenure) at the minimum rate of the highest applicable rate range for the Intern's position of record.

h. **Eligibility for Within-Grade Increases**. Participants in temporary Internship Program positions limited to 1 year or less are not eligible for within-grade increases. See VA Handbook 5007, Pay Administration, Part III, Chapter 5.

i. **Promotion**.

(1) Advancement to a position at a higher grade level (except for a career ladder promotion) or to a position with higher known promotion potential requires public notification and selection procedures under which 5 CFR, part 302 rules apply.

(2) Temporary Interns on appointments not to exceed 1 year are not eligible for promotion, but may be eligible for a new appointment in a position at a higher grade.

j. **Career Ladder Promotion**. Interns without time limits may be noncompetitively promoted to a higher graded Intern position, prior to conversion, upon meeting the qualification and performance requirements. The target grade level and eligibility of promotion potential must have been

communicated in the JOA in order for an Intern to receive consideration for a noncompetitive promotion while serving in the program. Career ladder promotion is strictly at the supervisor's discretion. To qualify for promotion, the Intern must meet the experience and/or education requirements and must be performing at a fully satisfactory level.

k. **Reassignment and Demotion**. See paragraph 2(z) of this appendix.

l. **Extensions of Interns Appointed on a Temporary Basis (Not to Exceed 1 year)**. Facilities must use discretion in extending temporary Interns past the original not-to-exceed date considering the basis for the appointment. It is not appropriate to affect extensions to circumvent public notice requirements meaning that temporary appointments may be extended as long as the facility can document that the justification of the original appointment remains (i.e., temporary project has not been completed, to perform labor-intensive tasks not requiring subject-matter expertise, or to fill traditional summer jobs). Within 10 calendar days of affecting the extension, the Pathways Participant Agreement must be updated and signed by all parties. HR Offices may not extend the not-to-exceed date of any Intern that has completed his/her academic program unless the Intern meets the definition of the student in accordance with 5 CFR 362.202.

m. **Work Schedules**. There are no limitations on the number of hours an Intern can work per week as long as any applicable laws and regulations governing overtime and hours of work are adhered to. Hiring officials/supervisors and students must agree on a formally-arranged schedule of school and work so that:

(1) Work responsibilities do not interfere with academic schedule.

(2) Completion of the educational program (awarding of diploma/certificate/degree) and the Internship Program is accomplished in a reasonable and appropriate timeframe.

(3) The facility-level Pathways Programs Coordinator and hiring official are informed of and prepared for the student's periods of employment.

(4) Requirements for noncompetitive conversion to a term or permanent position in the competitive service are understood by all parties.

n. **Break in the Program**.

(1) A break in the program is defined as a period of time when an Intern is working, but is unable to go to school. It also includes a period of time when the Intern is neither attending classes nor working for the Department. With the exception of the traditional summer break or similar holiday breaks, an Intern must submit a request for break in the program to his/her supervisor for approval/disapproval. The supervisor must document the approval/disapproval and sign the request. If the supervisor grants the request, the Intern will be placed in an approved Leave without Pay (LWOP) status. If the request for LWOP is denied the Intern may choose to resign; the facility may end the Intern appointment; or the Intern may make a request with the supervisor to arrange a new work schedule.

(2) The supervisor is advised to consult with the facility-level Pathways Program Coordinator (PPC) for a technical review of the request. This will assist in ensuring that the break in program does not result in the student becoming ineligible for the Internship Program. The facility-level PPC may consult with the Administration PPO to advise on the technical implications of granting or denying the request.

o. **Training and Development**. Pathways regulations do not require a minimum number of training hours for Interns appointed without time limits (i.e., not serving on a not-to-exceed appointment). However for these Interns, supervisors are not required, but highly encouraged, to establish individual development plans (especially for those serving in career ladders) and must identify training requirements in the Participant Agreements. Supervisors must ensure that training requirements can be completed during the Intern's scheduled work hours and during the Intern's appointment.

p. **Conversion to the Competitive Service**.

(1) Hiring facilities may noncompetitively convert an Intern (indefinite or temporary) who is a U.S. citizen or national, to a term or permanent appointment in the competitive service. If the Intern is initially converted to a term position, the facility may later convert the Participant to a permanent position.

(2) In order to offer a noncompetitive conversion, the JOA must have communicated the possibility of noncompetitive conversion and other pertinent information about the permanent placement position. This pertinent information includes the occupational series, initial grade(s) of the position targeted for conversion; and any career ladder eligibility of the targeted position. Pathways positions do not lead to permanent placement to positions in the Excepted Service.

NOTE: *Conversions of temporary Interns should be rare as Interns appointed with not to exceed dates are appointed for the purpose of completing temporary projects, perform labor-intensive tasks not requiring subject matter expertise, or to fill traditional summer jobs. As with any time-limited appointment the not-to-exceed date should coincide with the anticipated ending date of the project or with the expected date of completion of the academic program. In the case that an Intern is eligible to receive a noncompetitive conversion to the competitive service, the Intern may serve up to 120 calendar days beyond the date of completion of the designated academic program. However, the not-to-exceed date may not be extended after the academic program is completed and the HR Office must plan to convert the Intern prior to the expiration date of the appointment. The appointment expires on the not-to-exceed date. If the Intern is not converted before or on the not-to-exceed date, then the appointment expires on the not-to-exceed date.*

(3) An Intern may be converted to a position within VA or another federal agency. If a VA Intern is converted in another agency, the parameters for the conversion are based on the gaining agency's policies and procedures. Facility-level PPC should consult with their respective Administration PPO prior to noncompetitively converting an Intern from another agency. Although it may not be available or provided, the facility must request the following documentation from the losing facility or agency:

(a) The original JOA to confirm if conversion eligibility was offered and to confirm targeted grade, and targeted occupation for conversion,

(b) The Participant Agreement,

(c) The Individual Development Plan (if applicable), and

(d) Performance Appraisal (if applicable)

(4) In general, to be eligible for conversion to the competitive service, the Intern must:

(a) Complete at least 640 hours of work experience acquired through the Internship Program while enrolled as a full-time or part-time, degree- or certificate-seeking student.

NOTE: *Up to 320 hours may be waived or credited as outlined in paragraphs 4r and 4s.*

(b) For Interns appointed without time limits, complete academic requirements (as determined by the educational institution), within the 120-day period preceding the appointment, at a qualifying educational institution conferring a diploma, certificate, or degree.

NOTE: *Temporary Internship appointments (i.e., with a not-to-exceed date) do not provide the 120-day conversion period. These appointments expire on the date the appointment expires*.

(c) Receive a favorable recommendation for appointment by the first line or second line supervisor for which the Intern served.

(d) Fully meet the VA or OPM qualification standards for the position to which the Intern will be converted.

(e) Fully meet any VA-specific requirements as specified in the Participant Agreement with the Intern.

(5) An Intern may be converted to a position with an established career ladder as long as the public notification identified the selectee's eligibility for noncompetitive for conversion and identified the targeted grade career ladder.

q. **Conversion to the Competitive Service based on Superior Academic Achievement (S.A.A.)**.

(1) Upon completion of all of the requirements of the Program and a bachelor's degree from an accredited college or university, an Intern may be converted to a term or permanent GS-7 grade level position using the Superior Academic Achievement (S.A.A.) provision. This does not prohibit conversion at a higher grade for which the Intern is qualified for, but provides an opportunity to convert Interns at the grade level that is most advantageous for the Intern and VA. This provision is outlined in its entirety in the OPM Operating Manual for Qualification Standards for General Schedule Positions and covers advanced trainee positions that provide opportunities for advancement upon attaining required job skills and knowledge, require no prior experience, and have work classified at two-grade intervals. The S.A.A. provision recognizes students who have achieved superior academic standing as evidenced by one of the three methods described below. In order to be creditable under this provision, S.A.A. must have been gained in a curriculum that is qualifying for the position to be filled. S.A.A. is

based on (1) class standing, (2) Grade Point Average (G.P.A.), or (3) honor society membership. They are described as follows:

(a) **Class standing**. Individuals must be in the upper third of the graduating class in the college, university, or major subdivision, such as the College of Liberal Arts or the School of Business Administration, based on completed courses.

(b) **G.P.A.** Individuals must have a G.P.A. of:

1. **3.0 or higher out of a possible 4.0 ("B" or better)** as recorded on their official transcript, or as computed based on 4 years of education, or as computed based on courses completed during the final 2 years of the curriculum; or

2. **3.5 or higher out of a possible 4.0 ("B+" or better)** based on the average of the required courses completed in the major field or the required courses in the major field completed during the final 2 years of the curriculum.

NOTE: *The G.P.A. is to be rounded to one decimal place. For example, 2.95 will round to 3.0 and 2.94 will round to 2.9. In addition, some institutions may use a pass/fail grading system for some or all courses, these provisions are outlined in OPM Operating Manual for Qualification Standards for General Schedule Positions.*

(c) **Election to membership in a national scholastic honor society**. Individuals may be considered eligible based on membership in one of the national scholastic honor societies listed below. These honor societies are listed in OPM Operating Manual for Qualification Standards for General Schedule Positions.

r. **Waiver of Service Requirement**.

(1) VA facilities may noncompetitively convert an Intern to a term or permanent appointment by waiving up to one-half (*i.e.,* 320 hours) of the 640-hour minimum service requirement when an Intern completes 320 hours of career-related work experience under an Internship Program appointment and demonstrates high potential by outstanding academic achievement and exceptional job performance as provided in 5 CFR 362.204(d).

(2) VA facilities may not be granted a credit or waiver (or a combination of a credit and waiver) totaling more than 320 hours of the 640-hour service requirement. VA facilities must submit a request for a waiver of up to one-half of the minimum service requirement to the headquarters VA PPO.

s. **Credit for Non-Federal Internship Experience**. VA facilities may evaluate, consider, and grant credit for up to one-half (320 hours) of the 640-hour Pathway's Intern Program requirement for comparable non-Federal internship experience in a field or functional area directly related to the student's target position and experience acquired while the student met at least one of the following requirements:

(1) Worked in, but not for, a Federal agency, pursuant to a formal internship agreement, comparable to the Pathway's Internship Program, between the agency and an accredited educational institution.

(2) Worked in, but not for, a Federal agency, pursuant to a written contract with a third-party internship provider officially established to provide internship experiences to students that are comparable to the VA Internship Program.

(3) Served as an active duty member of the armed forces (including the National Guard and Reserves), as defined in 5 U.S.C. 2101, provided the Veteran's discharge or release is under honorable conditions.

(4) Participated in student volunteer service, as defined in 5 CFR, part 308 and/or other Federal programs designed to give internship experience to students (e.g., fellowships and similar programs), may be evaluated, considered, and credited service when it is determined the experience is comparable to experience gained in the Pathway's Internship Program.

(5) Hiring facilities must submit requests for determination of credit for comparable experience acquired by an Intern in a non-Federal or student volunteer service program to the headquarters VA PPO for determination of credit.

t. **Treatment of Third-party Interns**. VA facilities may enter into arrangements with third-party Intern providers as part of their overall Intern Program recruiting strategy to have diverse pipelines by drawing candidates from all segments of society. E.O. 13562 encourages agencies to allow third-party provided Interns to participate in their Internship programs to the same extent as the Interns the agency hires itself. This means that third-party provided Interns must get the same access to training, career development, and mentoring as other VA Interns.

u. **Setting Pay Upon Conversion**.

(1) After completion of the Program requirements and upon conversion, the payable rate of basic pay should be set at the minimum rate of the highest applicable rate range of the position. However, the payable rate of basic pay of a newly converted Intern may be set above the minimum rate of the grade, if the Intern meets one of the following criteria:

(a) The Intern has superior qualifications based on the level, type, or quality of the Intern's skills or competencies demonstrated or obtained through experience and/or education, the quality of the candidate's accomplishments compared to others in the field, or other factors that support a superior qualifications determination. The Intern's skills, competencies, experience, education, and/or accomplishments must be relevant to the requirements of the position to be filled. These qualities must be significantly higher than that needed to be minimally required for the position for which being converted to.

(b) The Intern fills a special agency need if the type, level, or quality of skills and competencies or other qualities and experiences possessed are relevant to the requirements of the position. An Intern may also meet the special needs criteria by meeting the VA mission, goal, program activity or workforce needs, as documented in the VA's strategic human capital plan.

(2) The decision to use the superior qualifications and special needs pay-setting authority must be made prior to the conversion and approved in writing prior to the conversion date. Decisions must be made in accordance with and the manner as prescribed in VA Handbook 5007, Pay Administration, Part II, Chapter 3, paragraph 4.

v. **Reduction in Force**. Interns are covered by 5 CFR, part 351 for purposes of RIF.

(1) An Intern serving under an appointment for an initial period expected to last more than 1 year is in excepted service Tenure Group II.

(2) A temporary Intern, serving under an appointment not to exceed 1 year, who has not completed 1 year of service, is in excepted service Tenure Group 0.

(3) A temporary Intern serving under an appointment not to exceed 1 year, who has completed 1 year of current, continuous service, is in excepted service Tenure Group III.

w. **Termination in Appointment**. As a condition of employment, an Intern appointment expires when one of the following circumstances occur:

(1) For an Intern appointed without limitations, the appointment ends 120 calendar days after completion of the designated academic course of study, unless the Participant is selected for noncompetitive conversion under 5 CFR 362.204.

(2) For a temporary Intern appointed with a not to exceed date, the appointment ends upon expiration of the temporary Internship appointment or when the justification of the temporary appointment is no longer supported.

(3) The date an Internship Program Participant fails to meet the eligibility requirements for the Internship Program.

5. RECENT GRADUATES PROGRAM.

a. **Program Eligibility**. A Recent Graduate is an individual who obtained a qualifying associates, bachelors, master's, professional, doctorate, vocational or technical degree or certificate from an accredited, qualifying educational institution, within the previous 2 years or other applicable period. An individual must meet one of the following criteria to receive consideration for eligibility requirements:

(1) Except as provided in paragraph 5(a)(2), an individual may apply for a position in the Recent Graduates Program only if the individual's application is received not later than 2 years after the date the individual completed all requirements of an academic course of study leading to a qualifying associates, bachelor's, master's, professional, doctorate, vocational or technical degree or certificate from an accredited, qualifying educational institution.

(2) A Veteran, as defined in 5 U.S.C. 2108, who, due to a military service obligation, was precluded from applying to the Recent Graduates Program during any portion of the 2-year eligibility period described in paragraph 5(a)(1) shall have a full 2-year period of eligibility upon his or her release or

discharge from active duty. In no event, may the individual's eligibility period extend beyond 6 years from the date on which the individual completed the requirements of an academic course of study.

b. **Classification and Qualification**. Facilities must evaluate individuals using only OPM title 5 Qualification Standards for the occupation and grade level of the position being filled. The position must provide a career ladder with progressively more responsible duties that provide career advancement opportunities. HR Offices may not adopt or develop their own qualification standards for positions filled through the Pathways Recent Graduates Program. Candidates must fully meet the qualification requirements of the grade level and occupation for appointment.

c. **Administrative Careers With America (ACWA)**.

(1) Recent Graduate positions at the GS-5 and/or GS-7 grade levels subject to the *Luevano Consent Decree* must be filled using Decree-permitted rating schedules and assessment tools. The Decree requires that Federal hiring offices use such alternate examining procedures when filling those positions, whether in the title 5 competitive or excepted service.

(2) Though it is generally not mandatory for a VA hiring facility to work through a VA Delegated Examining Unit (DEU) to fill title 5 excepted service positions, due to Administrative Careers With America (ACWA) test security requirements, a hiring facility must arrange with a VA DEU to use the Decree-permitted ACWA examinations for any Decree-covered positions. The OPM Operating Manual for Qualification Standards for General Schedule Positions lists the Decree-covered occupations for which the ACWA examinations (or other valid assessment) are mandatory. Any other proposed assessment tool must be reviewed and approved by the Director, Recruitment and Placement Policy Service and the VA Office of General Counsel.

(3) An appropriately assigned VA Delegated Examining Unit (DEU) must administer the ACWA assessment. The process for announcing one of these positions is as follows:

(a) If the grade recruited for is at the GS-5 or GS-7 grade level and the position is targeted to the GS-9 or above, the HR Office will prepare the DEU request to indicate Recent Graduate.

(b) Job analysis and category rating definitions are not required as the ACWA assessment serves as the job analysis.

(c) The DEU Office will review the applications for qualifications and eligibility and will issue a referral certificate based on numerical scores.

(d) When making a selection using numerical scores, the facility must comply with 5 CFR 302.401, to make a selection from the three applicants with the highest scores, as long as the three applicants are still interested and available.

d. **Appointment**.

(1) Facilities may appoint a Recent Graduate for 1 year using the excepted service appointing authority provided by 5 CFR 213.3402(b). An appointment to the Recent Graduate program may be

extended for a period up to an additional 120 calendar days to cover rare or unusual circumstances or situations: failure to complete the IDP in the time allotted due to administrative difficulties or other necessities of the service; or documented personal issues dealing with family death or medical obligations that would hinder program completion.

(2) OPM may approve an agency's Recent Graduate programs to have a duration up to 2 years in length, if a longer program is justified and warranted. Requests to OPM for Recent Graduate programs that extend up to 2 years must be submitted to the VA PPO.

(3) Facilities may make appointments to the Recent Graduates Program, pursuant to the Pathways MOU executed with the OPM, under Schedule D of the excepted service in accordance with 5 CFR, part 302.

(4) Facilities may make an initial appointment of a Recent Graduate to any position filled under this authority for which the Recent Graduate qualifies, up to the GS-9 grade level (or equivalent under another pay and classification system, such as the Federal Wage Grade System).

(5) Initial appointments to positions for science, technology, engineering, or mathematics (STEM) occupations may be made at the GS-11 level, if the candidate possesses a Ph.D. or equivalent degree directly related to the STEM position the HR Office is seeking to fill.

(6) Initial appointments to scientific and professional research positions at the GS-11 level for which the classification and qualification criteria for research positions apply, if the candidate possesses a master's degree or equivalent graduate degree directly related to the position the agency is seeking to fill.

(7) Initial appointments to scientific and professional research positions at the GS-12 level for which the classification and qualification criteria for research positions apply, if the candidate possesses a Ph.D. or equivalent degree directly related to the position the agency is seeking to fill.

(8) The duration of the Recent Graduate's appointment in the excepted service is a trial period.

e. **Impact on Pay of Current Federal Employees**.

(1) If a selectee is currently employed as a civilian in the Federal Government and his/her current rate of basic pay would otherwise be reduced as a result of placement in the Recent Graduate position, pay retention provisions under 5 CFR, part 536, subpart C, may apply in setting the pay. Pay retention applies to any employee whose rate of basic pay would otherwise be reduced (after application of any applicable geographic conversion under 5 CFR 536.303(a)) as a result of a management action that places an employee in a formal employee development program generally utilized governmentwide. The Recent Graduates Program meets the definition of a formal employee development program.

(2) An "employee" means an individual whose employment immediately prior to the appointment was on other than a temporary or term appointment. According to 5 CFR 536.103, a management action includes an employee's placement in or transfer to a position under a formal employee development program established by an agency for recruitment and employee advancement purposes is considered a

management action even though the employee initiates or requests such placement or transfer. See VA Handbook 5007, Pay Administration, Part III, Chapter 6, for pay retention guidance.

f. **Individual Development Plan (IDP), Mentorship, and Formal Training Requirements**.

(1) The supervisor must ensure, within 45 calendar days of appointment, that an IDP has been developed, approved, and issued to the Recent Graduate.

(2) Within 90 calendar days of a Recent Graduate's appointment, the supervisor will assist in the assignment of a mentor, who is an appropriate employee, outside the Recent Graduate's chain of command. The mentor relationship is a formal, structured relationship and should comply with any Administration or local policies regarding mentors.

(3) The supervisor must arrange and provide for at least 40 hours of formal interactive training per year during the Recent Graduate's appointment that advances the goals and competencies outlined in her/his IDP and are related to the position. Mandatory annual training, such as information security and ethics training, does not count towards the 40-hour requirement. Interactive training includes communication between the participants and/or the instructor and this training may be provided on-line or in-person.

g. **Work Schedules**. Recent Graduate positions are full-time positions. Recent Graduate appointments are designed to last 1 year unless an extended program or extension is approved. A part-time work schedule or extensive leave without pay would impact a Recent Graduate Participant's ability to complete the required work and developmental assignments. Requests for part-time work schedules must be reviewed and approved by the VA PPO. In the event a part-time schedule is approved, the servicing HR Office must require the Participant to sign a statement of understanding that outlines the negative implications of changing to a part-time work schedule.

h. **Movements During the Recent Graduate Program**.

(1) **Separation of a Recent Graduates participant to a new VA facility/station or Federal Agency**.

(a) During the program, a current Recent Graduate participant may be selected for a different Recent Graduate position with another VA facility/station or another Federal agency. It is the responsibility of the Recent Graduate to ensure that the new Federal agency/department meets all the requirements (i.e., current MOU, opportunities for permanent placement, etc.) as described in 5 CFR, part 362 for participating in the Recent Graduates Program.

(b) To move to a new VA facility/station or Federal agency, an appropriate personnel action must be processed to separate the Recent Graduate from the current VA facility.

(c) The new employing VA facility/station or Federal agency must convert or appoint the Recent Graduate on a Pathways excepted appointment without a break in service. The time served under the previous Recent Graduates Program is creditable towards the new Program requirements for noncompetitive conversion eligibility to the competitive service. Because there is no break in service,

the Recent Graduate will not begin a new period in the Program upon moving to the new VA facility/station or Federal agency.

(d) The new employing VA facility/station must identify and explain to the Recent Graduate the requirements for Program completion and eligibility for noncompetitive conversion and execute a new Pathways Participant Agreement.

i. **Accession of a Recent Graduate from another VA facility/station or Federal Agency**.

(1) When a VA facility hires a current Recent Graduate program participant from another VA facility/station or Federal agency for a new Recent Graduate appointment, the gaining facility must convert or appoint the Recent Graduate under a Pathways excepted appointment. The gaining facility must request and verify all documentation required to appoint the Recent Graduate (i.e., transcripts); request a copy of the current appointment SF-50 (placing the Recent Graduate); and request a copy of the current Participant Agreement and IDP.

(2) The gaining VA facility/station must appoint the Recent Graduate on a Pathways excepted appointment without a break in service. The time served under the previous VA facility/station or Federal agency's Recent Graduates Program is credited toward the new Program requirements for noncompetitive conversion eligibility to the competitive service. Because there is no break in service, the Recent Graduate will not begin a new period in the Program upon moving to the gaining facility.

(3) The gaining VA facility must identify and explain to the Recent Graduate participant the requirements for Program completion and eligibility for noncompetitive conversion and execute a new Pathways Participant Agreement.

j. **Conversion to the Competitive Service**.

(1) Facilities may noncompetitively convert a Recent Graduate who is a U.S. citizen or national to a competitive service term or permanent position when the Recent Graduate meets all of the following requirements:

(a) Successfully completes at least 1-year of continuous service in addition to all the requirements of the Recent Graduates Program. The 1-year period allows the completion of the trial period upon conversion; therefore, no further probationary and/or trial period following conversion is required.

(b) Demonstrates successful job performance consistent with the performance appraisal program that results in a rating of record (or summary rating) of at least Fully Successful or equivalent and a recommendation for conversion by the first-level supervisor.

(c) Meets the OPM Qualification Standard for the competitive service position to which the Recent Graduate will be converted.

(2) Hiring facilities must make the noncompetitive conversion effective on the date the service requirement is met, or at the end of an approved extension, if applicable. Extensions of the program are approved by the headquarters VA PPO.

(3) Recent Graduates may be converted to a career ladder position as long as the career ladder eligibility (i.e., target grade) was included in the original JOA.

(4) If the Recent Graduate is initially converted to a term position, the facility may later convert the Participant to a permanent position.

NOTE: *Hiring facilities may convert a Recent Graduate within VA, but may not convert a Recent Graduate from another Federal agency. In addition, converting an individual to a term position is intended to cover instances where budgets and other workforce requirements preclude a hiring official from converting an individual to a permanent position.*

k. **Reduction in Force**.

(1) Recent Graduates are in excepted service Tenure Group II in accordance with 5 CFR 351.502.

(2) Recent Graduate's appointment expires at the end of the Program period prescribed by the facility, plus any approved extensions, unless the Participant is selected for noncompetitive conversion under 5 CFR 362.306.

l. **Termination of Appointment**.

(1) As a condition of employment, a Recent Graduate appointment expires at the end of the 1-year or 2-year Program period as applicable, plus any approved extension, unless the Recent Graduate is selected for noncompetitive conversion under 5 CFR 362.306. Extensions of the program are approved by the headquarters VA PPO.

(2) A Recent Graduate who held a career-conditional or career appointment in VA immediately before entering the Program, and fails to complete the Program for reasons that are not related to misconduct, poor performance, or suitability, may, at the request of the of the Recent Graduate or supervisor, be placed noncompetitively in a permanent competitive service position, as appropriate, within VA. The position identified for noncompetitive placement must be at a grade no higher than a position the employee has held on a permanent basis in the competitive service and must not have higher known promotion potential.

6. PRESIDENTIAL MANAGEMENT FELLOWS (PMF) PROGRAM. The PMF Program is a prestigious Federal program designed to attract outstanding men and women from a variety of academic disciplines and career paths who have a clear interest in, and commitment to, excellence in the leadership and management of public policies and programs in the Federal service. PMF positions are considered entry-level positions for individuals with advanced degrees. OPM administers the application process for the PMF Program. The VA PMF Coordinator and Administration PPOs oversee PMF hires in VA.

a. **Establishing a Need for a PMF**.

(1) PMF appointments are designed to meet workforce planning needs for leadership and management in the public service.

(2) When establishing the need for a PMF appointment, supervisors and management officials in collaboration with human resources officials, will determine the following:

(a) Determine if the use of a PMF appointment will help meet the long-term and short-term workforce needs of the organization.

(b) Determine if the facility has the resources to hire, support and fund the professional development requirements of the program.

(c) Design formal training and development plans and performance plans for PMF positions that comply with 5 CFR 362.405.

b. **Eligibility**. A person is eligible for consideration for the PMF if he/she meets the following criteria:

(1) An individual who, within the previous 2 years, completed an advanced degree (i.e., masters, professional, or doctorate) from a qualifying educational institution is eligible to apply for the PMF program.

(2) An individual may also apply for the PMF Program, if the individual is still a student attending a qualifying educational institution, and he/she expects to meet the advanced degree requirements (even though he/she has not graduated), including the completion or successful defense of any required thesis or dissertation, are eligible to apply. Eligibility is based on completion of degree requirements by August 31 of the following year of the annual application.

(3) An individual may apply for the PMF Program more than once as long as he/she meets the eligibility criteria. However, if an individual becomes a finalist and subsequently applies for the Program during the next open PMF announcement, the individual will forfeit his or her status as a finalist upon accessing the on-line assessment.

c. **Classification**. A qualified PMF may be appointed in an administrative, technical or professional two-grade interval position in the General Schedule (GS) System or the Federal Wage Grade (WG) System, at the GS-9, GS-11, or GS-12 grade level, as appropriate.

d. **Announcement**.

(1) OPM administers the application process for the PMF Program and conducts a competition for the selection of Finalists. OPM will make the qualification determination for PMF finalists at the GS-9 grade level.

(2) OPM selects PMF finalists based on an OPM evaluation of each candidate's experience and accomplishments according to his/her application and the results of a rigorous structured assessment process. OPM publishes and provides the PMF finalists list for appointment consideration to the VA PMF Coordinator.

(3) Hiring facilities who service organizational entities wishing to recruit PMFs that have been certified by OPM will work with their designated facility-level PPC to arrange with the VA PMF Coordinator for the posting of a job description for PMF openings that include the grade levels for hiring and promotion potential in OPM's Talent Acquisition System.

e. Selection.

(1) OPM will send VA an unranked alphabetical list of Finalists for consideration. The list will include individual resumes and any supporting documentation of all PMF Finalists.

(2) The VA PMF Coordinator is responsible for advising selecting officials and HR Specialists on Veterans' preference in accordance with 5 CFR, part 302 to the unranked alphabetical Finalists' list to ensure that the core principles of the Program are upheld.

(3) The VA PMF Coordinator will annotate the adjudicated Veterans' preference status on the list of Finalists given to hiring officials. The following annotations will be used to indicate the Veterans' preference status of Finalists:

(a) CPS: 10-point compensable preference based on a service-connected disability of 30% or more;

(b) CP: 10-point compensable preference based on a service-connected disability of 10% or more, but less than 30%;

(c) XP: 10-point (other) preference; granted to recipients of the Purple Heart, persons with a non-compensable service-connected disability (less than 10%), widow/widower or parent of a deceased Veteran, or spouse or parent of a disabled Veteran; and

(d) TP: 5-point preference.

NOTE: *Although a sole survivorship preference (SSP) Veteran does not receive preference points, he/she is listed ahead of non-preference eligibles with the same score on an examination or ahead of non-preference eligibles under category rating procedures.*

(4) If a PMF who is a preference eligible expresses an interest in a specific PMF position, he/she must receive consideration. "Expresses an interest" means the Finalist has initiated contact with a facility or the VA PMF Coordinator and requests consideration for appointment to a specific position in VA. All contacts from interested Finalists should be directed to the VA PMF Coordinator.

(5) When multiple candidates are being considered for the same position, consideration must be given as follows: first, to preference eligibles having a service-connected disability of 10% or more; second, to other 10-point preference eligibles; third, to 5-point preference eligibles; and then to non-preference eligibles. When fewer than three candidates remain in the highest category, consideration may be expanded to include the next category.

(6) A preference eligible may only be removed from consideration if it can be demonstrated that the preference eligible is not qualified for the position or declines further consideration. When a preference.

eligible is removed from consideration for this reason, that decision must be documented in writing and provided to the VA PMF Coordinator

(7) When a Finalist list contains preference and non-preference eligibles, the hiring official must only be provided the name(s) of the preference eligible PMF finalists for consideration. The VA PMF Coordinator may provide the names of the non-preference PMF finalists after the list with the preference eligible PMF Finalists has been exhausted following proper pass over and objection requests.

(8) A hiring official is only permitted to select a non-preference eligible over a preference eligible if an appropriate objection and/or pass over request, as applicable is sustained. 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 non-preference eligible or a preference eligible with a compensable service-connected disability of less than 30 percent must be adjudicated by the servicing Human Resources Officer/Director. Objection and pass over procedures based on medical and suitability reasons are described Referral and Selection Procedures, Paragraphs 3(7) and 3(8) of this appendix.

(9) Selection of a PMF for any position that is centralized to the Secretary of Veterans Affairs, the Under Secretary for Health, Under Secretary for Benefits, or the Under Secretary for Memorial Affairs requires the respective official's prior approval. (Current lists of centralized positions are available in VA Handbook 5001, General Introduction and Administration, Part II).

f. **Appointment**.

(1) PMFs are given 2-year appointments at the GS-9, GS-11, or GS-12 level (or equivalent under the WG), in the title 5 excepted service under 5 CFR 213.3402(c). The grade level depends on the PMF's qualifications. Hiring facilities may extend a PMF's appointment for up to 120 calendar days to cover rare or unusual circumstances or situations. Extensions of the program are approved by the headquarters VA PPO.

(2) Attorney positions, GS-905, in the excepted service, are outside the PMF Program's hiring authority; therefore, PMF finalists cannot be appointed or converted into attorney positions.

g. **Work Schedule**. PMF positions are full-time positions. A part-time work schedule or extensive leave without pay would impact a PMF's ability to complete the required work and developmental assignments. Requests for part-time work schedules, with concurrence of the VA PMF Coordinator, may be approved under certain and/or rare circumstances.

h. **Individual Development Plan (IDP), Mentorship, and Formal Training Requirements**.

(1) In consultation with the VA PMF Coordinator, the supervisor must ensure, within 45 calendar days of a PMF's appointment, that he/she has developed with the PMF, an approved IDP stating the specific developmental activities on which the PMF and her/his supervisor have mutually agreed upon.

(2) Within 90 calendar days of a PMF's appointment, the supervisor will assist in the assignment of a mentor, who is an appropriate employee, outside the PMF's chain of command. The mentor relationship

is a formal, structured relationship and should comply with any Administration or local policies regarding mentors.

(3) The supervisor must arrange and provide for at least 80 hours of formal interactive training per year during the PMF's 2-year appointment that advances the goals and competencies outlined in her/his IDP. Mandatory annual training, such as information security and ethics training, does not count towards the 80-hour requirement. Interactive training includes communication between the participants and/or the instructor and this training may be provided on-line or in-person.

(4) The hiring facility must provide each PMF with at least one rotational or developmental assignment with respect to these requirements:

(a) Each PMF must receive at least one rotational or developmental assignment of 4 to 6 months in duration, with management and/or technical responsibilities consistent with the PMF's IDP. As an alternative, a PMF may choose to participate in a VA-wide initiative or other Presidential or Administration initiative that will provide the PMF with the experience he/she would have gained through the 4-to-6-month developmental assignment; and

(b) The rotational or developmental assignment may be within the PMF's organization, in another VA component, or in another Federal department/agency. In advance of making the appointment, a VA facility that hires a PMF should discuss with the PMF the anticipated range of organizational locations where the Finalist may expect to complete a developmental rotation.

(5) The PMF may receive other short-term rotational assignments of 1 to 6 months in duration, at the facility's discretion.

(6) Upon the request of OPM, the appointing facility must make a PMF available to assist in the assessment process for subsequent PMF classes. Any interactive training provided to a PMF in connection with assisting OPM in the assessment process may count toward the minimum 80-hour training requirement.

(7) Guidance on the professional development requirements of the PMF Program will be made available to hiring facilities by the VA PMF Coordinator.

i. **Promotion**. Any PMF serving on a career ladder who meets promotion requirements in VA Handbook 5005, Staffing, Part III, may be promoted. However, this provision does not confer an entitlement to a promotion.

j. **Certification of Completion of Program**.

(1) Upon completion of the PMF Program, the facility-level PPC should notify the Administration PPO. The VA PMF Coordinator will review and facilitate the certification request to the VA Executive Resources Board (ERB). In addition, the PMF must be evaluated by the VA ERB to determine whether it can certify in writing that the PMF has met all of the requirements of the Program, including the performance and developmental expectations set forth in the performance plan and IDP. The VA ERB may consult the PMF's mentor in reaching its determination.

(2) The VA ERB must notify the PMF of its decision regarding certification of successful completion and the ERB certification must be forwarded to OPM.

(3) If the VA ERB decides not to certify a PMF, the PMF may request reconsideration of that determination from the OPM Director. Such reconsideration must be requested in writing, with appropriate documentation and justification, within 15 calendar days of the date of the decision by the VA ERB.

(4) The final decision on reconsideration by the OPM Director is not subject to appeal.

(5) The PMF may continue in the Program pending the outcome of the request for reconsideration. The agency must continue to provide appropriate developmental activities during this period.

k. **Extension of Program**. A PMF must complete the Program within the 2-year time limit prescribed, including any approved extensions. VA may extend a PMF's appointment for up to 120 calendar days to cover rare or unusual circumstances or situations, such as the PMF being unable to complete the IDP in the time allotted due to administrative difficulties or other necessities of the service, or officially documented personal issues dealing with family death or medical obligations that would hinder program completion. Extensions of the program are approved by the headquarters VA PPO.

l. **Conversion to the Competitive Service**. A PMF must complete the Program within the time limits prescribed 5 CFR 362.409**,** including any approved extensions. At the conclusion of that period, an ERB-certified PMF that did not have a break in service may be converted to a competitive service term or permanent appointment. Converting a PMF to a term position is intended to cover instances where budgets and other workforce requirements preclude a hiring official from converting an individual to a permanent position. PMF's initially converted to a term position, the facility may later convert the Participant to a permanent position. VA HR Offices may not convert PMF's from other Federal agencies.

m. **Reduction in Force**. PMFs are in the excepted service Tenure Group II for purposes of the order of retention for excepted service**.** (See 5 CFR 351.502).

n. **Termination of Appointment**.

(1) A PMF may be terminated for reasons related to misconduct, poor performance, or suitability.

(2) As a condition of employment, a PMF's appointment expires at the end of the 2-year Program period, plus any approved extension, unless the PMF is selected for noncompetitive conversion. If a facility does not convert a PMF at the end of the Program, as provided in 5 CFR 362.409, or extend the individual's initial appointment under 5 CFR 362.404, the appointment expires when certification (or appeal) for Program completion is denied by the OPM Director. Extensions of the program are approved by the headquarters VA PPO.

(3) A PMF who held a career-conditional or career appointment in VA immediately before entering the Program, and fails to complete the Program for reasons that are not related to misconduct, poor performance, or suitability, may, at the request of the of the PMF or supervisor, be placed noncompetitively in a permanent competitive service position, as appropriate, within VA. The position identified for noncompetitive placement must be at a grade no higher than a position the employee has held on a permanent basis in the competitive service and must not have higher known promotion potential.

(4) HR Offices must provide written notification to OPM through the headquarters VA PPO and the VA PMF Coordinator when a PMF is terminated for any reason.]

[APPENDIX O. SHARING CERTIFICATES WITH OTHER FEDERAL AGENCIES UNDER THE COMPETITIVE SERVICE ACT OF 2015

1. **PURPOSE.** This appendix provides guidance on the process for sharing certificates, under delegated examining (DE), with another Federal agency or making a selection from a DE shared certificate generated by another agency under the provisions of the Competitive Service Act (CSA) of 2015, P.L. 114-137. The procedures outlined in this appendix apply when VA is either the originating or the receiving agency in a shared certificate initiative. This guidance is only applicable to title 5 occupations in the competitive service and should be used in conjunction with all guidance cited under the REFERENCES section below and any applicable labor agreements.

2. **BACKGROUND.** Enacted on March 18, 2016, the CSA allows an appointing authority (i.e., the head of the original Federal agency or Department) to share a competitive certificate issued under DE procedures with one or more appointing authorities (at different agencies or departments). The receiving agency may use this process to make an appointment from the shared certificate to a position that is in the same occupational series, at the same grade level (or equivalent), at the same full performance level, and within the same duty location during the 240-calendar day period following the issue date of the initial certificate of eligibles.

3. **REFERENCES.**

   a. Competitive Service Act of 2015 (P.L. 114-137)

   b. 5 C.F.R. § 332.408 - Shared Use of a Competitive Certificate

   c. 5 C.F.R. § 330.104 - Requirements for Vacancy Announcements

   d. 5 C.F.R. Part 330, Subpart F, Agency Career Transition Assistance Plans for Local Surplus and Displaced Employees

   e. OPM Memorandum on Implementing Policy Guidance on the Competitive Services Act, dated January 11, 2018 with Questions and Answers

   f. Delegated Examining Operations Handbook - June 2019 – Chapter 6, Section F, Shared Certs

4. **DEFINITIONS.**

   a. **Appointing Authority**. OPM's CSA-Shared Certificates, Question and Answers defines appointing authority as a person, either empowered by law or delegated by authority, authorized to make appointments. The term "original hiring agency" or the "receiving agency" will be used in this policy to refer to the agency initiating the hiring action and the agency using a certificate of eligibles created by another federal agency.

b. **Original Agency**. The agency Human Resources (HR) office that first initiated the hiring action (i.e., the sharing agency) and generated the original (first) certificate of eligibles and is now sharing it with other agencies.

c. **Receiving Agency**. The agency HR office using the shared certificate of eligibles that was initially generated by another agency.

5. RESPONSIBILITIES.

a. **The Chief Human Capital Officer (CHCO)** shall:

(1) Develop Department-wide policy and guidance regarding the Shared Certificate Program consistent with Office of Personnel Management (OPM) and VA policies and guidance and all applicable federal laws and regulations.

(2) Provide oversight of the Shared Certificate Program consistent with VA policy, guidance, and applicable federal laws and regulations.

(3) Conduct accountability reviews of Human Resources (HR) office procedures, actions, and records to ensure conformance with OPM and VA policy and guidance and all applicable federal laws and regulations.

(4) Share potential and known shared certificate opportunities learned through various forums (e.g., Chief Human Capital Officers Council, Communities of Practice, etc.) with VA HR offices.

b. **Originating Agency HR Office Staff** shall:

(1) Provide notice in the Job Opportunity Announcement (JOA) for the original vacancy that one or more Federal hiring agencies may use the resulting list of eligible candidates and allows applicants an opportunity to “opt-in” to having their application materials, name, and other personal information shared with other Federal agencies that may have similar open positions.

(2) Generate a certificate of eligibles (referral list).

(3) Redact names of selected applicants and applicants who did not opt-in to have their application, name, and other personal information shared with other hiring agencies prior to sharing the certificate with other agencies.

(4) Share certificate of eligibles and all documentation (e.g., job analysis, testing and examination materials, JOA, rating schedule/crediting plan, application material, etc.) pertaining to creation of the certificate with participating agencies.

(5) Notify receiving agencies when/if errors are found in the original case that may affect selections by the receiving agency.

(6) Maintain documentation to create the certificate and to reconstruct all originating agency hiring actions.

c. **Receiving Agency HR Office Staff** shall:

(1) Comply with all applicable federal laws and regulations using OPM and agency policy and guidance.

(2) Coordinate with the originating agency to receive certificate of eligibles and application material.

(3) Maintain documentation in recruitment case files and/or hiring system sufficient for reconstruction and reporting purposes.

(4) Verify through conducting a job analysis that the minimum qualification requirements, including use of any selective placement factors and competencies or knowledge, skills, and abilities (KSAs) used for the original position are same for the position to be filled.

(5) Provide notification (see enclosed Sample Candidate Notification) of receipt of application to:

(a) Candidates on the shared certificate;

(b) Internal employees; and,

(c) Other individuals the agency is required to consider such as VA's Career Transition Assistance Program (CTAP) and the locally established Reemployment Priority List (RPL) of eligibles.

(6) Make selection(s) within 240-calendar days from the date the original hiring agency issued the certificate.

6. REQUIREMENTS WHEN ORIGINATING A SHARED CERTIFICATE. Except as identified in the sub-paragraphs below, HR office staff shall follow normal practices when initiating and filling recruitment actions for shared certificates as they do when filling a job under competitive examining procedures (e.g., hiring approval, job analysis, etc.).

a. **JOA Notification.** HR office staff must use the following language, in the "How you will be Evaluated" section of the JOA to inform applicants that the resulting list of candidates may be used by one or more agencies:

Applicants referred for selection consideration for this position will be shared with other Federal agencies at their request. Sample language may include: “In order for your information to be shared with other federal agencies, you must choose to opt-in when applying for this position. If an agency requests a list of applicants referred for selection consideration (i.e., certificate) and you are on that list, you will be notified by the receiving agency.”

b. **Applicant Option to Opt-In.** HR office staff must provide applicants the opportunity to opt-in to have their application and other personal information shared with one or more hiring agencies. The applicant questionnaire must include the following question:

Applicants referred for selection consideration for this position may be shared with other Federal agencies at their request. Do you authorize the sharing of your name and application material with other Federal agencies? Yes/No

c. **Selections.** As the originating agency, VA hiring officials have first choice in making selections before the HR office staff shares the certificates with other agencies. VA hiring officials may make additional selections after the certificate is shared.

d. **Sharing the Certificate.**

(1) HR office staff must complete the following prior to sharing certificates with other agencies:

(a) Coordinate any objections to eligibles and/or requests to pass over preference eligibles;

(b) Audit the certificate; and

(c) Redact the names of applicants who have not opted-in for inclusion on the shared certificate and any eligibles selected from the certificate prior to sharing the certificate.

(2) Share all documentation (e.g., job analysis, testing and examination materials, JOA, application material, etc.) pertaining to the creation of the certificate with participating agencies. **NOTE**: When transmitting documentation, HR office staff must safeguard personally identifiable information (PII) not needed for effective use of the certificate.

e. **Discovery of an Erroneous Action.** HR office staff must notify (including specific details) all receiving agencies when/if errors are found in the original case that may affect selections by a receiving agency.

7. MARKETING AND IDENTIFYING SHARED CERTIFICATE OPPORTUNITIES.

a. VA HR offices may market their shared certificate opportunities as follows:

(1) Notify the Office of the CHCO (OCHCO) or the appropriate VA Administration Talent Team to market through OPM's Talent Team Community of Practice; or

(2) Through the USA Jobs Agency Talent Portal, talent pool feature.

b. VA HR offices may learn of opportunities to receive shared certificates as follows:

(1) Review JOAs specifying shared certificate language on USA Jobs or via USA Jobs Agency Talent Portal, talent pool feature. If hiring managers are interested in a shared certificate opportunity, HR office staff should contact the original agency to express interest; or,

(2) Notifications from the OCHCO, Administration Talent Team or OPM's Talent Team Community of Practice announcing shared certificate opportunities.

c. If a VA hiring manager is interested in receiving a certificate(s) from another agency, the VA HR Specialist must ensure the announcement meets the following criteria before requesting use.

(1) The original announcement must:

(a) Be opened through a DE Unit;

(b) Be an opportunity to fill a title 5 competitive service, permanent or term position that is in the same occupational series, at the same grade level (or equivalent), at the same full performance level and within the same duty location of the one being requested (**NOTE:** Consideration must be given to other requirements (e.g., incentives, work schedule (part-time or full-time), telework, etc.) in the originating agency's JOA. If the originating agency's JOA requirements are stricter than the receiving agency's, use of the shared certificate may not be applicable). The minimum qualification requirements, including use of any selective placement factors and competencies or knowledge, skills, and abilities (KSAs) used for the original position are the same for the position to be filled at the receiving agency;

(c) Include language that provided notice that one or more agencies may use the resulting list of applicants; and,

(d) Provide an opportunity for applicants to “opt-in” to have their application material shared.

(2) The request must be within 240-calendar days from the original certificate issue date.

8. VA AS THE RECEIVING AGENCY REQUIREMENTS TO USE A SHARED CERTIFICATE.

a. **Position Verification.** VA HR office staff, in collaboration with the hiring manager, must conduct a thorough job analysis and review all recruitment documents prior to using a shared certificate to ensure minimum qualification requirements (including use of any selective factors) and competencies/KSAs used for the original position are appropriate for the position they wish to fill.

b. **Notification.** Before using a shared certificate, the VA HR office must provide notification to candidates on the shared certificate, internal employees and other individuals the agency is required to consider, such as VA’s CTAP and RPL eligible. A sample candidate notification is enclosed.

(1) **Candidates on the shared certificate**. Notification must include the following:

(a) Notification informing candidates of the receipt of their name and application materials and VA’s intent to consider them for the position being filled.

NOTE: Candidates are not allowed to update their application. The receiving agency is not allowed to further assess the candidates on a shared certificate or otherwise affect an eligible’s placement on the certificate. HR office staff may not reorder a certificate based on additional information reviewed after a certificate of eligible is issued. However, they may use additional methods or resources (such as informational interviews or a review of applicant writing samples) to help make selection decisions.

(b) Notification of VA’s requirement to consider its own employees, as well as other individuals, they are required to consider before anyone on the shared certificate.

(c) Notification of the position title, series, grade level or equivalent, duty location and any additional information (e.g., travel, clearance, telework, etc.) about the position being filled.

(2) **Internal Agency Workforce.** For each shared certificate leveraged, VA HR offices must post an internal announcement (merit promotion) for up to 10 business days, in accordance with applicable collective bargaining

obligations, law, and OPM and VA policy, and they must issue a certificate to the hiring manager to ensure they consider agency applicants before making a selection from the shared certificate.

NOTE: In accordance with the CSA, the internal announcement time limit cannot be waived or extended. For bargaining unit positions, HR offices may coordinate with the appropriate union to limit the announcement period to 10 business days or less.

NOTE: HR offices may use an active certificate for a similar position to meet the internal job posting/notification requirement if the certificate has been issued in the past 120-calendar days and is still in an active status. To be considered "similar," the series, grade, full performance level, competencies/KSAs, specialized experience and duty location must be the same as the shared certificate position (including any selective placement factors, if applicable).

(3) **CTAP and RPL candidates.** When VA is the receiving agency, HR offices must clear CTAP and RPL in accordance with VA policy.

c. **Certificate Procedures**

(1) **Certificate expiration.** HR offices have 240 calendar days from the date the originating HR office issued the certificate to make a selection from the shared certificate.

(2) **Veteran Objection/Pass over.**

(a) Each receiving HR office will work the shared certificate independently and consider any potential objections and/or pass over cases independent of the actions of any other originating or receiving HR office. Objections and pass overs made and sustained by one receiving HR office do not carry over to other agencies.

(b) HR office staff must process objections and pass-overs in accordance with applicable provisions of 5 C.F.R. § 332.406, Objections to Eligibles; 5 C.F.R. § 337.304, Veterans' Preference; the Delegated Examining Operations Handbook; and applicable VA policy in this handbook.

(3) **Selections.**

(a) If there are no CTAP or RPL eligibles, and internal candidates have been considered, the VA hiring manager can select from the shared certificate.

(b) The receiving HR office is not obligated to make a selection from the shared certificate. When making selections, HR offices must follow normal DE procedures. Note that other agencies are likely using the same shared certificate; therefore, HR office staff may encounter candidates listed on the certificate who are receiving simultaneous consideration and/or may have already accepted an offer of employment.

(4) **Certificate annotations and audit.** Upon completion of the process, the HR office must follow normal procedures to annotate and audit the shared certificate.

d. **Maintain Documentation.** HR office staff must maintain case file documentation sufficient to reconstruct its own use of the certificate. The case file must include, but is not limited to, the following documentation:

(1) Personnel action request for authorization to hire.

(2) Originating agency's JOA and recruitment documents (e.g., job analysis, rating schedule/crediting plan, position descriptions, applications of those certified, etc.).

(3) Receiving agency's position verification documentation (e.g., job analysis, rating schedule/crediting plan, position description, etc.).

(4) Internal agency merit promotion announcement.

(5) Clearance of CTAP and RPL candidates.

(6) Copy of certificate with documented actions.

(7) Other case file documents (i.e., failure to respond, declinations, etc.).

e. **Resolving Errors.** In the event an original agency discovers they made an error on the original certificate, the receiving agency must take appropriate action to address/correct any erroneous actions they made subsequent to the original agency's error.

9. SENDING OR RECEIVING SHARED CERTIFICATES.

b. If the originating or receiving HR office uses a talent acquisition system different from USA Staffing, the originating HR office has the flexibility to determine the best way to transmit certificates and accompanying documentation.

c. If the originating or receiving HR office uses USA Staffing as its talent acquisition system, it must follow the applicable steps in the USA Staffing Shared Certificate Guide to share or receive available certificates.

SAMPLE CANDIDATE NOTIFICATION

Greetings,

The Department of Veterans Affairs (VA), **{enter Administration}** is in receipt of your name and application for the position of **{enter title, series, grade and duty location}**. VA received your application via the shared certification process from **{enter name of originating agency}** because you applied for a similar position with them and granted them permission to share your name and application with other federal agencies who are recruiting to fill similar positions.

We are pleased that you wish to be considered for a **{enter title, series, grade and duty location}** with VA. However, federal hiring rules require us to consider employees from our current VA workforce and certain other individuals, before we can consider anyone on the shared list of qualified candidates. Once we meet our internal notification requirements, we may be considering other applicants, such as yourself, for this position.

Thank you!

{ENTER SIGNATURE BLOCK}]

[**APPENDIX R1. SELECTIVE SERVICE DECISION AND APPEAL PROCEDURES**

1. GENERAL. This appendix covers Selective Service decision and appeal procedures for VA applicants and employees who are ineligible for appointment or continued employment due to their failure to register with the Selective Service System (SSS).

2. DEFINITIONS

a. **Appointment.** Any personnel action that brings onto the rolls of an executive agency as a civil service officer or employee as defined in 5 U.S.C. 2104 or 2105, respectively, a person who is not currently employed in that agency. It includes initial employment as well as transfer between agencies and subsequent employment after a break in service. Personnel actions that move an employee within an agency without a break in service are not covered. A break in service is a period of 4 or more calendar days during which an individual is no longer on the rolls of an executive agency.

b. **Covered Individual.** A male:

(1) Whose application for appointment is under consideration by an executive agency or who is an employee of an executive agency;

(2) Who was born after December 31, 1959, and is at least 18 years of age or becomes 18 following appointment;

(3) Who is either a United States citizen or an alien (including parolees and refugees and those who are lawfully admitted to the United States for permanent residence and for asylum) residing in the United States; and

(4) Is or was required to register under section 3 of the Military Selective Service Act (50 U.S.C. App. 453).

c. **Executive Agency.** An agency of the Government of the United States as defined in 5 U.S.C. 105.

d. **Exempt.** Those individuals determined by the SSS to be excluded from the requirement to register under sections 3 and 6(a) of the Military Selective Service Act (50 U.S.C. App. 453 and 456(a)) or Presidential proclamation. Nonimmigrant aliens admitted under section 101(a)(15) of the Immigration and Nationality Act (8 U.S C. 1101), such as those admitted on visitor or student visas, and lawfully remaining in the United States, are exempt from registration.

e. **Preponderance of the Evidence.** That degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true.

f. **Registrant.** An individual registered under Selective Service law.

g. **Selective Service Law.** The Military Selective Service Act, rules and regulations issued thereunder, and proclamations of the President under that Act.

h. **Selective Service System.** The agency responsible for administering the registration system and for determining who is required to register and who is exempt.

3. STATUTORY REQUIREMENT. The Military Selective Service Act requires that all male U.S. citizens and other males residing in the U.S. born after December 31, 1959, register with the SSS between the ages of 18 and 26, unless they are exempt from registration. Individuals who failed to register within the prescribed period are not eligible to obtain or continue VA employment, except under the following conditions:

a. The applicant/employee provides documentation from SSS, such as a Status Information letter (SIL) which shows that he is exempt from the SSS registration requirement.

b. The applicant/employee requests an official decision and the adjudicating authority finds that his failure to register was not [knowing and willful].

4. REGISTRATION STATUS. HR offices must check the *SSS website* to determine the registration status of covered individuals prior to selection or when notified of an omission. Covered individuals who failed to register must complete and submit a *Request for Status Information Letter* (SIL) as instructed on the *SSS website*. A copy of the SIL or other SSS-issued documentation such as the SSS acknowledgement card validates registration status and must accompany decision requests. Appendix II-R8 identifies conditions that require registration and the criteria for exemptions.

a. **Qualifying Exemptions.** Individuals in any of the following categories are exempt from registration:

(1) Males born on or **before** December 31, 1959;

(2) Non-citizens who first entered the U.S. after the age of 26;

(3) Citizens of [American Samoa, unless the individual habitually resides in the United States or resides in the United States for at least one year;

(4) Citizens and nationals of] the Republic of Palau, [the Republic of the] Marshall Islands, or the Federated States of Micronesia[, unless the individual resides in the United States for more than one year in any status, except as a full-time student or employee of the government of his homeland;

(5)] Non-immigrant aliens on visas such as student, visitor, tourist, or diplomatic visas;
[ ]
(6) [*]Individuals who were incarcerated, hospitalized or institutionalized during required registration period due to medical reasons or physical/mental incapacitation;

(7) [*]Cadets and Midshipmen at Service [Academies] or Coast Guard [Academy];

(8) [*]Students enrolled in any officer procurement program at the Citadel, North Georgia College and State University, Norwich University, Virginia Military Institute, Texas A&M University or Virginia Polytechnic and State University; [ ]

(9) [*Members of the Armed Forces on] active duty[.] Active duty for training does not constitute ["active duty"] for registration purposes[;]

[(10) Seasonal agricultural workers on an H-2A visa; and

(11) Individuals who are born female and have a sex change.

*Must register within 30 days of release unless already age 26.]

b. **Documentation of Status.** Covered individuals who present SSS-issued documentation which shows that they are registered or exempt are eligible for appointment/employment. Human Resources (HR) offices must maintain a copy of this documentation in the applicant case file or in the permanent section of the employee's electronic official personnel folder (e-OPF). HR offices may appoint/retain a covered individual who provides other official proof of exempt status pending receipt of actual SSS-issued documentation. Examples of acceptable non-SSS issued official documents include, but are not limited to a DD 214, or hospital/institutional records which reflect military service or confinement periods that occurred during the entire span of the required registration period, or other official documentation that prove exempt status.

5. CONFLICTING STATUS INFORMATION. HR offices may cease to consider applicants or terminate the employment of individuals who fail to clarify conflicting status information.

a. HR offices may request an amended SIL or other updated documentation as evidence. HR offices may ask for other supporting documents such as passports, official arrival-departure records, education transcripts, or driver's license information, when necessary to verify/resolve questionable issues.

b. HR offices will cease to consider an individual for appointment if he fails to provide valid proof of his registration status or supporting verification documents.

c. HR offices must request that applicants/employees disclose prior decisions on selective service cases in the event an individual already received an unfavorable decision.

6. NOTICE. The HR office must provide written notice to inform an individual that he is not eligible to obtain or continue employment with VA due to non-compliance with SSS registration requirements. The notice must contain contact information for the servicing HR office to which the individual may submit a request for an official decision. Appendices II-R2 and II-R3 contain sample notices.

a. **Notice to Applicants**

(1) The Human Resources Officer (HRO) or designee must take the following actions when applicants <u>under age 26</u> fail to meet the registration requirement:

(a) Notify the applicant that he must register with SSS prior to his 26th birthday and provide proof of registration status within 30 [calendar] days after the date of notice to become eligible for VA employment;

NOTE: *An applicant may register and request proof of registration on the SSS website.*

(b) Inform the applicant that VA is not required to keep vacancies open pending adjudication or receipt of registration status; and

(c) Provide instructions on how to request a decision in the event the individual is unable to register prior to his 26th birthday. The applicant may provide the SIL upon receipt at a later date, but must still submit the request for decision to the HR office within 30 [calendar] days after the date of notice or the HR office may remove him from employment consideration.

(2) The HRO or designee must take the following actions when an applicant is age 26 and over, but failed to register before age 26:

(a) Notify the applicant that due to his failure to register with SSS prior to age 26, he is ineligible for appointment, unless the adjudicating official determines that his failure to register was not knowing and willful;

(b) Provide instructions for the process to request a decision and advise the applicant that he must submit the request within 30 [calendar] days after the date of notice; and

(c) Advise the applicant that processing times to obtain a status letter may vary; however, the facility is not required to keep vacancies open pending adjudication or receipt of registration status. The applicant may provide the SIL upon receipt at a later date, but must still submit the request for decision to the HR office within 30 [calendar] days after the date of notice.

b. **Notice to Employees**

(1) The HRO or designee must take the following actions when an employee is under age 26, required to register, but has not done so:

(a) Provide written notice stating that the employee must register with the SSS immediately and show proof of such registration not later than 30 [calendar] days from the date of notice in order to [avoid termination due to failure to meet a requirement for employment];

(b) Refer the employee to the SSS website to register and/or request proof of registration. Timeframes to obtain status documentation from SSS may vary; therefore, it is extremely important that employees contact the SSS immediately; and

(c) Notify the employee that [termination of his employment must be initiated if he does not provide proof of SSS registration within 30 calendar days from the date of the notice or if he fails to show proof of exemption within 30 calendar days after the date of notice. See paragraph 10 in this appendix

regarding termination. Termination of employment will be initiated only after being afforded appropriate due process and appeal rights applicable to his appointment and status.

(d) If the employee fails to provide proof of SSS registration or proof of exemption to register with the SSS within 30 calendar days, as provided for in paragraph 6b(1)(c), action will be taken to terminate the employee. Such action will commence within 15 calendar days after the employee response to the notice in paragraph 6b(1)(c) was due. Refer to VA Handbook 5021 for the applicable separation procedures.]

(2) The HRO or a designee must take the following actions when an employee is age 26 and over, required to register, but has not done so:

(a) Provide written notice to the employee stating that he is ineligible to retain his current position due to his failure to register with SSS prior to age 26; and

(b) Provide instructions to request an official decision and notify the employee that the [termination of his employment must be initiated if he fails to request a waiver within 30 calendar days after the date of notice or if he is denied a waiver of the Selective Service registration requirement by the appropriate authority. See paragraph 10 of this appendix regarding termination. Termination of employment cannot occur until the employee is afforded appropriate due process and appeal rights applicable to his appointment and status.]

7. REQUEST FOR OFFICIAL DECISION. The HRO or designee must forward all initial decision requests [within seven calendar days of receipt from the applicant or employee] to the Director, Recruitment and Placement Policy Service (RPPS) (059), Office of Human Resources Management (OHRM), VA Central Office, Washington, DC 20420.

NOTE: *The Office of Inspector General (OIG), Office of Administration makes decisions involving OIG applicants and employees.*

a. HR offices may refer to Appendices R2-R8, this part, to assist with preparation of official decision requests. HR offices may submit requests for official decisions to RPPS (059) without the SIL (provided they include a copy of the individual's application for the SIL in lieu of the actual SIL) while SSS processes the individual's application. However, RPPS (059) will not complete adjudication of title 38 (full/hybrid) decision requests or forward title 5 decision requests to the Office of Personnel Management (OPM) until the HR office has submitted the SIL. A completed decision request packet consists of the following documents:

(1) Copy of Applicant/Employee notice from the servicing HR office;

(2) [Request for decision from the facility Director, HRO or designee to Director, RPPS (059)];

(3) SIL issued by SSS or copy of application for SIL if the SIL application is pending SSS processing; (see paragraph 7a above)

(4) Complete employment application;

(5) Appointment SF 50 – Notification of Personnel Action (employees only);

(6) DD Form 214 – Certificate of Release or Discharge from Active Duty (Veterans only);

(7) OF 306 – Declaration for Federal Employment;

[(8) Sworn statement from the applicant/employee explaining why he failed to register;

(9)] Checklist for Selective Service Decisions (see Appendix II-R2); and

[(10)] Any other pertinent documentation to support the applicant/employee's case.

b. Employees who request an official decision will remain on VA rolls while their cases are processed. [ ]

c. HR offices are not required to keep vacancies open pending decisions on Selective Service cases. Applicants will be considered until the HR office fills the position for which he applied or the adjudicating official makes a decision; whichever comes first. If an applicant fails to request an official decision within 30 [calendar] days of notice, the HR office will cease considering him for employment.

8. ADJUDICATION PROCESS. Selective Service law prohibits denying a Federal benefit that an individual may otherwise receive if he can demonstrate that his failure to register was not knowing and willful. The adjudicating official will make decisions based on a preponderance of evidence presented in each case. OPM will adjudicate cases involving proposed/existing title 5 appointments. The Associate Deputy Assistant Secretary for Human Resources Policy and Planning or designee is the adjudicating official for cases involving proposed/existing title 38 (full/hybrid) appointments, with Office of the General Counsel's concurrence.

a. If the adjudicator determines that the individual's failure to register was not [knowing and willful], the employee retains his position and the applicant remains under consideration for employment.

b. If the adjudicator renders an unfavorable decision, the applicant/employee is no longer eligible for appointment or continued employment.

c. RPPS (059) forwards all initial decisions to the servicing HRO. HR offices must maintain this documentation in the applicant case file or the employee's e-OPF.

d. HR Offices may refer to the samples in this appendix to provide the applicant or employee instructions for preparing appeal requests, when necessary.

[**NOTE FOR ADJUDICATION OFFICE:** *A Veteran or part-time National Guard or Reservist who can show proof of past active duty military service, such as a form DD 214, or current military identification card if still on active duty, should not be found to have knowingly and willfully failed to register for the SSS.*]

9. [REQUEST FOR RECONSIDERATION (APPEAL) OF INITIAL DECISION]. Applicants/employees must submit [ ] requests to their servicing HR office or the office to which they applied for employment not later than [14 calendar] days after the date of [notice of] the initial decision. [HR offices must forward the request to the adjudicating office no later than 7 calendar days after receipt of the request for reconsideration.] Appendix R5, this part, is a sample which HR offices may use to notify applicants/employees of [the appeal procedures.]

a. **Content of Appeal Request**. An appeal request must include written notification of the individual's intent to appeal, the unfavorable decision letter, the original supporting documentation, a statement indicating the reason for the appeal, and any new or additional documentation to support the individual's case.

(1) The servicing HR office will not terminate employees during the appeal process.

(2) Applicants are not considered for employment during the appeal process.

b. **Appeal Procedures.** The Director of OPM is the approving official for appeals involving proposed and existing title 5 appointments. The Deputy Assistant Secretary for OHRM or designee is the approving official for appeals involving proposed/existing title 38 (full/hybrid) appointments with VA Office of the General Counsel's concurrence. [The decision for reconsideration is final and binding, and there is no further right for review of the waiver decision by OPM or VA.]

(1) If the approving official renders a favorable decision, the HR office will resume considering the applicant for future VA employment opportunities, or keep the employee on VA rolls. Individuals who receive favorable decisions must maintain a copy of the official decision as proof of eligibility for employment/appointment.

(2) If the adjudicating official denies the appeal request (i.e., renders an unfavorable decision), the HR office will no longer consider the applicant for employment and [in the case of an employee, must initiate separation procedures within 15 calendar days after receiving notification of the adjudicating official's unfavorable] appeal decision.

c. **Distinction Between the Title 5 and Title 38 (Full/Hybrid) SSS Adjudication and Appeal Process.** Procedures for processing title 5 and title 38 (full/hybrid) cases are generally the same with a few exceptions. Appendices R2 to R8 are samples and reference documents which HR offices may use to prepare requests under both title 5 and title 38 (full/hybrid) procedures.

(1) OPM makes official decisions and adjudicates appeals on proposed and existing Title 5 appointments. VA makes official decisions and adjudicates appeals on proposed and existing Title 38 (full/hybrid) appointments.

(2) With the exception of title 5 appeal requests, HR offices must send all [ ] requests [to] the Director, Recruitment and Placement Policy Service (RPPS) (059), Office of Human Resources Management (OHRM), VA Central Office, Washington, DC 20420. [ ]

(3) HR offices must forward title 5 appeal requests directly to the Office of General Counsel, U.S. Office of Personnel Management, 1900 E Street NW, Washington, DC 20415. HR offices must provide RPPS (059) a courtesy copy of the appeal request at the time of submission, and a copy of the final OPM decision upon receiving it from OPM.

(4) OHRM will provide written notice of appeal decisions on title 38 (full/hybrid) cases to the appellant and the servicing HR office after each case has been processed.

10. [TERMINATION. HR offices will initiate the applicable separation procedures for those employees serving under an appointment made on or after November 1985, within 15 calendar days from the date of notice, after the employee: fails to register (if under age 26) within the prescribed 30 calendar days; fails to request an initial waiver within the prescribed 30 calendar days; receives an unfavorable initial waiver decision without requesting reconsideration within the prescribed 14 calendar days from the date of notice of the initial decision; or receives an unfavorable reconsideration decision.

NOTE: *Those employees who fail to register (if under age 26), fail to request a waiver, or are ultimately denied a waiver of the Selective Service registration requirements by OPM or VA, must be separated after being afforded appropriate due process and appeal rights applicable to their appointment and status. Refer to VA Handbook 5021 for the applicable separation procedures.*]

APPENDIX R2. CHECKLIST FOR SELECTIVE SERVICE DECISION REQUEST

Applicant/Employee Name: _____
Facility Name: _____
Date: _____

Package must contain the following documentation:

☐ **Selective Service Status Information Letter (SIL)**
To obtain this letter, contact the Selective Service System (SSS) or visit the SSS website to complete the application for the SIL. Processing times may vary.

☐ **Written notice from facility Human Resources Officer (HRO) to applicant or employee**
Notifies individual of ineligibility for appointment/continued employment unless an authorized adjudicating official determines that his failure to register was not knowing and willful.

☐ [**Sworn statement**] **from employee or applicant to adjudicating official**
This letter/memo provides a personal explanation of why the individual failed to register and indicates his desire to request an official decision. The burden of proof rests with the applicant[ ]. Therefore, the HR Specialist must not create or sign this document. [**NOTE:** *To make it a sworn statement, the applicant/employee must add a sentence at the bottom of his explanation stating "I declare, under penalty of perjury, that the facts stated in this statement are true and correct," followed by his signature and date. Alternatively, the applicant/employee may have his statement notarized by a notary public.*]

☐ **Written request from facility Director, HRO or designee to adjudicating official**
The designated official will request adjudication of the applicant or employee's case. OPM adjudicates title 5 and VA adjudicates title 38 (full/hybrid) cases. However, the servicing HR office must submit all decision requests to Director, Recruitment and Placement Policy Service (059), Office of Human Resources Management, VA Central Office, Washington, DC 20420. [This request letter should state the specific appointing authority for the position and specify if it is full-time, part-time, without compensation, time limited, etc., as applicable.]

☐ **Complete copy of the employment application**

☐ **Copy of the appointment SF 50 – Notification of Personnel Actions** (employees only)

☐ **DD Form 214 – Certificate of Release or Discharge from Active Duty**
(former military)

☐ **OF 306 - Declaration for Federal Employment**

☐**Supporting Documentation.** (Examples: passports, official arrival/departure documents, education transcripts, driver license information, copies of [all applicable] visas, etc). Review supporting documents to verify the individual's date of birth. If he was born before December 31, 1959, a selective service waiver is not required.

APPENDIX R3. SAMPLE APPLICANT NOTICE AND REQUEST FOR OFFICIAL DECISION

Date:

From: Human Resources Officer (HRO) or Designee (05)
To:(name of applicant)
(address, city, state, zip code)

Subj: Notice of Ineligibility for Appointment due to Failure to Register with the Selective Service System (SSS)

1. You recently applied for the position of (title of position) with the (name of facility). However, you are not eligible for this appointment because you were born after December 31, 1959, and failed to register with the SSS by age 26. To obtain eligibility for an appointment with the Department of Veterans Affairs (VA), you must either show proof that you are registered with SSS or the appropriate adjudicating official must determine that your failure to register was not [knowing and willful].

2. Should you wish to request an official decision as to whether or not your non-registration was [knowing and willful], please sign this memo and return it to this office along with your Status Information Letter (SIL) and a letter explaining your failure to comply with registration requirements not later than 30 [calendar] days after the date of this notice. VA is not required to keep vacancies open pending an official decision on your case. However, if you elect to request an official decision, we will continue considering you for appointment until the position for which you applied is filled or the adjudicator makes a decision on your case, whichever comes first.

3. Before you submit this request, you must immediately contact SSS and complete the application to obtain an SIL via the SSS website. Since SSS processing times vary, you may include a copy of your application for the SIL with your official decision request in lieu of the actual SIL while SSS processes your SIL application. We will not process your case if you: (1) fail to submit your request packet within 30 [calendar] days after the date of this notice date; and, (2) fail to submit the SIL immediately after the SSS has issued it.

4. If you do not request an official decision within 30 [calendar] days after the date of this notice or the adjudicating official determines that your failure to register was [knowing and willful], we will no longer consider you for employment as a result of your non-compliance with the Selective Service registration requirement.
5. You may contact (HR specialist name and phone number) if you have any questions regarding this notice.

Please print your name on the line which indicates your choice and sign and date below.

I _____ request an official decision regarding my failure to register with SSS.

I _____ do not request a decision regarding my failure to register with SSS, and as a result, I understand that I will not be considered for an appointment with VA.

Applicant Name and Signature: _____ Date _____

HRO Name and Signature: _____ Date _____

APPENDIX R4. SAMPLE EMPLOYEE NOTICE AND REQUEST FOR OFFICIAL DECISION

Date:
From: Human Resources Officer (HRO) or Designee (05)
To:(name of employee)
(address, city, state, zip code)

Subj: Notice of Ineligibility for Appointment due to Failure to Register with the Selective Service System (SSS)

1. You are currently employed as a (title of position) with the (name of facility). However, we have learned that you are not eligible for this appointment because you were born after December 31, 1959, and failed to register with the SSS by age 26. To remain employed, you must show proof that you are actually registered with SSS [(or show proof that you were exempt from the requirement)] or the appropriate adjudicating official must determine that your failure to register was not [knowing and willful].

2. Should you wish to request an official decision as to whether or not your non-registration was [knowing and willful], please sign this memo and return it to this office along with your Status Information Letter (SIL), [which will be issued by SSS,] and a letter explaining your failure to comply with the registration requirements not later than 30 [calendar] days after the date of this notice. Before you submit this request, you must immediately contact SSS and complete the application to obtain an SIL via the SSS website. Since SSS processing times vary, you may include a copy of your application for the SIL with your official decision request in lieu of the actual SIL while SSS processes your SIL application. We will not process your case if you: (1) fail to submit a complete request packet within 30 [calendar] days after the date of this notice; [or], (2) fail to submit the SIL[, which contains the SSS's status determination, within 14 calendar days after the date of its issuance].

3. You will remain employed during the adjudication/decision process. However, if you do not [provide proof of registration status or] request an official decision [from the appropriate adjudicating office (including all appropriate documentation), action will be taken to separate you from Federal service].

4. If the adjudicating official determines that your failure to register was not [knowing and willful], we will retain you on Department of Veterans Affairs (VA) employment rolls. If the adjudicating official determines that your failure to register was [knowing and willful, you will be given an opportunity to request reconsideration of the initial decision.]

5. [Those individuals who fail to request a waiver or are denied a waiver of the SSS registration requirements by OPM or VA must be terminated after being afforded appropriate due process and appeal rights applicable to their appointment and status. You will be issued notice of intent to terminate your employment after: (1) you fail to request an initial waiver within the prescribed 30 calendar days; (2) your request for an initial waiver is denied by the adjudicating authority and you do not appeal the decision; or, (3) your appeal of an unfavorable decision is denied.

6.] You may contact (HR specialist name and phone number) if you have any questions about this notice.

Please print your name on the line which indicates your choice and sign and date below.

I _____ request an official decision regarding my failure to register with SSS.

I _____ do not request a decision regarding my failure to register with SSS, and as a result, I understand that I am not eligible to remain employed with VA.

Employee Name and Signature: _____ **Date** _____

HRO Name and Signature: _____ **Date** _____

APPENDIX R5. SAMPLE NOTICE OFAPPEAL RIGHTS AND REQUEST PROCEDURES

Date:

From: Human Resources Officer (HRO) or Designee (05)
To:(name of employee or applicant)
(address, city, state, zip code)

Subj: Notice of Right to Appeal Selective Service Adjudication Decision

1. Based on the documentation you submitted in support of your case, the adjudicating official determined that your failure to register with the Selective Service System (SSS) was [knowing and willful]. You have the right to request an appeal of the initial decision. To do so, you must complete this form and return it to this office within [14 calendar] days of the [date of this notice] along with a copy of the decision letter, a brief personal statement indicating the reason for your appeal request, a signed and dated copy of this notice, and any additional documentation that supports your case.

2. If the adjudicating official determines that your failure to register was not [knowing and willful] based on evidence in your supporting documentation, the HR office will (insert applicable statement as indicated below)

For applicants, insert: consider you for current/future Department of Veterans Affairs (VA) employment opportunities for which you may apply.
For employees, insert: retain you as a VA employee.

3. If the adjudicating official determines that your failure to register was [knowing and willful] based on the evidence in your supporting documentation, you are not eligible for appointment and the HR office will (insert applicable statement as indicated below)

For applicants, insert: not consider you for any current/future VA employment opportunities.
For employees, insert: [take action to initiate the separation process after you are afforded appropriate due process and appeal rights applicable to your appointment and status.]

4. You may contact (HR Specialist name and phone number) if you have questions about this notice.

HRO Name and Signature: _____Date _____

Applicant/Employee Certification:

I certify that I have read and understand the appeal procedures outlined above. I further understand that appeal decisions are final and I will be ineligible for an appointment with VA if the adjudicating official determines that my failure to register was [knowing and willful].

Applicant/Employee Signature: _____Date _____

NOTE: *The servicing HR office must submit the appeal request to the appropriate adjudicating official based on the type of appointment within* [*7 calendar*] *days of receipt from the applicant* [*or*] *employee:*

Title 5: U.S. Office of Personnel Management, Office of General Counsel, 1900 E Street, NW, Washington, DC 20415. [Provide RPPS (059) a courtesy copy of the reconsideration request and the OPM decision.]

Title 38(full/hybrid): Director, Recruitment and Placement Policy Service (059), Office of Human Resources Management (OHRM), VA Central Office, Washington, DC 20420.

APPENDIX R6. SAMPLE FACILITY TO DEPARTMENT REQUEST MEMO FOR APPLICANT

Date:

From: Human Resources Officer (HRO) or Designee (05)
To: Director, Recruitment and Placement Policy Service (059)
Office of Human Resources Management
VA Central Office
Washington, D.C. 20420

Subj: Request for Official Selective Service Decision (name of applicant)

Enclosed is a request for a decision of whether (name of applicant)'s failure to register with the Selective Service System was [knowing and willful]. (name of applicant) applied for a position as a (title of position, series and grade) in a (title 5 or title 38(full/hybrid)) appointment under (appointing authority) at (name of VA facility).

Attached is a request for decision and the supporting documentation. If you have any questions, you may contact (Human Resources Specialist name) at (phone number).

_____
Facility Director or HRO Name and Title

_____
Facility Director or HRO Signature

APPENDIX R7. SAMPLE FACILITY TO DEPARTMENT REQUEST MEMO FOR EMPLOYEE

Date:

From: Human Resources Officer (HRO) or Designee (05)
To: Director, Recruitment and Placement Policy Service (059)
Office of Human Resources Management
VA Central Office
Washington, D.C. 20420

Subj: Request for Official Selective Service Decision (name of employee)

Enclosed is a request for a decision of whether (name of employee)'s failure to register with the Selective Service System was [knowing and willful]. (name of employee) is currently employed as a (title of position, series and grade) in a (title 5 or title 38 (full/hybrid)) appointment under (appointing authority) at (name of VA facility).

Attached is a request for decision and the supporting documentation. If you have any questions, you may contact (Human Resources Specialist name) at (phone number).

_____
Facility Director or HRO Name and Title

_____
Facility Director or HRO Signature

_____
Date

[APPENDIX R8. WHO MUST REGISTER CHART

Click here for 508 compliant version.

Who Must Register Chart

With only a few exceptions, the registration requirement applies to all male U.S. citizens and male aliens residing in the United States who are 18 through 25 years of age.

Category	YES	NO
All male U.S. citizens born after December 31, 1959, who are 18 but not yet 26 years old, except as noted below:	X	
Military-Related		
Members of the Armed Forces on active duty (active duty for training does not constitute "active duty" for registration purposes)		X*
Cadets and Midshipmen at Service Academies or Coast Guard Academy		X*
Cadets at the Merchant Marine Academy	X	
Students in Officer Procurement Programs at the Citadel, North Georgia College and State University, Norwich University, Virginia Military Institute, Texas A&M University, Virginia Polytechnic Insitute and State University		X*
National Guardsmen and Rerservists not on active duty	X	
Delayed Entry Program enlistees	X	
ROTC Students	X	
Separatees from Active Military Service, separated for any reason before age 26	X*	
Men rejected for enlistment for any reason before age 26	X	
Civil Air Patrol members	X	
Aliens**		
Lawful non-immigrants on visas (e.g., diplomatic and consular personnel and families, foreign students, tourists with unexpired Form I-94, or Border Crossing Document DSP-150)		X
Permanent resident aliens (USCIS Form I-551)	X	
Special (seasonal) agricultural workers (I-9)	X	
Special agricultural workers (I-9)		X
Refugee, parolee, and asylee aliens	X	
Undocumented (illegal) aliens	X	
Dual national U.S. citizens	X	
Confined		
Incarcerated, or hospitalized or institutionalized for medical reasons		X*
Handicapped physically or mentally		
Able to function in public with or without assistance	X	
Continually confined to a residence, hospital, or institution		X

Information continued on next page

Chart Information Continued:

* Must register within 30 days of release unless already age 26, or already registered when released, or unless exempt during entire period age 18 through 25.

**Residents of Puerto Rico, Guam, Virgin Islands, and Northern Mariana Islands are U.S. Citizens. Citizens of American Samoa are nationals and must register when they are habitual residents in the United States. Habitual residence is presumed whenever a national or citizen of the Republic of the Marshall Islands or the Federated States of Micronesia resides in the United States for more than one year in any status, except as a student or employee of the government of his homeland.

NOTE: Immigrants who did not enter the United States or maintained their lawful non-immigrant status by continually remaining on a valid visa until after they were 26 years old were never required to register. Also, immigrants born before 1960 who did not enter the United States or maintained their lawful non-immigrant status by continually remaining on a valid visa until after March 29, 1975, were never required to register.

The Selective Service System
Office of Public and Intergovernmental Affairs
National Headquarters
Arlington, Virginia 22209-2425
June 26, 2009

]

[APPENDIX S - IMPLEMENTATION OF HYBRID TITLE 38 QUALIFICATION STANDARD

1. Purpose. This appendix provides guidance on the implementation of Hybrid Title 38 (HT38) qualification standards (new and revised) and identification of positions performing the duties defined in the draft qualification standard prior to publication.

2. Background. The "Caregivers and Veterans Omnibus Health Services Act of 2010," Public Law (PL) 111-163, was signed by the President on
May 5, 2010. This Act authorizes the Secretary, Department of Veterans Affairs, to extend HT38 status to additional occupations which are considered necessary for the recruitment and retention needs of the Department. When an occupational series is approved for conversion to HT38 status the authority is granted under 38 U.S.C. 7401(3) for appointments made under 38 U.S.C. 7401(3) or those applicable under 38 U.S.C. 7405.

3. Conversion of Title 5 to New Hybrid Title 38 Qualification Standard.

a. The method which an occupation will be reviewed and converted from Title 5 (T5) to HT38 will be as follows unless otherwise advised:

(1) Workforce Management and Consulting (WMC) will develop a Hybrid Implementation SharePoint for the collection of information and data on employees and positions that are affected by the conversion of the specified occupation from T5 to HT38. Human Resources Information Service (HRIS) will initially populate the SharePoint with data pulled from the current human resources information system. This SharePoint will be utilized to facilitate the pre-conversion review, and for HR Offices to track the conversion progress as outlined in VA Handbook 5005, Part II Appendix T, Conversion of T5 Occupation to HT38.

(2) Instructions for accessing, reviewing and populating additional data and information into the SharePoint will be created by WMC. WMC will distribute the instructions with the draft qualification standard to the VISN and Facility Human Resource Officers (HROs). HRO's are responsible in assigning staff to complete the process as instructed and within the timeframes provided. Access to the SharePoint will be limited to specific individual(s) designated by each VISN and/or Facility. Individuals granted access to the SharePoint will serve as the Human Resources points of contact (POC) for the conversion of the occupation to HT38 status.

NOTE: *A copy of the draft qualification standard that will be attached to the instructions is for use in conducting the review* ***ONLY****. The draft has not been approved and CANNOT be used for any purpose other than conducting the position review described below.*

4. Pre-Conversion Position Review.

a. Human Resources Officers or designees in collaboration with Human Resources Classification and Staffing Specialists as well as the responsible service(s) must review **all** positions in their facilities that are responsible for performing the work described in the draft qualification standard for consistency with assignments. The work may currently be found to be classified in the designated occupational series in the draft qualification standard, or possibly other occupational series. Any positions that are determined to be covered by the ~~new~~ draft qualification standard should have the respective

position description reviewed by the appropriate supervisor to ensure it is accurate and up to date. Any position descriptions not found to be up to date or accurate must be updated immediately to ensure review is based upon accurate information. Supervisors are required to comply with union contracts as applicable. Once position descriptions have been updated they must be submitted for review to determine whether or not the position will be covered by the qualification standard.

b. Each position (encumbered or vacant) determined to be performing the duties defined in the draft qualification standard must be evaluated to ensure the series is correct. Information for all employees performing duties covered by the draft qualification standard, regardless of the current occupational series of the position will be uploaded into the SharePoint. If it is determined that the duties support the occupational series the SharePoint will be populated as positive for conversion. If it is determined that a position currently classified in the occupational series does not meet the coverage definition in the draft qualification standard the SharePoint will be annotated as a negative for conversion.

c. In no case will any actions be taken as a result of this review beyond indicating in the SharePoint whether or not an employee is subject to conversion to hybrid title 38. If any actions are required at a later date, additional guidance will be issued.

NOTE: *This policy does not typically apply when a revision to an existing HT38 qualification standard is published and implemented.*

5. Pre-Conversion Personnel Action.

a. The pre-conversion position review will identify those positions/employees that will be converted to HT38 and covered by the draft qualification standard. The results of the pre-conversion position review will be used in processing the pre-conversion mass action. This mass action does not convert the employee from T5 to HT38.

b. HRIS will process an automated Notification of Personnel Action form (SF-50) for those employees identified in the SharePoint currently performing the duties in an occupational series other than the series defined in the qualification standard.
NOTE 1: Final conversion including grade determination will be completed through the review process found in VA Handbook 5005, Part II Appendix T, "Conversion of Title 5 Occupation to Hybrid Title 38".

NOTE 2: Employees in the occupational series that were specifically identified as not performing the duties under the position review will not be converted. These positons must be reviewed and reclassified immediately and placed in the appropriate occupational series. The change (series; classification) must be provided in writing to the employee.

NOTE 3: Positions assigned duties as described in the draft HT38 qualification standard must be converted from T5 to HT38 once the guidelines and instructions are issued. This is a requirement and there is no flexibility for facilities to choose whether or not a position will be converted. Conversions must be done within the designated timeframe.

6. Positions/Employees Identified After Pre-Conversion Review. Provisions for positions/employees not identified in the pre-conversion review (missed during pre-conversion review; placed in HT38 occupation after pre-conversion review; or missed after conversion review found in VA Handbook 5005, Part II Appendix T) are handled on a case by case basis as prescribed in VA Handbook 5005, Part II Appendix T.

7. Revision of Published HT38 Qualification Standards.

a. Published HT38 qualification standards will be reviewed by the responsible national program office to ensure requirements are up to date and accurate at least once every 5 years or when it is determined that significant changes have occurred (e.g., education; license/certification; complexities; or in the assigned responsibilities). The Program Office will make a request for a revision to the current HT38 qualification standard, when necessary.

b. Once a revision is implemented facilities may begin to use the standard effective on the dates provided in the VHA notification.

c. A revision to a published HT38 qualification standard will not require the pre-conversion review process. In those rare situations where a SharePoint is used on a revision to a HT38 qualification standard, the same process as described above in paragraph 3 will be followed.]

[APPENDIX T - CONVERSION OF TITLE 5 OCCUPATION TO HYBRID TITLE 38

1. PURPOSE. This policy provides guidance and instructions on requirements for conversion of a T5 occupation to HT38. The primary purpose of the conversion review is to apply the published VA HT38 qualification standard to each employee's duties/assignment and personal qualifications to determine the proper grade level and occupational title upon conversion to HT38. This process should not result in a change to the employee's duties and responsibilities. This policy is the second phase of the implementation of a new HT38 occupational standard (see VA Handbook 5005, Part II Appendix S, Implementation of Hybrid Title 38 Qualification Standard). Human Resources Offices will utilize the final list in the pre-conversion SharePoint to complete this part of the process.

2. POLICY. The method which a position will be converted from T5 to HT38 will be as follows unless otherwise advised:

a. Positions assigned duties as described in the HT38 qualification standard must be converted from T5 to HT38 in the timeframe provided. This is a requirement with no flexibility for facilities to choose whether or not a position that falls under the coverage of a published HT38 qualification standard will be converted.

b. The conversion review will be conducted by Human Resources (HR) for each employee identified as positive for conversion in the pre-conversion position review. Before the initial conversion review process can begin, HR staff must receive training on the new qualification standard.

c. The conversion review process is not applicable to employees no longer assigned to the occupation (e.g., reassigned, promoted, resigned, retired, etc.) or no longer performing duties defined in the qualification standard at the point the HT38 qualification standard is implemented.

d. HR will utilize the guidance in VA Handbooks 5005 and 5007, as well as the appropriate and applicable new VA HT38 qualification standard.

NOTE: *This policy does not apply when a revision to an existing HT38 qualification standard is published and implemented.*

3. GUIDELINES AND REQUIRED DOCUMENTATION. This part provides the guidelines to be followed for conversion and the required documentation to complete the process (unless otherwise directed).

a. **VISN and Medical Center Human Resources Officers (HRO).** HROs are responsible for the overall conversion review process and must complete the following:

(1) Review the list and ensure all positions and employees identified in the pre-conversion review are updated and maintained. The HRO will maintain this list of positions and employees to assist with future tracking and the outcome of the conversion for each employee.

(2) Review and ensure that all employees placed in positions since the pre-conversion review that are currently performing duties that fall under the coverage of the new HT38 qualification standard are added to the list for conversion and tracking.

(3) The conversion review will identify those positions/employees that will be converted to HT38 and covered by the new qualification standard. The results of the conversion review will be used in processing the conversion action.

(4) Guidance on conversion actions will be submitted to facilities under separate instruction from WMC for each occupation as the standard is released.

(5) HR is responsible for performing a review to determine the employee's grade and whether it remains the same; is outside of grades defined in the qualification standard or results in a promotion. If the grade is not defined in the qualification standard, employee should be covered by the grandfathering provision if provided in the specific occupational qualification standard. The employee will maintain their current grade and pay until such time the employee departs their position or the agency; however they will be placed against the appropriate assignment as designated in the qualification standard.

(6) Employees in the occupational series who were specifically identified as not performing the duties under the position review will not be converted. These positons must be reviewed and reclassified immediately and placed in the appropriate occupational series. Positions assigned duties as described in the new HT38 qualification standard must be converted from T5 to HT38 once the guidelines and instructions are issued. This is a requirement and there is no flexibility for facilities to choose whether or not a position will be converted. Conversions must be done within the designated timeframe.

(7) Provide a copy of the position/employee list to the supervisor(s) who have positions/employees impacted by the conversion process.

(8) Collaborates with supervisor(s) to:

(a) Ensure all positions/employees identified on the list are accurate and appropriately designated.

(b) Ensure that all positions covered by the new qualification standard are converted to HT38 status. Positions covered by the new HT38 qualification standard cannot be classified into another occupational series.

(9) Develop and establish a local implementation plan that includes the items listed below and meets the deadline established:

(a) Brief management regarding the facility conversion implementation plan; and

(b) HRO's are required to prepare notifications to be issued to affected employee(s) using the template letters provided in this part; and

(c) Issue the notification letters to employees prior to briefing orientation; and

(d) Arrange, and conduct a meeting to provide general orientation and briefing for affected employee(s) on the conversion process and what these changes entail; and

(e) Provide manager/supervisor and employee(s) documents needed for conversion (copy of this policy; qualification update sheet; sample supervisor memos; and

(f) Notify and brief designated union representatives (if applicable) regarding facility implementation plans, discuss union participation in employee briefings and provide copy of briefing materials to the union.

(10) Assist employee(s) with accessing their electronic Official Personnel File (eOPF).

(11) Ensure that the supervisor(s) have submitted a request to include appropriate documentation and information to support the conversion action for all employees on the list.

(12) Review and verify all information and documents submitted for each employee to ensure conversion requests are complete, accurate and compliant with policy. The documentation is to support and justify the request and decision. The following documents may be included in the request:

(a) Approved functional statement for position (signed and dated).

(b) Current position description

(c) Supervisor memo

(d) Current Performance Appraisal

(e) Organizational chart or evidence of position approval (for positions above the full performance level only).

(13) Determine eligibility and qualifications in accordance with the new qualification standard and confirms the requested conversion action is compliant with policy and supported by documentation. If all requirements are met the package is sent to the HRO for final decision.

NOTE: This process should not result in a change to the employee's duties, responsibilities, or result in a reduction in grade in accordance with grandfathering provision see VA Handbook5005, Part II, Appendix G-17, paragraph 10C and grandfathering provision in the appropriate qualification standard.

(14) After final decision is made the conversion determination is communicated to the employee(s).

(15) Ensure all necessary requests for personnel action(s) are prepared, completed, processed and approved.

(16) Ensure appropriate documents are filed in the eOPF.

b. **EMPLOYEES.** Employees are responsible for ensuring their eOPF is updated and relevant professional and personal information needed for the conversion is reflected, [i.e. updated resume with relevant experience, education, certification etc.).] Employees are also responsible for attending briefings and orientation meetings regarding the conversion and implementation process which are to be conducted on duty time.

c. **SUPERVISORS**

(1) Review the new HT38 qualification standards.

(2) Review the position/employee list received from the HRO for accuracy

(3) Ensure that all positions covered by the new qualification standard are converted to HT38 status. Positions covered by the new HT38 qualification standard cannot be classified into another occupational series.

(4) If it is determined that the work being performed is not covered by the new qualification standard; the Supervisor must collaborate with HR to reclassify the position into the appropriate occupational series.

(5) Ensure they and all the impacted employees attend the briefing and orientation meetings on the conversion and implementation process.

(6) Prepare functional statement(s) for each employee and all current and proposed positions that will be established as a result of the conversion of the T5 occupation to HT38 status.

(7) Prepare a conversion request(s) with supporting documentation. If requesting a promotion for an employee, the supervisor must provide justification of how the assignment at a higher level has been met. Promotions must be supported by employees' current duties and responsibilities and cannot be based on additional duties and responsibilities added to the position during the conversion process.

(8) Review documents submitted for accuracy. Clarify any documents as needed and evaluate the information.

(9) Submit functional statement to HR along with documents to support and justify the request and conversion decision. The following additional documents may be included in the request:

(a) Current position description.

(b) Supervisor memo.

(c) Current Performance Appraisal.

(d) Organizational chart or evidence of position approval (for positions above the full performance level only).

NOTE: There is no reconsideration (appeal) for a personnel action taken on a position/employee converted from title 5 to hybrid title 38. The conversion is solely for the purpose of applying the new qualification standard.

NOTE: An appropriate grade will be determined for each employee that may or may not result in a promotion. The promotion reconsideration and review guidance described in VA Handbook 5005, Part III, and Section B applies to promotion reconsideration requests, not to the conversion personnel action.

After the conversion, supervisors may request that an employee be considered for promotion on a date other than the anniversary date of grade if the

employee is selected for a supervisory or managerial assignment that warrants consideration for higher grade and for assignments based on complexity.

5. Promotions Resulting From Conversion.

a. Employees who are found to be eligible and qualified for a promotion on the date the HT38 qualification standard is implemented will have their promotions effective the first day of the pay period after the date the qualification standard was implemented. At the election of the employee, a promotion may also be made effective at a future date set by the approving authority that does not violate law or negotiated agreement when doing so would benefit the employee (i.e. when an employee is due a within grade increase).

b. Employees who are eligible and qualified for a promotion up to the full performance level (FPL) after the effective date of the implementation of the HT38 qualification standard are to apply the policy found in VA Handbook 5005, Part III, Chapter 4, Section B paragraph 6(b) (unless otherwise instructed).
NOTE. The anniversary date of grade is the date of appointment or date of highest promotion grade for a hybrid employee. The automatic review for promotion consideration above the full performance level only occurs on the first anniversary for that grade level.

6. Conversion Not Completed. A position/employee that was identified as meeting the definition of the new HT38 qualification standard and was included in the pre-conversion process but not converted must be converted immediately once discovered following the provisions prescribed and in effect at the time of conversion.

7. Positions/Employees Not Identified During Reviews. Positions/employees not identified in the pre-conversion review or conversion process but are found to be performing the duties as defined in the qualification standard at a later date are covered by the grandfathering provisions found in the qualification standard. The facility/organization must prepare a written statement and justification that reconstructs the necessary information as of the date the individual should have been converted. Documentation must include evidence employee was performing the work described in the HT38 qualification standard at the time it was published (based on appropriately classified position description on the date the qualification standard was published) but was "missed" when the conversion(s) took place. Actions must be submitted and approved by the VISN Director for field positions and VHA Program Office Director for national level positions. HR will need to manually complete the personnel actions in accordance with the original implementation guidance. These actions are to be processed timely.

THIS LETTER MUST BE ISSUED PRIOR TO BRIEFING ORIENTATION MEETING.

TEMPLATE LETTER FOR CURRENT VA EMPLOYEES IN NEW HYBRID OCCUPATION:

[Insert title of occupation (e.g., Dietitian)]
GS-(insert occupational series)

The "Caregivers and Veterans Omnibus Health Services Act of 2010" authorizes the Secretary, Department of Veterans Affairs, to extend hybrid Title 38 status to additional occupations. The (insert title of occupation), GS-(insert occupational series) occupational series has been identified for conversion from the title 5 Competitive Service to hybrid title 38 status in the Excepted Service. You occupy a position classified in the GS-(insert occupational series) occupational series or the duties and responsibilities of your position substantially meet the assignment definition of a (insert title of occupation). This conversion does not affect bargaining unit status. Your rights under a collective bargaining agreement (if applicable) are those of a hybrid title 38 employee. Orientation to the change of your position to hybrid title 38 will occur on (insert date). The following describes how this conversion will affect your position:

Full-Time, Part-Time and Intermittent Employees Appointed Without Time Limitation

Pay. The change to hybrid status does not affect your current grade, step, or salary rate. Also, you are now entitled to title 38 weekend premium pay at the rate of 25 percent of your basic hourly rate of pay for each hour of service, any part of which is between midnight Friday and midnight Sunday, instead of each hour of service on a tour of duty.

Staffing. Effective (insert date), you will be covered by the hybrid title 38 employment system. With this change your position will now be covered by the (insert qualification standard). Human Resources will conduct an initial review of your position based on current assigned duties. A functional statement will be developed and issued that replaces your current position description. You have the responsibility to submit information for this initial conversion review process by updating your employment history in your e-OPF as will be discussed in the briefing orientation.

Promotion. If you are in a career ladder position the process for promoting hybrid title 38 employees differs from the process for promoting title 5 employees. This process will be explained at the briefing orientation.

Adverse Action Rights. You remain covered by the same applicable agency and negotiated disciplinary and adverse action procedures and grievance procedures as prior to the conversion.

Employees Appointed on a Time-Limited Basis

Employees appointed on a time-limited basis will remain on a time-limited basis upon conversion to hybrid title 38. All of the information on Staffing and Pay described above for employees appointed without time limitation basis applies to employees appointed on a time-limited basis on the same type of work schedule, that is, full-time, part-time, or intermittent. There is no change in adverse action rights for employees appointed on a time-limited basis.

Department of Memorandum
Veterans Affairs

Date:

From: Supervisor

Subj: Conversion Request

To: Human Resources Officer
Thru: Chief, Service and/or Care Line Manager

1. I recommend ***(insert name of employee(s))*** for consideration for GS-**(insert GS level), (insert title of occupation)**. The functional statement for this assignment is attached along with other supporting documentation for this employee/all employees listed below.

2. Your consideration for this request is appreciated.

Name of Supervisor
Title
Telephone Number

Department of
Veterans Affairs

Memorandum

Date:

From:(***Supervisor)***

Subj: Recommendation for Promotion – Conversion Request

To: Human Resources Officer
Thru: Chief, Service and/or Care Line Manager

1. I recommend ***(insert name of employee),*** GS-***(insert employee's current grade level)*** be considered for promotion to GS-(**insert proposed grade level) (insert proposed title of occupation)**, based upon the employee's current assignment as (***insert current title of occupation)***.

2. (*Justification as to how the employee's position has changed and how the position is being supported).*

3. The functional statement for the proposed assignment is attached along with other supporting documentation to include approved organizational chart showing the position.

4. ***(Insert name of employee)*** is able to assume greater responsibility and function at fully successful or higher.

5. Your consideration of this request is appreciated.

Name of Supervisor
Title
Telephone Number

STAFFING

PART III. INTERNAL[, CHANGE IN ASSIGNMENT] PLACEMENT AND PROMOTION

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PART III. INTERNAL PLACEMENT[, CHANGE IN ASSIGNMENT OR] AND PROMOTION

CHAPTER 1. GENERAL

1. SCOPE. This part contains the policies and procedures governing the placement of VA employees in another VA position, including the movement of the employee to another VA facility under a different appointing officer. Such position changes include demotion, reassignment or promotion of an employee while continuously employed in VA and authorized conversion to another appointment under certain circumstances.

2. ORGANIZATION

a. Chapters 2 and 3 include requirements and procedures for internal placement and promotion actions for employees in the competitive service under title 5.

(1) While the provisions in these chapters apply to the competitive service, there is no prohibition against using these or similar procedures to provide opportunities to certain excepted service employees, such as those appointed under the Veterans Recruitment [Appointment] (VRA) or severely handicapped individuals appointed under Schedule A.

(2) In the interest of clarity, policy requirements are identified by the word "requirement." Requirements are mandatory provisions established in accordance with or consistent with Federal human resources policies issued by the Office of Personnel Management (OPM) or pertinent laws, rules and regulations.

(3) Guidance, which is identified as such, is included to provide matters to be considered, information, clarification, examples, etc., to assist in the development of subordinate policies which will conform to VA and OPM policy requirements.

b. Chapter[ ] 4 [ ] contain[s] internal placement[, change in assignment] and advancement policies, procedures and requirements for employees appointed under 38 U.S.C., chapter 74.

c. Chapter [5 contains] requirements a [for conversion or change of assignments for employees appointed under 38 U.S.C. 73 or 74].

[d. Chapter 6 includes requirements and procedures related to military leave and restoration/reemployment. The provisions of this chapter apply to both title 5 and title 38 employees.]

CHAPTER 2. INTERNAL PLACEMENT (TITLE 5)

1. DEFINITIONS

NOTE: *These definitions apply to chapter 2 and 3 and related appendices.*

a. **Position Change.** A promotion, demotion, or reassignment made during an employee's continuous service within the same agency. Position changes may involve reorganization by management decision; reduction in force when employees are entitled to grade retention; or reclassification of positions to a lower grade when a new classification standard has been implemented.

b. **Demotion.** The change of an employee to a lower grade when both the old and new positions are under the General Schedule or under the same wage schedule, or to a position with a lower rate of pay when both the old and new positions are under the same type ungraded wage schedule or in different pay method categories. A position change from a supervisory position to a nonsupervisory position at the same grade is not a demotion.

c. **Reassignment.** The change of an employee from one position to another position without demotion or promotion. Non-competitive reassignments include: (1) a change from a supervisory position to a nonsupervisory position at the same grade; and (2) a position change at the same grade from a position with known potential to another position with no known potential or no higher known potential.

d. **Promotion.** A change to a position at a higher grade level within the same job classification system and pay schedule or to a position with a higher rate of pay in a different job classification system and pay schedule.

e. **Subject Matter Expert (SME).** Person with direct knowledge of what is done in the job, what knowledges, skills, abilities and other characteristics (KSAOs) are required, and the general background of persons who are able to do the job successfully. These may include those currently doing the job, recent incumbents, those who supervise others doing the job, and other acknowledged job experts. SMEs participate in the development of job analyses and crediting plans and serve on promotion panels.

f. **Area of Consideration.** Geographic or organizational areas from which high-quality VA employees are sought in actions requiring the use of competitive promotion procedures.

g. **Minimum Area of Consideration.** That geographic or organizational area, as specified in the applicable promotion plan, normally used in initial efforts to locate high-quality VA employees for actions requiring the use of competitive promotion procedures.

h. **Limited Area of Consideration.** Areas of consideration less than the minimum area which are used to locate high quality VA employees for actions requiring the use of competitive promotion procedures under specific circumstances as provided for in the applicable promotion plan.

i. **Qualified Applicants.** Individuals who meet the minimum qualification (including properly determined selective factors, if applicable), time-in-grade and time-after-competitive-appointment requirements, as well as any applicable statutory provisions.

j. **Best Qualified Candidates.** Those candidates competing under merit promotion procedures whose relative rankings indicate that they will perform the job to be filled with substantially equal success.

2. GENERAL REQUIREMENTS

NOTE: *Actions defined below may or may not require competition. Such requirements are outlined in chapter 3.*

a. **Demotion.** An employee must be given the required legal and regulatory notices before a demotion action is taken, except where the employee: (1) signed an agreement to return to a lower grade as a condition for a temporary promotion; or, (2) voluntarily makes a written request for change to lower grade. Demotions to positions with higher known promotion potential than the known potential of the current position held must be made competitively under the regulations in 5 CFR, part 335 and the policies and procedures contained in chapter 3 of this part.

b. **Reassignment.** Reassignments will be made in accordance with the policy contained in this handbook**.** Reassignments to positions with known promotion potential higher than the potential of the current position held must be made competitively under the regulations in 5 CFR, part 335 and the policies and procedures contained in chapter 3 of this part.

c. **Promotion.** Promotions and other personnel actions which are processed under competitive promotion procedures must be made under the policies in 5 CFR, part 335 and the policies and procedures contained in chapter 3 of this part.

d. **Position Change (General).** [ ] When reassignment or demotion candidates are required to be rated and ranked under competitive promotion procedures along with candidates for promotion, the best qualified group will consist of the top ranked candidates.

e. **Probationary or Trial Period (Appointment).** Employees who change positions before they complete a probationary or trial period must complete the remainder of the probationary or trial period in the new position. No new probationary or trial period is required if one is completed before the position change.

f. **Probationary Period (Supervisors and Managers).** The regulations in 5 CFR, part 315 subpart I and paragraph 13 of chapter 3 this part are applicable. See Appendix III-A.

3. CONVERTING FULL-TIME EMPLOYMENT TO PART-TIME EMPLOYMENT

a. Positions may be filled on a part-time basis by present full-time employees who wish to convert to part-time. This can be done by either considering those who apply for announced part-time vacancies or by converting employees' present positions to part-time based on their requests. Criteria such as those listed in part I, chapter 3, section B, paragraph 3, "Reviewing Positions," of this handbook can be used when considering whether to approve a full-time incumbent's request to convert to part-time.

b. The personal circumstances of an employee who wishes to convert to part-time should also be considered. These may include the following:

(1) The employee's desire, or need, to spend more time with young children. In such cases, part-time work would augment family income and provide for childcare, yet retain a motivated and trained employee.

(2) Part-time work may provide employees with an opportunity to continue or complete their education by providing the time as well as the income to do so.

(3) Disabilities may hinder or prevent a person from working a full-time schedule but not a part-time one. Individuals with mobility problems may prefer part-time work so that they can utilize public transportation or avoid normal rush hours.

c. The authority to establish special tours of duty for severely physically disabled individuals when strict adherence to the normal tour of duty would cause hardships for such individuals may be found in VA Handbook 5011, Hours of Duty and Leave.

d. Employees should be advised that they may apply for part-time work at any time. VA Form 3497, Employee Request for Change to Part-Time Employment, has been developed for this purpose. If it is not feasible to convert their present positions to part-time, or if there are no part-time vacancies available, their applications should be retained for consideration when vacancies occur. Employees should be advised at least annually that they may submit voluntary applications for part-time work at any time.

e. Part-time employees with permanent appointments in the competitive service are eligible to compete for full-time and part-time vacancies under the local merit promotion plan.

f. Because of the requirements of the Federal Employees Part-Time Employment Act of 1978, employees who receive career part-time appointments, or former full-time employees converted to part-time, after April 7, 1979, receive only a prorated share of Government contribution toward the cost of the FEHB enrollment. This provision applies to employees in both the competitive and the excepted service, whose tour of duty is between 16 and 32 hours per week. If otherwise eligible, any part-time employee working less than 16 hours per week will receive a full Government contribution. All part-time employees serving continuously in a part-time employment status on or before April 7, 1979, who are covered by health insurance are unaffected by the pro-ration provisions of the Federal Employees Part-Time Employment Act of 1978.

4. EMPLOYMENT APPLICATIONS FROM INTERNAL APPLICANTS. VA employees will apply for VA title 5 vacancies by submitting a completed Optional Form 612, *Optional Application for Federal Employment*, to the VA Human Resources Management Office responsible for staffing the specific vacancy. This policy is modified by the following exceptions:

a. The former SF-171 may be substituted for the OF 612 if the employee so chooses.

b. For positions filled through the Centralized Staffing System (CSS), acceptable substitutes from employees for the OF-612 includes the former SF-171.

c. VA Form 4078, *Application for Promotion or Reassignment*, may be substituted by local facility employees when acceptable at that VA facility.

[d. Employees applying for vacancies announced through USA Staffing must submit a résumé or other application form, a completed assessment questionnaire, and any other documents required in the announcement for internal applicants.]

5. DETERMINING BASIC ELIGIBILITY

a. **Requirements.** Qualification standards used to determine eligibility for position changes will be the minimum OPM requirements contained in the *Operating Manual – Qualification Standards for General Schedule Positions* and the *X-118C Handbook* or, when applicable, the minimum requirements established by VA under 38 U.S.C. ch. 74. The OPM supervisory qualification standard must be used in addition to the pertinent standard in determining basic eligibility for all General Schedule supervisory positions. Time-after-competitive appointment and time-in-grade requirements must be met prior to placement in the position. Selective placement factors are to be used only when they have been determined, through an appropriate job analysis, to be critical to the performance of the job. Licensure, registration, certification or organizational membership requirements not required by the appropriate qualification standards shall not be used as selective factors.

b. **Time-in-Grade Restrictions (5 CFR, part 300, Subpart F).** OPM time-in-grade restrictions for filling General Schedule positions in the competitive service are also applicable to filling General Schedule positions in the excepted service in VA. These instructions are to be applied in conjunction with 5 CFR, part 300, subpart F restrictions.

NOTE: *The Merit Systems Protection Board (MSPB) has ruled that OPM's time-in-grade restrictions, 5 CFR, part 300, subpart F are not appealable as an employment practice to the Board and that the Board is without jurisdiction to hear such appeals. This ruling resulted from two MSPB decisions (Hellman vs. OPM, dated March 29, 1982; and Knowlden vs. OPM, dated March 30, 1982). In the ruling, the board upheld the validity of OPM's time-in-grade restrictions by adopting OPM's distinction between the time-in-grade restrictions covered by 5 CFR, part 300, subpart F and the employment practices covered by 5 CFR 300.101. That is, employment practices measure the qualifications of individual candidates for particular positions, whereas the time-in-grade restriction is an administrative device that applies to all competitive service positions for the purpose of preventing excessively rapid*

promotions. Information concerning the application of these restrictions to VA positions is contained in Appendix III-B.

6. **WRITTEN TESTS. Requirement** - Written tests will not be used unless required by OPM or approved by the Director, Recruitment and Placement Policy Service, Office of Human Resources Management (OHRM), for inservice placement actions. Requests to use

written tests not required by OPM or not previously approved by the [Deputy Assistant Secretary (DAS) for Human Resources Management and Labor Relations (OHRM&LR)] will be submitted through channels to the [DAS OHRM&LR] (059). Individual facilities will not deal directly with OPM in requesting written test authorization. The provisions of 5 CFR 300.201 will be followed in the administration and security of written tests.

7. PHYSICAL REQUIREMENTS. All individuals selected for positions with established physical/mental requirements must satisfactorily pass a physical examination prior to entry on duty into the position. See VA Handbook 5019, Occupational Health Services.

8. EFFECTIVE DATES

a. **Effective Dates of Position Changes. Requirement** - The effective date of a position change will be determined for each individual action consistent with technical and regulatory requirements and the needs of VA. Unless another date is required by technical or regulatory requirements or is considered to be in the interest of VA, the effective date of the position change will normally be the first day of the next pay period after the date of administrative approval. **Guidance** - While fiscal and records maintenance activities prefer effecting personnel actions at the beginning of a biweekly pay period, there is no prohibition against effecting actions on other dates.

b. **Effective Date for Release of Employees. Requirement** - Employees selected for position changes will be released to their new assignments within a reasonable length of time. **Guidance** - Where unusual circumstances justify a period longer than 2 weeks prior to release, the employee should be either (1) informed in writing over the signature of the official responsible for the delay or the reasons for the delay and the expected release date, or (2) the position change action should be effected and the employee detailed back to the former position.

c. **Coordination. Requirement** - The release date for an employee transferring to another VA facility will be arranged by the responsible officials. Unless circumstances dictate otherwise or both the releasing and receiving facilities otherwise agree, travel time will be accomplished on the receiving facility's time.

d. **Nonmerit Factors. Requirement** - An employee who meets qualification and time-in-grade requirements will not be denied a position change based on difficulty in obtaining a replacement.

9. KEEPING EMPLOYEES INFORMED

a. **Opportunities for Advancement. Guidance** - Employees should be informed about the types of positions which may represent opportunities for reassignment and promotion, including those known to exist at other VA establishments. This may be accomplished by publicizing individual vacancies or by local open-continuous announcements, posting general notices of placement opportunities such as the [ ] Weekly Summary Bulletin, local and national [W]eb sites and career counseling. Care should be taken to ensure that all potentially qualified and interested employees have access to vacancy notices received from other facilities. Referral of vacancy notices from other facilities only to the corresponding local service or division may not be sufficient in some cases. Posting of positions in a centralized location is preferred, in addition to appropriate selective distribution.

[ ]

10. ROTATION OF KEY PERSONNEL.

a. Interchange of Employees. Requirement - To the extent practical, [hiring managers may use movements] and interchanges of line and staff officials and key supervisory employees, including tours of duty in Central Office [to meet staffing needs of the Department and career needs of employees]. These placements will include, but are not limited to, positions for which employment matters are centralized to the Secretary, Administration Heads, Assistant Secretaries, or Other Key Officials ([for example], General Counsel).

b. Employee Mobility. Requirement - [Hiring managers may use rotation, as necessary,] to ensure key positions are filled by well-qualified candidates in a cost-effective manner. Employees selected by management for movement to key positions at other VA facilities are expected to make themselves available. [Hiring managers are encouraged to give serious consideration to any objections by the employee].

11. TRANSFERS WITHIN VA.

a. Definitions. For the purpose of this paragraph, a transfer within VA is a change in position while the employee is continuously serving VA and involves a change in appointing officer.

b. Selection of Transferee. Requirement - Selection of an employee for transfer within VA [must comply] with merit promotion procedures in this chapter.

c. Requests for Transfer - Unsolicited Applications.

(1) **Acceptance of Voluntary Applications. Guidance -** [VA HR office staff may accept unsolicited applications from VA employees at other facilities in USA Staffing (or other appropriate methods) through open continuous announcements or applicant supply files.] It may be appropriate to: (a) accept such applications only when an appropriate vacancy is likely to occur within a reasonable period of time ([for example], 6 months); (b) establish open seasons (certain months) for acceptance; and/or (c) establish a standardized [process for acceptance and a] suspense date for [consideration].

(2) **Promotion Requirement -** If [HR offices accept voluntary applications] for promotion [ ], they may consider them in any area (limited, minimum, or extended) but must be considered along with other applicants for promotion when an extension of the area of promotion consideration includes the voluntary applicant's home facility (see chapter 3, paragraph 7d(4)).

d. Off-Station Applications Resulting from Extension of the Area of Consideration.

(1) **Requirements -** Employees applying for vacancies at other facilities must submit a current [résumé] and/or any other information specified in the [job opportunity] announcement [(JOA)] having vacancies in which the employee is interested.

NOTE: See paragraph [14], this chapter, concerning relocation [allowances] and merit promotion transfers.

(2) **Requirement -** It is the employee's responsibility to secure appropriate supervisory evaluations of performance and annual performance appraisals and forward them, along with completed employment application [materials], in accordance with the due date specified in the [JOA, as applicable]. The receiving facility will be informed by the applicant when its request for additional information requires extra time and the anticipated date of receipt. The local HR [ ] staff will, when requested, provide information to applicants concerning the proper completion of the employment application [materials] and/or other forms or requests for information. [ ]

12. [REQUESTS FOR PAID RELOCATION FOR TRANSFERS IN VA].

a. General Requirement - [The hiring manager/selecting official or their designee is the approving official who is responsible for determining whether the payment of relocation allowances are in the best interest of the Government. The guidance for determining whether relocation allowances may be authorized at Government expense is found in the Federal Travel Regulations, Chapter 302 - Relocation Allowances and VA Office of Management's Travel Policy in VA Finance Policy, Volume XIV, Chapter 8. Instructions for requests for paid relocation differ by VA Administration and Staff Office, HR offices must refer to the VA Financial Services Center (FSC) Direct Permanent Change of Station (PCS) intranet site for instructions on how to submit a relocation request.]

b. Action by the Receiving HR [ ] Office.

(1) When an employee is selected for transfer in VA and the [receiving] facility/organization is authorized to pay relocation [allowances], the receiving HR [ ] office validates the hiring managers' decision and initiates the request for paid relocation [in accordance with VA Travel Policy.]

[ ]

(2) **Requirement -** [The request for paid relocation] documents whether relocation [allowances] are authorized by the approving official. If hiring manager/selecting official does not authorize relocation expenses], the

employee statement and signature cited in paragraph [14c] of this chapter, are required on the [request for paid relocation].

[ ]

c. Action by the Releasing HR Office - Requirement - Upon receipt of the [request for paid relocation], the releasing HR office will complete the appropriate portions of the request[ ].

d. Enroute Time or Delays in Reporting. Requirement - Any time required for travel, or a delay in route, will follow the effective date of transfer and be accomplished on the receiving facility's time, unless other arrangements are mutually agreeable to both facilities concerned.

13. DETAILS (5 C.F.R. § 300.301 and 5 U.S.C. § 3341).

a. General. [When details are] based on the needs and mission requirements of VA, VA facilities/organizations must limit details of employees to the shortest [timeframe permitted] by 5 U.S.C. § 3341 and 5 C.F.R. § 300.301. Under these requirements, VA [facilities/organizations] may detail employees [ ]to other positions at their facility, to other VA facilities, or to other agencies. [Detailed employees earn] appropriate credit toward meeting the qualification requirements of the position in any subsequent personnel action. (For restrictions on details to higher graded positions, see 5 C.F.R. §§ 335.101 through 335.106 and paragraph 15 of chapter 3, this part.)

b. Types and Criteria for Details.

(1) **Informal Detail.** A detail within VA of less than 30 days. Prior approval of the individual's supervisor is required.

(2) **Formal Detail.** A detail within VA of 30 days or longer. Prior approval at the service/division chief level or higher is required. Details within VA must conform to the requirements of 5 U.S.C. § 3341 and 5 C.F.R. § 300.301. Additionally, to the extent practicable, selection for details must be consistent with policies and requirements for other placement actions (see 5 C.F.R. §§ 335.101 through 335.106).

(3) **Interagency Detail.** A detail between VA and another Federal agency in which the detailing agency is reimbursed for the cost of salary and other expenses as agreed upon prior to the detail. (See 7 Comp. Gen. 709 and 13 Comp. Gen. 234.) Interagency details will be made only where there is an emergency need or some unusual situation where the employee can better serve in the interest of the Government service. Such details will not be based on the employee's request unless it can be clearly shown that the experience and knowledge gained will benefit the agency [or department]. [ ]

c. Procedures for Detailing Employees.

(1) **Within VA**. [The officials concerned and the employee arrange informal details.] The hiring manager/selecting official initiates a formal detail using the SF 52, Request for Personnel Action, by forwarding it the [servicing] HR Office for action. The hiring manager/selecting official must submit an additional SF 52 to extend or to terminate the detail. Certain details require an SF 50-B, Notification of Personnel Action. OPM's Guide to Processing Personnel Actions contains the documentation requirements for details, extensions and terminations of details. If the formal detail is from a classified position to an unclassified position, [the hiring manager/selecting official must enter] a brief explanation of the duties [ ] in the "Remarks" space of VA Form SF 52 in lieu of the position identification in the "TO" column.

(2) **Extension of Details Beyond 120 days.** Employees may be detailed, in 120-day increments, to the same or lower grade positions for up to 1 year. Details to higher grade positions, may be made for up to 1 year during periods of major reorganization (as determined by the appropriate administration/staff office head in VA Central Office). Details of 120 days to higher graded positions in the absence of a major reorganization may be extended for an additional 120 days (maximum period of 240 days). If a detail of more than 120 days is made to a higher graded position, or to a position with known promotion potential, it must be made under competitive promotion procedures. Whenever possible, temporary promotions should be considered for employees serving in higher grade positions for other than brief periods (for example, in lieu of details exceeding 120 days; or for Assistant Chiefs acting for their Chiefs, in lieu of details exceeding 240 days).

(3) **Between Agencies.** [VA and other Federal agencies must agree in writing on reimbursable details. Fiscal and HR Officers must concur on these written agreements to ensure compliance with technical requirements. Such written agreements must include the dates, employees, and agencies involved and describe the basis for reimbursement. The servicing HR Office must file a copy of the letter in the employee's personnel folder a give a copy to the employee. Interagency details and loans are approved by] facility heads for noncentralized positions under their control, by the administration or staff office heads for centralized positions in the field under their control or by the Secretary, for field positions centralized to the Secretary. For all actions involving centralized and noncentralized employees in Central Office, [ ] the servicing HR Office must coordinate to obtain Secretary's approval prior to initiating the detail.

14. RELOCATION [ALLOWANCES] AND MERIT PROMOTION TRANSFERS.

NOTE: The term "relocation [allowances]" is used herein as a shorthand reference to all transfer [allowances] authorized under 5 U.S.C., sections 5724 and 5724a.

a. Guidance - Generally, when an employee is selected pursuant to a merit promotion plan for transfer to a position, [the approving official (hiring manager/selecting official) must determine if] the transfer is considered to be for the benefit of the Government for the purpose of paying relocation [allowances] under 5 U.S.C., sections 5724 and 5724a. [The approving official must make this determination for each vacancy.]

b. Requirement – [VA approving officials must refer to Federal Travel Regulations, Chapter 302 - Relocation Allowances and VA Office of Management's Travel Policy in VA Finance Policy, Volume XIV, Chapter 8 for guidance on relocation allowances.]

[ ]

c. Records.

(1) **Requirement -** When an approving official decides that relocation [allowances] will not be paid, the following statement along with the employee's signature must be [documented in] the VA Form 3918. [ ]

"I am fully aware of and understand the decision that my transfer is primarily for my convenience or benefit or at my request and is not in the interest of the Government (VA). I further understand and agree that all travel, transportation and other expenses[/allowances] incident to this move will be at my own personal expense."

(2) **Requirement –** [The servicing VA HR office will maintain] a record of the basis for [the approving official's] decision not to pay relocation [allowances] in the applicable [recruitment case file].

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CHAPTER 3. PROMOTION (TITLE 5)

1. SCOPE. Contains categories of employees to be considered for promotion while absent from official duty.

a. **All VA Employees.** The following categories of VA employees within the area of consideration must be given consideration for promotion as though they were present for duty.

(1) Employees on Intergovernmental Personnel Act agreements;

(2) Employees on leave;

(3) Employees attending training courses;

(4) Employees on detail, either internally or to other Federal agencies;

(5) Employees serving in public international organizations, either through a transfer or detail;

(6) Employees separated for military service with restoration rights;

(7) Employees absent because of compensable injury (see 5 CFR, part 353, subpart C); and

(8) A Veteran serving on a Veterans Recruitment Appointment (VRA) appointment.

b. **Concurrent Consideration of Certain Excepted Service Employees Under Competitive Merit Promotion Procedures.** Generally, employees serving under excepted appointments (except Veterans [Recruitment] Appointments) are precluded from competing under competitive promotion procedures with competitive service employees. However, certain excepted service employees, e.g., title 38 and hybrid title 38 employees covered by VA/OPM Interchange Agreements (see appendix III-C), or, [persons with intellectual disabilities, severe physical disabilities, and psychiatric disabilities] appointed under Schedule A [ ] shall be included within the minimum area of consideration. Therefore, the same rating and ranking criteria will be used in evaluating employees in these groups and each group will be referred for promotion [ ]. Such an approach may significantly improve upward progression opportunities for [persons with intellectual disabilities, severe physical disabilities, and psychiatric disabilities]. See Appendix III-C.

c. **Veterans Employment Opportunities Act (VEOA).** When facilities are accepting applications from outside VA, individuals who are eligible for consideration under the VEOA may apply. (See part II, chapter 2, section B, paragraph 2c of this handbook.)

2. RESPONSIBILITIES

a. **Office of Human Resources Management [and Labor Relations].** The Deputy Assistant Secretary for Human Resources Management [and Labor Relations] is responsible for:

(1) Developing VA policies and guidelines for the implementation of the Federal merit promotion policy, including development of selection or evaluation procedures, their application, administration and security, and personnel measurement program review;

(2) Providing technical guidance and staff advice in the administration of promotion plans for positions centralized to the Secretary and for plans established by other key officials or administrative heads for field positions centralized to them;

(3) Administering promotion plans for Central Office positions; and

(4) Providing technical guidance and advice to field facilities in the administration of their plans.

b. **Administrations and Other Key Offices.** Each administration and key office head is responsible for establishing and directing the administration of promotion plans for positions centralized to the administration or key office level, including the proper use of personnel measurement procedures and adherence to merit system principles.

c. **Field Facilities.** Each facility head is responsible for establishing and directing the administration of promotion plans for noncentralized positions for which appointing authority has been delegated, including the proper use of personnel measurement procedures and adherence to merit system principles.

d. **Human Resources Management Officers.** Each HRM Officer will:

(1) Participate with line officials in carrying out the Federal merit promotion policy and the requirements of this chapter;

(2) Determine applicants' eligibility for promotion; and

(3) Participate with line officials in establishing and applying evaluation methods in a manner consistent with proper personnel measurement procedures and merit system principles. These responsibilities include development or selection of evaluation procedures, their application, administration and security, and personnel measurement program review in the organization served.

e. **Operating Officials and Supervisors.** Operating officials and supervisors are responsible for assisting in the development of plans and for explaining the merit promotion program and applicable plans to employees. They participate in the evaluation process and select from among the best qualified persons available. As selecting officials they must familiarize themselves with the techniques and procedures used to identify and select the best qualified candidates. Both as a high public trust and a fundamental management responsibility, careful and objective judgment, consistent with merit principles, policy requirements and selection procedure requirements is required in each selection.

f. **Employees.** All employees have primary responsibility for furnishing accurate information to update their qualification records and making application for promotion opportunities in accordance with prescribed procedures in a timely manner.

3. GENERAL MERIT PROMOTION REQUIREMENTS

a. The policies in this handbook are fully applicable and binding. Statements will be included in every promotion plan to reflect the requirements in this handbook.

b. **5 CFR, Part 335 Requirements.** The following five basic merit promotion requirements of 5 CFR 335.103(b) are fully applicable and binding:

Requirement 1. Each agency must establish procedures for promoting employees which are based on merit and are available in writing to candidates. Agencies must list appropriate exceptions, including those required by law or regulation, as specified in 5 CFR 335.103(c). Actions under a promotion plan, whether identification, qualification, evaluation, or selection of candidates, shall be made without regard to political, religious, or labor organization affiliation or nonaffiliation, marital status, race, color, sex, national origin, nondisqualifying disability, or age, and shall be based solely on job-related criteria.

Requirement 2. Areas of consideration must be sufficiently broad to ensure the availability of high quality candidates, taking into account the nature and level of the positions covered. Agencies must also ensure that employees within the area of consideration who are absent for legitimate reasons, e.g., on detail, on leave, at training courses, in the military service, or serving in public international organizations or on Intergovernmental Personnel Act assignments, receive appropriate consideration for promotion.

Requirement 3. To be eligible for promotion or placement, candidates must meet the minimum qualification standards, to include any physical/mental requirements, prescribed by the Office of Personnel Management (OPM) or VA, as appropriate. Methods of evaluation for promotion and placement, and selection for training which leads to promotion, must be consistent with instructions in 5 CFR, part 300 subpart A. Due weight shall be given to performance appraisals and incentive awards.

Requirement 4. Selection procedures will provide for management's right to select or not select from among a group of best qualified candidates. They will also provide for management's right to select from other appropriate sources, such as reemployment priority lists, reinstatement, transfer, disabled or Veterans [Recruitment] Act eligibles, or those within reach on an appropriate OPM certificate. In deciding which source or sources to use, agencies have an obligation to determine which is most likely to best meet the agency mission objectives, contribute fresh ideas and new viewpoints, and meet the agency's affirmative action goals.

NOTE: *For Career Transition Assistance Program (CTAP) and Interagency Career Transition Assistance Program (ICTAP) requirements, see part IV, section I, paragraph 5 of this handbook.*

Requirement 5. Administration of the promotion system will include recordkeeping and the provision of providing necessary information to employees and the public, ensuring that individuals' rights to privacy are protected. Each agency must maintain a temporary record of each promotion

sufficient to allow reconstruction of the promotion action, including documentation on how candidates were rated and ranked. These records may be destroyed after 2 years or after the program has been formally evaluated by the OPM (whichever comes first), if the time limit for grievance has lapsed before the anniversary date.

c. **Promotion Plan. Requirements** - Promotion plans will be in writing and will contain a statement identifying the positions covered, exceptions to competitive promotion procedures, the areas of consideration, the methods of locating candidates, the qualification standards to be used, the evaluation procedures and rating/ranking and selection procedures. Each promotion plan must contain a provision which will allow facilities to experiment with alternative selection procedures as part of the Department's efforts to increase the validity of selection procedures. All proposed experiments outside the provisions of the applicable promotion plan must be forwarded through channels to the Director, Recruitment and Placement Policy Service (059) for approval. **Guidance** - Subject to proper coordination and/or negotiation, referrals for consideration may be those best qualified candidates identified in accordance with the provisions of the applicable promotion plan, those identified under the experimental alternative procedure or those identified in both. **Requirement** - If, however, the experimental procedure results in greater validity or less adverse impact, requirements to reevaluate the existing selection procedure in light of the findings must be imposed. **Guidance** – All candidates must be screened to determine which candidates are to be placed in the best qualified category. **This process must take place regardless of the number of candidates, using an evaluation procedure that is job-related and applied fairly and consistently.** This does not mean that best qualified determinations must be made prior to issuing a certificate when there are fewer than 10 candidates. [ ] An assessment tool (e.g., position description, crediting plan or structured interview process, etc.) should be used to assist the evaluator(s) in distinguishing between candidates. Selecting officials should uniformly consider each of the best qualified candidates and document on the certificate the basis for his/her selection. All processes used in making the selection determination must be job-related, appropriate to the position being filled, and consistent with merit principles.

d. **Guidance.** When considering candidates for promotion, all application materials should be evaluated on an equal basis. In particular, when references to outstanding performance or performance awards are included, these references should be given due consideration. As mentioned in 5 CFR 335.103(b)(3), evaluation materials should include acknowledgement of outstanding performance or performance awards. This may be accomplished by incorporating language in the crediting plan that gives credit for consistently outstanding performance and/or awards which are directly related to the work of the position to be filled.

NOTE: *The merit promotion plan for competitive positions centralized to the Secretary may be found in appendix III-E.*

4. COVERED PERSONNEL ACTIONS. Requirements - Competitive promotion procedures apply to all promotions under 5 CFR 335.102 and to the following actions:

a. Reassignment or demotion to a position with greater known promotion potential than a position previously held on a permanent basis in the competitive service (except as permitted by reduction-in-force (RIF) regulations) (5 CFR 335.103(c)(iv));

b. Selection for training which is given primarily to prepare an employee for advancement and is required by the qualification standard for promotion (i.e., when qualification standard minimum eligibility for promotion depends on whether an employee has completed training) (5 CFR 335.103(c)(iii));

c. Transfer of an employee from another Federal agency to a VA position at a higher grade or with more promotion potential than a position previously held on a permanent basis in the competitive service (5 CFR 335.103(c)(v));

d. Reinstatement, including those made from reemployment priority lists, to a permanent or temporary position at a higher grade or with more promotion potential than a position previously held on a permanent basis in the competitive service (5 CFR 335.103(c)(vi));

e. Selection for details for more than 120 days to a higher grade position or a position with higher known promotion potential in accordance with 5 CFR 335.103(c)(ii);

f. Temporary promotion under 5 CFR 335.102(f)(1) for more than 120 days (all prior service by detail to higher grade and temporary promotion during the preceding 12 months is to be counted toward the 120-day time limit) (5 CFR 335.103(c)(i)).

5. EXCEPTIONS TO COMPETITIVE PROMOTION PROCEDURES. Requirements - The following actions are exceptions to competitive promotion procedures and must be included in all VA promotion plans:

a. **Upgrading Without Significant Change in Duties and Responsibilities.** When the issuance of a new or revised classification standard or the correction of an earlier classification error results in the upgrading of a position, the incumbent must be promoted if minimum qualification standard requirements and regulatory requirements are met, unless the incumbent properly vacates the position.

b. **Promotion During Reduction in Force.** Position changes during reduction in force which are technically promotions because of pay fixing policies are to be made without competition. This does not mean that RIF sets aside other competitive promotion requirements, e.g., GS-7 to GS-8.

c. **Promotion After Failure to Receive Proper Consideration.** When it has been determined that an employee has failed to receive proper consideration in a promotion action and the original selectee is retained in the position, the employee who lost proper consideration must be given priority consideration for the next appropriate vacancy. This is a referral for selection consideration ahead of all others not entitled to a higher requirement for consideration. All employees due equal consideration and qualified for the vacancy are referred together, in competition with each other, for the priority consideration. A selection resulting from a priority referral is excepted from competitive promotion procedures. Although priority consideration is guaranteed, promotion is not guaranteed. An employee is to receive priority consideration only one time for each proper consideration lost.

NOTE: *Close adherence to the applicable promotion plan's requirements and procedures, laws, rules, regulations, and policies will greatly reduce the necessity for priority consideration. The importance of a full understanding of, and adherence to, the promotion plan's requirements by all concerned cannot be overemphasized.*

d. **Repromotion to Grades from Which Demoted Without Personal Cause.** Repromotion up to a grade previously held on a permanent basis from which an employee was demoted without personal cause. **Guidance** - Such repromotions may occur under the provisions of the VA Priority Placement Program, among others. See Appendix III-F.

6. DISCRETIONARY EXCEPTIONS TO COMPETITIVE PROMOTION PROCEDURES. **Guidance** - Promotion plans may or may not require competition for:

a. Temporary promotions for 120 days or less;

b. Details to higher grades or to positions with higher known promotion potential for 120 days or less;

c. Selections for training which may significantly enhance chances for future promotion but which is not required for promotion;

d. Promotion resulting from an employee's position being reclassified to a higher grade because of additional duties and responsibilities (see paragraph 12d of this chapter, referencing prohibited personnel practices);

e. Competition for promotion to the next higher grade in a career ladder when the number of satisfactory employees at a grade level equals or exceeds the number of opportunities available at the next higher grade.

f. Noncompetitive advancement to a higher grade of an employee who was selected at an earlier stage under competitive procedures (e.g., from a civil service register, under direct hire, or under an agency merit promotion program).

g. Reassignment requested by employee from a position having known promotion potential to a position having no higher known potential.

7. AREAS OF PROMOTION CONSIDERATION

a. **Requirement** - Areas of consideration, which are descriptions of the geographic or organizational areas from which high-quality VA employees are sought in actions requiring competitive procedures, must be clearly defined in promotion plans and must be broad enough to ensure the availability of high-quality candidates, taking into account the nature and level of the positions covered. Their establishment must be consistent with policy related to prohibited practices in this handbook.

b. **Use of Other Recruitment Sources.** [It is required that] the terms "area of consideration" and "minimum area of consideration," and references to limitation and extensions thereof, apply only to the use of competitive promotion procedures for VA employees. The organizational or geographic boundaries associated with area of promotion consideration do not apply to other methods of recruitment such as appointment, transfer, reinstatement, reassignment, etc. An area of promotion consideration does not restrict the use of alternative recruitment methods, a management right, or the geographic area from which applicants from other recruitment sources are considered.

c. **Minimum Area of Promotion Consideration**

(1) Usually, the minimum area of consideration should be at least facilitywide [and must include title 38 and hybrid title 38 employees covered by VA/OPM Interchange Agreements]. Not only does this provide for possible advancement opportunities for all facility employees, it also precludes overlooking well-qualified employees whose previous experience or education is directly related to a vacancy even though their present job is in an unrelated field.

(2) There are, however, circumstances when a minimum area less than facilitywide may be appropriate if the applicable promotion plan provides for its use. Promotion plans should specify procedures to be used to establish such areas. If such an area is used, the circumstances involved should be carefully documented to support the action, particularly in relation to prohibited practice policies and as a means to explain the necessity and logic to other employees. Some examples of lesser minimum areas which may be appropriate are:

(a) New equipment or machinery, technological changes, or additional workloads or responsibilities may require additional higher level duties, raising the grade of a position or establishing a new position in lieu of another position in a service or division which has no ceiling for an additional position. Announcement of the opportunity facilitywide would increase expectations of employees outside the service or division when, in fact, their selection is unlikely because of the ceiling restrictions.

(b) Restriction of the minimum area to a service or division may also be appropriate when VACO assigns additional program responsibility without a corresponding increase in ceiling, resulting in the need for a higher grade position in a division or service at full ceiling.

(c) When a reorganization occurs within a service or division at full ceiling and, as a result, an additional supervisory position is necessary, it may be appropriate to restrict the area of promotion consideration for the newly created supervisory position to that service or division.

(d) Over a period of time, higher grade duties may gradually accrue to an identical-additional (IA) position. It becomes evident that, in the interest of effective management, the additional duties should be consolidated in one position or a few positions rather than fragmented throughout all the IA positions. If there is no additional ceiling available to the service or division, it may be appropriate to restrict the area of promotion consideration to those employees on the IA position description.

(e) Field facilities with two divisions, or a main facility with one or more satellite facilities, may find it in the best interest of employees and management efficiency to establish separate minimum areas of promotion consideration for each. Careful consideration should be given to the effect such an action would have on upward mobility opportunities, the availability of high quality candidates for positions

common to one or more of the organizational elements, and the need for interchange of new concepts and/or methods between organizational elements.

(f) It may be appropriate to restrict consideration to a service or division for competitive temporary promotions and/or competitive details. In many cases employees who are familiar with the day-to-day functions of a division or service are likely to fulfill the temporary need most effectively. In addition, the selection of an employee from another division or service may result in a disruption of that organization during the selectee's absence.

(3) **Centralized Positions. Requirement** - For positions centralized to the Secretary, Administration Heads, Assistant Secretaries or Other Key Officials, the applicable merit promotion plan will specify the area of promotion consideration.

d. **Extensions of the Area of Promotion Consideration**

(1) **Requirement** - An extension of the area of promotion consideration is defined as the search for additional high quality VA employees in actions requiring competitive promotion procedures. Recruitment for appointment, reinstatement, transfer, reassignment, demotion or reemployment candidates which does not require merit promotion competition will not be considered as an extension of an area of promotion consideration.

(2) **Guidance** - Promotion plans should provide for extensions of the minimum area of promotion consideration to the extent necessary to locate a sufficient number of high quality candidates. Either of the methods in subparagraphs (a) and (b) below may be used.

(a) **Requirement** - The promotion panel, after initial rating and ranking reveals an inadequate number of best qualified candidates, may determine that the area of promotion consideration is to be extended before any candidates are certified under the plan; or

(b) **Requirement** - The selecting official, after receipt of the certificate and a review of the records reveals an inadequate number of best qualified candidates and in coordination with human resources officials concerning the likelihood of locating additional promotion candidates, may decide (or recommend to the official who retains the authority to decide) to extend the area of promotion consideration.

(c) **Requirement** - To preclude misunderstandings, misinterpretations, and employee dissatisfaction, and to ensure that all employees are adequately informed, each area of promotion consideration which may be used must be properly defined or explained in the plan, including the commuting area if it is used. The plan must clearly explain when and how different areas of promotion consideration are to be used.

(3) **Guidance** - A commuting area may vary from facility to facility. The geographic distance may vary one direction to another depending on the location of the facility in relation to residential districts. One determinant may be the distance several employees commute daily to the facility. An excessive distance which only one employee commutes daily is not necessarily the normal commuting area.

(4) **Voluntary Applications. Requirement** - If unsolicited applications for promotion from VA employees at other facilities are accepted, they may be considered in any area of consideration (limited, minimum and extended) but they must be considered when the candidate's home facility is included within an extended area of promotion consideration. These candidates must indicate the specific type(s) and grade level(s) of positions for which they wish consideration. An indication of the title of the position (formal or informal) and grade level is sufficient.

(5) **Filling a Position Occupied by an Employee on Leave**

(a) If a replacement is required while the incumbent is on extended leave, an interim position may be established. Generally, interim positions will be terminated within 1 year or less, and may be extended only under extenuating circumstances. (See 5 CFR 335.103, and this part for information on temporary promotions.) Where an employee has occupied an interim position under a temporary promotion for more than 2 years, any action taken to place him in another position must observe adverse action procedures where applicable (5 CFR 752.301, and this part).

(b) When an interim position is filled by the reassignment or temporary promotion of an employee, the personnel action filling the position will normally be limited to the period covered by the absence of the regular incumbent. The employee selected to fill an interim position must be fully informed about the action. To make sure the employee understands, a signed statement such as the following may be entered on the reverse of the request for personnel action:

"I voluntarily accept (reassignment or temporary promotion) to the interim position of (title, grade, series, salary). I understand that this position will be canceled upon return of the incumbent. I also understand that at that time I will be returned to my position of (title, grade, series, salary), or, with my concurrence, placed without time limit in a different position in a grade no lower than my position of (title, grade, series, salary). The salary I will receive will be based on regulations in effect at that time and will not be less than what I would have earned had I remained in my position of (title, grade, series, salary)."

(c) If an interim position is filled from outside VA, the appointment will be limited to the period of time the interim position will be required unless it can be expected that another position of like status, grade, and pay will be available for the appointee when the interim position ends.

(6) **Central Office Referrals. Requirements** - Central Office referrals for noncentralized positions must be accepted and considered in limited, minimum and extended areas and ranked in accordance with the provisions of the applicable promotion plan. Program officials responsible for such referrals must assure they are made in accordance with merit principles.

e. **Limiting Extension of the Area of Promotion Consideration.** When and how far to extend the area of promotion consideration may be affected by several factors. There may be circumstances when an extended search for additional high quality promotion candidates would not be appropriate, such as:

(1) **Guidance** - Several recent extensions for the same type and grade position have not produced additional high quality candidates;

(2) **Guidance** - The position is located in Alaska, Hawaii, Puerto Rico or the Philippines; and it would not be practical to search for promotion candidates beyond the particular geographic area;

(3) **Guidance** - Funds to cover moving and travel expenses may not be available, or limited funds may dictate such payments only for higher priority positions. Under these circumstances, limitation to such geographic boundaries as the commuting area, facility groupings, statewide, or regionwide, may be appropriate;

(4) **Guidance** - It may not be practical to extend the area of consideration for temporary promotions and details, although the option to extend should be retained in case unique circumstances develop in the future;

(5) **Guidance** - In over-ceiling situations or at-ceiling situations, it may be appropriate to limit the area of consideration;

(6) **Requirement** - If it is determined not to extend the area of promotion consideration for the reasons listed above, or a similarly valid reason, and the promotion plan calls for the extension but permits exceptions, the basis for the decision must be documented in the facility promotion file. The documentation may be brief but it must be clear.

(7) **Guidance** - When circumstances indicate an extension of the area of promotion consideration is inappropriate, and promotion continues to be a recruitment source, promotion consideration should be given only to high quality promotion candidates from the lesser area. In the interest of maximum efficiency and proper utilization of public funds, well-qualified candidates from other recruitment sources should be considered.

8. LOCATING CANDIDATES. Guidance - Several methods may be used to locate eligible candidates. Different methods or combinations of methods may be appropriate for different occupations or grades. Posting vacancy announcements for individual vacancies, open-continuous announcements for entry-level jobs, posting general notices of placement opportunities such as the [ ] Weekly Summary Bulletin, sending electronic notices to other VA facilities, Central Office referrals, and use of skills files are several methods. **Requirement** - To provide proper information to employees, each promotion plan must state which method or methods are used.

a. **Vacancy Announcements**

(1) **Guidance** - Vacancies may be announced by posting notices on bulletin boards, through electronic transmission, and/or by circulating special notices to employees.

(2) **Requirement** - Vacancy announcements must receive sufficient publicity and be open long enough so all eligible employees within the area of consideration have the opportunity to learn of the vacancy and apply. They must be clear and tell employees: the area of consideration; if the position is part-time, the number of hours per week; the pay range; the location of the position; summarized duties of the job; the summarized minimum qualifications, including selective placement factors (if appropriate); where the qualification standard requirements are available for review; a list of the rating factors or job elements; application procedures; the closing date; whether the position has known promotion potential; and that VA

policies on equal employment opportunity are fully applicable, including the reasonable accommodation statement. The announcement should state that preference eligibles or veterans who have been separated under honorable conditions from the armed forces after 3 or more years of continuous active service may compete for vacancies under merit promotion when an agency accepts applications from individuals outside its own workforce (VEOA).

(3) **Requirement** - Open-continuous announcements must be clear and tell employees: the area of consideration; target grade level; that VA policies on equal employment opportunity are fully applicable, including the reasonable accommodation statement; and what has to be done to apply. The other information in subparagraph (2) above must be available on request.

(4) **Requirement** - When a vacancy announcement does not yield a sufficient number of best qualified candidates and the area of consideration is extended, the original announcement closing date must also be extended to coincide with the closing date for candidates in the extended area. This new area of consideration and the new closing date must be conveyed to local employees in an appropriate manner.

(5) **Requirement** - When the target grade level is known, it (and any intervening grade levels) must be stated in the vacancy announcement. When there is potential but the anticipated grade has not yet been determined, the estimated grade level must be indicated. In such cases, it is extremely important that all possible applicants are fully aware that an estimated potential grade may or may not materialize. **Guidance** - Occasionally, a position may be announced at multiple grade levels. The announcement should clearly indicate when selection for any of the lower grades indicated carries with it the potential for the highest grade indicated. When this is not the case, the announcement should provide proper information to applicants.

(6) **Requirement** - All vacancy announcements of positions with identified target grade level must inform all potential applicants that:

(a) Selection does not guarantee promotion to the target grade (or any intervening grade, if appropriate);

(b) All legal and regulatory requirements for promotion to the next higher grade must be met; and

(c) Subsequent promotion to the next higher grade is dependent on the selectee's demonstration of the ability to perform the duties of that grade to the satisfaction of the supervisor and the availability of enough work at the next higher grade to support the target position.

(7) **Requirement** - When vacancy announcements are used to recruit for standing registers to fill the same type and grade position over an extended period (e.g., 90 days), the announcement must provide this information to potential candidates. Employees who apply for consideration during the life of the standing register must be provided information concerning how their applications will be treated and under what circumstances they will be considered (i.e., (a) applications will be accepted and consideration extended for the next vacancy filled from the register; (b) applications will be accepted and retained for consideration when a new register is established; or (c) applications will be accepted only when a new register is being established). When standing registers are used, all selective factors and all rating factors (or job elements for wage grade) for all positions covered must be listed in the vacancy announcement.

Typically, the rating factors (job elements for wage grade) for all the positions covered by the standing register should be similar. They do not, however, have to be identical.

b. **Vacancy Announcements to Other VA Facilities. Requirement** - When used, vacancy announcements to other VA facilities must identify the position and grade being offered, reference the appropriate OPM or VA qualification standard, vacancy announcement number, target grade level, the closing date, and specify any forms which should be submitted with the application. Vacancy announcements of extension of the area of promotion consideration must be made available to all potential applicants at the receiving facility(ies). Posting in a centralized location accessible to all employees is adequate. Referral only to the corresponding service or division at the receiving facility may not be satisfactory in some cases because qualified employees may be located in other services or divisions.

NOTE: *See chapter 2, paragraph 11d of this part, for processing applications resulting from extension of the area of promotion consideration.*

c. **Skills Files. Guidance** - Skills files, including sufficient information on all eligible employees in an area of consideration to rate them fairly, may be used to locate candidates for vacancies. All eligible employees are considered under this method. Extreme care should be exercised to ensure that information on each employee is accurate and up to date and that the system can be used economically and efficiently.

d. **Central Office Referrals. Requirement** - Central Office referrals to facilities for positions which are covered by the local promotion plan must be evaluated and ranked in accordance with the local plan along with other qualified applicants.

9. JOB ANALYSIS AND EVALUATION CRITERIA

a. **Requirement** - Job analysis and evaluation criteria must satisfy the requirements of 5 CFR, part 335, Handbook X-118C, and this chapter (see appendix III-G and III-H). Specific procedures to be used for crediting plan development must be established in writing. It should be noted that annual performance appraisals and awards must be considered to the extent that they are related to the job to be filled (see paragraph 3b, Requirement 3, of this chapter). Individuals and/or organizations involved in the development of selection procedures are responsible for compliance with OPM and VA policy requirements and the procedures' impact on applicants.

b. **Requirement** - Credit based on length of experience or length of service may not be granted unless it can be shown through a proper job analysis and accompanying documentation to be a valid, job-related factor for the position being filled.

c. **Requirement** - Selection procedures not approved for inservice use must be submitted through channels to the Director, [Recruitment and Placement Policy] Service (05[9]) with the required documentation to support acceptability. Field facilities will not deal directly with OPM in requesting selection procedure approval.

d. **Guidance** - Development of knowledges, skills, abilities and other characteristics (KSAOs) evaluation procedures for General Schedule positions which are not identical to those in this handbook is permissible as long as they are consistent with requirements of the Uniform Guidelines on Employee

Selection Procedures. The evaluation process should not include provisions for deducting points or for negative ranking credit for adverse information concerning a candidate (e.g., adverse and disciplinary actions). Information of this nature should be considered in the annual performance appraisal, the supervisory KSAO assessment, and/or the supervisory appraisal of performance for promotion. Deducting points for inservice placement purposes would constitute a double penalty.

e. **Requirement**. In the interest of fairness and equity to all candidates, crediting plans for GS positions are to be kept secure. Since they are the basis by which point credit is to be granted, they may not be reviewed by potential candidates prior to the announcement of a vacancy or prior to rating and ranking. To do so may give a candidate unfair advantage. This does not preclude:

(1) A review of the crediting plan by the employee and/or a properly designated representative during the informal grievance stage or in conjunction with EEO investigations;

(2) Review and release to authorized officials who have a need to know for the performance of their official duties;

(3) Release for inclusion in EEO or grievance files; or,

[(4) Addition of assessment questionnaires (without scoring criteria) in announcements developed for USA Staffing use.]

10. PROMOTION PANELS

a. **Guidance**. Either human resources staff members or promotion panels may evaluate candidates against the criteria contained in the crediting plan/assessment questionnaire for the position(s). Separate panels may be used for each position or panels may be established for specific categories of positions. Use of promotion panels is strongly encouraged because it provides a base for the justification of the rating and ranking in accordance with the Uniform Guidelines on Employee Selection Procedures. [In USA Staffing, subject matter experts (SMEs) are involved in the development of the assessment questionnaire; this ensures compliance with the Uniform Guidelines. Further review by a panel for rating and ranking is not required. However, labor agreement provisions must be followed. Also, for Federal Wage System vacancies, whenever possible agency employees with a thorough knowledge of the trade should be called upon either as raters or as consultants to provide technical advice to raters. As with other merit promotion recruitments, HR Staff may request additional SME assistance during the quality review process in USA Staffing.]

b. **Requirement**. Handbook X-118C requires a panel of one or more raters who know or can quickly learn about both the job and the employees' qualifications (Subject Matter Experts) and a reviewer (usually a HRM Specialist) for trades and labor promotion opportunities. (See subparagraphs c and d below.)

c. **Requirement**. If promotion panels are used to evaluate and rank candidates, the panel members (except the HRM representative) must be subject matter experts (see paragraph 1e of chapter 2, this part), one of which must be at least equal in grade to the job to be filled. All must have a clear understanding of the functions of promotion panel members and clearly understand the crediting plan, the selection procedure being used, and basic human resources management concepts related to qualification and rating

and ranking, preferably at the journeyman level. In performing their functions, panel members are official representatives of management. The selecting official will not serve as a panel member unless there are no other qualified SMEs available. Selecting officials who serve as panel members must understand clearly the difference between the two functions and carefully observe merit principles.

d. **Requirement**. If promotion panels are used, panel members, as part of their official responsibilities, must review certain personal information concerning candidates. Other employees who may be present as observers during the deliberations of the panel are not permitted access to such documents and written information concerning any candidate without the written consent of the subject of the record. All persons present at promotion panel meetings are precluded from revealing information of a confidential or personal

nature about any candidate which may be gained during the deliberation process and may be disciplined if they do so.

11. REFERRAL AND SELECTION

a. **Referral of Internal Candidates. Requirement -** The best qualified group referred to the selecting official for promotion or promotion potential consideration will consist [ ] of [ ] promotion candidates as well as reassignment and/or demotion candidates who are competing for a position with higher potential[. In keeping with the goal of selecting from best qualified candidates, a group of best qualified candidates for selection consideration does not have to be limited to promotion candidates (see paragraph 11b below). Identification of best qualified candidates may be made through assessment questionnaires, determinations of selecting officials, or other assessment methods, so long as the method to be used and the resulting best qualified group is determined prior to selection and is documented in the recruitment record.]

b. **Referral of External Non-VA Candidates**

(1) **Requirement** - If transfer, reinstatement, and VEOA eligibles are being considered for a higher-graded position than previously held, they must be evaluated and ranked along with competing VA employees to determine the cut-point. Once that has been established, all best qualified candidates will be referred [ ]. VEOA eligibles will be identified on the [ ] certificate by [annotating VEOA] after their names. In such cases, an inadequate number of best qualified VA promotion candidates is justification for extending the area of promotion consideration to other VA employees.

NOTE: *Normally, the selection official determines if there is an adequate number of best qualified VA promotion candidates. An extension of the area of promotion consideration resulting in additional VA candidates for promotion under these circumstances may cause the cut-point to change and necessitate a redetermination of best qualified candidates for each recruitment source.*

(2) If the competitive service position provides promotion or placement in a position with higher promotion potential, qualified excepted service employees covered by the interchange agreements will be rated and ranked, when a panel is required, to determine which applicants are best qualified for referral. When there are fewer than 10 applicants, no panel is required. However, screening to determine the best qualified applicants must take place before a selection is made. [ ] Excepted service and competitive service employees [may] be referred on [the same certificate.] (See part III, chapter 3.)

(3) **Requirement** - When a position is announced at multiple grade levels, a best qualified group for each grade level, if available, will be referred for consideration on separate certificates.

[c. **Referral Criteria**

(1)] **Guidance** - A best qualified group consists of[:] candidates who are competing for promotion and/or for a position with higher promotion potential [(these individuals must be rated an ranked to be placed in the best qualified group);] VA employees who are candidates for reassignment [or] demotion to a position with no higher potential [or who have previously held the full performance level of the position[; t]ransfer applicants from other agencies[;] and reinstatement eligibles for positions equal in grade to their current or former nontemporary, competitive service positions[.]

[(2)] **Guidance** - The number of [ ] candidates to be referred will vary depending on the cut-point (see Appendix III-G, paragraph 7c), the number of candidates being considered and other circumstances which prevail. [T]he selecting official should receive an adequate number of [ ] candidates, if available, for consideration. Although rating and ranking is permitted when there are 10 or fewer qualified promotion candidates, referral of all candidates for consideration without rating and ranking is permissible (see Appendix III-G, par 7b(1). Before making a selection, however, the best qualified candidates must be identified. Best qualified candidates may be referred by [ ] 1-2-3 rank order or in alphabetical order.

[(3)] **Guidance** - When the point credit difference between candidates is so small that a bona fide difference in predicted capability is not apparent, it may be desirable to obtain additional information from such candidates to determine whether there are, in fact, meaningful distinctions among them. The selecting official should not, however, be burdened with so many candidates that considering all candidates unduly delays the selection process; and an administrative limit may be necessary. Generally, 10 promotion candidates are considered sufficient.

[(4)] **Ties. Guidance** - All candidates with tied scores at the cut-point may be referred, if the plan so provides. If ties in total scores of candidates will result in a referral of more [ ] candidates than the selecting official can reasonably consider and additional information cannot be collected or results in no meaningful distinction, provisions may be made to break the ties to arrive at an appropriate number of referrals (see Appendix III-I).

[d]. **Selection**

(1) **Requirement** - The responsibility for selection must be vested in one official. Promotion panels will not make final selections or recommendations.

(2) **Requirement** - A selecting official has the right, which will not be negotiated, to select or non-select candidates from a properly constructed [ ] certificate. This includes the right to non-select all of the candidates and return the [ ] certificate unused. Additionally, when a [ ] certificate is issued to provide consideration for more than one vacancy and the selecting official selects for one vacancy, this action does not carry with it an obligation to select others from the [ ] certificate for the remaining vacancies or preclude the consideration and selection of an applicant from any other appropriate recruitment source.

(3) **Requirement** - Once a final, properly constructed [ ] certificate resulting from the original announcement has been issued, another merit [staffing] certificate for the same vacancy will not be issued for 6 months. Selection must be made from the properly constructed [ ] certificate resulting from the original announcement if the position is filled by competitive promotion during that 6-month period. **Guidance** - The cancellation of an announcement and the resulting certificate after a best qualified group has been determined, for the purpose of improving or injuring the chances of any person, is in direct conflict with law. (See VA Directive 5005.) Such actions intended to alter the best qualified group because a particular employee is not included in it (such as providing time to meet basic qualification requirements, to meet other legal and regulatory requirements, to change supervisory appraisals to increase or decrease any employee's chances, etc.) are inconsistent with merit principles and law. The preceding requirement does not preclude the following actions:

(a) Adding high quality candidates if available from the rating and ranking process to replace best qualified candidates who decline consideration after the original [ ] certificate has been issued; or

(b) The addition of high quality candidates who rank above the cut-point located as a result of an extension of the area of [ ] consideration when an interim referral was made using a smaller area of [ ] consideration.

(4) **Guidance** - Selecting officials should act promptly when considering candidates referred on a [ ] certificate. It is not only in the interest of good management, but also of major concern to employees, that decisions concerning promotion opportunities be made expeditiously. Excessive delay often causes undue frustration on the part of candidates which may result in an erosion of trust and confidence. For these reasons, when there is excessive delay, it is entirely proper to require written justification from a selecting official to the HRM office. While some circumstances may require more time than usual, selecting officials normally should be able to make a decision within 5 workdays after receipt of a [ ] certificate consisting of best qualified local candidates and within 10 workdays after receipt of a [ ] certificate with best qualified candidates from an extended area of [ ] consideration.

(5) A placement follow-up will be used to evaluate the employee's progress and adjustment following placement in a position.

12. CAREER PROMOTIONS

a. **General.** A career promotion is one without current competition when:

(1) An employee was appointed, or selected through the use of competitive promotion procedures, for an assignment intended to prepare the person for the position being filled (career ladder); or

(2) The employee's position is reclassified to a higher grade because of accretion of additional duties and responsibilities.

b. **Requirement** - All promotion plans must provide for career promotions, including career-ladder promotions in movements between VA facilities.

c. **Career-Ladder Promotions**

(1) **Requirement** - Career ladder promotions without current competition may be made only when the intent was a matter of record prior to the initial selection and all potential applicants were so informed. Career ladders must be documented and be available to employees. Career-ladder positions are those with known promotion potential; therefore, an announcement under competitive promotion procedures must inform possible applicants of the potential available to the selectee.

(2) **Guidance** - Career-ladders may consist of potential to the next higher grade or through several intermediate grades to a target several grades higher than the initial grade level. **Requirement** - Selection for the initial position provides only the opportunity for subsequent career-ladder promotion. Promotion to

the next higher grade is not guaranteed and depends on: (a) the selectee's demonstration of the ability to perform the duties of the next higher grade to the satisfaction of the supervisor; and (b) the availability of enough work at the next higher grade. Meeting the minimum qualification requirements and time-in-grade requirements for a higher grade in a career ladder is, of itself, only an indicator of eligibility, not an absolute guarantee for such a promotion.

(3) **Apprentice Position. Requirement** - When an employee has been properly selected for the initial grade level as described above, a career-ladder promotion of an apprentice in a trade or craft may be made through intermediate grades (if appropriate) to the target grade level.

(4) **Trainee Position. Requirement** - A properly selected trainee may receive career-ladder promotions through intermediate grades as each phase of training is satisfactorily completed and to the target grade level when the entire training program is satisfactorily completed.

(5) **Understudy Position. Requirement** - Occasionally, an understudy position is established to train a person for a position which is to be vacated at a future date. When properly selected for an understudy position, the selectee may receive a career-ladder promotion without additional competition to the target position when it is vacated. **Guidance** - Normally, the understudy position is established within 1 year or less of the anticipated vacancy.

(6) **Position Filled at a Grade Below the Established or Anticipated Grade. Requirement** - A career-ladder promotion may be made of an employee in a position which was properly filled at a grade below the established or anticipated grade.

(7) **Training or Executive Development Agreements. Requirement** - An employee, properly selected through competition as described previously, may receive a career-ladder promotion upon satisfactory completion of an approved training agreement or executive development agreement which specifically provides for the promotion.

(8) **Details for Training or Evaluation. Requirement** - An employee properly selected for a training or evaluation detail to a higher grade position or to one with known promotion potential may receive a career-ladder promotion if the fact that the detail could lead to promotion was made known to all potential candidates for the initial detail.

(9) **Veterans Recruitment Appointee.** (5 CFR 307.103) **Requirement** - When a Veterans Recruitment Appointment is made to a position with known promotion potential, subsequent career-ladder promotions may be made through intermediate grades (if appropriate) to the target grade level.

(10) **Others. Requirement** - When employees serving under the following types of appointments have satisfied the specified criteria of the appointment authority and are properly converted to career or career-conditional appointment in the competitive service in positions with known promotion potential, career-ladder promotions may be made through intermediate grades (if applicable) to the target grade level:

(a) [Pathways Programs which includes the Internship Program, Recent Graduates Program and Presidential Management Fellows Program (5 CFR 213.3402 (a), (b), and (c));

(b) Service disabled Veterans (5 CFR 315.604);

(c) Service disabled Veterans (30 percent or more) (5 CFR 315.707); [and]

(d) Employees with intellectual disabilities, severe physical disabilities, and psychiatric disabilities (5 CFR 315.709);

[ ]

d. **Career Promotion of an Employee Whose Position Is Reconstituted to a Higher Grade**.

(1) **Requirement** - An employee whose position is reconstituted to a higher grade because of the accretion of additional duties and responsibilities may receive a career promotion.

NOTE: *The basic function of the original position must continue to be a part of the new one.*

(2) **Guidance** - Employees serving on identical-additional position descriptions are supposed to perform identical duties. It is the supervisor's responsibility to ensure that subordinates perform described duties. To single out one of several such employees for this type of career promotion may, therefore, be interpreted by others to be an act of personal favoritism. Any action of this nature should occur only after careful consideration and sufficient justification.

(3) **Guidance** - There may be times when circumstances require the assignment of additional duties and responsibilities to a position which will result in a promotion and competition is not practical. Some examples are:

(a) A higher-level management decision results in a change in workload, technology, procedures or organization and provides for no increase in ceiling. The decision results in a need for a higher grade job to accomplish the assigned tasks. Only one of the employees in the affected unit, which is at ceiling, can qualify for the job;

(b) An increase in technology results in the purchase of new equipment for a line of work requiring an increase in the level of duties and responsibilities for those who will operate it. The employees will continue to perform the same basic function but at a higher level required by the new equipment;

(c) Additional personnel are assigned to an organization which results in a supervisor's position being upgraded;

(d) Additional responsibilities are imposed by law, rule, regulation or policy. To carry out the mandate, new duties must be added to a position in a unit and only one position provides the knowledges, skills or abilities necessary for satisfactory performance in the new job; or

(e) An employee performs a job in such an exemplary manner that other key employees outside the unit gradually come to rely on that person to such an extent, and involving such complicated issues, that eventually the employee is performing duties which are properly classified at a higher grade.

(4) **Requirement** - The prohibited personnel practices contained in law (5 U.S.C. 2302(f)) preclude the granting of preference or advantage, not authorized by law, rule or regulation, to improve or injure the prospects of any person. Managers, supervisors, human resources officials and selecting officials are responsible for ensuring that actions resulting in a promotion because of additional duties and responsibilities are not the result of a prohibited practice.

13. PROHIBITED PRACTICES. The following provisions of law are fully applicable and binding:

a. **The Civil Service Reform Act of 1978 (5 U.S.C. 2302).** Employees who have authority to take, direct others to take, recommend or approve any personnel action are prohibited from:

(1) Discrimination for or against any employee or applicant for employment;

(2) Soliciting or considering any recommendation or statement, oral or written, about a person who requests or is being considered for a personnel action, unless the recommendation or statement is based on personal knowledge or records of the person furnishing it and consists of an evaluation of the person's work performance, ability, aptitude, general qualifications, character, loyalty, or suitability;

(3) Using official authority to coerce political activity, including political contribution or service, or to retaliate against any employee or applicant for refusal to engage in such political activity;

(4) Deceiving or willfully obstructing a person with respect to the right to compete for Federal employment;

(5) Influencing anyone to withdraw from competition to injure or improve employment prospects for any other person;

(6) Granting preference or advantage not authorized by law, rule, or regulation (including defining the scope or manner of competition or the requirements for any position) to any employee or applicant to improve or injure the prospects of any person;

(7) Appointing, employing, promoting, advancing, or advocating for appointment, employment, promotion, or advancement, any relative (5 U.S.C. 3110a(3)) to or for any position in the VA;

(8) Taking or failing to take a personnel action concerning an employee or applicant as a reprisal for:

(a) Disclosure of information reasonably believed by the employee or applicant to evidence:

1. a violation of any law, rule or regulation or

2. mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety, unless the disclosure is specifically prohibited by law or required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs;

(b) Disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General, of information reasonably believed to evidence any of the preceding items;

(9) Taking or failing to take a personnel action against any person as a reprisal for exercising an appeal right granted by law, rule, or regulation;

(10) Discriminating for or against a person on the basis of conduct which does not adversely affect that person's performance or the performance of others (convictions for crimes may be taken into account in fitness and suitability determinations); and,

(11) Taking or failing to take any personnel action if taking or failing to take that action violates law, rule, or regulation implementing or concerning merit system principles.

b. **Competitive Service; Recommendations of Senators and Representatives (5 U.S.C. 3303).** Individuals concerned with examination or appointment of applicants in the competitive service may not receive or consider a recommendation by a Senator or Representative, except as to character or residence.

c. **Acceptance or Solicitation To Obtain Appointive Office (18 U.S.C. 211).** No person may solicit or receive, either as a political contribution or for personal gain, any money or thing of value in consideration of the promise of support or influence in obtaining any appointive office.

d. **Interference with Civil Service Examinations (18 U.S.C. 1917).** No individual in the public service shall:

(1) Defeat, deceive or obstruct the right to examination for the competitive service;

(2) Falsely mark, grade, estimate or report on an examination or proper standing;

(3) Make false representation concerning a mark, grade, estimate, or report on the examination or proper standing, or concerning the person being examined; or

(4) Furnish any special or secret information to improve or injure prospects or chances of a person examined, to be examined, being appointed, employed or promoted.

14. SUPERVISORY POSITIONS

a. **Requirement** - The qualification standard for supervisory positions in OPM's Operating Manual – Qualification Standards for General Schedule Positions will be used along with the specific qualification standard for that position for basic qualification determinations for supervisory positions. For wage grade jobs, the job-element system required for supervisory trades and labor jobs in Handbook X-118C will be used. Since supervisory positions require certain knowledges, skills, abilities and other characteristics related to the supervisory function, KSAOs for GS supervisory positions must be reflected in the crediting plan.

b. **Training for First-Level Supervisors. Requirement** - Suitable initial supervisory training will be provided for all newly selected first-level supervisors, either before they assume their new duties, or as soon after as possible. **Guidance** – VA Handbook 5015, Employee Development, and 5 CFR, part 410, contain policy related to this training, including time limits.

c. It is essential that these first-time supervisors/managers receive training, including Equal Employment Opportunity (EEO) training, which will equip them with those skills needed to help the organization accomplish its mission and allow them to discharge their individual responsibilities satisfactorily.

d. The general requirement is that an employee must serve a 1-year probationary period upon initial assignment to a supervisory and/or managerial position. Requirements for completion of the probationary period, exceptions and what to do if a supervisor and/or manager fail to successfully complete the period, are listed in detail in appendix III-A.

15. TEMPORARY PROMOTIONS

a. **Requirements** - Competitive promotion procedures must be used when a temporary promotion will exceed 120 days. When a temporary promotion of 120 days or less is made as an exception to competitive procedures, an extension beyond 120 days must comply with these procedures. Candidates for a temporary promotion must be informed in advance of the temporary nature of the action, including the expected length, and assured of return to a position for which qualified at the former grade level upon termination of the temporary services in the higher grade, whether or not the expected period is completed. An initial competitive temporary promotion may be made for a specified period of not more than 5 years in accordance with 5 CFR 335.102(f). In some instances after review of the circumstances and a determination that a temporary situation remains, extension may be justified. The initial promotion and such extension(s) will not exceed 5 years. If all potential candidates are properly informed in advance, a temporary promotion may be made permanent. Requests to OPM for extension beyond 5 years in accordance with 5 CFR 335.102(f) must be submitted via the [Recruitment and Placement Policy] Service (05[9]).

b. **Guidance** - Upward mobility opportunities, which result in the selectee being placed in a higher grade for training, should be processed as temporary promotions which may be made permanent. Upward mobility candidates who are unsuccessful must be returned to their former grade. (See VA Handbook 5015, Employee Development.) If a permanent promotion is utilized, and the selectee fails to meet the requirements expected, adverse action procedures would be required when the employee is returned to the previous position held.

16. EMPLOYEE AND LABOR RELATIONS

a. **Guidance** - While it is obvious that a monetary benefit accrues from promotion, the overall effect may involve many psychological and social aspects such as: peer group, community or social standing; satisfaction of personal needs; improved chances for further advancement; opening up a new career path; a feeling of success; a sense of equality; etc. For these reasons, true adherence to merit principles is of prime importance. Employee trust, understanding, participation and support are essential for an effective promotion program.

b. **Requirement** - Within the appropriate provisions of title 5, United States Code (e.g., sec. 7103(a)14, 7106 (a) and (b), 7117(a) and 7135), facilities must meet with exclusively recognized labor organizations representing employees covered by this chapter to consult and, as appropriate, negotiate concerning the development or modification of promotion plans under this chapter's provisions, including the procedures for its implementation and its impact on affected employees of the unit.

c. **Keeping Employees Informed**

(1) **Requirements** - The written promotion plan must be available to employees subject to its provisions. In addition, any employee who has an interest in, and inquires about, a specific promotion action will be given the following information by the HRM office or the selecting official:

(a) Whether the employee was considered for promotion and, if so, whether determined basically eligible in accordance with the applicable qualification standard;

(b) Whether the employee was in the best qualified group referred for selection consideration;

(c) Who was selected for promotion; and

(d) In what areas, if any, the employee should improve to increase future chances for promotion.

(2) **Requirement** - Employees must be permitted, upon request, to review or obtain, or both, copies of any record of production or supervisory appraisal which was used or may be used in considering them for promotion. **Guidance** - If the employee requests it, he or she should be permitted to have another person present when the record is reviewed.

(3) **Requirement** - Employees may see appraisal and records containing personal information about other employees only when dictated by their official responsibilities. Otherwise, employees are not permitted to see such information without the signed written consent of the subject of the record, unless the record has been properly sanitized for the protection of privacy.

(4) **Guidance** - Employees should be advised periodically of the various methods available for filling vacancies and the merit principle of selecting from among the best qualified candidates available. Information concerning recruitment and selection from various recruitment sources, exceptions to competitive promotion procedures, career promotions, selection by inservice placement actions other than promotion, selection by transfer from other agencies, appointments, etc., should be provided periodically.

17. GRIEVANCES

a. **Requirement** - Failure to be selected for promotion from a properly constructed promotion certificate (nonselection from a group of properly certified candidates) is not a basis for formal complaint.

b. **Requirement** - Dissatisfaction concerning the number of positions to be filled, or the grade level at which positions are advertised or filled, is not a basis for formal complaint.

c. **Requirement** - A grievance will be processed under a negotiated grievance procedure where applicable, or otherwise, under the provisions of the VA grievance procedure contained in VA Handbook 5021, Employee/Management Relations.

d. **Guidance.** In many instances, thorough and complete initial efforts to resolve dissatisfactions are successful. The time and effort involved at the beginning is to the benefit of both employees and management; increasing trust and understanding; providing for early, mutually satisfactory resolution; and reducing expenditure of time, effort and money. Comprehensive, good faith initial efforts cannot be overemphasized.

18. PROMOTION RECORDS

a. **Requirement.** A temporary record of each promotion action sufficient to allow reconstruction of the action, including documentation of how each candidate was rated and ranked, must be maintained for 2 years or until the local promotion program has been formally evaluated by OPM, whichever comes first. If the time limit for grievances or EEO complaints has not lapsed at the time the program is evaluated by OPM, the record must be maintained until it has lapsed. [For USA Staffing recruitment, system records are sufficient to meet the requirement for documentation. In addition, all job analysis records can be imported into USA Staffing to ensure a complete recruitment file is kept within the USA Staffing system.]

b. **Guidance.** To provide for reconstruction the following should be kept in a promotion file:

(1) A copy of the vacancy announcement;

(2) A copy of the crediting plan used;

(3) A copy of each employee's application for consideration;

(4) A record of each qualification determination, clearly indicating the reasons for any disqualifications;

(5) A copy of each basically qualified candidate's annual performance evaluation;

(6) A copy of each basically qualified candidate's supervisory appraisal for promotion;

(7) Supplemental qualification statements for each basically qualified applicant, if used;

(8) The identification of the selection procedures used;

(9) A work sheet for each basically qualified candidate documenting:

(a) The basis of basic qualification determination, including what was used to satisfy general experience, specialized experience, and quality level of experience requirements (if applicable);

(b) The education which was substituted for experience in determining basic qualification;

(c) The basis for determining quality level and the corresponding point credit for that level;

(d) Identification of awards, training or self-development which contributed to credit;

(e) The total point credit awarded the candidates (if applicable);

(f) A notation of whether the candidate is in the best qualified group; and,

(g) The signatures of any HRM staff member involved with determining best qualified or basic qualifications and those of promotion panel members (if applicable);

(10) The completed [ ] certificate showing the names certified for promotion, the decision, the selecting official's signature and date;

(11) A copy of the notices to applicants concerning the outcome of the action; and

(12) An explanation of any circumstances peculiar to the action which is needed for clarification.

19. SELECTION PROCEDURE DOCUMENTATION

a. **Requirements** - The following requirements are prescribed by the Uniform Guidelines on Employee Selection Procedures for documentation of a selection procedure supported by content validity. Good documentation provides a basis of support for the procedure should its validity be challenged. Lack of documentation increases the possibility of a finding of adverse impact and, therefore, discrimination, or may preclude establishing adequate job relatedness.

(1) **Identifying Information.** The names, titles and other identifying information of all personnel involved in developing the selection procedure;

(2) **Dates of Events.** Documents concerning each step of the selection procedure development, from the job analysis through the crediting plan, forms developed, supplemental experience statements etc., must contain the date;

(3) **Job Analysis Information.** All notes and decisions related to the job analysis and subject matter expert panel decisions (including the list of tasks; the relationships of the KSAOs to the tasks; the determination of the important KSAOs; the quality level statements related to each KSAO or rating factor; supplemental experience statements; supervisory KSAO assessment if developed; the specialized supervisory appraisal, if developed; the crediting plan; etc.).

b. **Requirement** - The selection procedure documentation file must be maintained as long as it is used and for at least 2 years after the procedure has been discontinued.

c. **Guidance** - For wage grade jobs, the job elements have, in many instances, been provided. **Requirement** - Documentation for the crediting plan development must, however, be maintained. A record of the review of the individual position and the adequacy of Handbook X-118C job elements; documentation related to alterations, deletions, and additions of job elements; the crediting plan, including quality level statements; supplemental qualification statements; supervisory KSAO assessments; etc., are necessary for support of the procedure.

d. **Guidance** - The documentation for a procedure used for one job may be kept in the merit promotion file for that action. If, however, a procedure is used frequently for a number of actions, the documentation for the procedure should be maintained in a separate file.

NOTE: *It is important, in such cases, that the merit promotion file for each action identify the selection procedure used, the documentation file for that procedure, and its location.*

20. PERIODIC REVIEW

a. **Requirement** - Management at each organizational level responsible for the administration of a promotion plan will make a comprehensive review of their promotion plan periodically. **Guidance** – Service and division chiefs, supervisors, employees, and labor organizations should participate in such reviews which should occur at least once every 3 years.

b. **Requirement** - Periodically, the Deputy Assistant Secretary for Human Resources Management [and Labor Relations] (05) will review:

(1) The overall operation of field facility, staff office and administration programs to determine the extent of conformance with requirements; and

(2) The VA-wide merit promotion program to ensure that policy requirements are realistic and practical and to recommend improvement when needed.

21. CORRECTIVE ACTIONS. Requirement - Corrective action may be required by VA Central Office officials and other officials responsible for the establishment and administration of promotion plans, or by officials of the Office of Personnel Management, the Merit Systems Protection Board, or the Equal Employment Opportunity Commission. Corrective action may include appropriate disciplinary action when warranted.

CHAPTER 4. TITLE 38 AND HYBRID TITLE 38 PROMOTIONS AND INTERNAL PLACEMENTS

SECTION A. PROMOTION OR CHANGE IN ASSIGNMENT AND INTERNAL PLACEMENT OF TITLE 38 EMPLOYEES

1. GENERAL.

a. This section contains instructions and procedures governing the advancement of podiatrists, optometrists, chiropractors, registered nurses (RNs), advanced practice nurses (APNs), physician assistants (PAs), and expanded-function dental auxiliaries (EFDAs) appointed under authority of 38 U.S.C. §§ 7401(1) or 7405(a)(1)(A); and medical and dental residents appointed under authority of 38 U.S.C. § 7406.

NOTE 1: Residents serving under a disbursement agreement are excluded from coverage under the provisions of this section.

NOTE 2: VHA physicians and dentists are excluded from coverage for promotion procedures as described in this section. See VA Handbook 5007, Pay Administration, Part IX, for guidance for pay regulations and procedures.

NOTE 3: Promotions for occupations covered under 38 U.S.C. § 7401(3) can be found in, Section B of this part.

b. The promotion system shall provide advancement opportunities for employees, predicated upon the recognition of the quality of service rendered, additional experience and professional attainment as determined by a thorough review of the employee's individual record.

c. To meet the criteria for promotion, the individual must meet the criteria for the next higher grade level in the applicable VA qualification standard. A review of the individual's total record must show evidence that the contribution to VA medical service is of sufficient value to warrant promotion. Potential for continuously greater contribution is also a prerequisite. Reviews and recommendations of [supervisory officials] will be sufficient to ensure that promotion is fully merited and not recommended based on meeting administrative requirements alone. The individual's total record and professional stature will be carefully evaluated and supported by documentary evidence as necessary.

d. Promotion actions will be taken without regard to age, race, color, religion, sex, national origin, lawful partisan political affiliation, marital status, physical or mental disability (when the employee is qualified to do the work), membership or non-membership in a labor organization or any other non-merit factor.

e. Promotion actions will conform to the restrictions governing the employment of relatives. (See VA Handbook 5025, Legal.)

[ ]

2. [RESPONSIBILITIES.

a. Human Resources (HR) Staff.

(1) Before recruitment is initiated, work in collaboration with the supervisor to determine the eligibility and qualifications requirements that pertain to the assignment and grade level for the position to be filled in accordance with the qualification standards found in VA Handbook 5005, Part II, Appendices G. If the supervisor is not a subject matter expert in the profession, the supervisor must consult with the subject matter expert throughout the recruitment and onboarding process for the vacant position.

(2) Determine eligibility and qualifications in accordance with standards found in VA Handbook 5005, Part II, Appendices G.

(3) Recommend the appropriate grade to the selecting official for appointments, promotions, reassignments and changes to lower grades.

(4) Document qualification determinations for each applicant by completing a separate VHA qualification form for each applicant.

(5) Consult with the profession’s subject matter expert during the development of the assignment, recruitment and onboarding of the selected candidate.

(6) Notify candidates who fail to meet the requirements and fail to qualify for appointment.

(7) Process requests for appointments, promotions, reassignments and changes to lower grades.

b. Supervisory Official.

(1) Obtain approval to fill a vacant position in accordance with local procedures.

(2) Initiate recruitment action with the servicing HR Office.

(3) Review application packages referred for selections.

(a) Supervisors who are not subject matter experts must consult a subject matter expert when evaluating applications. This may take the

form of a panel or consultation with the subject matter expert for the profession.

(b) Supervisors who are subject matter experts at or below the grade being filled must consult with the profession's subject matter expert that is at the grade or higher.

(4) Consult with HR staff and the profession's subject matter expert (if applicable).

(5) Submit supporting documentation for utilization of pay setting flexibilities (if applicable) found in VA Handbook 5007, Pay Administration, Part II, Chapters 2, 3 and 4, pertaining full and hybrid title 38 positions.

(6) Make or review requests or recommendations for promotions.]

3. PROMOTION.

a. This section contains instructions and procedures governing the promotion of employees appointed under 38 U.S.C. §§ 7401(1) and 7405(a)(1)(A). Promotion is an advancement to a higher grade level and recognizes that an employee is providing a higher level of service to VA.

b. The promotion system shall provide advancement opportunities for employees, predicated upon the recognition of the quality of service rendered, additional experience and professional attainment as determined by an examination of the employee's individual record.

c. To meet the criteria for promotion, the individual must meet the criteria for the next higher grade level in the qualification standard. Examination of the individual's total record must reveal evidence that the contribution to VA medical service is of sufficient value to warrant promotion. Potential for continuously greater contribution is also a prerequisite. Reviews and recommendations of supervisors and HR staff will be sufficient to ensure that promotion is fully merited and not recommended based on meeting administrative requirements alone. [ ].

4. PROMOTION – GENERAL.

a. Administrative Requirements for Consideration.

(1) A current proficiency rating or Executive Career Field (ECF) rating of "Satisfactory/Successful" or higher.

(2) The experience, education and assignment requirements set forth in the qualification standard. Employees must meet the same grade requirements, including the specified demonstrated accomplishments, as

for appointment. Any deviation or exception to these requirements will be limited to those specified in the qualification standard.

b. **Promotions Based on Additional Experience and/or Education**. Promotions based solely on additional experience acquired by the employee shall be limited to advancements of one grade or grade interval at a time. If an employee has attained a higher level of education that, when combined with their additional experience, is qualifying for a grade higher than the next grade or grade interval, the employee may be promoted to whatever grade in the qualification standard the additional education warrants.

5. PROMOTION CONSIDERATION.

a. **Eligibility.** Full-time, part-time and intermittent employees shall be considered periodically for promotion in their current occupation. Eligibility for such promotion considerations shall be based upon fully meeting prescribed administrative requirements.

(1) Approximately 60 days prior to the date the employee meets the required period for promotion consideration, HR Officers will notify the appropriate supervisory officials that the employee is eligible for promotion consideration to the next higher grade level. The supervisor will notify the employee no later than 30 days prior to the employee's anniversary date. The employee shall then be given 30 days to submit to their supervisor a self-assessment of their qualifications for promotion consideration. Employees may also notify their supervisor in writing that they are declining to submit a self-assessment during this 30-day period. If this is done, the supervisor will proceed with a recommendation. If a self-assessment or declination is not submitted the supervisor will proceed with the recommendation at the end of the 30-day period.

(2) The supervisory official will review the duties of the position. If the supervisor is not an occupational subject matter expert or they are considering an employee for a grade higher than occupied by the supervisor, the supervisor must consult with a subject matter expert when considering promotion eligibility. The supervisory official must determine whether the duties being performed meet the definition of a higher level assignment within the qualification standard. The supervisory official must also take into consideration the information provided in the employee's self-assessment, if provided. Supervisors are to apply position management and make sound management decisions. The process and action taken for promotion is to be documented using VHA Form "Request for T38 Promotion".

b. Promotion to "Person" Based Grades not Specific to an Assignment.

(1) Promotions to grades based exclusively on the qualifications of a "person" and not specific to a grade level based on assignment, will be on the recommendation of the immediate supervisor, with a recommendation of approval by the second level supervisor and personnel action approved by HR Officer. Upon receipt of the employee's self-assessment or written declination or expiration of the 30-day time period, the immediate supervisor will make a recommendation on promotion to the second level supervisor. The immediate supervisor's recommendation] is to be acted upon by the second level supervisor within 30 days of the submission of the self-assessment or written declination by the employee or expiration of the 30-day time whichever comes first.

(2) Employees who have demonstrated the capability to successfully perform at the next higher-grade level will be recommended for promotion. (**NOTE:** Anniversary date of grade for Nurse I is based on advancement to a higher level within the grade.)

(3) Employees who have not demonstrated such capability will be informed in writing by the immediate supervisor that they are not being recommended for promotion. The written notice will state the reason(s) why the employee does not meet the criteria for promotion. The immediate supervisor may recommend the employee for promotion at a later date if it is determined that the employee has met the appropriate criteria. If not promoted during the intervening period, the employee is entitled to promotion consideration on the next anniversary date of grade. Employees who are not promoted may request promotion reconsideration under paragraph 6 below.

c. Promotion to Grades Specific to an Assignment.

(1) Employees who are selected for a position and grade that requires a combination of personal qualifications and assignment characteristics must meet the administrative requirements for promotion.

(2) Promotions to positions based on a combination of personal qualifications and assignment characteristics will become effective on the first day of the first full pay period following approval by the approving official, unless a future date set by the approving authority and at the election of the employee when doing so would benefit the employee (i.e., an employee is due a within grade increase), and that does not violate law or negotiated agreement.

6. PROMOTION RECONSIDERATION AND REVIEW.

a. **Coverage.** This paragraph applies to individuals appointed under 38 U.S.C. §§ 7401(1) or 7405(a)(1)(A)**.**

b. **Notice of Decision.** Employees are to be advised by their supervisors in writing of any decision not to promote them, of the reason(s) for the decision, of their right to request reconsideration and that reconsideration must be preceded by an informal discussion with their supervisor.

c. **Informal Discussion.** Employees and their supervisor must meet to discuss the recommendation not to promote prior to the employee submitting a request for reconsideration under paragraph d below.

d. Reconsideration Requests.

(1) To “Person” Based Grades not Specific to an Assignment

(a) If promotion to a “person” based grade that is not assignment based, the employee may, within 30 days of being notified of the decision, submit a written request through the immediate supervisor to the second level supervisor for reconsideration. The employee’s written request for reconsideration must indicate when the informal discussion was held with the immediate supervisor and cite the specific reason(s) why the employee believes the decision was not proper. The [facility] director, network director or appropriate higher-level designee (whichever is applicable), may extend the 30-day period at the written request of the employee if the employee is unable to submit the information for reasons beyond the employee’s control.

(b) Second level supervisors are to review the employee’s request within 30 days and determine whether to promote the employee. If the second level supervisor determines that a promotion is not warranted, that supervisor will provide the reasons for this decision to the employee in writing.

(c) If the employee is not satisfied with the explanation of the determination to not promote, the employee can request within 30 days to have the determination reviewed and recommendation made by the next higher-level manager. The employee’s request for reconsideration and the supervisor’s explanation will be forwarded to the next higher-level manager within 30 days.

(d) The next higher-level manager will make a recommendation within 30 days and submit through the servicing HR Office to the [facility]

director, network director or appropriate higher-level designee (whichever is applicable), who will make a final decision within 30 days.

(e) If the promotion is approved, the employee is to be promoted on the first day of the first pay period following the anniversary date of grade on which the promotion was based.

e. **Action by Human Resources.** Upon receipt of the reconsideration file, HR staff shall take one of the following actions within 15 days:

(1) [ ] In no case, will the promotion be in effect later than the first day of the first full pay period after the anniversary date of grade on which the promotion was based.

(2) If disapproved, HR staff will notify the employee of the decision in writing.

7. COVERAGE AS EMPLOYEE GRIEVANCE. Requests for promotion reconsideration are excluded from the Agency Grievance Procedure. See VA Handbook 5021, Employee/Management Relations, Part IV, Chapter 3, paragraph 16. Promotion reconsideration decisions are excluded from the negotiated grievance procedure pursuant to 38 U.S.C. § 7403(f)(1)(B). The decision of whether or not to promote a bargaining unit employee is not subject to the negotiated grievance procedure but a failure on the part of the agency to follow the promotion/reconsideration procedure in this policy may be.

8. EFFECTING ADVANCEMENT AND PROMOTION ACTIONS.

a. Effective Date.

(1) Promotion (to include advancement to a higher level within a grade) based on entitled anniversary date of grade reviews, will be made effective by the HR Officer on the first day of the pay period following the anniversary date of grade on which the promotion was based. A promotion may also be made effective at a future date set by the approving authority and at the election of the employee, that does not violate law or negotiated agreement when doing so would benefit the employee (i.e., an employee is due a within grade increase). Promotion recommendations and actions that are administratively delayed beyond the time limits specified in paragraphs 6 above will be made retroactive. All other promotion actions will be made effective the first date of the first pay period after approval of the promotion.

(2) If an employee becomes eligible for promotion while on LWOP for purposes for which they have a statutory entitlement to receive promotion consideration (e.g., military service, OWCP), no action will be taken until the employee returns to duty. If the employee, on return to duty meets all

the requirements for promotion consideration, he or she will be considered for promotion as if he or she had been continuously employed in the position.

NOTE: See chapter 6, this part, for effecting promotion actions upon return from military service.

9. [TEMPORARY PROMOTIONS].

a. An employee may be temporarily promoted to a higher graded position where the grade of the position is based on the complexity of the assignment. The employee must meet the administrative and qualification requirements for promotion and such promotions are to be processed using the procedures in paragraphs 2 and 3 above.

b. On expiration or termination of the promotion, the grade and salary of the employee will be adjusted in accordance with the provisions of VA Handbook 5007, Pay Administration. In applying the provisions of this handbook, the salary will be adjusted to the salary held previously, unless a higher rate is warranted by reason of periodic step increases. On assignment, the following statement will be placed in the “Remarks” item of the SF 50-B, Notification of Personnel Action: “Employee informed of conditions of temporary grade promotion.”

10. [OTHER GRADE CHANGES].

a. Change to Lower Grade.

(1) **General.** As provided by 38 U.S.C. § 7403(e) where an employee’s grade level and salary are based on both the nature of the assignment and the employee’s personal qualifications and the assignment is subsequently changed, the grade and salary may be adjusted as appropriate. Such action may be taken by the Under Secretary for Health or designee for Title 38 employees in centralized assignments and by the facility director for all Title 38 employees in noncentralized assignments. The facility director may delegate the authority to the chief of staff, associate director, nurse executive, and pharmacy chief for occupations under their respective purview.

(2) **Title 38 employees.** Employees appointed under authority of 38 U.S.C. § 7401(1) and permanent part-time employees appointed under 38 U.S.C. § 7405 (a)(1)(A) who are placed in a lower grade for reasons other than cause or at the employee’s request will have their pay set at the lowest step of the lower grade which equals or exceeds their existing rate of basic pay. If there is no such step, employees are entitled to pay retention.

(a) **Assignment Change.** If an employee is [involuntarily] placed in a different assignment which does not warrant the employee's current grade level, the employee will not be eligible for grade retention. The employee's entitlement to pay retention will be determined in accordance with VA Handbook 5007, Pay Administration.

(b) Assignment Change for Cause or at the Employee's Request. If an employee is changed to an assignment which does not warrant the employee's current grade level for cause or at the employee's request, the employee is not eligible for grade or pay retention**.**

NOTE: Directed transfers or reductions in grade approved under this paragraph will not be considered adverse actions under 38 U.S.C. § 7461, provided they are not based on charges related to conduct or performance. The actions are, however, grievable under the provisions of VA Handbook 5021, Employee/Management Relations.

[ ]

11. DETAILS, TEMPORARY CHANGE IN ASSIGNMENT, TEMPORARY REASSIGNMENTS, AND TEMPORARY PROMOTIONS FOR TITLE 38 EMPLOYEES APPOINTED UNDER 38 U.S.C. §§ 7401(1), 38 U.S.C. 7401(3), AND 38 U.S.C. 7405.

a. **Details.** When a title 38 or hybrid title 38 position is vacant, the facility director may detail another title 38 or hybrid title 38 employee to the position. Generally, details will not exceed 1 year and may be terminated prior to the expiration date. The facility director may approve extensions of the detail when circumstances warrant.

b. **Temporary Change in Assignment.** Individuals paid from physician and dentist pay schedules may receive a market pay adjustment and/or tier change after serving in the assignment for 60 days or more. Generally temporary change in assignment will be for a period not to exceed one year and may be terminated prior to the expiration date. The facility director may approve the extension of a temporary change in assignment not to exceed 1 additional year when circumstances warrant. On expiration or termination of the temporary assignment, the market pay and/or tier of the employee will be adjusted in accordance with the provisions of VA Handbook 5007, Pay Administration. Upon change in assignment, the following statement will be placed in the "Remarks" item of the SF 50-B, Notification of Personnel Action: "Employee informed of conditions of temporary [tier] assignment."

c. **Temporary Promotions.** If an individual is temporarily reassigned to a higher grade [assignment], the facility director may temporarily promote the individual.

Such action will be taken only after the facility director considers the recommendation of the [supervisor]. Generally, temporary promotions will be for a period not to exceed one year and may be terminated prior to the expiration date. The facility director may approve the extension of a temporary promotion not to exceed 1 additional year when circumstances warrant. On expiration or termination of the temporary promotion, the grade and salary of the employee will be adjusted in accordance with the provisions of VA Handbook 5007, Pay Administration. On approval of the temporary promotion, the following statement will be placed in the "Remarks" section of the SF 50-B: "Employee informed of conditions of temporary promotion."

NOTE: In accordance with VA Handbook 5005, Part III, Appendix N, the utilization of title 38 employees in competitive civil service positions is prohibited, unless approved by the Office of Personnel Management.

12. [OTHER GRADE CHANGES OR CHANGE IN ASSIGNMENT].

a. Change to Lower Grade or Changes in Assignment

(1) **General.** As provided by 38 U.S.C. § 7403(e), where an employee's grade or tier level and salary are based on both the nature of the assignment and the employee's personal qualifications, and the assignment is subsequently changed, the grade and salary may be adjusted as appropriate.

(2) Key Nursing Personnel [ ] in Nurse IV and V Whose Grade is Based on Both Their Personal Qualifications and Responsibilities of Their Assignment.

(a) **Placement in a Lower Grade for the Good of VA.** Employees placed in a lower grade for reasons other than cause or at the employee's request will have their pay set at the lowest step of the lower grade which equals or exceeds their existing rate of basic pay. If there is no such step, employees are entitled to pay retention.

(b) **Voluntary Changes to a Lower Grade.** Employees who take a voluntary change to a lower grade may have their pay set at any step of the grade that does not exceed their highest previous rate. However, the employee is not eligible for pay retention, and, if the employee changes facilities, the pay rates of the gaining facility shall be applicable. The employee must submit a written request, through channels, for the employment change. The employee's signed request is to be filed on the right side of the employee's personnel folder.

b. Review of Assignments of Key Nursing Personnel [(Nurses Other Than Nurse Executives) and APN (Certified Nurse Anesthetists)] in Nurse IV and Above Whose Grade is Based on Both Their Personal Qualifications and Responsibilities of Their Assignment.

(1) Facility directors or officials in Central Office may request review of an assignment if they believe it no longer warrants the current grade; the assignment cannot be restructured within the requesting official's scope of responsibilities; and the employee will not voluntarily accept a change to a lower grade. The responsible program official will initiate such a review if there has been a significant change in the assignment or an accretion or erosion of responsibilities suggests that the assignment would be more appropriately placed in a different grade.

(2) Recommendations related to [RN and APN assignments] will be sent to the Office of Nursing Services. Those related to [APN (CNA)] assignments will be sent to the Central Office [ ] Office of Patient Care Services. If it is determined that the grade is inappropriate, the correct grade will be identified, and the following action will be taken:

(a) Any promotion or advancement will be effected on the first day of the first pay period following the approving official's determination.

(b) If the Central Office program official determines that the current grade is no longer warranted:

i The facility's request is forwarded to the Assistant Deputy Under Secretary for Health (10N). This office will attempt voluntary or involuntary placement of the employee in a more appropriate assignment. If no placement opportunities are available, the request will be returned to the facility.

ii The requesting official shall reduce the employee to the appropriate grade. Such employees are eligible for pay retention.

NOTE: Directed transfers or reductions in grade approved under this paragraph will not be considered adverse actions under 38 U.S.C. § 7461, provided they are not based on charges related to conduct or performance. The actions are, however, grievable under the provisions of VA Handbook 5021, Employee/Management Relations.

[ ]

SECTION B. PROMOTION AND INTERNAL PLACEMENT OF HYBRID TITLE 38 EMPLOYEES

[1. GENERAL. This section contains instructions and procedures governing promotions of those occupations under sections 7401(3) and 7405 (a)(1)(B) of title 38, United States Code. Promotion is advancement to a higher-grade level and recognizes that an employee is providing a higher level of service to VA.

2. **POLICY.**

a. Promotion actions will be taken without regard to race, color, religion, sex, national origin, disability, age, sexual orientation, or status as a parent, or any other non-merit factor, and shall be based solely on job-related criteria.

b. Promotion actions will conform to the restrictions governing the employment of relatives. (See VA Handbook 5025, Legal.)

c. All hiring actions will adhere to Veterans Preference requirements as prescribed in Part I, Chapter 4, *Preference to Veterans in Making Hybrid Title 38 Appointments* .

d. Nothing in this handbook shall be interpreted to diminish hybrid title 38 grievance rights negotiated under any collective bargaining agreement.

3. RESPONSIBILITIES.

a. Human Resources is responsible for:

(1) Before recruitment is initiated, Human Resources will work in collaboration with the supervisor to determine the eligibility and qualifications requirements that pertain to the assignment and grade level for the position to be filled in accordance with the qualification standards found in VA Handbook 5005, Part II Appendices found in appendix “G”. If the supervisor is not a subject matter expert in the profession, the supervisor must consult with the subject matter expert throughout the recruitment and onboarding process for the vacant position.

(2) Determining eligibility and qualifications in accordance with standards found in VA Handbook 5005, Part II found in Appendix “G” and recommend the appropriate grade to the selecting official for appointments, promotions, reassignments and change to lower grades.

(3) Documentation qualification determinations for each applicant by completing a separate VHA qualification form for each of the applicants.

(4) Consulting with the profession subject matter expert during the development of the assignment, recruitment and onboarding of the selected candidate.

(5) Human Resources will notify candidates who fail to meet the requirements and fail to qualify for appointment.

(6) Processing requests for reassignments/change to lower grades in compliance with VA Handbook 5005, Part III, Chapter 4 Section B.

b. The supervisor at the appropriate level is responsible for:

(1) Obtaining an approval to fill a vacant position in accordance with local procedures. Once approval is obtained the service will initiate recruitment action and contact the servicing Human Resources Office (HRO).

(2) The Supervisor will review applications referred for selections. Supervisors who are not subject matter experts must consult subject matter experts when evaluating applications. This may take the form of a panel, or consultation with the subject matter expert for the profession.

(3) Once a selection is made the Supervisor will consult with Human Resources and the profession subject matter expert (if applicable), and submit supporting documentation for utilization of pay setting flexibilities (if applicable) found in VA Handbook 5007, Part II, Chapters 2, 3 and 4, pertaining to hybrid title 38.

(4) Review requests or recommendations for promotions and make recommendations consistent with 5, 6 and 7 below.

c. The Medical Center Director/Network Director will (for personnel under their jurisdiction) review and serve as the deciding official on requests for additional steps above the minimum on appointments.

4. **PROMOTION]**

a. This section contains instructions and procedures governing the promotion of employees who are appointed under sections 7401(3) and 7405 (a)(1)(B) of title 38, United States Code. Promotion is an advancement to a higher-grade level and recognizes that an employee is providing a higher level of service to VA.

b. The promotion system shall provide advancement opportunities for employees, predicated upon the recognition of the quality of service rendered, additional experience and professional attainment as determined by an examination of the employee's individual record.

c. To meet the criteria for promotion, the individual must meet the criteria for the next higher-grade level in the qualification standard. Examination of the individual's total record must reveal evidence that the contribution to VA medical service is of sufficient value to warrant promotion. Potential for continuously greater contribution is also a prerequisite. Reviews and recommendations of supervisors and Human Resources will be sufficient to ensure that promotion is fully merited and not recommended based on meeting administrative requirements alone.

[5.] PROMOTION – GENERAL

a. Administrative Requirements for Consideration

(1) A current performance rating of "Satisfactory" or higher.

(2) The experience, education, and performance requirements set forth in the qualification standard. Employees must meet the same grade requirements, including the specified

demonstrated accomplishments, as for appointment. Any deviation or exception to these requirements will be limited to those specified in the qualification standard.

b. **Promotions Based on Additional Experience and/or Education**. Promotions based solely on additional experience acquired by the employee shall be limited to advancements of one grade or grade interval at a time. If an employee has attained a higher level of education that, when combined with their additional experience, is qualifying for a grade higher than the next grade or grade interval, the employee may be promoted to whatever grade in the qualification standard the additional education warrants.

c. **Processing Procedures** (See appendix III-M, this part)

[6]. PROMOTION CONSIDERATION

a. [**Eligibility.]** Full-time, part-time, and intermittent employees shall be considered periodically, consistent with 7-b and 7-c below, for promotion in their current occupation. Eligibility for such promotion considerations shall be based upon fully meeting prescribed administrative requirements.

[(1)] Approximately 60 days prior to the date the employee meets the required period for promotion consideration, Human Resources Management Officers will notify the appropriate supervisory officials that the employee is eligible for promotion consideration to the next higher-grade level. The supervisor will notify the employee no later than 30 days prior to the employee's anniversary date. The employee shall then be given 30 days to submit to their supervisor a self-assessment of their qualifications for promotion consideration. Employees may also notify their supervisor in writing that they are declining to submit a self-assessment during this 30-day period. If this is done, the supervisor will proceed with a recommendation. If a self-assessment or declination is not submitted the supervisor will proceed with the recommendation at the end of the 30-day period.

[(2) The supervisory official will review the duties of the position. If the supervisor is not an occupational subject matter expert, the supervisor must consult with a subject matter expert when considering promotion eligibility. The supervisory official must determine whether the duties being performed meet the definition of a higher-level assignment with the qualification standard. The supervisory official must also take into consideration the information provided in the employee's self-assessment, if provided. Supervisors are to apply position management and make sound management decisions. If the supervisor determines the additional duties were higher level duties that are above the full performance level, the supervisor must determine whether s/he gave other employees in the same position an opportunity to perform the additional duties. The supervisory official is responsible for requesting and obtaining an approval to establish and fill the position in accordance with local procedures. The process and actions taken is to be documented using VHA Form "Request for HT38 Promotion Up to Full Performance Level" or "Request for HT38 Promotion Above Full Performance Level" whichever is applicable.]

[b.] **Promotion to Grades at or Below Full Performance Level.**

(1) Promotions to grades at or below the full performance level (see Appendix III-O, this part) will be based on the recommendation of the immediate supervisor, recommendation of approval by the second level supervisor and personnel action approved by Human Resources Officer. Upon receipt of the employee's self-assessment or written declination or expiration of the 30-day time period, the immediate supervisor will make a recommendation on promotion to the second level supervisor. The immediate supervisor's recommendation] is to be acted upon by the second level supervisor within 30 days of the submission of the self-assessment or written declination by the employee or expiration of the 30-day time whichever comes first.

(2) Employees who have demonstrated the capability to successfully perform at the next higher-grade level will be recommended for promotion. Promotions will become effective on the first day of the first full pay period following approval by the second level supervisor. In no case will the promotion be effected later than the employee's anniversary date unless a future date set by the approving authority and at the election of the employee when doing so would benefit the employee (i.e. an employee is due a within grade increase), and that does not violate law or negotiated agreement.]

(3) Employees who have not demonstrated such capability will be informed in writing by the immediate supervisor that they are not being recommended for promotion. The written notice will state the reason(s) why the employee does not meet the criteria for promotion. The immediate supervisor may recommend the employee for promotion at a later date if it is determined that the employee has met the appropriate criteria. If not promoted during the intervening period, the employee is entitled to promotion consideration on the next anniversary date of grade. Employees who are not promoted may request promotion reconsideration under paragraph 7 below.

[c.] **Promotion to Grades above the Full Performance Level**.

(1) Employees who are eligible for promotion consideration to a grade that requires a combination of personal qualifications and assignment characteristics are to be considered for promotion to such grades on the first anniversary date of their last promotion, provided they meet the administrative requirements. This automatic consideration only occurs on the first anniversary for each grade level. In addition, employees who are selected for supervisory or managerial assignments that warrant consideration for a higher grade and for assignments based on complexity will be considered for promotion on a date other than the anniversary date of last promotion.

(2) If after reviewing the employee's self-assessment, if submitted, and other relevant material, the appropriate management official (e.g., service chief) determines that the assignment does not meet the qualification standard for a higher grade, that official shall document the reasons for this determination in writing and provide a copy of the determination to the employee. Employees who do not agree with the determination may request promotion reconsideration under paragraph 7 below.

(3) If the appropriate management official believes the assignment meets the qualification standard requirements for promotion, a request for personnel action is to be prepared and submitted, along with all relevant information to Human Resources for consideration within 30 days. If applicable, the employee will be given a copy of the supervisor's comments relating to the self-assessment. Human Resources Staffing Specialist will review and forward its recommendation on qualifications to the Human Resources Officer, for approval

of personnel action. Human Resources will have no more than 30 days to complete their review. Promotions will become effective on the first day of the first full pay period following approval by the approving official. In no case, will the promotion be effected later than the first day of the first full pay period commencing 60 days after the employee's anniversary date.

(4) If, under paragraph (2) or (3) above, the appropriate management official or Human Resources Officer does not recommend the employee's promotion, the employee will no longer receive an automatic annual promotion consideration. The appropriate management official may recommend such employee for promotion at any time in the future provided the employee's duties and responsibilities change to the point that the criteria for promotion to the next grade may be warranted. Employees may request promotion consideration by the appropriate management official on subsequent anniversary dates if their duties have changed since they were last considered and the employee believes that these changes meet the criteria in the qualification standard for a higher grade. For the reconsideration process for a denial, see paragraph 7 below.

[7.] PROMOTION RECONSIDERATION AND REVIEW

a. **Coverage.** This paragraph applies to individuals appointed under 38 U.S.C. 7401(3) or 7405(a)(1)(B)**.**

b. **Notice of Decision.** Employees are to be advised by their supervisors in writing of any decision not to promote them, of the reason(s) for the decision, of their right to request reconsideration, and that reconsideration must be preceded by an informal discussion with their supervisor.

c. **Informal Discussion.** Employees and their supervisor must meet to discuss the recommendation not to promote prior to the employee submitting a request for reconsideration under paragraph d below.

d. Reconsideration Requests

(1) **To Grades at or Below the Full Performance Level**

(a) If promotion to a grade at or below the full performance level (see Appendix III-O, this part) is involved, the employee may, within 30 days of being notified of the decision, submit a written request through the immediate supervisor to the second level supervisor for reconsideration. The employee's written request for reconsideration must indicate when the informal discussion was held with the immediate supervisor and cite the specific reason(s) why the employee believes the decision was not proper. The Medical Center Director, Network Director, or appropriate higher-level designee (whichever is applicable) may extend the 30-day period at the written request of the employee if the employee is unable to submit the information for reasons beyond the employee's control.

(b) Second level supervisors are to review the employee's request within 30 days and determine whether to promote the employee. If the second level supervisor determines that a promotion is not warranted, that supervisor will provide the reasons for this decision to the employee in writing.

(c) If the employee is not satisfied with the explanation of the determination to not promote, the employee can request within 30 days to have the determination reviewed and recommendation made by the next higher-level manager. The employee's request for reconsideration and the supervisor's explanation will be forwarded to the next higher-level manager within 30 days.

(d) The next higher-level manager will make a recommendation within 30 days and submit through the servicing Human Resources Office to the Medical Center Director, Network Director, or appropriate higher level designee (whichever is applicable), who will make a final decision within 30 days.

(e) If the promotion is approved, the employee is to be promoted on the first day of the first pay period following a decision by the approving official. In no case, will the promotion be effected later than the first day of the first full pay period commencing 60 days after the employee submits a written request for reconsideration, unless the employee requested an extension to the 30-day period to submit a written request for reconsideration. In such cases, the number of additional days taken by the employee to submit a request will be added to the 60-day time limit. If the promotion is denied, the employee will be provided with a copy of the decision.

(2) **For Promotions to Grades above the Full Performance Level**

(a) Within 30 days of the non-promotion decision, an employee may submit a written request for reconsideration to their immediate supervisor. This 30-day period may be extended at the written request of the employee if the employee is unable to submit the information for reasons beyond the employee's control.

i. The employee's written request for reconsideration must indicate when the informal discussion (see Paragraph 7 c above) was held with the immediate supervisor and cite the specific reason(s) why the employee believes the decision was not proper.

ii. Immediate supervisors are to review and comment on the employee's request in writing and provide copies of those comments to the employee within 15 days.

iii. The immediate supervisor will submit the written reconsideration request and any supervisory comments to the next higher-level supervisor.

(b) The next higher-level supervisor will review the information submitted by the employee, along with the immediate supervisor's comments, and make a recommendation to Medical Center Director, Network Director, or appropriate higher level designee (whichever is applicable) through Human Resources within 15 days.

i. If Human Resources determines that the employee's request does not include when the informal discussion was held or the specific reasons why the employee believes the decision was not proper, Human Resources will return the request to the employee for completion.

ii. The employee has 30 days from the date of receipt of the returned request to obtain the additional information and return it to Human Resources. The Medical Center Director, Network Director, or appropriate higher-level designee (whichever is applicable) may extend the 30-day period if the employee is unable to submit the information for good cause shown.

iii. The Medical Center Director, Network Director, or appropriate higher-level designee (whichever is applicable) has 15 days to make decision. This 15-day period may be extended up to the number of days it took the employee to provide the appropriate management official with the proper information.

iv. Upon making the decision, the Medical Center Director, Network Director, or appropriate management official (as the approving official) will forward the decision to the Human Resources for action under paragraph e. below.

e. **Action by Human Resources.** Upon receipt of the reconsideration file, Human Resources shall take one of the following actions within 15 days:

(1) If approved, promotions will be made effective on the first day of the first full pay period following approval. In no case, will the promotion be effected later than the first day of the first full pay period commencing 60 days after the employee submits a written request for reconsideration, unless the employee requested an extension of the 30-day period to submit a written request for reconsideration. In such cases the number of additional days taken by the employee to submit a request will be added to the 60-day time limit.

(2) If disapproved, Human Resources will notify the employee of the decision in writing.

[8.] COVERAGE AS EMPLOYEE GRIEVANCE. Requests for promotion reconsideration are excluded from the Agency Grievance Procedure. See VA Handbook 5021, Part IV, Chapter 3, paragraph 16. Promotion reconsideration decisions are excluded from the negotiated grievance procedure pursuant to 38 U.S.C. 7403(f)(1)(B). The decision of whether or not to promote a bargaining unit employee is not subject to the negotiated grievance procedure but a failure on the part of the agency to follow the promotion/reconsideration procedure in this policy may be.

[9.] EFFECTING ADVANCEMENT AND PROMOTION ACTIONS

a. **Effective Date**

(1) The promotion will be made effective by the Human Resources Management Officer on the first day of the pay period following the date of approval of the promotion by the approving official, but in no case earlier than the date on which all administrative requirements are met. A promotion may also be made effective at a future date set by the approving authority and at the election of the employee, that does not violate law or negotiated agreement when doing so would benefit the employee (i.e. an employee is due a within grade increase). Promotion recommendations and actions that are administratively delayed beyond the time limits specified in paragraphs 6 and 7 above will be made retroactive.

(2) If an employee becomes eligible for promotion while on LWOP for purposes for which they have a statutory entitlement to receive promotion consideration (e.g., military service, OWCP), no action will be taken until the employee returns to duty. If the employee on return to duty meets all the requirements for promotion consideration, he or she will be considered for promotion as if he or she had been continuously employed in the position.

NOTE: See chapter 6, this part, for effecting promotion actions upon return from military service.

[10.] TEMPORARY PROMOTIONS

a. An employee may be temporarily promoted to a higher graded position where the grade of the position is based on the complexity of the assignment. The employee must meet the administrative and qualification requirements for promotion and such promotions are to be processed using the procedures in paragraphs 5, 6 and 7 above.

b. On expiration or termination of the assignment, the grade and salary of the employee will be adjusted in accordance with the provisions of VA Handbook 5007, Pay Administration. In applying the provisions of this handbook, the salary will be adjusted to the salary held previously, unless a higher rate is warranted by reason of periodic step increases. On assignment, the following statement will be placed in the "Remarks" item of the SF 50-B, Notification of Personnel Action: "Employee informed of conditions of temporary grade assignment."

c. This temporary promotion no longer requires a professional standards board action and will occur without recourse to such board action. The absence of a board action shall not bar an employee from grieving a failure to temporarily promote pursuant to this section under the negotiated grievance procedure or agency grievance procedure as appropriate.

[11.] OTHER GRADE CHANGES

a. Change to Lower Grade

(1) **General.** As provided by 38 U.S.C. 7403, where an employee's grade level and salary are based on both the nature of the assignment and the employee's personal qualifications, and the assignment is subsequently changed, the grade and salary may be adjusted as appropriate. Such action may be taken by the Under Secretary for Health or designee for Hybrid Title 38 employees in centralized positions and for all Hybrid Title 38 employees in assignments at GS-13 and above; and by the facility Director for all Hybrid Title 38 employees in noncentralized assignments below GS-13. The facility Director may delegate the authority to the Chief of Staff, Associate Director, Nurse Executive, Pharmacy Chief for occupations under their respective purview.

(2) Hybrid Title 38 employees. Employees appointed under authority of 38 U.S.C. 7401(3) and permanent part-time employees appointed under 38 U.S.C. 7405 (a)(1)(B) are entitled to the following grade and pay retention provisions.

(a) **Erroneously Graded Assignments.** If an employee's grade is based on both the nature of assignment and personal qualifications and the assignment does not meet the requirements for the employee's grade, the employee shall be eligible for grade and pay retention if the employee has been in grade for at least 1 year. If the employee has been in grade for less than 1 year, the employee shall be eligible for pay retention, and pay shall be set in accordance with 5 CFR, part 536.

(b) **Change in Assignment.** If the duties and responsibilities of an employee's assignment change sufficiently, either through gradual erosion or planned management action, so that it no longer warrants the grade level of the incumbent, the incumbent shall be eligible for grade and pay retention provided the incumbent has been in grade for at least 52 weeks. If the employee has been in grade for less than 52 weeks, the employee shall be eligible for pay retention, and pay shall be set in accordance with 5 CFR, part 536.

(c) **Assignment Change.** If an employee is voluntarily placed in a different assignment which does not warrant the employee's current grade level, the employee will not be eligible for grade retention. The employee's entitlement to pay retention will be determined in accordance with VA Handbook 5007, Pay Administration.

(d) **Assignment Change for Cause or at the Employee's Request.** If an employee is changed to an assignment which does not warrant the employee's current grade level for cause or at the employee's request, the employee is not eligible for grade or pay retention**.**

NOTE: Directed transfers or reductions in grade approved under this paragraph will not be considered adverse actions under 38 U.S.C. 7461, provided they are not based on charges related to conduct or performance. The actions are, however, grievable under the provisions of VA Handbook 5021, (Employee/Management Relations).

CHAPTER 5. CONVERSIONS OR CHANGE IN ASSIGNMENTS (TITLE 38)

1. Change in assignment for physicians and dentists will be processed by a Compensation Panel. (See VA Handbook 5007, Pay Administration, Part IX.) All personnel actions changing an employee from one type of appointment to another under authority of 38 U.S.C., chapter 73 or 74 and not involving a break in service will be processed as conversions except changes from or to fee-basis appointments under authority of 38 U.S.C. § 7405(a)(2) and lump-sum fee-basis appointments of consultants and attending's under authority of 38 U.S.C. § 7405(a)(2), and without compensation appointments under 38 U.S.C. § 7405(a)(1). These actions will be processed as new appointments. Changes in grades or levels for employees on time-limited appointments under 38 U.S.C. § 7405(a)(1) will be processed as conversions.

NOTE: Conversion or change in assignment to another appointment giving the employee fewer rights and benefits will not be made until the employee has been advised in writing of the conditions of employment under the new appointment and the employee has submitted a written resignation or other written evidence clearly indicating voluntary separation from the previous employment.

2. UTILIZATION ON A FEE-BASIS.

a. Individuals who render service to VA on a fee-basis, such as employees paid according to a schedule of fees or consultants or attending's used by letter of appointment (see part II, section G, this handbook) may not be converted to appointments under the provisions of 38 U.S.C. §§ 7306, 7401(1), 7401(3), and 7405(a)(1). Fee-basis employees will be terminated prior to appointment under these authorities.

b. Full-time, part-time or intermittent employees appointed under 38 U.S.C. §§ 7306, 7401(1), 7401(3), or 7405(a)(1), may not be converted to utilization on a fee-basis. An employee must resign or the appointment must be terminated prior to rendering service on a fee-basis except for instances in which dual appointment has been approved. (See part II, chapter 3, section A.)

3. ACTION BY [SUPERVISORY OFFICIAL OR COMPENSATION PANEL]

a. A [supervisor] will be responsible for making recommendations to the approving authority concerning any conversion action to a probationary appointment under 38 U.S.C. § 7401(1) or servicing HR Office for those under 38 U.S.C. § 7401(3), whichever is applicable, as well as RNs [or APNs] appointed part-time or intermittent under 38 U.S.C. § 7405(a)(1), and on any conversion involving a change in grade and/or step rate within the grade.

b. No [additional action] will be required on conversion from an appointment under 38 U.S.C. §§ 7401(1), 7401(3) or 7405(a)(1) for individuals appointed as part-

time or intermittent RNs [or APNs], provided the employee has previously acquired permanent status under 38 U.S.C. §§ 7401(1) or 7401(3) or completed a probationary period under 38 U.S.C. § 7405(a)(1) for individuals appointed as part-time or intermittent RNs [or APNs], as appropriate, and has had continuous service under 38 U.S.C., chapter 73 or 74 since acquiring such status.

c. The [supervisor] will determine that the employee's past and expected future performance and physical, mental and emotional ability warrants the change in employment status. [ ]

d. The Compensation Panel will document any change in assignment on VA Form 10-0432a, Compensation Panel Action, along with a recommendation to the approving official.

4. APPROVAL AUTHORITY. All conversion actions or change in assignments may be approved by the facility director except those involving a change in grade or step rate or tier level for which the approving authority is vested in Central Office or where Central Office approval is specifically required.

5. PROCESSING REQUIREMENTS.

a. Personnel actions necessary to effect conversions to appointments or change in assignments under 38 U.S.C., chapter 73 or 74 generally will be effective the first day of the pay period following approval of the conversion or change in assignment except where otherwise specified. When necessary, in order to prevent a break in service caused by the expiration of an appointment prior to the first day of the next pay period, the action may be made effective the first day following the expiration of such appointment.

b. The nature of action will indicate conversion or change in assignment to an appropriate excepted appointment under the authority of 38 U.S.C., chapter 73 or 74. For individuals converted to an appointment under 38 U.S.C. § 7401(1), as well as individuals converted to an appointment as a part-time or intermittent RN [or APN] under 38 U.S.C. § 7405(a)(1), the "Remarks" section of the SF 50-B will, when appropriate, state "Appointment subject to probationary period of 2 years." When appropriate, it will also show the amount of any prior service which is creditable toward completion of the required probationary period or a remark that the probationary period was completed.

c. A new application is not required for conversions or change in assignments when one is already on file and VA Form 10-2850, 10-2850a, or 10-2850c is not specifically required.

6. CONVERSION OR CHANGE IN ASSIGNMENTS TO APPOINTMENT UNDER 38 U.S. C. § 7401(1) FROM APPOINTMENT UNDER 38 U.S.C. § 7306. Employees serving under 38 U.S.C. § 7306 appointments will notify the Under Secretary for Health (10) if they desire full-time appointments under 38 U.S.C. § 7401(1). (See part II, chapter 3, section A, this handbook.) [The supervisory official] will recommend to the Under Secretary for Health the grade and rate of pay and type of assignment which should be made on conversion. The Central Office Compensation Panel for physicians and dentists will recommend a tier determination to the Under Secretary for Health on changes in assignment. On approval of the [ ] recommendation by the Under Secretary for Health, personnel action will be taken to affect the conversion or change in assignment.

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[CHAPTER 6. REEMPLOYMENT PROCEDURES UNDER THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USERRA) OF 1994

1. PURPOSE. USERRA is a Federal statute that protects Servicemembers' and Veterans' civilian employment rights. Under certain conditions, USERRA requires employers to put individuals back to work in their civilian jobs after military service. USERRA also protects Servicemembers from discrimination in the workplace based on their military service. This chapter explains reemployment procedures, rights and benefits of Service members, and identifies employee, manager/supervisor, and human resources responsibilities under USERRA law.

2. COVERAGE. The provisions in this chapter cover VA employees who are former, current or future members of the uniformed services. Employees on time-limited appointments are covered and entitled to reemployment rights until their appointment expires. Facilities must reemploy employees for the period necessary to finish the unexpired portion of their appointment upon their return to duty.

3. DEFINITIONS

a. **Benefit**, **Benefit of Employment, or Rights and Benefits.** Any advantage, profit, privilege, gain, status, account, or interest (including wages or salary for work performed) that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice which is consistent with provisions in 38 U.S.C. 4303, that apply to Federal employees.

b. **Escalator Principle**. The reemployment of returning Servicemembers in positions for which they qualify and would have otherwise attained had they remained continuously employed.

c. **Injury.** A compensable injury sustained under the provisions of 5 U.S.C. chapter 81, subchapter 1, and includes, in addition to accidental injury, a disease most likely caused by the employment.

d. **Military Leave.** Paid leave provided to reservists and members of the National Guard under 5 U.S.C. 6323.

e**. Notice.** Any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such service or by the uniformed service in which such service is to be performed.

f. **Physically Disqualified.** The employee is unable to perform the duties of the position formerly held or an equivalent position due to medical reasons; there is a medical reason to restrict the individual from some or all essential duties because of possible incapacitation (for example, a seizure) or because of risk of health impairment (such as further exposure to a toxic substance for an individual who has already shown the effects of such exposure); or the health condition is considered permanent with little likelihood for improvement or recovery.

g. **Qualified.** Having the ability to perform the essential tasks of the position.

h. **Reasonable Efforts.** Actions for a person returning from the uniformed service, including training required or provided by the Department, that does not place an undue hardship on the Department.

i. **Seniority.** Longevity in employment together with any benefits of employment that accrues with or is determined by longevity in employment.

j. **Service in the Uniformed Services.** Performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard, and a period for which a person is absent from employment for the purpose of examination to determine fitness for employment.

k. **Status.** The particular attributes of a specific position, which may include rank, responsibility, duties, working conditions, pay, tenure, and seniority.

l. **Undue Hardship.** Actions taken by an agency/department requiring significant difficulty or expense, when considered in light of the nature and cost of actions needed under 5 CFR, part 353, the overall financial resources of the facility involved in taking the action, the number of persons employed at the facility, the effect on expenses and resources, or the impact otherwise of the action on the operation of the facility, and the overall size of the department with respect to the number of employees, the number, type, and location of facilities and type of operations, including composition, structure, and functions of its workforce.

m. **Uniformed Services.** The Armed Forces, Army National Guard, and Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, approved training to prepare for such service, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

4. RESPONSIBILITIES

a. Employee/Servicemember Responsibilities

(1) Give advanced oral or written notice of upcoming service unless doing so is impossible or precluded by circumstances beyond the employee's control;

(2) Provide the supervisor and HR office an updated resume and a list of title 5 positions of interest or request consideration for hybrid/title 38 promotion opportunities, whichever is applicable, to ensure employees receive proper consideration if/when such positions are announced during their uniformed service-related absences;

(3) Update official personnel folder;

(4) As a courtesy, provide supervisor and servicing HR office an advanced copy of orders (if available), the military unit address, phone number, a point of contact, and a current mailing address;

NOTE: *USERRA only requires that employees provide a copy of orders upon their return to duty to establish timeliness of reemployment, and length and character of service when absent more than 30 days, hospitalized, or convalescing from an injury aggravated or incurred during a uniformed service-related absence. USERRA does not prohibit an employer from requesting a courtesy copy of orders for record before the employee leaves. Employees may choose to provide a courtesy copy of orders at the facility's request. However, a facility may not require such documentation from employees prior to reemployment.*

(5) Meet eligibility requirements identified in 38 U.S.C. 4312; and

(6) Apply for reemployment and return to duty in accordance with time limits in 5 CFR 353.205.

b. **Manager/Supervisor Responsibilities**

(1) Notify employees of their USERRA rights and responsibilities;

(2) Request that employees provide an advanced schedule of military drills/assignments as early as possible or when notified of upcoming military service obligations.

(3) Request a courtesy copy of orders (if available), the military unit address, phone number, a point of contact, and an alternate mailing address. If orders are not available, employees absent more than 30 days must provide orders when reemployed;

(4) Determine if employees wish to receive consideration for positions or promotion opportunities during uniformed service-related absences. If so, request employees provide an updated resume and a list of such positions or written acknowledgement of interest in hybrid/title 38 promotion opportunities, whichever is applicable (see paragraphs 8b and c, this part);

(5) Notify the servicing Human Resources (HR) office, provide a courtesy copy of the orders (if provided) along with the updated employee contact information, and submit request to place employee on LWOP or other authorized leave;

(6) Complete required USERRA training in accordance with PL 110-389, and related Office of Personnel Management (OPM) requirements; and

(7) If employee is absent 91 days or more, provide performance expectations within the first 30 days of the employees return to duty and provide training to reintegrate the employee if necessary after 90 days.

c. **HR Office Responsibilities**

(1) Notify employees of their USERRA rights and responsibilities, reemployment procedures, time limits for reemployment;

(2) Display the "Your Rights Under USERRA" poster in visible areas throughout the facility;

(3) Inform employees that they may apply for jobs via USAJobs during their absence;

(4) Request employees provide a courtesy copy of orders (if available), documentation of their requests for consideration, an updated resume and a list of positions for which they request consideration. Ensure that employees receive consideration if/when such positions are announced during a uniformed service-related absence;

(5) Determine employee's eligibility for reservist differential in accordance with 5 U.S.C. 5538, and take appropriate action.

(6) Advise employees regarding procedures for lump sum payment of annual leave in 5 CFR 550.1203(c) and VA Handbook 5007, part IV, chapter 3;

(7) Update employees' official personnel folders accordingly. Maintain active files for employees who are currently on leave in conjunction with military service, but will ~~to~~ return to duty. Transfer official personnel folders of separated employees to the National Personnel Records Center;

(8) Reemploy eligible employees with accrued seniority, status, and pay as soon as possible, but not later than 30 days after receiving their reemployment application;

(9) Provide Employee Assistance Program information in case the employee needs such services.

(10) Consider employees for any opportunity, incident or advantage of employment missed during periods of uniformed service in accordance with the provisions of 5 CFR 353.106. (See this part, paragraph 8, Promotion Consideration); and

(11) Complete required USERRA training in accordance with PL 110-389, and related OPM requirements.

5. FIVE-YEAR CUMULATIVE SERVICE LIMIT. Cumulative uniformed service-related absences must not exceed five years with each employer unless the excess service meets the criteria for exceptions in 5 CFR 353.203. Aside from these exceptions, individuals who exceed the five-year limit are not entitled to reemployment protection under USERRA. However, the five-year period starts over and USERRA protections resume each time an employee moves from one agency to another.

6. STAFF COVERAGE

a. **Scheduling Conflicts.** HR staff or supervisors may contact uniformed services authorities to request a scheduling adjustment if an employee's service obligations repeatedly impact the efficiency of service. Department of Defense regulation, 32 CFR 104.4(d) directs military authorities to consider such requests to minimize coverage issues. However, employees are not required to obtain the employer's permission to complete a uniformed service obligation if the unit official does not adjust the employee's schedule.

b. **Temporary Coverage.** When justified, facilities may temporarily fill positions encumbered by employees on extended military leave. In such cases, the provisions in 5 CFR, part 316, subpart D and, part III, chapter 2 of this handbook apply. Facilities may also maintain staff coverage with details. Details in VA must conform to both the requirements of 5 U.S.C. 3341, 5 CFR, part 300, and the restrictions on details to higher graded positions in 5 CFR, part 335, subpart C, and paragraph 15 of chapter 3 in this part.

7. REEMPLOYMENT

a. **Eligibility for Reemployment.** Employees must meet the following criteria to be eligible for reemployment:

(1) Leave position of employment to perform in the uniformed services;

(2) Give notice of uniformed service obligation unless prevented by justifiable circumstances;

(3) Be released from the uniformed services under honorable conditions;

(4) Not exceed the 5-year cumulative service limit, unless service is an exception to the limit; and

(5) Apply for reemployment within appropriate time limits based on length of service.

b. **Application for Reemployment.** Employees absent more than 30 days must apply for reemployment by notifying the facility either verbally or in writing of their intent to return to work. Facilities must reemploy individuals who fail to apply for reemployment within the timeframes below, but absent appropriate justification, employees may be subject to disciplinary action for failure to report to work in a timely manner.

(1) Employees absent 30 days or less or for a period necessary to complete a fitness for duty exam must report back to work on the first regularly scheduled work day after release from service, safe travel home, and 8 hours of rest;

(2) Employees absent 31 to 180 days must submit reemployment application no later than 14 days after completion of service;

(3) Employees absent more than 180 days must submit reemployment application no later than 90 days after completion of service;

(4) Employees who are hospitalized or recovering from illness or injury aggravated or incurred during military service, must report for duty at the end of a recovery period based on their length of service as described above consistent with 5 CFR 353.205.

NOTE: *When warranted, facilities may extend an injured/ill employee's (described under b (4)) report date by the minimum time necessary for his/her full recovery, not to exceed a maximum of 2 years.*

c. **Reemployment Position.** Facilities must reemploy returning Servicemembers/employees under the following circumstances consistent with the provisions in 5 CFR 353.207:

(1). If absent 90 days or less, reemploy employees in the position for which they qualify and would have attained if they remained continuously employed, (the position obtained as a result of applying the escalator principle), or in their former position, if employees are unqualified after putting forth reasonable efforts to help them become qualified.

NOTE: *Applying the escalator principle could have a positive or an adverse impact on an employee's reemployment position. Facilities will determine an individual's reemployment position on a case-by-case basis subject to circumstances specific to the employee's position of record. Examples of events that could affect an employee's position are workforce restructuring, classification decisions or other actions that impacted the employee's position of record and occurred during his/her military service-related absence.*

(2) If absent more than 90 days, USERRA permits placing returning employees in positions of like seniority, status, and pay. However, in VA, facility HR offices must make every effort to reemploy all returning employees in their former position, and put forth reasonable efforts to qualify them prior to placing them in positions of like seniority, status, and pay.

(3) In either case, if employees are not disabled, but are unqualified (for reasons other than service-connected disabilities) after exhaustive efforts to qualify them, reemploy them in any position for which they qualify that is of lesser status and pay, with full seniority.

(4) Exhaust efforts to provide reasonable accommodations for employees with service-connected disabilities. Otherwise, reemploy them in other positions for which they qualify that are of like seniority, status, and pay, or the nearest approximation thereof, unless reemployment would impose undue hardship.

d. **Compensably Injured or Physically Disqualified.** Employees who suffer compensable injuries and, become physically disqualified for their former position due to those injuries are subject to the reemployment provisions in CFR 353.301.

e. **Documentation Upon Return.** Employees who were absent more than 30 days must provide one of the following documents to validate length and character of service and timeliness of application for reemployment. Employees may be subject to termination if they are ineligible for reemployment.

(1) Military orders, or a letter from unit official that provides the dates of service;

(2) DD Form 214 displaying dates and character of service (honorable service required);

(3) Certificate of completion from the military training school; or

(4) Copy of payroll documents that display periods of service.

8. SENIORITY BENEFITS AND PROMOTION CONSIDERATION

a. **Seniority Benefits.** USERRA requires that agencies/departments reemploy returning employees in the job they would have attained had they remained continuously employed, with the same seniority, status and pay. These employees must automatically receive credit for seniority-based benefits such as within grade increases, career tenure, probation, leave accrual rate and severance pay.

b. **Promotion Consideration.** USERRA requires that agencies/departments consider returning employees for any incident or advantage of employment missed during a uniformed service-related absence. Facilities may consider and promote during a service-related absence, a title 5 employee who meets the qualifications for promotion. However, consistent with part III, chapter 4 of this handbook,

facilities must consider eligible hybrid/title 38 employees for promotion or advancements within grade and, take appropriate action upon their return to duty. When considering employees for missed promotion opportunities, the following provisions apply:

(1) 5 CFR, 300, subpart F;

(2) 5 CFR, 335;

(3) VA Handbook 5005 – Part III, Chapters 2, 3, and 4; and

(4) Applicable OPM or VA Occupational Qualification Standard.

c. **Promotion and Retroactive Pay.** A promotion effective during a uniformed service-related absence does not infer an entitlement to retroactive pay. If promoted during or after a uniform service-related absence, the employee's date of grade for time in grade purposes is the date the promotion would have occurred had he/she never left. Pay at the new grade is effective the date the employee returns to duty.

9. RESIGNATION IN LIEU OF SEPARATION-MILITARY

a. **Voluntary Resignation.** Facilities must advise employees of their reemployment rights immediately when notified of their intent to resign to serve in the uniformed services. Employees are entitled to reemployment upon completion of service and need not resign for this purpose. However, employees who wish to resign are entitled to do so. Facilities must take the following actions prior to separating employees that wish to serve in the uniformed services:

(1) Request employees provide a resignation letter, a copy of orders (if available), the military unit address, phone number, a point of contact, and an alternate mailing address;

NOTE*: Employees who resign to serve in the uniformed services remain entitled to reemployment upon completion of service. However, separation affects seniority benefits. (5 CFR 353.106)*

(2) Advise employees regarding procedures for lump sum payment of annual leave in 5 CFR 550.1203(c) and VA Handbook 5007, part IV, chapter 3; and

(3) Advise employees of their responsibility to notify the servicing HR office of any change in circumstances as soon as possible.

b. **Unqualified for Military Service.** Employees who resign to serve in the uniformed services, but are deemed unqualified due to their failure to pass the fitness for duty entrance exam are entitled to reemployment in accordance with 5 CFR 353, parts 205 and 207.

10. DISPLACED EMPLOYEES

a. **Transfer of Function.** The HR office at the gaining facility or agency/department must place in a position of like seniority, status and pay, any returning employee who encumbers a position in which the function transferred during a uniformed service-related absence or a period of recovery from a compensable injury, unless that employee would not have otherwise transferred with the function.

b. **Position Abolished.** The HR office at the losing facility must place in a position of like seniority, status, and pay, any returning employee who encumbers a position that it abolished during a uniformed service-related absence or period of recovery from a compensable injury. If the employee is willing to relocate, the losing facility may place the individual at another VA facility. Consistent with provisions in 5 U.S.C. 5724, employees transferred in the interest of the Government from one official station to another station or agency, may receive paid travel expenses with discretionary approval.

c. **Option to Request Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Payment (VSIP).** An employee, who met eligibility criteria for VERA, VSIP, or both, may request these incentives within 30 days of returning to duty if he/she was eligible, but unable to do so during a uniformed service-related absence. An employee may not otherwise request VERA or VSIP after expiration of the OPM-approved period for each authority.

d. **Reduction in Force.** An employee who encumbers a position abolished during a uniformed service-related absence (in excess of 30 days) is not subject to a reduction in force (RIF) while in service. However, if a RIF occurs after the employee returns to duty, he/she may be subject to RIF after the applicable period of protection from separation under 5 CFR 353.209 (6 months if period of service was 31 to 180 days or 1 year if period of service was 181 days or more). USERRA does not establish a period of protection from separation for uniformed service-related absences less than 30 days. In accordance with 5 CFR 353.302, an injured employee is not entitled to retention protection in a RIF and has no restoration rights if separated by RIF or for cause while on compensation.

e. **OPM Placement Assistance**. Upon request, OPM will assist with placement of VA employees under circumstances consistent with those described in 5 CFR 353.110. The servicing HR office must submit placement requests through appropriate channels to the Recruitment and Placement Policy Service (RPPS/059), Office of Human Resources Management. HR offices must exhaust placement options prior to submitting such requests to RPPS. RPPS will process formal requests for OPM approval, when warranted.

11. TRAINING. Public Law 110-389 requires that agencies and departments train their human resources personnel on the provisions of USERRA in consultation with OPM. Consistent with this requirement, OPM has developed USERRA training and requires HR personnel to complete it or other approved USERRA training on an annual basis. The term human resources personnel is defined as HR specialists, HR assistants, individuals with HR liaison responsibilities, and supervisory/management officials, as well as those delegated to act on their behalf. VA Talent Management System (TMS) currently documents this mandatory training in the learning plans of all designated VA staff.

12. EMPLOYER SUPPORT OF THE GUARD AND RESERVE (ESGR) ASSISTANCE. ESGR is a Department of Defense agency, which provides education, outreach, and mediation services to Servicemembers and their non-military employers. This agency acts as a neutral liaison between employees, their employers, and the Department of Labor (DOL). Employees may contact the ESGR for assistance with resolving USERRA issues as an alternative to filing a formal complaint with DOL, or seek direct DOL assistance.

13. USERRA ENFORCEMENT. Employees who feel that their USERRA rights have been violated may file a complaint with DOL's local Veterans Employment and Training Service (VETS) Office. Employees also have the option of appealing directly to the Merit Systems Protection Board (MSPB) should they choose not to file with DOL.

14. RELATED GUIDANCE. Facility HR Offices may contact Work Life and Benefits Service to obtain specific guidance on military leave, Compensation and Classification Service regarding reservist differential pay, and Employee Relations and Performance Management Service for information pertaining to the employment termination process.

15. REFERENCES

a. 5 CFR, part 300, subparts C and F,

b. 5 CFR, part 316, subpart D

c. 5 CFR 335

d. 5 CFR, part 351

e. 5 CFR, part 353

f. 5 CFR 550.1203(c)

g. 5 CFR 831.114(j)

h. 32 CFR 104.4(d)

i. 5 U.S.C. 3341

j. 38 U.S.C. 4301-4335

k. VA Handbook 5005, Part III, Chapters 3, and 4

l. VA Handbook 5007, Part IV, Chapter 3]

APPENDIX A. PROBATIONARY PERIOD FOR FIRST-TIME SUPERVISORS/MANAGERS

1. SCOPE

a. This appendix contains policies and procedures pertaining to the probationary period required of all first-time supervisors and managers in the competitive service.

b. It does not apply to excepted service employment in the Veterans Health Administration under 38 U.S.C., chapter 73, 74 or 78 authorities. Also excluded are those positions excepted when filled by a particular group of persons such as those [with intellectual disabilities, severe physical disabilities, or psychiatric disabilities], and those positions excepted under 5 CFR 302.101(c).

2. POLICY. The success or failure of VA's mission of providing high quality health care and benefits programs for veterans is dependent, to a large extent, on the caliber of our supervisors and managers. Incumbents of these positions must possess unique skills and abilities [that] cannot readily be taught or developed in other kinds of positions. A probationary period provides the opportunity for assessing the new supervisor's or manager's performance on the job, and includes procedures for the return of such employees to nonsupervisory or nonmanagerial positions in instances where they fail to successfully complete the required probationary period. Generally, this probationary period is required for all those individuals whose initial assignment to a supervisory/managerial position occurred on or after August 11, 1979.

3. AUTHORITY. This requirement is established by section 5 U.S.C. 3321 and 5 CFR, part 315, subpart I.

4. DEFINITIONS

a. "Supervisory" and "managerial" positions have the meaning given them in OPM's General Schedule Supervisory Guide.

b. For wage system positions, "supervisory positions" have the meaning given them in the OPM's Federal Wage System Job Grading Standard for Supervisors.

c. A supervisory/managerial probationary period under 5 U.S.C. 3321 and 5 CFR, part 315, subpart I means: The first year of service as a newly appointed supervisor or manager in the competitive service.

d. A probationary period under 5 CFR, part 315, subpart H, and Civil Service Rule 2.4 means: The first year of service following appointment of an employee who has been given a career-conditional (or career, if applicable) appointment in the competitive service before competitive status is acquired.

5. BASIC REQUIREMENTS AND LENGTH OF PROBATIONARY PERIOD

a. The general requirement is that an employee must serve a 1-year probationary period upon initial assignment to a supervisory and/or managerial position. Exemptions and exceptions to this requirement are as follows:

(1) Employees who, as of August 11, 1979, were serving or had served in Federal civilian supervisory or managerial positions are exempt from this requirement. This means that a present or former supervisor is not subject to a probationary period for supervisors, and a present or former manager is not subject to a probationary period for either managers or supervisors. However, a present or former supervisor who is assigned to a managerial position on or after August 11, 1979, is subject to a probationary period for managers unless an exception is made under the following provisions.

(2) The exemption from serving a probationary period in a supervisory or managerial position also applies to employees who, prior to August 11, 1979, served on a temporary assignment in a supervisory or managerial position, provided (a) they were officially assigned to the position (service while on a detail does not count) and (b) the temporary assignment was in excess of 120 days. Such individuals who served as supervisors, however, will be required to serve a probationary period upon initial assignment to a managerial position unless an exception is made under the following provisions.

(3) Supervisors who have fulfilled a subpart I (5 CFR, part 315) probationary period requirement and are later placed in managerial positions without interruption of the period may be excepted from serving a probationary period of managers when justified on the basis of demonstrated performance and experience. When the subpart I requirement has not been completed at the time a supervisor is placed in a managerial position without a break in service, the employee must serve a full probationary period in the managerial position, unless service as a supervisor is credited, as an exception, towards completion of the managerial probationary period. A recommendation for an exception from the appropriate immediate higher level supervisor will be forwarded to the next higher managerial official for approval. The managerial candidate's composite qualifications must indicate possession of the necessary knowledges, skills, and abilities and that the employee has received supervisory and other appropriate training which will enable the employee to perform the duties successfully.

NOTE: *Where a supervisor has not completed the subpart I supervisory probationary period at the time of placement in a managerial position without interruption of the period, the time spent in the supervisory probationary period may be credited towards completion of the managerial probationary period requirements under the criteria and procedures for exceptions described above.*

(4) Requests for such exceptions will be approved by the facility Director for decentralized positions. Exceptions for occupants of centralized positions and noncentralized positions in VA Central Office will be approved by the appropriate Administration or Staff Office Head or designee, based on recommendations and certifications by appropriate program officials.

(5) Where an administration/staff office head directly supervises subordinate managers, the administration/staff office head may approve such exceptions without higher level concurrence.

b. An employee whose initial appointment is to a position which is both supervisory and managerial is required to complete a single probationary period for a supervisor or manager.

c. If, upon appointment, a supervisory or managerial employee is required to serve concurrent probationary periods under subpart H and I, 5 CFR, part 315, of the regulations, then the subpart H probationary period takes precedence and the satisfactory completion of this probationary period fulfills the requirements.

d. An employee serving a probationary period under subpart H and subsequently assigned as a supervisor or manager must complete the remaining part of the subpart H probationary period as well as the full 1-year probationary period established under the provisions of subpart I for supervisors and managers.

e. An employee serving a managerial or supervisory probationary period under subpart I who is reassigned to another managerial or supervisory position before the completion of the probationary period will have the time spent in the prior position credited toward meeting the 1-year probationary period requirement.

f. An employee who has completed a managerial probationary period and is later assigned to a supervisory position is not required to complete a new probationary period (5 CFR 315.904). However, when an employee serving in a managerial probationary period is assigned to a supervisory position before completing the managerial probationary period, the time spent in a managerial probationary period is creditable towards completion of the probationary period in the new supervisory position.

g. The following types of service are applicable towards meeting the probationary period requirements:

(1) Service by an employee on a temporary appointment, promotion or reassignment to a supervisory/managerial position on or after August 11, 1979 (except where exempt under the provisions in paragraph d(1)(b) above), whose assignment later becomes permanent is creditable towards completion of the required probationary period in that position, provided:

(a) The temporary service is immediately prior to the permanent assignment and there is no break in service, and

(b) The individual was officially assigned to the position (time spent on detail to a position is not creditable).

(2) Absence in a nonpay status while on the rolls (other than absence because of compensable injury or military duty) is creditable up to a total of 22 workdays. Any nonpay time in excess of the total 22 workdays extends the probationary period by an equal amount.

(3) Absence (whether on or off the rolls) due to compensable injury or military duty from which the employee is entitled to restoration rights or priority consideration under 5 CFR , part 353 is creditable in full.

(4) A probationary period which is interrupted by intervening service in a nonmanagerial or nonsupervisory position or a break in service is not creditable toward completion of that or any subsequent probationary period. Following such an interruption or break in service, the individual must serve a completely new probationary period.

h. Completion of the probationary period is documented in the employee's personnel folder. VA Form 4645a, Request for Review of a Supervisory/Managerial Employee's Probationary Period, will be used for obtaining the supervisor's certification.

i. PAID reporting procedures for the supervisory/managerial probationary period are contained in VA Manual, MP-6, part V, supplement No. 1.5.

6. EVALUATION DURING PROBATIONARY PERIOD

a. Performance of first-time supervisors/managers will be evaluated against written performance standards in effect at the time of entry into a position. These requirements will be developed using the principle of critical elements in conjunction with the performance appraisal system contained in VA Directive and Handbook 5013, Performance Management Systems, and will include specific performance expected relating to equal employment opportunity responsibility. Written critical element identification and performance standards must be developed within 60 days following the assignment. After the employee has completed at least 4 months but not more than 6 months in the assignment, a placement follow-up will be conducted. In order to assess the employee's performance and adjustment in the job, the facility HRM office will ensure that a placement follow-up is conducted. Where significant deficiencies are noted, the employee will be counseled and appropriate courses of action leading to desired improvement considered. The follow-up form, VA Form 5-97, Notice of Pending Personnel Action, normally will be annotated to show that the follow-up was made, and only significant results will be recorded. Employees will be kept informed by their immediate supervisors on a regular basis about their performance, their strengths, and areas in which improvement is needed or is a realistic goal for both the employee and the organization.

b. The immediate supervisor of first-level supervisors/managers must forward through channels to the appropriate higher level supervisor (i.e., service/division chief, Director, administration or staff office head), normally no later than the end of the 10th month, a signed statement certifying that the performance of supervisory or managerial responsibilities of the individual has been found to be either satisfactory or unsatisfactory. Each certification must contain a recommendation as to whether the individual should be retained in the position beyond the probationary period. The appropriate higher level supervisor will either approve or disapprove the immediate supervisor's recommendation. Where disapproval is indicated, the basis for the decision must also be stated.

c. If it is determined that the employee should not be retained in the position beyond the probationary period, the determination must indicate the specific performance standards not met which make the person unsuited for continued employment in the supervisory or managerial position. (See VA Handbook 5013, Performance Management Systems.)

d. Satisfactory certifications will be filed on the left side of the employee's personnel folder.

APPENDIX B. TIME-IN-GRADE RESTRICTIONS (TITLE 5 – 5 CFR, PART 300, SUBPART F)

1. PURPOSE. This appendix contains current VA policy on time-in-grade (TIG) restrictions for promotions to General Schedule positions in both the competitive and excepted service.

2. APPLICABILITY OF TIME-IN-GRADE RESTRICTIONS. The provisions of the TIG restrictions as set forth in 5 CFR, part 300, subpart F, govern advancement to General Schedule positions in the competitive service only. In VA, however, these regulations have been extended to advancement to excepted service positions that are subject to the General Schedule. Although the TIG restrictions are not applicable to positions outside the General Schedule (e.g., wage system jobs); noncompetitive actions in wage system jobs or between wage system jobs and General Schedule positions must be consistent with competitive merit principles even in the absence of specific controls or restrictions on excessively rapid promotions. 5 CFR 330.501 provides instructions on the Office of Personnel Management's separate but related time-after-competitive appointment requirement.

3. GENERAL RESTRICTIONS. The application of the general restrictions will be as outlined in 5 CFR 300.602 and 300.604.

4. VA EXCEPTIONS TO TIME-IN-GRADE RESTRICTIONS. In addition to TIG exceptions listed in 5 CFR 300.603, the following conditions are applied in VA:

a. **Persons Within Reach on a Register.** The TIG restrictions do not apply to persons who are within reach on an appropriate register maintained by a VA Excepted Board of Examiners for an excepted service position provided that all other statutory and regulatory requirements are met.

b. **Promotions in Accordance With a Training Agreement**. Employees who are being promoted under the terms of a training agreement which provides for an exception to normal TIG restrictions because of an accelerated rate of training are not subject to the TIG restrictions. Such agreements will be approved by the Administration or Staff Office Head subject to concurrence by the Office of Human Resources Management and Labor Relations, Recruitment and Placement Policy Service (059). However, an employee may not be promoted more than two grades in 1 year solely on the basis of a training agreement or a series of training agreements.

c. [**Pathways Programs**. Employees serving in Pathways Programs appointments are not subject to normal TIG restrictions, as permitted by 5 CFR 362.204. Promotions must be made using the procedures of VA Handbook 5005, Part II, Appendix N.]

5. AUTHORITY TO WAIVE TIME-IN-GRADE RESTRICTIONS. The Secretary may waive TIG restrictions for competitive and excepted service positions for advancements of not more than three grades during any 1 service year to avoid undue hardship or inequity in an individual case of a meritorious nature. Requests for such waivers should be submitted as outlined in paragraph 6[.]

6. SUBMITTING REQUESTS

a. Requests for waivers of TIG restrictions must be submitted over the signature of a field facility director, or Administration Head, as appropriate. Such requests must contain documentation fully supporting the request and will be forwarded through channels to the Office of Human Resources Management and Labor Relations, Recruitment and Placement Policy Service (059) for technical review, recommendations, processing and maintenance of records. Before forwarding requests to VA Central Office for consideration, signatory officials will carefully review them to ensure that all other requirements for promotion, including quality and length of experience requirements contained in the appropriate qualification standard, are met.

b. The following minimum records will be maintained by the Recruitment and Placement Policy Service (059), Office of Human Resources Management and Labor Relations, for each action taken under this authority: (1) type of action taken; (2) processing time for taking the action; (3) name of person authorizing the final action; (4) date of the decision on the action; and (5) a brief statement of the rationale for the decision. These records will be kept and available for audit by OPM for at least 2 years. Additionally, the monitoring process may require information concerning problems and/or benefits which may result from use of this authority.

7. INAPPROPRIATE USE OF TIG WAIVER. A TIG waiver is not to be used to provide early promotions in recognition of an employee's outstanding performance of official duties. Outstanding performance should be recognized through such measures as quality step increases, superior performance awards or other appropriate special achievement awards. A justification citing high level performance, dedication and/or demonstrated potential to work at a higher grade will not normally support a TIG waiver.

8. CLARIFICATION OF APPLICABLE TERMS. In applying TIG restrictions, the following principles will be used in VA for both competitive and excepted service employees:

a. **Excessively Rapid Promotion.** The basic intent of the TIG restrictions is to prevent "excessively rapid promotion." Excessive in these instances refers to any proposed advancement which outstrips reasonable expectations of growth in job demands or employee competence. For example, any promotion of more than two grades or any request involving a second TIG waiver for the same person would normally be considered excessive.

b. **Hardship or Inequity.** In interpreting these terms, hardship basically refers to the effect on the Department's mission while inequity refers to a burden on the employee.

c. **Undue Hardship or Inequity.** The excessiveness or unreasonableness of the hardship to the agency and/or inequity to the employee must be fully documented. Typically, an undue hardship or inequity must be one that is unusual or extraordinary and not one which other employees in the same or similar situation and/or grade level are normally required or expected to undergo on a regular basis. Such an undue hardship or inequity must be both unavoidable and uncorrectable through valid actions other than a TIG waiver. If the situation the facility wishes to have redressed resulted from planned management action or from failure to exercise proper position management, or if it can be corrected by job restructuring or redistribution of work, consistent with classification requirements, then no undue hardship or inequity exists. Moreover, undue hardship or inequity normally occurs only when all other requirements for promotion other than TIG have been met.

d. **Individual Case of Meritorious Nature.** Each request for a waiver is considered on its own merits. Although waiver requests resulting from a reclassification or a reorganization may cover a number of employees whose situation is identical, approval of such requests covers only the employees specified and does not confer blanket authorization to grant exceptions to other employees in similar positions. In the case of a promotion action, an approved waiver applies only to the specific promotion action for which it is authorized and may not be used to cover subsequent promotion of another employee to the same position. Approval for a particular position or situation does not set a precedent for approval of requests involving similar positions or situations.

APPENDIX C. INTERCHANGE AGREEMENTS

1. PURPOSE. This appendix outlines changes resulting from [two] interchange agreements between VA and Office of Personnel Management (OPM) negotiated under provisions contained in Executive Orders 9830 and 10577, Civil Service Rule 6.7. Two agreements allow for movement of personnel employed under 38 U.S.C. 7401(1) and 7401(3) in Veterans Health Administration (VHA) and the competitive civil service. [ ] Employees must have at least 1 year of continuous service in order to be covered by the terms of these agreements.

2. INSTRUCTIONS. Following are implementing instructions regarding program areas affected by the agreements:

a. **Coverage**

(1) Appointments under 38 U.S.C. 7401(1) are limited to physicians, dentists, nurses, nurse anesthetists, podiatrists, optometrists, chiropractors, physician assistants and expanded-function dental auxiliaries employed on a full-time basis. Appointments under 38 U.S.C. 7401(3) are limited to those occupations specifically listed under Section 7401(3) or approved for hybrid status by the Assistant Secretary for Human Resources and Administration in accordance with the provisions of part II, chapter 3, section A, paragraph 2 of this handbook. [ ]

(2) Employees involuntarily separated without cause from qualifying positions (described in subparagraph a(1) above) may be appointed non-competitively within 1 year of the separation period.

b. **Consideration for Conversion to a Competitive Service Appointment.** Title 38 and Hybrid Title 38 employees who are eligible for conversion to competitive service positions under VA interchange agreements and are in the area of consideration for posted vacancies shall be allowed to apply. The following procedures will be used:

(1) If the competitive service position does not provide promotion or placement in a position with promotion potential, qualified excepted service employees covered by the interchange agreements may be selected and converted to the competitive service position without competition. If an increase in pay will result, it is considered a promotion and competition under the appropriate merit promotion plan for competitive service positions will take place as described in the next paragraph.

(2) If the competitive service position provides promotion or placement in a position with higher promotion potential, qualified excepted service employees covered by the interchange agreements will be rated and ranked along with competitive service employees. Excepted service and competitive service employees will be referred on [the same] certificate. [ ] (See chapter 3 of this part.)

NOTE: *For VHA policy regarding the utilization of title 38 employees (appointment/assignment to non-clinical duties), see appendix III-N.*

c. **Appointment to Positions Under 38 U.S.C. 7401(1) 7401(3) and 7802**

(1) Civil Service Rule 6.7 allows OPM and any Federal agency having an independent merit system (e.g., title 38, United States Code), to enter into an agreement providing for the movement of persons between the competitive civil service and the independent system. Under provisions of the agreements between VA and OPM, personnel employed under 38 U.S.C. 7401(1) and 7401(3) and in the Canteen Management program may apply for competitive service positions. However, the "interchange" agreements also include procedures which competitive service employees should follow in applying for positions in the independent merit system (in this case, positions in the Canteen Management program and those filled under 38 U.S.C. 7401(1) and 7401(3)).

(2) Competitive service employees applying for positions filled under 38 U.S.C. 7401(1) or 7401(3) will be appointed in accordance with the provisions of chapter 4 of this part. Employees will be appointed at the grade and step for which they qualify based on the recommendation of a Professional Standards Board for 7401(1) appointees or 7401(3) appointees, and approval by the appropriate authority. Competitive service employees must have completed the 1-year probationary period required in connection with their career-conditional or career appointment before they may be appointed to title 38, United States Code positions under the authority of these interchange agreements. However, the agreements do not preclude the appointment under 38 U.S.C. 7401(1) or 7401(3) of qualified competitive service employees at any time, outside the terms of these agreements, using appropriate procedures specified in part II, chapter 3, this handbook.

[ ]

d. **PAID Instructions.** SF 52, Request for Personnel Action, for conversions under the interchange agreements, will be prepared in accordance with instructions in VA Manual MP-6, part V, supplement No. 1.5.

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APPENDIX E. MERIT PROMOTION PLAN FOR COMPETITIVE POSITIONS CENTRALIZED TO THE SECRETARY

1. SCOPE

a. This section contains the merit promotion plan for all competitive service positions centralized to the Secretary except for those positions in the Secretary's office below grade GS-15 which are covered by Central Office promotion plans. This section also includes those positions specifically designed to train or develop employees for placement into such positions**.** There may be instances, when simultaneous consideration for promotion or for assignment to positions with higher known promotion potential of certain excepted service employees (e.g., Schedule A, title 38, etc.) is desirable. When such concurrent consideration occurs, the same rating and ranking criteria will apply to both types of appointees[ ]. (For Senior Executive Service positions, refer to VA Directive and Handbook 5027.)

b. The procedures of this plan apply to the following actions:

(1) Promotion;

(2) Reassignment or change-to-lower grade to a position with greater known promotion potential than the current position (except as permitted by reduction-in-force regulations);

(3) Selection for training which is part of an authorized training program or required before an employee may be considered for a promotion;

(4) Transfer of an employee from another Federal agency to a higher grade VA position, or to a VA position with higher known promotion potential than his/her current position;

(5) Reinstatement, including those made from reemployment priority lists, to a permanent or temporary position at a higher grade than the last grade held in a non-temporary position in the competitive service, or to a position with higher known promotion potential than the last non-temporary competitive service position held;

(6) Selection for details of more than 120 days to a higher grade position or a position with higher known promotion potential (5 CFR 335.103(c)(ii), and chapter 3 of this part);

(7) Temporary promotion for more than 120 days (all prior service by detail to higher grade and by temporary promotion, whether competitive or noncompetitive, during the preceding 12 months is to be counted toward the 120-day time limit);

(8) Promotion resulting from a position being upgraded due to the addition of duties and responsibilities; when a career promotion is determined not to be appropriate. (See paragraph 11 of this appendix for a discussion of career promotions under these circumstances.)

c. This merit promotion plan applies to the actions specified in subparagraph b above. Management retains the right to fill positions by any appropriate recruitment method, such as reassignment, appointment, promotion, transfer, reemployment, reinstatement or change-to-lower grade. The decision as to which method(s) to use (singly, in any sequence, or concurrently in any combination, or to change at any time from one method to another) will be made by management for each vacancy. Management also retains the right to determine the number of positions to be filled and the grade levels at which positions will be announced or filled.

2. REFERENCES

a. VA Handbook 5005

b. Central Office Operating Instructions, OI-1, part V, chapter 6.

3. POLICY

a. Selections under the competitive procedures of this plan will be made from among the best qualified candidates available.

b. All actions under this plan will be based on job-related selection criteria and will be made without discrimination for such reasons as race, color, religion, national origin, sex, lawful political affiliation, marital status, non-disqualifying physical or mental handicap, age, or membership or non-membership in a labor organization.

c. It is the policy of the Secretary to identify, develop and advance employees who demonstrate the potential to assume positions of increased responsibility. However, the Secretary recognizes the need to assimilate high quality talent which may become available from other sources and the need to meet the goals of the Federal Equal Opportunity Recruitment Program. Thus, persons outside VA may be considered and selected for positions covered by this plan when a determination is made that the best interests of VA will be served.

d. Officials at any level who are involved in the promotion process will not commit acts of personal favoritism, nepotism, unlawful reprisal, or any other practice which violates merit system principles as described in VA Directive 5005. Actions taken under this plan will conform to requirements governing employment of relatives (5 CFR, part 310 and VA Directive and Handbook 5025, Legal).

e. Employees will not be denied a position change covered by this plan by reason of difficulty in replacing them.

4. RESPONSIBILITIES

a. All staff and line officials who participate in the identification, evaluation, ranking, referral, and selection of candidates will become familiar with the provisions of this section, and will strive not only to comply with its literal provisions but also to achieve its objectives.

b. The Secretary retains the authority to make final selections for positions under this plan.

c. Appropriate Central Office officials are responsible for ensuring the completion of the job analyses for positions covered by this plan in a timely manner.

d. Management officials are responsible for nominating candidates for the approval of the Secretary in accordance with the provisions of this plan and the procedures for submitting nominations of candidates for the Secretary's approval contained in Central Office Operating Instructions, OI-1 part V, chapter 6.

e. Top management officials at facility and Central Office levels are responsible for providing guidance and counseling to employees about development and career advancement. This is an important responsibility and challenge for all line and staff officials.

f. Employees who expect to advance their careers must apply themselves diligently, produce qualitative results, and recognize that preparation for more responsible assignments is to a large degree a matter of self-development. Employees who desire consideration for specific announcements are responsible for furnishing accurate information reflecting their pertinent qualifications.

g. Employees on official absence for an extended period who desire consideration for centralized vacancies advertised in their absence are responsible for: (1) identifying such positions by titles (organizational/classification), series, grade and geographic location on a written request submitted directly by employees, or given to their supervisor if they wish their names to be submitted for them; and (2) timely submission to the appropriate office of their application and/or other background information required for consideration. Official absence includes detail, leave, training, military service with restoration rights, absence due to compensable injury, Intergovernmental Personal Act assignments, etc. (See chapter 3 of this part.)

h. Supervisors are responsible for the timely submission of the names of employees from whom they have received written requests in accordance with subparagraph g above.

5. AREA OF PROMOTION CONSIDERATION

a. Normally, the area of promotion consideration for the positions covered by this plan will be VA-wide.

b. If determined necessary by the appropriate Administration Head, Assistant Secretary or Other Key Official (e.g., General Counsel) for substantive reasons comparable to those cited in chapter 3, paragraph 7c of this part, the area of promotion consideration for individual centralized vacancies may be smaller than VA-wide. Reasons for restricting the area of consideration will be documented and submitted with the nomination records for approval by the Secretary.

6. QUALIFICATION AND ELIGIBILITY REQUIREMENTS

a. To be promoted, candidates must meet the minimum qualification requirements established for the position by VA or the Office of Personnel Management (OPM's Operating Manual – Qualification Standards for General Schedule Positions), including any selective placement factors (see paragraph 6b

below), as well as any applicable statutory and regulatory requirements such as those covering time-in-grade.

b. When there are special placement factors which are not adequately covered by the minimum qualification standard and which were identified by a job analysis as essential to successful performance in the position to be filled, they become selective placement factors and, as such, constitute a part of the minimum requirements for the particular position. Licensure, registration, certification or organization membership which is not required by the appropriate qualification standard will not be used as selective placement factors.

c. Written tests will not be used in evaluating the qualifications of any applicant unless required by the OPM or approved for use by the Director, [Recruitment and Placement Policy] Service (05[9]).

7. LOCATING CANDIDATES. Specific information for candidates on application procedures will be contained in VA-wide publicity. Candidates may be located by several different methods. Normally, vacancies will be publicized individually by announcements issued in the Weekly Summary Bulletin. Other sources of candidates may include reinstatement eligibles and employees from other agencies. Information regarding other methods for locating candidates, when used, will be communicated through appropriate channels.

8. EVALUATION AND RANKING PROCEDURES

a. Evaluation procedures will meet the requirements of 5 CFR, part 335. See chapter 3 of this part and appendix III-G and III-I. Evaluation criteria used to rate candidates will be expressed in a crediting plan[/assessment questionnaire] resulting from a job analysis of the position, or class of positions, to be filled.

b. When there are 10 or fewer qualified promotion candidates, they may be referred to the selecting official for final consideration without rating or ranking. Before making a selection, however, the best qualified candidates must be identified. The provisions of chapter 3, paragraph 11 of this part must be adhered to.

c. An HRM Office representative will conduct the job analysis using available informational material on the position(s), normally with the assistance of a panel, which will usually consist of at least two subject matter experts (SMEs). [(**NOTE**: *The panel of experts may meet electronically or respond individually with comments and suggestions.*)] In those few instances in which appropriate SME participation cannot be obtained, the circumstances will be documented as part of the background records for the crediting plan[/assessment questionnaire]. SMEs are persons with direct knowledge of what is done in the job, what KSAOs are required to perform the job, and the general background of persons who are able to do the job successfully. This may include those currently doing the job, recent incumbents, those who supervise or have recently supervised others doing the job, and other acknowledged job experts. SMEs must be (or have been) at least equal in grade to the position being analyzed, or equal to the highest grade if a class of positions is being analyzed. Assignment of SMEs for positions within their organization will be determined by the appropriate Administration Head, Assistant Secretary or Other Key Official.

d. The crediting plan/assessment questionnaire will consist of several rating factors on which applicants are evaluated to distinguish superior or high quality candidates from acceptable ones. The rating factors will consist of knowledge, skills, abilities, and other characteristics (KSAOs) which: (1) are relevant to successful performance upon entry into the job; (2) are measurable; and (3) are observable.

NOTE: *See paragraph 8k(2) below for guidance on the term "high quality."*

e. Unless dictated otherwise by the results of the job analysis, the rating factors will be supported by three quality level descriptions. These quality levels will further define the rating factor by giving concrete examples of various proficiency levels in terms of observable behaviors, past experiences, quality of performance, pertinent education and training, etc. Point credit for each rating factor will be awarded as follows:

Level A (Superior)	5 Points
Level B (Average)	3 Points
Level C (Acceptable)	1 Point

However, the above [5-3-1]crediting system does not preclude the weighting of certain rating factors when justified by the job analysis (or other pertinent job-related information), or crediting four (4) points or two (2) points when the promotion panel determines that a candidate falls between two (2) levels on a particular rating factor. [**NOTE:** *In the assessment questionnaire in USA Staffing, levels of expertise are identified for KSA criteria, ranging in points from the lowest rating to points for the highest rating. Other scales may be used for qualifications, eligibility, and screen-out factors.]*

f. Rating factors or quality level descriptions will not prescribe point credit based on a certain number of points or a certain percentage of points for each source of information, such as supervisory appraisal, experience, education, training, awards, etc. Rating factors or quality level descriptions will not refer to length of service, length of education, licensure, registration, certification or organization membership, unless the job analysis and accompanying documentation show the item to be a valid, job-related factor which enhances a candidate's ability to perform the duties of the job to be filled.

g. Crediting plans[/assessment questionnaires] will be periodically reviewed for both (1) currency of the tasks and KSAOs and (2) effectiveness in distinguishing superior or high quality candidates from acceptable ones for the subject positions. If necessary, based on such job-related review and any needed supplemental SME information, officials of the Central Office Human Resources Service (035) and the appropriate Administration Head, Assistant Secretary or Other Key Official may revise the crediting plans/assessment questionnaires accordingly for future application to better achieve the above two objectives.

h. [Provisions of Part III, Chapter 3, paragraph 10 will be followed when rating and ranking applicants for referral.]

i. A member of the Central Office Human Resources Service will be available to provide technical guidance and assistance to each promotion panel or may participate in the rating process.

j. All present at promotion panel meetings are prohibited from revealing information of a confidential or personal nature about any candidate which may be gained during the deliberation process, and may be subject to disciplinary action if such information is improperly divulged.

k. Candidates will be evaluated on the extent to which their experience, education, appraisals, training, awards, and outside activities taken as a whole show possession of the KSAOs in the rating factors used. Ratings will be based on all relevant information which a candidate has submitted, and when appropriate, such other tools as job-related interviews, reference checks, and work samples. This combined information will be evaluated against the quality level descriptions for each of the rating factors used. Each candidate's total point credit will be the sum of points awarded for each of the rating factors. Since the number of rating factors used for different jobs may vary, the maximum possible points which may be credited may vary from job to job.

(l) After all candidates have been assigned points under the crediting plan, they will be listed in descending order of their point scores. The promotion panel will establish a "cut-score" in accordance with the following paragraphs to identify the best qualified candidates for referral to the selecting official for final consideration. The cut-score will not be set arbitrarily at a particular point score or at a particular percentage of the total possible points. An overall objective of applying the crediting plan and establishing the cut-score is to enable high quality candidates to be identified and referred for selection consideration. Technical guidance will be provided by a representative of the Central Office Human Resources Service.

(2) For the purposes of this plan, high quality candidates are those who in the promotion panel's judgment possess a total background which reflects the capability to perform the position being filled in a highly competent and effective manner. A pre-set numerical score to uniformly indicate high quality candidates is not proper as this does not allow for the relevant differences among positions and available candidates. Nonetheless, it is generally anticipated that high quality candidates will possess the KSAOs required for positions sufficiently to warrant a middle range of total possible points, or higher, under an appropriate crediting plan.

(3) When a natural gap among the high quality candidates is present, those above the gap will normally be considered best qualified. However, an adequate number of promotion candidates, if available, should be referred for consideration.

(4) When there is no natural gap or when the number of candidates above the natural gap is so large as to cause an undue administrative burden, the promotion panel will decide the number of high quality candidates to be referred as best qualified. Generally, a referral of 10 candidates will be considered sufficient; for each additional vacancy an additional candidate may be referred.

(5) In the absence of any high quality candidates, candidates ranked as qualified may be referred as best qualified in accordance with the principles in paragraphs (3) or (4) above.

9. REFERRAL AND SELECTION PROCEDURES

a. Following completion of the rating and ranking process, or as vacancies occur, a [ ] certificate containing the names of the best qualified VA candidates (listed in alphabetical order) will be prepared.

(1) If transfer and/or reinstatement eligibles and/or certain excepted service employees are being considered for higher grade positions, or for positions with higher known potential, they will be evaluated and ranked along with competing competitive service VA employees to determine the cut-score. After the cut-score has been established, those who rank at or above the cut-score will be referred on [the same certificate].

(2) If a position is announced at multiple grade levels, separate certificates will be referred for each grade level.

b. The signed certificates will be forwarded to the nominating official. [(In USA Staffing recruitment actions, referrals are transmitted electronically and final selections are made electronically via the USA Staffing document viewer.)] This official will recommend a selection to the Secretary in accordance with procedures in Central Office Operating Instructions, OI-1, part V, chapter 6. When nominating a candidate who must relocate to accept an assignment, information should be provided regarding cost considerations. Additionally, if the candidate has been in his or her current VA assignment less than 36 months, a justification of the move will be included.

c. Until selections for positions centralized to the Secretary have been approved by the Secretary, candidates nominated for these positions should not be informed of their nominations, and no personnel action will be taken.

d. The Secretary has the right to select or non-select from a [ ] certificate or from any other appropriate source of candidates. This includes the right to non-select all the [ ] candidates and return the [ ] certificate unused. Where multiple vacancies or multiple grade levels are involved, this includes the right to select for one or more vacancies at the same or other grade levels (if applicable) and to return the certificates without selecting for remaining vacancies.

e. The Secretary's final approval will be communicated by the appropriate Administration Head, Assistant Secretary or Other Key Official.

10. EFFECTIVE DATES. Employees will be released to their new assignments within a reasonable length of time.

a. Normally, the effective date of a position change at the same facility will be the first day of the next pay period after the date of administrative approval. Where unusual circumstances justify a period longer than 2 weeks prior to release, either (1) the employee should be informed in writing over the signature of the official responsible for the delay of the reasons for the delay and the expected release date, or (2) the position change action should be effected and the employee detailed back to the former position.

b. The release date for an employee transferring to another VA facility will be arranged by the responsible officials. Unless circumstances dictate otherwise or both the releasing and receiving facilities otherwise agree, travel time will be accomplished on the receiving facility's time.

11. EXCEPTIONS TO COMPETITIVE PROMOTION PROCEDURES. The following actions are exceptions to the competitive promotion procedures of this plan:

a. Career promotions (see paragraph 12 below);

b. Promotion after failure to receive proper consideration;

c. Position change from a position having known promotion potential to a position having no higher known potential (see paragraph 12d, below);

d. Position changes in reduction-in-force situations: (1) which are technically promotions due to pay fixing policies, or (2) which result in placement in positions having higher known promotion potential due to exercise of RIF assignment rights;

e. Selection of a Federal employee who is within reach on an OPM register for a higher graded position;

f. Repromotion to grades from which demoted without personal cause;

g. Repromotion to grades held prior to initial entry by demotion into supervisory or managerial positions when return to the former grade is required because of failure to complete the supervisory/managerial probationary period;

h. Temporary promotions for 120 days or less;

i. Details to higher grades or positions with higher known promotion potential for 120 days or less;

j. Selections for training which may significantly enhance chances for future promotion but which is not required for promotion.

12. CAREER PROMOTIONS

a. Career promotions are those made without current competition when the employee was previously appointed to, or selected through earlier competitive promotion procedures for an assignment which was intended to prepare the person for progression to the target grade level (career-ladder), or the position is reclassified at a higher grade level because of additional duties and responsibilities. Career promotions under this plan include career-ladder promotions involving movements between VA facilities.

b. Career-ladder promotions may be made only when the intent has been made a matter of record prior to the initial selection and all potential candidates informed. Career-ladder promotions, such as the following, are included among covered career promotion opportunities:

(1) Trainee or developmental positions;

(2) Understudy positions;

(3) Positions filled at a grade below the established or anticipated grade;

(4) Positions filled under a training agreement which provides for career-ladder promotions;

(5) Positions filled after employees were detailed to them, provided initial selection for detail was under a competitive action which provided for future promotion;

(6) Positions filled by permanent promotion of employees who were temporarily promoted to them, provided initial selection for temporary promotion was under a competitive action which provided for permanent promotion.

c. Where employees appointed under special appointment authorities have been properly converted to career-conditional (or career, if applicable) appointments to positions covered by this plan which have known promotion potential, career-ladder promotions may be made to the target grade level of the position.

d. Upgrading without significant change in duties and responsibilities due to the issuance of a new or revised classification standard or the correction of an earlier classification error is a career promotion.

e. Employees whose positions are reclassified at a higher grade because of additional duties and responsibilities where the basic function of the original position continues to be a part of the new one, may be promoted without competition, but are subject to the following considerations:

(1) The prohibited personnel practices contained in law preclude the granting of preference or advantage, not authorized by law, rule or regulation, to improve or injure the prospects of any person. Managers, supervisors, selecting officials and Human Resources Management officials are responsible for ensuring that actions resulting in a promotion because of additional duties and responsibilities are not the result of a prohibited practice.

(2) In making decisions regarding the appropriateness of such a career promotion, managers, supervisors, selecting officials and Human Resources Management officials should be guided by the examples of circumstances which would warrant such a promotion discussed in chapter 3, paragraph 12d(3) of this part.

13. ALTERNATIVE RATING AND RANKING PROCEDURES. When approved by the Director, [Recruitment and Placement Policy] Service (05[9]), alternative rating and ranking procedures may be developed on an experimental basis and utilized to determine the appropriateness of the basic procedure required under this plan.

14. KEEPING EMPLOYEES INFORMED

a. While movement among the several specific career fields is possible, a typical career path closely follows a particular career field. Career counseling is available to employees and may be sought at any time. (See paragraph 4e of this merit promotion plan.)

b. Copies of this plan will be posted at each VA facility. In addition, a copy of this plan will be made available on an employee's request.

c. Each candidate who individually applies to indicate interest in and availability for a particular position will be subsequently notified of the action taken by the Central Office Human Resources Service.

d. Selections made under this plan will be publicized at least quarterly by the Central Office Human Resources Service.

e. Employees who apply for and inquire about the results of a specific promotion action will be given the following information:

(1) By the Central Office Human Resources Service:

(a) Whether they met the minimum qualification requirements;

(b) Whether they were in the group from which selection was made;

(c) Who was selected; and

(2) By the appropriate Administration Head, Assistant Secretary or Other Key Official or their designee, upon request, in what areas, if any, they should improve to increase their chances for future promotion.

f. Upon request, employees will be shown any record of production, or any supervisory appraisal of past performance which has been used in considering them for promotion. An employee is not entitled to see the records of another employee unless they are the selecting official, a member of the promotion panel, or otherwise performing official duties which involve reviewing records of that specific promotion file, or he/she has the written consent of the subject of the record.

15. GRIEVANCES / DISCRIMINATION / COMPLAINTS

a. Failure to be selected for promotion from a properly constructed [ ] certificate (nonselection from a group of properly certified candidates) is not a basis for formal grievance, nor is dissatisfaction concerning the number of positions to be filled, or the grade level at which positions are advertised or filled. Grievances will be processed under the provisions of the VA grievance procedure contained in VA Handbook 5021, Employee/Management Relations.

b. Any complaints that action(s) taken under this plan were based on the non-merit factors of race, color, religion, sex, national origin, age or disability, will be processed under the provisions of 29 CFR § 1614.

APPENDIX F. PRIORITY PLACEMENT PROGRAM FOR EMPLOYEES IN RETAINED GRADE OR PAY STATUS

1. PURPOSE. Revises and updates the Priority Placement Program for VA employees entitled to grade or pay retention benefits. The program anticipates positive action by management to place employees in properly classified positions and provides a system for first consideration of these employees for General Schedule or Federal Wage System positions equal to their retained grade or pay, or any intervening grade, in an area of sufficient size to ensure reasonable opportunity for placement of most affected employees.

2. SCOPE. The following provisions apply to employees under or moving into positions under the General Schedule and the Federal Wage System, including Nonappropriated Fund employees in the Veterans Canteen Service (VCS) who are subject to the Federal Wage System.

3. EXCLUSIONS

a. Veterans Health Administration employees appointed or compensated under 38 U.S.C. ch. 73 or 74.

b. Employees compensated under the Executive Schedule (5 U.S.C. ch. 53).

c. Employees in the Senior Executive Service (5 U.S.C. ch. 21).

d. Nonappropriated Fund VCS employees appointed under 38 U.S.C. 7802(5), except those employed in a recognized trade or craft, as indicated in paragraph 2 above.

NOTE: *All Nonappropriated Fund VCS employees moving into positions covered by paragraph 2 are covered provided they meet the criteria for grade and pay retention benefits contained in 5 CFR, part 536.*

e. Purchase and hire employees appointed under Schedule A, section 213.3127(a)(1).

f. Employees whose appointments have a definite time limitation or are designated as temporary or term.

4. REFERENCES

a. 5 U.S.C., chapter 53, subchapter VI, Grade and Pay Retention.

b. 5 CFR, part 536.

5. POLICY. Every effort will be made to place employees receiving grade or pay retention benefits in positions or grade levels equal to their retained grade or pay, as appropriate. Participation in the Priority Placement Program is voluntary for those employees whose eligibility for grade retention is based on a reclassification or as the result of a reduction in force (5 CFR 536.103(a)). Participation in the program is mandatory for those employees whose eligibility for grade retention is based on actions other than reclassification and reduction in force pursuant to 5 CFR 536.103(b). In applying the provisions of this program, effort will be made to assure to the maximum extent possible that affirmative action goals are

not adversely affected. Each VA facility will adopt local procedures which will assure that the Priority Placement Program is carried out in a timely and systematic manner.

6. RESPONSIBILITIES

a. Administration and staff office heads or their designees shall apply the provisions of this appendix to centralized positions and to employees within their immediate jurisdiction.

b. Facility directors and HRM Officers shall apply the provisions of this appendix to positions and employees at their installations. Directors are also to assure that the Priority Placement Program procedures at the local level are reviewed annually.

c. Supervisors and others responsible for assigning duties and responsibilities to positions are directly responsible for application of the Priority Placement Program within their immediate jurisdiction.

7. EVALUATION. Records concerning the implementation and application of the Priority Placement Program will be maintained and are subject to review by VA and Office of Personnel Management (OPM) officials conducting personnel management evaluations, as well as other VA Central Office officials visiting field facilities. Necessary corrective actions may be directed by VA Central Office or OPM.

8. ELIGIBILITY. The following employees in retained grade or pay status are eligible for consideration under the provisions of this Priority Placement Program:

a. Those who are in such status as a result of a reduction-in-force action and those who are in pay retention status as a result of a demotion in lieu of a reduction in force.

b. Those who are in such status as a result of a reclassification action.

c. Those who are in such status because of a declination to transfer with their function, provided the provisions of 5 CFR 536.103 are fully met.

d. Those who are in such status because of acceptance of a position with grade retention in lieu of transferring with their function, provided the provisions of 5 CFR 536.103 are fully met.

9. PRIORITY PLACEMENT PROGRAM

a. Subject to the exceptions listed in paragraph 11 below, eligible employees will receive first consideration for vacancies in the manner described in this paragraph. Employees must meet all qualification standards and legal and regulatory requirements for positions for which they are considered. Qualifications for eligible employees will be evaluated in accordance with 5 CFR 337.102.

NOTE: *For the remainder of this appendix, "eligible employee(s)" and "employee(s)" refer to employees whose eligibility for grade retention is based on 5 CFR 536.103(a) and who wish to take part in this program and employees whose eligibility for grade retention is based on 5 CFR 536.103(b).*

b. First consideration means that eligible employees must be referred (certified separately) and fully considered for an appropriate vacancy before recruitment action is initiated to fill the vacancy by any other method. If there are qualified persons on a reemployment priority list, a selection may be made either from among qualified employees eligible under the Priority Placement Program or from among qualified persons on the reemployment priority list. Employees eligible for first consideration under the Priority Placement Program will be referred prior to individuals eligible for placement in lieu of disability retirement.

c. Written notice of eligibility for grade and/or pay retention which includes the requirements of the Priority Placement Program is to be issued to affected individuals at least ten workdays prior to the effective date of a proposed action which would entitle the individual to grade or pay retention benefits. Employees whose eligibility for grade retention is *not* based on a reclassification or as the result of a reduction in force (i.e., their eligibility for grade retention is based on 5 CFR 536.103(b)) will be informed that failure to enroll in or comply with the requirements of the Priority Placement Program will result in loss of eligibility for grade retention. The employee may appeal such termination of benefits through the VA grievance procedure or through the negotiated grievance procedure, as appropriate. All eligible employees will designate five position categories (broken down by classification title and series) for which they qualify. Employees who do not qualify for five position categories will designate the position categories for which they do qualify.

d. Eligible employees in retained grade status (including those in Alaska, Hawaii, Puerto Rico and Manila) who occupy noncentralized positions will receive first consideration for vacancies in their designated position categories, equal to their retained grade or any intervening grade between the retained grade and the grade to which reduced, on the following basis:

(1) All eligible employees will receive first consideration for all appropriate positions (including centralized positions) at their current duty station.

(2) Eligible employees whose retained grade or whose grade from which demoted is GS-11 or above will receive first consideration for all appropriate positions (including centralized positions) at any VA facility, within the 48 contiguous States, for which they request referral. No employee, however, is entitled to first consideration at a facility in Alaska, Hawaii, Puerto Rico or Manila unless presently an employee at one of these facilities.

(3) All eligible Federal Wage System employees and all eligible employees whose retained grade or grade from which demoted is below GS-11 will receive first consideration for all appropriate positions (including centralized positions) at all VA facilities within the commuting area of their current duty facility. In cases where the number of VA facilities within the commuting area is below five, employees may request referral to the VA facilities closest to their current duty station. The total number of VA facilities, other than the current duty facility, to which an employee receives referral is limited to five (including facilities within and outside the commuting area, if applicable). For this purpose, facilities serviced by the same HRM office will count as one facility. (See subparagraphs h and i below for referral requirements.)

e. Eligible employees who are in retained grade status as a result of an action taken while occupying a centralized position will receive first consideration for vacancies in their designated position categories equal to their retained grade or any intervening grade between the retained grade and the grade to which reduced, on the following basis:

(1) All eligible centralized employees will receive first consideration for all appropriate centralized positions in their designated position categories on a department-wide basis, if centralized to the Secretary, or on a staff office or administration-wide basis, if centralized to a staff office or Administration Head.

(2) All eligible centralized employees will receive first consideration for all appropriate noncentralized positions in their designated position categories at their current duty station and at all facilities for which they request referral through their HRM office.

NOTE: *See chapter 2 of this part; 5 CFR 335.102; VA Handbook 5021; and Comberiate v. The United States, 203 Ct. C1.285, (1973), for guidance in applying these requirements to eligible employees who are in retained grade status as a result of an action taken while occupying a centralized position.*

f. Eligible centralized and noncentralized employees in retained pay status will receive first consideration for repromotion to all vacant positions, equal in grade to the position from which they were demoted, or to any intervening grade, on the same basis (as outlined in subparagraphs d and e above) as employees in retained grade status. Employees repromoted to their retained grade will be placed in the step to which they would have been entitled had they remained in that grade and not been demoted. The step rate for employees on retained pay, who are repromoted to an intervening grade or their former grade, shall be set in accordance with VA Handbook 5007, Pay Administration.

g. After 2 years of eligibility under the provisions of the Priority Placement Program, noncentralized employees will be eligible for first consideration only at their current duty station; centralized employees will continue to be eligible for first consideration on an agency, administration or staff office basis as long as they are on retained pay status.

h. Position category designations must be made in writing by the employee and be received by the HRM Officer or designee at the employee's current duty station no later than the effective date of the proposed action entitling the employee to priority placement. In situations where it is determined that an employee cannot make the required designations by the effective date of the proposed action (e.g., in cases of hospitalization, military reserve or National Guard training, etc.) facility directors or designees (in Central Office, the second-line supervisor) may authorize an extension to this time limit. The HRM Officer or designee will make an initial qualification determination within 15 workdays of receipt of position designations from the employee. An employee who is found not eligible for a chosen position category may choose another category as a substitute. Once the position categories for which the employee is eligible have been designated, these are the only position categories for which the employee may be considered at any facility under the Priority Placement Program. HRM Officers will forward the choices of position categories for centralized employees through channels to the appropriate Central Office administration or staff office head.

i. Eligible noncentralized employees who want to be considered for appropriate positions (both centralized and noncentralized) at other VA facilities, and centralized employees who want to be considered for appropriate noncentralized positions at other VA facilities, must apply through the HRM office at their current duty station. Employees will not apply directly to another facility on their own. HRM Officers will be responsible for maintaining a record of the facilities for which each employee has applied and for forwarding applications to the facilities the employee selects or to the facilities where the employee is to receive consideration, as applicable. When forwarding applications, the HRM Officer will identify the applicant as an employee who is eligible for consideration under the Priority Placement Program. Facilities which receive these applications will consider them, along with local priority placement eligibles, in accordance with the provisions of this program. No employee is entitled to receive consideration, under the provisions of this program, for vacancies for which recruitment action has already been initiated at the time the HRM office (or appropriate official, in the case of Central Office) at the recruiting facility is notified of the employee's enrollment in the Priority Placement Program. A local log should be maintained which identifies employees eligible for priority placement consideration. The log will help assure priority placement consideration of eligible employees, assist in recovering information concerning priority placement actions and facilitate the evaluation of the Priority Placement Program by Central Office officials.

j. As indicated in subparagraph d above, noncentralized employees may receive first consideration for appropriate centralized positions at their current duty station, at other VA facilities within the commuting area, and at other VA facilities for which they request referral in accordance with the provisions contained in subparagraph d above, as applicable. In such cases, the HRM office at the receiving facility will not notify appropriate Central Office officials of the employee's interest until such time as an appropriate centralized vacancy occurs. When such a vacancy occurs, the HRM office will notify the appropriate staff office or Administration Head of the employee's interest and eligibility at the same time Central Office recruitment action is requested, and will forward a copy of the employee's application to the appropriate Central Office official.

k. Generally, an employee will not receive first consideration for vacant positions at the same grade level to which demoted (e.g., an employee demoted from GS-11 to a GS-9 continuing position is not entitled to first consideration for another GS-9 position). However, if a vacancy occurs at the same grade as that to which the employee is demoted and this vacancy has promotion potential back to the retained grade or the grade from which a retained pay employee was demoted or to an intervening grade level, the employee is entitled to first consideration for such a position. An employee is not entitled to first consideration for vacant positions which have promotion potential to a grade that is higher than an employee's retained grade or the grade from which a retained pay employee was demoted. An employee must compete under regular merit promotion procedures for these positions.

l. Once an employee accepts or declines an offer to an intervening grade, the employee is no longer entitled to first consideration for positions at the same or lower grade level (e.g., an employee demoted from GS-11 to a GS-9 position accepts or declines an offer to a GS-10 position. The employee is no longer entitled to first consideration for any position at or below the GS-10 level). However, the employee does continue to receive consideration for positions at higher grade levels for which eligible under this program. As outlined in subparagraph k above, the employee will also receive first consideration for positions with promotion potential back to the retained grade or to an intervening grade.

m. Travel, transportation and other moving expenses will be paid for all employees selected under this program in accordance with the provisions of MP-1, part II, chapter 2. In the case of employees moving to centralized positions, expenses will be paid by the receiving facility. In the case of employees moving to noncentralized positions, expenses will be paid by the losing facility.

n. When an eligible employee receives first consideration under any of the circumstances described in this paragraph and is not selected, the reasons for the nonselection must be justified and documented. Such documentation must be approved by the Secretary or administration or staff office head, as appropriate, for employees considered for centralized positions or by the field facility Director (in Central Office, the second-line supervisor) for employees considered for noncentralized positions. In the Veterans Health Administration, such documentation must be approved by the Assistant Deputy Under Secretary for Health for those positions for which the Veterans Integrated Service Network (VISN) Directors have selecting authority.

o. All eligible employees will be referred in situations where more than one eligible employee is available for consideration for a vacancy. Local employees entitled to first consideration may be considered for noncentralized positions before those from other facilities.

p. If facility directors (in Central Office, second-line supervisors) determine that placement opportunities for a noncentralized employee under their jurisdiction are nonexistent or very limited, they should authorize special training or a developmental assignment which will help the employee qualify for other positions. The Secretary or Administration or Staff Office Head, as appropriate, should make such determinations and authorizations for centralized employees.

10. TERMINATION OF ELIGIBILITY

a. An employee is no longer eligible for consideration under this Priority Placement Program when:

(1) The employee's position is reclassified at or above the retained grade or the grade from which the employee was demoted.

(2) The employee is reassigned or promoted to a position equal to or higher than the employee's retained grade or the grade from which a retained pay employee was demoted. If such a placement is in a different pay schedule, a comparison of representative rates will be made to determine if the employee has been placed in an equal or higher grade.

(3) The employee's grade and/or pay retention benefits are terminated for any reason.

(4) The employee declines a reasonable offer to a continuing position made in accordance with the provisions of the Priority Placement Program.

b. For the purpose of this program, a position offer must fulfill the following conditions in order to be considered a reasonable offer:

(1) The offer must be in writing, and must include an official position description of the offered position;

(2) The offer must inform the employee that an entitlement to grade or pay retention will be terminated if the offer is declined and that the employee may appeal the reasonableness of the offer as provided in 5 CFR 536.302;

(3) The offered position must be equal in grade to the employee's retained grade or the grade from which the employee was demoted;

(4) The offered position must be of tenure equal to or greater than that of the position creating the grade or pay retention entitlement;

(5) The offered position must be full time, unless the employee's position immediately before the change creating entitlement to grade or pay retention was less than full time, in which case the offered position must have a work schedule of no less time than that of the position held before the change. (The work schedule of the offered position for part-time employees need not exactly match the work schedule previously held by the employee.) The offered position cannot have less hours scheduled than that of the position held before the change and the offered position cannot have a full-time schedule. (See part II, chapter 2 for hour limitations on part-time schedules.);

(6) In the case of employees in centralized positions, the offered position must be a centralized position unless the employee has requested concurrent consideration for noncentralized positions in accordance with paragraph 9e and f above. Declination of a placement offer to a centralized position or a designated noncentralized position, whichever is offered first, will result in the employee losing eligibility for consideration in the Priority Placement Program;

(7) In the case of employees in noncentralized positions, the offered position (including an offer of a centralized position if the employee requests consideration for centralized positions) must be in the same commuting area as the employee's current position. If an employee declines an offer from a facility outside the commuting area of his or her current duty station to which he or she has requested referral for first consideration, the employee will be removed from consideration under this program at all facilities other than those within the commuting area of his or her own facility; and

(8) An employee who declines an offer of a position outside his or her designated position categories has not received a "reasonable offer" for purposes of the Priority Placement Program.

c. Entitlement of priority placement consideration will be established as the effective date of the action which entitles the employee to grade or pay retention benefits. (For effect of subsequent wage increases on representative rates, see 5 CFR, part 536).

11. EXCEPTIONS. The following personnel actions are excepted from the requirements of this program:

a. Actions required to comply with regulatory or statutory provisions such as those covering reemployment rights;

b. Career promotions and promotions which are exceptions to competitive promotion procedures;

c. Consideration of candidates not given proper consideration in a competitive promotion action;

d. Consideration of employees previously demoted without personal cause and not at their own request (special consideration);

e. Filling of vacancies as a result of a decision in a discrimination complaint case or of any other legal or procedural ruling; or

f. Filling of vacancies which a facility may wish to fill in order to minimize the impact of a reduction in force.

APPENDIX G. DEVELOPMENT OF RATING AND RANKING PROCEDURES

1. PURPOSE. This appendix is designed to provide assistance in developing merit promotion rating and ranking procedures which meet the criteria established by the Office of Personnel Management, the Uniform Guidelines on Employee Selection Procedures, and the courts. This appendix is not intended to provide complete information on validity studies and the development of valid selection procedures. It should be supplemented by formal training and by reading current professional human resources literature.

2. PRINCIPLES OF CONTENT VALIDITY

a. Three types of validity studies for demonstrating the job-relatedness of a selection procedure have been defined by Federal equal employment opportunity enforcement agencies, professional organizations, and the courts. They are criterion-related, content, and construct validity studies. These types of validity studies are described in the Uniform Guidelines on Employee Selection Procedures. Because the content validity approach is the most practical option currently open to most employers, all VA selection procedures must meet content validity standards.

b. Basically, the degree of content validity depends on how well and how consistently the selection procedure measures each applicant's ability to do the job. This means each applicant must be evaluated on the knowledges, skills, abilities and other characteristics (KSAOs) which are required by the important duties or responsibilities of the job being filled. The steps required in the development of a content valid selection procedure are briefly outlined here and discussed in greater detail later in this appendix.

Step 1 - Conduct a job analysis. This is the important first step in developing a content valid selection procedure. The job must be thoroughly studied and analyzed to identify its important duties and tasks and to identify the KSAOs necessary for successful performance of those duties and tasks.

Step 2 - Decide which KSAOs will be used in predicting job success. For example, the importance of each KSAO, whether it can be measured, and whether it distinguishes between superior and barely acceptable applicants must be determined.

NOTE: *A KSAO which can be learned during the first few months on the job usually should not be used as a factor in the selection procedures.*

Step 3 - Develop a crediting plan which will measure the degree to which applicants possess the KSAOs identified in step 2. The sources and types of information which will be used in evaluating applicants on the KSAOs must be determined. Quality level examples must be established which define levels of competency in each KSAO in terms of observable tasks, activities and behaviors available in the sources and types of information to be used. A point crediting system based on these quality levels must be developed.

Step 4 - Review the adequacy of the final crediting plan. Are there any additional KSAOs which should be measured? Will the best qualified applicants be identified? Are only important KSAOs being measured? Can each KSAO be measured?

Step 5 - Measure each qualified applicant's capabilities against the crediting plan[/assessment questionnaire].

c. Content validity can only be used when selection procedures measure directly observable KSAOs. When KSAOs are stated in terms of unobservable characteristics or personality traits, such as dependability or leadership ability, the selection procedure cannot be validated by means of a content validity study. Characteristics and personality traits, however, may often be broken down into directly observable behaviors which may be measured using a content valid selection procedure. For example, dependability might be demonstrated by the ability to complete work assignments within a specified timeframe, or leadership ability might be shown by the ability to delegate work assignments to subordinates. Content validity can then be used to demonstrate the job-relatedness of the selection procedures.

d. OPM requires that promotion procedures meet formal validation requirements. In the past, typically, separate point credit has been given for each of the various sources of information about applicants, such as experience (based on the application, personnel folder, etc.), supervisory evaluation, training, education, and awards. To have valid merit promotion selection procedures, rating and ranking methods which combine the information gathered from these various sources must be used to rate applicants on each KSAO which a job analysis has shown to be important to the job. Figure 1 provides a graphic comparison of past rating and ranking procedures and those procedures which should be used to meet requirements for validity and merit selection. [For USA Staffing, VA Forms 0938a, 0938b, and 0938c should be used to document input from subject matter experts that the crediting plan/assessment questionnaire content is valid.]

e. The following paragraphs of this appendix discuss in detail the steps which must be followed for devising proper content valid merit promotion crediting plans[/assessment questionnaires]. These procedures will require training of human resources staff, supervisors, subject matter experts and selecting officials. (See Figure 1[below.])

3. DEFINITIONS

a. **KSAO.** An acronym standing for the words, "knowledge, skill, ability and other characteristic."

(1) **Knowledge.** A body of learned information used directly on the job.

(2) **Skill.** A present competence to perform a learned psychomotor act. A skill, unlike an ability, typically involves observable, quantifiable, and measurable performance parameters, (e.g., typing, pipefitting, etc.)

(3) **Ability.** The competence to perform an activity at the present time.

NOTE: *Ability should not be confused with aptitude, which implies a likelihood of being able to learn to perform an activity.*

(4) **Other Characteristics.** Other competencies required of individuals doing the job. Remember that for content validity purposes, personality traits or aptitudes must be directly observable and measurable. This may require further definition of the trait in terms of its directly observable manifestations (see paragraph 2c).

NOTE: *While knowledges, skills, abilities and other characteristics are separately defined, they often overlap and can be combined into one evaluation factor. Many of these factors may contain elements of all four.*

FIGURE 1. RATING AND RANKING SYSTEM

		EVALUATION FACTORS					Points Assigned (Old Method)
							_____a _____a _____a _____a _____a
		KSAO 1	KSAO 2	KSAO 3	KSAO 4	KSAO 5	
SOURCES OF INFORMATION ON APPLICANTS	Experience (Application)						
	Supervisory Evaluation						
	Education						
	Training						
	□ □						
	Other						
Points Assigned (New Method)	_____b _____b _____b _____b _____b						

Under the old method, each source of information was considered individually, and points – the lines labeled "a" -- were assigned. For example, in this type of system, 30 points may have been assigned to the supervisory evaluation, 25 points to experience, etc. In theory, the points assigned to each source of information were awarded based on an applicant's capabilities to do the job (i.e., the KSAOs) as indicated by that source. Unfortunately, the theory was not always true in practice. Often irrelevant KSAOs were considered, a single KSAO strength would be credited several times, or an important job requirement not

evaluated. Under the new method the evaluation is based on the applicant's capabilities on each KSAO required in the job. All available sources of information, in combination, are used to arrive at a score – the lines labeled "b" – on each KSAO, not by awarding points for each separate source and then totaling those points. The individual KSAO scores are then added to arrive at an estimation of an applicant's capability to do the whole job.

b. **Rating Factors.** The KSAOs or groups of KSAOs identified in the job analysis and selected for use in the crediting plan (see paragraph 4e, this appendix).

c. **Quality Levels.** Examples of elements in the background of individuals which demonstrate the level of possession of a particular KSAO or rating factor. Many crediting plans show three quality levels for each rating factor. [In USA Staffing, each KSA is typically associated with task statements, and each task statement is measured using quality levels.]

d. **Selection Procedure.** Any measure or combination of measures used as a basis for an employment decision (e.g., hiring, promotion, demotion, selection for training if the training leads to an employment decision, etc.). Selection procedures include the full range of assessment methods such as written tests, qualification standards, scored and unscored application forms, crediting plans[/assessment questionnaires], and formal and informal interviews.

e. **Selective Factors.** A KSAO or group of KSAOs identified in the job analysis as being critical to the job. Selective factors are used in addition to the appropriate qualification standard requirements to determine the basic qualifications of applicants. The minimum level of proficiency required to do the job must be described for each selective factor and applied in basic qualification determinations. The use of a KSAO as a selective factor does not preclude its use as a rating factor when it meets the criteria in paragraph 4e, this appendix.

f. **Subject Matter Experts (SMEs).** Person with direct knowledge of what is done in the job and what [ ] KSAOs are required to do the job successfully. Included may be recent incumbents who supervise others doing the job. For job analysis/crediting plan[/assessment questionnaire] development panels, one SME must be at least equal in grade to the job to be filled. Since the selecting official often has the most knowledge about the job, that person should ordinarily be included on the SME job analysis/crediting plan[/assessment questionnaire] development panel.

4. JOB ANALYSIS

a. **General.** The first step in developing a content valid selection procedure is the job analysis. The purpose of a job analysis for selection procedure development is to find out what is required of the person who does the job. The duties of the job and the capabilities an individual must have in order to do it are both objectives. In job analysis terminology, identify the tasks performed in the job and the KSAOs (knowledges, skills, abilities and other characteristics) a person must possess to do those tasks.

b. **Approaches to Job Analysis.** There are several approaches to analyzing jobs for the purpose of developing selection procedures: an entire class of positions which are common to a number of VA installations and which do not vary much from location to location can be analyzed; the analysis can focus on a group; or the analysis can zero in on a single job. In the group or class study, emphasis is on

gathering a broad base of job information from which KSAOs required in all the jobs in the group or class are derived. In the single job study, emphasis is on determining the KSAOs required in the specific position with less effort devoted to obtaining background information.

(1) **Class Analysis.** A class of positions, such as Veterans [Claims Examiner] or [Nursing Assistant] which is common to a large number of VA installations can be centrally analyzed on a grade-by-grade basis and the results shared among VA users. Such class analyses will be done only under the direction of the Deputy Assistant Secretary for Human Resources Management and Labor Relations (059). Since no two jobs are exactly alike, there is a need to identify many more tasks and many more KSAOs than are likely to appear in any one position. As part of the class analysis, quality level examples are prepared for each KSAO. When an individual position is to be filled, responsible officials will decide which of the KSAOs identified in the class study are applicable to that particular job and whether there are any unidentified KSAOs unique to it. Using the predefined KSAOs and their corresponding quality levels (plus locally defined quality levels for KSAOs unique to that particular job, if any), a local rating and ranking procedure may be developed.

NOTE: *The local job must be closely surveyed and the KSAOs carefully selected to ensure job relatedness. If an important KSAO required in the local job has not been identified in the class study, it must be defined, documented and developed locally, including quality level descriptions, inclusion in supplemental experience statements, specialized appraisals, etc.*

(2) **Local Analysis of a Group of Jobs.** Often several jobs at an installation are enough alike in tasks performed and level of responsibility and difficulty to be grouped and analyzed together. Usually, those jobs will have the same grade and title. For example, there are a number of tasks which are performed by all GS-4 Nursing Assistants in a medical center even though they may be assigned to medical, surgical or psychiatric units. By using appropriate sources of information and input from a panel of SMEs representing each of the areas where GS-4 Nursing Assistants work, a list of tasks, KSAOs and quality level examples for the whole job group can be developed. When an individual job is being filled, the KSAOs required in that job are selected from the pool of GS-4 Nursing Assistant KSAOs and used to rate and rank applicants.

NOTE: *Care must be taken to ensure that all the KSAOs which are needed to identify the best qualified applicants for the individual job have been included in the rating and ranking procedure.*

(3) **Single Job Analysis.** Many jobs may not lend themselves to a group or class job analysis, or such an analysis may not yet be available. These jobs may be few-of-a-kind jobs or those which, even though they share a common title and grade, have duties and responsibilities which require different KSAOs. The procedures followed in a single position study are similar but not identical to those followed in a group or class study. In the single job study the sources of job analysis data do not have to be as wide and varied as those used in a larger study; however, the input from the SMEs must be more specific, and the KSAOs must relate directly to the individual job.

c. **Common Elements in Any Job Analysis.** While the job analysis approaches discussed above vary in their focus and scope, there are a number of elements which must be included in any job analysis.

(1) The review of job information material may include position descriptions, position evaluation reports, classification and qualification standards, organization manuals, organization charts, functional statements, previous job analyses, professional literature and any other relevant source of information about the job. The judgments and conclusions influenced by these materials directly affect all other aspects of a selection procedure. It is, therefore, of prime importance that their accuracy, currency, appropriateness, etc., be verified at the outset.

(2) Direct input from SMEs.

(3) Determination of the functions, duties and tasks of the position(s).

(4) Identification of the KSAOs an individual needs to do the tasks.

(5) Determination of which KSAOs to measure.

(6) Definition of the various quality levels of individual capabilities on a KSAO that describe superior, above average, average, etc., possession. These quality level definitions must be based on observable behaviors and are dealt with in paragraph 5c, this appendix.

d. **Who Conducts the Job Analysis.** The HRM Officer or a designated HRM specialist performing at least at the first full performance level (usually GS-9) is responsible for conducting the job analysis. The assistance of a position classification specialist in determining major functions and duties of properly described and classified positions is usually beneficial. The HRM representative should first review available sources of information on the job such as those mentioned in subparagraph c(1) above. After becoming more familiar with the job, the HRM representative should convene a panel of SMEs (See paragraph 3f, this appendix) who will give direct input on the tasks and KSAOs involved in the job. The size of the SME panel may vary depending on the scope of the analysis. The panel should be large enough to ensure that input is received on all important aspects of the job or class of jobs and small enough to allow for free and easy discussion. If a single position is being analyzed, three or four SMEs should be sufficient.

e. **Steps in a Job Analysis.** The steps in the job analysis must be carefully documented. This documentation must be retained as part of the validity evidence required by the Uniform Guidelines (See paragraph 9, chapter 3 of this part).

Step 1 - Identify the major functions or tasks performed on the job. HRM Officers or Specialists conducting a job analysis may find the following questions useful in obtaining information from SMEs. What duties or tasks does an incumbent of the position perform? What duties or tasks take most of a worker's time? What do the *best* workers do? What do the *just acceptable* workers do? What is the most important/critical duty of the job?

Step 2 - Identify the KSAOs needed to do the tasks identified in Step 1. Questions which might be asked of SMEs to obtain a list of KSAOs are: What KSAOs should a good employee possess? What KSAOs does the *superior* worker have that the average worker doesn't? Think of the best employees - what makes them the best? Some people didn't work out in the job - why didn't they?

Step 3 - Relate each KSAO to a task or duty.

Step 4 - Study each KSAO and decide if it is critical to successful performance of the job. If an applicant is not competent in this KSAO, can that person do the job? If not, the KSAO is critical and is used as a selective factor when making minimum qualification determinations. The minimum level of proficiency required to do the job must be described for each selective factor.

Step 5 - Decide which KSAOs will distinguish superior applicants from the acceptable. Is there a difference in individual levels of competency in the KSAO? Will someone with a higher level of competency do a better job? KSAOs that differentiate between applicants may be used as rating factors.

Step 6 - Decide which KSAOs are measurable. Can information be collected on each applicant which will make it possible to determine the individual's level of competency on the KSAO? If the information can be collected, what is the most practical and cost effective way to do so? Sources of information on applicants are discussed in detail in paragraph 6 below.

Step 7 - Decide which KSAOs will be used in rating and ranking applicants. Five is generally considered the ideal number of rating and ranking KSAOs. This number will usually obtain meaningful distinctions among applicants and will allow for rating and ranking within a reasonable period of time. If there are more than five KSAOs which differentiate among applicants and can be measured, it may be possible to combine two or more of them. To be combined, KSAOs need not be identical; but the sources of information used to determine the appropriate quality level on each of the combined KSAOs should be the same or similar. Also an applicant's level of ability on each of the combined KSAOs should be about the same.

Step 8 - Describe the quality levels for each KSAO to be used. This step is defined in more detail in the following paragraph on crediting plans.

5. CREDITING PLAN

a. **General.** When the job analysis has been completed, a crediting plan must be developed which can be used to rate and rank applicants for the position. To provide continuity, the crediting plan should be developed, under the general direction of the responsible HRM Specialist, by the same SMEs who analyzed the job. If this is not possible, it may be developed by another group of SMEs or by the HRM Specialist. Just as the job analysis may be conducted on an individual job or on a class of jobs, the crediting plan can be developed for a single job or a group or class of jobs. In all cases, before a crediting plan is used to rate applicants for a particular job, it should be reviewed by the selecting official. If the plan is developed by the HRM Specialist, it should also be reviewed by the job analysis SMEs, or at least one SME, to ensure that the job analysis information has been correctly translated into the crediting plan. Before the crediting plan can be used, it should be approved and signed by the HRM Officer or other appropriate official who is responsible for its application.

b. **Rating Factors.** The final crediting plan should consist of four to eight KSAOs or rating factors which satisfy the criteria in paragraph 4e above. Remember that rating factors may be combinations of KSAOs.

c. **Quality Levels**

(1) Each rating factor must be defined in terms of observable behaviors, past experiences, quality of performance, pertinent education and training, etc., which describe several levels of proficiency for the factor. These descriptive quality levels further define the rating factor by giving concrete examples of performance at various proficiency levels.

(2) For critical KSAOs used as selective factors in basic qualification determinations, the minimum level of acceptable competency must be defined as discussed in paragraphs 3e and 4e, above. Quality levels above the minimum level are also developed for a critical KSAO when it is also used for rating and ranking.

(3) Three quality levels should be described for each rating factor, whether critical or important, which is used to distinguish superior applicants. Three is not an absolute requirement but is generally the easiest number to work with. It is important to distinguish between levels of ability that are required as soon as a person begins working in the job (these may be used in the crediting plan) and those which can be acquired after a reasonable time on the job (these generally should not be used). [In USA Staffing, quality levels are used for each task statement.]

(4) Developing quality level descriptions becomes easier as persons become more familiar with it. Valuable information on quality level improvement can be obtained from the promotion panel members who have used the crediting plan. Their observations and suggestions may also help in developing quality levels for similar positions.

[d. **Task Statements**

(1) In the crediting plans/assessment questionnaires used for USA Staffing, task statements are used to describe each KSAO. The task statements reflect specific assignments and performance of work.

(2) Subject Matter Experts are used to develop, devise, and/or review task statements. Their participation is documented in USA Staffing and in VA Forms 0938a, 0938b, and 0938c.

e.] **Point Assignment.** There are a number of ways in which points can be assigned to rating factors and quality levels. One simple method is to give each rating factor a maximum value of five points. Assuming that three quality levels have been defined, assign values of 1, 3 and 5 points to the quality levels. Applicants whose background is judged to equate to the top quality level would receive 5 points, those rated in the middle would get 3 points, and those rated at the lowest quality level would get 1 point. The 1-3-5 pattern allows raters to assign 2 or 4 points to applicants whose background is judged to fall between two quality levels. There are also other acceptable methods and procedures. [In USA Staffing, points are assigned to a level of proficiency in performing the task.

f.] **Review of Crediting Plan[/Assessment Questionnaire].** The final crediting plan[/assessment questionnaire] should be reviewed by the SMEs and HRM specialist along with information gathered in the job analysis to ensure that all the critical and important KSAOs are covered by the rating factors. Quality levels should be reviewed to make sure they are as definitive as possible and describe elements of employee background and performance which are reflected in available sources of information on applicants.

[g.] **Approval of Crediting Plan[/Assessment Questionnaire].** The completed crediting plan should be signed by each member of the crediting plan[/assessment questionnaire] development panel and by the HRM Specialist before being forwarded for final approval. If the selecting official was not a member of the crediting panel, he or she should also review the plan.

6. SOURCES OF INFORMATION

a. **General.** Applicants are evaluated by comparing the total information on each applicant's capabilities against the quality levels for each rating factor or KSAO in the crediting plan[/assessment questionnaire]. This information can be obtained from a number of sources, discussed in detail in the following paragraphs. The best way to obtain information on the applicants must be determined for each vacancy. The consideration of what sources of information are available and will be used is important at each stage in the development of the selection procedure. In the job analysis stage, it is important in determining which KSAOs can be measured and will become rating factors. In the development of crediting plan[/assessment questionnaire], it is important in determining how the quality level examples are defined. In the evaluation process, the sources of information are the tools used by the promotion panel to arrive at scores for applicants.

NOTE: *Annual performance appraisals and awards must be considered to the extent they are related to the job to be filled. (See paragraph 3d, chapter 3 of this part.)*

b. **Supervisory Appraisals.** This can be a very valuable source of information since it allows someone with firsthand experience in supervising the applicant to give an assessment of the person's capabilities. However, remember that for rating and ranking purposes, the supervisory appraisal is only valuable to the extent that it gives information related to the applicant's capabilities on the KSAOs needed in the job being filled. There are several different styles and forms of supervisory appraisals. They may be designed for a specific job, or they may be more general in nature and used in evaluating applicants for a variety of jobs. They may simply require a supervisor to check a statement which most nearly defines an employee's capabilities. Several styles and forms can be combined in a variety of ways depending on how the appraisal is to be used.

(1) **Forms of Appraisals**

(a) **Standard Appraisal.** If other sources of information will yield enough information on applicants to enable raters to arrive at an appropriate rating, a general or standard appraisal which can be used for a number of jobs may be sufficient. In this case, only the items on the standard form which relate directly to the [KSAOs] of the job in question [ ] would be used. If the standard appraisal does not give direct information on a particular rating factor, then it cannot be used in evaluating an applicant on that factor.

Major advantages of the standard appraisal are that it does not have to be individually developed by the HRM Specialist, and it requires little time for the supervisor to complete. The major disadvantage is that it gives little specific information on an applicant's capabilities relative to the requirements of the job being filled; consequently, its value as an evaluation tool is diminished.

(b) **Specialized Appraisal.** A specialized appraisal is developed specifically to evaluate applicants for a particular job or group of jobs. It is keyed to the KSAOs or rating factors established in the job analysis and used in the crediting plan. This form allows the supervisor to address each of the [ ] KSAOs directly and increases the value of the information that the supervisor provides the promotion panel. Its principal disadvantages are the time required for its development and the additional time required for the supervisor to complete a separate appraisal for each job for which an employee applies.

(2) **Appraisal Styles**

(a) **Category Rating.** This style consists of a description of the KSAO to be appraised (e.g., ability to present ideas orally), followed by either adjective descriptions (outstanding, average, etc.) or descriptions of performance levels, and provides for relatively easy comparison of appraisals for several applicants. The supervisor simply selects the category which best describes the employee's capabilities. The pitfall is

that supervisors may have varying ideas about what constitutes a high rating, a low rating, etc. An applicant's rating is dependent on the supervisor's individual concepts.

(b) **Narrative Rating.** This style of rating requires supervisors to write about the applicant's capabilities and, therefore, depends to some degree on the supervisor's writing skills. The narrative often discourages supervisors from rating very high or very low because they must explain their rating in terms of what the employee has actually done. It may, however, be used beneficially with the category rating by requiring supervisors to support their choice of category by citing specific examples of employee performance. Because of its weaknesses, this style may not be appropriate for some jobs, particularly when used alone.

(3) **VA Forms 4667 and 4668.** VA Form 4667, Appraisal of Employee for Promotion to Non-supervisory or First Level Supervisory Position, and VA Form 4668, Appraisal of Employee for Promotion to Supervisory Position Above First Level, are examples of standard appraisals in the category style. These forms may continue to be used for merit promotion purposes. Their use, however, is no longer required.

NOTE: *Any form or combination of forms of supervisory appraisals may be used (see paragraph 6c, this appendix, and paragraph 2b, chapter 3 of this part). It is recommended that merit promotion plans not be restrictive as to the type appraisal which will be used. This should vary depending on the job being filled.*

c. **Annual Performance Appraisal.** Annual performance appraisals, which must be considered to the extent they are relevant to the position to be filled (see paragraph 3b, chapter 3 of this part) are based on performance in the current position. This appraisal is useful in rating and ranking to the extent that elements evaluated in it correspond to the requirements of the job being filled. The annual performance appraisal can be a useful tool for promotion panels, particularly when it is combined with a specially developed supervisory appraisal for promotion. This would allow the panel to get the greatest amount of relevant information from the supervisor. Because the supervisor only has to complete the performance appraisal once a year and it is not necessarily involved with selection and placement at that time, it may be more reliable than a supervisory appraisal required in a particular selection action. The annual performance appraisal, however, very often does not contain the information needed to evaluate an individual's anticipated performance in a new position; and there is the possibility that the employee's performance has changed during the time between the date of the annual performance appraisal and the date of the promotion opportunity.

d. **Federal Employment Application.** A Federal employment application may be used as the primary source of information about an individual's education, experience, training, etc. For some types of information, e.g., outside activities, a Federal employment application may not be a good tool. Use of a Federal employment application is not required in merit promotion actions if it is possible to get the same or better information from other sources.

e. **Supplemental Qualifications Statement.** This form is specially designed for use in filling a particular job. It solicits the same type of information as a Federal employment application but requires applicants to give more detailed information on education, experience, training, awards, etc., as they relate to the KSAOs or rating factors being used.

f. **Education.** Educational attainments often provide very useful information about capabilities. Education may be used as one element in combination with others to make determinations of applicants' capabilities. When considering education, the specific courses taken, as opposed to an academic degree, should be evaluated. For example, if someone has a degree in a particular field of study but did not work very long in that field, the degree may be less relevant than several courses taken in a field in which the person has stayed active.

g. **Awards.** Awards, which must be given consideration (see paragraph 3d, chapter 3 of this part) should only be used as indicators of an individual's capabilities to the extent that they indicate high interest, incentive, or performance in one or more of the rating factors (KSAOs) being evaluated.

h. **Training.** While training is frequently distinguished from education on formal vs. informal grounds, relevant training should be evaluated just as any other educational experience.

i. **Outside Activities.** Unpaid experience may be just as relevant as any other experience and should be evaluated in the same manner as paid experience.

j. **Other Tools.** There are many other ways to collect information concerning an applicant's capabilities. Some of these are:

(1) a performance-based interview, either by a rating panel or the selecting official (both must deal only with job-related information);

(2) an assessment center in which a model of the job activities is used;

(3) written test or demonstration;

(4) work samples;

(5) reference checks;

(6) background investigations; etc.

7. EVALUATION OF APPLICANTS

a. **General.** Once the crediting plan is developed, it must be applied equally to all applicants. Using the sources of information available, candidates must be evaluated against the crediting plan and a list of the best qualified applicants developed. Generally, the same sources of information should be used for all applicants. If there is information available on some applicants that is impossible to obtain on others, that information should be used in evaluating the applicants for whom it is available.

b. **Evaluation of Qualified Applicants**

(1) When there is no rating and ranking of applicants (see chapter 3, paragraph 11a(5) of this part), the selecting official is the key element in the entire process. All applicants must be screened to determine which applicants are to be distinguished as best qualified. This does not mean that best qualified

determinations need to be made prior to issuance of the certificate. The selecting official should decide by whom and when the best qualified determinations should be made.

(2) Applicants are usually evaluated by promotion panels which are discussed in chapter 3, paragraph 10, of this part. Promotion panel members should note any problems arising from the use of the crediting plan and report them, with recommendations for correction, to the HRM Officer. This information can be extremely beneficial in crediting plan or procedure refinement and in development of crediting plans for other positions. The HRM Officer should coordinate with crediting plan development panel SMEs and the selecting official when a re-analysis is appropriate.

(3) Using an evaluation worksheet for each applicant, promotion panel members should first rate each applicant without consulting one another. They should review all of the sources of information (Federal employment application, supervisory appraisals, awards, etc.) on an applicant and determine for each rating factor (KSAO) the quality level which best matches the applicant's total background for that factor. Panel members should be cautioned that the quality level descriptions are only examples of background patterns which can be credited at each level. There may be information from sources not explicitly described in the quality level, or other configurations of an individual's experience, training, etc., which indicate the level of performance anticipated in the quality level. (See paragraph 5d, this appendix, concerning suggested point credit.)

(4) After each panel member has rated all the applicants and ranked them to determine a best qualified group (see subparagraph c below), the panel should meet to compare ratings. When their ratings differ to the point that an applicant appears to be in the best qualified group according to one rater but not another, the panel should discuss the relevant information available on the applicant and come to a consensus. The raters who change their ratings should document the reasons for the change on the evaluation worksheet for that applicant. If no consensus can be reached, this should also be documented. When no consensus can be reached, as an alternative, final total scores can be obtained by adding together the scores awarded to each applicant by each panel member. These aggregate scores would then be used to determine which applicants to refer to the selecting official.

NOTE: *The evaluation worksheets of the panel must be signed and kept as part of the promotion file.*

c. **Cut-Scores**

(1) After a score for each applicant has been determined, a "cut-score" must be established to determine which applicants to refer to the selecting official for final consideration. Like all other components of the selection process, the cut-score must be based on valid concerns and be justifiable. Cut-scores, in many instances, will reflect a natural break between assigned points. Cut-scores will not be set arbitrarily at a particular point score or at a particular percentage of the total possible points. Applicant scores are placed in numerical order and the point determined at which a meaningful distinction can be made between those applicants who will probably perform the job with substantially equal success and those likely to perform with a lesser degree of success.

(2) The following questions should be considered in establishing the cut-score:

(a) Is there a natural gap?

(b) Is the lowest ranking individual who will receive further consideration clearly superior to the highest ranking person receiving no further consideration?

(c) Is it possible for the lowest ranking person receiving further consideration to be equally successful as all others in the group referred?

(3) The following examples illustrate where cut-scores might be set:

EXAMPLE A

	Score	Number of applicants at this score
In this case the	20	3
natural break is	19	2
19 and those scoring	18	0
19 and above would be	17	0
referred.	16	5

EXAMPLE B

Even though there were	20	5
five applicants who	19	2
received 20 points, the	18	0
two who received 19 are	17	0
so close that not	16	2
referring them would be		
difficult to justify.		
The cut-score would be 19.		

(4) In some cases there will not be a natural break or other readily justifiable point at which to set the cut-score. If possible, additional information should be collected on applicants which will further distinguish among them and allow a meaningful distinction to be made. Unfortunately, this may not always be possible or practical and other procedures for setting cut-scores will have to be used. Each merit promotion plan should describe what procedure will be used if it is not possible to set a meaningful cut-score. When there are several applicants who have the same score and additional information which would allow for a meaningful distinction is not available, it may be necessary to use a tie-breaking procedure such as that described in Appendix III-I.

APPENDIX H. JOB-ELEMENT APPROACH FOR WAGE GRADE JOBS

1. GENERAL. The job-element qualification system and evaluation and ranking procedures for in-service placement for trades and labor occupations are mandatory for use in VA. An in-depth discussion of this procedure is located in Office of Personnel Management Handbook X-118C. In addition, the information in Appendix III-G of this Handbook should be carefully reviewed since it provides valuable information concerning job analyses, crediting plans, sources of information, etc., which should be considered in the job-element approach.

2. PURPOSE. This appendix is intended to provide an overview of the system and focus attention on certain procedures in Handbook X-118C which are critical to successful implementation.

3. BACKGROUND

a. **Job Elements.** Job elements in Handbook X-118C were developed through an analysis of wage grade job families which yielded job elements (abilities) directly related to successful performance. The approved job elements for specific wage grade job families are located in appendix A of Handbook X-118C. Under certain circumstances, explained in the Handbook, additional job elements may be developed for a specific position, some of the predetermined job elements may be combined, or some may be deleted. The screen out element, however, may not be deleted.

b **Crediting Plans[/Assessment Questionnaires].** The job-element procedure requires development of a crediting plan[/assessment questionnaire] which is used to determine the relevancy of applicants' background to the job being filled. These crediting plans must be developed and used, both for basic qualification determinations and for rating and ranking purposes. .

NOTE: *Chapter V of the Handbook X-118C stipulates that crediting plans are not made available to employees since the guides contain information that might give them unfair advantage in applying for the job.* [*Crediting plans*] *may, however, be reviewed and/or released for grievance and EEO complaint purposes as discussed in paragraph 9e, chapter 3 of this part.* [*In USA Staffing recruitment, assessment questionnaires request information from the applicant and must be made available to all applicants through the merit promotion announcement. Scoring criteria for that assessment are not disclosed.*]

c. **Supplemental Experience Statements.** VA Form 4676, Supplemental Experience Statement for Inservice Placement, and the continuation sheet, VA Form 4676a, are available for securing information from applicants concerning their qualifications for each job element. Statements used on the VA Form 4676 to generate employee responses are extremely important and must be carefully constructed to ensure they are clear, request relevant information and provide for determining the level of experience the employee possesses. Development and use of supplemental experience statements are discussed in the

OPM Handbook of Wage Grade Supplemental Forms, February 1971. It should be closely observed when developing the VA Form 4676 for employee responses. [In USA Staffing, these forms are replaced by OPM Form 1203-FX.]

d. **Other Sources of Information.** Paragraph 6, Sources of Informtation, of appendix III-G in this part should be reviewed. Its provisions are applicable concerning supervisory appraisals and options for their use. This includes the option, no longer a requirement, to use current, standardized VA supervisory appraisal forms with a proper rating pattern for the position to be filled. Other information, geared to the KSAO approach for General Schedule positions, is equally valuable for filling wage grade jobs.

e. **Rating Sheet.** VA Form 4677, Job Element Rating Sheet for Inservice Placement, is available for documenting basic qualification determinations and rating and ranking point credit determinations for applicants for trades and labor occupations. A crediting plan must be used in conjunction with this form. [In USA Staffing, use of this form is not required. If a panel wants to use this form to document their findings, they can, but if the panel doesn't want to, or if there is no panel, the form does not have to be used.]

4. RATING AND RANKING CANDIDATES FOR PROMOTION

a. **Supervisor's Appraisal of Performance for Promotion.** To rate and rank basically eligible candidates for promotion, a supervisory appraisal of performance for promotion based on the requirements of the specific job being filled may be useful in addition to those factors in paragraph 3 above. Various supervisory appraisals like those described in appendix III-G, paragraph 6, for the KSAO approach are, however, acceptable.

b. **Annual Performance Evaluation.** Each candidate's annual performance evaluation must also be taken into consideration in the rating and ranking process. (See paragraph 3d, chapter 3 of this part.)

c. **Awards, Training, Self-Development and Outside Activities.** Information concerning these items, which may be secured from the employee responses on VA Form 4676 and/or from the employee's personnel folder, Federal employment application, or other appropriate source, must also be available for consideration in the point crediting process.

d. **Basis for Awarding Points for Promotion.** When rating and ranking for promotion, the panel, which must include a subject matter expert for the job, reviews each piece of relevant information required by the applicable promotion plan (i.e., the employee's supplemental experience statement, the annual performance evaluation, the supervisor's appraisal of performance for promotion and information related to awards, training, self-development and outside activities). Judgment is used to determine how closely the candidate's total background (as indicated by the combination of all the sources of information required by the applicable plan) matches a quality level for each job element. This process is repeated for each separate job element and points awarded accordingly. The result will not only provide for a basic qualification determination but will also yield the relative rank of candidates for promotion.

e. **Documentation**

(1) **Promotion File.** It is essential that thorough documentation of the panel's decisions include the evidence and rationale used to place the candidate in a certain quality level for each job element. The documentation must be such that a reviewer may easily determine the rationale and judgment used in point credit determinations from the information in the promotion file (see paragraph 18 of chapter 3, this part).

(2) **Selection Procedure.** The documentation requirements of the Uniform Guidelines on Employee Selection Procedures apply to procedures developed for wage grade jobs. Those documentation requirements of paragraph 19, chapter 3, this part, which are applicable to wage grade selection procedure development, must be observed.

5. DETERMINING BASIC QUALIFICATION FOR REASSIGNMENT, DEMOTION, ETC. Rating and ranking to determine a best qualified group are not necessary for certain actions such as reassignment or demotion to positions with no higher potential, or reinstatement to positions at the same grade with no greater promotion potential than previously held. When only basic qualification determination is necessary, use of the appropriate job elements, a crediting plan, a supplemental experience statement and VA Form 4677 is sufficient. Additional guidance concerning basic qualification determinations and point credit may be found in Handbook X-118C, chapter IV, and in the instructions on VA Form 4677. [In USA Staffing, a résumé, or equivalent documentation, and completion of the assessment questionnaire are normally sufficient.]

APPENDIX I. PROCEDURES FOR BREAKING TIES

1. GENERAL. When ties occur, it is preferable to collect additional information on each of the tied candidates for further evaluation to determine whether a distinction among them can be made. Unfortunately, in some cases further differentiation is not possible. Facilities may elect to use Service Computation Dates (SCD), however, the following method may be preferable, since certain factors influencing the SCD may result in adverse impact against certain groups of employees.

2. PROCEDURE. This is a random procedure which does not contain factors which provide advantage or disadvantage to any particular group. The following example is based on vacancy announcements numbered in sequence during each calendar year such as: Announcement 01-1, Announcement 01-2, etc. This system may have to be altered to conform to local announcement numbering procedures.

		LAST DIGIT IN SOCIAL SECURITY NUMBER									
		1	2	3	4	5	6	7	8	9	0
LAST	1	6	0	2	9	5	1	4	8	3	7
DIGIT	2	8	3	9	7	6	0	2	4	5	1
IN	3	0	2	8	5	4	9	3	7	1	6
VACANCY	4	5	8	1	6	2	4	0	3	7	9
ANNOUNCE-	5	9	4	5	8	3	7	1	6	2	0
MENT	6	2	1	3	0	7	8	6	9	4	5
NUMBER	7	1	7	6	2	9	3	5	0	8	4
	8	3	5	7	4	0	6	8	1	9	2
	9	4	9	0	1	8	2	7	5	6	3
	0	7	6	4	3	1	5	9	2	0	8

a. The last digit of the vacancy announcement determines the row to use (e.g., for Announcement 01-47, use row 7 of the chart).

b. The last digit of each tied candidate's SSN (social security number) determines the column to use.

c. The number in the block at the intersection of the row and column is the tie-breaking order digit.

d. The tie-breaking digit "1" is certified first, "2" second and "0" last.

EXAMPLE: Vacancy Announcement 01-47

Candidate	SSN	Tie-Breaking Digit
A	123-45-6789	8
B	123-45-9876	3
C	123-45-8945	9

Candidate B would be certified before A or C.

e. If ties still exist after the first round, break secondary ties by repeating the steps using the next-to-last digit of the social security number.

APPENDIX J. DOCUMENTATION OF ADVANCEMENTS ON SF 50-B, NOTIFICATION OF PERSONNEL ACTION

Category of Employee	Appointment Authority	Nature of Action	Legal Authority	VA Required Remarks
Podiatrists, Optometrists, Chiropractors, Registered Nurses, [Advanced Practice Nurses], Physician Assistants, and Expanded-Function dental Auxiliaries [ ]	38 U.S.C. § 7401(1)	"Promotion" "Pay Adjustment" Promotion" or "Change to Lower Grade," as appropriate "Change to Lower Grade" "Pay Adjustment" "Pay Adjustment"	38 U.S.C. §7403	"Special Advancement for Performance" "Grade Adjustment. For consistency with (promotion requirements)." Will be shown for promotion grade adjustments. "Grade Adjustment. For consistency with (duty assignment)." Will be shown when employee changed from level of assignment where grade is based on both nature of assignment and personal qualifications. "Special Advancement for Achievement" Use when a Nurse I is advanced to a higher level within Nurse I grade.
Podiatrists, optometrists, chiropractors, registered nurses, [advanced practice nurses], physician assistants, and expanded-function dental auxiliaries [ ]	38 U.S.C. § 7405(a)(1)(A)	"Promotion" "Pay Adjustment" "Promotion" or "Change to Lower Grade," as appropriate "Change to Lower Grade"	38 U.S.C. § 7405(b)	"Special Advancement for Performance" "Grade Adjustment. For consistency with (promotion requirements)." Will be shown for promotion grade adjustments. "Grade Adjustment. For consistency with (duty assignment)." Will be shown when employee changed from level of assignment

				where grade is based on both nature of assignment and personal qualifications.
		“Pay Adjustment” “Pay Adjustment”		“Special Advancement for Achievement” Use when a Nurse I is advanced to a higher level within Nurse I grade. Applicable to part- time or intermittent appointments without time limitations.
Medical and dental residents	38 U.S.C. § 7406	“Promotion”	38 U.S.C. § 7406	
Career Residents	38 U.S.C. § 7406	“Promotion” “Pay Adjustment”	38 U.S.C. § 7406	“Special Advancement for Performance” or “Special Advancement for Achievement”

DOCUMENTATION OF ADVANCEMENTS ON SF 50-B, NOTIFICATION OF PERSONNEL ACTION (CONTINUED)

Category of Employee	Appointment Authority	Nature of Action	Legal Authority	VA Required Remarks
All Hybrid Occupations	38 U.S.C. § 7401(3)	"Promotion"	38 U.S.C. § 7403	
		"Pay Adjustment"		"Special Advancement for Performance"
		"Promotion" or "Change to Lower Grade," as appropriate		"Grade Adjustment. For consistency with (promotion requirements)." Will be shown for promotion grade adjustments.
		"Change to Lower Grade"		"Grade Adjustment. For consistency with (duty assignment)." Will be shown when employee changed from level of assignment where grade is based on both nature of assignment and personal qualifications.
		"Pay Adjustment"		"Special Advancement for Achievement"
All Hybrid Occupations	38 U.S.C. § 7405(a)(1)(B)	"Promotion"	38 U. S. C. § 7405(b)(2)	
		"Pay Adjustment"		"Special Advancement for Performance"
		"Promotion" or "Change to Lower Grade," as appropriate		"Grade Adjustment. For consistency with (promotion requirements)." Will be shown for promotion grade adjustments.
		"Change to Lower Grade"		"Grade Adjustment. For consistency with (duty assignment)." Will be shown when employee changed from level of assignment where grade is based on both nature of assignment and personal qualifications.

		“Pay Adjustment”		“Special Advancement for Achievement”

APPENDIX K. PROMOTIONS, ADVANCEMENT TO A HIGHER LEVEL WITHIN THE GRADE OR CHANGE IN ASSIGNMENTS APPROVED BY THE UNDER SECRETARY FOR HEALTH OR A DESIGNEE, NETWORK DIRECTORS AND FACILITY DIRECTORS

NOTE: The term advancement in this appendix refers to advancement to a higher level within the grade for [registered nurses (RNs) and advanced practice nurses (APNs)], not special advancements for achievement or performance.

1. UNDER SECRETARY FOR HEALTH OR DESIGNEE.

NOTE: All actions affecting directors of medical and VISNs requiring approval of the Under Secretary for Health or designee, will also require the concurrence of the Under Secretary for Benefits.

a. Promotion of employees to positions centralized to the Under Secretary for Health as outlined in VA Handbook 5005, Appendix G15 Chiefs of Pharmacy Service to GS-15.

b. Promotion of VHA Central Office employees.

c. Promotion reconsideration requests from VHA Central Office employees.

d. Promotion reconsideration requests from RNs [and APNs] will be processed in accordance with VA Handbook 5005, Part III, Chapter 4, Section A, paragraph 7d.

e. Promotion reconsideration for VISN employees.

2. NETWORK DIRECTORS.

a. Promotion of VISN employees.

b. Reconsideration requests for promotion or change in assignment from employees at field facilities within the respective VISNs. This applies to all occupations except RNs [and APNs].

c. Temporary change in assignments to chief of staff or comparable positions in tier 4 for renewable periods not to exceed one year.

3. FACILITY DIRECTORS.

a. Promotion of employees to grades GS-13 and below and to GS-14 grade levels as delegated by the Network Director.

b. Promotion of Pharmacists. Facility directors may delegate to the Chief of Pharmacy Service the promotion of pharmacists in noncentralized assignments below GS-13, Assistant Chiefs of Pharmacy Service at GS-13.

c. Promotion of all other hybrids, which may be delegated to the chief of staff, the associate director or nurse executive, as appropriate.

d. Promotion of Optometrists.

e. Promotion of Chiropractors.

f. Promotion of Podiatrists.

g. Change in assignment of Dentists (staff dentists, service chiefs, and positions comparable to service chief).

h. Promotion of Expanded-Function Dental Auxiliaries.

i. Promotion of Physician Assistants [at PA IV and PA V, which may not be delegated to the chief of staff or lead PA].

j. Change in assignments of Physicians.

k. Promotion or advancement to a higher level within the grade of APN (Certified Nurse Anesthetists).

l. Promotion of Registered Nurses at Nurse III and below, which may be delegated to the Associate Director for Patient Care Services or nurse executive.

m. Promotion of Registered Nurses at Nurse IV and Nurse V, which may not be delegated to the Associate Director for Patient Care Services or nurse executive.

n. Reconsideration requests for promotion up to the full performance level from employees appointed under 38 U.S.C. §§ 7401(3) or 7405(a)(1)(B) at field facilities.

NOTE: When an employee on a time-limited appointment is advanced in grade or level within the grade (Nurse I), those actions must be processed as a conversion action after consideration by the appropriate approving official. Refer to VA Handbook 5005, Part III, Chapter 5, paragraph 5.

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APPENDIX M. PROCESSING TITLE 38 PROMOTIONS AND ADVANCEMENTS

HOW TO PROCESS A PROMOTION FOR [ ] TITLE 38 HYBRID OCCUPATIONS		
A		B
STEPS	If full-time, part-time or intermittent employee is in a	then take these steps for promotion up to the full performance level
1	Hybrid title 38 occupation	Upon receipt of Notice of Pending Personnel Action, the HR Office will forward the original to the employee's service chief. A duplicate copy will be retained in the HR Office as a suspense copy.
2		The immediate supervisor will notify employee of eligibility for promotion, and employee will be given 30 days to submit a self-assessment. The immediate supervisor will make a formal promotion recommendation to the approving official based on an evaluation of employee's self -assessment, performance, experience, and/or education, as appropriate. Recommendation will meet criteria described in section B, chapter 4, this part. .
3		Upon concurrence of the promotion recommendation by the approving official, the appropriate personnel action will be prepared and submitted along with supporting documentation to the HR Office. In no case will the promotion be effected later than the employee's anniversary date unless a future date, set by the approving authority and at the election of the employee when doing so, would benefit the employee (i.e., an employee is due a within grade increase), and that does not violate law or negotiated agreement.
4		If promotion is not recommended, the immediate supervisor will notify the employee in writing that they are not being recommended for promotion. The written notice will state the reason(s) why the employee does not meet the criteria for promotion, the right to reconsideration, and that requests for reconsideration must be preceded by an informal discussion with their supervisor. Reconsideration request procedures will follow criteria described in paragraph 7 of chapter 4, this part.

APPENDIX N. UTILIZATION OF TITLE 38 EMPLOYEES (APPOINTMENT/ASSIGNMENT TO NON-CLINICAL DUTIES)

1. **SCOPE.** This appendix contains VHA policy on the assignment of non-patient care duties to title 38 employees and when placement of title 38 employees in competitive civil service positions is required; it establishes procedures for ongoing review of these assignments; and it provides information on the conversion of title 38 employees to appointments under title 5 United States Code (U.S.C.). This appendix sets forth VHA policy that title 38 employees are to be appropriately utilized.

2. **POLICY.** It is VHA policy that responsible officials assign title 38 employees duties requiring clinical skills; that the utilization of title 38 employees in competitive civil service positions is prohibited [(unless approved by the Office of Personnel Management)]; and that positions which do not require clinical skills be placed in the competitive civil service.

3. **ACTION.**

   a. Network directors, facility directors and officials in VA Central Office are responsible for:

      (1) Ensuring that positions that require clinical knowledge, skills, and abilities of an occupation covered by title 38 are not placed under title 5.

      (2) Ensuring that positions that do not require the knowledge, skills, and abilities of a health care professional are not removed from the competitive civil service by placing a title 38 employee in the position. **NOTE:** Such actions are contrary to title 5 U.S.C.§ 3302 and title 5 Code of Federal Regulations (C.F.R.), part 1 (Civil Service Rule 1), and, in certain instances, are considered a prohibited personnel practice as defined by title 5 U.S.C. § 2302(b)(6).

      (3) Controlling the degree to which title 38 employees are assigned duties that do not require clinical skills. However, when such action is necessary, these officials must ensure that:

         (a) Staffing is sufficient to provide patient care, continuous quality improvement, health care education, research, etc.

         (b) The assignment of the non-clinical duties is consistent with good position management principles. The provision of administrative support services needs to be evaluated in a comprehensive manner at the organization and position levels. For example, would putting employees performing related non-clinical duties under the control of clinical managers result in improved services? Positions can also be reengineered so non-clinical responsibilities can be assigned to

competitive service employees, making more clinical staff available for patient care services. Positions that involve a mixture of clinical and non- clinical duties are to be evaluated to determine if title 38 employees might be used on a part-time, consultative, collateral or rotational basis. Also, non-clinical duties assigned to title 38 employees are to be reduced to a minimum and assigned to title 5 employees.

(c) Staffing patterns are established so that title 38 employees are not routinely required to perform administrative or support functions that do not require the services of a health care professional. This includes title 38 employees assigned to evening, night, weekend, and holiday tours of duty.

i Working with the chief of staff, nurse executive, HR Officer, and other appropriate officials to apply the policies in this appendix consistently throughout the organization. This includes reviewing and bringing into conformance appointments or assignments inconsistent with this appendix.

ii Converting positions that do not require clinical skills to the competitive civil service, and either reassigning the incumbent title 38 employee or offering the employee the opportunity to voluntarily convert to the competitive civil service using the Interchange Agreement in appendix III-C. However, such conversion actions must be based upon a [supervisor's finding in collaboration with profession's SMEs and HR staff] finding that the position does not require the services of a health care professional. Employees requesting conversion must be advised, in writing, of the implications of the decision on their pay and benefits (e.g., differences in leave accrual rates and, since conversion is voluntary, these employees would not be eligible for pay retention). In addition, new, current or converting title 5 employees who are licensed in a title 38 occupation (e.g., M.D., R.N.) are to be advised in writing that they are prohibited from engaging in professional practice in their VA position. Copies of these statements are to be placed on the left-hand side of the employee's Merged Records Personnel Folder. When employees are reassigned to patient care positions, management must ensure that the employee's competencies and credentials (e.g., license) are current. Reasonable measures must also be taken to reduce or eliminate potential adverse effects on employees being reassigned. There may be labor relations responsibilities to fulfill when an employee is involuntarily reassigned from one bargaining unit position to another. Managers are to consult with their labor relations advisor to determine whether an obligation exists. **NOTE:** If the [finding

identifies that] the position requires a title 38 employee, responsible officials are to evaluate the position to ensure it is consistent with the criteria in preceding subparagraphs a (1) and a (2).

b. Network directors, facility directors and officials in VHA Central Office cannot:

(1) Assign title 5 employees or former title 38 employees who have converted to title 5 positions, any clinical responsibilities associated with a title 38 occupation. Such responsibilities can only be assigned to employees appointed under title 38.

(2) Convert title 38 employees to title 5 positions to avoid pay limitations, required waivers of qualification standards, competitive civil service procedures, credentialing requirements or to circumvent provider-patient ratios.

(3) Establish title 5 positions in the occupations listed in 38 U.S.C. 7401(1) or (3).

4. FOLLOW-UP RESPONSIBILITY. The Director, Workforce Management and Consulting (106A) is responsible for the contents of this appendix.

APPENDIX O. FULL PERFORMANCE LEVELS FOR HYBRID TITLE 38 POSITIONS

1. **SCOPE.** This appendix contains the full performance levels for hybrid title 38 positions listed under section 7401(3) of title 38, United States Code, or approved for hybrid status under part II, chapter 3, section A, paragraph 2 of this handbook and applies to Veteran Health Administration employees appointed under 38 U.S.C. 7401(3) or 7405(a)(1)(B). This appendix is to be used in conjunction with the promotion procedures in section B of Chapter 4, this part.

2. **LIST OF POSITIONS AND FULL PERFORMANCE LEVELS**

[See the Office of the Chief Human Capital Officer, Recruitment, Placement and Policy Service website for a complete list of hybrid title 38 occupations and full performance levels.

APPENDIX P. PROCEDURES FOR REPORTING QUESTIONABLE BEHAVIOR AND JUDGMENT EXHIBITED BY HYBRID TITLE 38 PROFESSIONAL STANDARDS BOARDS MEMBERS

1. SCOPE. This appendix covers the procedures to be followed when a hybrid Board member (Chair, Member, or Secretary) believes a hybrid Board co-member (Chair, Member, or Secretary) is exhibiting questionable behavior or judgment during deliberations or when determining recommendations for the approving official. Examples of questionable behavior and judgment that may be displayed include, but is not limited to:

a. Incorrectly interpreting qualification standards criteria, employee self-assessments, supervisory recommendations, or performance evaluations to the advantage or disadvantage of the PSB subject;

b. Failing to recuse themselves when it would be appropriate to do so or recusing themselves when there is no reason to;

c. Failing to respect the privacy of the Board subject;

d. Violating Board confidentiality; or

d. Displaying a lack of integrity

2. PROCEDURES. The member should raise their concern with the Chair of the next higher level hybrid Board using the following procedures:

a. Discuss the issue with the Chair of the next higher level Board, either in person or via telephone, within 15 days of the last Board at which the questionable behavior or judgment was displayed.

b. If the issue remains unresolved and the member wishes to pursue the matter further, the member must express her/his concerns to the Chair of the next higher level Board in writing or via email within 15 days of the discussion.

c. The Chair of the next higher level Board will conduct an inquiry within 30 days by whatever means the Chair deems appropriate. This may include, but is not limited to, discussions with members of the lower level Board, including the Chair and the subject of the Board, discussions with the HR technical advisor to the lower level Board, and discussions with the approving official for the lower level Board.

d. Within 30 days of completion of the inquiry, the Chair must discuss the issue and recommendations for resolution with the approving official for the higher level Board and must submit the recommendations in writing to the lower level Board's approving official. The recommendations may include, but are not limited to, additional training for the member or removal from the Board.

e. The approving official may take whatever action is deemed appropriate.]

[APPENDIX Q. PROCEDURES FOR APPOINTING AND ADVANCING MEDICAL SUPPORT ASSISTANTS

1. SCOPE. This appendix contains the policy and requirements that apply to the employment of Medical Support Assistants (MSAs). This appendix also establishes the procedures for appointments (see VA Handbook 5005, Part II, Chapter 3, paragraph F1), promotions, and compensation of MSAs in Veterans Health Administration (VHA) appointed under sections 7401(3) and 7405 (a) (1) (B) of title 38, United States Code. This appendix is incorporated to Part III of Handbook 5005 through Chapter 4.

2. POLICY.

a. Promotion actions will be taken without regard to race, color, religion, sex, national origin, disability, age, sexual orientation, or status as a parent, or any other non-merit factor, and shall be based solely on job-related criteria.

b. Promotion actions will conform to the restrictions governing the employment of relatives. (See VA Handbook 5025, Legal.)

c. All hiring actions will adhere to Veterans Preference requirements in VA Handbook 5005, Part I, Chapter 4.

d. Employees may also be advanced in steps within a grade. (For Special Advancements for Achievement and Special Advancements for Performance see Handbook 5017, Employee Recognition and Awards and paragraph 3 of this appendix.)

e. Nothing in this Appendix shall be interpreted to diminish MSAs' grievance rights negotiated prior to the implementation of this Appendix under any collective bargaining agreement in affect during the implementation of this Appendix.

3. RESPONSIBILITIES.

a. Human Resource Offices are responsible for:

(1) Determining eligibility and qualifications in accordance with VA Handbook 5005, Part II, Appendix G45 and recommend the appropriate grade to the selecting official.

(2) Recommending appropriate pay to hiring official using pay setting flexibilities in VA Handbook 5007 pertaining to hybrid title 38.

(3) Determining eligibility, qualifications and recommend the appropriate grade for promotions.

(4) Process requests for reassignments/change to lower grades in compliance with VA Handbook 5005, Part III, Chapter 4, Section B, paragraph 9 and review and make recommendations to the Medical Center Director on Special Advancements for Achievements (SAAs).

b. The Supervisor at the appropriate level is responsible for:

(1) Obtaining an approval to fill a vacant position in accordance with local procedures. Once approval is obtained the service will initiate recruitment action and contact the servicing Human Resources Office (HRO).

(2) Review applications referred for selections.

(3) Submit supporting documentation for utilization of pay setting flexibilities found in VA Handbook 5007 pertaining to hybrid title 38.

(4) Review requests or recommendations for promotions and make recommendations consistent with 6b and 6c below.

(5) Submit recommendations and documentation for SAAs consistent with VA Handbook 5017, Part V, Paragraph 4e (local facilities are encouraged to develop criteria to ensure consistent application of SAAs).

c. Medical Center Director/Network Director will (for personnel under their jurisdiction): 1) review and serve as the deciding official on requests for additional steps above the minimum on appointments; 2) review and serve as the deciding official on reconsideration requests; and 3) review and serve as the deciding official on SAAs.

4. PROMOTION.

a. This section contains instructions and procedures governing the promotion of employees who are appointed under the occupational series GS-679 and titled Medical Support Assistant and appointed under sections 7401(3) and 7405 (a)(1)(B) of title 38, United States Code. Promotion is advancement to a higher grade level and recognizes that an employee is providing a higher level of service to VA.

b. The promotion system shall provide advancement opportunities for employees, predicated upon the recognition of the quality of service rendered, additional experience and professional attainment as determined by an examination of the employee's individual record.

c. To meet the criteria for promotion, the individual must meet the criteria for the next higher grade level in the MSA qualification standard. Examination of the individual's total record must reveal evidence that the contribution to VA medical service is of sufficient value to warrant promotion. Potential for continuously greater contribution is also a prerequisite. Reviews and recommendations of supervisors and Human Resources will be sufficient to ensure that promotion is fully merited and not recommended based on meeting administrative requirements alone.

5. PROMOTION – GENERAL

a. **Administrative Requirements for Consideration**

(1) A current performance rating of "Satisfactory" or higher.

(2) The experience, education, and performance requirements set forth in the MSA qualification standard. Employees must meet the same grade requirements, including the specified demonstrated accomplishments, as for appointment. Any deviation or exception to these requirements will be limited to those specified in the qualification standard. (See part II, appendix G45).

b. **Promotions Based on Additional Experience and/or Education**. Promotions based solely on additional experience acquired by the employee shall be limited to advancements of one grade or grade interval at a time. If an employee has attained a higher level of education that, when combined with their additional experience, is qualifying for a grade higher than the next grade or grade interval, the employee may be promoted to whatever grade in the qualification standard the additional education warrants.

c. **Processing Procedures** (See appendix III-M, this part)

6. PROMOTION CONSIDERATION

a**. Eligibility.** Full-time, part-time, and intermittent employees shall be considered periodically, consistent with 6b and 6c below, for promotion in their current occupation. Eligibility for such promotion considerations shall be based upon fully meeting prescribed administrative requirements. Approximately 60 days prior to the date the employee meets the required period for promotion consideration, Human Resources Management Officers will notify the appropriate supervisory officials that the employee is eligible for promotion consideration to the next higher grade level up to the full performance level. The supervisor will notify the employee, who shall then be given 30 days to submit to their supervisor a self-assessment of their qualifications for promotion consideration. Employees may also notify their supervisor in writing that they are declining to submit a self-assessment during this 30 day period. If this is done, the supervisor will proceed with a recommendation.

b**. Promotion to Grades at or Below Full Performance Level.**

(1) Promotions to grades at or below the full performance level (see Appendix III-O, this part) will be based on the recommendation of the immediate supervisor, recommendation of approval by the second level supervisor and personnel action approved by Human Resources Officer. Upon receipt of the employee's self-assessment or written declination, the immediate supervisor will make a recommendation on promotion that is to be acted upon by the second level supervisor within 30 days of the self-assessment being received.

(2) Employees who have demonstrated the capability to successfully perform at the next higher grade level will be recommended for promotion. Promotions will become effective on the first day of the first full pay period following approval by the second level supervisor. In no case will the promotion be effected later than the first day of the first full pay period commencing 60 days after the employee's anniversary date.

(3) Employees who have not demonstrated such capability will be informed in writing by the immediate supervisor that they are not being recommended for promotion. The written notice will state the reason(s) why the employee does not meet the criteria for promotion. The immediate supervisor may recommend the employee for promotion at a later date if it is determined that the employee has met the appropriate criteria. If not promoted during the intervening period, the employee is entitled to promotion consideration on the next anniversary date of grade. Employees who are not promoted may request promotion reconsideration under paragraph 7 below.

c. **Promotion to Grades above the Full Performance Level**.

(1)Employees who are eligible for promotion consideration to a grade that requires a combination of personal qualifications and assignment characteristics are to be considered for promotion to such grades on the first anniversary date of their last promotion, provided they meet the administrative requirements. This automatic consideration only occurs on the first anniversary for each grade level. In addition, employees who are selected for supervisory or managerial assignments that warrant consideration for a higher grade and for assignments based on complexity will be considered for promotion on a date other than the anniversary date of last promotion.

(2) If after reviewing the employee's self-assessment, if submitted, and other relevant material, the appropriate management official (e.g., service chief) determines that the assignment does not meet the qualification standard for a higher grade, that official shall document the reasons for this determination in writing and provide a copy of the determination to the employee. Employees who do not agree with the determination may request promotion reconsideration under paragraph 7 below.

(3) If the appropriate management official believes the assignment meets the qualification standard requirements for promotion, a request for personnel action is to be prepared and submitted, along with all relevant information to Human Resources for consideration within 30 days. If applicable, the employee will be given a copy of the supervisor's comments relating to the self-assessment. The Human Resources Staffing Specialist will review and forward its recommendation on qualifications to the Human Resources Officer, for approval of personnel action. Human Resources will have no more than 30 days to complete their review. Promotions will become effective on the first day of the first full pay period following approval by the approving official. In no case will the promotion be effected later than the first day of the first full pay period commencing 120 days after the employee's anniversary date.

(4) If, under paragraph (2) or (3) above, the appropriate management official or Human Resources Officer does not recommend the employee's promotion, the employee will no longer receive an automatic annual promotion consideration. The appropriate management official may recommend such employee for promotion at any time in the future provided the employee's duties and responsibilities change to the point that the criteria for promotion to the next grade may be warranted. Employees may request

promotion consideration by the appropriate management official on subsequent anniversary dates if their duties have changed since they were last considered and the employee believes that these changes meet the criteria in the qualification standard for a higher grade. For the reconsideration process for a denial, see paragraph 7 below.

7. PROMOTION RECONSIDERATION AND REVIEW

a. **Coverage.** This paragraph applies to MSAs appointed under 38 U.S.C. 7401(3) or 7405(a)(1)(B).

b. **Notice of Decision.** Employees are to be advised by their supervisors in writing of any decision not to promote them, of the reason(s) for the decision, of their right to request reconsideration, and that reconsideration must be preceded by an informal discussion with their supervisor.

c. **Informal Discussion.** Employees and their supervisor must meet to discuss the recommendation not to promote prior to the employee submitting a request for reconsideration under paragraph d below.

d. **Reconsideration Requests**

(1) **To Grades at or Below the Full Performance Level**

(a) If promotion to a grade at or below the full performance level (see Appendix III-O, this part) is involved, the employee may, within 30 days of being notified of the decision, submit a written request through the immediate supervisor to the second level supervisor for reconsideration. The employee's written request for reconsideration must indicate when the informal discussion was held with the immediate supervisor and cite the specific reason(s) why the employee believes the decision was not proper. The Medical Center Director, Network Director, or appropriate higher level designee (whichever is applicable) may extend the 30-day period at the written request of the employee if the employee is unable to submit the information for reasons beyond the employee's control.

(b) Second level supervisors are to review the employee's request within 30 days and determine whether to promote the employee. If the second level supervisor determines that a promotion is not warranted, that supervisor will provide the reasons for this decision to the employee in writing.

(c) If the employee is not satisfied with the explanation of the determination to not promote, the employee can request within 30 days to have the determination reviewed and recommendation made by the next higher level manager. The employee's request for reconsideration and the supervisor's explanation will be forwarded to the next higher level manager within 30 days.

(d) The next higher level manager will make a recommendation within 30 days and submit through the servicing Human Resources Office to the Medical Center Director, Network Director, or appropriate higher level designee (whichever is applicable), who will make a final decision within 30 days.

(e) If the promotion is approved, the employee is to be promoted on the first day of the first pay period following a decision by the approving official. In no case will the promotion be effected later than the first day of the first full pay period commencing 180 days after the employee submits a written request for reconsideration, unless the employee requested an extension to the 30-day period to submit a written request for reconsideration. In such cases, the number of additional days taken by the employee to submit a request will be added to the 180-day time limit. If the promotion is denied, the employee will be provided with a copy of the decision.

(2) **For Promotions to Grades above the Full Performance Level**

(a) Within 30 days of the non-promotion decision, an employee may submit a written request for reconsideration to their immediate supervisor. This 30 day period may be extended at the written request of the employee if the employee is unable to submit the information for reasons beyond the employee's control.

1. The employee's written request for reconsideration must indicate when the informal discussion (see Paragraph 7c above) was held with the immediate supervisor and cite the specific reason(s) why the employee believes the decision was not proper.

2. Immediate supervisors are to review and comment on the employee's request in writing, and provide copies of those comments to the employee within 30 days.

3. The immediate supervisor will submit the written reconsideration request and any supervisory comments to the next higher level supervisor.

(b) The next higher level supervisor will review the information submitted by the employee, along with the immediate supervisor's comments, and make a recommendation to Medical Center Director, Network Director, or appropriate higher level designee (whichever is applicable) through Human Resources within 30 days.

1. If Human Resources determines that the employee's request does not include when the informal discussion was held or the specific reasons why the employee believes the decision was not proper, Human Resources will return the request to the employee for completion.

2. The employee has 30 days from the date of receipt of the returned request to obtain the additional information and return it to Human Resources. The Medical Center Director, Network Director, or appropriate higher level designee (whichever is applicable) may extend the 30-day period if the employee is unable to submit the information for good cause shown.

3. The Medical Center Director, Network Director, or appropriate higher level designee (whichever is applicable) has 30 days to make decision. This 30 day period may be extended up to the number of days it took the employee to provide the appropriate management official with the proper information.

4. Upon making the decision, the Medical Center Director, Network Director, or appropriate management official (as the approving official) will forward the decision to the Human Resources for action under paragraph e. below.

e. **Action by Human Resources.** Upon receipt of the reconsideration file, Human Resources shall take one of the following actions within 30 days:

(1) If approved, promotions will be made effective on the first day of the first full pay period following approval. In no case will the promotion be effected later than the first day of the first full pay period commencing 120 days after the employee submits a written request for reconsideration, unless the employee requested an extension of the 30-day period to submit a written request for reconsideration. In such cases the number of additional days taken by the employee to submit a request will be added to the 120-day time limit.

(2) If disapproved, Human Resources will notify the employee of the decision in writing.

8. COVERAGE AS EMPLOYEE GRIEVANCE. Requests for promotion reconsideration are excluded from the Agency Grievance Procedure. See VA Handbook 5021, Part IV, Chapter 3, paragraph 16. Promotion reconsideration decisions are excluded from the negotiated grievance procedure pursuant to 38 U.S.C. 7403(f)(1)(B).

9. EFFECTING ADVANCEMENT AND PROMOTION ACTIONS

a. **Effective Date**

(1) The promotion will be made effective by the Human Resources Management Officer on the first day of the pay period following the date of approval of the promotion by the approving official, but in no case earlier than the date on which all administrative requirements are met. A promotion may also be made effective at a future date set by the approving authority that does not violate law or negotiated agreement when doing so would benefit the employee. Promotion recommendations and actions that are administratively delayed beyond the time limits specified in paragraph 6 above will be made retroactive.

(2) If an employee becomes eligible for promotion while on LWOP for purposes for which they have a statutory entitlement to receive promotion consideration (e.g., military service, OWCP), no action will be taken until the employee returns to duty. If the employee on return to duty meets all of the requirements for promotion consideration, he or she will be considered for promotion as if he or she had been continuously employed in the position.

NOTE: *See chapter 6, this part, for effecting promotion actions upon return from military service.*

10. TEMPORARY PROMOTIONS

a. An employee may be temporarily promoted to a higher graded position where the grade of the position is based on the complexity of the assignment. The employee must meet the administrative and qualification requirements for promotion and such promotions are to be processed using the procedures in paragraphs 4, 5, and 6 above.

b. On expiration or termination of the assignment, the grade and salary of the employee will be adjusted in accordance with the provisions of VA Handbook 5007, Pay Administration. In applying the provisions of this handbook, the salary will be adjusted to the salary held previously, unless a higher rate is warranted by reason of periodic step increases. On assignment, the following statement will be placed in the "Remarks" item of the SF 50-B, Notification of Personnel Action: "Employee informed of conditions of temporary grade assignment."

c. This temporary promotion no longer requires a professional standards board action and will occur without recourse to such board action. The absence of a board action shall not bar an employee from grieving a failure to temporarily promote pursuant to this section under the negotiated grievance procedure or agency grievance procedure as appropriate.]

STAFFING

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PART IV. [STAFF] REDUCTIONS [ ]

[(THIS PART IS TO BE USED IN CONJUNCTION WITH 5 CFR, PART 351 AND OFFICE OF PERSONNEL MANAGEMENT RESTRUCTURING INFORMATION HANDBOOK)]

CHAPTER 1. GENERAL

1. SCOPE. This part covers activities and actions at facilities associated with effecting employment reductions and changes based on such factors as change in mission, reorganization of work, changes in workload, a lack of funds and other matters that are unrelated to individual employee conduct and performance issues. Included in this part are [ ] title 5 reduction in force[, transfer of function, furlough, and] career transition [policies] and title 38 staff [reduction, assignment, reassignment, and furlough policies].

2. RESPONSIBILITY. Managers will ensure requirements associated with this part are met, and will otherwise attempt to minimize the adverse impact of necessary changes within their organizations by assisting employees [in understanding] the reasons for changes, assisting employees [with] career transitions, and treating employees in a fair and equitable manner.

3. REPORTING STAFF REDUCTIONS TO THE OFFICE OF MANAGEMENT AND BUDGET. VA will provide the Office of Management and Budget (OMB) with information concerning planned reductions in staff and furloughs. See the OHRM[ ] Web site for the requirements for submitting information to VA Central Office (VACO) prior to conducting [staff reductions] or furloughs.

4. RECORDS. Human Resources Managers are responsible for maintaining records that are used to determine an employee's [ ] retention standing and for ensuring that access to such records is consistent with 5 CFR 351.505 (b) and VA Handbook 5025. VA will make available for review by the Union and employees those records which they are permitted to inspect, and[, when requested,] will provide copies to the extent possible and reasonable. Records must be maintained for [6] years after completion of the staff reduction activity. Records must be maintained for a longer period if there are pending third-party actions (e.g., grievance, appeal, EEO, court).

[**5. DEFINITIONS.** The following terms are frequently used in the staff reduction process.

a. **Adjusted Service Computation Date.** An employee's service computation date plus credit for her/his three most recent annual performance ratings of record. The adjusted SCD is only used for reduction in force purposes.

b. **Assignment Right.** An employee's entitlement to displace another employee with lower retention standing.

c. **AutoRIF/RIFRunner.** Automated software programs that assist human resources specialists in conducting round 1 and round 2 of a reduction in force by tracking possible assignment rights.

d. **Best Offer.** The highest graded position that can be offered to an employee who has been displaced, but no higher than the employee's current grade.

e. **Bump.** The displacing of an employee in the same competitive area who is in a lower tenure group or subgroup. The bumping employee must be qualified for the position.

f. **Competing Employee.** An employee in tenure group I, II, or III in either the competitive or excepted service.

g. **Competitive Area.** The geographic and organizational boundaries within which employees compete for retention. The competitive area is usually made up of facilities within the commuting area AND under a single management authority.

h. **Competitive Level.** A group of positions with the same title, grade, occupational series, qualifications, duties, responsibilities and work schedule.

i. **Competitive Service.** Civil service positions in the executive branch except SES, positions filled by Senate confirmation, and those specifically excepted by statute.

j. **Criteria and Privilege Request Form.** Form used by employees to request privileges which are then recommended by the service chief, the Professional Standards Board, and the Executive Committee of the Medical Staff. The recommendations are then approved by the Chief of Staff. Approved privileges define the limits of the employee's ability to function independently based upon education, training, and experience.

k. **Days.** Calendar days unless otherwise noted.

l. **Discontinued Service Retirement.** Employees whose jobs are abolished and who face involuntary separation may retire if they meet early retirement eligibility requirements.

m. **Displace.** The moving of an employee from her/his position by bumping or retreating.

n. **Excepted Service.** Civil service positions not in the competitive service or SES.

o. **Functional Statement.** A description of the position that usually includes the title, a broad description of assignments, and a listing of the functions of the position, i.e., clinical, education, administrative/supervisory, program/management, and research.

p. **Furlough.** The placement of an employee in a temporary non-duty and non-pay status when the action is based on a reduction in force reason.

q. **Grade Retention.** When an employee is placed in a lower-graded position as a result of a reduction in force action, the employee remains at their current grade as if the demotion never occurred, for two years.

r. **Hybrid Title 38.** Employees appointed in the title 38 excepted service under 38 U.S.C. 7401(3) but covered by title 5 regulations for RIF and other purposes.

s. **Local Commuting Area.** A geographic area determined by the agency that includes any population center and the surrounding communities in which people may reasonably be expected to travel to and from work. There is no mileage standard.

t. **Mock RIF.** Rough approximations of RIF outcomes, usually performed before all data is verified. Mock RIFs are conducted to identify and correct problems.

u. **Notice.** A written communication to an employee stating that the employee will be reached for a RIF action

v. **Official Personnel Folder.** A file for each employee that documents the individual's federal employment history. The folder contains notifications of personnel actions, benefits elections, performance appraisals, awards, disciplinary actions, employment applications and other documents.

w. **Pay Retention.** Pay retention applies when an employee's previous rate of pay cannot be accommodated within the pay range of the new, lower pay grade. The employee keeps her/his salary, as long as it does not exceed 150% of the 10th step of the new grade. The employee receives only 50% of the annual comparability pay increases until the salary falls within the pay range of the new grade.

x. **Performance Appraisal System.** A means by which supervisors evaluate an employee's work performance.

y. **Rating of Record.** The performance rating prepared at the end of the period and the subsequent issuance of a summary rating level.

z. **Reduction in Force (RIF).** A process through which the federal government may involuntarily separate, demote, and reassign title 5, title 38, and hybrid title 38 employees.

aa. **Reorganization.** The planned elimination, addition, or redistribution of functions or duties.

bb. **Representative Rate.** The fourth step of the grade for GS positions and the second step of the grade for WG/WL/WS positions.

cc. **Retention Factors.** Tenure, veterans' preference, length of service and performance.

dd. **Retention Register.** A listing of employees in order of their "seniority" based on their four retention factors.

ee. **Retention Standing.** An employee's relative standing on a retention register.

ff. **Retreat.** The displacing of an employee in the same competitive area who has a lower service computation date within the same tenure group and subgroup. The position into which the employee is retreating must be the same, or an essentially identical, position as previously held in any federal agency on a permanent basis.

gg. **RIF Appeal.** An employee who believes her/his assignment rights were violated or that the process was not correctly followed may file a formal complaint with the Merit Systems Protection Board.

hh. **Round of Competition.** The different stages of competing for retention. In round one employees compete to stay in the competitive level. In round two bumping and retreating occurs and employees compete for assignment to positions in other competitive levels.

ii. **Scope of Practice.** Employees function autonomously within a defined scope of practice. The scope defines the nature of practice/patient population/setting, assessments and diagnoses authorized, recordkeeping methodology, and prescriptive privileges. The scope may also list routine duties, emergency duties, non-routine/non-emergency duties, and other duties.

jj. **Service Computation Date (SCD).** Generally the date an employee started their current period of federal employment plus any creditable military service and any creditable prior federal civilian service.

kk. **Severance Pay.** Biweekly payments made to an employee who is involuntarily separated and who is not eligible for an immediate retirement annuity. The amount of severance pay is based on the employee's salary, number of years of federal service and age.

ll. **Staff Adjustment.** A process formerly used to involuntarily separate or reassign title 38 employees.

mm. **Subgroup.** After employees are divided into appropriate tenure groups (I, II, or III), they are further divided into one of three subgroups: AD- veterans with a service-connected disability of 30% or more, A- other veterans, or B- non-veterans.

nn. **Surplus Employee.** A current employee serving under an appointment in the competitive service as well as an excepted service employee in Schedule A or B in tenure group I or II, and a title 38 employee serving on an appointment under 38 U.S.C. 7401(1) who has received a CES or other certification issued by the agency which identifies the employee as being in an excess organization or occupation.

oo. **Tenure.** An employee's status based on length of service and type of appointment. Tenure group I is employees designated as "career" based on at least three years of continuous, permanent federal civilian service. Tenure group II is employees designated as "career conditional" based on having less than three years of service or who are serving a probationary period. Tenure group III is employees who have temporary appointments of more than one year.

pp. **Title 5.** The law under which most federal employees are appointed and from which most federal personnel administration regulations derive.

qq. **Title 38.** The law under which many VA employees are appointed.

rr. **Transfer of Function.** The transfer of a continuing function from one competitive area to one or more other competitive areas where the function was not being performed, or the movement of the entire competitive area to another commuting area.

ss. **Undue Interruption.** A degree of interruption that would prevent the completion of required work by the employee 90 days after the employee has been placed in a different position in first or second round RIF competition. The 90 day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands.

tt. **Veterans Preference Act.** The law from which veterans receive much of their preferred status and from which the RIF regulations derive.

uu. **Voluntary Early Retirement Authority (early out).** Employees may retire at age 50 with 20 years of service or at any age with 25 years of service.

vv. **Voluntary Separation Incentive Payment (buyout).** A lump sum cash payment offered to encourage employees to retire or resign.]

CHAPTER 2. [STAFF REDUCTIONS], TRANSFER OF FUNCTION, FURLOUGH, AND TRANSITION ASSISTANCE

SECTION A. GENERAL

1. SCOPE. This chapter contains Department of Veterans Affairs (VA) policies and procedures for RIF, transfers of function, furloughs, and career transition assistance. They apply to competing title 5 employees [and] to title 38 hybrid employees appointed under 38 U.S.C. 7401(3). These procedures [also apply to employees appointed under 38 U.S.C. 7401(1), except furloughs (for furloughs of employees appointed under 38 U.S.C. 7401(1), see Chapter 3, Section C of this part). These procedures] do not apply to employees serving in the Senior Executive Service or appointed under 38 U.S.C. 7306[ ]. This chapter, [5] CFR part 351, and OPM's Restructuring Information Handbook must be used together when planning and effecting covered actions. Prior to making a determination to initiate a RIF action, labor organizations should be given the opportunity to participate in pre-decisional discussions. If a decision is made to initiate a RIF, labor organizations will be notified before any affected bargaining unit employees are notified. Applicable master or locally negotiated agreement provisions also must be used in administering actions affecting bargaining unit employees.

2. FILLING VACANCIES

a. **Reduction-in-Force Planning**

(1) Although management is not obligated to fill vacancies prior to or during a RIF, to the extent possible, necessary and continuing vacancies will be used to provide placement opportunities for employees who will be adversely impacted by a RIF. When management chooses to offer vacancies using RIF procedures, qualifications may be waived in accordance with 5 CFR 351.703. [Qualifications may not be waived for title 38 and hybrid title 38 vacancies.] The Union will be given a written list of current vacancies prior to employees being informed of a reorganization.

(2) After a reorganization is announced in writing and prior to a RIF, eligible employees may be allowed to volunteer to accept lower-graded positions. Employees taking such positions will be granted grade and pay retention if eligible. (See Pay Administration Directive and Handbook 5007 and 5 CFR, part 536, for guidance on grade and pay retention eligibility.)

(3) Promotions or other placements into vacant title 5 positions prior to a RIF which have greater promotion potential than employees' current positions must be made under competitive merit promotion procedures.

b. **Offering Vacancies to Employees**

(1) During a RIF, to the extent possible, vacancies may be used to satisfy employees' assignment rights in accordance with 5 CFR 351.201.

(2) Employees without assignment rights who have received specific RIF separation notices may be offered vacant, lower-grade positions without regard to the three-grade level limit which applies to bump

and retreat. These offers may be made so long as the position would not constitute a better RIF offer to other competing employees. Eligible employees who voluntarily accept lower-graded positions will be entitled to grade and pay retention benefits.

[c. **Reassignments**

(1) To avoid displacing an employee during a RIF, management may reassign a surplus employee to a continuing position at the same grade as long as there is a legitimate need for the employee in the position. Such reassignments help avoid involuntary separations and demotions. An employee may be reassigned without regard to reduction in force regulations when the vacant position is at the same grade or rate of pay as the employee's present position.

(2) The position to which the employee is reassigned may be located in the same or a different competitive level, competitive area, or commuting area.

(3) An employee may not be reassigned to a position with greater promotion potential unless the position is filled following merit promotion procedures.

(4) Reassignment to a position in a different commuting area does not provide the employee with the right to compete for a position in his or her present competitive area under reduction in force regulations even if the employee declines the reassignment and is subsequently separated under adverse action procedures. (See VA Handbook 5021, Part VI, paragraph 13.)

(5) An employee separated for declining reassignment to a position in a different commuting area qualifies for most of the benefits available to an employee who is separated by reduction in force, including severance pay, discontinued service retirement, and the Interagency Career Transition Assistance Plan. The employee is not eligible to be placed on the reemployment priority list.]

3. DELEGATIONS OF AUTHORITY

a. The Secretary, or designee(s), will approve RIF actions involving positions centralized to the Secretary and all furloughs.

b. Under Secretaries, Assistant Secretaries, Other Key Officials, or their designee(s), with the advice and assistance of the Office of Human Resources Management [(OHRM), will authorize RIFs], within VACO elements under their jurisdiction, and within field facilities under their jurisdiction requiring VACO approval.

[**NOTE**: *Other Key Officials are defined as the General Counsel, Inspector General, Chairman Board of Veteran Appeals, etc. This <u>does not</u> include positions below Under Secretaries, Assistant Secretaries, or Staff Office Heads.*]

c. Field facility directors will [conduct] RIF actions within their respective jurisdictions . [when authorized and approve resulting actions, except for actions involving centralized positions and all furloughs].

4. REQUESTS TO TAKE ACTION

a. **Reduction in Force.** Field facility directors will submit a request, through channels and the Office of Human Resources Management, to the appropriate official listed in VA Directive 5005 before proceeding with RIFs that involve a centralized position or [when anticipating a RIF that would result in the separation of an employee]. This authority may be redelegated by officials listed in paragraph 3. The Under Secretary for Health has delegated RIF authority as specified in appendix IV-B. Information regarding submitting proposed RIFs is provided on the OHRM[ ] Web site. The request will include the following information.

(1) The reasons(s), among those in 5 CFR 351.201(a)(2), for the action;

(2) The titles, series, grades, and numbers of all involved positions;

(3) If the RIF occurs in a research project, the name of the project and principal investigator.

b. **Transfer of Function.** Field facility directors will submit a request, through channels and the Office of Human Resources Management, to the appropriate official listed in VA Directive 5005 before they separate or include in a concurrent RIF employees who decline to transfer with their functions. The request will include the information in subparagraph 4a(2).

c. **Furlough.** Under Secretaries, Assistant Secretaries, Other Key Officials, and field facility directors will submit a request, through channels and the Office of Human Resources Management, to the Secretary before proceeding with a furlough, whether under adverse action [procedures outlined in VA Handbook 5021] or RIF procedures. The request will include a description of the temporary conditions warranting a furlough, the information in paragraph 4a, the proposed length of the furlough, including the beginning and ending dates, and any alternatives to furloughs that were considered. Requests for adverse action furloughs also will identify the method used to select employees for furlough.

d. **Voluntary Early Retirement Authority (VERA).** The Deputy Assistant Secretary for Human Resources Management is authorized to request VERA from OPM . The request must meet the criteria and include the information required by OPM. Under Secretaries, Assistant Secretaries, and Other Key Officials will submit conforming plans, through channels, to the Office of Human Resources Management. Each facility [and VA staff office] authorized and utilizing VERA will establish and maintain a local VERA plan consistent with [overall VA plans and OPM requirements].

[ ]

SECTION B. COMPETITIVE AREAS

1. STANDARD COMPETITIVE AREAS

a. **Field Positions**

(1) Normally, each VA facility under separate managerial authority, e.g., medical center, independent outpatient clinic, regional office, cemetery, and data processing center and its satellite positions and activities within the commuting area, constitutes a competitive area.

(2) Satellite positions and activities outside the commuting area of their parent facilities, e.g., Veteran Representatives on campus, satellite outpatient clinics, "vet centers," also constitute separate competitive areas for each commuting area.

(3) When two or more installations in the same administration or staff office in a local commuting area have a single organizational unit which provides "common service" functions, such as Human Resources, finance, or supply, the servicing office is included in the competitive area of the installation that has administrative authority over the servicing office.

(4) A field element of an administration or staff office which is located at and serviced by a VA facility, but under separate managerial and appointing authority, constitutes a separate competitive area. An example would be Regional Counsel offices at regional offices and medical centers.

(5) Positions in the field for which employment matters are centralized to VACO, such as associate directors and division chiefs, are included in the competitive area of the local facility.

(6) Different funding sources alone is no basis for establishing separate competitive areas.

b. **Central Office Positions**

(1) The Office of the Secretary and each office of an Under Secretary, Assistant Secretary, or Other Key Official, constitute separate competitive areas.

(2) VACO employees with a duty station outside of the Washington, DC, metropolitan area, such as information specialists in the Office of Public Affairs and resident engineers in the Office of Facilities, are in separate competitive areas for each administration or staff office and each commuting area. They are not included in the Washington, DC, competitive areas or in any other competitive areas in their commuting areas.

(3) Positions in the Office of Inspector General (OIG) may not be placed in the same competitive area as positions outside the OIG.

2. AUTHORITY TO REDEFINE COMPETITIVE AREAS. Under Secretaries, Assistant Secretaries, and Other Key Officials, with the advice and assistance of the Office of Human Resources Management [ ] may redefine competitive areas for organizations under their jurisdictions, provided such redefinitions are in accordance with 5 CFR, part 351, fully justified and documented to ensure that such action is clearly in the best interest of VA. The Under Secretary for Health has delegated authority to redefine competitive areas as specified in appendix IV-C.

SECTION C. COMPETITIVE LEVELS AND RETENTION STANDING

1. ESTABLISHMENT OF COMPETITIVE LEVELS. Human Resources Management Officers (HRMOs) are responsible for assigning competitive levels[.]

[a. Within each competitive area, the HRMO, or designee, groups interchangeable positions into competitive levels. A competitive level includes positions with the same grade, series, qualification requirements, duties, and work schedule. Competitive [service positions (title 5)] and excepted service positions [(title 5, title 38, and hybrid title 38)] are placed on separate competitive levels. Separate competitive levels are also established for positions that are full-time, part-time, intermittent, seasonal, on-call, or filled as part of a formally designated trainee or developmental program. The competitive level is based on each employee's position description, [ ] functional statement[, privileges, and scope of practice]. Positions that are similar (for example, same grade, series, qualifications, and work schedule) but are not identical (for example, slightly different duties [and responsibilities]), may be placed in the same competitive level if the employee of one position could satisfactorily perform the critical tasks of the other position [without undue interruption within allowable limits of time and quality in patient care. Generally, the employee should to be able to successfully perform the critical tasks of the position within 90 days after entering the position (further guidance regarding the determination of appropriate time frames can be found in OPM's Restructuring Handbook). Positions should not be placed in the same competitive level if the privileges, scopes of practice, and clinical responsibilities are different. Guidance on establishing competitive levels for title 38 positions is located in Appendix IV-D]..

b. Competitive service employees with time-limited appointments of 1 year or less and temporary excepted service employees who have served 1 year or less [are not competing employees in a RIF and] are not listed in a competitive level. These employees are terminated before any employee covered by OPM retention regulations is reached for a RIF action. Temporary excepted service employees who are employed under a temporary appointment limited to 1 year or less, but who have completed 1 year of current continuous service under a [previous] temporary appointment with no break in service of 1 workday or more, [are competing employees in a RIF and] are placed in a competitive level.

2. CREDIT FOR PERFORMANCE

a. The annual summary performance [and proficiency] ratings of record are the official ratings used for crediting performance during a RIF. Guidance on processing annual performance [and proficiency] ratings of record used is contained in VA Directive and Handbook 5013, Performance Management Systems. Additional guidance on the annual performance rating crediting procedures to be used for retention service credit is contained in 5 CFR 351.504 and subparagraphs 2b through 2g of this section.

b. VA is required to treat all employees within a RIF competitive area in a uniform and consistent manner. Any competing employee receiving a Satisfactory or equivalent performance rating, [e.g., Fully Successful or Successful,] will receive 12 years of additional service credit; any competing employee receiving an Excellent [ ]or equivalent[ ] rating[, e.g., High Satisfactory or Highly Successful,] will receive 16 years of additional service credit; and any employee receiving an Outstanding [ ]or equivalent[ ] rating will receive 20 years of additional service credit. The same service credit is granted regardless of the agency or organization that issued the rating.

c. In crediting performance for RIF purposes, the "look-back" period of 4 years applies. The [most recent] three ratings [received within the last four years prior to the RIF] will be used to determine performance credit. [The performance credit assigned to each of the] three ratings of record will be added together [ ] and divided by 3 [(in the case of a fraction the number is rounded to the next higher whole number)] to determine additional service credit, which will then be added to the employee's service computation date.

d. Under provisions of 5 CFR 351.504(c)(2), an employee who has received only one or two ratings during the 4-year period shall receive credit for performance on the basis of the ratings of record received divided by 1 or 2. For example, when only two ratings of record are available to be credited, these two ratings will be added together and divided by 2 (and rounded in the case of a fraction to the next higher whole number) to determine additional service credit. If there is only one rating of record available, use the value assigned to that rating for service crediting purposes].

e. OPM has determined that an employee who has no rating of record during the 4-year period will receive the "modal" rating, i.e., the [summary rating level assigned most frequently within the competitive area and on record for the most recently completed appraisal period prior to the cutoff date specified (5 CFR 351.203 & 504(c)(1))]. However, in most instances, every employee in the competitive area [should] have at least one rating of record during the last 4 years. If at least one rating exists, a "modal" rating will not be required. [The modal rating for title 5 and hybrid employees will be determined separately from the modal rating for title 38 employees because of the differing performance systems.]

f. Some agencies and organizations within the Federal government are not covered by the performance appraisal provisions in the law and regulations. Employees who have received ratings from such Federal organizations will be granted additional retention service credit in a RIF only when it is determined that those performance ratings are equivalent ratings of record under the provisions of 5 CFR 430.201(c). The Human Resources Officer or the RIF Team Leader will make the final determination on applicability. If the performance evaluation qualifies as an equivalent rating of record, the employee will be granted the appropriate service credit for each applicable rating of record [accordance with subparagraphs c and d above].

g. [The cutoff date for performance ratings of record will be between 30 and 45 days prior to the date of the specific RIF notice. After the cutoff date, no new ratings will be put on record for RIF service credit purposes].

3. ORDER OF RELEASE FROM COMPETITIVE LEVELS. No competing employee will be released from a competitive level while retaining in that level an employee with a specifically limited temporary appointment, a specifically limited temporary or term promotion, or a written decision of a performance-based removal or demotion from the competitive level. Once such employees have been released, competing employees will be released in inverse order of retention standing except as provided in this section, paragraphs 4 and 5 of this section.

4. TIES. As permitted by 5 CFR 351.601(b), the [ ]official who would normally make the selection for the position [from which the employee is being released] will determine, on the basis of qualifications [and competencies] for the specific position, which employee(s) will be retained when two or more employees

on a retention register [have identical retention standing service dates. The tied employees who will be released from the competitive level] will be notified in writing of the tie and the decision that they will not be retained [in the competitive level].

5. EXCEPTIONS TO RETENTION ORDER

a. Holders of the Congressional Medal of Honor employed as Contact Representatives (Veterans Benefits Counselors) under authority of Executive Order 9628 are exempted from RIF.

b. An employee who is being assigned to a position which will not be vacated until after the end of the 60-day notice period may be retained in his/her current position until the position becomes available but not to exceed 60 additional calendar days.

c. As permitted in 5 CFR 351.608, employees who have been reached for a RIF (separation) will be retained as a temporary exception to the retention order under the following conditions:

(1) An employee whose disability retirement has been approved by OPM will be separated when the person's earned sick leave is exhausted or on the date OPM approval is received, whichever is later.

(2) An employee who applies for disability retirement (or for whom VA has made such application) will be granted sick leave provided the responsible VA official agrees, on the basis of acceptable medical evidence, that the employee is incapacitated for duty in his/her present position. If OPM disapproves the request for disability retirement, the employee will be separated on the day VA is notified of the disapproval or on the scheduled effective date of the RIF, whichever is later. If OPM has not approved or disapproved the application for disability retirement by the time the employee's earned sick leave has been exhausted, the employee will be separated at that time or on the scheduled effective date of the RIF, whichever is later.

d. Field facility directors may approve temporary exceptions in the normal retention order for employees under their jurisdiction in other cases involving sickness, disability, or other issues covered by 5 CFR 351.608, such as near-term retirement eligibility. The Secretary, Under Secretaries, Assistant Secretaries, Other Key Officials, or their designee(s), may approve such exceptions for VACO employees and for employees located at field facilities who are not under the managerial authority of a field facility Director.

e. These officials are also authorized to approve temporary exceptions in the normal retention order for 90 days or less to continue an activity without undue interruption as described in 5 CFR 351.203. "Undue interruption" does not mean mere inconvenience. Serious inconvenience and even severe interruption of the work program are often the unavoidable results of a RIF. A work program probably would not be unduly interrupted if an employee needed more than 90 days after the RIF to successfully perform the critical elements of a position. Lower priority programs might tolerate a longer interruption.

f. If an exception is approved in one case in a particular RIF, it must be applied to all other employees reached for separation in that RIF who meet the same criteria.

SECTION D. ASSIGNMENT RIGHTS

1. QUALIFICATIONS DETERMINATIONS. Human Resources Management Officers determine whether employees are qualified for specific positions to which they can be assigned in a RIF. Qualification requirements may be waived to the extent permitted by 5 CFR 351.703, when filling a vacant [title 5] position during a RIF. [Basic qualification requirements may not be waived for title 38 and hybrid title 38 vacancies. Grade requirements for title 38 and hybrid title 38 vacancies may be waived only to the extent permitted in each occupations applicable qualification standard. Basic qualification standard] waivers are not permitted for RIF displacements.

2. ADMINISTRATIVE ASSIGNMENTS. The following administrative assignment rights are granted to affected VA employees consistent with 5 CFR 351.705:

a. **Other Competitive Areas.** Group III employees in other competitive areas in the local commuting area [(e.g., at stations where management has the same authority or jurisdiction at more than one campus or division)] will be displaced to provide assignment opportunities for VA employees who (1) are in Group I or Group II; (2) have received a notice of impending RIF separation or who have declined an offer to transfer with their current competitive area; and (3) meet the qualification standards and are available for positions held by Group III employees at grade levels not higher than the grade levels held at the time of receipt of RIF notices.

b. **Attorneys.** Attorneys appointed under Schedule A, 5 CFR 213.3102(d) who are reached for release from their competitive area are entitled to other positions in the same competitive area which are encumbered by Schedule A, 5 CFR 213.3102(d) appointees whom they can displace by "bump" or "retreat" as defined by 5 CFR 351.701.

c. [**Employees Appointed under 38 U.S.C. 7401(1).** Employees appointed under 38 U.S.C. 7401(1) who are reached for release from their competitive levels are not entitled to displace by bump or retreat other employees appointed under these authorities].

[d.] **Employees Appointed under 38 U.S.C. 7401(3)** [ ]**.** Employees appointed under 38 U.S.C. 7401(3) [ ] who are reached for release from their competitive levels are entitled to other positions in the same competitive area which are encumbered by 7401(3) appointees [ ], whom they can displace by "bump" or "retreat."

[e.] **Veterans Canteen Service Employees.** Employees of the Veterans Canteen Service appointed under 38 U.S.C. 7802 who are reached for release from their competitive levels are entitled to other positions in the same competitive area which are encumbered by 38 U.S.C. 7802 appointees whom they can displace by "bump" or "retreat."

SECTION E. EMPLOYEE NOTICES

1. GENERAL. Employees will be given advance official [notification] information concerning decisions which may result in their being affected by a RIF. This [notification will be in writing] and will include: the reasons for the required adjustments, such as lack of work or funds, reorganization, or a realignment of functions; the competitive area; where the employee may inspect the pertinent regulations; and whom] to contact about assistance available for affected employees.

2. SPECIFIC NOTICES. Whether or not other notices are used, each affected employee must be given a specific notice of the [ ] action. [Notices must comply with applicable labor-management agreement notice provisions.] Notice periods and contents are described in 5 CFR, part 351.

SECTION F. [TITLE 5 AND HYBRID TITLE 38] FURLOUGHS

1. GENERAL. [This section applies to title 5 employees and to title 38 hybrid employees appointed under 38 U.S.C. 7401(3). This section does not apply to full title 38 employees.] Furloughs are appropriate to address temporary conditions when it is intended to recall employees to duty. The determination as to which employees are furloughed will be based on an assessment of which assignments are critical to the continuing operation of the organization during the furlough. When feasible, furloughs will be spread out among employees in affected competitive levels to minimize the impact on each employee and the disruption of VA activities. All employees shall be accorded fair and equitable treatment consistent with this policy. [(For furloughs of employees appointed under 38 U.S.C. 7401(1), see Chapter 3, Section C of this part.)]

2. USE OF ADVERSE ACTION PROCEDURES. Furloughs of 30 days (22 workdays) or less are adverse actions and should be processed in accordance with VA Directive and Handbook 5021, Employee Management Relations. The guidance in this chapter on requests for furlough authority, appropriate uses of furlough, and identification of employees for furloughs will apply to these actions.

3. USE OF RIF PROCEDURES. RIF procedures must be followed to furlough an employee for more than 30 consecutive days [ ].

4. WRITTEN NOTICE TO EMPLOYEES. Ordinarily, employees will be given 30 or 60 calendar days advance written notice of a furlough depending on the length of furlough (whether the furlough is an adverse action or a RIF-based action). However, employees may be furloughed during emergencies [and other unforeseen situations, e.g. lapse of appropriations,] without the usual advance notice and opportunity to reply. Emergency situations are restricted to very narrow circumstances such as furloughs to avoid violating the Anti-deficiency Act, which prohibits using funds when appropriations have not been enacted. The written notice shall advise the employee of:

a. The reason(s) for the furlough;

b. The effective date(s) and expected duration of the furlough;

c. The process used - either adverse action or RIF (see requirements for RIF notices as well);

d. If applicable, the circumstances which warrant waiver of the notice period;

e. When only some of the employees in an organizational unit are to be furloughed, the basis for identifying the employees to be furloughed;

f. The place where the employee may inspect the applicable regulations and records;

g. The employee's right to reply in writing and time allowed for reply;

h. The employee's right to grieve or appeal, as appropriate; and

i. Any effects of the furlough on the employee's entitlement to retirement, life and health insurance, and other benefits.

5. EMPLOYEE PREFERENCES. For furloughs of 30 days or less, management will consider employee preference, e.g., to work a shorter prorated week or to be furloughed for a certain number of consecutive days, in scheduling the furlough.

6. FURLOUGH DURATION LIMITATIONS. Competing employees may not be furloughed for more than 1 year. If employees must be released for more than 1 year, RIF procedures must be used.

SECTION G. TRANSFER[ ] OF FUNCTION

1 GENERAL. A transfer of function occurs when the function wholly leaves one competitive area and moves to another competitive area that does not already perform that same function. When the number of employees who are willing to transfer and who are in a competitive level within a transferring function exceeds the needs of the gaining competitive area and RIF procedures are used to relieve the surplus, these procedures will normally be applied at the gaining location. Any use of RIF procedures in the losing competitive area (except for actions unrelated to the transfer of function) will require the prior authorization of the appropriate Under Secretaries, Assistant Secretaries, and/or Other Key Officials.

NOTE: *For a more complete explanation of procedures and employee rights in transfer of function, see 5 CFR, part 351, subpart C and OPM Restructuring Information Handbook, Module 4.*

2. PROCEDURES

a. For planning purposes, employees occupying positions in a transferring function will be asked in writing if they are interested in transferring, and will be given one (1) full pay period to respond.

b. If a RIF is necessary at the gaining facility as a result of the transfer of function, employees occupying positions in the transferring function will be considered to be employees of the receiving organization and will be placed in appropriate consolidated competitive levels. They will not be physically moved to the new commuting area until a specific assignment is determined.

c. Appropriate notices will be issued by the losing facility and will include information on specific assignments, pay and grade retention, and payment for travel and transportation costs. If there is a RIF involved in the transfer of function, the gaining facility will issue the notices. Separation actions that may result will be processed by the losing facility.

d. Career or career-conditional employees who are separated are eligible for placement assistance under the programs described in 5 CFR, part 330, and this handbook. Also, those meeting the requirements will be entered on the reemployment priority lists in the commuting area of the office that issued the notice resulting in the separation.

SECTION H. APPEALS AND GRIEVANCES

1. NOTIFICATION TO EMPLOYEES. Affected employees will be advised in writing of their grievance and appeal rights at the time specific actions are communicated, consistent with regulatory requirements.

2. PETITIONS FOR REVIEW BY THE MERIT SYSTEMS PROTECTION BOARD. [A title 5 title 38, or title 38 hybrid employee appointed under 38 U.S.C. 7401(3)] , the Department, or the Director of OPM may file a petition for review of an MSPB Regional Office decision with the MSPB. Department petitions for review will be coordinated through the [appropriate Regional Counsel Office with consultation from the] Office of General Counsel and [HRM as needed]. Field facilities will [ ] assure that Department petitions [for review], if appropriate, are submitted on a timely basis.

SECTION I. PLACEMENT ASSISTANCE AND CAREER TRANSITION

1. EMPLOYMENT RESTRICTIONS. The Federal government has established a regulatory framework in 5 CFR 330, [sub]parts [Fand] G [ ], regarding both placement assistance and reemployment consideration of employees subject to RIFs and related activities. This section addresses Federal and VA policies on placement assistance and career transition.

[**NOTE:** *Where practicable, the provisions of this section are extended to include title 38 employees, as well as title 5 and hybrid title 38 employees.*]

a. Under Secretaries, Assistant Secretaries, and Other Key Officials will determine, with the advice and assistance of the Deputy Assistant Secretary for Human Resources Management, whether additional employment restrictions beyond those described herein should be imposed on other facilities or areas to provide placement opportunities for employees likely to be affected adversely by a RIF, transfer of function, or other reorganizations. If it is determined that employment restrictions across organizational lines are needed to provide sufficient placement assistance opportunities, the Under Secretaries, Assistant Secretaries, or Other Key Officials of the potentially affected facility or organization, or the Secretary, will approve the extension of employment restrictions.

b. Efforts should be made to identify the specific grades and series of positions for which affected employees qualify, and to apply employment restrictions only to those specific vacancies.

2. OPERATIONAL REQUIREMENTS FOR CAREER TRANSITION ASSISTANCE

a. The **facility Director** shall:

(1) Establish and implement [a] local **Career Transition Assistance Plan**[ ] **(CTAP**), [ensuring] local labor organizations [are met;] and

(2) Ensure that [ ] affected employees receive required and other appropriate and timely notification of the availability of local career transition assistance ([Refer to the guidance in] 5 CFR, parts 330 and 351[, and OPM's Reconstruction Information Handbook, Module 7, to supplement the guidance in this handbook.])

b. The **Human Resources Management Officer** shall:

(1) Ensure that all displaced and surplus employees in the local commuting area have the opportunity to apply for vacancies lasting 121 days or more;

(2) Where there is more than one [ ]HRMO[ ] in the local commuting area, these HRMOs will establish local procedures for exchange of pertinent information, including the existence of any VA displaced and surplus employees;

(3) Determine, in consultation with subject matter experts as appropriate, whether displaced and surplus applicants/employees are "well-qualified" for vacancies to which they have applied, and provide documented "qualification reviews" to such persons who are otherwise "eligible" but have been determined to be "not well-qualified";

(4) Ensure that eligible "well-qualified" VA displaced and surplus applicants/employees receive appropriate special selection priority when they are referred to selecting officials;

(5) [Maintain] the Reemployment Priority List (RPL) for eligible separated VA employees;

(6) Maintain records of VA CTAP and Interagency Career Transition Assistance Plan (ICTAP) activities; and

(7) Ensure that each impacted employee receives information on career transition.

3. DEFINITIONS FOR CTAP

a. **Agency.** An Executive department, a Government corporation, and an independent establishment as cited in 5 U.S.C., sections 101, 103 and 104.

b. **Bargaining Unit.** A group of employees recognized by the employer and designated by the Federal Labor Relations Authority as appropriate to be represented by a labor organization for purposes of collective bargaining.

c. **Certification of Expected Separation (CES).** A memorandum which identifies an employee as being in an excess organization or occupation and therefore subject to possible separation [through RIF procedures]. An employee in receipt of such a memorandum is considered a surplus employee. A CES would most appropriately be used in cases when entire units are expected to be abolished and can be issued up to 6 months prior to separation. This makes such employees eligible for the full range of VA CTAP services and assistance under this directive and handbook.

d. **Displaced Employee**

(1) **Under CTAP.** A current agency employee who has received a RIF separation notice or notice of proposed removal for declining a directed reassignment or transfer of function outside of the local commuting area, if serving *either* on an appointment in the competitive service in tenure group I or II, *or* on an appointment in the excepted service without time limit and who has been given statutory noncompetitive appointment eligibility and selection priority for competitive service positions.

(2) **Under the ICTAP**

(a) A current or former career or career-conditional competitive service employee, in tenure group I or II who has received a specific RIF separation notice [or a notice of proposed removal for declining a directed reassignment or transfer of function outside of the local commuting area];

(b) A former career or career-conditional employee who was separated because of a compensable injury, as provided under the provisions of subchapter I of chapter 81 of title 5, U.S.Code, whose compensation has been terminated and whose former agency is unable to place the individual as required by 5 CFR [353.110(b)];

(c) A former career or career-conditional competitive service employee, in tenure group I or II, who retired with a disability under sections 8337 or 8451 of title 5, U.S. Code, whose disability annuity has been or is being terminated;

(d) A former career or career-conditional competitive service employee in tenure group I or II, in receipt of a RIF separation notice who retired on the effective date of the RIF or under the discontinued service retirement option;

[ ]

[(e)] A former Military Reserve Technician or National Guard Technician who is receiving a special disability retirement annuity from OPM under section 8337(h) or 8456 of title 5, U.S. Code, as described in 5 CFR, part 330, subpart H;

[(f)] A current agency employee who is in receipt of a RIF separation notice or notice of proposed removal for declining a transfer of function or directed reassignment outside of the local commuting area, if serving on an appointment in the excepted service without time limit and has been given statutory noncompetitive appointment eligibility and selection priority for competitive service positions; and

[(g)] A former agency employee who has been separated through RIF or removed for declining a transfer of function or directed reassignment outside of the local commuting area, who served on an appointment in the excepted service without time limit and has been given statutory noncompetitive appointment eligibility and selection priority for competitive service positions.

e. **Eligible Employee.** To be eligible for special selection priority under these procedures, an individual must meet all of the following conditions:

(1) Is a surplus or displaced employee as defined in 5 CFR 330.604(c) or (i), or 5 CFR 330.703(b);

(2) Has a current performance rating of record of at least fully successful or equivalent;

(3) Applies for a vacancy that is at or below the grade level from which the employee may be or is being separated, that does not have a greater promotion potential than the position from which the employee may be or is being separated[. **NOTE:** *For hybrids and full title 38 employees in grades above the full performance level, their grades must be reviewed by an appropriate professional standards board. Their grades may be impacted by the level of responsibility and assignments in the new position. If an appropriate professional standards board determines that the new assignment is at or below the employee's current grade level, this eligibility requirement is met. This provision does not apply to physicians and dentists since they are in single grade positions.*];

(4) Occupies a position in the same local commuting area of the vacancy;

(5) Files an application for a specific vacancy within the established timeframe and provides proof of eligibility as required under 5 CFR 330.608(a)(2) or 330.708(a)(2)]; [and]

(6) Is determined by the [hiring] agency to be well-qualified for the specific vacancy.

f. **Facility.** A single medical center, regional office, automation center, other Department field establishment under the direction of local management officials or VACO. The facility includes any operation (e.g., a satellite) or complex of organizations that is under the control of the same facility Director.

g. **ICTAP.** The OPM program which provides special selection priority to other displaced Federal employees when filling vacancies from outside of VA.

h. **Labor Union.** An organization composed, in whole or in part, of employees in which these employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment.

i. **Local Commuting Area.** The geographic area that usually constitutes one area for employment purposes[, in accordance with Federal Travel Regulations on Permanent Change of Station (PCS) moves]. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their usual employment.

j. **Qualification Review.** The documented analysis by the responsible HRMO of the rationale for [determining if] an otherwise eligible [candidate is well-qualified or not well-qualified for the position being filled].

k. **Selecting Official.** Th[e] individual with the authority to choose from among candidates for a vacancy.

l. **Special Selection Priority.** The precedence over any other candidates that eligible employees have for being chosen for vacancies for which they apply. [Eligible surplus and displaced employees must be selected over any other candidate for vacancies in the local commuting area for which they apply and are found well-qualified.] **Exception** - No VA CTAP special selection priority can be made which would cause another VA employee to be separated by RIF. See Appendix IV-A of this handbook for those staffing actions not covered by the VA CTAP.

m. **Suitability.** Determinations based on an individual's character or conduct that may impact the efficiency of the service by jeopardizing an agency's accomplishments of its duties or responsibilities, or by interfering with or preventing effective service in the competitive, excepted, [or] SES position applied for or employed in, and determinations that there is a statutory or regulatory bar to employment.

n. **Surplus Employee.** A current employee serving under an appointment in the competitive service as well as [an] excepted [service] employee[ ] in [S]chedule[ ] A [or] B[ ] in tenure group I or II, [and a title 38 employee serving on an appointment under 38 U.S.C. 7401(1)] who has received a CES or other certification issued by the agency which identifies the employee as being in an excess organization or occupation.

o. **Vacancy.** A competitive service position lasting 121 days or more including extensions, which is being filled, regardless of whether a specific vacancy announcement is issued.

p. **Vacancy Announcement.** The [notification to] eligible displaced and surplus employees in the local commuting area [that a facility is accepting applications. The announcement must] convey[ ] what is required to be [rated] "well-qualified."

q. **Well-Qualified Employee.** An eligible applicant who:

(1) Meets the qualification standard and eligibility requirements for the position, including any medical qualifications, suitability, and minimum educational and experience requirements;

(2) Meets all selective factors, where applicable, and appropriate quality [rating] factor levels. Selective and quality ranking factors cannot be so restrictive that they run counter to the goal of placing displaced employees. In the absence of selective and quality ranking factors, HRMOs, with appropriate consultation, will document the job-related reason(s) the eligible employee is or is not considered to be well-qualified;

(3) Is physically qualified, with reasonable accommodation where necessary, to perform the essential duties of the position;

(4) Meets any special qualifying condition(s) that OPM has approved for the position, and;

(5) Is able to satisfactorily perform the duties of the vacancy upon entry.

Note: The qualification level required for placement under CTAP and ICTAP, well-qualified, is greater than the qualification level required for placement under reduction in force procedures, minimally qualified.

4. CAREER TRANSITION ASSISTANCE SERVICES. These services are to be provided to VA employees who either have been or are likely to be separated from Federal service due to downsizing. The goal of such services is to assist VA employees in taking charge of their own careers by providing them with the support they need to find other job opportunities, either with government or in the private sector. In VA, under these procedures, transition assistance services will be available to impacted permanent title 5 competitive and excepted service employees as well as [to permanent] title 38 hybrid [and full title 38] employees. [ ] Special selection priority, when filling competitive service vacancies, will be available to displaced and surplus competitive service employees. A key feature of the CTAP is that employees must exercise individual initiative in pursuing other employment, both within and outside of the Federal government. Therefore, managers and supervisors, in their administration of the VA CTAP, should be sensitive to the needs of impacted employees and should approve requests for reasonable excused absence to use career transition services.

5. SPECIFIC VA CAREER TRANSITION ASSISTANCE SERVICES. Such services will be offered by facilities to all permanent competitive and non-time limited excepted service and Senior Executive Service employees affected by downsizing. These resources will assist employees in pursuing employment [either] within or outside the Federal government and in managing the change process.

a. **Required Services.** The following must be offered to impacted employees:

(1) Resume writing;

(2) Interviewing skills/techniques;

(3) Training in preparing applications that address vacancy announcement rating factors;

(4) Skills assessment/counseling;

(5) Retirement counseling/training;

(6) Employee benefits counseling/training;

(7) Financial planning/training;

(8) Job search skills;

(9) Stress management;

(10) Basic library of job search materials;

(11) Access to the OPM's USAJOBS [and VA's vacancy databases];

(12) Training in the use of career transition services for employees, managers, supervisors and union representatives; and

(13) Basic computer training beyond that needed to facilitate use of transition services.

b. **Other Requirements**

(1) Employees will be allowed [a] reasonable [amount of] excused absence to use transition services and facilities.

(2) Separated employees will be allowed reasonable access and time to use transition services and facilities.

(3) Access to services will be provided to employees in field offices and remote sites and [to] those [employees] with disabilities.

(4) Facilities will make full use of Employee Assistance Programs.

(5) Facilities will provide employees with resource information on other forms of Federal, state, and local assistance which are available to support career transition[, including services] for employees with disabilities.

c. **Highly Desirable Services.** In addition to services which must be offered to affected employees are services which, although not required, [a facility may choose to offer to affected employees].

(1) "Survivor training,", and/or counseling, for those who will remain in the new organization to help them adjust to changes brought about by downsizing;

(2) Team building;

(3) Counseling for families of impacted employees;

(4) [Orientation to] the new organizational structure, and;

(5) Job retraining where time and resources permit. This [may be] appropriate in [reorganizations where the total number of employees has reduced but staff] in some occupations will be increasing.

d. **Methods of Providing Services.** Career transition assistance services may be delivered in a variety of ways. Facilities may, for example, wish to pool resources for particular services. Facilities should contact organizations, both government and private sector, to learn what techniques and options are effective in the local area.

6. SPECIAL SELECTION PRIORITY FOR VA EMPLOYEES

a. Special selection priority means that an eligible "well-qualified" applicant (one who applies and meets [the] criteria under the VA CTAP) must be selected. Since [ ] displaced and surplus [VA] employees must apply for specific vacancies, it is therefore necessary that vacancy announcements be distributed so that they have an opportunity to apply. The VA CTAP is designed to maximize employment opportunities for displaced and surplus VA employees who, through no fault of their own, are adversely affected by VA restructuring and downsizing.

b. Surplus and displaced VA employees who apply for VA vacancies in their local commuting area at their current grade or a lower grade with no higher promotion potential than their current grade, and who are [ ] well-qualified for such position, must be selected. These employees are the first selection priority for VA vacancies. (See Order of Selection and Consideration in appendix IV-A.) [**NOTE***: For hybrids and full title 38 employees in grades above the full performance level, their grades must be reviewed by an appropriate professional standards board. Their grades may be impacted by the level of responsibility and assignments in the new position. If an appropriate professional standards board determines that the new assignment is at or below the employee's current grade level, this eligibility requirement is met. This provision does not apply to physicians and dentists since they are in single grade positions.*]

(1) **Announcement of Vacancies.** The Plan depends on the announcement of vacancies in order that VA CTAP eligibles have the opportunity to apply. Vacancy announcements should be forwarded for appropriate distribution by HRMOs at other VA facilities in the local commuting area. In those instances where vacancies are not announced, e.g., in anticipation of a reassignment within the facility, if well-qualified eligibles apply in a timely manner, they must receive special selection priority. (See Appendix IV-A.)

(2) **Determining Well-Qualified.** The responsible HRMO, in consultation with subject matter experts, as required, will approve the determination of "well-qualified" for each eligible applicant under

this program, using the criteria defined in paragraph 3. This official will also notify eligibles of a determination of "not well-qualified," and maintain documentation [in the record justifying] this determination.

(3) **Notification Procedures.** Employees will receive notification of their eligibility for special selection priority under this program with their specific notice of RIF separation, or in their CES or other certification issued by the agency which identifies the employee as being in an excess organization or occupation.

7. REEMPLOYMENT PRIORITY CONSIDERATION FOR SEPARATED VA EMPLOYEES. VA employees who receive a specific RIF notice of separation will be notified that they may register for the **RPL.** Registrants receive reemployment priority consideration for positions in the local commuting area at the same grade or lower than the position held at the time of separation. Registrants do not have to re-apply for specific vacancies as [is] the case with current surplus and displaced employees. Neither must they meet the test of "well-qualified" [for reemployment]. Where there is more than one HRM office in the commuting area, the HRMOs will establish local procedures for [the] exchange of information and the maintenance of a consolidated RPL. All facilities in the commuting area are, consistent with 5 CFR, part 330, responsible for assuring RPL registrants receive reemployment priority consideration for all appropriate vacancies. If the selecting official tentatively nonselects appropriately referred RPL registrants, that official must obtain approval of the next higher level supervisor before considering candidates from outside the facility. [Title 5 r]egistrants who were [ ] career-conditional [employees at the time of separation, and title 38 and hybrid employees who had not completed their probationary period at the time of separation] have 1 year of eligibility [on] under the RPL[. Title 5 registrants] who were [ ] career [employees at the time of separation, and title 38 and hybrid employees who had completed their probationary period at the time of separation] have 2 years of eligibility [on the RPL].

8. SPECIAL SELECTION PRIORITY FOR DISPLACED CURRENT OR FORMER EMPLOYEES FROM OTHER FEDERAL AGENCIES. Displaced current or former employees from other Federal agencies are entitled to have special selection priority under the **ICTAP** when they apply through [ ] OPM USAJOBS for VA vacancies at their current or former grade level or with no higher potential, and [are] within the local commuting area. VA facilities must place vacancies lasting 121 days or more on [ ] USAJOBS whenever they decide to recruit outside VA. These employees or former employees who are determined to be well-qualified must be selected prior to the selection of reinstatement eligibles, transfer eligibles, [eligibles] from a civil service certificate [ ] or [eligibles] from other competitive sources. Such employees or former employees have eligibility for 1 year following separation under reduction-in-force procedures. They will be informed of the [ICTAP] procedures [ ] and their eligibility for [the program] when they receive their specific notices of separation.

9. LABOR RELATIONS RESPONSIBILITY. Career transition procedures have been developed in partnership with VA unions. These policies and procedures are not intended to affect existing collective bargaining agreements until such time as they are up for renegotiation. The parties to such agreements, however, are free to negotiate those provisions that may be affected. Local management shall meet its labor-management obligations at the local level prior to implementation of local CTAPs.

10. EMPLOYEE RELATIONS RESPONSIBILITIES AND RIGHTS. Employees must exercise individual initiative in pursuing other employment both within or outside the Federal government. In

order to exercise special selection priority, eligible individuals must apply for specific vacancies in which they are interested [and provide] proof of their eligibility. A determination of ["well-qualified" or] "not well-qualified" is subject to a qualification review by the responsible HRMO[, as follows:

a. Surplus and displaced employees who apply for specific vacancies within the local commuting area, through CTAP or ICTAP procedures, must be advised in writing whether or not they were found well-qualified. When a surplus or displaced employee applying for a specific position is not found well-qualified the responsible HRMO must ensure that a documented, independent second review is conducted. If the employee is still found to be not well qualified after the second review, the responsible HRMO must notify the employee and include information on the results of the independent, second review.

b. If an applicant is found well-qualified, and another well-qualified surplus or displaced employee is selected, the applicant must be so advised by the responsible HRMO.]

CHAPTER 3. TITLE 38 ASSIGNMENTS, STAFF ADJUSTMENTS, AND FURLOUGHS

SECTION A. GENERAL

1. SCOPE[ ]

a. [Except as provided in subparagraph 1b, this chapter establishes procedures on:]

[(1)] Assignments, reassignments, [details,] and furloughs of employees appointed under title 38, U.S.C. 7306 [and] 7401(1) [ ]; and

[(2)] Assignments of hybrid title 38 employees appointed under 38 U.S.C. 7401(3).

[b.] This chapter does not apply to:

(1) Transfers for performance or conduct under 38 U.S.C. 7461. (See VA Directive and Handbook 5021.)

(2) Separation of employees who fail to accept a properly directed transfer or reassignment based on disciplinary or performance reasons. (See VA Directive and Handbook 5021.)

(3) Furlough and RIF (including incident reassignments) of hybrid employees appointed under 38 U.S.C. 7401(3) [and RIFs of title 38 employees appointed under 7401(1)]. (See chapter 2, this part.)

[ ]

2. REFERENCES

a. "PAID Personnel Operating Instructions," VA Manual MP-6, Part V, Supplement 1.5.

b. Title 38 U.S.C., Chapters 73 and 74.

c. VA Directive 5005.

3. DEFINITIONS

a. **Assignment.** An assignment is a specified set of duties and responsibilities.

b. **Detail.** A detail is the temporary assignment of an employee to a different set of duties for a specified period of time. There is no formal position change; officially, employees continue to hold the position from which they were detailed and keep the same status and pay.

c. **Employee.** Unless otherwise specified, the term refers to employees covered by this handbook.

d**. Furlough.** Placement of an employee in a temporary status without duties or pay because of a lack of work, funds, or other nondisciplinary reasons. Furloughs may be consecutive or non[-] consecutive days.

e. **Reassignment.** Reassignment is the temporary or permanent change:

(1) From one assignment to another under the same facility management involving an official personnel action (the reassignment need not be in the same commuting area); or

(2) From one assignment to another for reasons other than performance or conduct and involving different facilities.

[f.] **Transfer.** The movement of an employee from one facility to another for performance or conduct reasons pursuant to 38 U.S.C. 7461.

[**NOTE:** *See Appendix IV-E for additional definitions.*]

4. POLICY

a. The authorities covered by this handbook are management tools which are to be used to assist in [providing] quality health care services in a cost efficient manner.

b. Efforts will be made to mitigate the adverse effects of [the] authorities covered by this handbook. However, primary consideration will be given to the efficient and effective accomplishment of the VA mission.

c. Approving officials will make maximum use of an employee‘s skills and capabilities[,] provide employees with opportunities for growth and development[,] and consider any personal problems of affected employees.

d. Employees will only be assigned duties and responsibilities for which they have appropriate credentials and there is a reasonable expectation that they will be able to perform satisfactorily.

e. Reassignments or changes of assignments requested by employees for their own convenience will normally be given favorable consideration when consistent with the needs of VHA.

f. Management officials are responsible for meeting [ ] their labor relations obligations [ ]. This includes, but is not limited to, [developing] and implementing [local policies and procedures]

SECTION B. ASSIGNMENTS, REASSIGNMENTS AND DETAILS

1. CHANGES OF ASSIGNMENTS OTHER THAN REASSIGNMENTS. Bargaining unit employees dissatisfied with changes in assignments may grieve the assignment under the negotiated grievance procedure. [Title 38 employees are permitted to grieve the assignment only to the extent consistent with 38 U.S.C. 7422.] Other employees may grieve using the following procedures:

a. The employee may discuss the dissatisfaction with the official who approved the change.

b. If the employee feels that the explanation given is not satisfactory, the employee may discuss the change of duty assignment with the next level supervisor, or their designee.

c. After giving full consideration to the employee's reasons for dissatisfaction, the second level supervisor will advise the employee of the final decision.

[**NOTE:** *Bargaining unit and non-bargaining unit employees may not grieve changes in assignments under the agency grievance procedure. See VA Handbook 5021, Part IV, Chapter 3, Paragraph 16x which excludes from coverage "all matters for which review procedures are already established in VA policy."*]

2. REASSIGNMENTS

a. **Approval.** Officials are authorized to effect the reassignment of employees in positions over which they have personnel management approval authority. Reassignments are to be processed in accordance with VA Manual MP-6, Part V, Supplement No. 1.5.

b. **Reassignments** [**Related to Staff Reductions**]

(1) **Reassignments Within a Facility (and the Same Commuting Area).** Employees dissatisfied with reassignments within a facility (and the same commuting area), may express their dissatisfaction using the procedures in paragraph 1 above. If multiple labor agreements are involved, employees are to grieve under the procedures covering the position from which the employee is being reassigned.

(2) **Involuntary Reassignments Outside the Commuting Area or to Another VA Facility.** Employees shall be given a minimum of 30 days advance written notice. The notice should include:

(a) The reason for the reassignment.

(b) Information about the specific assignment, location and proposed effective date.

(c) A statement that employees may express their dissatisfaction through their negotiated grievance procedures or the grievance procedures in VA Directive and Handbook 5021. [Title 38 employees are permitted to grieve the reassignment only to the extent consistent with 38 U.S.C. 7422.]

NOTE: *If a grievance is filed, the approving official may delay the reassignment until the grievance is resolved.*

(d) Notice that employees have an opportunity to accept or decline the reassignment. This includes advising employees when and where their decision is to be submitted.

(e) Notice that a declination or failure to make an election may result in separation.

(3) **Declination of Reassignment or Failure to Make Election.** Separations for declination of reassignment or failure to make an election will be effected in accordance with the notice procedures in VA Directive and Handbook 5021.

NOTE: *The specific advance notice in this chapter meets the 30 day notice requirement in VA Directive and Handbook 5021. Employees are not entitled to another 30 days notice prior to separation.*

[ ]

3. DETAILS

a. Details will be limited to the shortest amount of time possible.

b. Employees may be detailed to other assignments at their facility and to other VA facilities.

c. If a temporary reassignment rather than detail could benefit an employee (e.g., re[-]computation of basic or [other] pay), consideration should be given to temporarily reassigning an employee to the position.

NOTE: *For instructions concerning interagency details and interagency loans and for temporary assignments under the Intergovernmental Personnel Act of 1970, see part III of this handbook.*

d. Any detail in excess of 30 days will be documented in accordance with the provisions of OPM's Processing Personnel Actions Handbook and MP-6, Part V, Supplement 1.5, [Chapter 3 and Appendix C].

e. Employees dissatisfied with a detail may express their dissatisfaction using the procedures outlined in paragraph 1 of this section.

SECTION [C]. TITLE 38 FURLOUGHS

1. FURLOUGHS OF 30 DAYS OR LESS. Employees may be furloughed for 30 calendar days or less based on an assessment of which assignments will be most critical to the continuing operations of the organization during the period of furlough. [(For furloughs of 30 days or less for title 5 and hybrid title 38 employees see Chapter 2, Section F of this part.]

2. FURLOUGHS OF MORE THAN 30 DAYS. [Title 38 employees appointed under the authority of 38 U.S.C. 7401(1),] shall be identified for furloughs for more than 30 calendar days in accordance with the procedures for identifying employees for [reduction in force]. (See chapter 2, section F, paragraph 3 [this part]. [(For furloughs of more than 30 days for title 5 and hybrid title 38 employees see Chapter 2, Section F of this part.)]

3. LENGTH OF NOTICE PERIOD

a. Whenever possible, employees will be given 30 calendar days advance written notice.

b. This notice period may be shortened or waived only in the event of circumstances not controllable by Department officials, such as sudden emergencies requiring immediate curtailment of activities.

4. CONTENTS OF NOTICE. The written notice shall advise the employee of:

a. The reason(s) for the furlough.

b. The effective date(s) and expected duration of the furlough.

c. The basis for identifying the employees to be furloughed when only some of the employees in an organizational unit are to be furloughed.

d. The circumstances which warrant waiver of the 30 day notice requirement, if applicable.

e. The place where the employee may inspect the applicable regulations and records.

f. The employee's right to appeal. (See paragraph 5.)

g. Any effects of the furlough on the employee's entitlement to retirement, life and health insurance, or any other benefits.

5. APPEALS[.] Bargaining unit employees whose furloughs are approved by the Under Secretary for Health may express their dissatisfaction through applicable negotiated grievance procedures. [Title 38 employees are permitted to grieve the furlough only to the extent consistent with 38 U.S.C. 7422.] Employees not [in a bargaining unit] may express their dissatisfaction using the procedures [in VA Directive and Handbook 5021, except that employees appointed under 38 U.S.C. 7401(1) may request a hearing and the scope of the grievance shall be limited to application of the appropriate procedures].

[ ]

6. RECORDS OF FURLOUGH ACTIONS. All records of furlough actions shall be retained at least [6] years from the effective date or until any appeal has been resolved, whichever is later.

APPENDIX A.
TITLE 5 SELECTION REQUIREMENTS IMPOSED BY THE REEMPLOYMENT PRIORITY LIST, VA CAREER TRANSITION ASSISTANCE PLAN AND INTERAGENCY CAREER TRANSITION ASSISTANCE PLAN

1. ORDER OF SELECTION AND CONSIDERATION. The following is to be used when filling a competitive service vacancy under the [RPL, (5 CFR, part 330, subpart B), CTAP, (5 CFR, part 330, subpart F), and the ICTAP, (5 CFR, part 330, subpart G)].

a. Selection of a displaced or surplus VA employee in the local commuting area, who applies within the prescribed timeframe for a vacancy at the same or lower grade with the same promotion potential and is determined to be well-qualified, then;

b. Consideration of a qualified employee from within the facility under the Priority Placement Program (PPP) For Employees in Retained Grade or Pay Status (see appendix III-F of this handbook) and any facility-wide special placement programs, then;

c. Consideration of qualified RPL registrants in the local commuting area, then;

d. Selection of any qualified current VA employee from within or outside of the facility, then;

e. Selection of a current or former well-qualified displaced Federal employee from another agency in the local commuting area who applies within the prescribed timeframe under the ICTAP, then;

f. Selection of any other candidate from outside of the agency, including selection from a Federal certificate of eligibles, a reinstatement eligible, a transfer from another agency, a noncompetitive appointment,[ ]or any other routine competitive staffing action.

2. SELECTION ACTIONS OF VA EMPLOYEES NOT RESTRICTED BY 5 CFR, PART 330, SUBPART F.

a. Placement of an agency employee through reassignment, change to lower grade, or promotion when no employees eligible under 5 CFR, part 330, subpart F apply;

b. Reemployment of a former agency employee exercising regulatory or statutory reemployment rights;

c. Position changes resulting from disciplinary actions;

d. Temporary appointments of under 121 days (including extensions);

e. Exchange of positions between or among agency employees, when the actions involve no increase in grade or promotion potential.

f. Conversion of an employee on an excepted appointment which confers eligibility for noncompetitive conversion into the competitive service;

g. Placement activities under 5 CFR, part 351;

h. Placement of an employee into a new position as a result of a reorganization, when the former position ceases to exist, and no actual vacancy results;

i. Placements made under the Intergovernmental Personnel Act (IPA) as provided in 5 CFR, part 334, where they are for critical situations and where the failure to make the assignment would substantially harm Federal interests, such as providing training for State takeover of a Federal program;

j. The filling of a position through an excepted appointment;

k. Details;

l. Time-limited promotions of under [121] days;

m. Noncompetitive movement of surplus [or] displaced employees;

n. Movement of excepted service employees within an agency;

o. A placement under 5 U.S.C. 8337 or 8451 to allow continued employment of an employee who has become unable to provide useful and efficient service in his or her current position because of a medical condition;

p. A placement that is a "reasonable offer" as defined in 5 U.S.C. 8336(d) and 8414(b);

q. Career-ladder promotions; [ ]

r. Recall of seasonal employees from non[-]pay status[; and]

s. Other exclusions listed in 5 CFR 330.606(d).]

3. SELECTION ACTIONS OF NON-VA APPLICANTS NOT RESTRICTED BY 5 CFR, PART 330, SUBPART G

a. Selections from VA's CTAP or RPL as described in 5 CFR, part 330, subparts F and B,or any other internal movement of current VA employees;

b. Appointments of [10 point veteran preference eligibles (CP, CPS, and XP), if reached through an appropriate appointing authority];

c. Reemployment of former VA employees who have regulatory or statutory reemployment rights;

d. Temporary appointments of under [121] days;

e. An action taken under 5 CFR, part 351;

f. The filling of a position by an excepted appointment;

g. Conversions of employees on excepted appointments that confer eligibility for noncompetitive conversion into the competitive service;

h. Noncompetitive movement of displaced employees between agencies [ ] as a result of [interagency] reorganization[,] or transfer of function[, or mass transfer;]

i. Placement of injured workers receiving workers compensation benefits[; and

j. Other exclusions listed in 5 CFR 330.705(c).]

APPENDIX B.
VHA RIF DELEGATION OF AUTHORITY (RCN 10-96-1)

1. BACKGROUND. VHA is committed to maintaining a stable workforce through such measures as forecasting workload accurately, estimating turnover and attrition rates, and analyzing local labor markets. It remains VHA's goal to manage the size and composition of its workforce pro-actively, utilizing reduction-in-force (]RIF) procedures where alternative approaches do not reasonably appear to be able to achieve management goals or ensure effective use of scarce resources.

2. DELEGATION. In order to enable local management to utilize their human and financial resources most effectively, and to take advantage of opportunities to re-engineer and streamline work processes and organizational structures, the Under Secretary for Health has delegated to network directors and to facility directors the authority to conduct reduction-in-force RIF procedures and effect reassignment, change-to-lower grade, and separation actions for title 5 employees in non-centralized positions. Network and facility directors will exercise this delegation consistent with the procedures set forth in 5 CFR, part 351, and part IV of this handbook. RIF actions demoting, separating, or adversely affecting employees in centralized positions [and in title 38 and hybrid positions] will be approved in VHA.

3. RESPONSIBILITIES

a. **Labor-Management.** Directors should work with their [local labor organizations] in planning and executing RIF procedures.

b. **Procedures.** Facilities wishing to conduct a RIF should identify the universe of positions to be eliminated by position title, occupational series and grade level, together with a brief explanation of the basis for the action. This could include such bases as elimination of services, consolidation of services or functions between two or more facilities, re-allocation of workload, review of staffing or staffing mixes, etc. This listing should be forwarded to the Assistant Deputy Under Secretary for Health, [(ADUSH)] through the Network Director as early as possible, but not less than 14 days before specific notices are given to individual employees.

c. **Career Transition Assistance.** Facilities planning to effect downsizing or streamlining through the use of RIF procedures must establish career transition assistance services consistent with VA and Federal government policies, as soon as possible. An outline of the plans for such services should be forwarded to the [(ADUSH)] as they are developed.

d. **Title 38 Personnel.** The RIF procedures defined in this appendix [also] do not apply to the title 38 personnel appointed under sections 7401(1) [and to hybrid personnel appointed under 7401(3)]. If facility directors wish to implement [staff reductions] involving title 38 [and hybrid] employees appointed under [ ] these authorities, they may do so [only after consulting with the ADUSH before any actions are taken].

4. REPORT. OMB has required that VHA track several specific items related to the RIF process [ ] for future budget submissions. Facility directors must ensure that they develop systems which will identify, track, and report the information required on a one-time basis, within 90 days following completion of

RIF procedures. This information should be submitted through the Network office. It will be aggregated in VHA Central Office, and reported to OMB. Reports Control Number (RCN) 10-96-1 is assigned to this report. The categories required are:

(1) Full cost of implementation of the RIF including cost of:

(a) Grade and pay retention;

(b) Severance pay;

(c) Lump-sum terminal annual leave;

(d) Unemployment compensation;

(e) Out-placement services;

(f) Personnel processing; and

(g) Grievances and appeals.

(2) Projected costs associated with the changes to the mix of occupations and personnel, and actual costs based on average salary once RIFs have been fully implemented.

(3) Projected long-term savings associated with the final structure of the organizations affected by the RIF, including measures for efficiencies realized under the new structure.

APPENDIX C. VHA DELEGATION OF AUTHORITY TO REDEFINE COMPETITIVE AREAS

1. DELEGATION. The Under Secretary for Health has delegated the authority to redefine competitive areas for organizations under their jurisdiction to network directors, with the advice and assistance of the office of the Deputy Assistant Secretary for Human Resources Management [ ] (059). Such redefinitions must be fully justified and documented to ensure that such action is clearly in the best interest of VA.

2. RESTRICTIONS. When management establishes or changes competitive areas:

a. Descriptions of the areas must be readily available for review by employees and OPM.

b. Such actions must be taken at least 90 days prior to [the effective date of the] RIF.

c. If such actions are contemplated within 90 days of [the effective date of the] RIF, OPM must approve.

NOTE: *Guidance concerning establishment of new competitive areas may be found* [*in Section B, Chapter 2, this part*].

3. REDELEGATION. This authority may not be re[-]delegated.

[**APPENDIX D.**

ESTABLISHING COMPETITIVE LEVELS FOR POSITIONS FILLED UNDER 38 U.S.C. 7401(1)

1. GENERAL. The guidance in this appendix should be reviewed by the Human Resources (HR) staff and other appropriate subject-matter-experts (SME) when establishing competitive levels (CL) for physicians, dentists, expanded function dental auxiliaries, registered nurses, nurse anesthetists, podiatrists, optometrists, and chiropractors.

2. FACILITY RESPONSIBILITY. As with title 5 and hybrid title 38 positions, each facility shall establish competitive levels for title 38 positions following the basic criteria found in 5 CFR 351.403 and Chapter 2, Section C, paragraph 1, this part.

3. COMPETITIVE LEVELS. A competitive level will consist of all positions in a competitive area which are in the same grade and occupational series, and which are similar in duties, responsibilities, and working conditions so that the facility may reassign the incumbent of one position to any of the other positions in the CL without undue interruption.

4. UNDUE INTERUPPTION. Undue interruption is defined as a degree of interruption that would prevent the completion of required work by the employee, generally 90 days after the employee has been placed in a different position. However, the appropriateness of measuring undue interruption in a 90-day time frame should be considered in the context of the pressures, priorities, deadlines, and other demands made on individual health care provider positions in the provision of health care to Veteran patients, and the privileges, scopes of practice, competencies, skills, training, education, and experience required by the position to provide uncompromised health care to patients presenting with specific health care needs. Positions should not be placed in a competitive level on the basis of any employee's *personal* qualifications, conduct, or performance levels but rather on the requirements of the position.

5. CONSULTING WITH SUBJECT MATTER EXPERTS. In addition to reviewing the documents that describe the assignments, responsibilities, qualifications, and competencies required of the position, HR staff should consult with SMEs when establishing and describing competitive levels as well as before placing employees on the appropriate levels.

6. ESTABLISHING COMPETITIVE LEVELS FOR TITLE 38 STAFF

a. **Registered Nurses.** Competitive levels for Registered Nurses (RN) should be established considering the basic CL criteria, including RN pay levels: Nurse I, II, III, IV, and V. RNs have functional statements (FS) rather than more detailed position descriptions (PD). The position information included in the FS may or may not be sufficient to determine whether similarly titled and graded positions should be placed on the same or a different CL.

Example 1. A facility has two RNs, both Nurse III, working in Ambulatory Care. According to the functional statement, one RN, A, coordinates clinical projects; supports occupational health and employee health programs; supports clinical programs in an outpatient setting; assesses the physical and psychosocial health and illness status of individuals; and acts as a case manager. The FS of the other

RN, B, states that the RN is an Eye Clinic nurse who assists in evaluating and treating macular degeneration patients; makes appointments for medical clearance; performs intravenous injections; administers ophthalmic and general medications; and conducts diagnostic procedures such as basic visual screening, field measurement, and medical photography.

These two positions have the same title, occupational series, and grade, and are located in the same service. But the duties and the responsibilities of the positions appear different enough to warrant placement in different CLs. An argument could be made, however, that if Nurse A and B changed positions, one could learn the job of the other within 90 days and there would not be any undue interruption in patient care. Thus both positions would be on the same CL. It might also be possible that Nurse A could perform the duties of Nurse B within 90 days but Nurse B might not be able to perform the duties of Nurse A within 90 days. This scenario would require placement on different CLs. Communication with immediate supervisors, second level supervisors and/or the Ambulatory Care Chief is critical for the correct CL determination to be made.

Example 2. Two Nurse Managers both work in Patient Care Services. The FS for each position states that both RNs manage a nursing clinical area, demonstrate leadership through collaborative strategies with others, and evaluate the care delivered by nursing and other allied staff. However, RN A is a Nurse II and RN B is a Nurse III. Even though A and B have the same title, occupational series, and duties, they must be placed on different CLs because their pay grades are different.

Example 3. Two RNs, both Nurse II, are organizationally located in the surgical department and are assigned to the Surgical Intensive Care Unit. According to their FSs, they both care for patients who have had vascular, orthopedic, abdominal, or urological surgery. The geriatric patients may present with chronic medical conditions, changes in mental status, or functional decline. Given the identical titles, occupational series, pay levels, organizational location and work assignments as described in the functional statements, the two RNs should be placed on the same competitive level.

b. **Advanced Practice Nurses.** Nurse Practitioners and Clinical Nurse Specialists are Advanced Practice Nurses (APN) who are masters degree-prepared registered nurses who also possess advanced clinical certification. They function within a scope of practice (SOP), rather than a position description, commensurate with their training, experience, and licensure. An APN functions autonomously within her or his own defined SOP in a variety of settings, such as hospital inpatient, outpatient clinics, nursing home, domiciliary, or patient's home. Competitive levels should be established using the basic CL criteria, including APN pay levels: Nurse I, II, III, IV, and V.

Example 1. APNs A and B are assigned to the Primary Practice Group (PPG) clinics within Ambulatory Care, functioning as Adult Nurse Practitioners. Their scopes of practice indicate they perform identical assignments and have identical responsibilities. If they are both Nurse III, they should be placed on the same CL; if A is Nurse III and B is Nurse IV, they should be on separate CLs.

APN C is also an Adult Nurse Practitioner assigned to an outpatient clinic in Ambulatory Care. The SOP indicates that C's assignments and responsibilities are identical to A's and B's, with one exception: C is not responsible for drawing venous blood specimens for testing, as are A and B. Considering that C's 16 functions are identical to A's and B's, is the omission of drawing blood from C's scope an

oversight? If so, depending on C's pay level, C should be placed on the same CL as A and/or B. If the function of drawing blood in not an oversight from C's SOP, could C perform the function of drawing blood without undue interruption in patient care? If yes, C should be placed on the same CL as A or B. If no, C should be on a CL separate from A and B. The HR Specialist should discuss the performance of the function with C's first or second level supervisor or the chief of Ambulatory Care to assure C's placement on the proper CL.

Ambulatory Care has another APN, D, functioning as an Adult Nurse Practitioner. D is assigned to the Occupational Health Clinic and is responsible for providing care to facility employees. Although APN D's patients are employees rather than inpatients or outpatients, D's SOP lists assignments almost identical to A's, B's, and C's, with two exceptions. D also conducts pulmonary function tests and irrigates eyes to remove foreign bodies. To determine if D should be placed on the same CL as A or B or C, or on a different CL, information should be obtained from the supervisor or Ambulatory Care chief whose judgment is needed to determine if there would be undue interruption in patient care if A or B or C were placed on the same CL as D.

Example 2. The facility has three APNs: A, a Gerontology Nurse Practitioner assigned to Primary Care and Cardiology clinics in Medical Service; B, an Adult Nurse Practitioner assigned to a clinic in Radiation Oncology Service; and C, a Clinical Nurse Specialist assigned to the Adult Psychiatric & Mental Health clinic in the Mental Health & Behavioral Sciences Service. All are Nurse III.

The scope of practice for the three APNs list 20 functions an APN may perform. A, B, and C have five functions in common: documenting diagnoses and plans of care, initiating medication orders, initiating consults and referrals, ordering laboratory tests, and ordering other procedures as required. A and B also take and document histories; interpret test results; and order diet, oxygen, and non-pharmaceutical therapies. Additionally, A serves as a primary care provider; writes admission orders and discharge summaries; orders and administers Mantoux tests; obtains informed consents; and conducts exercise stress tests; while B also prescribes controlled substances; diagnoses and assesses patients on radiation therapy; and designs and conducts research projects.

After reviewing the three SOPs, it would seem that APN C should be on a CL separate from A and B because C's assignments are significantly different from those of A and B. While A and B perform many similar functions, the different functions they each perform may lead to a determination that A and B should also be on separate competitive levels. Supervisory input is needed to determine if interchanging A and B would cause undue interruption in patient care and also if different skills and competencies are sought when recruiting.

c. **Physician Assistants.** Physician Assistants (PA) provide diagnostic and therapeutic care and services under the guidance of a physician. Competitive levels should be established using the basic CL criteria, including PA pay levels: associate grade, full grade, intermediate grade, senior grade, and chief grade. A PA does not have a position description; the assignment is based on a Scope of Practice. The scope usually divides the PA's assignments into four categories: routine, emergency, non-routine/non-emergency, and additional duties. Scopes should be carefully reviewed before establishing competitive levels and placing incumbents on those levels.

Example 1. Physician Assistant A is a full grade PA assigned to the Nursing Home Care Unit in the Extended Care Service. PA B is also assigned to the Nursing Home Care Unit but is an intermediate grade. PA C is an intermediate grade but assigned to the General Internal Medicine Unit in Medical Service.

Included in PA A's scope are such functions as initiating consultations, ordering laboratory tests, incision drainage, wound care, suturing, urethral catheterization, nasogastric intubation, administration of oxygen, start IV line, participate in case conferences and data gathering, precept training of PA students, and develop and implement patient education programs.

PA B performs many of the same functions as A but does not initiate consults, order lab tests, suture or intubate. B's scope and overall assignments may not appear to be significantly different from A's, but a better understanding of these functions should be obtained from a supervisor or service chief to determine the degree of undue interruption that could occur should A and B be interchanged. However, because A is a full grade and B is an intermediate grade requiring placement on separate competitive levels, there is no need to determine the degree of undue interruption.

PA C more routinely performs many of the same functions as A and B, including ordering diagnostic tests, inserting nasogastric tubes and urinary catheters, ordering medications and starting IVs, initiating consults and making daily rounds, educating patients and teaching healthcare students, and participating in case conferences. C also carries out such assignments as ordering arterial blood gases, writing discharge orders, ordering restraints, and participating in research.

Being assigned to Medical Service would not preclude C from being placed on the same CL as B, who is in Extended Care, as long as their pay grades were the same, which they are, and as long as their duties and the qualifications for their positions were sufficiently similar so as not to cause undue interruption were B and C to be interchanged. Since B and C are in different services additional information would have to be obtained from supervisors and chiefs from each of the two services involved.

Example 2. Physician Assistants A, B, and C are all assigned to the Healthy Aging Recovery Program (HARP) in Mental Health and Behavioral Sciences. Their SOPs indicate all three perform identical routine, non-routine/non-emergency, emergency, and additional duties. Additionally, A spends one day a week assigned to the Acute Inpatient Psychiatry Unit, B spends one day a week assigned to the Center for Outreach and Empowerment Residential Program, and C spends one day a week assigned to the unit for the Seriously Mentally Ill. Although these PAs spend 20% of their time assigned to different units, their SOPs do not indicate they perform any different duties. It, therefore, appears that A, B, and C should be on the same competitive level. Even if A, B, or C, or their supervisor or service chief proposed to make a case that the three PAs were not interchangeable because of their different additional assignments, the written documentation, the SOP, does not support such an argument.

Example 3. Physician Assistant A is assigned to the Orthopaedic Section of Surgical Service. PA B, also in Surgical Service, is assigned to the Urology Section. Both A and B perform identical routine duties but their non-routine/non-emergency duties are different. According to the SOP, A performs knee, ankle, and shoulder arthrocentesis, and applies casts and skeletal and skin traction. B does not;

B's SOP indicates that the PA dilates urethral structures and residuals, inserts and removes Foley catheters, assists in patient lithotripter services, performs microscopic urine screens, draws blood for arterial blood gases, and performs bladder irrigations.

Based on the differences in the SOP, it appears that one PA probably would not perform the duties of the other PA without undue interruption in patient care. But, unless the HR Specialist is knowledgeable about the performance of, and time frame required to learn, the different non-routine/non-emergency functions, input from an SME must be sought to insure the placement of the positions on the correct CL.

d. **Physicians.** Like other title 38 employees, physicians do not have position descriptions, nor are their assignments outlined in a functional statement or a scope of practice. Physicians instead provide information which shows the specialty/subspecialty in which the employee is certified, experienced, or trained, the employee's core clinical privileges, and the special privileges and procedures requested by the employee and granted by the approving official. Each facility uses locally-developed formats for requesting this information, but regardless of the format, this privileging document, along with the basic criteria for establishing competitive levels, should be reviewed thoroughly before placing a physician on a CL.

The base pay grades for physicians (associate through director grades) have been eliminated and replaced with a single physician grade. Within the physician grade, physicians may be placed in one of four tiers which recognize different levels of responsibility. These responsibilities must be considered when establishing competitive levels.

Example 1. Four physicians, A, B, C, and D, have been granted core clinical privileges in Internal Medicine (IM). Physician A's privileging form shows he also specializes in Rheumatology and is authorized to perform Arthrocentesis, but does not have core clinical privileges in Rheumatology. In addition to IM, B is specialized in Geriatrics, is authorized to perform hyperalimentation and to insert internal jugular and subclavian venous catheters, but does not have Geriatric core clinical privileges. Physician C does not have additional core clinical privileges but is authorized to work in the Emergency Room, which requires advanced certification in life support (ACLS). D has additional core clinical privileges in Gynecological Family Practice.

Because D is the only physician with additional core clinical privileges, he probably should be placed on a CL separate from A, B, and C. Although they do not have additional specialty core privileges, A, B, and C each have one or two additional privileges or procedures. Are these differences sufficient to warrant the placement of each on a separate CL? Could the competencies needed to perform these additional privileges be learned, and authority to perform them obtained, without any undue interruption in patient care?

A fifth Physician, E, also lists specialties of Internal Medicine and Geriatrics but does not have core privileges in either, but instead has core clinical privileges in Long Term Care which authorizes her to treat general medical problems. She is not authorized any additional privileges or procedures. Based on a review of the privileging forms, A, B, C, and D may be able to perform E's assignments without undue interruption, but the reverse may not be true, thus requiring E to be placed on a separate CL.

HR staff should consult with the appropriate service chiefs to clarify the additional privileges and procedures possessed by A, B, and C, and to determine if one, two, or three additional CLs must be established. The competitive level(s) established must be clearly defined and documented in terms of assignments and qualifications required to perform those assignments in order to justify why an employee was placed on one level and not another.

Example 2. Physicians A, B, C and D are all board certified in Internal Medicine, yet none of the four have core clinical privileges in IM. They have core privileges in Endocrinology, Cardiology, Gastroenterology, and Hematology, respectively. Although consultation with their service chief should never be discounted, each of the four should be placed on separate competitive levels. It is unlikely that one could perform the assignment of the other without undue interruption in patient care.

Example 3. Physician A is board certified in General Surgery and Surgical Critical Care, has General Surgery core clinical privileges, and is authorized to perform the special procedures of laparoscopic surgery, bronchoscopy, and conscious sedation. B is board certified in Surgery and Thoracic Surgery and has Cardiothoracic core clinical privileges. C is also board certified in Surgery and is authorized to perform Vascular Surgery clinical procedures as well as transluminal angioplasty, endovascular aneurysm surgery, and carotid angioplasty and stenting. D, who is a Podiatrist, has Podiatry core clinical privileges which include performing ankle and foot surgery as well as anide arthroscopy. Physician E is a board certified Plastic Surgeon with an Otolaryngology subspecialty who has Plastic Surgery clinical procedures and is authorized to perform liposuction.

Although A, B, and C are board certified in Surgery, all three have core clinical privileges in different specialties, including different special procedures. Based on the information included in the privilege form, the three surgeons should be placed on different competitive levels, considering their different assignments and the different qualifications required to perform those assignments. The same is true of the Podiatrist, D, and the Plastic Surgeon, E. They both perform surgery but are certified in different specialties from each other and from A, B, and C, and have different core clinical procedures. Unless the chief of Surgery can justify that the surgical procedures performed by these five employees are interchangeable and would not cause undue interruption in patient care, all five should be placed on separate competitive levels, which must be described to clearly distinguish one level from another.

Example 4. Psychiatrists A, B, and C are all board certified in General Psychiatry and have Psychiatry core clinical privileges. Psychiatrist A is also certified in Clinical Psychopharmacology and has additional privileges in Long Term Care. Psychiatrist B has additional certifications in Addiction and Geriatric Psychiatry. Psychiatrist C does not have any additional certifications or privileges.

Although both A and B have additional certifications, and C does not, B and C have the same privileges, indicating the possibility of placing them on the same competitive level, and placing A on a separate CL because of her additional privileges. If, however, B and C are, in fact, given different patient assignments, and if one performs functions that the other can not perform because one possesses competencies and skills that the other does not have, and placing them on different CLs because of undue interruption is being considered, the differences in B's and C's assignments should be documented for the record and the CL definitions clearly distinguishable from each other.

e. **Dentists.** Like physicians, dentists do not have position descriptions, functional statements or scopes of practice. They are granted privileges after completing the Criteria & Privilege Request Form which delineates their certifications and training. The privileging form, the basic competitive level criteria, and input from supervisors should be considered before establishing CLs and placing employees on the levels.

The base pay grades for dentists (associate through director grades) have been eliminated and replaced with a single dentist grade. Within the dentist grade, dentists may be placed in one of four tiers which recognize different levels of responsibility. These responsibilities must be considered when establishing competitive levels.

Example. Dentist A has General Practice Dentistry core clinical privileges and Periodontics privileges, as well as authority to perform additional Periodontal special procedures. Dentist B has Oral Surgery core privileges including authority to perform additional Oral Surgery special procedures. Dentists C and D both have General Practice Dentistry core clinical privileges.

Three competitive levels should be established. One for the Oral Surgeon, one for the General Practice Dentist with Periodontics privileges, and one for the two General Practice Dentists, unless the Chief Dentist can document that C and D care for patients who present with significantly different problems, have acquired different skills and competencies, and therefore, cannot be interchanged without undue interruption in patient care.]

[APPENDIX E. CHECKLIST FOR VERA REQUESTS

This checklist provides VA organizations with a framework for submitting requests to Office of Human Resources Management (OHRM) for Voluntary Early Retirement Authority (VERA). All of the information covered in this VERA template is required by statute or regulation.

Organization(s):_____

Date of Request:_____

_____1. Request is signed by the appropriate Under Secretary, Assistant Secretary or Other Key Official or a specific designee with delegated authority.

_____2. Identifies the organizational unit(s) for which a determination is requested.

_____3. Clearly states reason(s) why the authority is needed:

The reason(s) must describe the circumstances leading to the request and explain why the organization believes that VERA will be an appropriate strategy for making the required adjustments in the workforce. This must also *include a detailed summary of the organization's personnel and/or budgetary situation that will result in an excess of personnel because of a substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping.*

_____4. Identifies the date which the organization expects to effect the substantial delayering, etc.

The date provided must not be earlier than the ending date provided in number 5 below.

_____5. Show the time period during which the organization plans to offer VERA.

_____6. Provides the total number of non-temporary employees in the organization undergoing change.

If you are requesting VERA for only a part of your organization, provide the data for that portion of the organization only. Do not provide the number of permanent employees for the entire organization.

_____7. Provides the total number of non-temporary employees in the organization who may be involuntary separated, downgraded, transferred, or reassigned as a result of the organization's situation.

If you are requesting VERA for only a part of your organization, provide the data for that portion of the organization only. Do not provide the number of permanent employees for the entire organization.

_____8. Provides the total number of employees in the organization who are eligible for early retirement.

If you are requesting VERA for only a part of your organization, provide the data for that portion of the organization only. For this purpose, you should exclude all employees who are eligible for optional retirement.

_____9. Includes an estimate of the total number of employees in the organization who are expected to retire early during the period covered by the request for VERA.

If you are requesting VERA for only a part of your organization, provide the data for that portion of the organization only.

_____10. Provide a description of the types of personnel actions anticipated as a result of the organization's need for VERA.

This information need not be comprehensive. It should, however, be detailed enough to show how VERA will assist you in accomplishing your restructuring, reshaping, and/or downsizing plans-and the personnel actions you expect to take in concert with VERA to accomplish your goals.]

[APPENDIX F. VOLUNTARY SEPARATION INCENTIVE PAYMENT FACT SHEET

1. GENERAL. [Upon approval from the U.S. Office of Personnel Management, VA and other departments/agencies may offer voluntary separation incentive payments (VSIPs or buyouts)] to employees who are in surplus positions or have skills that are no longer needed in the workforce, as an incentive to [ ] separate. [A VSIP is a lump-sum payment of] up to $25,000 or an amount equal to the amount of severance pay an employee would be entitled to receive, whichever is less. Employees may separate by resignation, optional retirement, or by voluntary early retirement if authorized.

2. EMPLOYEE ELIGIBILITY. An employee is eligible to [receive an offer] for a [VSIP] provided he/she [meets] ALL of the following conditions:

a. Serving under an appointment without time limitations;

[ ]
[b.]. Currently employed by the Federal Government for a continuous period of 3 years;

[c.] Serving in a position covered by an agency VSIP offer;

[d.] Applied for and received approval for a VSIP under an agency VSIP plan; and

[e.] Not included in any of the ineligibility categories identified in paragraph 3 below.

3. INELIGIBILITY. Employees in the following categories are not eligible for [VSIP]. Employees who:

a. Are reemployeed annuitants;

b. Have a disability such that the individual is or would be eligible for disability retirement;

c. Are in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

d. Previously received any VSIP from the Federal Government;

e. During the 36-month period preceding the date of separation, performed service for which a student loan repayment benefit was paid or is to be paid;

f. During the 24-month period preceding the date of separation, performed service for which a recruitment or relocation incentive was paid or

g. During the 12-month period preceding the date of separation, performed service for which a retention incentive was paid or is to be paid.

4. VSIP REPAYMENT REQUIREMENT

a. An employee who receives a VSIP and later accepts employment for compensation with the Government of the United States within 5 years of the date of the separation on which the VSIP is based, including work under a personal services contract or other direct contract, must repay the entire amount of the VSIP to the agency that paid it - before the individual's first day of reemployment.

b. The Director of the Office of Personnel Management may, at the request of the Secretary, waive the repayment upon reemployment in VA if:

(1) The individual involved possesses unique abilities and is the only qualified applicant available for the position; or

(2) In case of emergency involving a direct threat to life or property, the individual:

(a) Has skills directly related to resolving the emergency; and

(b) Will serve on a temporary basis only as long as the individual's services are made necessary by the emergency.]

[APPENDIX G. CHECKLIST FOR VSIP REQUESTS

This checklist provides VA organizations with a framework for submitting requests to Office of Human Resources Management (OHRM) for Voluntary Separation Incentive Payment (VSIP) authority. All of the information covered in this VSIP template is required by statute or regulation.

Organization(s):_____

Date of Request:_____

1. Request is signed by the appropriate Under Secretary, Assistant Secretary or Other Key Official or a specific designee with delegated authority.

2. Request identifies the organizational unit(s) for which a determination is requested.

3. Request identifies the intended use of the VSIP authority and includes a VSIP Implementation Plan and Human Capital Plan.

4. The VSIP Implementation Plan includes:

a. Identification of specific positions and functions to be reduced or eliminated (identified by organization unit, geographical location, occupational category, grade level and any other factors related to the position);

b. A description of the categories of employees who will be offered incentives (identified by the organizational unit, geographical location, occupational category, grade level and any other factors such as skills and knowledge, or retirement eligibility);

c. The time period during which incentives will be paid;

d. The number and maximum amounts of voluntary separation incentive payments to be offered;

e. A description of how the organization will operate without the eliminated/restructured positions;

f. A proposed organizational chart displaying the expected changes in the organizational structure after the organization has completed the incentive payments;

g. If the organization has requested VERA, an explanation of how that authority will be used in conjunction with VSIP; and

h. If the organization is offering separation incentives under other statutory authority, a description of how that authority is being used.]