



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

**STATEMENT OF
MARK D. REINHOLD
ASSOCIATE DIRECTOR FOR EMPLOYEE SERVICES
U.S. OFFICE OF PERSONNEL MANAGEMENT**

before the

**SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES**

on

“A Review of Veterans Preference in Federal Government Hiring”

April 20, 2016

Chairman Wenstrup, Ranking Member Takano, and Members of the Subcommittee:

Thank you for your invitation to testify at the Subcommittee’s hearing on veterans’ employment in the Federal Government and about the Office of Personnel Management’s (OPM’s) role in the implementation of veterans’ preference in the Federal hiring process.

Veterans’ Employment Initiative

This Administration has made it a priority to honor veterans for their service and sacrifice in defense of our Nation, including assisting them in re-entering civilian life and finding employment. In November 2009, President Obama issued Executive Order 13518, which clearly laid out three objectives: that we honor our obligations to our nation’s veterans; that we use the talents of veterans to help the Federal Government meet today’s dynamic challenges; and, that we create a model veterans employment program. The Order established the Veterans Employment Initiative to reinforce the commitment to enhance recruitment of, and promote employment opportunities for, veterans in the Federal workforce, consistent with merit system principles and existing veterans’ preferences.¹ In addition, the Order created the Council on Veterans Employment (the Council) to advise and assist the President on improving employment opportunities for veterans in the Federal Government. The Council is co-chaired by the Secretaries of Labor and Veterans Affairs, and the Director of OPM serves as Vice Chair. Twenty-four agencies are represented on the Council.

¹ <https://www.whitehouse.gov/the-press-office/executive-order-veterans-employment-initiative>

Statement of Mark D. Reinhold
U.S. Office of Personnel Management

April 20, 2016

Veterans bring distinctive training, skills, leadership, and experiences that we need at every agency in the Federal government. An example is the increasing need we have for people trained in information technology and other technical areas. The Federal Government invests significant resources in the training and development of the brave men and women in our military. Efforts to hire transitioning military service personnel to positions in the Federal workforce helps maximize our return on this investment. Veterans possess a wide variety of skills and experiences, as well as a dedication to public service, that can be of enormous benefit to the Government as an employer and to the American people that these individuals will continue to serve. There are a number of skills gaps in the Federal workforce, including health care, information technology, and cybersecurity, that these individuals can fill immediately. Not only is hiring veterans the right thing to do, it also makes good business sense.

In April 2014, the Council published its second Strategic Plan for Governmentwide Veterans Recruitment and Employment (the Strategic Plan).² The Strategic Plan, which covers the period from Fiscal Year (FY) 2014 through FY 2017, builds on the Council's work to tackle barriers to veterans' employment in the areas of leadership commitment, skills development, marketing employment opportunities for veterans, and creation of a single-source information gateway for disseminating veterans' employment information. The current Strategic Plan added an additional emphasis on retention of veterans and reintegration of deployable Reservists or National Guardsmen.

These efforts have yielded good results since 2009. In FY 2014, 33.2 percent of Executive Branch new hires were veterans, surpassing the FY 2013 rate of 31 percent. This was a 9.2 percentage point increase over the FY 2009 baseline of 24.0 percent. In FY 2014, as the number of total Federal employees onboard dropped from 2,015,000 in FY 2013 to 1,990,000, the total number of veterans onboard saw an increase from 607,000 to approximately 612,000. Veterans currently represent 30.8 percent of the Federal workforce, as compared to 25.8 percent in FY 2009. Last summer, OPM published a report, "Employment of Veterans in the Federal Executive Branch, Fiscal Year 2014," demonstrating the improvements that have been made in employment opportunities for veterans in the Federal workforce.³ This report, issued on an annual basis and drawn from data in OPM's Enterprise Human Resources Integration-Statistical Data Mart, is in support of the Executive Branch's efforts to support the employment of veterans in the Federal government. In regard to diversity among new veteran hires in the Executive Branch, of the 33.2 percent of new veteran hires for FY 2014, 25 percent were women, 66.2 percent were Caucasian/non-Hispanic, and 27.2 percent had a rated disability of at least 30 percent.

Veterans' Preference

Preference eligibility for veterans in Federal employment is defined in section 2108 of title 5, United States Code, and applies to new appointments in both the competitive and excepted service. While veterans' preference does not guarantee veterans a job and does not apply to

² https://www.fedshirevets.gov/pdf/Vets_Initiative_Strategic_Plan_2014.pdf

³ <https://www.fedshirevets.gov/hire/hrp/reports/EmploymentOfVets-FY14.pdf>

Statement of Mark D. Reinhold
U.S. Office of Personnel Management

April 20, 2016

appointments under merit promotion procedures or internal agency actions such as promotions, transfers, reassignments and reinstatements, it does provide a very useful tool in the application process for qualified candidates.

Under 5 U.S.C. 2108, and supported by implementing regulations by OPM, certain types of active duty service may qualify for veterans' preference (i.e., preference eligible).⁴ There are three types of preference eligible (as defined by the points added to the veteran's passing examination score or rating):

- 10-point preference eligible
 - An individual who served at any time and has a service connected disability or has received a Purple Heart, and survivors or spouses of certain veterans.

- 5-point preference eligible
 - An individual with active duty service during certain time periods specified in law or who received an armed forces expeditionary or campaign medal.

- 0-point preference eligible
 - An individual who is released or discharged from a period of active duty from the armed forces, after August 29, 2008, by reason of a "sole survivorship discharge."

In addition, only veterans discharged or released from active duty in the armed forces under honorable conditions (or, more recently, active duty members who certify through official documentation that they are expected to be honorably discharged or released within 120 days) are eligible for veterans' preference. Retired members of the armed forces are not included in the definition of preference eligible unless they are a disabled veteran or they retired below the rank of major or its equivalent.

The application of veterans' preference is provided for in statute, and depends on the ranking and selection process agencies use to select candidates for Federal employment. As part of improving the Federal recruitment and hiring process, in May 2010, President Obama directed agencies to use category rating for most competitive examinations for Federal employment. Under category rating, applicants who meet basic minimum qualification requirements established for the position and whose job-related competencies or knowledge, skills and abilities have been assessed are ranked by being placed in *quality categories* instead of being ranked in numeric score order. Preference eligibles are listed ahead of non-preference eligibles within each quality category. Veterans' preference is absolute within each quality category, which means a hiring manager cannot select a non-preference eligible over a preference eligible within the same category.

An agency generally cannot bypass a preference eligible who meets the qualifications to perform the duties of the position and has achieved a passing score in order to appoint a non-preference

⁴ <https://www.opm.gov/policy-data-oversight/veterans-employment-initiative/vet-guide/#2>

Statement of Mark D. Reinhold
U.S. Office of Personnel Management

April 20, 2016

eligible. However, if the hiring manager concludes that a preference eligible is not qualified to perform the duties of the job the manager may request to “pass over” the preference eligible. In most cases, the authority to decide to pass over a veteran is delegated to the agencies, except that OPM, by statute, must make the determination whether a veteran with a 30 percent or more service-connected disability may be passed over.

The Federal Government has long been at the forefront of appointing veterans – particularly disabled veterans. OPM, through our Merit System Accountability and Compliance office conducts regular reviews of veterans hiring across the government to ensure that veterans are receiving the entitlements they have earned in the Federal hiring process. A veteran or other preference eligible person who believes that his or her rights under any law or regulation related to veterans’ preference have been violated may file a written complaint with the U. S. Department of Labor's Veterans’ Employment and Training Service. A disabled veteran who believes he or she has been discriminated against in employment because of his or her disability may file a discrimination complaint with the offending agency under regulations administered by the Equal Employment Opportunity Commission. In addition, the intentional failure by a government official to comply with veterans’ preference requirements is treated as a prohibited personnel practice, which can be reported to the Office of Special Counsel for investigation and is grounds for disciplinary action.

Special Hiring Authorities for Veterans

OPM encourages agencies to make full use of the various hiring authorities that can facilitate veterans’ employment.

Veterans’ Recruitment Appointments (VRA) are an excepted authority that allows agencies to appoint an eligible veteran without competition if he or she: is in receipt of a campaign badge for service during a war or in a campaign or expedition; is a disabled veteran; is in receipt of an Armed forces Service Medal for participation in a military operation; or, is a recently separated veteran (within the last 3 years), and separated under honorable conditions. Individuals can be appointed under this authority at any grade level up to and including a GS-11 or its equivalent. After successful completion of 2 years of Federal service, the employee is converted to the competitive service unless he or she is employed in a temporary (not to exceed 1 year) or term (more than 1 year, but not more than 4) position.

Agencies may also non-competitively appoint any veteran with a 30 percent or more service-connected disability if they retired from active military service with a service-connected disability rating of 30 percent or more or they have a rating by the Department of Veterans Affairs showing a compensable service-connected disability of 30 percent or more. This authority can be used to make initial temporary or term appointments in the competitive service lasting at least 60 days, and the veteran can be converted to a permanent appointment.

In addition, though not specifically for veterans, the Schedule A authority for people with disabilities is an excepted authority that agencies can use to appoint eligible veterans who have a severe physical, psychological, or intellectual disability. Agencies can use this authority, at their

Statement of Mark D. Reinhold
U.S. Office of Personnel Management

April 20, 2016

discretion, to appoint individuals at any grade level and for any job (time-limited or permanent) for which they qualify. After two years of satisfactory service, the agency may convert the employee, without competition, to the competitive service.

Finally, the Veterans Employment Opportunity Act of 1998 (VEOA) allows veterans to apply to job announcements that are otherwise open only to current or former Federal employees who completed requirements for career or career-conditional tenure. To be eligible to apply for a position under VEOA, the veteran's discharge must be issued under honorable conditions and he or she must either be a preference eligible or have completed 3 or more years of active service.

Veterans and Agency Education and Outreach

In partnership with the Departments of Defense, Labor, Veterans Affairs, Homeland Security, and other Federal agencies, OPM created www.FedsHireVets.gov to serve as the principal source for Federal employment information to assist our Veterans, transitioning service members, their families, Federal Human Resources (HR) professionals, and hiring managers. The purpose of the site is to provide consistent and accurate Federal employment information, useful training, and other resources to better inform the applicant, the employee, and the hiring agency. This website is a critical component of the Federal Government's strategy to facilitate the recruitment, employment, and retention of Veterans.

OPM has developed mandatory training for human resources personnel and Federal hiring managers on veterans' employment. The web-based training covers veterans' preference, special hiring authorities for veterans, non-competitive appointment eligibility for military spouses, and the Uniformed Services Employment and Reemployment Rights Act. The training is available through Human Resources University, the Federal Government's "one stop" training resource center for the Federal HR professionals, managed by OPM.

Hiring Excellence

OPM recently launched the Hiring Excellence Campaign. Through this campaign, OPM will be working directly with agency hiring managers and human resources staff to help them identify skills gaps and find and recruit the best professionals to fill these positions. This allows us to hear directly from hiring managers and supervisors, while also giving us the opportunity to have discussions with Federal agencies about the tools already available to them, including those available for hiring veterans. We have also launched a Hiring Toolkit on HR University, which includes guidance on various hiring authorities and flexibilities, information about assessment techniques to evaluate applicants, and how to leverage data to inform recruiting and outreach strategies.

Agencies are responsible for applying the law correctly so that preferences are not inappropriately withheld or granted. Agencies should ensure that their job vacancy announcements accurately describe the position being announced and that they have appropriately described the qualifications required to successfully perform the duties of the job. Agencies should also apply effective assessment approaches that help distinguish the best

Statement of Mark D. Reinhold
U.S. Office of Personnel Management

April 20, 2016

qualified candidates from the overall applicant pool. Agencies are encouraged to define threshold proficiency levels or requirements (beyond simply meeting minimum qualifications) that an applicant must meet in order to be considered further for a position. This will not only assist agencies in their ability to recruit qualified individuals capable of effectively meeting their missions, but also helps ensure that the process is carried out transparently and reduces any perception of unfairness.

The work and mission of the Federal Government has become more complex, as we continue to ensure the safety of our information systems, the security of our borders, and the health of our veterans, and we must have the workforce with the right skills to meet the challenges we face. To that end, OPM is leading efforts to ensure that agencies are recruiting and hiring the best possible talent and leaders to facilitate a smarter, more innovative, and more accountable government for its citizens. Achieving and maintaining a world-class workforce to serve the American people depends on the ability to recruit and hire the most talented and diverse workforce possible, and that includes our nation's veterans.

Conclusion

Since 2009, significant progress has been made to enhance employment opportunities for veterans in the Federal government, thanks to the efforts across government to implement the Veterans' Employment Initiative, but we know that challenges remain and improvements can be made. As we implement the Governmentwide Veterans Recruitment and Employment Strategic Plan, we will continue to focus on helping agencies develop workforce management strategies to advance the goals of the Initiative and to reaffirm the commitment to advancing economic opportunities for our Nation's veterans. As OPM works to meet our mission to recruit, retain, and honor a world-class workforce, providing the highest quality service as America's model employer for the 21st century we will continue to focus on helping agencies bring in skilled and diverse employees with the best talent to serve the American people.