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**CHAPTER 300. EMPLOYMENT (GENERAL)**  
**(To Be Used With 5 CFR Part 300)**

**1. SCOPE**

a. This chapter contains the policies and requirements which apply to all types of employment actions in the competitive and excepted civil service. In a broader sense, these policies and requirements are also to be observed, when applicable, in subsequent recruitment and placement chapters in the 300 numbered series of this manual.

b. This chapter 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 App. C only, to include Nonappropriated Fund employees in the Veterans Canteen Service who are subject to the Federal Wage System.

**2. POLICY**

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 depend 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 agencies 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. A VA Form 5-3918, Intra-Agency Transfer Request, will be completed for each employee selected for transfer to another VA station. Instructions for completion of the form are contained in section B, chapter 335, this part.

e. 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 handicap when the handicapped individual is qualified to do the work, age, or membership or nonmembership in a labor organization.

f. The principle of broad areas of consideration will be applied to the maximum practicable extent in order to develop an adequate supply of qualified candidates.

g. 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.

h. 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 effort of management decisions on employees by assignment to other continuing positions.

i. Employment actions will conform to the requirements governing the employment of relatives (5 CFR Part 310 and par. 10 below).

j. Periodic studies will, to the extent necessary and feasible, be made by the station 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 353, and this part), those with statutory reemployment right (5 CFR 352, and this part), 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 candidate's 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.

d. Concurrent Consideration of Certain Excepted Service Employees Under Competitive Merit Promotion Procedures (See MP-5, pt. I, ch. 335, this part). Generally, employees serving under excepted appointments (excepted Veterans Readjustment Appointments) are precluded from competing under competitive promotion procedures with competitive service employees. Nothing, however, precludes the use of the same rating and ranking criteria for both types of appointees, thereby affording concurrent consideration of both groups for promotion on separate referral certificates. Prior to issuing a vacancy announcement, management officials will determine whether excepted service employees (this includes title 38, United States Code employees covered by VA/OPM Interchange Agreements discussed in app. B to this chapter) are to be included in the competition for a position and, if so, this information will be included in the vacancy announcement.

#### 4. TYPES OF APPOINTMENTS

a. Competitive Service Appointments (5 CFR 315 and 316). Subject to meeting the requirements of law, OPM (Office of Personnel Management) 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 305, 330, 332, and 333 for related information.

NOTE: 5 CFR 315.604 prescribes a VA-approved training and employment program for service-connected disabled veterans who are entitled to training under chapter 31 of title 38 United States Code. 315.604 provides that such veterans who receive on-the-job training in a Federal agency may be given a Special Tenure appointment in that agency and subsequently converted noncompetitively to a career or career-conditional appointment.

b. Excepted Service Appointments. For information on these appointments see chapters 302, and 307, this part, and 5 CFR Parts 213, 300, 302, 304, 307, and 308. Other relevant statutory references may be found in 5 U.S.C. 3102; 5 CFR 213.3102; 213.3202; 315.709; and 316. 213.

c. WOC (Without Compensation) Appointments (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 the 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 Manual M-2, pt. XVII, for information on the VA Voluntary Service program, and MP-5, pt. II, ch. 2, for information on other WOC appointments. See 5 CFR 308,

for information concerning voluntary performance by students in connection with educational programs under authority of 5 U.S.C. 3111.) The VA is specifically authorized by 38 U.S.C. 213 to accept uncompensated services for the purpose of carrying out all laws administered by the 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. 213)
- (g) Signature of the person and the VA appointing official.

NOTE: Unpaid work experience may be provided for service disabled veterans who are participating in training programs under chapter 31, title 38, United States Code and for clients of State vocational rehabilitation agencies. These trainees are not WOC employees. They receive on-the-job training through written agreements between the employing Federal agency and the Counseling and Rehabilitation Section at the appropriate VA regional office or the State vocational rehabilitation agency. (See 5 CFR 213.3102(u) (1) 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 part. 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.

(3) Change Actions (5 CFR 335 and 715 and this part). Promotions, demotions, and reassignments will be effective on the first day of the pay period following approval of the action, unless another effective date is required by law or regulation or is considered to be in the best interest of VA.

b. Security Requirements. See VA Manual MP-1, part I, chapter 5, for VA instructions concerning security requirements.

c. Verification of Qualifications and Suitability Data (5 CFR 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 subpar. (5) below). In all other appointments, personnel 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 OPF (Official 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 (or SF 86) and SF 87 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, vouch such sources after appointment as a part of the investigative program covered in 5 CFR 736. In any event, the data on any inquiries and the application will be compared with SF 61-B, Declaration of Appointee, 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, vouchering of former employees, former supervisors and personal references 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 Service 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 personnel 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 name checks through their supporting police or sheriff's departments under the authorization of the Federal Bureau of Investigation's NCIC (National Crime Information Center) originating agency identifiers assigned; and complete parts I and II of VA Form 0120, Preemployment checks of Applicants for VA Police Officer Positions. If no adverse information is received from the NCIC checks, supervisory police officers will return the VA Form 0120 to Personnel Service 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.

(b) Use of Adverse Information as Basis for Nonselection. When facility officials become aware of adverse information during preemployment screening, it should be reviewed against suitability and/or security criteria and adjudicated or referred to OPM, as appropriate, in accordance with 5 CFR 731 and 732. When facility officials determine that an objection to a civil service certified eligible, based on adverse information obtained in the above screening process, is warranted or when a preliminary decision is made to nonselect an individual based on information obtained in this preemployment screening process, the Regional Counsel and Customer Advisory and Consulting group (051) 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 officials should promptly contact the Security Officer (07C), VA Office of Security and Law Enforcement, about initiating the required background investigation, using the SF 86, Questionnaire for Sensitive Positions. Personnel 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 VA Investigative Records file in the facility Director's office; Copy 2, sent to the Deputy Assistant Secretary for Security and Law

Enforcement (07). Document obtained during the preemployment screening process for those applicants not selected for VA police officer positions will be destroyed.

d. Appointment Documents SF 61 and SF 61-B

(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 SF 61-B, Declaration of Appointee, must be executed for certain conversion actions in the competitive service (OPM Guide to Processing Personnel Actions).

(2) The oath of office part 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)

(e) Pay Determinations. For determination concerning applicable pay rates in appointment and placement actions, see chapter 531 and supplement 532-1, this part.

f. Physical Requirements and Examinations. Determinations of physical fitness (SF 78) will be made for appointment and placement actions for all VA employees. At the discretion of the approving official, however, and provided employment is expected to terminate within 1 year, medical examinations are not required for (1) "Purchase and Hire" employees whose work history shows performance of duties comparable to the positions to be filled and (2) temporary employees whose duties will not involve food handling or patient care. As a general rule, determinations of physical fitness will be made and approved by the appointment official before the employee enters into the position. However, where local circumstances warrant, required medical examinations and tests may be obtained and approved as soon as possible after the employee enters on duty. This latitude recognizes that some laboratory tests may be delayed or must be repeated and that it is in the interest of the VA to permit earlier entry in the position than otherwise possible in order to commence training, orientation, etc., which does not involve direct patient contact. (See OPM Guide to Processing Personnel Actions, and 5 CFR 339, 792 and this part.)

NOTE: Where a medical examination is required for employment and the applicant resides closer to another VA station, arrangements should be made to have the examination completed and the report forwarded by the closer VA station before the person is requested to report for duty.

g. Citizenship

(1) General appropriation acts permit the employment by the VA of noncitizens of the United States under certain conditions. For example, the annual Treasury, Postal Service and General

Government Appropriation Act for Fiscal Year 1980 ending September 30, 1980, (PL 96-74, sec. 602) provides that: ". . . 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 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, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian and Laotian refugees paroled into the United States between January 1, 1975, and the date of enactment of this Act: Provided . . . This section shall not apply to citizens of Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort . . . or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies."

(2) Generally, all positions in the VA are subject to the citizenship requirement outlined in subparagraph (1) above. Citizenship requirements for certain positions in the Veterans Health Administration are contained in sections 7402(b) and 7407 to title 38, United States Code. For competitive service positions, 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 (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 stations and equivalent positions in Central Office, or sensitive positions (as defined in MP-1, pt. 1, ch. 5, par. 5) will be filled by United States citizens. Prior approval by the appropriate department head or staff office director is required before noncitizens can be appointed to these positions. Requests should be forwarded through channels to Central Office (ATTN: 051).

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 or letter to the Customer Advisory and Consulting Group (051).

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

i. Licensure, Registration, or Bar Membership

(1) The qualification standards for certain occupations, e.g., pharmacist, dental hygienist, practical nurse, VHA psychologists, physical therapists, and Medical Officers/Disability Evaluation, require that applicants have current State license, 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 use VA form 5-4682, Certification of Licensure, Registration, or Bar Membership, to verify the possession of a current State license, registration, or bar membership when processing the appointment of these employees. Thereafter, an expiration date follow-up will be coded as provided for by 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 followup verification of the employee's current license, registration, or bar membership. VA Form 5-4682 will be used and be filed on the right side of the employee's personnel folder. Only the initial form and the latest form are required to be on file.

(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.

## **6. CONTROL OF VA EMPLOYEE-VETERAN RECORDS**

HRM offices listed in M23-1, part I, chapter 13, must complete and forward VA Form 00-4535, Notice of Employment, Transfer, or Separation of Veteran, as provided in the manual, whenever they appoint or take an action which results in a change of appointing authority of an employee who is a veteran.

## **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 interests of management and/or the employee. Provisions of the Federal Employees Part-Time Career Employment Act of 1978 (PL 95-437) are contained in chapter 340, this part.

## **8. EMPLOYMENT OF RETIRED MILITARY OFFICERS**

Section 5532 of title 5, United States Code, permits the employment of a retired officer of any regular component of the uniformed services provided certain conditions and restrictions are met. Appointing officials employing these officers will be guided by the requirements and regulations in 5 CFR 550.601, and this part.

## **9. DUAL PAY**

Section 5533 of title 5, United States Code, 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 this part.

**10. RESTRICTIONS ON THE EMPLOYMENT AND PLACEMENT OF RELATIVES  
(5 CFR 310)**

Section 3110 of title 5, United States Code prohibits a public official from appointing, employing, promoting, advancing, or advocating the appointment, employment, promotion, or advancement of his or her relatives. The terms "relative" and "public official" are specifically defined in section 3110. Extreme care must be taken to avoid any possibility or likelihood that the nepotism law may be violated in an employment action (5 U.S.C. 3110). Appointing and selecting officials will be guided by the regulations and policy requirements in 5 CFR 310. Management officials will take appropriate actions to avoid situations which have the potential for, or appearance of, being in violation of nepotism requirements. As a minimum, management officials and Personnel Officers will identify and document those instances in which relatives are employed, or are being considered for employment, in the same organizational element or in positions within the same chain of command. These officials will review all proposed personnel actions affecting relatives of employees to assure that there is no violation of merit principles and that the requirements contained in 5 U.S.C. 2302 and 5 U.S.C. 3110 have been met.

**11. TIME-IN-GRADE RESTRICTIONS (5 CFR, Pt. 300, Subpt. F)**

The 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 the VA. Information concerning the application of these restrictions to VA positions is contained in appendix A to this chapter. These instructions are to be applied in conjunction with 5 CFR, part 300, subpart F restrictions. NOTE: The MSPB (Merit Systems Protection Board) has ruled that OPM's time-in-grade restrictions, 5 CFR 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 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 which applies to all competitive service positions for the purpose of preventing excessively rapid promotions.

**12. FILLING A POSITION OCCUPIED BY AN EMPLOYEE ON LEAVE**

a. 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. (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 above at (salary). I understand that this position will be canceled upon return of the regular incumbent. I also understand that at that time I will be returned to my regular position, or, with my concurrence, placed without time limit in a different position in a grade no lower than my regular position. 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 present position."

c. If an interim position is filled from outside the 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.

### **13. PROBATIONARY PERIOD/TRIAL PERIOD**

a. Employees in nonsupervisory/nonmanagerial positions in the competitive service will serve a 1-year probationary period as explained in 5 CFR 315 and this part. 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 315.801 and this part.

b. Employees in excepted service positions will serve a 1-year trial period as explained in FPM chapter 302 and this part.

### **14. 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. (See FPM ch. 315, subch. 8; MP-5, pt. I, ch. 315, this part and MP-6, pt. V, supp. No. 1.5.)

### **15. DETAILS (5 CFR 300 and 5 USC 3341)**

a. General. Details of employees will be made only where another type of regular placement or employment action is not feasible or practicable, and will be limited to the shortest period of time needed within the limits permitted by 5 USC 3341. Under these requirements, VA employees, including title 5 and title 38, may be detailed to other positions at their station, to other VA stations, or to other agencies. Employees detailed will be given appropriate credit towards meeting the qualification requirements of the position in any subsequent personnel action.

Except in unusual circumstances, excepted service employees (see subpar. b (5) and (6) below) will be detailed to competitive service positions only when there are no well-qualified competitive service employees available or when it is determined that such a detail will clearly be in the best interest of the VA. (For restrictions on details to higher graded positions, see 5 CFR 335 and MP-5, pt. I ch. 335 and this part.)

b. Types and Criteria for Details

(1) Informal Detail. A detail within the VA of less than 30 days. Prior approval of the individual's supervisor is required.

(2) Formal Detail. A detail within the VA of 30 days or longer. Prior approval at the service/division chief level or higher is required. Details within the VA must conform to the requirements of 5 USC 3341 and 5 CFR 300. Additionally, to the extent practicable, selection for details must be consistent with policies and requirements for other placement actions (see 5 CFR 335 and MP-5, pt. I, chs. 250 and 335).

(3) Interagency Detail. A detail between the VA and another 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.

(4) Interagency Loan. A detail between the VA and another agency in which the detailing agency is not reimbursed for the cost of the employee's salary but other expenses are usually borne by the agency to which detailed. (Reimbursable details are contrasted with loans in 13 Comp. Gen. 234 and 15 Comp. Gen. 32.) Loans are appropriate only in those unusual situations where the VA has a responsibility to share responsibilities with other Government agencies or where it is in the interest or to the advantage of the VA and there is no violation of Appropriation Act requirements.

(5) Detail of Schedule A or B Excepted Service Employees to Competitive Service Positions (VA/OPM Master Delegation Agreement). A detail within the VA of an employee serving in the excepted service under a Schedule A or B appointment to a competitive service position. Central Office approval is required (Department or staff office head or Administrator as appropriate) for details of Schedule A or B employees to centralized positions. This authority is to be used judiciously to meet bona fide management needs and generally should not result in extended details which give the appearance of circumventing merit system principles.

(6) Details of Excepted Service Employees Appointed Under Schedule C or Other Appointment Excepted by Statute to Competitive Service Positions (VA/OPM Master Delegation Agreement). A detail within the VA of an employee serving under a Schedule C excepted appointment or an appointment excepted by statute to a competitive service position. Prior approval of the Secretary is required for such details. Individual circumstances are to be carefully considered before such details are authorized. Details of these employees to competitive positions may be made only under the following conditions:

(a) Pending the filling of a vacant competitive service position or during the temporary absence of the incumbent;

(b) Temporary coverage pending abolishment of the position;

- (c) Short-term relief due to workload, organizational and/or mission changes;
- (d) Participation in time-limited projects or studies; or
- (e) Coverage in a position targeted for early placement in the excepted services

Requests for prior approval, with justification, must be submitted, over the signature of the station/staff official or department head (as applicable), through channels, to the Deputy Assistant Secretary for Human Resources Management. Initial approvals are limited to a maximum of 120 days. Extensions beyond 120 days must be approved by the Secretary prior to the 120th day of the initial action. Complete justification must be submitted for extension in the same manner as required for initial approval. Such details must meet the requirements of FPM chapter 300, subchapter 8, including the use of competitive promotion procedures for details exceeding 120 days to higher grades or to positions with known promotion potential.

c. Procedures for Detailing Employees

(1) Within VA. Informal details will be arranged by the officials concerned and the employee. Formal details will be initiated by an SF-52, Request for Personnel Action, and forwarded to the personnel office for action. Another SF-52 will be necessary to extend or to terminate the detail. An SF 50-B, Notification of Personnel Action, is required for certain details. The documentation requirements for details, extensions and terminations of details are contained OPM's Guide to Processing Personnel Actions. If the formal detail is from a classified position on an unclassified position, a brief explanation of the duties will be entered in the "Remark"s space of the VA form 5-4652 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 department/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 higher grade position, or to a position with known promotion potential, it must be made under competitive promotion procedures. (See ch. 335, this part.) Whenever possible, temporary promotions should be considered for employees serving in higher grade positions for other than brief periods (e.g., 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. Reimbursable details between the VA and other Federal agencies will be agreed upon in writing. Letters for this purpose will have the concurrences of the Fiscal and HRM Officers to insure compliance with technical requirements. Such agreements must be clear as to the dates, employees, and agencies involved and describe the basis for reimbursement. A copy of the letter will be filed in the employee's personnel folder with a copy given to the employee. The approval of interagency details and loans will be made by station heads for

noncentralized positions under their control, by the department of 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, approval must be obtained from the appropriate Administration Head, Assistant Secretary, or other Key Official in advance. The authority to detail career and non-career SES and Schedule C employees is not delegated. These details must be approved by the Secretary. All requests must be routed through the Deputy Assistant Secretary for Human Resources Management.

## **16. ECONOMIC OPPORTUNITY AND EDUCATIONAL ASSISTANCE PROGRAMS**

a. The special economic opportunity and educational assistance programs described in 42 U.S.C. 2751-2756a, 3061, 5001; 20 U.S.C. 2301; 29 U.S.C. 1501 ET SEQUENCE and MP-5, part I, chapter 309 are designed to help the unemployed, the underemployed and those in need of educational assistance to develop the skills necessary for regular employment. To the extent feasible, the 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, station 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 civil service examinations so that they may share in the greater opportunities for permanent employment in or outside the VA.

c. An agreement between the 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 need and requirements at the time they are negotiated. Upon completion of the agreement, one copy will be forwarded, through channels, to the Deputy Assistant Secretary for Human Resources Management.

d. As new programs develop or changes are made in existing ones, any additional VA instructions needed to implement the FPM release will be issued at that time.

**CHAPTER 300. EMPLOYMENT (GENERAL)**

**APPENDIX A. TIME-IN-GRADE RESTRICTIONS (5 CFR, PT. 300, SUBPT. F)**

**1. PURPOSE**

This appendix contains current VA policy on TIG (time-in-grade) restrictions for promotions to General Schedule positions in both the competitive and excepted service. Positions designated GM, which are subject to merit pay, remain part of the General Schedule.

**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 the 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 300, Subpart F – Time-in-Grade Restrictions). 5 CFR 330.501 provides instructions on OPM's (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, part 300, subpart F, section 300.602 and 300.604.

**4. VA EXCEPTIONS TO TIME-IN-GRADE RESTRICTIONS**

In addition to TIG exceptions listed in 5 CFR, part 300, subpart F, section 300.603, the following conditions are applied in the 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 department of staff office head subject to concurrence by the Deputy Assistant Secretary for Human Resources Management (05). 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.

## **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 below.

## **6. SUBMITTING REQUESTS**

a. Requests for waivers of TIG restrictions must be submitted over the signature of a field facility Director, or department or staff office head, as appropriate. Such requests must be accompanied with documentation fully supporting the request and will be forwarded through channels to the Deputy Assistant Secretary for Human Resources Management (05) 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 Customer Advisory and Consulting Group (051), Office of Human Resources Management 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 the 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 agency's mission while inequity refers to a burden on the employee.

c. **Undue.** 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. 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 request involving similar positions or situations.

## INTERCHANGE AGREEMENTS

### 1. PURPOSE

This appendix outlines changes resulting from three interchange agreements between VA and OPM (Office of Personnel Management) negotiated under provisions contained in Executive Order (EO) 9830 and EO 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. The third agreement allows for movement of personnel employed under 38 U.S.C.7802 in the Canteen Management Program of the VCS (Veterans Canteen Service) 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, physician assistants and expanded-function dental auxiliaries employed on a full-time basis. Appointments under 38 U.S.C. 7401(3) are limited to full-time, permanent certified respiratory therapy technicians, registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists and occupational therapists. Management program includes those individuals employed under 38 U.S.C. 7802 as Canteen Officers, Assistant Canteen Officers, and Assistant Canteen Officer Trainees.

(2) Employees involuntarily separated without personal cause from qualifying positions described in a(1) above may be appointed non competitively within 1 year of the separation.

b. Consideration for Conversion to a Competitive Service Appointment. The following procedures will be used when the Director or designee has determined that employees covered by these interchange agreements are to be considered for competitive service positions:

(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 ranked and rated along with competitive service employees. Excepted service and competitive service employees who rank in the best qualified group will be referred on separate certificates. The selecting official may select from either certificate. (See MP-5, pt. I, ch. 335, this part.)

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 MP-5, part II chapter 2. 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 and a Standards Board for 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 MP-5, part II, chapter 2.

(3) Competitive service employees applying for positions in the Canteen Management program should submit an application to the Veterans Canteen Service (VCS5) in St. Louis, Missouri. Such employees must have completed the 1-year probationary period before they can be appointed to positions in the Canteen Management program under authority of the interchange agreement. The interchange agreement does not preclude the appointment of qualified competitive service employees at any time outside the terms of the agreement.

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.

**CHAPTER 300. EMPLOYMENT (GENERAL)**

**APPENDIX C. PRIORITY PLACEMENT PROGRAM  
FOR EMPLOYEES IN RETAINED GRADE OR PAY STATUS**

**1. PURPOSE**

This appendix revises and updates the Priority Placement program for VA employees entitled to grade or pay retention benefits. The program anticipates affirmative 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 provisions of this appendix apply to employees or moving into positions under the General Schedule, the and the Federal Wage System, including Nonappropriated Fund employees in the VCS (Veterans Canteen Service) who are subjected to the Federal Wage System.**

**3. EXCLUSIONS**

- a. Veterans Health Administration employees appointed or compensated under 38 U.S.C. ch. 73.
- 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 by this appendix provided they meet the criteria for grade and pay retention benefits contained in ch. 536, this part.)
- e. Purchase and hire employees appointed under Schedule A, section 213.3127(a)(1).
- f. Employees whose appointment has a definite time limitation or is designated as temporary or term.

#### **4. REFERENCES**

- a. 5 U.S.C. subch. VI, Grade and Pay Retention.
- b. 5 CFR pt. 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. Department 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 OPM (Office of Personnel Management) 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. LABOR ORGANIZATIONS**

A copy of this appendix should be furnished to exclusively recognized labor organizations representing employees covered by its provisions. Management should meet in advance with such organizations to consult, and, as appropriate, to negotiate implementation procedures and impact

on affected employees. Also, negotiated agreements should be reviewed for applicable provisions.

## 9. 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 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 Civil Service Regulation 536.103 are fully met.
- d. Those who are such status because of an acceptance of a position with grade retention in lieu of transferring with their function, provided the provisions of Civil Service Regulation 536.103 are fully met.

## 10. PRIORITY PLACEMENT PROGRAM

- a. Subject to the exceptions listed in paragraph 12 below, eligible employees<sup>1</sup> 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 part 337, section 337.102.
- 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.

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<sup>1</sup>.For the remainder of this appendix, "eligible employee(s)" and "employee(s)" refer to:

- (a) employees whose eligibility for grade retention is based on 5 CFR 536.103(b); and
- (b) Employees whose eligibility for grade retention is based on 5 CFR 536.103(a) and who wish to take part in this program.

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, or, 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 that is his or her current duty station.

(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 station. 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 station, 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 subpars. 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 stations for which they request referral through their HRM office. (NOTE: Se MP-5, pt. I, ch. 335, sec. B, par. 8; title 5, CFR, ch. 1, pt. 335, sec. 335.102; FPM ch. 752, par. 3-1a(4); FPM Supp. 752-1, subch. S1-3a(4); 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 subpars. d and e above) as employees in retained grade status. Employees repromoted to their retained grade will be placed in the step to which 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 MP-5, part I, chapter 531, section B, paragraph 4e(2) or VA Supplement 532-1, section H, paragraph 6b, as appropriate.

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, department 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 department or staff office head (052D).

i. Eligible noncentralized employees who are to be/wish to be considered for appropriate positions (both centralized and noncentralized) at other VA facilities, and centralized employees who wish 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 station 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 stations the employee selects or to the stations 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 employees 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 station 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 above, as applicable. In such cases, the HRM office at the receiving station 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 department head (052D) 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 not 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 station. In the case of employees moving to noncentralized positions, expenses will be paid by the losing station.

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 station 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 Chief Network Officer 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 stations.

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 department or staff office head, as appropriate, should make such determinations and authorizations for centralized employees.

## 11. 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 representation 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, an offer of a position, in order to be considered a reasonable one, must fulfill the following conditions:

(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 MP-5, pt. I, ch. 340 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 10e 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 station; 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 at 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 536).

**12. 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 station may wish to fill in order to minimize impact of a reduction in force.