

STAFFING

1. REASON FOR ISSUE: To update Department of Veterans Affairs (VA) procedures regarding staffing and recruitment based on changes to 5 CFR, part 322 as published in the Federal Register dated June 26, 2009.

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

- a. Adds definitions for objection and pass over requests and suitability determinations and actions.
- b. Clarifies that objection and pass over requests are actions that require Delegated Examining Unit or Office of Personnel Management approval, and thus are not appealable.
- c. Distinguishes objection and pass over requests from suitability determinations and actions which are appealable.

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

4. RELATED DIRECTIVES: VA Directive 5005, Staffing.

5. RESCISSIONS: None.

CERTIFIED BY:

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

/s/
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SECTION B. EMPLOYMENT IN THE COMPETITIVE SERVICE

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

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

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

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

(1) Objection and Pass Over

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

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

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

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

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

(a) **Definitions**

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

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

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

2. CAREER-CONDITIONAL AND CAREER EMPLOYMENT

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

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

c. **Career-Conditional (or Career) Appointment of Persons Eligible Under the Amended Veterans Employment Opportunities Act (VEOA).** Under 5 CFR 315.611, (a) preference eligibles, or (b) veterans whose most recent military separation was under honorable conditions after substantially completing at least 3 years of continuous active military service: may receive a career-conditional (or, if appropriate, career) appointment if selected from among the best qualified under a merit promotion competition that was announced to candidates outside VA's workforce. As it is customary for the