

## STAFFING

**1. REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) procedures regarding staff reductions.

**2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains mandatory VA procedures on staffing and recruitment. The pages in this handbook replace Part IV regarding staff reductions in its entirety. Revised text is contained in [brackets]. **NOTE:** *Until further notice, this revised policy applies to all facilities EXCEPT those covered by National Nurses United (NNU).* 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. Incorporates employees appointed under 38 U.S.C. 7401(1) into the title 5 reduction in force process.
- b. Extends the record retention period from 2 years to 6 years, which is the time frame in which a person can bring a claim against the Government.
- c. Adds definitions to Chapter 1, paragraph 5.
- d. Modifies competitive level and retention standing section to include title 38 performance criteria and nomenclature to Section C, Paragraph 1.
- e. Adds assignment rights subparagraph for title 38 employees to Chapter 2, Section D.
- f. Adds title 38 reference to placement assistance and career transition section
- g. Removes Staff Adjustment section (former Chapter 3, Section C).
- h. Clarifies furlough appeals/grievance process.
- i. Adds Appendix D, to provide guidance on establishing competitive levels for title 38 positions.
- j. Deletes all references to employees on title 38 appointments under 38 U.S.C. 7405 and 7406.

**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:** VA Handbook 5005, Part IV, Chapter 3, Section C, “Accomplishing Staff Adjustments,” dated April 15, 2002.

**CERTIFIED BY:**

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

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STAFFING

PART IV. STAFF REDUCTIONS

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**PART IV. STAFF REDUCTIONS**

**[(THIS PART IS TO BE USED IN CONJUNCTION WITH 5 CFR, PART 351 AND OFFICE OF PERSONNEL MANAGEMENT RESTRUCTURING INFORMATION HANDBOOK)]**

**CHAPTER 1. GENERAL**

**1. SCOPE.** This part covers activities and actions at facilities associated with effecting employment reductions and changes based on such factors as change in mission, reorganization of work, changes in workload, a lack of funds and other matters that are unrelated to individual employee conduct and performance issues. Included in this part are [ ] title 5 reduction in force[, transfer of function, furlough, and] career transition [policies] and title 38 staff [reduction, assignment, reassignment, and furlough policies].

**2. RESPONSIBILITY.** Managers will ensure requirements associated with this part are met, and will otherwise attempt to minimize the adverse impact of necessary changes within their organizations by assisting employees [in understanding] the reasons for changes, assisting employees [with] career transitions, and treating employees in a fair and equitable manner.

**3. REPORTING STAFF REDUCTIONS TO THE OFFICE OF MANAGEMENT AND BUDGET.** VA will provide the Office of Management and Budget (OMB) with information concerning planned reductions in staff and furloughs. See the [OHRM Web site](#) for the requirements for submitting information to VA Central Office (VACO) prior to conducting [staff reductions] or furloughs.

**4. RECORDS.** Human Resources Managers are responsible for maintaining records that are used to determine an employee's [ ] retention standing and for ensuring that access to such records is consistent with 5 CFR 351.505(b) and VA Handbook 5025. VA will make available for review by the Union and employees those records which they are permitted to inspect, and[, when requested,] will provide copies to the extent possible and reasonable. Records must be maintained for [6] years after completion of the staff reduction activity. Records must be maintained for a longer period if there are pending third-party actions (e.g., grievance, appeal, EEO, court).

**[5. DEFINITIONS.** The following terms are frequently used in the staff reduction process.

a. **Adjusted Service Computation Date.** An employee's service computation date plus credit for her/his three most recent annual performance ratings of record. The adjusted SCD is only used for reduction in force purposes.

b. **Assignment Right.** An employee's entitlement to displace another employee with lower retention standing.

c. **AutoRIF/RIFRunner.** Automated software programs that assist human resources specialists in conducting round 1 and round 2 of a reduction in force by tracking possible assignment rights.

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- d. **Best Offer.** The highest graded position that can be offered to an employee who has been displaced, but no higher than the employee's current grade.
- e. **Bump.** The displacing of an employee in the same competitive area who is in a lower tenure group or subgroup. The bumping employee must be qualified for the position.
- f. **Competing Employee.** An employee in tenure group I, II, or III in either the competitive or excepted service.
- g. **Competitive Area.** The geographic and organizational boundaries within which employees compete for retention. The competitive area is usually made up of facilities within the commuting area AND under a single management authority.
- h. **Competitive Level.** A group of positions with the same title, grade, occupational series, qualifications, duties, responsibilities and work schedule.
- i. **Competitive Service.** Civil service positions in the executive branch except SES, positions filled by Senate confirmation, and those specifically excepted by statute.
- j. **Criteria and Privilege Request Form.** Form used by employees to request privileges which are then recommended by the service chief, the Professional Standards Board, and the Executive Committee of the Medical Staff. The recommendations are then approved by the Chief of Staff. Approved privileges define the limits of the employee's ability to function independently based upon education, training, and experience.
- k. **Days.** Calendar days unless otherwise noted.
- l. **Discontinued Service Retirement.** Employees whose jobs are abolished and who face involuntary separation may retire if they meet early retirement eligibility requirements.
- m. **Displace.** The moving of an employee from her/his position by bumping or retreating.
- n. **Excepted Service.** Civil service positions not in the competitive service or SES.
- o. **Functional Statement.** A description of the position that usually includes the title, a broad description of assignments, and a listing of the functions of the position, i.e., clinical, education, administrative/supervisory, program/management, and research.
- p. **Furlough.** The placement of an employee in a temporary non-duty and non-pay status when the action is based on a reduction in force reason.
- q. **Grade Retention.** When an employee is placed in a lower-graded position as a result of a reduction in force action, the employee remains at their current grade as if the demotion never occurred, for two years.
- r. **Hybrid Title 38.** Employees appointed in the title 38 excepted service under 38 U.S.C. 7401(3) but covered by title 5 regulations for RIF and other purposes.

- s. **Local Commuting Area.** A geographic area determined by the agency that includes any population center and the surrounding communities in which people may reasonably be expected to travel to and from work. There is no mileage standard.
- t. **Mock RIF.** Rough approximations of RIF outcomes, usually performed before all data is verified. Mock RIFs are conducted to identify and correct problems.
- u. **Notice.** A written communication to an employee stating that the employee will be reached for a RIF action
- v. **Official Personnel Folder.** A file for each employee that documents the individual's federal employment history. The folder contains notifications of personnel actions, benefits elections, performance appraisals, awards, disciplinary actions, employment applications and other documents.
- w. **Pay Retention.** Pay retention applies when an employee's previous rate of pay cannot be accommodated within the pay range of the new, lower pay grade. The employee keeps her/his salary, as long as it does not exceed 150% of the 10th step of the new grade. The employee receives only 50% of the annual comparability pay increases until the salary falls within the pay range of the new grade.
- x. **Performance Appraisal System.** A means by which supervisors evaluate an employee's work performance.
- y. **Rating of Record.** The performance rating prepared at the end of the period and the subsequent issuance of a summary rating level.
- z. **Reduction in Force (RIF).** A process through which the federal government may involuntarily separate, demote, and reassign title 5, title 38, and hybrid title 38 employees.
- aa. **Reorganization.** The planned elimination, addition, or redistribution of functions or duties.
- bb. **Representative Rate.** The fourth step of the grade for GS positions and the second step of the grade for WG/WL/WS positions.
- cc. **Retention Factors.** Tenure, veterans' preference, length of service and performance.
- dd. **Retention Register.** A listing of employees in order of their "seniority" based on their four retention factors.
- ee. **Retention Standing.** An employee's relative standing on a retention register.
- ff. **Retreat.** The displacing of an employee in the same competitive area who has a lower service computation date within the same tenure group and subgroup. The position into which the employee is retreating must be the same, or an essentially identical, position as previously held in any federal agency on a permanent basis.

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gg. **RIF Appeal.** An employee who believes her/his assignment rights were violated or that the process was not correctly followed may file a formal complaint with the Merit Systems Protection Board.

hh. **Round of Competition.** The different stages of competing for retention. In round one employees compete to stay in the competitive level. In round two bumping and retreating occurs and employees compete for assignment to positions in other competitive levels.

ii. **Scope of Practice.** Employees function autonomously within a defined scope of practice. The scope defines the nature of practice/patient population/setting, assessments and diagnoses authorized, recordkeeping methodology, and prescriptive privileges. The scope may also list routine duties, emergency duties, non-routine/non-emergency duties, and other duties.

jj. **Service Computation Date (SCD).** Generally the date an employee started their current period of federal employment plus any creditable military service and any creditable prior federal civilian service.

kk. **Severance Pay.** Biweekly payments made to an employee who is involuntarily separated and who is not eligible for an immediate retirement annuity. The amount of severance pay is based on the employee's salary, number of years of federal service and age.

ll. **Staff Adjustment.** A process formerly used to involuntarily separate or reassign title 38 employees.

mm. **Subgroup.** After employees are divided into appropriate tenure groups (I, II, or III), they are further divided into one of three subgroups: AD- veterans with a service-connected disability of 30% or more, A- other veterans, or B- non-veterans.

nn. **Surplus Employee.** A current employee serving under an appointment in the competitive service as well as an excepted service employee in Schedule A or B in tenure group I or II, and a title 38 employee serving on an appointment under 38 U.S.C. 7401(1) who has received a CES or other certification issued by the agency which identifies the employee as being in an excess organization or occupation.

oo. **Tenure.** An employee's status based on length of service and type of appointment. Tenure group I is employees designated as "career" based on at least three years of continuous, permanent federal civilian service. Tenure group II is employees designated as "career conditional" based on having less than three years of service or who are serving a probationary period. Tenure group III is employees who have temporary appointments of more than one year.

pp. **Title 5.** The law under which most federal employees are appointed and from which most federal personnel administration regulations derive.

qq. **Title 38.** The law under which many VA employees are appointed.

rr. **Transfer of Function.** The transfer of a continuing function from one competitive area to one or more other competitive areas where the function was not being performed, or the movement of the entire competitive area to another commuting area.

ss. **Undue Interruption.** A degree of interruption that would prevent the completion of required work by the employee 90 days after the employee has been placed in a different position in first or second round RIF competition. The 90 day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands.

tt. **Veterans Preference Act.** The law from which veterans receive much of their preferred status and from which the RIF regulations derive.

uu. **Voluntary Early Retirement Authority (early out).** Employees may retire at age 50 with 20 years of service or at any age with 25 years of service.

vv. **Voluntary Separation Incentive Payment (buyout).** A lump sum cash payment offered to encourage employees to retire or resign.]



**CHAPTER 2. [STAFF REDUCTIONS], TRANSFER OF FUNCTION, FURLOUGH, AND  
TRANSITION ASSISTANCE****SECTION A. GENERAL**

[ ]

**1. SCOPE.** This chapter contains Department of Veterans Affairs (VA) policies and procedures for RIF, transfers of function, furloughs, and career transition assistance. They apply to competing title 5 employees [and] to title 38 hybrid employees appointed under 38 U.S.C. 7401(3). These procedures [also apply to employees appointed under 38 U.S.C. 7401(1), except furloughs (for furloughs of employees appointed under 38 U.S.C. 7401(1), see Chapter 3, Section C of this part). These procedures] do not apply to employees serving in the Senior Executive Service or appointed under 38 U.S.C. 7306[ ]. This chapter, [5] CFR part 351, and OPM's Restructuring Information Handbook must be used together when planning and effecting covered actions. Prior to making a determination to initiate a RIF action, labor organizations should be given the opportunity to participate in pre-decisional discussions. If a decision is made to initiate a RIF, labor organizations will be notified before any affected bargaining unit employees are notified. Applicable master or locally negotiated agreement provisions also must be used in administering actions affecting bargaining unit employees.

**2. FILLING VACANCIES****a. Reduction-in-Force Planning**

(1) Although management is not obligated to fill vacancies prior to or during a RIF, to the extent possible, necessary and continuing vacancies will be used to provide placement opportunities for employees who will be adversely impacted by a RIF. When management chooses to offer vacancies using RIF procedures, qualifications may be waived in accordance with 5 CFR 351.703. [Qualifications may not be waived for title 38 and hybrid title 38 vacancies.] The Union will be given a written list of current vacancies prior to employees being informed of a reorganization.

(2) After a reorganization is announced in writing and prior to a RIF, eligible employees may be allowed to volunteer to accept lower-graded positions. Employees taking such positions will be granted grade and pay retention if eligible. (See Pay Administration Directive and Handbook 5007 and 5 CFR, part 536, for guidance on grade and pay retention eligibility.)

(3) Promotions or other placements into vacant title 5 positions prior to a RIF which have greater promotion potential than employees' current positions must be made under competitive merit promotion procedures.

**b. Offering Vacancies to Employees**

(1) During a RIF, to the extent possible, vacancies may be used to satisfy employees' assignment rights in accordance with 5 CFR 351.201.

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(2) Employees without assignment rights who have received specific RIF separation notices may be offered vacant, lower-grade positions without regard to the three-grade level limit which applies to bump and retreat. These offers may be made so long as the position would not constitute a better RIF offer to other competing employees. Eligible employees who voluntarily accept lower-graded positions will be entitled to grade and pay retention benefits.

**[c. Reassignments]**

(1) To avoid displacing an employee during a RIF, management may reassign a surplus employee to a continuing position at the same grade as long as there is a legitimate need for the employee in the position. Such reassignments help avoid involuntary separations and demotions. An employee may be reassigned without regard to reduction in force regulations when the vacant position is at the same grade or rate of pay as the employee's present position.

(2) The position to which the employee is reassigned may be located in the same or a different competitive level, competitive area, or commuting area.

(3) An employee may not be reassigned to a position with greater promotion potential unless the position is filled following merit promotion procedures.

(4) Reassignment to a position in a different commuting area does not provide the employee with the right to compete for a position in his or her present competitive area under reduction in force regulations even if the employee declines the reassignment and is subsequently separated under adverse action procedures. (See VA Handbook 5021, Part VI, paragraph 13.)

(5) An employee separated for declining reassignment to a position in a different commuting area qualifies for most of the benefits available to an employee who is separated by reduction in force, including severance pay, discontinued service retirement, and the Interagency Career Transition Assistance Plan. The employee is not eligible to be placed on the reemployment priority list.]

**3. DELEGATIONS OF AUTHORITY**

a. The Secretary, or designee(s), will approve RIF actions involving positions centralized to the Secretary and all furloughs.

b. Under Secretaries, Assistant Secretaries, Other Key Officials, or their designee(s), with the advice and assistance of the Office of Human Resources Management [(OHRM), will authorize RIFs] within VACO elements under their jurisdiction, and within field facilities under their jurisdiction requiring VACO approval.

**[NOTE: Other Key Officials are defined as the General Counsel, Inspector General, Chairman Board of Veteran Appeals, etc. This does not include positions below Under Secretaries, Assistant Secretaries, or Staff Office Heads.]**

c. Field facility directors will [conduct] RIF actions within their respective jurisdictions [when authorized and approve resulting actions, except for actions involving centralized positions and all furloughs].

#### 4. REQUESTS TO TAKE ACTION

a. **Reduction in Force.** Field facility directors will submit a request, through channels and the Office of Human Resources Management, to the appropriate official listed in VA Directive 5005 before proceeding with RIFs that involve a centralized position or [when anticipating a RIF that would result in the separation of an employee]. This authority may be redelegated by officials listed in paragraph 3. The Under Secretary for Health has delegated RIF authority as specified in appendix IV-B. Information regarding submitting proposed RIFs is provided on the [OHRM Web site](#). The request will include the following information.

- (1) The reasons(s), among those in 5 CFR 351.201(a)(2), for the action;
- (2) The titles, series, grades, and numbers of all involved positions;
- (3) If the RIF occurs in a research project, the name of the project and principal investigator.

b. **Transfer of Function.** Field facility directors will submit a request, through channels and the Office of Human Resources Management, to the appropriate official listed in VA Directive 5005 before they separate or include in a concurrent RIF employees who decline to transfer with their functions. The request will include the information in subparagraph 4a(2).

c. **Furlough.** Under Secretaries, Assistant Secretaries, Other Key Officials, and field facility directors will submit a request, through channels and the Office of Human Resources Management, to the Secretary before proceeding with a furlough, whether under adverse action [procedures outlined in VA Handbook 5021] or RIF procedures. The request will include a description of the temporary conditions warranting a furlough, the information in paragraph 4a, the proposed length of the furlough, including the beginning and ending dates, and any alternatives to furloughs that were considered. Requests for adverse action furloughs also will identify the method used to select employees for furlough.

d. **Voluntary Early Retirement Authority (VERA).** The Deputy Assistant Secretary for Human Resources Management is authorized to request VERA from OPM. The request must meet the criteria and include the information required by OPM. Under Secretaries, Assistant Secretaries, and Other Key Officials will submit conforming plans, through channels, to the Office of Human Resources Management. Each facility [and VA staff office] authorized and utilizing VERA will establish and maintain a local VERA plan consistent with [overall VA plans and OPM requirements].



**SECTION B. COMPETITIVE AREAS****1. STANDARD COMPETITIVE AREAS****a. Field Positions**

(1) Normally, each VA facility under separate managerial authority, e.g., medical center, independent outpatient clinic, regional office, cemetery, and data processing center and its satellite positions and activities within the commuting area, constitutes a competitive area.

(2) Satellite positions and activities outside the commuting area of their parent facilities, e.g., Veteran Representatives on campus, satellite outpatient clinics, "vet centers," also constitute separate competitive areas for each commuting area.

(3) When two or more installations in the same administration or staff office in a local commuting area have a single organizational unit which provides "common service" functions, such as Human Resources, finance, or supply, the servicing office is included in the competitive area of the installation that has administrative authority over the servicing office.

(4) A field element of an administration or staff office which is located at and serviced by a VA facility, but under separate managerial and appointing authority, constitutes a separate competitive area. An example would be Regional Counsel offices at regional offices and medical centers.

(5) Positions in the field for which employment matters are centralized to VACO, such as associate directors and division chiefs, are included in the competitive area of the local facility.

(6) Different funding sources alone are no basis for establishing separate competitive areas.

**b. Central Office Positions**

(1) The Office of the Secretary and each office of an Under Secretary, Assistant Secretary, or Other Key Official, constitute separate competitive areas.

(2) VACO employees with a duty station outside of the Washington, DC, metropolitan area, such as information specialists in the Office of Public Affairs and resident engineers in the Office of Facilities, are in separate competitive areas for each administration or staff office and each commuting area. They are not included in the Washington, DC, competitive areas or in any other competitive areas in their commuting areas.

(3) Positions in the Office of Inspector General (OIG) may not be placed in the same competitive area as positions outside the OIG.

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**2. AUTHORITY TO REDEFINE COMPETITIVE AREAS.** Under Secretaries, Assistant Secretaries, and Other Key Officials, with the advice and assistance of the Office of Human Resources Management [ ] may redefine competitive areas for organizations under their jurisdictions, provided such redefinitions are in accordance with 5 CFR, part 351, fully justified and documented to ensure that such action is clearly in the best interest of VA. The Under Secretary for Health has delegated authority to redefine competitive areas as specified in appendix IV-C.

**SECTION C. COMPETITIVE LEVELS AND RETENTION STANDING**

**1. ESTABLISHMENT OF COMPETITIVE LEVELS.** Human Resources Management Officers (HRMOs) are responsible for assigning competitive levels[.]

a. Within each competitive area, the HRMO, or designee, groups interchangeable positions into competitive levels. A competitive level includes positions with the same grade, series, qualification requirements, duties, responsibilities, and work schedule. Competitive [service positions (title 5)] and excepted service positions [(title 5, title 38, and hybrid title 38)] are placed on separate competitive levels. Separate competitive levels are also established for positions that are full-time, part-time, intermittent, seasonal, on-call, or filled as part of a formally designated trainee or developmental program. The competitive level is based on each employee's position description[ ], functional statement[, privileges, and scope of practice]. Positions that are similar (for example, same grade, series, qualifications, and work schedule) but are not identical (for example, slightly different duties [and responsibilities]), may be placed in the same competitive level if the employee of one position could satisfactorily perform the critical tasks of the other position [without undue interruption within allowable limits of time and quality in patient care. Generally, the employee should be able to successfully perform the critical tasks of the position within 90 days after entering the position (further guidance regarding the determination of appropriate time frames can be found in OPM's Restructuring Handbook). Positions should not be placed in the same competitive level if the privileges, scopes of practice, and clinical responsibilities are different. Guidance on establishing competitive levels for title 38 positions is located in Appendix IV-D].

b. Competitive service employees with time-limited appointments of 1 year or less and temporary excepted service employees who have served 1 year or less [are not competing employees in a RIF and] are not listed in a competitive level. These employees are terminated before any employee covered by OPM retention regulations is reached for a RIF action. Temporary excepted service employees who are employed under a temporary appointment limited to 1 year or less, but who have completed 1 year of current continuous service under a [previous] temporary appointment with no break in service of 1 workday or more, [are competing employees in a RIF and] are placed in a competitive level.

**2. CREDIT FOR PERFORMANCE**

a. The annual summary performance [and proficiency] ratings of record are the official ratings used for crediting performance during a RIF. Guidance on processing annual performance [and proficiency] ratings of record used is contained in VA Directive and Handbook 5013, Performance Management Systems. Additional guidance on the annual performance rating crediting procedures to be used for retention service credit is contained in 5 CFR 351.504 and subparagraphs 2b through 2g of this section.

b. VA is required to treat all employees within a RIF competitive area in a uniform and consistent manner. Any competing employee receiving a Satisfactory or equivalent performance rating, [e.g., Fully Successful or Successful,] will receive 12 years of additional service credit; any competing employee receiving an Excellent or equivalent rating, [e.g., High Satisfactory or Highly Successful,] will receive 16 years of additional service credit; and any employee receiving an Outstanding or equivalent rating, will receive 20 years of additional service credit. The same service credit is granted regardless of the agency or organization that issued the rating.

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- c. In crediting performance for RIF purposes, the “look-back” period of 4 years applies. The [most recent] three ratings [received within the last four years prior to the RIF] will be used to determine performance credit. [The performance credit assigned to each of the] three ratings of record will be added together [ ] and divided by 3 [(in the case of a fraction the number is rounded to the next higher whole number)] to determine additional service credit, which will then be added to the employee’s service computation date.
- d. Under provisions of 5 CFR 351.504(c)(2), an employee who has received only one or two ratings during the 4-year period shall receive credit for performance on the basis of the ratings of record received divided by 1 or 2. For example, when only two ratings of record are available to be credited, these two ratings will be added together and divided by 2 (and rounded in the case of a fraction to the next higher whole number) to determine additional service credit. If there is only one rating of record available, use the value assigned to that rating for service crediting purposes.
- e. OPM has determined that an employee who has no rating of record during the 4-year period will receive the modal rating, i.e., the [summary rating level assigned most frequently within the competitive area and on record for the most recently completed appraisal period prior to the cutoff date specified (5 CFR 351.203 & 504(c)(1))]. However, in most instances, every employee in the competitive area [should] have at least one rating of record during the last 4 years. If at least one rating exists, a modal rating will not be required. [The modal rating for title 5 and hybrid employees will be determined separately from the modal rating for title 38 employees because of the differing performance systems.]
- f. Some agencies and organizations within the Federal government are not covered by the performance appraisal provisions in the law and regulations. Employees who have received ratings from such Federal organizations will be granted additional retention service credit in a RIF only when it is determined that those performance ratings are equivalent ratings of record under the provisions of 5 CFR 430.201(c). The Human Resources Officer or the RIF Team Leader will make the final determination on applicability. If the performance evaluation qualifies as an equivalent rating of record, the employee will be granted the appropriate service credit for each applicable rating of record in [accordance with subparagraphs c and d above].
- g. The cutoff date for performance ratings of record will be between 30 and 45 days prior to the date of the specific RIF notice. After the cutoff date, no new ratings will be put on record for RIF service credit purposes.

**3. ORDER OF RELEASE FROM COMPETITIVE LEVELS.** No competing employee will be released from a competitive level while retaining in that level an employee with a specifically limited temporary appointment, a specifically limited temporary or term promotion, or a written decision of a performance-based removal or demotion from the competitive level. Once such employees have been released, competing employees will be released in inverse order of retention standing except as provided in paragraphs 4 and 5 of this section.

**4. TIES.** As permitted by 5 CFR 351.601(b), the [ ] official who would normally make the selection for the position [from which the employee is being released] will determine, on the basis of qualifications [and competencies] for the specific position, which employee(s) will be retained when two or more employees on a retention register [have identical retention standing service dates. The tied employees who will be

released from the competitive level] will be notified in writing of the tie and the decision that they will not be retained [in the competitive level].

## 5. EXCEPTIONS TO RETENTION ORDER

a. Holders of the Congressional Medal of Honor employed as Contact Representatives (Veterans Benefits Counselors) under authority of Executive Order 9628 are exempt from RIF.

b. An employee who is being assigned to a position which will not be vacated until after the end of the 60-day notice period may be retained in his/her current position until the position becomes available but not to exceed 60 additional calendar days.

c. As permitted in 5 CFR 351.608, employees who have been reached for a RIF (separation) will be retained as a temporary exception to the retention order under the following conditions:

(1) An employee whose disability retirement has been approved by OPM will be separated when the person's earned sick leave is exhausted or on the date OPM approval is received, whichever is later.

(2) An employee who applies for disability retirement (or for whom VA has made such application) will be granted sick leave provided the responsible VA official agrees, on the basis of acceptable medical evidence, that the employee is incapacitated for duty in his/her present position. If OPM disapproves the request for disability retirement, the employee will be separated on the day VA is notified of the disapproval or on the scheduled effective date of the RIF, whichever is later. If OPM has not approved or disapproved the application for disability retirement by the time the employee's earned sick leave has been exhausted, the employee will be separated at that time or on the scheduled effective date of the RIF, whichever is later.

d. Field facility directors may approve temporary exceptions in the normal retention order for employees under their jurisdiction in other cases involving sickness, disability, or other issues covered by 5 CFR 351.608, such as near-term retirement eligibility. The Secretary, Under Secretaries, Assistant Secretaries, Other Key Officials, or their designee(s), may approve such exceptions for VACO employees and for employees located at field facilities who are not under the managerial authority of a field facility Director.

e. These officials are also authorized to approve temporary exceptions in the normal retention order for 90 days or less to continue an activity without undue interruption as described in 5 CFR 351.203. "Undue interruption" does not mean mere inconvenience. Serious inconvenience and even severe interruption of the work program are often the unavoidable results of a RIF. A work program probably would not be unduly interrupted if an employee needed more than 90 days after the RIF to successfully perform the critical elements of a position. Lower priority programs might tolerate a longer interruption.

f. If an exception is approved in one case in a particular RIF, it must be applied to all other employees reached for separation in that RIF who meet the same criteria.



**SECTION D. ASSIGNMENT RIGHTS**

**1. QUALIFICATIONS DETERMINATIONS.** Human Resources Management Officers determine whether employees are qualified for specific positions to which they can be assigned in a RIF. Qualification requirements may be waived to the extent permitted by 5 CFR 351.703, when filling a vacant [title 5] position during a RIF. [Basic qualification requirements may not be waived for title 38 and hybrid title 38 vacancies. Grade requirements for title 38 and hybrid title 38 vacancies may be waived only to the extent permitted in each occupations applicable qualification standard. Basic qualification standard] waivers are not permitted for RIF displacements.

**2. ADMINISTRATIVE ASSIGNMENTS.** The following administrative assignment rights are granted to affected VA employees consistent with 5 CFR 351.705:

a. **Other Competitive Areas.** Group III employees in other competitive areas in the local commuting area [(e.g., at stations where management has the same authority or jurisdiction at more than one campus or division)] will be displaced to provide assignment opportunities for VA employees who (1) are in Group I or Group II; (2) have received a notice of impending RIF separation or who have declined an offer to transfer with their current competitive area; and (3) meet the qualification standards and are available for positions held by Group III employees at grade levels not higher than the grade levels held at the time of receipt of RIF notices.

b. **Attorneys.** Attorneys appointed under Schedule A, 5 CFR 213.3102(d) who are reached for release from their competitive level are entitled to other positions in the same competitive area which are encumbered by Schedule A, 5 CFR 213.3102(d) appointees whom they can displace by "bump" or "retreat" as defined by 5 CFR 351.701.

c.. **[Employees Appointed under 38 U.S.C. 7401(1).** Employees appointed under 38 U.S.C. 7401(1) who are reached for release from their competitive levels are not entitled to displace by bump or retreat other employees appointed under these authorities].

[d.] **Employees Appointed under 38 U.S.C. 7401(3)** [ ]. Employees appointed under 38 U.S.C. 7401(3) [ ] who are reached for release from their competitive levels are entitled to other positions in the same competitive area which are encumbered by 7401(3) appointees [ ], whom they can displace by "bump" or "retreat."

[e.] **Veterans Canteen Service Employees.** Employees of the Veterans Canteen Service appointed under 38 U.S.C. 7802 who are reached for release from their competitive levels are entitled to other positions in the same competitive area which are encumbered by 38 U.S.C. 7802 appointees whom they can displace by "bump" or "retreat."



**SECTION E. EMPLOYEE NOTICES**

**1. GENERAL.** Employees will be given advance official [notification] concerning decisions which may result in their being affected by a RIF. This [notification will be in writing] and will include: the reasons for the required adjustments, such as lack of work or funds, reorganization, or a realignment of functions; the competitive area; where the employee may inspect the pertinent regulations; and whom to contact about assistance available for affected employees.

**2. SPECIFIC NOTICES.** Whether or not other notices are used, each affected employee must be given a specific notice of the [ ] action. [Notices must comply with applicable labor-management agreement notice provisions.] Notice periods and contents are described in 5 CFR, part 351.



**SECTION F. [TITLE 5 AND HYBRID TITLE 38] FURLOUGHS**

**1. GENERAL.** [This section applies to title 5 employees and to title 38 hybrid employees appointed under 38 U.S.C. 7401(3). This section does not apply to full title 38 employees.] Furloughs are appropriate to address temporary conditions when it is intended to recall employees to duty. The determination as to which employees are furloughed will be based on an assessment of which assignments are critical to the continuing operation of the organization during the furlough. When feasible, furloughs will be spread out among employees in affected competitive levels to minimize the impact on each employee and the disruption of VA activities. All employees shall be accorded fair and equitable treatment consistent with this policy. [(For furloughs of employees appointed under 38 U.S.C. 7401(1), see Chapter 3, Section C of this part.)]

**2. USE OF ADVERSE ACTION PROCEDURES.** Furloughs of 30 days (22 workdays) or less are adverse actions and should be processed in accordance with VA Directive and Handbook 5021, Employee Management Relations. The guidance in this chapter on requests for furlough authority, appropriate uses of furlough, and identification of employees for furloughs will apply to these actions.

**3. USE OF RIF PROCEDURES.** RIF procedures must be followed to furlough an employee for more than 30 consecutive days [ ].

**4. WRITTEN NOTICE TO EMPLOYEES.** Ordinarily, employees will be given 30 or 60 calendar days advance written notice of a furlough depending on the length of furlough (whether the furlough is an adverse action or a RIF-based action). However, employees may be furloughed during emergencies [and other unforeseen situations, e.g. lapse of appropriations,] without the usual advance notice and opportunity to reply. Emergency situations are restricted to very narrow circumstances such as furloughs to avoid violating the Anti-deficiency Act, which prohibits using funds when appropriations have not been enacted. The written notice shall advise the employee of:

- a. The reason(s) for the furlough;
- b. The effective date(s) and expected duration of the furlough;
- c. The process used - either adverse action or RIF (see requirements for RIF notices as well);
- d. If applicable, the circumstances which warrant waiver of the notice period;
- e. When only some of the employees in an organizational unit are to be furloughed, the basis for identifying the employees to be furloughed;
- f. The place where the employee may inspect the applicable regulations and records;
- g. The employee's right to reply in writing and time allowed for reply;
- h. The employee's right to grieve or appeal, as appropriate; and

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i. Any effects of the furlough on the employee's entitlement to retirement, life and health insurance, and other benefits.

**5. EMPLOYEE PREFERENCES.** For furloughs of 30 days or less, management will consider employee preference, e.g., to work a shorter prorated week or to be furloughed for a certain number of consecutive days, in scheduling the furlough.

**6. FURLOUGH DURATION LIMITATIONS.** Competing employees may not be furloughed for more than 1 year. If employees must be released for more than 1 year, RIF procedures must be used.

**SECTION G. TRANSFER [ ] OF FUNCTION**

**1 GENERAL.** A transfer of function occurs when the function wholly leaves one competitive area and moves to another competitive area that does not already perform that same function. When the number of employees who are willing to transfer and who are in a competitive level within a transferring function exceeds the needs of the gaining competitive area and RIF procedures are used to relieve the surplus, these procedures will normally be applied at the gaining location. Any use of RIF procedures in the losing competitive area (except for actions unrelated to the transfer of function) will require the prior authorization of the appropriate Under Secretaries, Assistant Secretaries, and/or Other Key Officials.

**NOTE:** *For a more complete explanation of procedures and employee rights in transfer of function, see 5 CFR, part 351, subpart C and OPM Restructuring Information Handbook, Module 4.*

**2. PROCEDURES**

a. For planning purposes, employees occupying positions in a transferring function will be asked in writing if they are interested in transferring, and will be given one (1) full pay period to respond.

b. If a RIF is necessary at the gaining facility as a result of the transfer of function, employees occupying positions in the transferring function will be considered to be employees of the receiving organization and will be placed in appropriate consolidated competitive levels. They will not be physically moved to the new commuting area until a specific assignment is determined.

c. Appropriate notices will be issued by the losing facility and will include information on specific assignments, pay and grade retention, and payment for travel and transportation costs. If there is a RIF involved in the transfer of function, the gaining facility will issue the notices. Separation actions that may result will be processed by the losing facility.

d. Career or career-conditional employees who are separated are eligible for placement assistance under the programs described in 5 CFR, part 330, and this handbook. Also, those meeting the requirements will be entered on the reemployment priority lists in the commuting area of the office that issued the notice resulting in the separation.



## SECTION H. APPEALS AND GRIEVANCES

**1. NOTIFICATION TO EMPLOYEES.** Affected employees will be advised in writing of their grievance and appeal rights at the time specific actions are communicated, consistent with regulatory requirements.

**2. PETITIONS FOR REVIEW BY THE MERIT SYSTEMS PROTECTION BOARD.** [A title 5 title 38, or title 38 hybrid employee appointed under 38 U.S.C. 7401(3)], the Department, or the Director of OPM may file a petition for review of an MSPB Regional Office decision with the MSPB. Department petitions for review will be coordinated through the [appropriate Regional Counsel Office with consultation from the] Office of General Counsel and [HRM as needed]. Field facilities will [ ] assure that Department petitions [for review], if appropriate, are submitted on a timely basis.



**SECTION I. PLACEMENT ASSISTANCE AND CAREER TRANSITION**

**1. EMPLOYMENT RESTRICTIONS.** The Federal government has established a regulatory framework in 5 CFR 330, [sub]parts [F and] G, regarding both placement assistance and reemployment consideration of employees subject to RIFs and related activities. This section addresses Federal and VA policies on placement assistance and career transition.

**[NOTE:** *Where practicable, the provisions of this section are extended to include title 38 employees, as well as title 5 and hybrid title 38 employees.*]

a. Under Secretaries, Assistant Secretaries, and Other Key Officials will determine, with the advice and assistance of the Deputy Assistant Secretary for Human Resources Management [ ], whether additional employment restrictions beyond those described herein should be imposed on other facilities or areas to provide placement opportunities for employees likely to be affected adversely by a RIF, transfer of function, or other reorganization. If it is determined that employment restrictions across organizational lines are needed to provide sufficient placement assistance opportunities, the Under Secretaries, Assistant Secretaries, or Other Key Officials of the potentially affected facility or organization, or the Secretary, will approve the extension of employment restrictions.

b. Efforts should be made to identify the specific grades and series of positions for which affected employees qualify, and to apply employment restrictions only to those specific vacancies.

**2. OPERATIONAL REQUIREMENTS FOR CAREER TRANSITION ASSISTANCE**

a. The **facility Director** shall:

(1) Establish and implement [a] local **Career Transition Assistance Plan**[ ] (CTAP), [ensuring local labor obligations are met;] and

(2) Ensure that [ ] affected employees receive required and other appropriate and timely notification of the availability of local career transition assistance. ([Refer to the guidance in] 5 CFR, parts 330 and 351[, and OPM’s Reconstruction Information Handbook, Module 7, to supplement the guidance in this handbook.])

b. The **Human Resources Management Officer** shall:

(1) Ensure that all displaced and surplus employees in the local commuting area have the opportunity to apply for vacancies lasting 121 days or more;

(2) Where there is more than one HRMO in the local commuting area, these HRMOs will establish local procedures for [exchanging] pertinent information, including the existence of any VA displaced and surplus employees;

(3) Determine, in consultation with subject matter experts as appropriate, whether displaced and surplus applicants/employees are "well-qualified" for vacancies to which they have applied, and provide documented "qualification reviews" to such persons who are otherwise “eligible” but have been determined to be “not well-qualified”;

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- (4) Ensure that eligible "well-qualified" VA displaced and surplus applicants/employees receive appropriate special selection priority when they are referred to selecting officials;
- (5) [Maintain] the Reemployment Priority List (RPL) for eligible separated VA employees;
- (6) Maintain records of VA CTAP and Interagency Career Transition Assistance Plan (ICTAP) activities; and
- (7) Ensure that each impacted employee receives information on career transition.

### **3. DEFINITIONS FOR CTAP**

a. **Agency.** An Executive department, a Government corporation, and an independent establishment as cited in 5 U.S.C., sections 101, 103 and 104.

b. **Bargaining Unit.** A group of employees recognized by the employer and designated by the Federal Labor Relations Authority as appropriate to be represented by a labor organization for purposes of collective bargaining.

c. **Certification of Expected Separation (CES).** A memorandum which identifies an employee as being in an excess organization or occupation and therefore subject to possible separation [through RIF procedures]. An employee in receipt of such a memorandum is considered a surplus employee. A CES would most appropriately be used in cases when entire units are expected to be abolished and can be issued up to 6 months prior to separation. This makes such employees eligible for the full range of VA CTAP services and assistance under this directive and handbook.

d. **Displaced Employee**

(1) **Under CTAP.** A current agency employee who has received a RIF separation notice or notice of proposed removal for declining a directed reassignment or transfer of function outside of the local commuting area, if serving *either* on an appointment in the competitive service in tenure group I or II, *or* on an appointment in the excepted service without time limit and who has been given statutory noncompetitive appointment eligibility and selection priority for competitive service positions.

(2) **Under the ICTAP**

(a) A current or former career or career-conditional competitive service employee, in tenure group I or II who has received a specific RIF separation notice [or a notice of proposed removal for declining a directed reassignment or transfer of function outside of the local commuting area];

(b) A former career or career-conditional employee who was separated because of a compensable injury, as provided under the provisions of subchapter I of chapter 81 of title 5, U.S. Code, whose compensation has been terminated and whose former agency is unable to place the individual as required by 5 CFR [353.110(b)];

(c) A former career or career-conditional competitive service employee, in tenure group I or II, who retired with a disability under sections 8337 or 8451 of title 5, U.S. Code, whose disability annuity has been or is being terminated;

(d) A former career or career-conditional competitive service employee in tenure group I or II, in receipt of a RIF separation notice who retired on the effective date of the RIF or under the discontinued service retirement option;

[ ]

[(e)] A former Military Reserve Technician or National Guard Technician who is receiving a special disability retirement annuity from OPM under section 8337(h) or 8456 of title 5, U.S. Code, as described in 5 CFR, part 330, subpart H;

[(f)] A current agency employee who is in receipt of a RIF separation notice or notice of proposed removal for declining a transfer of function or directed reassignment outside of the local commuting area, if serving on an appointment in the excepted service without time limit and has been given statutory noncompetitive appointment eligibility and selection priority for competitive service positions; and

[(g)] A former agency employee who has been separated through RIF or removed for declining a transfer of function or directed reassignment outside of the local commuting area, who served on an appointment in the excepted service without time limit and has been given statutory noncompetitive appointment eligibility and selection priority for competitive service positions.

e. **Eligible Employee.** To be eligible for special selection priority under these procedures, an individual must meet all of the following conditions:

(1) Is a surplus or displaced employee as defined in 5 CFR 330.604(c) or (i), or 5 CFR 330.703(b);

(2) Has a current performance rating of record of at least fully successful or equivalent;

(3) Applies for a vacancy that is at or below the grade level from which the employee may be or is being separated, that does not have a greater promotion potential than the position from which the employee may be or is being separated. **[NOTE: For hybrids and full title 38 employees in grades above the full performance level, their grades must be reviewed by an appropriate professional standards board. Their grades may be impacted by the level of responsibility and assignments in the new position. If an appropriate professional standards board determines that the new assignment is at or below the employee's current grade level, this eligibility requirement is met. This provision does not apply to physicians and dentists since they are in single grade positions.];**

(4) Occupies a position in the same local commuting area of the vacancy;

(5) Files an application for a specific vacancy within the established timeframe and provides proof of eligibility as required under 5 CFR 330.608(a)(2) or 330.708(a)(2); [and]

(6) Is determined by the [hiring] agency to be well-qualified for the specific vacancy.

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f. **Facility.** A single medical center, regional office, automation center, other Department field establishment under the direction of local management officials or VACO. The facility includes any operation (e.g., a satellite) or complex of organizations that is under the control of the same facility Director.

g. **ICTAP.** The OPM program which provides special selection priority to other displaced Federal employees when filling vacancies from outside of VA.

h. **Labor Union.** An organization composed, in whole or in part, of employees in which these employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment.

i. **Local Commuting Area.** The geographic area that usually constitutes one area for employment purposes[, in accordance with Federal Travel Regulations on Permanent Change of Station (PCS) moves]. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their usual employment.

j. **Qualification Review.** The documented analysis by the responsible HRMO of the rationale for [determining if] an otherwise eligible [candidate is well-qualified or not well-qualified for the position being filled].

k. **Selecting Official.** [The] individual with the authority to choose from among candidates for a vacancy.

l. **Special Selection Priority.** The precedence over any other candidates that eligible employees have for being chosen for vacancies for which they apply. [Eligible surplus and displaced employees must be selected over any other candidate for vacancies in the local commuting area for which they apply and are found well-qualified.] **Exception** - No VA CTAP special selection priority can be made which would cause another VA employee to be separated by RIF. See Appendix IV-A of this handbook for those staffing actions not covered by the VA CTAP.

m. **Suitability.** Determinations based on an individual's character or conduct that may impact the efficiency of the service by jeopardizing an agency's accomplishments of its duties or responsibilities, or by interfering with or preventing effective service in the competitive, excepted, [or] SES position applied for or employed in, and determinations that there is a statutory or regulatory bar to employment.

n. **Surplus Employee.** A current employee serving under an appointment in the competitive service as well as [an] excepted [service] employee[ ] in Schedule[ ] A [or] B in tenure group I or II, [and a title 38 employee serving on an appointment under 38 U.S.C. 7401(1)] who has received a CES or other certification issued by the agency which identifies the employee as being in an excess organization or occupation.

o. **Vacancy.** A competitive service position lasting 121 days or more including extensions, which is being filled, regardless of whether a specific vacancy announcement is issued.

p. **Vacancy Announcement.** The [notification to] eligible displaced and surplus employees in the local commuting area [that a facility is accepting applications. The announcement must] convey [ ] what is required to be [rated] "well-qualified."

q. **Well-Qualified Employee.** An eligible applicant who:

(1) Meets the qualification standard and eligibility requirements for the position, including any medical qualifications, suitability, and minimum educational and experience requirements;

(2) Meets all selective factors, where applicable, and appropriate quality [rating] factor levels. Selective and quality ranking factors cannot be so restrictive that they run counter to the goal of placing displaced employees. In the absence of selective and quality ranking factors, HRMOs, with appropriate consultation, will document the job-related reason(s) the eligible employee is or is not considered to be well-qualified;

(3) Is physically qualified, with reasonable accommodation where necessary, to perform the essential duties of the position;

(4) Meets any special qualifying condition(s) that OPM has approved for the position; and,

(5) Is able to satisfactorily perform the duties of the vacancy upon entry.

**NOTE:** *The qualification level required for placement under CTAP and ICTAP, well-qualified, is greater than the qualification level required for placement under reduction in force procedures, minimally qualified.*

**4. CAREER TRANSITION ASSISTANCE SERVICES.** These services are to be provided to VA employees who either have been or are likely to be separated from Federal service due to downsizing. The goal of such services is to assist VA employees in taking charge of their own careers by providing them with the support they need to find other job opportunities, either with government or in the private sector. In VA, under these procedures, transition assistance services will be available to impacted permanent title 5 competitive and excepted service employees as well as [to permanent] title 38 hybrid [and full title 38] employees. [ ] Special selection priority, when filling competitive service vacancies, will be available to displaced and surplus competitive service employees. A key feature of the CTAP is that employees must exercise individual initiative in pursuing other employment, both within and outside of the Federal government. Therefore, managers and supervisors, in their administration of the VA CTAP, should be sensitive to the needs of impacted employees and should approve requests for reasonable excused absence to use career transition services.

**5. SPECIFIC VA CAREER TRANSITION ASSISTANCE SERVICES.** Such services will be offered by facilities to all permanent competitive and non-time limited excepted service and Senior Executive Service employees affected by downsizing. These resources will assist employees in pursuing employment [either] within or outside the Federal government and in managing the change process.

a. **Required Services.** The following must be offered to impacted employees:

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- (1) Resume writing;
- (2) Interviewing skills/techniques;
- (3) Training in preparing applications that address vacancy announcement rating factors;
- (4) Skills assessment/counseling;
- (5) Retirement counseling/training;
- (6) Employee benefits counseling/training;
- (7) Financial planning/training;
- (8) Job search skills;
- (9) Stress management;
- (10) Basic library of job search materials;
- (11) Access to the OPM's USAJOBS [and VA's vacancy databases];
- (12) Training in the use of career transition services for employees, managers, supervisors and union representatives; and
- (13) Basic computer training beyond that needed to facilitate use of transition services.

**b. Other Requirements**

- (1) Employees will be allowed [a] reasonable [amount of] excused absence to use transition services and facilities.
- (2) Separated employees will be allowed reasonable access and time to use transition services and facilities.
- (3) Access to services will be provided to employees in field offices and remote sites and [to] those [employees] with disabilities.
- (4) Facilities will make full use of Employee Assistance Programs.
- (5) Facilities will provide employees with resource information on other forms of Federal, state, and local assistance which are available to support career transition[, including services] for employees with disabilities.

**c. Highly Desirable Services.** In addition to services which must be offered to affected employees are services which, although not required, [a facility may choose to offer to affected employees].

- (1) "Survivor training," and/or counseling, for those who will remain in the new organization to help them adjust to changes brought about by downsizing;
- (2) Team building;
- (3) Counseling for families of impacted employees;
- (4) [Orientation to] the new organizational structure; and
- (5) Job retraining where time and resources permit. This [may be] appropriate in [reorganizations where the total number of employees has reduced but staff] in some occupations will be increasing.

d. **Methods of Providing Services.** Career transition assistance services may be delivered in a variety of ways. Facilities may, for example, wish to pool resources for particular services. Facilities should contact organizations, both government and private sector, to learn what techniques and options are effective in the local area.

## 6. SPECIAL SELECTION PRIORITY FOR VA EMPLOYEES

a. Special selection priority means that an eligible "well-qualified" applicant (one who applies and meets [the] criteria under the VA CTAP) must be selected. Since [ ] displaced and surplus [VA] employees must apply for specific vacancies, it is therefore necessary that vacancy announcements be distributed so that they have an opportunity to apply. The VA CTAP is designed to maximize employment opportunities for displaced and surplus VA employees who, through no fault of their own, are adversely affected by VA restructuring and downsizing.

b. Surplus and displaced VA employees who apply for VA vacancies in their local commuting area at their current grade or a lower grade with no higher promotion potential than their current grade, and who are [ ] well-qualified for such position, must be selected. These employees are the first selection priority for VA vacancies. (See Order of Selection and Consideration in appendix IV-A.) **[NOTE: For hybrids and full title 38 employees in grades above the full performance level, their grades must be reviewed by an appropriate professional standards board. Their grades may be impacted by the level of responsibility and assignments in the new position. If an appropriate professional standards board determines that the new assignment is at or below the employee's current grade level, this eligibility requirement is met. This provision does not apply to physicians and dentists since they are in single grade positions.]**

(1) **Announcement of Vacancies.** The Plan depends on the announcement of vacancies in order that VA CTAP eligibles have the opportunity to apply. Vacancy announcements should be forwarded for appropriate distribution by HRMOs at other VA facilities in the local commuting area. In those instances where vacancies are not announced, e.g., in anticipation of a reassignment within the facility, if well-qualified eligibles apply in a timely manner, they must receive special selection priority. (See Appendix IV-A.)

(2) **Determining Well-Qualified.** The responsible HRMO, in consultation with subject matter experts, as required, will approve the determination of "well-qualified" for each eligible applicant under this program, using the criteria defined in paragraph 3. This official will also notify eligibles of a

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determination of "not well-qualified," and maintain documentation [in the record justifying] this determination.

(3) **Notification Procedures.** Employees will receive notification of their eligibility for special selection priority under this program with their specific notice of RIF separation, or in their CES or other certification issued by the agency which identifies the employee as being in an excess organization or occupation.

**7. REEMPLOYMENT PRIORITY CONSIDERATION FOR SEPARATED VA EMPLOYEES.**

VA employees who receive a specific RIF notice of separation will be notified that they may register for the **RPL**. Registrants receive reemployment priority consideration for positions in the local commuting area at the same grade or lower than the position held at the time of separation. Registrants do not have to re-apply for specific vacancies as [is] the case with current surplus and displaced employees. Neither must they meet the test of "well-qualified" [for reemployment]. Where there is more than one HRM office in the commuting area, the HRMOs will establish local procedures for [the] exchange of information and the maintenance of a consolidated RPL. All facilities in the commuting area are, consistent with 5 CFR, part 330, responsible for assuring RPL registrants receive reemployment priority consideration for all appropriate vacancies. If the selecting official tentatively nonselects appropriately referred RPL registrants, that official must obtain approval of the next higher level supervisor before considering candidates from outside the facility. [Title 5 r]registrants who were [ ] career-conditional [employees at the time of separation, and title 38 and hybrid employees who had not completed their probationary period at the time of separation] have 1 year of eligibility [on] the RPL[. Title 5 registrants] who were [ ] career [employees at the time of separation, and title 38 and hybrid employees who had completed their probationary period at the time of separation] have 2 years of eligibility [on the RPL].

**8. SPECIAL SELECTION PRIORITY FOR DISPLACED CURRENT OR FORMER EMPLOYEES FROM OTHER FEDERAL AGENCIES.**

Displaced current or former employees from other Federal agencies are entitled to have special selection priority under the **ICTAP** when they apply through [ ] OPM USAJOBS for VA vacancies at their current or former grade level or with no higher potential, and [are] within the local commuting area. VA facilities must place vacancies lasting 121 days or more on [ ] USAJOBS whenever they decide to recruit outside VA. These employees or former employees who are determined to be well-qualified must be selected prior to the selection of reinstatement eligibles, transfer eligibles, [eligibles] from a civil service certificate [ ] or [eligibles] from other competitive sources. Such employees or former employees have eligibility for 1 year following separation under reduction-in-force procedures. They will be informed of the [ICTAP] procedures [ ] and their eligibility for [the program] when they receive their specific notices of separation.

**9. LABOR RELATIONS RESPONSIBILITY.** Career transition procedures have been developed in partnership with VA unions. These policies and procedures are not intended to affect existing collective bargaining agreements until such time as they are up for renegotiation. The parties to such agreements, however, are free to negotiate those provisions that may be affected. Local management shall meet its labor-management obligations at the local level prior to implementation of local CTAPs.

**10. EMPLOYEE RELATIONS RESPONSIBILITIES AND RIGHTS.** Employees must exercise individual initiative in pursuing other employment both within and outside the Federal government. In order to exercise special selection priority, eligible individuals must apply for specific vacancies in

which they are interested [and provide] proof of their eligibility. A determination of ["well-qualified" or] "not well-qualified" is subject to a qualification review by the responsible HRMO[, as follows:

a. Surplus and displaced employees who apply for specific vacancies within the local commuting area, through CTAP or ICTAP procedures, must be advised in writing whether or not they were found well-qualified. When a surplus or displaced employee applying for a specific position is not found well-qualified the responsible HRMO must ensure that a documented, independent second review is conducted. If the employee is still found to be not well qualified after the second review, the responsible HRMO must notify the employee and include information on the results of the independent, second review.

b. If an applicant is found well-qualified, and another well-qualified surplus or displaced employee is selected, the applicant must be so advised by the responsible HRMO.]



## CHAPTER 3. TITLE 38 ASSIGNMENTS, REASSIGNMENTS, DETAILS, AND FURLOUGHS

### SECTION A. GENERAL

#### 1. SCOPE

a. Except as provided in subparagraph [1b], this chapter establishes procedures on:

[(1)] Assignments, reassignments, [details,] and furloughs of employees appointed under title 38, U.S.C. 7306 [and] 7401(1) [ ]; and

[(2)] Assignments of hybrid title 38 employees appointed under 38 U.S.C. 7401(3).

b. This chapter does not apply to:

(1) Transfers for performance or conduct under 38 U.S.C. 7461. (See VA Directive and Handbook 5021.)

(2) Separation of employees who fail to accept a properly directed transfer or reassignment based on disciplinary or performance reasons. (See VA Directive and Handbook 5021.)

(3) Furlough and RIF (including incident reassignments) of hybrid employees appointed under 38 U.S.C. 7401(3) [and RIFs of title 38 employees appointed under 7401(1)]. (See chapter 2, this part.)

[ ]

#### 2. REFERENCES

a. "PAID Personnel Operating Instructions," VA Manual MP-6, Part V, Supplement 1.5.

b. Title 38 U.S.C., Chapters 73 and 74.

c. VA Directive 5005.

#### 3. DEFINITIONS

a. **Assignment.** An assignment is a specified set of duties and responsibilities.

b. **Detail.** A detail is the temporary assignment of an employee to a different set of duties for a specified period of time. There is no formal position change; officially, employees continue to hold the position from which they were detailed and keep the same status and pay.

c. **Employee.** Unless otherwise specified, the term refers to employees covered by this handbook.

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d. **Furlough.** Placement of an employee in a temporary status without duties or pay because of a lack of work, funds, or other nondisciplinary reasons. Furloughs may be consecutive or non-consecutive days.

e. **Reassignment.** Reassignment is the temporary or permanent change:

(1) From one assignment to another under the same facility management involving an official personnel action (the reassignment need not be in the same commuting area); or

(2) From one assignment to another for reasons other than performance or conduct and involving different facilities.

[f.] **Transfer.** The movement of an employee from one facility to another for performance or conduct reasons pursuant to 38 U.S.C. 7461.

[NOTE: See Appendix IV-E for additional definitions.]

#### **4. POLICY**

a. The authorities covered by this handbook are management tools which are to be used to assist in [providing] quality health care services in a cost efficient manner.

b. Efforts will be made to mitigate the adverse effects of [the] authorities covered by this handbook. However, primary consideration will be given to the efficient and effective accomplishment of the VA mission.

c. Approving officials will make maximum use of an employee's skills and capabilities[,] provide employees with opportunities for growth and development[,] and consider any personal problems of affected employees.

d. Employees will only be assigned duties and responsibilities for which they have appropriate credentials and there is a reasonable expectation that they will be able to perform satisfactorily.

e. Reassignments or changes of assignments requested by employees for their own convenience will normally be given favorable consideration when consistent with the needs of VHA.

f. Management officials are responsible for meeting [ ] their labor relations obligations[.] This includes, but is not limited to, [developing] and implementing [local policies and procedures.]

**SECTION B. ASSIGNMENTS, REASSIGNMENTS AND DETAILS**

**1. CHANGES OF ASSIGNMENTS OTHER THAN REASSIGNMENTS.** Bargaining unit employees dissatisfied with changes in assignments may grieve the assignment under the negotiated grievance procedure. [Title 38 employees are permitted to grieve the assignment only to the extent consistent with 38 U.S.C. 7422.] Other employees may grieve using the following procedures:

- a. The employee may discuss the dissatisfaction with the official who approved the change.
- b. If the employee feels that the explanation given is not satisfactory, the employee may discuss the change of duty assignment with the next level supervisor, or their designee.
- c. After giving full consideration to the employee's reasons for dissatisfaction, the second level supervisor will advise the employee of the final decision.

**NOTE:** *Bargaining unit and non-bargaining unit employees may not grieve changes in assignments under the agency grievance procedure. See VA Handbook 5021, Part IV, Chapter 3, Paragraph 16x which excludes from coverage "all matters for which review procedures are already established in VA policy."*

**2. REASSIGNMENTS**

a. **Approval.** Officials are authorized to effect the reassignment of employees in positions over which they have personnel management approval authority. Reassignments are to be processed in accordance with VA Manual MP-6, Part V, Supplement No. 1.5.

**b. Reassignments [Related to Staff Reductions]**

(1) **Reassignments Within a Facility (and the Same Commuting Area).** Employees dissatisfied with reassignments within a facility (and the same commuting area), may express their dissatisfaction using the procedures in paragraph 1 above. If multiple labor agreements are involved, employees are to grieve under the procedures covering the position from which the employee is being reassigned.

(2) **Involuntary Reassignments Outside the Commuting Area or to Another VA Facility.** Employees shall be given a minimum of 30 days advance written notice. The notice should include:

- (a) The reason for the reassignment.
- (b) Information about the specific assignment, location and proposed effective date.
- (c) A statement that employees may express their dissatisfaction through their negotiated grievance procedures or the grievance procedures in VA Directive and Handbook 5021. [Title 38 employees are permitted to grieve the reassignment only to the extent consistent with 38 U.S.C. 7422].

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**NOTE:** *If a grievance is filed, the approving official may delay the reassignment until the grievance is resolved.*

(d) Notice that employees have an opportunity to accept or decline the reassignment. This includes advising employees when and where their decision is to be submitted.

(e) Notice that a declination or failure to make an election may result in separation.

(3) **Declination of Reassignment or Failure to Make Election.** Separations for declination of reassignment or failure to make an election will be effected in accordance with the notice procedures in VA Directive and Handbook 5021.

**NOTE:** *The specific advance notice in this chapter meets the 30 day notice requirement in VA Directive and Handbook 5021. Employees are not entitled to another 30 days notice prior to separation.*

[ ]

**3. DETAILS**

a. Details will be limited to the shortest amount of time possible.

b. Employees may be detailed to other assignments at their facility and to other VA facilities.

c. If a temporary reassignment rather than detail could benefit an employee (e.g., re[-]computation of basic or [other] pay), consideration should be given to temporarily reassigning an employee to the position.

**NOTE:** *For instructions concerning interagency details and interagency loans and for temporary assignments under the Intergovernmental Personnel Act of 1970, see part III of this handbook.*

d. Any detail in excess of 30 days will be documented in accordance with the provisions of OPM's Processing Personnel Actions Handbook and MP-6, Part V, Supplement 1.5, [Chapter 3 and Appendix C].

e. Employees dissatisfied with a detail may express their dissatisfaction using the procedures outlined in paragraph 1 of this section.

**SECTION [C]. TITLE 38 FURLOUGHS**

**1. FURLOUGHS OF 30 DAYS OR LESS.** [Title 38 employees appointed under the authority of 38 U.S.C. 7401(1),] may be furloughed for 30 calendar days or less based on an assessment of which assignments will be most critical to the continuing operations of the organization during the period of furlough. [(For furloughs of 30 days or less for title 5 and hybrid title 38 employees see Chapter 2, Section F of this part)].

**2. FURLOUGHS OF MORE THAN 30 DAYS.** [Title 38 employees appointed under the authority of 38 U.S.C. 7401(1),] shall be identified for furloughs for more than 30 calendar days in accordance with the procedures for identifying employees for [reduction in force]. (See chapter 2, section F, paragraph 3, [this part]. [(For furloughs of more than 30 days for title 5 and hybrid title 38 employees see Chapter 2, Section F of this part.)])

**3. LENGTH OF NOTICE PERIOD**

a. Whenever possible, employees will be given 30 calendar days advance written notice.

b. This notice period may be shortened or waived only in the event of circumstances not controllable by Department officials, such as sudden emergencies requiring immediate curtailment of activities.

**4. CONTENTS OF NOTICE.** The written notice shall advise the employee of:

a. The reason(s) for the furlough.

b. The effective date(s) and expected duration of the furlough.

c. The basis for identifying the employees to be furloughed when only some of the employees in an organizational unit are to be furloughed.

d. The circumstances which warrant waiver of the 30 day notice requirement, if applicable.

e. The place where the employee may inspect the applicable regulations and records.

f. The employee's right to appeal. (See paragraph 5.)

g. Any effects of the furlough on the employee's entitlement to retirement, life and health insurance, or any other benefits.

**5. APPEALS[.]** Bargaining unit employees whose furloughs are approved by the Under Secretary for Health may express their dissatisfaction through applicable negotiated grievance procedures. [Title 38 employees are permitted to grieve the furlough only to the extent consistent with 38 U.S.C. 7422]. Employees not [in a bargaining unit] may express their dissatisfaction using the procedures [in VA Directive and Handbook 5021, except that employees appointed under 38 U.S.C. 7401(1) may request a hearing and the scope of the grievance shall be limited to application of the appropriate procedures].

[ ]

**6. RECORDS OF FURLOUGH ACTIONS.** All records of furlough actions shall be retained at least [6] years from the effective date or until any appeal has been resolved, whichever is later.

**APPENDIX A.**  
**TITLE 5 SELECTION REQUIREMENTS IMPOSED BY THE**  
**REEMPLOYMENT PRIORITY LIST, VA CAREER TRANSITION ASSISTANCE PLAN**  
**AND INTERAGENCY CAREER TRANSITION ASSISTANCE PLAN**

**1. ORDER OF SELECTION AND CONSIDERATION.** The following is to be used when filling a competitive service vacancy under the RPL, (5 CFR, part 330, subpart B), the VA CTAP, [(5 CFR, part 330, subpart F),] and the ICTAP, (5 CFR, part 330, subpart G).

- a. Selection of a displaced or surplus VA employee in the local commuting area, who applies within the prescribed timeframe for a vacancy at the same or lower grade with the same promotion potential and is determined to be well-qualified, then;
- b. Consideration of a qualified employee from within the facility under the Priority Placement Program (PPP) for employees in retained grade or pay status (see appendix III-F of this handbook) and any facility-wide special placement programs, then;
- c. Consideration of qualified RPL registrants in the local commuting area, then;
- d. Selection of any qualified current VA employee from within or outside of the facility, then;
- e. Selection of a current or former well-qualified displaced Federal employee from another agency in the local commuting area who applies within the prescribed timeframe under the ICTAP, then;
- f. Selection of any other candidate from outside of the agency, including selection from a Federal certificate of eligibles, a reinstatement eligible, a transfer from another agency, a noncompetitive appointment, such as under the Outstanding Scholar Provision of the Luevano Consent Decree, or any other routine competitive staffing action.

**2. SELECTION ACTIONS OF VA EMPLOYEES NOT RESTRICTED BY 5 CFR, PART 330, SUBPART F**

- a. Placement of an agency employee through reassignment, change to lower grade, or promotion when no employees eligible under [5 CFR, part 330, subpart F] apply;
- b. Reemployment of a former agency employee exercising regulatory or statutory reemployment rights;
- c. Position changes resulting from [ ] disciplinary [actions];
- d. Temporary appointments of under 121 days (including extensions);
- e. Exchange of positions between or among agency employees, when the actions involve no increase in grade or promotion potential;

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- f. Conversion of an employee on an excepted appointment which confers eligibility for noncompetitive conversion into the competitive service;
- g. Placement activities under 5 CFR, part 351;
- h. Placement of an employee into a new position as a result of a reorganization, when the former position ceases to exist, and no actual vacancy results;
- i. Placements made under the Intergovernmental Personnel Act (IPA) as provided in 5 CFR, part 334, where they are for critical situations and where the failure to make the assignment would substantially harm Federal interests, such as providing training for State takeover of a Federal program;
- j. The filling of a position through an excepted appointment;
- k. Details;
- l. Time-limited promotions of under [121] days;
- m. Noncompetitive movement of surplus [or] displaced employees;
- n. Movement of excepted service employees within an agency;
- o. A placement under 5 U.S.C. 8337 or 8451 to allow continued employment of an employee who has become unable to provide useful and efficient service in his or her current position because of a medical condition;
- p. A placement that is a "reasonable offer" as defined in 5 U.S.C. 8336(d) and 8414(b);
- q. Career-ladder promotions; [ ]
- r. Recall of seasonal employees from non[-]pay status[; and
- s. Other exclusions listed in 5 CFR 330.606(d).]

**3. SELECTION ACTIONS OF NON-VA APPLICANTS NOT RESTRICTED BY 5 CFR, PART 330, SUBPART G**

- a. Selections from VA's CTAP or RPL as described in 5 CFR, part 330, subparts F and B, or any other internal movement of current VA employees;
- b. Appointments of [10 point veteran preference eligibles (CP, CPS, and XP), if reached through an appropriate appointing authority];
- c. Reemployment of former VA employees who have regulatory or statutory reemployment rights;
- d. Temporary appointments of under [121] days;

- e. An action taken under 5 CFR, part 351;
- f. The filling of a position by an excepted appointment;
- g. Conversions of employees on excepted appointments that confer eligibility for noncompetitive conversion into the competitive service;
- h. Noncompetitive movement of displaced employees between agencies [ ] as a result of [interagency] reorganization[, ] transfer of function[, or mass transfer;]
- i. Placement of injured workers receiving workers compensation benefits[; and
- j. Other exclusions listed in 5 CFR 330.705(c).]



**APPENDIX B.**  
**VHA RIF DELEGATION OF AUTHORITY (RCN 10-96-1)**

**1. BACKGROUND.** VHA is committed to maintaining a stable workforce through such measures as forecasting workload accurately, estimating turnover and attrition rates, and analyzing local labor markets. It remains VHA's goal to manage the size and composition of its workforce pro-actively, utilizing reduction-in-force (RIF) procedures where alternative approaches do not reasonably appear to be able to achieve management goals or ensure effective use of scarce resources.

**2. DELEGATION.** In order to enable local management to utilize their human and financial resources most effectively, and to take advantage of opportunities to re-engineer and streamline work processes and organizational structures, the Under Secretary for Health has delegated to network directors and to facility directors the authority to conduct RIF procedures and effect reassignment, change-to-lower grade, and separation actions for title 5 employees in non-centralized positions. Network and facility directors will exercise this delegation consistent with the procedures set forth in 5 CFR, part 351, and part IV of this handbook. RIF actions demoting, separating, or adversely affecting employees in centralized positions [and in title 38 and hybrid positions] will be approved in VHA.

**3. RESPONSIBILITIES**

a. **Labor-Management.** Directors should work with their [local labor organizations] in planning and executing RIF procedures.

b. **Procedures.** Facilities wishing to conduct a RIF should identify the universe of positions to be eliminated by position title, occupational series and grade level, together with a brief explanation of the basis for the action. This could include such bases as elimination of services, consolidation of services or functions between two or more facilities, re-allocation of workload, review of staffing or staffing mixes, etc. This listing should be forwarded to the Assistant Deputy Under Secretary for Health [(ADUSH)], through the Network Director as early as possible, but not less than 14 days before specific notices are given to individual employees.

c. **Career Transition Assistance.** Facilities planning to effect downsizing or streamlining through the use of RIF procedures must establish career transition assistance services consistent with VA and Federal government policies, as soon as possible. An outline of the plans for such services should be forwarded to the [(ADUSH)] as they are developed.

d. **Title 38 Personnel.** The RIF procedures defined in this appendix [also] apply to [ ] title 38 personnel appointed under section 7401(1) [and to hybrid personnel appointed under 7401(3)]. If facility directors wish to implement [staff reductions] involving title 38 [and hybrid] employees appointed under [ ] these authorities, they may do so [only after consulting with the ADUSH before any actions are taken].

**4. REPORT.** OMB has required that VHA track several specific items related to the RIF process [ ] for future budget submissions. Facility directors must ensure that they develop systems which will identify, track, and report the information required on a one-time basis, within 90 days following completion of

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RIF procedures. This information should be submitted through the Network office. It will be aggregated in VHA Central Office, and reported to OMB. Reports Control Number (RCN) 10-96-1 is assigned to this report. The categories required are:

(1) Full cost of implementation of the RIF including cost of:

(a) Grade and pay retention;

(b) Severance pay;

(c) Lump-sum terminal annual leave;

(d) Unemployment compensation;

(e) Out-placement services;

(f) Personnel processing; and

(g) Grievances and appeals.

(2) Projected costs associated with the changes to the mix of occupations and personnel, and actual costs based on average salary once RIFs have been fully implemented.

(3) Projected long-term savings associated with the final structure of the organizations affected by the RIF, including measures for efficiencies realized under the new structure.

**APPENDIX C. VHA DELEGATION OF AUTHORITY  
TO REDEFINE COMPETITIVE AREAS**

**1. DELEGATION.** The Under Secretary for Health has delegated the authority to redefine competitive areas for organizations under their jurisdiction to network directors, with the advice and assistance of the office of the Deputy Assistant Secretary for Human Resources Management [ ] (059). Such redefinitions must be fully justified and documented to ensure that such action is clearly in the best interest of VA.

**2. RESTRICTIONS.** When management establishes or changes competitive areas:

- a. Descriptions of the areas must be readily available for review by employees and OPM.
- b. Such actions must be taken at least 90 days prior to [the effective date of the] RIF.
- c. If such actions are contemplated within 90 days of [the effective date of the] RIF, OPM must approve.

**NOTE:** *Guidance concerning establishment of new competitive areas may be found [in Section B, Chapter 2, this part].*

**3. REDELEGATION.** This authority may not be re[-]delegated.



## [APPENDIX D.]

**ESTABLISHING COMPETITIVE LEVELS FOR POSITIONS FILLED  
UNDER 38 U.S.C. 7401(1)**

**1. GENERAL.** The guidance in this appendix should be reviewed by the Human Resources (HR) staff and other appropriate subject-matter-experts (SME) when establishing competitive levels (CL) for physicians, dentists, expanded function dental auxiliaries, registered nurses, nurse anesthetists, podiatrists, optometrists, and chiropractors.

**2. FACILITY RESPONSIBILITY.** As with title 5 and hybrid title 38 positions, each facility shall establish competitive levels for title 38 positions following the basic criteria found in 5 CFR 351.403 and Chapter 2, Section C, paragraph 1, this part.

**3. COMPETITIVE LEVELS.** A competitive level will consist of all positions in a competitive area which are in the same grade and occupational series, and which are similar in duties, responsibilities, and working conditions so that the facility may reassign the incumbent of one position to any of the other positions in the CL without undue interruption.

**4. UNDUE INTERRUPTION.** Undue interruption is defined as a degree of interruption that would prevent the completion of required work by the employee, generally 90 days after the employee has been placed in a different position. However, the appropriateness of measuring undue interruption in a 90-day time frame should be considered in the context of the pressures, priorities, deadlines, and other demands made on individual health care provider positions in the provision of health care to Veteran patients, and the privileges, scopes of practice, competencies, skills, training, education, and experience required by the position to provide uncompromised health care to patients presenting with specific health care needs. Positions should not be placed in a competitive level on the basis of any employee's *personal* qualifications, conduct, or performance levels but rather on the requirements of the position.

**5. CONSULTING WITH SUBJECT MATTER EXPERTS.** In addition to reviewing the documents that describe the assignments, responsibilities, qualifications, and competencies required of the position, HR staff should consult with SMEs when establishing and describing competitive levels as well as before placing employees on the appropriate levels.

**6. ESTABLISHING COMPETITIVE LEVELS FOR TITLE 38 STAFF**

a. **Registered Nurses.** Competitive levels for Registered Nurses (RN) should be established considering the basic CL criteria, including RN pay levels: Nurse I, II, III, IV, and V. RNs have functional statements (FS) rather than more detailed position descriptions (PD). The position information included in the FS may or may not be sufficient to determine whether similarly titled and graded positions should be placed on the same or a different CL.

Example 1. A facility has two RNs, both Nurse III, working in Ambulatory Care. According to the functional statement, one RN, A, coordinates clinical projects; supports occupational health and employee health programs; supports clinical programs in an outpatient setting; assesses the physical and psychosocial health and illness status of individuals; and acts as a case manager. The FS of the other

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RN, B, states that the RN is an Eye Clinic nurse who assists in evaluating and treating macular degeneration patients; makes appointments for medical clearance; performs intravenous injections; administers ophthalmic and general medications; and conducts diagnostic procedures such as basic visual screening, field measurement, and medical photography.

These two positions have the same title, occupational series, and grade, and are located in the same service. But the duties and the responsibilities of the positions appear different enough to warrant placement in different CLs. An argument could be made, however, that if Nurse A and B changed positions, one could learn the job of the other within 90 days and there would not be any undue interruption in patient care. Thus both positions would be on the same CL. It might also be possible that Nurse A could perform the duties of Nurse B within 90 days but Nurse B might not be able to perform the duties of Nurse A within 90 days. This scenario would require placement on different CLs. Communication with immediate supervisors, second level supervisors and/or the Ambulatory Care Chief is critical for the correct CL determination to be made.

Example 2. Two Nurse Managers both work in Patient Care Services. The FS for each position states that both RNs manage a nursing clinical area, demonstrate leadership through collaborative strategies with others, and evaluate the care delivered by nursing and other allied staff. However, RN A is a Nurse II and RN B is a Nurse III. Even though A and B have the same title, occupational series, and duties, they must be placed on different CLs because their pay grades are different.

Example 3. Two RNs, both Nurse II, are organizationally located in the surgical department and are assigned to the Surgical Intensive Care Unit. According to their FSs, they both care for patients who have had vascular, orthopedic, abdominal, or urological surgery. The geriatric patients may present with chronic medical conditions, changes in mental status, or functional decline. Given the identical titles, occupational series, pay levels, organizational location and work assignments as described in the functional statements, the two RNs should be placed on the same competitive level.

**b. Advanced Practice Nurses.** Nurse Practitioners and Clinical Nurse Specialists are Advanced Practice Nurses (APN) who are masters degree-prepared registered nurses who also possess advanced clinical certification. They function within a scope of practice (SOP), rather than a position description, commensurate with their training, experience, and licensure. An APN functions autonomously within her or his own defined SOP in a variety of settings, such as hospital inpatient, outpatient clinics, nursing home, domiciliary, or patient's home. Competitive levels should be established using the basic CL criteria, including APN pay levels: Nurse I, II, III, IV, and V.

Example 1. APNs A and B are assigned to the Primary Practice Group (PPG) clinics within Ambulatory Care, functioning as Adult Nurse Practitioners. Their scopes of practice indicate they perform identical assignments and have identical responsibilities. If they are both Nurse III, they should be placed on the same CL; if A is Nurse III and B is Nurse IV, they should be on separate CLs.

APN C is also an Adult Nurse Practitioner assigned to an outpatient clinic in Ambulatory Care. The SOP indicates that C's assignments and responsibilities are identical to A's and B's, with one exception: C is not responsible for drawing venous blood specimens for testing, as are A and B. Considering that C's 16 functions are identical to A's and B's, is the omission of drawing blood from C's scope an

oversight? If so, depending on C's pay level, C should be placed on the same CL as A and/or B. If the function of drawing blood is not an oversight from C's SOP, could C perform the function of drawing blood without undue interruption in patient care? If yes, C should be placed on the same CL as A or B. If no, C should be on a CL separate from A and B. The HR Specialist should discuss the performance of the function with C's first or second level supervisor or the chief of Ambulatory Care to assure C's placement on the proper CL.

Ambulatory Care has another APN, D, functioning as an Adult Nurse Practitioner. D is assigned to the Occupational Health Clinic and is responsible for providing care to facility employees. Although APN D's patients are employees rather than inpatients or outpatients, D's SOP lists assignments almost identical to A's, B's, and C's, with two exceptions. D also conducts pulmonary function tests and irrigates eyes to remove foreign bodies. To determine if D should be placed on the same CL as A or B or C, or on a different CL, information should be obtained from the supervisor or Ambulatory Care chief whose judgment is needed to determine if there would be undue interruption in patient care if A or B or C were placed on the same CL as D.

Example 2. The facility has three APNs: A, a Gerontology Nurse Practitioner assigned to Primary Care and Cardiology clinics in Medical Service; B, an Adult Nurse Practitioner assigned to a clinic in Radiation Oncology Service; and C, a Clinical Nurse Specialist assigned to the Adult Psychiatric & Mental Health clinic in the Mental Health & Behavioral Sciences Service. All are Nurse III.

The scope of practice for the three APNs list 20 functions an APN may perform. A, B, and C have five functions in common: documenting diagnoses and plans of care, initiating medication orders, initiating consults and referrals, ordering laboratory tests, and ordering other procedures as required. A and B also take and document histories; interpret test results; and order diet, oxygen, and non-pharmaceutical therapies. Additionally, A serves as a primary care provider; writes admission orders and discharge summaries; orders and administers Mantoux tests; obtains informed consents; and conducts exercise stress tests; while B also prescribes controlled substances; diagnoses and assesses patients on radiation therapy; and designs and conducts research projects.

After reviewing the three SOPs, it would seem that APN C should be on a CL separate from A and B because C's assignments are significantly different from those of A and B. While A and B perform many similar functions, the different functions they each perform may lead to a determination that A and B should also be on separate competitive levels. Supervisory input is needed to determine if interchanging A and B would cause undue interruption in patient care and also if different skills and competencies are sought when recruiting.

c. **Physician Assistants.** Physician Assistants (PA) provide diagnostic and therapeutic care and services under the guidance of a physician. Competitive levels should be established using the basic CL criteria, including PA pay levels: associate grade, full grade, intermediate grade, senior grade, and chief grade. A PA does not have a position description; the assignment is based on a Scope of Practice. The scope usually divides the PA's assignments into four categories: routine, emergency, non-routine/non-emergency, and additional duties. Scopes should be carefully reviewed before establishing competitive levels and placing incumbents on those levels.

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Example 1. Physician Assistant A is a full grade PA assigned to the Nursing Home Care Unit in the Extended Care Service. PA B is also assigned to the Nursing Home Care Unit but is an intermediate grade. PA C is an intermediate grade but assigned to the General Internal Medicine Unit in Medical Service.

Included in PA A's scope are such functions as initiating consultations, ordering laboratory tests, incision drainage, wound care, suturing, urethral catheterization, nasogastric intubation, administration of oxygen, start IV line, participate in case conferences and data gathering, precept training of PA students, and develop and implement patient education programs.

PA B performs many of the same functions as A but does not initiate consults, order lab tests, suture or intubate. B's scope and overall assignments may not appear to be significantly different from A's, but a better understanding of these functions should be obtained from a supervisor or service chief to determine the degree of undue interruption that could occur should A and B be interchanged. However, because A is a full grade and B is an intermediate grade requiring placement on separate competitive levels, there is no need to determine the degree of undue interruption.

PA C more routinely performs many of the same functions as A and B, including ordering diagnostic tests, inserting nasogastric tubes and urinary catheters, ordering medications and starting IVs, initiating consults and making daily rounds, educating patients and teaching healthcare students, and participating in case conferences. C also carries out such assignments as ordering arterial blood gases, writing discharge orders, ordering restraints, and participating in research.

Being assigned to Medical Service would not preclude C from being placed on the same CL as B, who is in Extended Care, as long as their pay grades were the same, which they are, and as long as their duties and the qualifications for their positions were sufficiently similar so as not to cause undue interruption were B and C to be interchanged. Since B and C are in different services additional information would have to be obtained from supervisors and chiefs from each of the two services involved.

Example 2. Physician Assistants A, B, and C are all assigned to the Healthy Aging Recovery Program (HARP) in Mental Health and Behavioral Sciences. Their SOPs indicate all three perform identical routine, non-routine/non-emergency, emergency, and additional duties. Additionally, A spends one day a week assigned to the Acute Inpatient Psychiatry Unit, B spends one day a week assigned to the Center for Outreach and Empowerment Residential Program, and C spends one day a week assigned to the unit for the Seriously Mentally Ill. Although these PAs spend 20% of their time assigned to different units, their SOPs do not indicate they perform any different duties. It, therefore, appears that A, B, and C should be on the same competitive level. Even if A, B, or C, or their supervisor or service chief proposed to make a case that the three PAs were not interchangeable because of their different additional assignments, the written documentation, the SOP, does not support such an argument.

Example 3. Physician Assistant A is assigned to the Orthopaedic Section of Surgical Service. PA B, also in Surgical Service, is assigned to the Urology Section. Both A and B perform identical routine duties but their non-routine/non-emergency duties are different. According to the SOP, A performs knee, ankle, and shoulder arthrocentesis, and applies casts and skeletal and skin traction. B does not;

B's SOP indicates that the PA dilates urethral structures and residuals, inserts and removes Foley catheters, assists in patient lithotripter services, performs microscopic urine screens, draws blood for arterial blood gases, and performs bladder irrigations.

Based on the differences in the SOP, it appears that one PA probably would not perform the duties of the other PA without undue interruption in patient care. But, unless the HR Specialist is knowledgeable about the performance of, and time frame required to learn, the different non-routine/non-emergency functions, input from an SME must be sought to insure the placement of the positions on the correct CL.

d. **Physicians.** Like other title 38 employees, physicians do not have position descriptions, nor are their assignments outlined in a functional statement or a scope of practice. Physicians instead provide information which shows the specialty/subspecialty in which the employee is certified, experienced, or trained, the employee's core clinical privileges, and the special privileges and procedures requested by the employee and granted by the approving official. Each facility uses locally-developed formats for requesting this information, but regardless of the format, this privileging document, along with the basic criteria for establishing competitive levels, should be reviewed thoroughly before placing a physician on a CL.

The base pay grades for physicians (associate through director grades) have been eliminated and replaced with a single physician grade. Within the physician grade, physicians may be placed in one of four tiers which recognize different levels of responsibility. These responsibilities must be considered when establishing competitive levels.

Example 1. Four physicians, A, B, C, and D, have been granted core clinical privileges in Internal Medicine (IM). Physician A's privileging form shows he also specializes in Rheumatology and is authorized to perform Arthrocentesis, but does not have core clinical privileges in Rheumatology. In addition to IM, B is specialized in Geriatrics, is authorized to perform hyperalimentation and to insert internal jugular and subclavian venous catheters, but does not have Geriatric core clinical privileges. Physician C does not have additional core clinical privileges but is authorized to work in the Emergency Room, which requires advanced certification in life support (ACLS). D has additional core clinical privileges in Gynecological Family Practice.

Because D is the only physician with additional core clinical privileges, he probably should be placed on a CL separate from A, B, and C. Although they do not have additional specialty core privileges, A, B, and C each have one or two additional privileges or procedures. Are these differences sufficient to warrant the placement of each on a separate CL? Could the competencies needed to perform these additional privileges be learned, and authority to perform them obtained, without any undue interruption in patient care?

A fifth Physician, E, also lists specialties of Internal Medicine and Geriatrics but does not have core privileges in either, but instead has core clinical privileges in Long Term Care which authorizes her to treat general medical problems. She is not authorized any additional privileges or procedures. Based on a review of the privileging forms, A, B, C, and D may be able to perform E's assignments without undue interruption, but the reverse may not be true, thus requiring E to be placed on a separate CL.

## PART IV

## APPENDIX D

HR staff should consult with the appropriate service chiefs to clarify the additional privileges and procedures possessed by A, B, and C, and to determine if one, two, or three additional CLs must be established. The competitive level(s) established must be clearly defined and documented in terms of assignments and qualifications required to perform those assignments in order to justify why an employee was placed on one level and not another.

Example 2. Physicians A, B, C and D are all board certified in Internal Medicine, yet none of the four have core clinical privileges in IM. They have core privileges in Endocrinology, Cardiology, Gastroenterology, and Hematology, respectively. Although consultation with their service chief should never be discounted, each of the four should be placed on separate competitive levels. It is unlikely that one could perform the assignment of the other without undue interruption in patient care.

Example 3. Physician A is board certified in General Surgery and Surgical Critical Care, has General Surgery core clinical privileges, and is authorized to perform the special procedures of laparoscopic surgery, bronchoscopy, and conscious sedation. B is board certified in Surgery and Thoracic Surgery and has Cardiothoracic core clinical privileges. C is also board certified in Surgery and is authorized to perform Vascular Surgery clinical procedures as well as transluminal angioplasty, endovascular aneurysm surgery, and carotid angioplasty and stenting. D, who is a Podiatrist, has Podiatry core clinical privileges which include performing ankle and foot surgery as well as anide arthroscopy. Physician E is a board certified Plastic Surgeon with an Otolaryngology subspecialty who has Plastic Surgery clinical procedures and is authorized to perform liposuction.

Although A, B, and C are board certified in Surgery, all three have core clinical privileges in different specialties, including different special procedures. Based on the information included in the privilege form, the three surgeons should be placed on different competitive levels, considering their different assignments and the different qualifications required to perform those assignments. The same is true of the Podiatrist, D, and the Plastic Surgeon, E. They both perform surgery but are certified in different specialties from each other and from A, B, and C, and have different core clinical procedures. Unless the chief of Surgery can justify that the surgical procedures performed by these five employees are interchangeable and would not cause undue interruption in patient care, all five should be placed on separate competitive levels, which must be described to clearly distinguish one level from another.

Example 4. Psychiatrists A, B, and C are all board certified in General Psychiatry and have Psychiatry core clinical privileges. Psychiatrist A is also certified in Clinical Psychopharmacology and has additional privileges in Long Term Care. Psychiatrist B has additional certifications in Addiction and Geriatric Psychiatry. Psychiatrist C does not have any additional certifications or privileges.

Although both A and B have additional certifications, and C does not, B and C have the same privileges, indicating the possibility of placing them on the same competitive level, and placing A on a separate CL because of her additional privileges. If, however, B and C are, in fact, given different patient assignments, and if one performs functions that the other can not perform because one possesses competencies and skills that the other does not have, and placing them on different CLs because of undue interruption is being considered, the differences in B's and C's assignments should be documented for the record and the CL definitions clearly distinguishable from each other.

e. **Dentists.** Like physicians, dentists do not have position descriptions, functional statements or scopes of practice. They are granted privileges after completing the Criteria & Privilege Request Form which delineates their certifications and training. The privileging form, the basic competitive level criteria, and input from supervisors should be considered before establishing CLs and placing employees on the levels.

The base pay grades for dentists (associate through director grades) have been eliminated and replaced with a single dentist grade. Within the dentist grade, dentists may be placed in one of four tiers which recognize different levels of responsibility. These responsibilities must be considered when establishing competitive levels.

Example. Dentist A has General Practice Dentistry core clinical privileges and Periodontics privileges, as well as authority to perform additional Periodontal special procedures. Dentist B has Oral Surgery core privileges including authority to perform additional Oral Surgery special procedures. Dentists C and D both have General Practice Dentistry core clinical privileges.

Three competitive levels should be established. One for the Oral Surgeon, one for the General Practice Dentist with Periodontics privileges, and one for the two General Practice Dentists, unless the Chief Dentist can document that C and D care for patients who present with significantly different problems, have acquired different skills and competencies, and therefore, cannot be interchanged without undue interruption in patient care.]