

Vietnam Veterans of America Guide to



Veterans' Preference

Veterans are given special considerations and advantages over other groups in applying for federal jobs.

Having said that, let us also say that preference does not guarantee you a job. Nor, really, does it make it easier for you to get a job with the federal government.

So what does Veterans' Preference do?

It provides you with a tool that – in combination with your own awareness, persistence and spunk – gives you an edge in selling yourself to government employers. It's always better to have cover in any undertaking; in this case, there are specific laws that spell out how you can present yourself to your best advantage, how you can remedy failures, and who is available to help you.

The *Vietnam Veterans of America Guide to Veterans' Preference* is meant as a resource to help you maximize your opportunities under the Veterans' Preference laws. We'll provide an overview of the process, pitfalls and means of redress, and connect you with resources to further assist you.

WHAT IS PREFERENCE?

As a veteran, the laws provide you with a preference in **hiring** and **retention**.

In hiring, eligible veterans can have up to five points added to your passing civil service examination score or register rating – and up to 10 points for disabled veterans or the spouse, widow or mother of a veteran in specific cases. Eligible veterans also may take advantage of certain civil service shortcuts that can place you in jobs without competition and with minimal red tape.

If you are currently a federal employee, you can receive a retention preference that protects your job in the event of a Reduction in Force (RIF) action. That means that if the agency that employs you wants to conduct lay-offs, it has to fire a non-veteran before you.

Before you can be retained or even fired, of course, you'd have to be hired, so let's start with an overview of the Veterans' Preference process.

JOBS IN THE FEDERAL GOVERNMENT

Jobs in the federal government fall into one of two categories: **Competitive Appointments** and **Excepted Service**.

Competitive Appointments, or civil service, require applicants to be pre-screened and ranked. This may require taking a civil service exam administered by an agency and passing with a score of 70 or better. It may mean that you will be ranked and registered based on the determinations of a Delegated Examining Authority hired to review resumes and refer eligible candidates for open government positions. Or it may mean an automated screening of your resume – the government jobs database uses Resumix, a

software system that searches keywords in your resume and matches them to the stated job requirements. (See “Resume Keywords,” below).

All these strategies are supposed to deliver the same result: the creation of a register or list of all eligible job candidates ranked in score order with preference-eligible veterans placed at top for easy picking.

And sometimes that happens.

The Veterans Preference Act of 1944 (Title 5, Unites States Code) provides for the **Rule of Three**: Hiring agencies are supposed to check their candidate lists and select the top three for serious consideration. Of the three, they must hire the preference-eligible veteran or have a really good reason not to. If there are several preference-eligible veterans, the agency can hire a lower-ranking veteran over a higher-ranking disabled veteran without justification.

Sometimes you get a free pass: Civil service exams for jobs as custodians, guards, elevator operators and messengers for Uncle Sam are reserved for preference-eligible veterans as long as such applicants are available.

But increasingly, standardized tests and eligible lists are being replaced with more subjective measures such as those used in the private sector, including resume screening and personal interviews. These methods are also used in hiring for **Excepted Service** positions, which are not subject to civil service laws or protections. Excepted positions have their own qualification requirements and are not bound by appointment, pay or classification rules set out in the Veterans Preference law (Title 5, US Code).

<p style="text-align: center;">SERVICE CREDIT</p> <p>Civil service positions are ranked by experience and pay level, from GS-1 to GS-15.</p> <p>Military service automatically qualifies you as GS-3 or its equivalent. Similarly, education can increase your civil service rank placement – and related salary level.</p>
--

Some federal agencies have both Competitive and Excepted positions, while some agencies – such as the Federal Bureau of Investigations (FBI), the Central Intelligence Agency (CIA) and the US Postal Service (USPS) -- have only Excepted positions.

As a job applicant you can apply for any position based on your talent and skills. If you want to utilize preference, it is up to you to understand, apply and claim your preference when seeking federal government employment.

Preferences also apply when you apply for state and municipal civil service positions. Check with your state’s Office of Veterans’ Affairs, the public library or with the veterans’ representative at your state employment service center for further information.

APPLYING HIRING PREFERENCE

Hiring preference applies to permanent and temporary positions in the Competitive and Excepted services of the executive branch. That means – sorry – preference won't help you get elected to Congress or gain a judicial seat (although they may apply to limited administrative positions in the legislative or judicial branches). Hiring preference doesn't apply to jobs in the Senior Executive Service or for positions that require Senate confirmation. Nor does it apply to promotions, transfers or any other competitions limited to status candidates – that is, current or former career or career-conditional federal employees.

VETERANS' ELIGIBILITY

Preference can add five points or 10 points to your ranking for Competitive Service positions. You are eligible for a five-point preference if you were honorably or generally discharged after serving in active duty in any branch of the military for at least 24 continuous months or the full period for which you were called to active duty -- providing that the time in which you served is an eligible time period, as follows:

- During a war, as declared as such by Congress including December 7, 1941 through July 1, 1955.
- During the Gulf War from August 2, 1990, through January 2, 1992.
- For more than 180 consecutive days, other than for training, any part of which occurred after January 31, 1955 and before October 15, 1976.
- In a campaign or expedition for which a campaign medal has been authorized, including Vietnam, El Salvador, Lebanon, Grenada, Panama, Somalia, Southwest Asia, Bosnia, Yugoslavia and Haiti.

Preference does not apply for those who have achieved ranks of major, lieutenant commander or higher. Tentative five-point preference may be given to veterans who are still in the service, under certain circumstances.

Disabled veterans aren't limited by time period constraints, but you do need to prove the extent of your disability to become eligible in one of three categories (**CP**, **CPS** or **XP**) as follows:

- **Compensable Disability Preference (CP)** - Have a compensable service-connected disability rating of at least 10 percent but less than 30 percent.
- **30 Percent Compensable Disability Preference (CPS)** - Have a compensable service-connected disability rating of 30 percent or more.
- **Disability Preference (XP)** - Have a present service-connected disability or be receiving compensation disability retirement benefits or pension from the military or the Department of Veterans Affairs (VA), although not qualifying as a CP or a CPS, or have received a Purple Heart.

Further, a 10-point derived preference is available to:

- The spouse of a veteran unable to work because of a service-connected disability.
- The unmarried widow of certain deceased veterans.

- The mother of a veteran who died in service or who is permanently and totally disabled.

DETERMINING YOUR PREFERENCE-ELIGIBLE STATUS

Not sure where you fit in? The Department of Labor (DOL) has an online quiz, “The Veterans Preference Advisor,” that will help you determine your preference-eligible status at <http://www.dol.gov/elaws/vetspref.htm> You can also check your status with a veteran’s representative at your state employment service center.

CLAIMING PREFERENCE

Once you know which preference you’re eligible for, you have to claim it. No surprise, but in the government you cannot receive a Veterans’ Preference if you don’t produce the proper documentation.

- Since preference must be claimed when you *apply* for a position, your resume is among the best weapons in your arsenal. Be sure to include a description of your service, including your rank, branch, affiliation, years served and location and nature of your service (See “Resume Keywords,” below). Claim your preference under your work experience. In lieu of a resume, you may complete form **OF-612**, “Optional Application for Federal Employment,” and indicate whether or not you are claiming a five-point or a 10-point Veterans’ Preference.

CITING PREFERENCE

Want to claim a preference on your resume?
Try this wording:

Veterans’ Preference: I am eligible for a five-point (or 10-point, if you are) Veterans’ Preference.

- You should provide copies of your discharge papers (**DD-214** or a “Statement of Service,”) and documentation of any medals or commendations you received.
- If you are a disabled veteran, you must provide documentation from the military or the VA that proves that you are certified as having a service-connected disability (at 10 percent or more), that you are receiving compensation for a service-connected disability, or that you were awarded the Purple Heart for wounds or injuries incurred during combat. If seeking to claim the 10-point preference you must additionally complete **SF 15**, “Application for a 10-Point Veterans’ Preference.” If you are applying for preference as a 30 percent disabled veteran, your paperwork must prove that you are disabled at 30 percent or more.
- For the spouse, widow or mother of a veteran seeking a derived preference, you’ll need to provide documentation from the military or the VA that proves that your related veteran has a service-connected disability, states the percentage of that disability, notes whether the veteran is considered by the agency as unemployable, and states whether the service-connected disability is considered permanent and total. Widows must produce the death certificate or official notice

of discharge under honorable conditions. Family members should also be prepared with marriage certificates and birth certificates to prove legal relation.

Military and VA documentation must have been issued within the 12 months prior to seeking the preference.

RESUME KEYWORDS

Resumix, the job applicant-tracking software used by USAJOBS and most federal agencies, enables job seekers and employers to conduct keyword searches. To maximize your employment chances, you need to include the nouns and short phrases that will match the descriptions of the government job you're seeking.

RESUME KEY WORDS

Improve the chances of your resume getting "hits" in a database search through the use of key words including:

Job Title
City or State
Veterans' Preference
Specific Industry Skills
Industry Buzzwords
Software names and versions
Hardware/Equipment names
Certificate Courses
Name of Schools Attended

If you're applying for a specific job, your resume should include as many of the same words used in the job posting as possible.

You only need one word to make a hit. If you find you're repeating a particular word try, varying your descriptions. For instance, "Accounting" and "Accounts Payable."

If you're mailing or faxing a hard copy resume, understand that this may be

scanned into the database, too. Use a sans serif font such as Arial; avoid using multiple typefaces, underlining, bolding or italics; and be sure to print on plain white paper.

SPECIAL HIRING AUTHORITIES

Congress created special hiring authorities, which are types of civil service shortcuts that let agencies hire you directly with minimal red tape: **VRA, 30 Percent Disabled** and **VEOA**.

Veterans Recruitment Appointment (VRA), formerly the Veterans Readjustment Appointment, was modified in 2002 to allow agencies to appoint veterans non-competitively. That means that if you qualify for a position up to GS -11 or its equivalent in the Competitive Service, you may be placed there through Excepted Appointment – that is, without competing. If you stay in that position and exhibit satisfactory performance for two years, you will be converted to a career conditional appointment in the Competitive Service and enjoy civil service protections and benefits. You can apply for jobs through VRA for 10 years from your separation from active duty.

So what's the catch?

It's up to you as an applicant for the position to request that the hiring agency employ you under VRA. The feds don't consider this an entitlement, so there is no guarantee that VRA will be used, and no means of redress if it's not used. And beware: if you are hired on a noncompetitive temporary or term appointment based on VRA eligibility, you *will not* be converted to a career conditional appointment – so be very clear on your status going into the job. Further, if two or more VRA applicants are preference eligible, the agency has to apply the Rule of Three and other preference requirements, thereby negating the effect of VRA.

Under another special hiring authority, veterans who are **30 percent or more disabled** can request a temporary appointment (60 days or less) or a term appointment (temporary, but not restricted in days) in a Competitive Service position. There are no restrictions on the type or grade of job you can hold. If you perform satisfactorily in this position, the agency may convert you at any time to a career conditional appointment. You need to request this preference from the personnel office of the agency you wish to work for, and be able to document that you are preference eligible (see "Claiming Preference," above).

DOES VRA WORK?

In 2001 the Office of Personnel Management (OPM) said that federal agencies hired more than 7,000 veterans under VRA.

Considering that each year there's a pool of transitioning and/or separated veterans estimated at 200,000, that works out to about 1.4 percent.

The **Veterans Employment Opportunities Act (VEOA)** of 1998 strengthened preference and enhanced recourse available to veterans who believe that their preference benefits have been violated.

If you were honorably discharged after at least three years of continuous active duty you can apply under VEOA for merit promotion positions that are open to candidates outside the agency. This enables you to compete as a non-federal employee against current federal employees in the civil service system. If selected, you will be given a career or a career conditional appointment.

The downside? You're competing entirely on merit and Veterans' Preference does not apply. As with any special hiring authority, the agency can decide to use VEOA or not, with little recourse available to you. Agencies can add conditions that limit outsiders' ability to compete, for instance, by only accepting applications from within the local commuting area. Veterans who are employed by the government in career status civil service positions or who are being reinstated are not eligible to apply under VEOA.

Does it work? In 2001, OPM reported that the number of VEOA appointments was 8,516 – still less than 2 percent of the estimated number of transitioning and/or separated

veterans each year but about double the number of appointments made in 2000 and significantly up from the 729 made in the act's first year, 1999.

OPM's website advises that if you are eligible for both preference and noncompetitive (VRA, VEOA) appointments, your best strategy is to apply through both channels.

PREFERENCE PLACEMENTS

About 90 percent of veterans employed under the special hiring authorities were placed in the Department of Defense or the VA.

RETENTION PREFERENCE

You're hired! Now -- how much job security do you have?

You can rest assured that you'll be ranked and listed and given extra credit for your military service. You'll have more security than most stateside customer call center reps, but the reality is that there's no absolute guarantee of a job, even in the federal government.

As a preference-eligible veteran, you will be ranked on retention registers by both job type and then by tenure, seniority, performance and Veterans' Preference subcategories -- one for those with a service-connected disability of 30 percent or more, and another for all other Veterans' Preference eligibles including derived preference. You'll outrank civilians on the retention register and have whatever advantage is derived when the agency cuts those who stand lowest on the register. If there's no way to hold onto your position, you are supposed to be offered the chance to take a lateral or lower position until another job opens up in your area/pay level. Despite the protections it is possible that you can lose your job, but as a preference-eligible veteran you would then be placed at the top of the list for re-employment.

If your federal job is eliminated while you are serving in the uniformed services, you are given certain job protections. If you served on active duty for more than 180 days, you may not be laid off for one year after your return. If you served for more than 30 but less than 181 days, you may not be laid off for six months after your return.

Further private and public sector job protection is offered by The Uniformed Services Employment and Reemployment Rights Act of 1994 (**USERRA**). The law provides that veterans returning after service can be re-employed in the job that they would have attained had they not been absent for military service, and given the same seniority, status and pay. Training may be made available if needed and alternative employment may be provided if you can no longer qualify for the same position. Employers are required to offer health care coverage for up to 18 months during your leave for military service, although you may be asked to pay the premiums.

COMPLAINTS AND REMEDIES

Your first line of redress is at the agency level. Any preference-eligible veteran who is passed over on a list of eligibles is entitled, upon written request, to a copy of the agency's reasons for the pass over and the examining officer's response.

If you are a 30 percent or more disabled veteran, the agency must notify you and OPM of the proposed pass over. You then have 15 days from the date of notification to respond to OPM. OPM will decide whether to approve the pass over based on all the facts available, and will then notify the agency and you of its decision.

If after dealing with the agency you believe that your rights under any law related to Veterans' Preference in hiring or retention have been violated, you may file a written complaint with the DOL's Veterans Employment and Training Service (VETS) office in your state. You can find this in the government pages of your local phone book or by searching: <http://www.dol.gov/vets/aboutvets/contacts/main.htm>

You have to be considered an employee – not a temporary or conditional worker – for you to have any redress. Additionally, you must have passed your probationary period, a timeframe that is specific to your agency.

Your complaint must be made in writing within 60 days of the alleged violation. If VETS finds the case to have merit, it will resolve it.

VETS will investigate the case indefinitely but, if resolution cannot be achieved within 60 days, you have the right to appeal to the Merit Systems Protection Board (MSPB). VETS stop's its investigation when the MSPB acknowledges its receipt of your appeal.

If VETS determines that the case is without merit and issues you a no-merit determination, you can still appeal to the MSPB. If the MSPB has not issued a decision on the appeal after 120 days, you can file a claim in the U.S. District Court, in which case the MSPB will cede its investigation to the court.

If you win your appeal, the MSPB or the court may order the agency to comply with the applicable provisions of law and award compensation for any loss of wages or benefits.

You may also file a Prohibited Personnel Practices (PPP) action if your hiring or retention rights were violated because of an action or inaction by government officials. You can bring this complaint to the Office of Special Counsel (OSC). Contact their Complaints Examining Unit (CEU) and submit a form **OSC-49**, "Disclosure Information about Prohibited Personnel Practices." They'll conduct an initial review and, if they determine the allegation warrants further investigation, they'll undertake it and report back to you within 90 days.

If you were in the Guard or the Reserve and have issues with re-employment or absences due to active duty, the National Committee for Employer Support of the Guard and Reserve (ESGR) offers an ombudsman service for mediation and resolution of issues. Additionally, use of the ombudsman protects all your levels of appeals if they are needed. Call 800-336-4590 and ask for the Ombudsman Service or visit online at:

<http://www.esgr.org/members2//programs.asp?c=ombudsman.html>

RESOURCES

Vets Guide on Preference, published by the Office of Personnel Management: <http://www.opm.gov/veterans/html/vetguide.asp>

A Guide to Veterans' Preference in State Government
<http://www.vfwdc.org/NVEO/guide.htm>

Merit Systems Protection Board (MSPB) – Contact information for complaints can be found on their website at <http://www.mspb.gov>

Office of Special Counsel (OSC) – Their website contains complaint procedure information at: <http://www.osc.gov>

Disability Ratings, schedule under Title 38
http://www.access.gpo.gov/nara/cfr/waisidx_03/38cfr4_03.html

Claiming a Disability – Call VA at 800-827-1000 for **Form 21-526**, “Veterans Application for Compensation or Pension,” or use Veterans Online Applications (**VONAPP**) to apply for compensation, pension, vocational rehabilitation, educational and health benefits via the Internet at <http://vabenefits.vba.va.gov/vonapp/main.asp>

Forms Library
OF-612, “Optional Application for Federal Employment,”
<http://www.opm.gov/forms/html/of.asp>

SF 15, “Application for a 10-Point Veterans Preference,”

<http://www.opm.gov/forms/pdfimage/sf0015.pdf>

DD-214 -- If you've lost your original DD-214 and you are receiving disability or education benefits, the VA may have a copy on file. At the very least, if you have received benefits the VA should be able to provide a Statement of Service, which can be used instead of a DD-214.

OSC-49, “Disclosure Information about Prohibited Personnel Practices.”
<http://www.osc.gov/library.htm#osc49>

Job Banks

Chapter 31 National on-line job bank:
<http://dva.jobsearch.org/>

America's Job Bank – a DOL database of jobs nationwide.
<http://www.ajb.dni.us/>

USAJOBS – The Office of Personnel Management maintains a searchable database that you can access via the Internet at <http://www.usajobs.opm.gov> or call 703- 724-1850 (TDD: 978- 461-8404).

Department of Labor Resources

To find the DOL's Veterans Employment and Training Service (**VETS**) office in your state, look in the government pages of your local phone book or search:
<http://www.dol.gov/vets/aboutvets/contacts/main.htm>

Transition Assistance Program – Call 866-4-USA-DOL (TTY: 877-889-5267) or on the web at <http://www.dol.gov/vets>

Occupational Outlooks provide details about hundreds of job types and opportunities:

<http://www.bls.gov/oco/ocoia.htm>

Office of Personnel Management Resources

OPM website: <http://www.opm.gov/> or call 202-606-1800 (TTY 202-606-2532).

Veterans' Information, including guides explaining federal government benefits for veterans and disabled veterans affirmative action program plans:

<http://www.opm.gov/veterans>

Department of Veterans Affairs

Resources

VA website: <http://www.va.gov> or call 800-827-1000.

To locate a **VA office** near you, visit the online locator at:

http://www.vba.va.gov/bln/vre/regional_offices.htm

Vocational Rehabilitation & Employment (VR&E) benefits overview online:

<http://www.vba.va.gov/bln/vre/index.htm>

VA Work-Study Opportunities, call: 888-442-4551.

Montgomery GI Bill and educational benefits, call 888-GI-BILL-1 (888-442-4551)

or visit: <http://www.gibill.va.gov> For required forms, visit

<http://www.vba.va.gov/pubs/educationforms.htm>

Veterans Online Applications (**VONAPP**) lets you apply for compensation, pension, vocational rehabilitation, educational and health benefits via the Internet.

<http://vabenefits.vba.va.gov/vonapp/main.asp>

Board of Veterans Appeals adjudicates claims that could not be resolved at the VARO, VA medical center or other VA office level. The website also offers a guide called

“Understanding the Appeals Process” at <http://www.va.gov/vbs/bva>

“Never again shall one generation of veterans abandon another”

Vietnam Veterans of America (VVA) is a not-for-profit Veterans Service Organization chartered by Congress whose mission is to improve the benefits, health, well-being, employment prospects and public support for U.S. veterans from all branches of the military. VVA provides veterans with a voice in the corridors of Congress and among those government agencies that regulate and distribute veterans’ benefits and services. Further, VVA also provides individual veterans with the resources, services and support to maximize the opportunities made available to them by law.

VVA relies totally on private contributions and member dues, and does not receive funding from any federal, state or local government.

© 2004 Vietnam Veterans of America
8605 Cameron Street
Suite 400
Silver Spring, MD 20910
301-585-4000
www.vva.org