

STAFFING

1. **REASON FOR ISSUE:** To issue Department of Veterans Affairs (VA) policy regarding the recruitment of students and recent graduates authorized by Public Law 115-46, VA Choice and Quality Employment Act of 2017.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains mandatory VA procedures on staffing. The pages in this issuance will be incorporated in VA Handbook 5005/Staffing. Revised text is contained in [brackets]. This change will be incorporated into the [Office of Human Resources Management \(OHRM\) Website](#). Significant changes include:
 - a. Procedures for noncompetitive conversion to career or career-conditional appointments of students and recent graduates employed through the VA Choice and Quality Employment Act of 2017.
 - b. Policy and procedures for the employment of students and recent graduates through the VA Choice and Quality Employment Act of 2017.
 - c. Policy in Appendix II-D, Noncompetitive Appointment of Students and Recent Graduates, through the VA Choice and Quality Employment Act of 2017.
3. **RESPONSIBLE OFFICE:** Recruitment and Placement Policy Service (059), Office of Human Resources Management.
4. **RELATED HANDBOOK:** VA Handbook 5005, Staffing.
5. **RESCISSIONS:** None.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY OF
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(7) **Geographic Restriction.** With the exception of spouses of Servicemembers with 100 percent service-connected disabilities or spouses of Servicemembers killed on active duty, facilities may not appoint eligible spouses to positions outside the geographic area of the permanent duty station designated in the Servicemember's PCS orders. The geographic area is not mile-radius specific. [The geographic area] encompasses the Servicemember's duty station and the surrounding area from which individuals may reasonably commute daily. In accordance with 5 CFR 315.612, the Assistant Secretary for Human Resources and Administration may waive this limit if there are no Federal agencies or departments within the geographic area of the Servicemember's duty station.

(a) Facility Directors may submit requests to waive the geographic restriction. Requests must include a copy of the vacancy announcement, the Servicemember's PCS orders, a brief statement from the spouse indicating her/his desire to waive the geographic restriction, and a statement from the facility that there are no Federal agencies or departments within the local commuting area of the Servicemember's duty station.

(b) Requests to waive the geographic restriction must be submitted to: Director, Recruitment and Placement Policy Service (059), Office of Human Resources Management (OHRM), VA Central Office, Washington, DC 20420.

j. **[Noncompetitive Conversion to Career or Career-Conditional Appointments of Students and Recent Graduates Employed through the VA Choice and Quality Employment Act of 2017]**

(1) In accordance with the VA Choice and Quality Employment Act of 2017, Public Law 115-46, VA facilities are authorized to make excepted appointments of students and recent graduates of qualifying educational institutions in title 5 occupations that lead to noncompetitive conversion to career or career-conditional appointments. The conversions, under title 5, are made without regard to competitive Federal civil service announcement, examining, and certification procedures, or Veterans' preference requirements. See Appendix II-D for specific instructions on the use of the excepted appointment authority and the noncompetitive conversion action.

(2) This excepted appointment and conversion authority does not apply to individuals in training programs that result in post-training appointments to an occupation listed in 38 U.S.C. § 7401(1) or (3), or 38 U.S.C. § 7405.

k.] **Administrative Protections for Career-Conditional and Career Employees**

(1) **Retention Priority in Reduction in Force.** Employees who have career-conditional appointments are in group II for reduction in force purposes. Employees who have career appointments have group I tenure for reduction in force [purposes,] unless they are serving a probationary period, in which case they are in group II. (See 5 CFR, part 351, and part IV, this handbook.)

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- (2) **Protection Against Arbitrary Removal.** Non-probationary career-conditional and career employees [are protected] against arbitrary removal described in 5 CFR, parts 432 and 752 and VA Directive and Handbook 5021, Employee/Management Relations. While serving probation, [career-conditional and career] groups have [] limited protection covered in 5 CFR, part 315, subpart H, and VA Directive and Handbook 5021.

3. NON-PERMANENT EMPLOYMENT

a. **Scope**

- (1) This paragraph supplements regulations contained in 5 CFR, part 316, and should be used in conjunction with that reference and other applicable portions of this chapter.
- (2) Regulations for temporary appointments in the excepted service of title 5, U.S. Code are contained in 5 CFR, part 213. (This includes the 30-day critical needs appointment authority.) (See [] section C of this chapter.)
- (3) This paragraph does not apply to excepted service positions in the Veterans Health Administration filled under 38 U.S.C., chapter 73 and 74 or to excepted positions in the Veterans Canteen Service filled under 38 U.S.C., chapter 78. These positions are covered in chapter 3 of this part.

- b. **Policy.** Temporary and term appointment authorities will be used only under conditions authorized by the Office of Personnel Management. To meet VA's ICTAP obligations, all title 5 competitive service vacancies lasting over 120 days, must be posted on OPM's USAJOBS system when applicants from outside VA are accepted. (See paragraph 1a of this section.)

- c. **Temporary Limited Appointments.** Temporary limited appointments may be used to fill short-term employment needs expected not to exceed 1 year, and continuing positions expected to be needed for placement of the organization's permanent employees who would otherwise be displaced. (See 5 CFR, part 316, subpart D.)

- (2) The Regional Office Director may waive the licensure, registration or certification requirements for the occupation, provided the individual is properly credentialed in the Philippines.

d. Professional Standards Board

- (1) The Regional Office Director approves appointments and advancements on the recommendation of the Professional Standards Board (PSB).
- (2) The PSB for the personnel listed in paragraph a(1) and (2) above, will consist of the Chief Medical Officer, and 2 senior clinic physicians.
- (3) A representative of the Human Resources Management office will serve as a technical advisor to the PSB.
- (4) When it is not possible to constitute a board, or when a PSB is required for the Chief Medical Officer, the Network Director will forward the personnel folder, Board action and a letter with the Network Director's comments to the Central Office or VISN board for review and recommendation. The personnel folder and related documents will be returned to the Network Director for approval.

- e. Physical Requirements.** The physical requirements and procedures for determining fitness for duty are governed by the provisions of VA Directive and Handbook 5019.

[9. APPOINTMENT OF STUDENTS AND RECENT GRADUATES THROUGH THE VA CHOICE AND QUALITY EMPLOYMENT ACT OF 2017

- a. Policy.** This paragraph establishes policy for appointing additional categories of students and recent graduates of qualifying educational institutions through the VA Choice and Quality Employment Act of 2017 (the Act). The Act, established through Public Law 115-46, gives the Secretary of VA the authority to make excepted service appointments for students and recent graduates that lead to career or career conditional appointments, as applicable. This authority applies to title 5 occupations and extends appointment eligibility to students and recent graduates who fall in one of the following categories:
- (1) Those employed in a qualifying internship or fellowship program at the Department;
 - (2) Those employed in the Department in a volunteer capacity and who are performing substantive duties comparable to those of individuals in internship or fellowship programs and who meet the required number of hours for conversion;
 - (3) Those employed in the Department under a contract or agreement with an external nonprofit organization and who are performing substantive duties comparable to those of individuals in internship or fellowship programs;

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- (4) Those who have received Post 9/11 Educational Assistance under chapter 33 of title 38, United States Code (U.S.C.).
- b. **Guidance.** Specific guidance for making excepted appointments and subsequent noncompetitive conversions using this authority are in Appendix II-D, Noncompetitive Appointment of Students and Recent Graduates through the VA Choice and Quality Employment Act of 2017, of this part.]

[APPENDIX D. NONCOMPETITIVE APPOINTMENT OF STUDENTS AND RECENT GRADUATES THROUGH THE VA CHOICE AND QUALITY EMPLOYMENT ACT OF 2017

- 1. PURPOSE.** This appendix outlines hiring guidance for section 206 of Public Law 115-46, VA Choice and Quality Employment Act of 2017 (or the Act). Section 206 of the Act authorizes VA to appoint students and recent graduates into excepted service appointments that lead to noncompetitive conversion to career or career-conditional appointments, as applicable. The policy for the Act is established in chapter 3, section G, paragraph 9, Appointment of Students and Recent Graduates through the VA Choice and Quality Employment Act of 2017, of this part.
- 2. COVERAGE.** This appendix applies to appointments for students and recent graduates in title 5 occupations, and subsequent conversion to the title 5 competitive service, as permitted under the Act. Student trainees appointed under the provisions of noncompetitive career-conditional (or career) appointment of student trainees in associated health care disciplines, as outlined in Part II, Appendix C., of this handbook are not covered by the provisions in this paragraph. In addition, this authority is not intended to employ individuals in direct patient care positions that lead to employment in the title 38 (full or hybrid) excepted service. Those provisions are covered under chapter 3, title 38 appointments, of this part.
- 3. REFERENCES.**
 - a. Public Law 115-46, VA Choice and Quality Employment Act of 2017, dated August 12, 2017
 - b. 5 U.S.C. § 2108, Veteran; Disabled Veteran; Preference Eligible
 - c. 5 C.F.R. § 302, Employment in the Excepted Service
 - d. 38 U.S.C. § 7405, Temporary full-time appointments, part-time appointments, and without-compensation appointments
- 4. RESPONSIBILITIES.**
 - a. **Assistant Secretary for the Office of Human Resources and Administration (HRA) (006).** Serves as the designated agency official, as VA's Chief Human Capital Officer, implementing policy for the Act.
 - b. **Deputy Assistant Secretary for Office of Human Resources Management (OHRM) (05).** Establishes and maintains VA policy and guidelines for the implementation and utilization of this excepted authority. Provides technical guidance and advice to the VA HR community regarding the policy.
 - c. **Human Resources (HR) Officer/Director.** The HR Officer/HR Director's duties and responsibilities include:

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- (1) Provides oversight of the designee and overall compliance of this authority at the facility;
 - (2) Provides technical guidance and advice to hiring officials, supervisors, and operating human resources staff within the respective facility regarding this authority;
 - (3) Ensures proper application of Veterans' preference when filling excepted service positions, as required;
 - (4) Makes qualification determinations for excepted appointments;
 - (5) Serves as a liaison with participating schools on matters pertaining to student employment programs in VA and stays informed of developments in the area regarding student employment in the public and private sectors;
 - (6) Ensures hiring officials and supervisors comply with the mandatory requirements of the authority;
 - (7) Obtains certification of enrollment and recurring transcripts from students and recent graduates; and
 - (8) Advises hiring officials and supervisors of their duties and responsibilities.
- d. **Hiring Officials and Supervisors.** Oversee and assign the daily work activities of the student or recent graduate and serves as the primary point of contact for any questions related to the excepted appointment.

5. DEFINITIONS. For the purposes of this paragraph, definitions are as follows:

- a. **Contractor.** A student or recent graduate employed in VA under a contract or agreement with an external nonprofit organization.
- b. **Eligibility Category.** A group of students and/or recent graduates identified in the Act that are eligible for consideration for an excepted service appointment in VA that lead to noncompetitive conversion to a career or career-conditional appointment. Noncompetitive conversion to the competitive service is not guaranteed, but is at the facility's discretion.
- c. **Fellowship Program.** Any formal program used in the Department to employ recent graduates from qualifying educational programs.
- d. **Good Standing.** Specific criteria for meeting "good standing" is defined under each eligibility category under paragraph 5 below, "Eligibility Categories for Excepted Appointments." In addition, all students and recent graduates must furnish evidence of "good standing" by providing a transcript documenting a minimum 2.0 on a 4.0 grade point average (G.P.A.) scale. Facilities can use the most recent semester's G.P.A. or

the overall G.P.A., whichever is most advantageous to the applicant, to document “good standing.” For individuals who are attending or have graduated from educational institutions that do not use a G.P.A. system, the HR Officer/HR Director or designee must request verification of achieving an average or above average standing from the educational institution.

- e. **Internship Program.** Any formal program used in the Department to employ current students from qualifying educational institutions.
- f. **Qualifying Educational Institution.** A public high school whose curriculum has been approved by a State or local governing body, a private school that provides secondary education as determined under State law, or a homeschool that is allowed to operate in a State; and any of the following educational institutions or curricula that have been accredited by an accrediting body recognized by the Secretary of the U.S. Department of Education: a technical or vocational school; a 2-year or 4-year college or university; a graduate or professional school (e.g., law school, medical school); or a post-secondary homeschool curriculum.
- g. **Recent Graduate.** An individual who obtained a qualifying diploma, associate, bachelors, master's, professional, doctorate, vocational or technical degree, or certificate from an accredited, qualifying educational institution within the preceding 3 years.

NOTE: *Veterans, as defined in section 2108 of title 5, United States Code (U.S.C.), who furnish evidence of intervening military service must be afforded 3 years of eligibility of consideration for an excepted appointment under the Act.*

- h. **Student.** An individual accepted for enrollment or enrolled and seeking a degree, diploma, certificate, etc. in a qualifying educational institution, on a full or half-time basis (as defined by the institution in which the student is enrolled). An individual who needs to complete less than the equivalent of half an academic/vocational or technical course-load immediately prior to graduating is still considered a student for purposes of this program.
- i. **Substantive Duties.** Meaningful and considerable work responsibilities that are like those of individuals in VA internship and fellowship programs who are assigned formal structured and/or classified duties. These duties are typically duties that are outlined in classified position descriptions.
- j. **Volunteer.** A student in volunteer service as described in 5 CFR, part 308. A volunteer is also a student or recent graduate serving on a Without Compensation (WOC) appointment under 38 U.S.C. § 7405 (a)(1)(D).

6. ELIGIBILITY CATEGORIES FOR EXCEPTED APPOINTMENTS. The Act gives VA flexibility to broaden the applicant pool to certain categories of students and recent

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graduates. These applicants can be quickly appointed to support the mission of VA and to fill the Department's growing workforce and succession planning needs. A student or recent graduate in "good standing," (as described in the eligibility categories in sections a through d of this paragraph) may be considered for a title 38 excepted appointment in a title 5 occupation that may result in conversion to the competitive service. These excepted appointments are made under 38 U.S.C. § 7405 (a)(1)(D) and may not exceed one year unless an exception is approved by the Director of Recruitment and Placement Policy Service (059). Individuals can serve on a full-time or part-time work schedule based on the needs of the facility. The positions may have a career promotion (i.e., career ladder opportunity) but must be permanently funded and properly classified. There is no grade level limitation for the initial appointment. Applicants must meet the applicable qualification requirements. After meeting the minimum service requirements of 640 hours in the excepted appointment, a student or recent graduate may be considered for noncompetitive conversion to a career or career-conditional appointment as outlined in paragraph 7 of this appendix. Students and recent graduates in the following eligibility categories that meet the minimum qualification requirements and the definition of "good standing" for that category can be considered for an excepted appointment in VA:

- a. **Internship or Fellowship Program.** Students and recent graduates employed in a qualifying internship or fellowship program at the Department are eligible for an excepted service appointment. In addition to the definition of "good standing" in paragraph 5.d. above, for this eligibility category, "good standing" is evidenced by a performance plan with a rating of fully successful (or higher) or a letter of good standing from the current supervisor, program manager, or equivalent.
- b. **Volunteer Program.** Students and recent graduates in a volunteer capacity in the Department performing substantive duties comparable to those of individuals in internship or fellowship programs and who are in good standing are eligible for an excepted service appointment. In addition to the definition of "good standing" in paragraph 5.d. above, for this eligibility category, "good standing" is evidenced by a performance plan with a rating of fully successful (or higher) or a letter of good standing from the current supervisor, program manager, or equivalent. The student or recent graduate must be a current, active volunteer in the Department and provide proof of completing 20 hours of volunteer or without compensation service within the preceding one year.
- c. **External Nonprofit Organization Contract or Agreement.** Students and recent graduates employed in the Department under a contract or agreement with an external nonprofit organization and performing substantive duties comparable to those of individuals in internship or fellowship programs and who are in good standing are eligible for an excepted appointment. In addition to the definition of "good standing" in paragraph 5.d. above, for this eligibility category, "good standing" is evidenced by a performance plan with a rating of fully successful (or higher) or a letter of good standing from the current supervisor, program manager, or equivalent. The student or recent graduate must provide proof of completing 20 hours of service under the agreement.

- d. **Educational Assistance Programs.** Students and recent graduates who have received Post 9/11 Educational Assistance under chapter 33 of title 38 U.S.C. and meet the definition of “good standing” in paragraph 5.d. above are eligible for an excepted appointment.

7. REQUIREMENTS FOR EXCEPTED APPOINTMENT. Before making excepted service appointments, facilities must ensure compliance with the following identified requirements:

- a. **Public Notification Methods.** When filling positions under this authority, public notice must be provided to afford applicants an open and fair opportunity to be hired. Facilities may post an internal and/or external job posting to solicit applications. HR Offices must announce positions for a minimum of three (3) business days or for a minimum number of days defined by any applicable labor contract.
- b. **Internal Job Posting.** Students and recent graduates currently serving in VA may apply to internal job opportunity announcements (JOA). At a minimum, the facility may limit the area of consideration to those serving in VA in a specific eligibility category. The facility must use the option in USA Staffing® to post the JOA to “Agency Employees Only – Intranet Posting Only” or “Internal Only.” If more than one individual is interested, the agency must apply the selection procedures for employment in the excepted service under 5 CFR, part 302.
- c. **External Job Posting.** Students and recent graduates not currently serving in VA must apply for posted job opportunities. When a posting is open to applicants outside of VA, the hiring facility will use USA Staffing® to post the vacancy on the USAJOBS Web site, to ensure the vacancy is open to those in the general public who meet the eligibility category requirements for the program. To mitigate the likelihood of a high volume of applications, HR Offices should consult with hiring officials to tailor the job analysis and other assessment tools to obtain the desired candidate pool. If more than one individual is interested, the agency must apply the selection procedures for employment in the excepted service under 5 CFR, part 302.
- d. **Priority Consideration.** Appointments and related noncompetitive conversions to the competitive service are not subject to the regulatory provisions in the competitive service for the Reemployment Priority List (RPL), the Career Transition Assistance Plan (CTAP), or the Interagency Career Transition Assistance Plan (ICTAP), as stated in 5 CFR 330.211(f)(3), 5 CFR 330.609(e)(3), and 5 CFR 330.707(h)(3), respectively.
- e. **Applicability of Veterans’ Preference.** In general, excepted appointments are exempt from competitive service principles; however, positions exempt from appointment procedures as indicated in 5 CFR 302.101(c) requires the principle of Veteran’s preference be followed to the extent possible. VA HR Offices must apply Veteran’s preference when students and recent graduates are considered for excepted appointments. Subsequent conversions to the competitive service are not subject to Veterans’ Preference requirements. HR Offices must follow pass over procedures outlined in 5 CFR, part 302, subpart D, § 302.401 (b).

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- f. **Appointment Requirements.** Excepted appointments and subsequent conversions to the competitive service are coded in accordance with OPM's Guide to Processing Personnel Actions. The legal authority for excepted appointments is 38 U.S.C. § 7405 (a)(1)(D), and for subsequent conversion to the competitive service is Public Law 115-46.

8. NONCOMPETITIVE CONVERSION TO THE COMPETITIVE SERVICE. Noncompetitive conversion to the competitive service (i.e., career or career-conditional employment) is not guaranteed or required. The facility may convert a student or recent graduate noncompetitively to a career or career-conditional appointment in the competitive service after the student or recent graduate (serving on the excepted appointment) obtains a minimum of 640 hours on the excepted appointment. A facility may use previous education and/or experience as the basis to qualify a student or recent graduate for conversion into the targeted position.

- a. **Crediting Time Served under a Volunteer Program or External Nonprofit Organization Contract or Agreement.** When students and recent graduates have served as volunteers or contractors, hours served performing substantive duties are creditable for meeting the 640 hours required for conversion to the competitive service. The servicing HR Office may review the employee's employment records and other documents to justify crediting up to 320 hours performed under a Volunteer Program or External Nonprofit Organization Contract or Agreement.
- b. **Crediting Service for Probation.** Time spent in the excepted appointment is time-limited and is not creditable towards completion of the probationary period required in 5 CFR 315, subpart H.
- c. **Crediting Service for Career Tenure.** Time spent in the excepted appointment is time-limited and is not creditable towards meeting the service requirement for career tenure as outlined in 5 CFR 315, subpart A.]