



DEPARTMENT OF VETERANS AFFAIRS
DEPUTY ASSISTANT SECRETARY FOR HUMAN RESOURCES MANAGEMENT
WASHINGTON, DC 20420
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HUMAN RESOURCES MANAGEMENT LETTER NO. 05-07-04

Employment of Persons with Disabilities

1. Purpose: This Human Resources Management Letter (HRML) provides guidance to Department of Veterans Affairs (VA) managers and human resources (HR) officials on recruiting and employing persons with disabilities and implementing changes provided in the *Federal Register* Final Rule: Excepted Service – Appointment of Persons with Disabilities and Career and Career-Conditional Employment, dated July 26, 2006.

2. Background: Historically, VA has been a major employer of persons with disabilities and is committed to taking the lead in the Federal government in increasing the representation of persons with disabilities in the VA workforce. Executive Order (E.O.) 12125 as amended by E.O. 13124 provides that persons with mental retardation, severe physical disabilities or psychiatric disabilities may be hired under excepted appointing authorities and upon completion of 2 years of satisfactory service *may* qualify to be converted to competitive service. The regulation is intended to improve the Federal Government's ability to hire persons with these disabilities by revising Title 5 excepted appointment processes in several significant ways:

- Consolidates the existing three separate Schedule A appointing authorities under 5 CFR 213.3102(u).
- Clarifies that hiring offices may make *temporary* (for a specified period not to exceed 1 year), *time-limited* (for a specified period exceeding 1 year and not considered *temporary*), and permanent appointments under this authority.
- Clarifies the distinction between proof of disability and certification of job readiness.
- Expands agency and department acceptance of certification and proof to include broader types of certifying entities. In the past, only Department of Veterans Affairs and State Vocational Rehabilitation agencies provided proof of disability and job readiness certification.

In support of the President's "New Freedom Initiative", OPM wishes to encourage Federal agencies and departments to consider employment opportunities for persons with disabilities. These updated regulations attempt to simplify the appointment process for HR professionals, remove possible barriers and increase employment opportunities for persons with disabilities.

3. Discussion: In the past, the HR practitioner determined which appointment authority to use based upon the applicant's proof of disability, e.g., mental retardation, severe physical disabilities, and psychiatric disabilities. Also, the required proof of disability and certification of job readiness was limited to State Vocational Rehabilitation agencies or Department of Veterans Affairs Veterans Benefits Administration or Veterans Health Administration psychologists, vocational rehabilitation counselors, or psychiatrists. This HRML provides guidance to implement the improved regulations.

4. Guidance:

a. Position Review.

(1) As positions become vacant, a thorough evaluation should be made of the physical and/or mental requirements necessary for satisfactory performance. Job analyses may be used to identify functional job requirements and work environment factors.

(2) Functional job requirements are the physical and mental capacities normally required to complete work activities. These job requirements detail information about:

- How tasks are accomplished;
- Physical movements and/or mental processes involved;
- Degrees of physical effort and/or the complexity of mental processes involved in work activities;
- The time involved in performing each work activity; and
- The frequency with which the work activities are performed.

(3) The work area in which work activities are performed places demands on employees' physical and mental capacities. The work environment may present the most critical functional problems for an employee with a disability and may include:

- Location of the work area;
- Mobility barriers that may exist;
- Physical design of assigned work area;
- Climatic conditions; and
- Pressure and level of noise and/or vibrations in the work area.

(4) A comparison of this information with the functional abilities and limitations of a person with a disability can assist in planning reasonable accommodation. A reasonable accommodation is an adjustment made to a job and/or the work environment that enables a qualified person with a disability to perform the duties of that position. Reasonable accommodation is more thoroughly described in paragraph 4.c.

(5) The assignment of a person with a disability to a position should be based on what he or she will bring to the job. Sound management practice is to modify jobs and the environment to accommodate the individual's abilities and limitations. Technical assistance about planning and implementing appropriate accommodation action(s) is available from Veterans Benefits Administration Vocational Rehabilitation and Employment (VR&E) Service program officials, State vocational rehabilitation agencies, and organizations that serve persons with disabilities.

b. **Qualification Requirements.** A qualified person is someone who, with or without reasonable accommodation, can perform the essential functions of the position in question. To be determined qualified, an individual must meet the minimum qualification requirements of the position as described in U.S. Office of Personnel Management Qualification Standards or VA-specific qualification standards. (See VA Handbook 5005, Part II, Appendices F & G.)

c. **Reasonable Accommodation.**

(1) A reasonable accommodation is an adjustment or alteration that enables a qualified person with a disability to apply for a job, perform job duties, or enjoy equal benefits and privileges of employment. Such accommodation may include, but is not limited to, using assistive devices, modifying jobs, restructuring the work area, providing readers and interpreters, or adjusting work schedules. The concept of reasonable accommodation applies to all aspects of employment, including recruitment, training, promotion, reassignment, and developmental assignments.

(2) Federal departments and agencies are required to make reasonable accommodation for the physical or mental limitations of an applicant or employee who is a qualified person with a disability unless the accommodation would impose an undue hardship on the department or agency. All VA facilities are required to have a policy in place that is consistent with the Department's policy (VA Directive 5975.1, "Processing Requests for Reasonable Accommodation by Employees and Applicants with Disabilities").

(3) Reasonable accommodations vary with the needs of the individuals involved, the types of position being reviewed, and the options available to facility officials. Accommodations are determined on a case-by-case basis, taking into consideration the applicant or employee, the specific disabilities and existing limitations, the essential functions of the particular job, the work environment, and the effectiveness of the proposed accommodation.

(4) All vacancy announcements must include language stating that reasonable accommodations will be made for qualified applicants or employees with disabilities. The following statement is recommended for vacancy announcements:

The Department of Veterans Affairs provides reasonable accommodations to applicants with disabilities. If you need a reasonable accommodation for any part of the application and hiring process, please notify this facility's Human Resources Management Office at (phone number). The decision on the type

of reasonable accommodation to be granted will be made on a case-by-case basis.

d. Recruitment.

(1) Facilities should recruit widely for positions at all levels of VA's workforce and develop collaborative efforts with community outreach groups. In addition, facilities should review internal HR policies to ensure that every flexibility is considered in areas such as alternative work schedules, part-time employment, telework/flexiplace, and job sharing. They should also provide employment and other information in alternate formats such as large print, audiocassette, Braille, computer disk, or by accessible Internet sites.

(2) The following are selected potential resources available for the recruitment of persons with disabilities:

- VA VR&E Service offices;
- Job fairs promoting employment opportunities for persons with disabilities;
- Public and private service organizations for persons with disabilities;
- State vocational rehabilitation agencies;
- University and College disability student services offices;
- Project ABLE (Able Beneficiaries' Link to Employers) is a national resume bank which provides any employer an easily-accessible applicant pool of qualified job-ready individuals. These individuals receive Social Security or Supplemental Security Income disability benefits and are prepared to work. Employers may request resumes-via e-mail at projable@opm.gov, or by telephone at (757) 441-3362.

e. Appointing Authorities. The following excepted service appointing authorities are available to Federal departments and agencies to effect appointments for persons with disabilities.

(1) Schedule A, Title 5 C.F.R. 213.3102(u). This authority is used to appoint persons with severe physical disabilities, cognitive disabilities (mental retardation), or psychiatric disabilities who: (a) under a temporary appointment have demonstrated their ability to perform their duties satisfactorily; or (b) have been certified (see paragraph 4.g.) as being likely to succeed in the performance of the duties, with or without reasonable accommodation. Upon completion of two years of satisfactory service under this authority, the employee may qualify for conversion to career-conditional or career appointment under the provisions of Executive Order 12125 and, as amended, by Executive Order 13124.

(2) Title 5, C.F.R. 315.604. This authority is used to appoint veterans with disabilities who have completed training under VA's vocational rehabilitation program (38 U.S.C., Chapter 31). Upon completion, the veteran is provided with a Certificate of Training and can be noncompetitively appointed to a position or class of positions for which trained. The appointment can be converted to career-conditional or career

status at any time during the appointment. Nearby VR&E Service offices should be consulted as part of recruitment efforts to identify potential candidates.

(3) Title 5, C.F.R. 316.302(b) (4) and 5 C.F.R. 316.402(b) (4). These authorities are used to appoint veterans who are 30 percent or more disabled under term appointments or temporary appointments of more than 60 days. The veteran must have retired from active military service with a 30 percent or more disability rating, or have been separated from military service and rated by VA within the preceding year as having a compensable service-connected disability of 30 percent or more. These individuals may be converted to career-conditional or career status at any time during the initial appointment.

(4) Schedule B, Title 5 C.F.R. 213.3202(a) and 5 C.F.R. 213.3202(b). These authorities are used to appoint students under the title 5 Student Educational Employment Program (SEEP). VA facilities are encouraged to participate in the employment of students with disabilities under SEEP, especially when such participation will contribute to VA-wide employment objectives or facilitate recruitment for shortage category positions at individual field facilities. Facility use of student employment programs such as the title 5 Student Career Experience Program (SCEP), which allows noncompetitive conversion to competitive positions, is an effective means of furthering equal employment opportunity objectives. More information about title 5 student employment programs can be found in VA Handbook 5005, Part I, Chapter 2, Section C.

(5) Title 38 U.S.C. 7405(a) (1) (D). This authority is primarily used to appoint students in specified health care occupations. However, it can also be used to appoint students (including those who may be disabled) whose interests or career objectives are in other health care areas. Additional information on the use of this authority can be found in VA Handbook 5005, Part II, Chapter 3, Section G.

f. **Proof of Disability.** A selectee must provide proof documenting disability. Acceptable documentation may be from any Federal, State, or private agency of the District of Columbia or U. S. territory that issues or provides disability benefits. Documentation also may be accepted from a licensed vocational rehabilitation specialist or a licensed medical professional certified by a State, District of Columbia or U. S. territory to practice medicine.

g. **Certification of Job Readiness.** The same entities that provide proof of disability may certify an individual's job readiness. Also, an agency may temporarily appoint individuals to determine job readiness in lieu of job readiness certification. Any individuals appointed using this type of appointment should be evaluated by their supervisor or his/her designee within 90 days which is consistent with common practice.

h. **Handicap Self-Identification Procedure.** VA HR staff will ensure that new appointees have the opportunity to voluntarily self-identify any disability condition by completing SF 256, "Self-Identification of Handicap." (See Attachment) Because disability conditions may change, facilities will annually encourage employees to

update their disability identification code by completing a SF-256 for processing by the HR office. Appointees and employees should be assured that privacy of their disability identification will be preserved. Disability coded data does not appear on their individual personnel records. The data is used only for statistical reports providing feedback on the support and effectiveness of VA's disability affirmative employment program. Employees who may be disabled veterans are encouraged to annually review their personnel records to reflect their current disability preference status.

i. Human Resources offices need to move all current employees serving under 5 CFR 213.3102(t) & 5 CFR 213.3102(gg) authorities to 5 CFR 213.3102(u) and make the actions effective January 22, 2007. **These actions are to be processed within 30 days of the date of this Human Resources Management Letter.** The affected employees must serve under the same time limits as the appointment from which they are being moved. If the employees are not on temporary appointments, they are eligible for noncompetitive conversion. A listing of current affected employees will be provided to each station in accordance with the applicable privacy regulations and policies.

5. References:

- Executive Order 12125
- Executive Order 13124
- Executive Order 13163
- Title 29 U.S.C. Section 791
- 29 C.F.R. 1614 and 29 CFR 1630
- VA Directive and Handbook 5005, Staffing
- VA Directive 5975.1
- VHA Directive 2001-070
- OPM Web site at <http://www.opm.gov>

6. Further Questions: Questions concerning the contents of this HRML should be directed to Recruitment and Placement Policy Service via email address StaffingPolicy059/vaco@va.gov for assignment to a Human Resources Specialist.


Willie L. Henstey

Attachment

SF-256 (front & back)

SELF-IDENTIFICATION OF HANDICAP

(See instructions and Privacy Act information on reverse)

Last Name, First Name, Middle Initial	Birth Date (Mo./Yr.)	Social Security Number	ENTER CODE HERE →
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DEFINITION OF A HANDICAP: A person is handicapped if he or she has a physical or mental impairment which substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. Those handicaps that

are to be reported are listed below (codes in bold numbers 13 through 94). In the case of multiple impairments, choose the code which describes the impairment that would result in the most substantial limitation.

TO THE EMPLOYEE: Self-identification of handicap status is essential for effective data collection and analysis. The information you provide will be used for statistical purposes only and will not in any way affect you individually. While self-identification is voluntary, your cooperation in providing accurate information is critical.

01 I do not wish to identify my handicap status. (Please read the employee note above and the reverse side of this form before using this code.) (Note: Your personnel officer may use this code if, in his or her judgment, you used an incorrect code.)

05 I do not have a handicap.

06 I have a handicap but it is not listed below.

SPEECH IMPAIRMENTS

13 Severe speech malfunction or inability to speak; hearing is normal (Examples: defects of articulation [unclear language sounds]; stuttering; aphasia [impaired language function]; laryngectomy [removal of the "voice box"])

HEARING IMPAIRMENTS

15 Hard of hearing (Total deafness in one ear or inability to hear ordinary conversation, correctable with a hearing aid)

16 Total deafness in both ears, with understandable speech

17 Total deafness in both ears, and unable to speak clearly

VISION IMPAIRMENTS

22 Ability to read ordinary size print with glasses, but with loss of peripheral (side) vision (Restriction of the visual field to the extent that mobility is affected—"Tunnel vision")

23 Inability to read ordinary size print, not correctable by glasses (Can read oversized print or use assisting devices such as glass or projector modifier)

24 Blind in one eye

25 Blind in both eyes (No usable vision, but may have some light perception)

MISSING EXTREMITIES

27 One hand

28 One arm

29 One foot

32 One leg

33 Both hands or arms

34 Both feet or legs

35 One hand or arm and one foot or leg

36 One hand or arm and both feet or legs

37 Both hands or arms and one foot or leg

38 Both hands or arms and both feet or legs

NONPARALYTIC ORTHOPEDIC IMPAIRMENTS

(Because of chronic pain, stiffness, or weakness in bones or joints, there is some loss of ability to move or use a part or parts of the body.)

44 One or both hands

47 One or both legs

45 One or both feet

48 Hip or pelvis

46 One or both arms

49 Back

57 Any combination of two or more parts of the body

PARTIAL PARALYSIS

(Because of a brain, nerve, or muscle problem, including palsy and cerebral palsy, there is some loss of ability to move or use a part of the body, including legs, arms, and/or trunk.)

61 One hand

67 One side of body, including one arm and one leg

62 One arm, any part

63 One leg, any part

64 Both hands

68 Three or more major parts of the body (arms and legs)

65 Both legs, any part

66 Both arms, any part

COMPLETE PARALYSIS

(Because of a brain, nerve, or muscle problem, including palsy and cerebral palsy, there is a complete loss of ability to move or use a part of the body, including legs, arms, and/or trunk.)

70 One hand

76 Lower half of body, including legs

71 Both hands

77 One side of body, including one arm and one leg

72 One arm

73 Both arms

74 One leg

78 Three or more major parts of the body (arms and legs)

75 Both legs

OTHER IMPAIRMENTS

80 Heart disease with no restriction or limitation of activity (History of heart problems with complete recovery)

81 Heart disease with restriction or limitation of activity

82 Convulsive disorder (e.g., epilepsy)

83 Blood diseases (e.g., sickle cell anemia, leukemia, hemophilia)

84 Diabetes

86 Pulmonary or respiratory disorders (e.g., tuberculosis, emphysema, asthma)

87 Kidney dysfunctioning (e.g., if dialysis [Use of an artificial kidney machine] is required)

88 Cancer—a history of cancer with complete recovery

89 Cancer—undergoing surgical and/or medical treatment

90 Mental retardation (A chronic and lifelong condition involving a limited ability to learn, to be educated, and to be trained for useful productive employment as certified by a State Vocational Rehabilitation agency under section 213.3102(f) of Schedule A)

91 Mental or emotional illness (A history of treatment for mental or emotional problems)

92 Severe distortion of limbs and/or spine (e.g., dwarfism, kyphosis [severe distortion of back])

93 Disfigurement of face, hands, or feet (e.g., distortion of features on skin, such as those caused by burns, gunshot injuries, and birth defects [gross facial birthmarks, club feet, etc.])

94 Learning disability (A disorder in one or more of the processes involved in understanding, perceiving, or using language or concepts [spoken or written]; e.g., dyslexia)

The Rehabilitation Act of 1973 (P.L. 93-112) requires each agency in the Executive branch of the Federal Government to establish definite programs that will facilitate the hiring, placement, and advancement of handicapped individuals. The best means of determining agency progress in this respect is through the production of reports at certain intervals showing such things as the number of handicapped employees hired, promoted, trained, or reassigned over a given time period; the percentage of handicapped employees in the work force and in various grades and occupations; etc. Such reports bring to the attention of agency top management, the Office of Personnel Management (OPM), and the Congress deficiencies within specific agencies or the Federal Government as a whole in the hiring, placement, and advancement of handicapped individuals and, therefore, are the essential first step in improving these conditions and consequently meeting the requirements of the Rehabilitation Act.

The handicap data collected on employees will be used only in the production of reports such as those previously mentioned and not for any purpose that will affect them individually. The only exception to this rule is that the records may be used for selective placement purposes and selecting special populations for mailing of voluntary personnel research surveys. In addition, every precaution will be taken to ensure that the information provided by each employee is kept in the strictest confidence and is known only to the one or two individuals in the agency Personnel Office who obtain and record the information for entry into the agency's and OPM's personnel systems. You should also be aware that participation in the handicap reporting system is entirely voluntary, with the exception of employees appointed under Schedule A, section 213.3102(t) (Mental Retardation); Schedule A, section 213.3102(u) (Severely Physically Handicapped); and Schedule B, section 213.3202(k) (Mentally Restored). These employees will be requested to identify their handicap status and if they decline to do so, their correct handicap code will be obtained from medical documentation used to support their appointment. No other employees will be required to identify their handicap status if they feel for any reason it is not in their best interest to have this information officially recorded outside of medical records. We request only that anyone not wishing to have this information entered in the agency's and OPM's personnel systems indicate this to their Personnel Office, rather than intentionally miscoding themselves, since false responses will seriously damage the statistical value of the reporting system.

[In those instances where the employee is or was hired under Schedule A, section 213.3102(t) (Mental Retardation), the Personnel Director or his/her designee (a Vocational Rehabilitation Counselor may also be helpful) will assist the individual in completing this form and ensure that the employee fully understands the meaning of the form and the options available to him/her, as noted above.]

Employees will be given every opportunity to ensure that the handicap code carried in their agency's and OPM's personnel systems is accurate and is kept current. They may exercise this opportunity by asking their Personnel Officer to see a printout of the code and definition from their record, by notifying Personnel any time their handicap status changes, and by initiating action in either of these cases to have the necessary changes made to their records. The code carried on employees in their agency's system will be identical to that carried in OPM's system, and any change to the agency records will result in the same change being made to OPM's records.

Your cooperation and assistance in establishing and maintaining an accurate and up-to-date handicap report system is sincerely appreciated.

PRIVACY ACT STATEMENT

Collection of the requested information is authorized by the Rehabilitation Act of 1973 (P.L. 93-112). The information you furnish will be used for the purpose of producing statistical reports to show agency progress in hiring, placement, and advancement of handicapped individuals and to locate individuals for voluntary participation in surveys. The reports will be used to inform agency top management, the Office of Personnel Management (OPM), the Congress, and the public of the status of programs for employment of the handicapped. All such reports will be in the form of aggregate totals and will not identify you in any way as an individual.

Solicitation of your Social Security Number (SSN) is authorized by Executive Order 9397, which requires agencies to use the SSN as the means for identifying individuals in personnel information systems. Your SSN will only be used to ensure that your correct handicap code is recorded along with the other employee information that your agency and OPM maintain on you. Furnishing your SSN or any other of the requested data for this collection effort is voluntary and failure to do so will have no effect on you. It should be noted, however, that where individuals decline to furnish their SSN, the SSN will be obtained from other records in order to ensure accurate and complete data.

Employees appointed under Schedule A, section 213.3102(t) (Mental Retardation), Schedule A, section 213.3102(u) (Severely Physically Handicapped), or Schedule B, section 213.3202(k) (Mentally Restored) are requested to furnish an accurate handicap code, but failure to do so will have no effect on them. Where employees hired under one of these appointments fail to disclose their handicap, however, the appropriate code will be determined from the employee's existing records or medical documentation submitted to justify the appointment.