

SECTION 1. (a) Subject to paragraph (b) of this section, the head of an agency may make an excepted appointment, to be known as a “veterans readjustment appointment”, to any position in the competitive service up to and including GS-5 or the equivalent thereof, of a veteran or disabled veteran as defined in section 2108(1), (2), of title 5, United States Code, who:

(1) served on active duty in the armed forces of the United States during the Vietnam era;

(2) at the time of his appointment has completed not more than fourteen years of education; and

(3) is found qualified to perform the duties of the position.

(b) Employment under paragraph (a) of this section is authorized only under a training or educational program developed by an agency in accordance with guidelines established by the Office of Personnel Management.

(c) An employee given a veterans readjustment appointment under paragraph (a) of this section shall serve subject to:

(1) the satisfactory performance of assigned duties; and

(2) participation in the training or educational program under which he is appointed.

(d) An employee who does not satisfactorily meet the conditions set forth in paragraph (c) of this section shall be removed in accordance with appropriate procedures.

(e) An employee serving under a veterans readjustment appointment may be promoted, reassigned, or transferred.

(f) An employee who completes the training or educational program and who has satisfactorily completed two years of substantially continuous service under a veterans readjustment appointment shall be converted to career-conditional or career employment. An employee converted under this paragraph shall automatically acquire a competitive status.

(g) In selecting an applicant for appointment under this section, an agency shall not discriminate because of race, color, religion, sex, national origin, or political affiliation.

SEC. 2. (a) A person eligible for appointment under section 1 of this order may be appointed only within one year after his separation from the armed forces, or one year following his release from hospitalization or treatment immediately following his separation from the armed forces, or one year after involuntary separation without cause from (i) a veterans readjustment appointment or (ii) a transitional appointment, or one year after the effective date of this order if he is serving under a transitional appointment.

(b) The Office of Personnel Management may determine the circumstances under which service under a transitional appointment may be deemed service under a veterans readjustment appointment for the purpose of paragraph (f) of section 1 of this order.

SEC. 3. Any law, Executive order, or regulation which would disqualify an applicant for appointment in the competitive service shall also disqualify a person otherwise eligible for appointment under section 1 of this order.

SEC. 4. For the purpose of this order:

(a) “agency” means a military department as defined in section 102 of title 5, United States Code, an executive agency (other than the General Accounting Office [now Government Accountability Office]) as defined in section 105 of title 5, United States Code, and those portions of the legislative and judicial branches of the Federal Government and of the government of the District of Columbia having positions in the competitive service; and

(b) “Vietnam era” means the period beginning August 5, 1964, and ending on such date thereafter as may be determined by Presidential proclamation or concurrent resolution of the Congress.

SEC. 5. The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the provisions of this order.

SEC. 6. Executive Order No. 11397 of February 9, 1968, is revoked. Such revocation shall not affect the right of an employee to be converted to career-conditional or career employment if he meets the requirements of section 1(d) of Executive Order No. 11397 after the effective date of this order.

SEC. 7. This order is effective 14 days after its date.

§ 3303. Competitive service; recommendations of Senators or Representatives

An individual concerned in examining an applicant for or appointing him in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 418; Pub. L. 103-94, §8(a), Oct. 6, 1993, 107 Stat. 1006; Pub. L. 104-197, title III, §315(a), Sept. 16, 1996, 110 Stat. 2416.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 642.	Jan. 16, 1883, ch. 27, §10, 22 Stat. 406.

The prohibition is restated in positive form. The words “An individual concerned in examining an applicant for or appointing him in the competitive service” are substituted for “any person concerned in making any examination or appointment under this act”. The word “applicant” is substituted for “person who shall apply for office or place under the provisions of this act”. The word “Representative” is substituted for “Member of the House of Representatives”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Editorial Notes

AMENDMENTS

1996—Pub. L. 104-197 substituted “Competitive service; recommendations of Senators or Representatives” for “Political recommendations” in section catchline and amended text generally, substituting provisions prohibiting receipt or consideration of recommendations of applicants in competitive service made by Senators or Representatives for provisions which directed that personnel actions be taken without solicitation of or regard to such recommendations from Members of Congress, congressional employees, any elected official of the government of any State (including D.C. and Puerto Rico) or subdivision thereof, or political party official, prohibited such persons from making such recommendations, prohibited employees or applicants from soliciting such recommendations and required notification of such prohibition, but allowed for certain exceptions regarding solicitation and consideration of recommendations if subject of recommendation was limited to factors pertinent to work performance, ability, aptitude, general qualifications, related to suitability or security standards, or furnished pursuant to law or regulation.

1993—Pub. L. 103-94 substituted “Political recommendations” for “Competitive service; recommendations of Senators or Representatives” as section catchline and amended text generally. Prior to amendment, text read as follows: “An individual concerned in examining an applicant for or appointing him in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant.”

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104-197 effective 30 days after Sept. 16, 1996, see section 315(c) of Pub. L. 104-197, set out as a note under section 2302 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT; SAVINGS PROVISION

Amendment by Pub. L. 103-94 effective 120 days after Oct. 6, 1993, but not to release or extinguish any penalty, forfeiture, or liability incurred under amended provision, which is to be treated as remaining in force for purpose of sustaining any proper proceeding or action for enforcement of that penalty, forfeiture, or liability, and no provision of Pub. L. 103-94 to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103-94 had not been enacted, see section 12 of Pub. L. 103-94, set out as an Effective Date; Savings Provision note under section 7321 of this title.

§ 3304. Competitive service; examinations

(a) **DEFINITIONS.**—In this section:

(1) **AGENCY.**—The term “agency” means an Executive agency.

(2) **DIRECTOR.**—The term “Director” means the Director of the Office.

(3) **EXAMINATION.**—The term “examination” means the process by which an applicant demonstrates knowledge, skills, abilities, and competencies.

(4) **EXAMINING AGENCY.**—The term “examining agency” means—

(A) the Office; or

(B) an agency to which the Director has delegated examining authority under section 1104(a)(2).

(5) **OFFICE.**—The term “Office” means the Office of Personnel Management.

(6) **PASSING SCORE.**—The term “passing score” means a minimum acceptable score or rating, consistent with applicable law, that may include a quantitative or qualitative assessment that an applicant can pass or fail.

(7) **RELEVANT COMMITTEES.**—The term “relevant committees” means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Accountability of the House of Representatives.

(8) **SUBJECT MATTER EXPERT.**—The term “subject matter expert” means an employee or selecting official—

(A) who possesses an understanding of the duties of, and knowledge, skills, and abilities required for, the position for which the employee or selecting official is developing or administering an examination; and

(B) whom the delegated examining unit of the examining agency that employs the employee or selecting official designates to assist in the development and administration of technical assessments.

(9) **TECHNICAL ASSESSMENT.**—The term “technical assessment” means a position-specific tool that is relevant to the position for which the tool is developed that—

(A) allows for the demonstration of job-related skills, abilities, knowledge, and competencies;

(B) is based upon a job analysis; and

(C) does not solely include or principally rely upon a self-assessment from an automated examination.

(b) **RULES.**—The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, for—

(1) open, competitive examinations for testing applicants for appointment in the competitive service which are practical in character and as far as possible relate to matters that fairly test the relative capacity and fitness of the applicants for the appointment sought;

(2) noncompetitive examinations when competent applicants do not compete after notice has been given of the existence of the vacancy; and

(3) authority for agencies to appoint, without regard to the provision of sections 3309 through 3318, candidates directly to positions for which—

(A) public notice has been given; and

(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates (or, with respect to the Department of Veterans Affairs, that there exists a severe shortage of highly qualified candidates) or that there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria.

(c) **EXAMINATIONS.**—

(1) **IN GENERAL.**—For the purpose of testing applicants for appointment for a position, or class of positions, in the competitive service, an examining agency shall conduct an examination pursuant to subsection (b).

(2) **INTERIM EXAMINATION PERIOD.**—

(A) **PREFERENCE FOR TECHNICAL ASSESSMENT.**—During the 3-year period beginning on the date of enactment of the Chance to Compete Act of 2024, an examining agency shall preference the use of a technical assessment, to the maximum extent practicable, to assess the job-related skills, abilities, knowledge, and competencies of an applicant for a position in the competitive service.

(B) **USE OF ALTERNATIVE ASSESSMENT.**—During the 3-year period beginning on the date of enactment of the Chance to Compete Act of 2024, if an examining agency determines that the use of a technical assessment to assess the job-related skills, abilities, knowledge, and competencies of an applicant for a position in the competitive service is not practicable, the examining agency may use an alternative assessment for that purpose if the examining agency includes a brief description of the rationale for the use of the alternative assessment in the job posting.

(3) **TRANSITION PLANNING.**—

(A) **IN GENERAL.**—Not later 18 months after the date of enactment of the Chance to Compete Act of 2024, the Director shall submit to the relevant committees a plan to transition Federal hiring practices to adopt technical