



Department of Defense Education Activity ADMINISTRATIVE INSTRUCTION

NUMBER 5210.02
JAN 05 2016 DATE

HUMAN RESOURCES DIRECTORATE

SUBJECT: Veterans' Preference Compliance

- References:
- (a) Executive Order 13518, "Employment of Veterans in the Federal Government," November 9, 2009
 - (b) Sections 2108, 3304, and 3318 through 3319 of title 5, United States Code
 - (c) Parts 302 and 332 of title 5, Code of Federal Regulations
 - (d) OPM Web Site, "Veteran Services, Vet Guide"¹
 - (e) Delegated Examining Operations Handbook: A Guide for Federal Agency Examining Offices, May 2007
 - (f) Memorandum for DDESS Superintendents/Personnel Specialists, Veterans' Preference; July 6, 2001 (hereby canceled)

1. **PURPOSE.** This Administrative Instruction establishes policy and responsibilities in adherence with applicable law and regulations governing veterans' preference throughout the recruitment and hiring process in accordance with References (a) through (e) and to establish consistent procedures for acting on requests to pass over veterans' preference eligible candidates, as defined in section 2108 of Reference (b), in the competitive and excepted service recruitment process.

2. **APPLICABILITY.** This Administrative Instruction applies to the Office of the Director, DoDEA; the Director, DoDEA Americas; the Director, DoDEA Europe; the Director, DoDEA Pacific; (hereafter collectively referred to as "DoDEA Area Directors"); and all DoDEA Area and District Superintendents, and School Principals.

3. **DEFINITIONS.** Terms used in this Administrative Instruction are defined in section 2108 of Reference (b). See Glossary for abbreviations and acronyms.

4. **POLICY.** It is DoDEA policy that:

¹ <https://www.opm.gov/policy-data-oversight/veterans-services/vet-guide/>

a. Selecting officials will comply with veterans' preference policies in accordance with References (a) through (d).

b. A selecting official may not pass over a preference eligible candidate and hire or attempt to hire a non-preference eligible candidate without obtaining prior approval by the agency appointing official to pass over the preference eligible candidate.

c. A selecting official may not pass over a preference eligible candidate unless there are proper and adequate reasons based on the merits of the preference eligible candidate's qualifications and/or suitability relative to the requirements of the position to be filled.

5. RESPONSIBILITIES

a. DIRECTOR, DODEA. The Director, DoDEA shall implement this policy to the maximum extent possible.

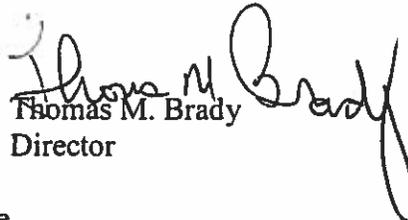
b. DIRECTOR, HUMAN RESOURCES DIRECTORATE, DODEA (DIRECTOR, HRD). The Director, HRD shall monitor compliance with this policy through annual assessments.

c. DODEA SELECTING OFFICIALS. The DoDEA Selecting Officials shall comply with this policy and adhere to the guidance in Enclosure 1, and stay current with Uniformed Services Employment and Reemployment Rights Act (USERRA) training requirements.

d. DODEA HUMAN RESOURCES EMPLOYEES. The DoDEA Human Resources Employees shall evaluate veterans' preference claims, ensuring proper documentation is verified, and stay current with USERRA training requirements.

6. PROCEDURES. See Enclosure 2.

7. EFFECTIVE DATE. This Administrative Instruction is effective immediately.


Thomas M. Brady
Director

Enclosure:

1. Selecting Official Referral List Guidance
2. Procedures
Glossary

ENCLOSURE 1

SELECTING OFFICIAL REFERRAL LIST GUIDANCE

1. When filling positions with external candidates, preference eligible candidates will normally be given preference and priority in selection over non-preference eligible candidates when category rating is used and will be ranked after awarding the appropriate preference points when numerical rating is used.

a. The servicing human resources employee must evaluate and verify veterans' preference eligibility before the candidate is referred as a preference eligible on a referral and selection list.

b. Veterans' preference applies to all new appointments in both the competitive and excepted service. Veterans' preference does not apply to internal agency actions such as promotions, transfers, reassignments, change to lower grade and reinstatements.

c. Preference eligible candidates may be identified on the referral and selection list with the following codes:

(1) 10-Point 30 Percent Compensable Disability Preference (CPS) is based on a service connected disability of 30% or more.

(2) 10-Point Compensable Disability Preference (CP) is based on a service-connected disability of at least 10% but less than 30%.

(3) 10-Point Disability Preference (XP) is based on non-compensable service-connected disability (less than 10%), receipt of a Purple Heart, or preference granted to a widow/widower or mother of a deceased veteran.

(4) 5-Point Preference (TP) is based on active duty service meeting any of the following criteria:

(a) During a war; or

(b) During the period April 28, 1952 through July 1, 1955; or

(c) For more than 180 consecutive days, other than for training any part of which occurred after January 31, 1955 and before October 15, 1976; or

(d) During the Gulf War from August 2, 1990 through January 2, 1992; or

(e) For more than 180 or more consecutive days, other than for training, any part of which occurred during the period beginning September 11, 2001 and ending on August 31, 2010, the last day of Operation Iraqi Freedom; or

- (f) In a campaign or expedition for which a campaign medal has been authorized. Any Armed Forces Expeditionary medal or campaign badge, including El Salvador, Lebanon, Grenada, Panama, Southwest Asia, Somalia, and Haiti, qualifies for preference.

2. Candidate applications should be reviewed, paying close attention to work experience, education, and professional evaluations (if any). Selecting officials must maintain written documentation of contact with candidates and references, to include details of those conversations.

3. If after the review of candidate applications, interviewing, and performing reference checks it is determined a preference eligible candidate does not possess the qualifications and/or suitability relative to the requirements of the position, a request to pass over the candidate must be initiated by the selecting official to the servicing Human Resources specialist managing the recruitment action. (See Enclosure 2 for guidance.)

- a. The request to pass over a preference eligible candidate must be based on the merits of the preference eligible candidate's qualifications or suitability relative to the requirements of the position to be filled as outlined in .

- b. No further action will be taken to fill the vacancy until the request to pass over the preference eligible candidate has been adjudicated.

4. Until all preference eligible candidates are adjudicated, a lower ranked non-preference eligible candidate cannot be selected.

ENCLOSURE 2

PROCEDURES

When reviewing a referral and selection list, the selecting official should follow the prescribed guidance outlined in the Selecting Official Referral List Guidance (Enclosure 1). The request to pass over a preference eligible veteran must be based on the merits of the preference eligible candidate's qualifications and/or suitability relative to the requirements of the position to be filled. The selecting official's reason must be specifically directed to the qualifications or suitability of the preference eligible. If the selecting official believes sufficient reason exists to request the pass over of a preference eligible candidate, the request must be submitted as outlined in the following procedures and coordinated as prescribed in the chart in Appendix 1 to this enclosure. A justification based on a conclusion that a non-preference eligible candidate is superior in qualifications to the preference eligible will not be sufficient to support a pass over request.

1. COMPETITIVE SERVICE APPOINTMENTS

a. If the selecting official determines a preference eligible candidate does not possess the qualifications and/or suitability relative to the requirements of the position and proposes to pass over the preference eligible candidate, he or she will complete and forward the Agency Request to Pass Over a Preference Eligible or Object to an Eligible, Form SF-62 (Appendix 2 to this enclosure) to the servicing Area Human Resources Office (HRO) managing the recruitment action. No further action will be taken to fill the vacancy until the request to pass over the preference eligible candidate has been adjudicated.

b. The servicing Area HRO or Defense Logistics Agency (DLA) HRO will submit the pass over request packet.

c. The pass over request packet should include: i) the completed SF-62; ii) the candidate's application or resume; iii) the vacancy announcement and position description; iv) the certificate on which the preference eligible was referred; v) legible interview notes and documentation of any contact with the candidate; vi) other contacts or investigations made by the selecting official concerning suitability issues and any other relevant information.

(1) If the preference eligible candidate has a compensable service-connected disability of 30 percent or more, the Area HRO or DLA HRO must notify both the Office of Personnel Management (OPM) and the disabled veteran of the reasons for the determination and of the veteran's right to respond to OPM within 15 days of the date of notification.

d. Pass over requests for recruitment actions managed by DLA HRO will be coordinated through the Director, Human Resources Directorate (HRD), DoDEA for review and signature, and returned to DLA HRO for adjudication.

(1) Requests to pass over a preference eligible with a compensable service-connected disability of 30 percent or more will be forwarded from DLA HRO to the Office of Personnel Management (OPM) for adjudication.

(2) OPM will issue a final decision and send its findings to the appointing official and the preference eligible candidate.

e. Pass over requests for recruitment actions managed by an Area HRO will be sent to the Area Director, DoDEA. The Area Director, DoDEA will adjudicate all requests except for requests to pass over a preference eligible with a compensable service connected disability of 30 percent or more.

(1) Requests to pass over a preference eligible with a compensable service-connected disability of 30 percent or more will be forwarded from the Director, HRD, DoDEA to OPM for adjudication.

(2) OPM will issue a final decision and send its findings to the appointing official and the preference eligible candidate.

2. EXCEPTED SERVICE APPOINTMENTS. The Veterans' Preference Act requires an appointing authority in DoDEA to select from among qualified applicants for appointment to excepted service vacancies in the same manner and under the same conditions required for the competitive service by 5 U.S.C. 3308-3318. In accordance with 5 CFR 302(c), DoDEA appointing officials must follow the principle of veteran preference as far as administratively feasible and, on the request of a qualified and available preference eligible, shall furnish him/her with the reasons for his/her non-selection. While OPM is charged with prescribing regulations for the administration of Veterans' preference in the excepted service, DoDEA itself is generally responsible for enforcement.

a. Excepted Service Positions and Educator Positions Recruited Locally through the Area HRO. If the selecting official determines a preference eligible candidate does not possess the qualifications and/or suitability relative to the requirements of the position, and proposes to pass over the candidate, he or she must submit a written request to the servicing Area HRO managing the recruitment action. The request must state reasons specifically and clearly so the significance is readily apparent. No further action will be taken to fill the vacancy until the request to pass over the preference eligible candidate has been adjudicated.

(1) The servicing Area HRO will submit the pass over request packet to the Area Director at the respective servicing Area for adjudication.

(2) The pass over request packet should include a memorandum requesting the pass over which identifies the specific reasons for pass over (qualification and/or suitability), the candidate's application or resume, the vacancy announcement and position description, the certificate on which the preference eligible was referred, and legible interview notes and documentation of any contact with the candidate, other contacts or investigations made by the

selecting official concerning suitability issues and any other relevant information. A copy of the packet will be supplied to the preference eligible upon request.

(3) The Area Director at the respective servicing Area will issue a final decision to the selecting official for pass over requests of preference eligibles for compensable service-connected disability of less than 30%.

(4) Requests to pass over a preference eligible with a compensable service-connected disability of 30 percent or more will be forwarded to the Associate Director for Financial and Business Operations (FBO), DoDEA for adjudication. The Associate Director, FBO, DoDEA will issue a final decision and send it to the selecting official and the Area HRO.

b. Educator Positions Recruited from the Continental United States (CONUS) through the DoDEA Headquarters, HRD. If the selecting official determines a preference eligible candidate does not possess the qualifications and/or suitability relative to the requirements of the position and proposes to pass over the candidate, he or she must submit a written request to HRD, DoDEA. The request must state reasons specifically and clearly so the significance is readily apparent. No further action will be taken to fill the vacancy until the request to pass over the preference eligible candidate has been adjudicated.

(1) The servicing Human Resources specialist will prepare and submit the pass over request to the Associate Director, FBO, DoDEA for adjudication. The pass over request packet should include the information identified in subparagraph 2.a.(2), on page 6 and 7.

(2) The Associate Director, FBO, DoDEA will issue a final decision for all requests to pass over a preference eligible.

c. Administrator Positions. (Examples of administrator positions are Assistant Principals, Principals, Assistant Superintendents, Superintendents, Assistant Deputy Director for Curriculum, Instruction and Assessment, and Deputy Director for Curriculum, Instruction and Assessment.) If the selecting official determines a preference eligible candidate does not possess the qualifications and/or suitability relative to the requirements of the position and proposes to pass over the candidate, he or she must submit a written request to the Associate Director, FBO, DoDEA. The request must state reasons specifically and clearly so the significance is readily apparent. No further action will be taken to fill the vacancy until the request to pass over the preference eligible candidate has been adjudicated.

(1) The servicing Human Resources specialist will prepare and submit the pass over request to the Associate Director, FBO, DoDEA for adjudication. The pass over request packet should include the information identified in subparagraph 2.a.(2) on page 6.

(2) The Associate Director, FBO, DoDEA will issue a final decision for all requests to pass over a preference eligible. The Associate Director, FBO, DoDEA will issue a final decision and send it to the selecting official.

Appendixes:

Chart: Coordination and Adjudication of a Pass Over Request of a Preference Eligible Agency Request to Pass Over a Preference Eligible or Object to an Eligible

APPENDIX I TO ENCLOSURE 2

CHART: COORDINATION AND ADJUDICATION OF A PASS OVER REQUEST OF A PREFERENCE ELIGIBLE

Type of Recruitment Action	Office Managing Recruitment Action	Coordinating Office	Adjudicating Office or Official – Preference Eligibles of less than 30%	Adjudicating Office or Official – Preference Eligibles of 30% or more
Competitive Service Positions				
Field	Area HRO, DoDEA	HRD, DoDEA	Area Director	OPM
HQ	DLA HRO	HRD, DoDEA	DLA	OPM
Excepted Service Positions				
HQ (e.g. Attorney positions)	DLA HRO	HRD, DoDEA	DLA	Associate Director, FBO, DoDEA
Excepted Service Positions and Area Recruited Educator Positions	Area HRO, DoDEA	HRD, DoDEA	Area Director	Associate Director, FBO, DoDEA
CONUS Recruited Educator Positions	HRD, DoDEA	HRD, DoDEA	Associate Director, FBO, DoDEA	Associate Director, FBO, DoDEA
Administrator Positions	HRD, DoDEA	HRD, DoDEA	Associate Director, FBO, DoDEA	Associate Director, FBO, DoDEA

APPENDIX 2 TO ENCLOSURE 2

**U.S. Office of Personnel Management
Agency Request to Pass Over a Preference Eligible or Object to an Eligible**

Part A - Qualifications or Conduct Reasons

INSTRUCTIONS: This form must be used to object to an eligible or to request authority to pass over a preference eligible and appoint a nonpreference eligible. Submit this form in duplicate along with all available information and documents considered pertinent to the case, i.e., vacancy announcement, position description, application, certificate of eligibles, service record, etc. One copy will be returned to you with the decision. Pending approval of an agency's objection to an eligible or request for pass over, the agency may not appoint an eligible who would be within reach only if the action is approved. Specific processing and mailing instructions are in the *Delegated Examining Operations Handbook*, Chapter 6, Section D, Object to an Eligible. Reference 5 CFR 332.406.

1. Agency Contact (Name and Mailing Address)	2. E-mail Address		
	3. Telephone Number		
4. Name and Address of Eligible (First, MI, Last - Street, City, State and ZIP Code)	5. Rating	6. Certificate Number	7. Date of Certificate
	8. Position Title and Grade or Equivalent		
	9. Title of Examination		

Reasons for Objection/Pass Over

- We object to the eligible indicated above for reasons of:
- Qualifications Conduct (under 5 CFR 731)
- We propose to pass over this preference eligible to select a nonpreference eligible for reasons of:
- Qualifications Conduct (under 5 CFR 731)
- Veteran has a service-connected disability of 30 percent or more and has been notified of this action, of the reasons for it, and of his or her right to respond to the U.S. Office of Personnel Management within 15 days of the notice in accordance with 5 U.S.C. 3318(b)(2).
(Attach copy of notification)

REASONS: State reasons specifically and clearly so that the significance is readily apparent. Eligibles have the right to request and review the reasons for these actions. The reasons, therefore, cannot be considered confidential. (Attach additional sheet, if necessary.)

Signature and Title of Agency Appointing Official	Telephone Number (Including Area Code)	Date (Month, Day, Year)
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OPM/Agency Decision

- The action is sustained and the eligible is removed from consideration.
- The action is not sustained for the following reasons:

Signature and Title of Agency Official or OPM Official	Date (Month, Day, Year)
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Part B – Medical Reasons for Passing Over a Preference Eligible

INSTRUCTIONS TO AGENCY APPOINTING OFFICIAL: Use of Part B is restricted to medical decisions resulting in a pass over of a preference eligible. A pass over is an objection submitted by an agency against a preference eligible that results in the selection of a non-preference eligible.

A CP-S eligible is a veteran with a service-connected disability of 30 percent or more determined by the Department of Veterans Affairs or a branch of the Armed Forces. When submitting this form in duplicates, be sure to attach a position description, the eligible's application or work history and all pertinent, current medical evidence and prior reports leading to your decision. One copy of this form will be returned to you with OPM's decision. Specific processing and mailing instructions are in the *Delegated Examining Operations Handbook*, Chapter 6, Section D, Object to an Eligible. Reference 5 CFR 339.

1. Agency Contact (Name and Mailing Address)		2. E-mail Address		
		3. Telephone Number		
4. Name and Address of Eligible (First, MI, Last – Street, City, State and ZIP Code)		5. Rating	6. Certificate Number	7. Date of Certificate
		8. Position Title and Grade or Equivalent		
		9. Title of Examination		
Action Proposed				
<input type="checkbox"/> Pass over the preference eligible named above and select a non-preference eligible				
<input type="checkbox"/> Pass over the veteran named above with a service-connected disability of 30 percent or more and select a non-preference eligible. The veteran has been notified of this action, the reasons for it, and his or her right to respond to the U.S. Office of Personnel Management within 15 days of the notice in accordance with 5 U.S.C. 3312(b). (Attach copy of notification)				
Medical Reasons: Briefly explain your decision as it relates to the physical requirements and environmental conditions of the position (Attach additional sheet, if necessary.)				
Name and Title of Agency Appointing Official		Telephone Number (Including Area Code)		Date (Month, Day, Year)
OPM Decision				
<input type="checkbox"/> Action is sustained (See remarks concerning applicant's future eligibility for these positions.)				
<input type="checkbox"/> Action is not sustained for reasons noted under Remarks.				
Remarks				
Signature and Title of OPM Official				Date (Month, Day, Year)

GLOSSARY

ABBREVIATIONS AND ACRONYMS

CONUS	Continental United States
CP	10-Point Compensable Disability Preference
CPS	10-Point 30% Compensable Disability Preference
DDESS	Domestic Dependent Elementary and Secondary Schools
DHRS-D	DLA Human Resources Services - DoDEA
DLA	Defense Logistics Agency
DODDS-E	Department of Defense Dependents Schools, Europe
DODDS-P	Department of Defense Dependents Schools, Pacific
DODEA	Department of Defense Education Activity
HRD	Human Resources Directorate
HRO	Human Resources Office
OPM	Office of Personnel Management
TP	5-Point Preference
USERRA	Uniformed Services Employment and Reemployment Rights Act
XP	10-Point Disability Preference