



Federal Hiring Authorities from a Disability Perspective

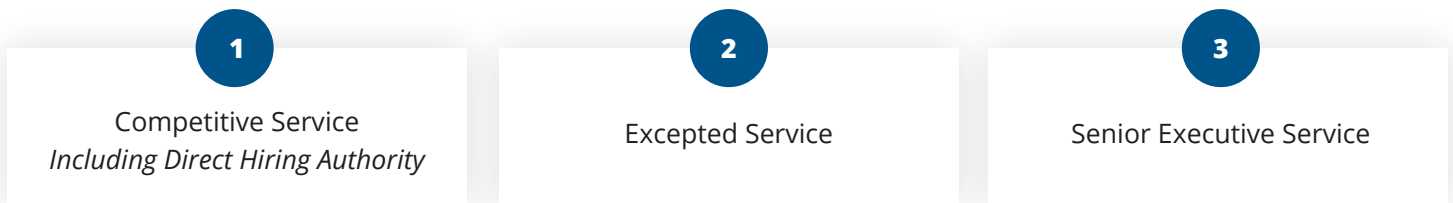
This publication is fully funded by the U.S. Department of Labor's Office of Disability Employment Policy (ODEP) under cooperative agreement No. OD-33975-19-75-4-36 with Cornell University. The total four-year cost of this agreement amounts to \$10,000,000. This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products or organizations imply endorsement by the U.S. Government.

[Executive Order No. 14035, Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce](#) (June 25, 2021) recognizes that the Federal Government, our Nation’s largest employer, must be a model of diversity, equity, inclusion and accessibility, where all employees, including people with disabilities, are treated with dignity and respect. Similarly, regulations implementing Section 501 of the Rehabilitation Act of 1973 [[29 CFR Part 1614](#)] specify that the Federal Government shall be a model employer of individuals with disabilities.

More specifically, Section 501 prohibits federal agencies from discriminating against job applicants and employees based on disability, and requires that each federal agency adopt and implement an affirmative action plan that provides sufficient assurances, procedures and commitments to provide adequate hiring, placement and advancement opportunities for people with disabilities at all levels of federal employment.

In addition, agencies are required to take specific steps that are reasonably designed to gradually increase the number of people with disabilities or targeted disabilities employed, and to meet the goals of ensuring that not less than 12% of federal employees are people with disabilities and not less than 2% of federal employees are people with targeted disabilities. Thus, the Federal Government must strengthen its ability to recruit, hire, develop, promote and retain our Nation’s talent and remove barriers to equal opportunity for people with disabilities.

This policy brief includes important information about hiring authorities federal agencies may use to hire people with disabilities, including those with targeted disabilities. The Federal Government is authorized to hire people, including those with disabilities, under three types of services:



Competitive Service, Including Direct Hiring Authority and Hiring Authority for Post-Secondary Students

Most civilian positions in the Federal Government are part of the [competitive service](#), where applicants, including applicants with disabilities, compete with other applicants in open competition under the merit system administered by the [Office of Personnel Management](#) (OPM). This process may consist of a written test, an evaluation of the person’s education and experience, and/or an evaluation of other attributes necessary for successful performance in the position to be filled.¹ The process also consists of rating and ranking of applicants.

“[Rating](#)” is a comparison of a candidate’s experience or education against OPM requirements to determine if the candidate is minimally qualified for a series or occupation. “[Ranking](#)” is a comparison of candidate’s experience and/or education against specifically determined factors, for the purpose of determining which is best qualified for a specific job.

¹ Regulatory guidance for hiring job applicants under the competitive examining and hiring process include:
[Category Rating](#): A category-based rating method that is an alternative way to assess job applicants for positions filled competitively.
[Delegated Examining Operations Handbook](#) (PDF): A handbook to help agencies with delegated examining authority by providing guidance, options and operating procedures.
[Examining Systems \(5 CFR 337\)](#): Regulatory language that is the basis for examining applicants.
[Hiring Flexibilities in the Examining Process \(DEOH 2007\)](#) (PDF): Index for the Delegated Examining Operations Handbook; refer to Chapter 2, Section A for a review of hiring flexibilities.
[Recruitment and Selection through Competitive Examination \(5 CFR Part 332\)](#): Regulatory language that is the basis for general policy about filling positions in the Federal Government.

Some positions under the “competitive service” allow for [Direct-Hire Authority](#) (DHA) under which OPM can give federal agencies authority for filling vacancies when a critical hiring need or severe shortage of candidates exists. DHA enables an agency to hire, after public notice is given, any qualified applicant, including qualified applicants with disabilities, without regard to specified competitive hiring policies and procedures. For example, agencies may eliminate competitive rating and ranking.

Specifically, 5 USC 3304 specifies that: “The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, for...(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 [specified policies related to competitive service], 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.”

There are two methods under which OPM issues Direct-Hire Authority:

- An agency with delegated examining authority may submit a written request to OPM for specific positions; or
- OPM may decide independently that a “severe shortage of candidates” or a “critical hiring need” exists for specific positions in some or all locations and issue authority either government-wide or for specific agencies and/or locations.

HIRING AUTHORITY FOR POST-SECONDARY STUDENTS

On August 18, 2021, OPM published an [Interim Rule](#) regarding a new Hiring Authority for Post-Secondary Students. According to [OPM Fact Sheet](#) (PDF), the Post-Secondary Student Hiring Authority will allow federal agencies to use strategic recruiting to hire certain post-secondary students into positions in the competitive service at the GS 11 level or below (or equivalent) on a temporary or term basis. This new direct hiring authority is separate and distinct from the Pathways Programs, which provide for appointments in the excepted service for Interns, Recent Graduates, and Presidential Management Fellows. [See below under Excepted Service Hiring Authorities]

In order to be eligible, a person must be a student enrolled or accepted for enrollment in an institution of higher education and pursuing a baccalaureate or graduate degree on at least a part-time basis. Students who have not yet started the course of study leading to the baccalaureate or graduate degree may apply and be considered for a temporary appointment position in the weeks/months prior to the job being filled. These individuals must, however, complete their enrollment requirements prior to the appointment.

Federal agencies may use the authority to make temporary appointment (for an initial period not to exceed 1 year) or a term appointment (for an initial period expected to last more than 1 years but less than 4 years) in the competitive service, to coincide with the individual’s academic curriculum and calendar. Each agency may publicly advertise positions in a manner that provides a diverse and qualified applicant pool. This may include strategic recruitment and outreach activities and posting information about the positions on the agency’s website, third-party websites, and/or USAJOBS. An agency may non-competitively convert a post-secondary student to a permanent position within the same agency in accordance with specified criteria.

Excepted Service Hiring Authorities

- Some individuals may be appointed into the [excepted service](#). Appointments in the excepted service are civil service appointments within the Federal Government that do not confer “[competitive status](#),” i.e., an individual’s basic eligibility for noncompetitive assignment to a [competitive position](#). Competitive status is acquired by completion of a probationary period under a career-conditional or career appointment without open competitive examination. An individual with competitive status may be, without open competitive examination, reinstated, transferred, promoted, reassigned, or demoted, subject to conditions prescribed by the Civil Service rules and regulations.
- There are a number of ways to be appointed into the excepted service, including programs that focus specifically on people with disabilities and disabled veterans and programs that provide general authority to make excepted service appointments for qualified individuals, which includes people with and without disabilities. Some positions in the excepted service apply veteran’s preference, but veteran’s preference does not apply for positions exempt from [5 CFR 302](#).

EXCEPTED SERVICE HIRING AUTHORITIES THAT FOCUS ON PEOPLE WITH DISABILITIES AND VETERANS WITH DISABILITIES

Schedule A Hiring Authority

Excepted service appointing authorities are critical tools for increasing employment opportunities for people with disabilities in the Federal Government. Two of these authorities are particularly relevant to people with disabilities:

- **[Schedule A, 5 CFR 213.3102\(u\)](#) for hiring people with severe physical disabilities, psychiatric disabilities and intellectual disabilities.** This excepted authority is used to appoint people with severe physical disabilities, psychiatric disabilities and intellectual disabilities. Such individuals may qualify for conversion to permanent status after two years of satisfactory service.²
- **[Schedule A, 5 CFR 213.3102\(II\)](#) for hiring readers, interpreters and personal assistants.** This excepted authority is used to appoint readers, interpreters and personal assistants for employees with severe disabilities as reasonable accommodations.

Authorities For Hiring Veterans with Disabilities

There are several excepted service authorities available to federal agencies to non-competitively hire eligible [veterans with disabilities](#).

- **[30% or More Disabled Veterans Appointing Authority:](#)** A noncompetitive temporary appointment of more than 60 days or a term appointment to any veteran with a disability rating of 30% or more, or with a compensable service-connected disability of 30% or more.
- **[Veterans Employment Opportunities Act Authority:](#)** Allows eligible veterans to apply for positions announced under merit promotion procedures when the agency is recruiting outside of its own workforce.
- **[Veterans’ Recruitment Appointment Authority:](#)** Allows agencies to appoint eligible veterans without competition to positions at any grade level through General Schedule (GS) 11 or equivalent.

2 For additional information about Schedule A Excepted Service Authorities, visit [Schedule A Hiring Authority](#) and “[The ABCs of Schedule A.](#)”

Further, there are general rules regarding [Veterans Preference Hiring](#), which apply to most new appointments under both the competitive and excepted service hiring authorities.³

Workforce Recruitment Program for College Students with Disabilities

[The Workforce Recruitment Program for College Students with Disabilities](#) (WRP) is a recruitment and referral program that connects federal and select private-sector employers nationwide with highly motivated college students, graduate students, and recent graduates with disabilities who are eager to demonstrate their abilities in the workplace through internships or permanent jobs. The U.S. Department of Labor's [Office of Disability Employment Policy \(ODEP\)](#) and the U.S. Department of Defense's Defense Human Resources Activity's [Diversity Management Operations Center \(DMOC\)](#) manage the program, with the participation of many federal agencies and sub-agencies. Since the program's expansion in 1995, thousands of students and recent graduates have received temporary and permanent employment opportunities through the WRP.

The WRP offers federal employers:

- ✓ **Job candidates** who self-identify as eligible for the Schedule A Hiring Authority
- ✓ **Applicants** that have received a virtual informational interview with a federal employee
- ✓ **Information** about each applicant's qualifications
- ✓ **Search capabilities** including degree, major, job category, location, resume keywords, and more
- ✓ **Access** to candidates across the nation
- ✓ **Opportunity** to identify outstanding candidates for internships or permanent staffing needs
- ✓ **Freedom** to conduct independent interviews after qualified candidates are identified
- ✓ **Ability** to search for veterans and those with previous federal experience

To utilize the [WRP talent database](#), federal employers must first create an account at https://www.wrp.gov/wrp?id=wrp_rules_of_behavior_page&page=employer.

General Excepted Service Hiring Authorities, Including Internship Programs

GENERAL SCHEDULE A EXCEPTED SERVICE AUTHORITY

Under [regulations](#) implementing Schedule A, excepted service includes all positions in the executive branch of the Federal Government which are specifically excepted from the competitive service by or pursuant to statute, by the President, or by the Office of Personnel Management, and which are not in the Senior Executive Service. Examples of Schedule A positions include chaplains, attorneys, law clerk trainees and positions requiring the temporary or intermittent employment of professional as well as scientific or technical experts.

3 [OPM Standard Form 15](#) (PDF).

TITLE 42 EXCEPTED SERVICE HIRING AUTHORITY

A Title 42 appointment is an [excepted service](#) employment category in the U.S. federal civil service. It allows scientists and special consultants to be hired under a streamlined process “without regard to the civil-service laws.” The Title 42 hiring authority was first enacted in 1944 as part of the [Public Health Service Act](#) (PDF). It is named after [Title 42 of the United States Code](#), which contains its legal basis, and is contrasted with [Title 5 employments](#), which are normal civil service appointments. Title 42 appointments are intended to attract and retain scientific personnel by providing hiring flexibility and salaries that are competitive with the private sector.

Pathways Programs: Schedule D

The Pathways Programs consist of the Internship Program, the Recent Graduates Program and the Presidential Management Fellows Program. Participants in these programs are appointed under [Schedule D](#) of the excepted service [Executive Order 13562](#), which established the applicable [Schedule D](#) appointing authority, requires that merit system principles and veterans’ preference be applied to appointments made under the Pathways Programs.

Schedule D appointees cannot simultaneously be appointed under Schedule A. A person with a disability who is Schedule A-eligible may apply for Pathways positions. If selected for a Pathways position, they will be appointed under Schedule D, and the regulations requiring the application of merit system principles governing Schedule D will apply.

- The Pathways Internship Program [Internship Program](#) replaced the Student Career Experience Program (SCEP) and Student Temporary Employment Program (STEP). The program is designed to provide students enrolled in a wide variety of educational institutions, from high school to graduate level, with opportunities to work in agencies and explore federal careers while still in school and while getting paid for the work performed. Students who successfully complete the program may be eligible for conversion to a permanent job in the civil service. Additional information about the Internship Program can be found at [USAJOBS](#).
- The [Pathways Recent Graduates Program](#) affords developmental experiences in the Federal Government intended to promote possible careers in the civil service. Eligibility for the program is limited to recent graduates who have completed, within the previous two years, a qualifying associates, bachelors, masters, professional, doctorate, vocational or technical degree or certificate from a qualifying educational institution. Veterans unable to apply within two years of receiving their degree, due to military service obligation, have as much as six years after degree completion to apply. Successful applicants are placed in a dynamic, developmental program with the potential to lead to a civil service career in the Federal Government. The program lasts for one year (unless the training requirements of the position warrant a longer and more structured training program).
- The [Presidential Management Fellows \(PMF\) Program](#) is the Federal Government’s premier leadership development program for advanced degree (e.g., masters or professional degree) candidates. Executive Order 13562 expands the eligibility window for applicants, making it more “student friendly” by aligning it with academic calendars and allowing those who have received a qualifying advanced degree within the preceding two years to participate. It also directs OPM to set eligibility requirements and minimum qualification standards, and to make the PMF experience more robust and substantive for participants.

Senior Executive Service

The [Senior Executive Service](#) (SES) is comprised of a corps of executives selected for their leadership qualifications. OPM [manages](#) the overall federal executive personnel program, providing the day-to-day oversight and assistance to agencies as they develop, select and manage federal executives.

According to OPM's [Senior Executive Service Desk Guide](#) (PDF):

- The SES covers positions in the executive branch that are classified above GS-15 or are in level IV or V of the Executive Schedule, or equivalent positions, which are not required to be filled by Presidential appointment with Senate confirmation, and are responsible for executive, managerial, supervisory and/or policy functions characteristic of the SES.
- The SES offers agency managers considerable flexibility in filling executive vacancies while still providing fair access to executive jobs based on merit. The SES positions may be filled through competitive or noncompetitive appointment. Examples of noncompetitive appointment are:
 - Reassignment or transfer of a current SES appointee.
 - Reinstatement of a former SES career appointee.
 - The appointment of a graduate of an OPM-certified SES Candidate Development Program (CDP).
- There are four types of SES appointments: career, noncareer, limited term and limited emergency. Agency heads are authorized to make all types of SES appointments under regulations and procedures established by OPM and within the agency's numerical space allocation.
- The agency head or a designee is responsible for establishing qualification standards for each SES position in the agency. A qualification standard must be established for a position before any appointment is made to that position. If a position is being filled competitively, the standard must be approved before the position is announced. If the duties and responsibilities of a position are substantially altered, the standard should be reviewed to determine if a new one is needed. Qualification standards may be established for individual SES positions or for groups of similar positions. Standards should be set at a high enough quality level so that those who meet the standards are well qualified, not just minimally qualified, to perform the job.
- The search for candidates must at a minimum, include "all groups of individuals within the civil service." Agencies may also recruit from outside the civil service (i.e., all groups of qualified individuals).
- Agencies are required by law to announce the SES vacancies they intend to fill by initial career appointment to at least all Federal civil service employees. They must also notify the Department of Labor's United States Employment Service offices of SES vacancies when recruitment for career appointment is extended outside the federal service. To meet these legal requirements, agencies are required to publish information about vacancies to be filled by initial career appointment in USAJOBS.
- The procedures an agency uses for rating and ranking candidates and for making the subsequent selection for an SES position or SES candidate development program must meet the requirements of applicable law, rule and regulation, including the Uniform Guidelines on Employee Selection Procedures.
- Agencies must be aware of the requirements pertaining to reasonable accommodation of a qualified individual with a disability.