



Office Memorandum

Date: July 31, 2012

To: HR Directors and Designees

A handwritten signature in black ink, appearing to read "AOB", is written over the "To:" line.

From: Ann O'Brien
Assistant Commissioner

Subject: Noncompetitive Appointment of Certain Disabled Veterans

This memo is to make you aware of a new law pertaining to the Noncompetitive Appointment of Certain Disabled Veterans effective August 1, 2012. This law provides state agencies with the **option** to appoint certain disabled veterans on a noncompetitive basis.

This memo includes:

- Link to new legislation
- Summary of the new veteran legislation
- State agency responsibilities
- Veteran responsibilities
- Response to questions regarding the new veteran legislation
- Contact information
- Sample disability letter indicating compensable service-connected disability of at least 30%

Link to New Legislation

[M.S. 43A.111 Noncompetitive Appointment of Certain Disabled Veterans](#)

Summary of the Law

Effective August 1, 2012. The new legislation (M.S. 43A.111) allows agencies to appoint disabled veterans to classified positions on a noncompetitive basis if all qualifying factors are met, including:

- a. The veteran meets service requirements and has a verified service-connected disability rating of at least 30%,

- b. The veteran provides qualifying documentation verifying the disability, and
- c. The veteran meets the position's minimum qualifications.

If an appointing authority chooses to appoint a disabled veteran to a vacant position under this section, *the appointing authority is not required to interview any other person.*

State Agency Responsibilities:

- Follow your agency's normal process to create a classified vacancy.
- If the agency chooses to appoint a disabled veteran utilizing new provision M.S. 43A.111 the agency must ensure the following:
 - a. The veteran meets the position's minimum qualifications,
 - b. The required written document (issued by the federal government) is obtained from the veteran indicating the veteran meets the service requirements and has a compensable service-connected disability of at least 30%, and the document was issued within the year preceding appointment. [*See sample disability letter on page 5.*]
 - c. Upon appointment, use the new **SEMA4 Reason code: VNC (Veteran Non-Competitive Appt)** with appropriate appointment action code (for example: HIR, REH, PRO, DEM, MOV).

Disabled Veteran Responsibilities:

- As indicated in M.S. 43A.111, the disabled veteran is responsible for providing the hiring agency with official written documentation indicating they meet the service requirements, have a compensable service-connected disability of at least 30%, and the document was issued within the year preceding appointment. [*See sample disability letter on page 5.*]

Questions:

Below are responses to some anticipated questions from the human resource community.

- 1) **When an agency has a classified vacancy, are they required to appoint the veteran applicant with a disability of at least 30%?**

No, this is an *option*, but is not required under the statute.

- 2) **Must an agency follow normal vacancy filling procedures (posting, bidding, claiming, etc.) under the applicable collective bargaining agreement, if it chooses this option?**

No. Like other noncompetitive appointments under M.S. Section 43A.15 (e.g., temporary and emergency appointments), the agency is not required to follow these procedures.

3) How will the hiring agency know if the veteran applicant has a disability of at least 30%?

It is the responsibility of the veteran to provide the hiring agency with the required documentation stated in M.S.43A.111. *[See sample disability letter on page 5.]*

4) How does this law, the Noncompetitive Appointment of Certain Disabled Veterans law, impact the Recently Separated Veteran (RSV) Interview law?

Recall that under the Veterans Preference statute (M.S. 43A.11, Subd. 7):

Each recently separated veteran (RSV) who meets minimum qualification for a vacant position and has claimed a veterans or disabled veterans preference must be considered for the position. The top five recently separated veterans must be granted an interview for the position by the hiring authority.

If an agency has a classified vacancy and chooses to appoint a qualified disabled veteran with a service-connected disability of a least 30%, **the hiring agency is not required to interview any other person.** This includes RSV's.

5) Does this law, the Noncompetitive Appointment of Certain Disabled Veterans, also apply to the widow/widower (not remarried) of a deceased veteran or the spouse of a disabled veteran who is unable to qualify because of the disability?

No, the law does not apply to spouses, widows or widowers of veterans.

6) For affirmative action purposes are veterans considered a "protected group"?

No. For affirmative action purposes, the definition of protected groups, under M.S. 43A.02, Subd.33, means females, persons with disabilities, and members of the following minorities: Black, Hispanic, Asian or Pacific Islander, and American Indian or Alaskan native.

7) Since persons with a disability are considered a protected group, would a veteran with a disability of at least 30% meet the affirmative action definition for persons with a disability?

It depends. In the supplemental section of the online application, the veterans preference disability status is a separate and distinct "status" from claiming disability under the Equal Employment Opportunity (EEO) section of the application. The two programs define eligibility and disability differently.

However, if the disabled veteran applicant also claimed disability status under the EEO section, the disabled veteran would be considered a protected group applicant. The following example is from the supplemental section of the application.

Veteran Preference Disability:

I am a disabled veteran with a currently existing, compensable, service-connected disability.

Equal Employment Opportunity Information:

Disability status: An individual with a disability is a person who (1) has a physical sensory, or mental impairment which substantially limits one or more major life activities; (2) has a record of such impairment; or (3) is regarded as having such impairment.

Do you claim disability status? Yes or No

8) How does this law, the Noncompetitive Appointment of Certain Disabled Veterans, impact the Monitor the Hiring form (MHP)?

Completing the MHP form is not required. If a state agency has a classified vacancy with an underutilization and the agency appoints a qualified veteran with a compensable service-connected disability of at least 30 %, the agency does not need to complete the MHP form.

Contact Information

If you have additional questions about the implementation of the Noncompetitive Appointment of Certain Disabled Veterans law, please contact your MMB account representative.

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**SAMPLE DISABILITY LETTER INDICATING COMPENSABLE SERVICE-CONNECTED
DISABILITY OF AT LEAST 30%**

DEPARTMENT OF VETERANS AFFAIRS

Regional Office
Bishop Henry Whipple Fed. Bldg.
1 Federal Drive Fort Snelling
St. Paul MN 55111-4050

In Reply Refer To: 335/21
CSS

Dear Mr. :

The following certificate is furnished for your use in establishing civil service preference. This Certificate is considered a permanent record of the veteran's service-connected disability(ies).

This is to certify that the records of the Department of Veterans Affairs disclose that the above named veteran is entitled to compensation for service-connected disability(ies) rated at 30 percent or more. This payment is made in accordance with public laws administered by the Department of Veterans Affairs. Our records indicate the veteran served on active duty in the Armed Forces, and was separated under honorable conditions.

Sincerely yours,

K. L. Anderson
Veterans Service Center Manager

Contact us at: <https://iris.va.gov>